



How to Preserve an Audio Recording

Perpetrators can misuse technology to harass, intimidate, and threaten. When technology-facilitated violence occurs, maintaining a record of events is important for criminal and civil legal proceedings. Women¹ may want to preserve audio evidence in order to strengthen their case by providing proof of violence and/or to present a picture of abusive dynamics and domestic violence, among other things. Evidence of harassment, intimidation and threats may be found in voicemails, voice memos and other audio recordings. This information sheet provides information on how to preserve voicemail and audio recordings.

Safety Check

Before you capture audio evidence, always think through any potential risks to your safety as the perpetrator may be monitoring your devices and may see that you are making recordings. This can lead to escalated abuse or the perpetrator may delete important evidence.

This could be happening in several ways:

- Your smartphone could be monitored if the perpetrator has access to your device, such as if you share a home or they have made you share your passwords with them.
- If the perpetrator knows your cloud storage ID (i.e., iCloud, Google Drive, or Dropbox) and password, they will have access to some of your files, photos and videos.
- It is also possible for the perpetrator to be monitoring your smartphone or computer via [mobile spyware, such as stalkerware](#). If the perpetrator is monitoring your device these ways, it could alert them to you collecting evidence.

If you suspect that the perpetrator has access to your devices, accounts, or files, you will need to make a plan on how to avoid detection when collecting evidence. This is both to protect you from additional abuse and to avoid the risk of the perpetrator deleting important evidence.

Look at your account settings on your email, social media and other accounts to see what devices are connected and disconnect them from the account if it is safe to do so. You can also check to see if an unusual IP address is accessing your accounts. This may be important evidence that the perpetrator is accessing your accounts without consent.

¹ In this toolkit we will be using the term “woman”, “violence against women” and feminine pronouns for simplicity and to recognize the significant impact technology-facilitated violence has on women and girls. Women and girls face higher rates of most forms of technology-facilitated violence. They also experience some of the most serious consequences as a result of this violence. However, technology-facilitated violence impacts transgender, non-binary, male and female people. We hope that all people impacted by this violence will find these documents useful.



Consider [password safety](#) and the importance of changing passwords on all relevant platforms and devices. If you have any concerns that your device(s) may be infected with spyware, create a plan to change the passwords without alerting the perpetrator. Support is available from anti-violence advocates to assist you.

You may also need to consider alternative ways to preserve evidence, some of these other methods are discussed in this [toolkit](#).

Voicemail Messages

Preservation

If you want to preserve a voicemail message, you can do this through the video screen record option on your phone or with an audio recorder app, a USB recorder or a traditional tape recorder.

If you have an iPhone, the simplest method is the [video screen recording](#) option built into iOS that will capture all system sounds being played by the phone. For Android phones, it will depend on what recording app you choose to use and what audio recording capabilities the app has. Audio recording apps for iOS may struggle with the iPhone system, but audio recording apps on an Android should operate smoothly. Alternatively, you could purchase a cheap audio recorder with a 3.5 mm microphone jack and connect it to your phone. If you play the audio from the speaker on your phone, you can record the audio you want to capture on another device.



You will need to check with your local court in advance to see how you can play a recorded audio file in a court proceeding. You can request that the court have the equipment to play your audio recording as you most likely will not be allowed to play your phone in court. If the court does not have the necessary equipment, you can ask for permission to bring your own device like a laptop and play your recording. You will want to do this well in advance of any court date.



Transcript

It is recommended that you make a transcript of the recording or get someone else to. It can be helpful for the court to be able to read what was said in the recording as it saves time and may be more clear to read than to listen to the audio recording. Additionally, there may be situations where you are not allowed to play a recording in court. In these situations, a transcript of the recording may be allowed as evidence instead. For example, if there is a lot of irrelevant background noise or interruptions in your recording, a judge may prefer the transcript to the audio recording. In these cases, you might still be able to use a transcript of the relevant portions of your recording as evidence.

If it is safe to do so, there are helpful online transcription tools such as www.descript.com or Google Voice Transcription through Google Docs. If you use a secondary transcription service you will want to double check all transcriptions to ensure that the transcript is correct by reading it and listening to the audio recording. You can correct any mistakes so the transcript is accurate.

Documentation

It can also be helpful to document an abusive or harassing voicemail as it will:

- Keep a record of what is happening, which may be helpful if you want to pursue legal action or in case it gets deleted.
- Alert you to any escalation in monitoring and abusive behaviour, which may indicate that the danger to your safety is increasing.
- Help you and the court see the patterns of technology-facilitated violence and how technology is used to enable the abuse.

BCSTH's [Documentation Tips For Women Experiencing Technology-Facilitated Violence](#) Information Sheet and [Sample Technology-Facilitated Violence Log](#) can guide you through what is important to write down and preserve.

Presenting in Court

To present the voicemail recording in court, you will need the following information:

- **The voicemail message** in a format that the court can accept as evidence (call the court in advance to ask for guidance and confirm they can accept audio evidence in the format you have).
- **How to access the equipment** needed to play the recording. You may be able to request certain equipment from the court using an Equipment Request Form. However, courts may not always have the equipment you need (for example, a laptop). If this is the case, then you may have to bring your own equipment.



- **Additional information** about the call. Some voicemail services will be able to tell you the number of the person who left you a message and the date and time of the voicemail.
- **Your phone logs or call history**, which you can find on your phone or on your phone bill, can match up the message with the phone number, date, and time of the call on your phone logs. Take screenshots of the phone log. You may have to ask your telephone carrier to give you records, which can take time, so plan ahead. If you think you will need these records, contact your telephone carrier immediately to ask that they retain your records.

Note: if you have a *digital answering machine* (one that plugs into an electric outlet), unplugging it could erase all your messages. It may be helpful to make an audio recording of the voicemail messages you want to keep on a separate recording device in case the original gets accidentally erased. You will most likely need to transfer the voicemail messages onto a USB, CD or DVD in order to present the messages in the court.

Audio Recordings

An audio recording is a recording of a conversation between people. How you record and store an audio recording depends on the device you are using, assuming you are the one who is recording the conversation. If you are not familiar with how to record an audio conversation from your device, you can also do an online search such as: “*How to record audio on a [your specific phone or tablet].*”

Generally, audio recording apps built within the device allow you to record, edit, share, store and delete the recording. Note: built-in iOS memos would not work in these cases because when audio plays from apps it stops recording. If you are using the video screen recording method, it will be saved in photos.

If you are using an Android this would be app specific. The files would be accessible within the app that is used to capture the audio.

It is important to be aware of the following information before recording a conversation:

- [Section 184 of the Criminal Code of Canada](#) states that recording private conversations is legal as long as one of the parties that is recording the conversation (which could be you) is involved in the call or conversation and consents to the recording. This is called a “one party consent” exception. Recordings made with the consent of one party may be legally recorded and potentially introduced as evidence. Under this exception, Canadians can legally record their own conversations with other people but not other peoples’ conversations that they are not involved in (i.e., eavesdropping). For example, you couldn’t ask your friend to record a call between you and the perpetrator. It is illegal under [Section 184 of the Criminal Code of Canada](#) to willfully intercept a private conversation. Intercept means to listen to, record or acquire the communication or the substance or meaning. This means that you cannot intercept and record



the private phone conversations of others that you are not actively speaking with.

- Although the one party consent exception provides that it is legal to record a conversation that you are part of, a court may not accept one party audio recordings as evidence. In some situations, trying to use a one party consent recording in court may result in the judge having an unfavourable impression of you. You would need to explain to the court the circumstances of why you felt it was necessary to record the conversation without telling the other person you were recording. One explanation to provide the court is that it was necessary to document the ongoing abuse, harassment and intimidation that you and your children experienced on a regular basis and it was not safe to tell the perpetrator you were recording the conversation. In family law matters, one party consent recordings can erode the trust between family members particularly between parents and children and youth. It can be difficult for children to be in the middle of a disagreement between adults and if you are recording a child, you should not try to encourage them to say negative things about the opposing party. Additionally, when you are recording a conversation, make sure that you are not purposely trying to make the opposing party look bad for the sake of the recording. These actions could undermine your credibility in the court.
- Depending on your device and settings, all audio recordings may be saved and available on every device that is signed in to your cloud storage account. This could mean that the perpetrator might have access to your audio recordings (for example, if you share devices or the perpetrator knows your cloud ID and password).
- Do not edit the audio recording in any way. Courts prefer to hear the recording in its entirety and may doubt the accuracy of the recording if it has been edited.
- Be prepared to establish the circumstances in which the recording was made, and that its integrity has not been compromised (i.e., it has not been edited). In this regard, it is important to preserve the meta-data of the electronic file by keeping a copy of the recording in its original form. The metadata show when the original recording was made.
- Document the time and date of the recording and who can be heard on the recording. BCSTH's [Sample Technology-Facilitated Violence Log](#) can guide you through what is important to write down.



Authentication

It is best to transfer the audio file as few times as possible in order to minimize questions about the authenticity of your recording. Keep a record of the number of times and the ways you transferred the recording from one device to another.

If the authenticity of your recording is contested, then you will have to authenticate your recordings.

BCSTH has more information about authentication in our [“Authentication of Digital Evidence for Protection Order Matters in BC Family Court or BC Civil Courts” information sheet](#). Although the authentication tip sheet focuses on text messages and emails, the same concepts are applicable for audio recordings.

Identifying the Other Party

You might have to prove the identity of the person being recorded. Sometimes an individual may deny that they are the individual on the recorded audio. If you record a conversation between you and another individual, you can testify to their identity. If the recording is a voicemail from someone you know well, you can testify that you recognize the individual’s familiar voice and style of speech. If it is a phone call or voicemail, you may have evidence that the perpetrator’s phone number is associated with the evidence. Additionally, if the individual reveals personal information about themselves during the recording, it can be used to prove their identity.

Safeguarding Audio Evidence

Once you have captured your message, it is important that you save it somewhere secure: somewhere you won’t lose it or someone else won’t be able to access. For example, you will want to save evidence onto a phone, computer, or tablet that the abusive person cannot access. Even if you do not think they have access, you may still want to change [passwords](#) and put in other security measures before saving your evidence on your device.

To learn more about backing up and storing digital evidence, see our [“How to Back Up and Store Your Digital Evidence”](#) information sheet.

Safety Reminder

Your safety is important. If you think the other person in your recordings may become more abusive if your preservation of evidence is discovered, consider asking a friend to capture the message on their own phone or computer and save it for you. However, make sure the friend knows that capturing the evidence could mean that they have to go to court to testify under oath and explain what they did for your case.



Connect to an Anti-violence Worker or Legal Advocate for Support

If you are unsure how to preserve evidence of technology-facilitated violence, contact an anti-violence program in your area for support and to develop a safety plan that includes technology safety considerations. Legal advocates available in BC communities may be able to assist.

BC anti-violence programs and legal advocates:

- [VictimLink BC](#)
- [Legal Aid BC](#)
- [Rise Women's Legal Centre](#)
- [Shelter Safe Map](#)
- BCSTH [technology safety planning](#) and [A Guide for Canadian Women Experiencing Technology-Facilitated Violence: Strategies for Enhancing Safety](#)

Technology Safety Project

This document is a part of a series that details how to preserve evidence related to the misuse of technology in experiences of domestic violence, sexual assault, and stalking. The series is part of the [Preserving Digital Evidence of Technology-Facilitated Violence Toolkit](#). This document, or any portion thereof, may be reproduced or used in any manner whatsoever as long as acknowledgment to the BC Society of Transition Houses is included in the product.

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