



WHAT TO DO WHEN YOU GET SUED BY YOUR ABUSER

By the Survivors Guild

1st ed

We are a group of friends who have supported our extended community through surviving abuse at the hands of individuals as well as the legal system. Increasingly, abusers wield state and legal power against survivors and their allies as an extension of their abuse, to punish them for speaking out, to silence them, and to discredit or invalidate them.

We have created this document to share what we have learned as a result of fundraising, researching, and organizing to support each other through these legal actions. **We are not professionals, and this document is not exhaustive, nor is it a substitute for legal or other professional counseling.** However, it is a reflection of important things we have learned, and we will try to keep it updated. We hope this is useful to you and your communities. **Thank you** everyone who has contributed, proofread, edited, or otherwise supported this document.

TABLE OF CONTENTS

[WHY ABUSERS SUE SURVIVORS AND WHY IT'S MORE COMMON THAN YOU THINK](#)

[DIGITAL SECURITY MEASURES](#)

[WHAT TO DO WHEN YOU GET SUED](#)

[HOW TO SET UP A FUNDRAISER](#)

[SPECIFIC LEGAL RESOURCES BY STATE](#)

[GLOSSARY](#)

[CONTACT US](#)

WHY ABUSERS SUE SURVIVORS AND WHY IT'S MORE COMMON THAN YOU THINK

“Domestic violence is about power and control. Domestic violence survivors and their advocates have long known that abusers often use the legal system to continue to exert power and control over survivors years after a relationship has ended, particularly through litigation in family court.”

1

“Litigation is a way that abusers can attempt to reestablish and retain control over a survivor, particularly when other forms of contact with the survivor have been restricted. The need to reassert control after the survivor physically separates from the batterer manifests itself in litigation tactics that are designed to overwhelm the survivor’s life. Abusive litigation is often prompted by a survivor’s decision to leave or separate. Trigger points may include filing for divorce or for a protection order, reporting physical abuse, or calling police for assistance.”²

Litigation abuse is functionally economic abuse.³ It creates long lasting debt for survivors. This is compounded when survivors come from working class/working poor backgrounds, have previous legal issues that may prevent them from certain kinds of employment, have otherwise precarious employment, are dealing with immigration issues, and/or are working mothers. According to a CDC study from 2016 that average lifetime cost per survivor of rape is \$122,461.⁴ This is from data collected from rapes that have been reported as a crime and also tracks government spending on prosecution and incarceration.

We have no idea how much sexual violence costs survivors especially those who have been subject to revictimization throughout their lives and those who never report their crimes to the police. We do know that, according to another 2016 study, 86% of women who have been incarcerated are also survivors of sexual violence and that women make up 67% of the incarcerated population who experiences staff-on-inmate sexual victimization.⁵

“Abusers may utilize a vast array of weapons to retaliate against victims in the legal arena. Common examples of litigation and the abuse of the legal process pursued by abusers against domestic violence survivors include:

¹ Ward, David (2016) "In Her Words: Recognizing and Preventing Abusive Litigation Against Domestic Violence Survivors," Seattle Journal for Social Justice: Vol. 14: Iss. 2, Article 11.

² “Appendix H: Abusive Litigation And Domestic Violence Survivors.” Edited by Grace Huang, Domestic Violence Manual for Judges (Released 2016), Washington State Supreme Court Gender and Justice Commission., www.courts.wa.gov/content/manuals/domViol/appendixH.pdf.

³ “Brush, Lisa and Hughes, Melanie (2015) “The Price of Protection: A Trajectory Analysis of Civil Remedies for Abuse and Women’s Earnings,” American Sociological Review: Vol 80: Iss 1, Page 140-165

⁴ Cora Peterson, PhD, Sarah DeGue PhD, Curtis Florence, PhD, Colby N. Lokey, MS “Lifetime Economic Burden of Rape Among U.S. Adults” American Journal of Preventive Medicine

⁵ Vera Institute of Justice (2016) “Overlooked: Women and Jails in an Era of Reform”, <https://www.vera.org/publications/overlooked-women-and-jails-report>

- Suing or threatening to sue anyone who helps the victim, including friends, neighbors, advocates, lawyers and law enforcement officials. Even the threat of litigation makes it harder for the victim to find help.
- Abusers will portray themselves as the actual victims by seeking their own retaliatory protection orders against the victim, her friends and her family.
- Suing the survivor for defamation if the survivor discloses the abuse to anyone.
- If the survivor is an immigrant, abusers will make reports to immigration authorities in an attempt to have the survivor deported. (They also frequently threaten to get the victim deported if they do not comply with certain behavior).
- Turning child custody litigation into a nightmare is another tactic, including seeking sole custody, abusing the discovery process by seeking embarrassing or irrelevant information about the survivor, trying to relitigate issues that have already been decided by the court and dragging the process out as long as possible by repeatedly seeking continuances.
- And even after a divorce is final, abusers can force the victim back into court time and again by seeking to modify parenting plans or child support orders, or by bringing contempt motions against the survivor. Regardless of the merit of the motions, the victim is still forced to go back to court and confront the abuser, miss work and spend money on attorneys.
- Judges may be also targeted if the judge rules against the abuser, wherein the abuser attempts to have the judge disqualified from the case.
- “If the abuser loses in one court, they may bring similar litigation in a different court in order to prolong the litigation abuse.”⁶
- Another tactic is threatening witnesses or family members who may try to help the survivor or who may be thinking of testifying. Many witnesses are too afraid to testify against the abuser in court.
- Another tactic is the abuser will often call the police on the survivor. Sometimes the survivor is arrested, especially if the abuser has defensive wounds or if the survivor fights back from the abuse.

These abusive tactics can leave people who pursue community-minded accountability processes/restorative justice/transformational justice particularly vulnerable as there is less often a legal paper trail for the abuse they have experienced. E.g., those of us who do not call the police (whether for ideological or practical reasons) will not have police reports to point to as proof of a history of harassment.

⁶ Truthout. “Domestic Violence Survivors Battle Within the Courts: Confronting Retaliatory Litigation.” Truthout, Truthout, 22 June 2012, truthout.org/articles/domestic-violence-survivors-battle-within-the-courts-confronting-retaliatory-litigation/.

DIGITAL SECURITY MEASURES

If you have written about your abuse online, whether it's in the form of a callout about your abuser or even just a fundraising page to help you recover from your abuse, that could be used against you. Because of the potential for retaliation against survivors, we always advise everyone involved in a callout to stay as anonymous as possible. Before making any public statement that names your abuser or otherwise identifies them in anyway consider going through this helpful [Risk Assessment](#) guideline to establish best security practice. These are good practices in general, and should certainly be taken if a legal threat has already been made against you.

Browse anonymously using [TOR](#), and/or access the internet from a library, particularly if you are creating or managing accounts related to the abuse (i.e., a website where you have posted a callout, a fundraising site, an email address you have created to use with an accountability process, etc). Obscuring your ISP can prevent your identity from being revealed in the event of a Doe subpoena, or being linked to the case in the event you are sued.

Use a secure email address. Create an account on an email server that uses end-to-end encryption and has a proven record of non-cooperation with law enforcement agencies, like [Protonmail](#) or [riseup](#).

Consult a lawyer before making any public statement. This would be the best practice. We know first-hand, of course, that this isn't always possible.

Be careful about your language both in public and private forums. Using disparaging language in your callout or when discussing the callout may bolster your abuser's legal claims. Any communication—including text messages and emails—to or from either party in the suit can be subpoenaed. This means any seemingly innocuous text or email you sent to a friend about wanting to damage an abuser's career or social standing can potentially hurt your case. For example, in the event you are able to use an anti-SLAPP defense (see [glossary](#) for definition), you need to prove you are merely informing the public about a matter they should know about, and not attempting to disparage a public figure.

Further reading on digital security:

[Electronic Freedom Foundation Toolkit on Surveillance Self Defense](#)

[ACLU Blog: Staying Safe When You Say #MeToo](#)

[Leigh Honeywell's Blog: Staying Safe While Speaking Out](#)

WHAT TO DO WHEN YOU GET SUED

- **Find a lawyer**

- [Find and contact your local bar association](#) to be referred to an attorney. You can specifically ask for a lawyer who specializes in defamation cases, SLAPPs, or protective orders. You can also ask for lawyers who work sliding scale/pro bono.
- When searching online, try looking for “affordable law group” or “affordable family law” in your area. Often affordable law groups or firms can calculate hourly based on your gross annual income. Sometimes they can also give you a flat rate for pro se defense (when you represent yourself in court). Generally family law can help you with domestic violence related issues (such as restraining orders) but they may also have a lawyer available who has insight into defamation and abuse cases.
- Legal aid groups can provide many of these same services free or at low-cost depending on your income, however, since they are non-profits, they may be limited in the scope of services they offer.
- If it feels at all relevant to the specifics of your situation, you should also contact local women’s organizations or domestic violence advocacy groups to see if they operate legal services or are aware of more issue-specific attorney referral services. Women’s organizations have specific language in their grants so they may be limited in the help they can give you.
- Email law firms asking for pro-bono help. This can take a while to find but it’s worth spending time to find one, especially if you are involved in a large or complicated suit. Even if you cannot find a pro bono lawyer immediately, you can change representation later on.

- **Learn about your local survivor protection laws**

- If you’ve been served with a restraining order by an abuser, some courts allow you to rectify the petition, meaning the abuser becomes the defendant.
- Most states have court websites with general info on these types of laws (i.e. domestic violence/family law)
- [Tennessee recently passed legislation regarding litigation abuse](#)
- See the definition of “SLAPP” in the glossary below

- **Respond to the suit**

- **We can’t emphasize it enough: make it a priority to find a lawyer.** Laws vary by state, even the way in which one responds to a claim can differ depending on the court you’ve been summoned to appear in.
- **If you don’t have a lawyer yet:** Some courthouses offer volunteer lawyers who can represent you the day of your first appearance. Other times a law clerk can tell you how to format a response. It’s best to go to the courthouse several days before you need to file your response and ask a law clerk what options are available to those without a lawyer. You can also try a local law clinic. These

should be regarded as a back-up plan or last resort in the event you cannot get a lawyer.

- **If you do have a lawyer:** Listen to your lawyer. They can best advise you on how to proceed. Avoid discussing the situation with others as doing so can further damage your case if you are found to be making disparaging comments.

- **Take inventory of your financial resources**
 - [ACLU's blog post with tips about being sued for libel by your abuser](#)
“Homeowners’ and renters’ policies usually insure against libel claims, and will provide a defense.”
 - If you are apart of a labor union check to see if you could be entitled to legal representation through your union.
 - Ask your community for help. We’ve seen shows, yard sales, and astrology services used as fundraisers for survivors. Be careful in how you communicate your situation. See: [How to Set Up a Fundraiser](#).

- **Think about your needs and what would best support them.** When you’re dealing with a horrible situation like this, it can be hard to evaluate specific needs or ask for support. This is especially true for people who have already experienced neglect at the hands of their broader community. Having specifics requests for one’s community can be crucial in getting the support you need. If friends or community members are unavailable or do not have the capacity to meet your needs, it is worth considering contacting women’s support organizations, domestic violence support organizations, or other social services to see if a caseworker or social worker is available. Though such services can be difficult to access or unsatisfactory, they can sometimes be useful, free, and an invaluable addition to your support network.
 - Fundraising for legal support, healing services, and other living expenses
 - Court support
 - Daily check-ins

If you have a lawyer, check in with them for advice on the best way to frame or describe your needs if you are sharing them on a public forum.

Further reading: This [Survivor Defense Toolkit](#) created by Survived and Punished and Love and Protect is a comprehensive guide to creating and sustaining a support campaign, complete with resources on supporting multiply-marginalized survivors.

HOW TO SET UP A FUNDRAISER

Public Fundraiser:

There are now many ways to set up fundraisers online. Platforms like GoFundMe/YouCaring allow for updates, social media posts, and engagement with donors to be made very simply. They will usually require that they take a cut of the fundraising.

If you can not consult a lawyer about what is disclosed in the fundraiser or the anonymity of the fundraiser the safest bet is to use neutral language and not name anyone involved in the case. It is also possible to encourage donors to donate anonymously (we have unfortunately seen cases where donors were harassed by friends of abusers).

Keep in mind that these platforms are not ever going to be 100% secure. People can email the fundraiser email through these platforms and it's important to be careful with disclosing the email address used to create the fundraiser. Use a different email address than any email address associated with a call-out/social media post.

If you or someone you know is handy with light web development it is possible to set up a simple webpage with some info and a donation link through Paypal, Cash App, or Venmo. See an example of that [here](#).

Private Fundraiser:

Square Cash App and to a lesser extent Paypal/Venmo are a good way to set up a private fundraiser that you can circulate in a smaller group of trusted community. There isn't as much accountability/transparency and might not yield as much fundraising as a more public fundraiser but this might be the most secure way to raise money that we know of.

Further reading: [Best Practices Guide to Setting Up a Legal Defense Fund](#)

SPECIFIC LEGAL RESOURCES BY STATE

(If you have any resources to add for future editions, please [contact us](#))

CALIFORNIA

[Family Violence Law Center](#) - provides free legal representation for survivors of sexual and domestic violence in family law proceedings and Title IX cases in Alameda county. Also assists in court advocacy, crisis intervention and wrap around services for survivors' needs. Provides restraining order clinics and other legal services for unrepresented litigants.

[Bay Area Legal Aid](#) - provides legal advice and representation to low-income survivors of domestic violence in family law proceedings in various counties in the Bay Area. Also provides holistic legal services relating to youth law, housing, public benefits, immigration, medical legal services, re-entry services, economic justice, and consumer protection.

[All for the Family Legal Clinic](#) - provides sliding scale legal services to litigants in family law proceedings in Alameda County.

ILLINOIS

[Chicago Alliance Against Sexual Exploitation](#) - provides a range of free legal services to survivors of sexual assault and rape. They note that they "...tailor our services to the needs of individuals and serve survivors of every sex, race, socio-economic status, ability, sexual orientation, gender identity, nationality, and immigration status."

[Resilience \(FKA Rape Victim's Advocates\)](#) - Provides counseling as well as medical and legal advocates to survivors of sexual assault. While they cannot give legal advice, legal advocates can connect you with services, help you file for a restraining order, and much more. Their website also outlines [victim's legal rights](#).

MASSACHUSETTS

[Victim's Rights Law Center](#) - provides legal resources for survivors of sexual and domestic abuse in Massachusetts and Oregon.

NEW YORK

[C.A. Goldberg](#) - This law firm specializes in myriad areas of law defending "Victims of Sexual Assault, Blackmail, and Stalking - Online and Off." They can provide referrals for lawyers in other states, and occasionally even work with local counsel, so even if you're not in NY, it may be worth getting in touch. Note: their website features a "fast exit" button in the top left!

[Domestic Violence Law Project \(DVLDP\)](#) - provides quality legal help especially tailored to domestic violence survivors' needs.

Urban Justice Center's [Domestic Violence Project](#) - provides attorneys who can help you navigate the legal process of obtaining an order of protection, changing your name, gaining financial independence, obtaining alternate housing, and other adjacent issues facing survivors

OREGON

[Victim's Rights Law Center](#) - provides legal resources for survivors of sexual and domestic abuse in Massachusetts and Oregon.

PENNSYLVANIA

[Women Against Abuse](#) - This group in Philly does survivor support and seems to specialize in legal aid.

TEXAS

[Legal Aid for Survivors of Sexual Assault \(LASSA\)](#) - The Legal Aid for Survivors of Sexual Assault (LASSA) serves 182 Texas counties from the panhandle to the Texas-Mexico border. LASSA provides survivors of sexual assault with a wide-range of free legal services from general advice to holistic, direct representation on civil legal matters.

GLOSSARY

- **Abusive Litigation**

- “The term ‘abusive litigation’ includes the misuse of court proceedings by abusers to control, harass, intimidate, coerce, and/or impoverish survivors. Although the practice is common, it does not have a generally recognized name. It has also been described as legal bullying, stalking through the courts, paper abuse, and similar terms... Family law cases such as dissolutions, parenting plan actions or modifications, and protection order proceedings are particularly common forums for abusive litigation. It is also not uncommon for abusers to file civil lawsuits against survivors, such as defamation, tort, or breach of contract claims.”⁷
- In California (and possibly other states) courts have termed it “vexatious litigants.” In California, there is an avenue to prevent vexatious litigants from filing frivolous lawsuits after a pattern of frivolous claims against the survivor.

- **Defamation, Libel, and Slander**

- Libel and slander, two types of defamation, are considered “torts,” or “wrongful acts other than a breach of contract for which relief may be obtained in the form of damages or an injunction.”⁸
- The difference between libel and slander lies in the medium carrying the statement. In almost every state, the truth is a sufficient defense against a defamation suit. In some localities and circumstances, however, you may also be required to demonstrate a lack of malice.
- If your abuser can be considered a public figure, the case may be handled differently. This can also vary based on the state in which you are being sued.

- **Domestic Violence**

- We understand that service providers are shifting to the language of “intimate partner violence” rather than “domestic violence,” which seems more accurate and inclusive of the wide variety of experiences people experience. However, since most of our sources use the terminology “domestic violence,” for consistency that is what we have used in this document.

- **Non-Disclosure Agreement/Non-Disparagement Agreement**

- Non-Disclosure Agreements and Non-Disparagement Agreements are contracts that can be presented at the beginning or end of two parties engaged in a business relationship together, or they can be required as part of the terms of a settlement.
- Non-disclosure and non-disparagement agreements in libel cases usually dictate that one or both parties refrain from discussing the events in dispute (any

⁷ “Appendix H: Abusive Litigation And Domestic Violence Survivors.” Edited by Grace Huang, Domestic Violence Manual for Judges (Released 2016), Washington State Supreme Court Gender and Justice Commission., www.courts.wa.gov/content/manuals/domViol/appendixH.pdf.

⁸ “Tort.” Merriam-Webster, Merriam-Webster, www.merriam-webster.com/dictionary/tort.

instances of abuse or assault), the terms of settlement (including that an NDA was signed), and that one or both parties stop disparaging one another.

- NDAs differ case by case and depending on the state you are sued in, they cannot be used when someone alleges rape or abuse. For more information, you should contact a lawyer, local law clinic, or law librarian.

- **Protective Order/Restraining Order**

- There are various types of restraining orders (in California at least). For example, a “Civil Harassment Order” is a restraining order that requires a higher burden of proof, and is relegated for people who don’t have a qualifying relationship type as a “Domestic Violence Restraining Order” (DVRO). DVROs are typically used by intimate partners, but are also used by spouses, people with kids together, and certain types of cohabitants. CHOs are typically used by sexual assault victims in non-dating relationships. There are also Gun Violence Restraining Orders, which can be used to petition someone to relinquish their firearms. Criminal Protective Orders Emergency Protective Orders are implemented by criminal judges and police respectively, and have some differences to civil restraining orders (CHOs & DVROs). For example, EPOs last only a few days and are issued by police who grants them on the spot of an arrest in some serious cases. CPOs are granted by the judge in criminal cases where a DA requests one for the victim. These last until the defendant’s criminal proceeding is resolved or until the DA drops the charges. Again, this all only applies to California restraining orders.
- Restraining orders are often violated, but in California, violating a restraining order is a crime which makes it more enforceable by police. Moreover, there is a law in California which makes it difficult for judges to grant mutual restraining orders (i.e. restraining orders that affect both parties). In these cases, restraining order protections are often weakened if there is an incident of a violation, since police often cannot appropriately ascertain who the “violation” or abuser is in a mutual RO case.
- Similar to California, New York has a separate criminal consequence called “criminal contempt” for someone who violates an order of protection, even if it’s a civil order of protection. It is in your best interest to get an order of protection if you feel threatened by your abuser, but also understand that it is, unfortunately, a piece of paper. Use the other resources here to protect yourself, follow the advice of community advocates and your attorney, and do not rely solely on the police. That said, if your abuser violates the order of protection, either by contacting you or by physically harming you, you should call 911 and that person will likely be charged with criminal contempt. This can either be a felony or a misdemeanor, and an additional criminal order of protection will likely be granted if your abuser is charged.

- **Strategic Lawsuit Against Public Participation (SLAAP)**

- SLAPP refers to the technique wherein a person or entity sues someone for exercising their First Amendment right to free speech. Well publicized SLAPP cases abuser/batterer will file a lawsuit against a survivor, “knowing his or her [survivor] does not have the time, money or access to resources to fight a court battle.”⁹
- Anti-SLAPP laws exist, but unfortunately, “they do not prevent frivolous cases from going to court. They only offer a defense once the case is in court.”⁵
- Different states have different Anti-SLAPP laws.¹⁰ [You can look up yours using this tool.](#)

⁹ “How Anti-SLAPP Laws Work.” DomesticShelters.org, www.domesticshelters.org/domestic-violence-articles-information/how-anti-slapp-laws-work.

¹⁰ “State Anti-SLAPP Laws.” Public Participation Project, anti-slapp.org/your-states-free-speech-protection/.

CONTACT US

This is a work in progress - a first edition. It feels like every few weeks we hear about a friend of a friend getting hit with a brutal lawsuit by someone who has already harmed them. We hope this document can be a jumping off point for your continued self-defense, and we hope it makes you feel less alone. We also hope that this document raises awareness of this abusive tactic, and by exposing it, maybe even makes it less attractive to abusers; or less credible to those who would take the word of the State over that of a survivor.

Feel free to reach out if you have any questions or comments (though note again the volunteer nature of our work and our lack of accreditation), or if you have a legal fundraiser you'd like us to boost on our Twitter. If you are a lawyer or activist working in a relevant area, and have resources or input to add, **please get in touch with us:**



Twitter: @survivors_guild

Secure email: survivorsguild@protonmail.com