

CRIMINAL HARASSMENT

Prepared by the Canadian Resource Centre for Victims of Crime
May 2011

This paper is intended as a general guide for people who may become susceptible to crime or for victims that are already involved in the criminal justice system. Please do not hesitate to contact our office if you require clarification, or for a referral to an agency in your community that may be able to provide services to you. We encourage victims to verify the authenticity of any information within this paper with their service providers prior to engaging/using the service suggested within.

Introduction

Criminal harassment, more commonly known as stalking, can be defined as harassing behaviour including repeatedly following, communicating with or watching over one's dwelling home. This sort of behaviour is against the law. It is not a sign of love; it is about power and abuse.

Senator Donald Oliver describes stalking as "a horrific crime that is treated far too lightly by the police, prosecutors, lawyers and judges. Stalking is predatory in nature and plunges the victim into a world of fear and terror. We must protect the victim and society. A stalker's efforts to control and intimidate often escalate into violence."

The law

Canadian law makes criminal harassment an offence punishable by summary conviction or by indictment. This offence currently carries a maximum penalty of ten years in prison. Section 264. (1) of the *Criminal Code* specifies:

264. (1) **Criminal harassment** - No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other is harassed, engage in conduct referred to in subsection (2) that causes that other person reasonable, in all circumstances, to fear for their safety or the safety of anyone known to them.

(2) **Prohibited conduct** - The conduct mentioned in subsection (1) consists of repeatedly following from place to place the other person or anyone known to them;

- (a) repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;
- (b) repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;
- (c) besetting or watching the dwelling-house, or place where the other person, or anyone known to them, resides, works, carries on a business or happens to be;
or
- (d) engaging in threatening conduct directed at the other person or any member of their family.

(3) **Punishment** - Every person who contravenes this section is guilty of

- (a) an indictable offence and is liable to imprisonment for a term not exceeding ten years; or

(b) an offence punishable on summary conviction.

Who are the victims?

Approximately 80% of the 4450 stalking victims in Canada in 1996 were women. Eighty eight percent of the persons accused of stalking in these cases were male (Bunge and Levett 1998, 8). There is also a strong link between stalking/criminal harassment and domestic violence. Fifty seven percent of stalkers are intimate partners or ex-intimate partners of the victims, and most women know their stalkers (METRAC 1998, 2). This is not to say that only women are victims and only men commit criminal harassment. Both men and women can be victims of stalking. Also, it is important to note that both women and men can be stalkers.

Making matters worse, some victims of criminal harassment do not even realize that the behaviour of the person who is harassing them is considered criminal. The examples of common stalking behaviours below may help victims realize what they are experiencing is criminal harassment and allow them to seek help and support.

What behaviours comprise stalking?

Stalking can include a number of different behaviours intended to control and frighten the person being stalked. Most commonly, this can involve:

- repeated telephone calls (the caller may hang up or remain silent on the line) to your home, cell phone or workplace in order to “track” your whereabouts
- repeated letters or stealing mail
- repeated emails [threatening or obscene e-mail or text messages; spamming (in which a stalker sends a victim a multitude of junk e-mail); live chat harassment called flaming; leaving improper messages on message boards or in guest books; sending electronic viruses; sending unsolicited e-mail; and electronic identity theft]
- sending unwanted gifts (flowers, candy, etc.)
- showing up uninvited at work or home
- following, watching, tracking
- threatening harm to the person being stalked, her family, friends, pets
- harassing their employer, colleagues or family
- vandalizing their car or home
- harming pets
- assault (physical, sexual, emotional)
- kidnapping, holding hostage

Emotional impact of criminal harassment

Feelings that may arise when one is being criminally harassed:

- fear

- alienation
- confusion
- isolation
- powerlessness
- hopelessness
- anxiousness
- anger
- depression
- detachment
- lack of control
- diminished personal safety
- loss of confidence
- resentment
- lowered sense of self-worth

These feelings are normal for someone in your situation. Remember that you are not alone. Do not let the stalker cut you off from those people who care about you. You are not to blame. The stalker is.

You may be having a difficult time dealing with all of these emotions on your own. It is important to seek emotional support and perhaps even speak to a professional who can help you to cope with the anxiety that being a victim of criminal harassment can bring. Contact the Canadian Resource Centre for Victims of Crime for emotional support or for a referral to a counsellor.

Safety Planning

It is crucial to have a safety plan. Get in touch with the police or a victim services professional who can assist you.

Steps to take if you become the victim of a stalker:

Contact the police

Make a police report as soon as you realize you are being stalked. You may wish to include a photograph of the stalker if one is available.

Keep a written record

Take notes. Note the time, date and place of every contact with the stalker even if it seems insignificant at the time. Record all answering machine messages left by the stalker. Note all hang ups and occasions where the person on the other end of the line says nothing. Keep a record book and a copy of that book in a safe place outside your home. The investigation and prosecution of criminal harassment is more successful when good records have been kept.

Tell others

Tell family members, friends, co-workers, employers and neighbours about what is happening to you. Ask them to take note of any contact the stalker has with them or if they see him around your home. Put their notes into your record book. If you have children, ensure that their schools and caregivers are aware of your situation. Again, ask them to log all contacts with the stalker. Caution your family and friends of the severity of the situation. Inform them that none of your personal information should be revealed.

Peace Bonds

Get a peace bond under section 810 of the *Criminal Code*. A peace bond is a court order that protects you by discouraging the person named from carrying out threats. It can order a stalker to have no contact with you. More specifically, a peace bond can order a person to keep a certain distance from you, your workplace, your home or any member of your family.

Peace bonds have no cost and can last up to 12 months in Canada. A person can reapply on a yearly basis if necessary. They are issued by a judge, a justice of the peace or by a magistrate.

It is a crime to violate a peace bond. A person who violates the conditions of a peace bond can be arrested or charged with a criminal offence. A judge can sentence a person who violates a peace bond to:

- a fine of up to \$2000
- a jail term of up to six months
- both

It is important to note that a peace bond cannot protect you from someone who ignores it. It may also take a considerable amount of time to get one, three weeks or longer in most cases. You might consider taking others steps to protect yourself. Contact your local police department for more information.

Increase your personal safety

- Be cautious when speaking in public about family, social or travel plans. Someone could be listening.
- Avoid giving out your social insurance number. It is only legally required at banks and on employer tax forms. Your S.I.N. number can be used to track you.
- Get a post office box and inform all your contacts of your new mailing address. Ensure that no mail with your name is sent to your house. Seal the mail slot on your house.
- In an apartment building, remove your name from the door buzzer or use an alias or a code name if one is required.
- Remove your home address and telephone number from anywhere that a record exists. Use your post office box for the following services:
 - o driver's license, car registration, medical services plan, credit card records, credit bureau, utility bills, schools, universities, voter records, land registry files, church/club records, pharmacies, couriers, libraries, cheques, business cards, personnel file at work, doctor's offices, all medical records, veterinarians, luggage, subscriptions, auto mechanics, Internet, florists, dry cleaners, telephone books, photo-developers, children's sport and recreational files.

YOU DO HAVE THE RIGHT TO REMOVE YOUR ADDRESS FROM PUBLIC RECORD. ASK THE POLICE OR VICTIM SERVICES TO HELP YOU. SPECIAL PERMISSION MAY BE REQUIRED IN CERTAIN CIRCUMSTANCES.

Increase the safety of your home

- Trim the shrubs near your house.
- Get security lights and hang them at a height where they cannot easily be removed.
- Install an alarm if you are able.
- Have the police or a home security specialist complete a security check of your home.
- Keep doors and windows locked at all times, even when you are in the house.
- Keep a light on in your garage.
- Keep emergency numbers beside the telephone.
- Consider changing the locks on your house, use deadbolt locks and keep track of your keys.
- If you lose your keys, get the locks re-keyed and have new keys made.
- Have your keys ready when approaching your house, avoid fumbling for them on the doorstep.
- Tell neighbours and landlords that you trust about the stalker and have them keep a watchful eye over your house/apartment.
- Do not accept packages or deliveries that you did not order.
- Make sure that your name and address is removed from mail before it is put in the garbage or recycled.
- Place lamps near windows to reduce shadows on the curtains.
- Make sure you know who is at the door before you open it.
- Have an emergency plan. Ensure that your children are aware of it and that they know where to go for help. Keep a packed bag with extra clothes, medications, identification, cash and/or debit cards. You may choose to keep this emergency kit in your car, or workplace, or at a friend or neighbour's house. Always keep a full tank of gas in the car and keep back-up keys with your neighbours.

Increase your telephone safety

- If you do not have call display, get it on all telephones (home, cell, office).
- Do not answer the telephone unless you know who is calling. Always let it go to voicemail if it is unknown caller. You can then listen to the message and call family/friends back.
- Document any and all hang up calls in a diary. Make a monthly report to the police of hang up calls and attach a copy of the diary you kept. Report this by telephone and tell them the name of your detective. You may need to report more often (every two weeks) if you are getting a lot of calls.
- Use *67 then dial the telephone number you are calling in order to block your name from appearing on someone's call display. If you use the *67 feature, the person on the other end of the line cannot use the *69, last call return. You also have the *57 service available to trace harassing phone calls. When call trace and other features are used, it may result in a charge on your phone bill. Please contact your service provider to verify charges prior to use.
- If the harassment continues, get a new phone line with an unlisted number. You may choose to keep the original line in order to record messages left by the

stalker. Have someone else record the greeting, preferably an unrecognizable male voice.

- A cellular phone is recommended in case of emergency.
- It is important to keep in mind that cellular phone conversations can be traced through the use of a scanner.
- Protect your privacy by avoiding 1-900 numbers. Avoid 800 and 888 numbers except when contacting the police or other justice system agencies.

Increase the safety at your workplace

- Tell trusted co-workers and employees about your situation.
- Have people screen your calls by taking names and messages.
- Remove the name plate from your desk or office door.
- Remove all personal information from your desk, files, time sheets, files, locker and computer.
- Tell others not to reveal your whereabouts or when you are expected to return to the office.
- If a photograph of the harasser is available, show building security and make them aware of your safety needs.
- Do not accept packages that you did not order.

Increase your safety when you are walking around

- Be aware of your surroundings.
- Walk in well-lit areas.
- Try to walk with other people whenever possible.
- If you believe that you are being followed, turn around and show that you are aware. Try to get to a safe place like a store or café.
- Wear comfortable shoes that you are able to run in.
- Walk in the centre of the sidewalk. Stay away from bushes, doorways and parked cars.
- Do not wear headphones and avoid distractions like digging through your purse or backpack.
- Wear purse straps on your shoulder, NOT looped around your neck.
- If you require immediate assistance, yell "FIRE" to invoke immediate attention. People respond more readily to calls of fire than to any other.

Increase your safety when using public transit

- Wait for the bus in well-lit areas.
- Sit near someone on the bus.
- Carry a schedule to avoid waiting for long periods of time.
- Some transit services offer to stop closer to your house or street, ask your local transportation company about this service

Increase your safety in the car

- Keep car doors and windows locked at all times.
- Change your routine by taking different routes to get places.
- Use a locking gas cap.
- If possible, ensure that your car's hood can only be opened from the inside of the vehicle.
- When approaching your vehicle, remember to do an inspection by looking underneath it, at the tires and at the windows.
- Look into the backseat before getting into your car.

- Know where to find police, fire and gas stations.
- Have your keys ready as you approach your vehicle.
- Park in well-lit areas or near a parking attendant's booth.
- Do not identify your keys with your name, license plate number or vehicle registration.
- If a van is parked next to the driver's side of the vehicle, enter on the other side, or leave. Vans are often used in abductions.
- Make sure that the automotive centre where your car is serviced does not give out your personal information and that they keep your vehicle safe.
- If you are being followed, drive directly to a police, gas or fire station. Remain inside the vehicle and honk the horn until someone comes to your aid.
- Try to record the license plate number of any car that is following you.

What to do in the case of threats

- Report any/all direct threats made to you to the police by telephone. Keep a record in a journal.
- In the case of an immediate threat to your personal safety or the safety of a member of your family, call 911. General threats like "I am going to get you" should be recorded in your journal and reported monthly (or more often) to the police by telephone.

How to help a friend who is being stalked

- Express your concerns to the victim; be supportive and make sure that the victim knows where to turn for help.
- Do not confront the stalker. Experts agree that confrontation may place you at risk and, more importantly, increase the risk of violence to the victim.
- If you are still concerned, contact the police.

How can the police help?

- Criminal harassment has serious consequences for a victim and should never be minimized.
- Early police intervention is key.
- The police have a variety of *Criminal Code* provisions to consider (criminal harassment, uttering threats, intimidation, harassing telephone calls, breach of recognizance).
- Police officers should assess the severity of your situation (increasing frequency and regularity of contacts by the stalker is a sign of danger).
- The police should document all warnings given to a stalker (in order to prove recklessness if the harassment continues).
- Police should help the victim gather evidence by documenting the changes a victim has made to their life as a result of the harassment.
- Local police can flag your telephone number on their dispatch system. If a 911 call is received from your number, a patrol car is immediately sent to your address.

Conclusion

Criminal harassment is a serious crime. Victims who are trying to cope with being stalked often feel intense stress, fear, frustration, alienation and uncertainty. It is important to have a safety plan in place and a strong support system.

If you are following the important safety tips listed above – you are doing everything you can. Unfortunately, criminal harassment is very difficult to prove in most cases. The most important thing is to document all contact with the stalker to establish a pattern of harassment and then make regular reports to the police by telephone. Remember to only call 911 if you are in immediate danger.