



S E R V I N G C A N A D I A N S



STALKING IS A CRIME CALLED CRIMINAL HARASSMENT



SECTION 264

VICTIM SAFETY

CRIMINAL CODE

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CRIME CALLED
CRIMINAL
HARASSMENT

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CRIMINAL HARASSMENT

Are you worried about your safety because someone is:

- following you everywhere...
- contacting you over and over...
- watching your home or office...
- making you or your family feel threatened?

***You may be experiencing
criminal harassment!***

It's a crime! You can get help.



What You Should Know About Criminal Harassment

What is criminal harassment?

Criminal harassment is an offence in the *Criminal Code*. It is *harassing* behaviour that includes *stalking*. The behaviour must give you good reason to fear for your personal safety and it must have no legitimate purpose. Generally, the behaviour must happen not just once but repeatedly. However, where the behaviour is overtly threatening, a single incident may be considered criminal harassment. It is not an excuse for the person to claim that he or she did not intend to frighten you.

Remember, though, some people do have a lawful reason to contact you repeatedly. For example, a debt collector may call you several times. Although you may not like this contact, it is lawful when done according to laws regulating collections.

Here are some examples of criminal harassment:

- calling you over and over again, and perhaps hanging up whenever you answer the phone
- contacting you on the Internet or through constant e-mail messages
- following you, your family or friends
- leaving threatening voice messages
- sending you gifts you do not want
- watching you or tracking where you go
- threatening you, your children, family, pets or friends

These are common examples. Such unwanted behaviour can be frightening and cause emotional distress. You can take action if this is happening to you. Contact the police to discuss your options.



Is criminal harassment something new?

Harassment and stalking have been around for a long time, but the specific *Criminal Code* offence of “criminal harassment” was only created in 1993. In the past, the police would charge a person with an offence like trespassing at night, loitering or uttering threats. These crimes still exist and may still be charged. However, since 1993 the police usually address this type of conduct through a charge of criminal harassment.

Criminal Harassment legislation is a response to the increasing violence against women, especially women leaving a marriage or intimate relationship.

Who stalks and why?

Stalkers have a variety of personalities and characteristics. Some may have a mental disorder. Experts have described many types of stalkers, but they mostly fit into two basic categories:

- **Stalkers obsessed with a stranger:** Some stalkers fixate on a stranger, sometimes a celebrity. They may believe their conduct will eventually win the love of their victim. Or they may have delusions that the victim already loves them but cannot return their affection because of some external influence. In Canada, about 12% of victims of criminal harassment are harassed by a stranger.
- **Stalkers obsessed with someone they know:** Many stalkers know their victims and are trying to control them, whether they are ex-partners, spouses, acquaintances, co-workers or close friends. About 88% of criminal harassment victims fall into this category. In many cases, the stalking is an extension of family violence.

Although anyone can be a victim of criminal harassment, Statistics Canada data show that about 8 out of 10 victims are women, and 9 out of 10 stalkers are men.

Will the stalker become violent?

It is hard to know if the person harassing you will become violent. You should ask the police to help you assess the risk. Less than 1% of criminal harassment cases involve injury to the victim. However, when criminal harassment is a continuation of a family violence situation the risk of violence is greater. It is always a good idea to find ways to increase your safety.



Why me?

Being harassed or stalked is not your fault. The person may claim to love you, but he or she really wants to control you. You have the right to reject a friendship, separate from a spouse, or break up with a partner. Just because you know the person does not mean that you must put up with the harassing behaviour. You are not to blame if someone repeatedly bothers you or follows you around. Remember, what they are doing is **NOT** love. It is against the law and you can take action.

Taking Action

What can I do if someone is stalking or harassing me?

- Think about your safety and get help. The first thing to do is *call the police*.
- Dial 911 if you are in immediate danger.
- Call the regular police number to discuss other criminal harassment offences.
- Tell the police what is happening.
- Let the police know that you fear for your safety or for the safety of someone you know.
- Ask for support and information to help you cope.

How can the police help me?

- **Your safety is important to the police.** The police can suggest ways to stop unwanted contact and improve your safety. They can put you in touch with others who can help. This might include victim service workers, transition houses, or crisis and counselling services. They may also suggest safety measures such as getting an unlisted phone number.
- **The police will investigate the complaint.** They will ask about the harassment and collect as much evidence as possible. They may take photographs of damaged property and ask for any written records. The officer will write a report about the incident and ask you to prepare a written statement of your complaint.

Be sure to get the police file number for your case and use it whenever you call the police.



What kind of information do the police need?

The police need as much evidence as possible, so try to keep the following:

- Any relevant details that you know about the person. For example, does he or she have a gun, a criminal record, or an existing court order not to contact you?
- Written records with details about every contact. These records will help if you go to court. (Try to include dates, times, places and what the person said or did.) Ask your friends to keep records too if the person is contacting them.
- Things the person sent you, such as notes, gifts, or phone messages.
- A list of witnesses, including names and telephone numbers.

Will the police charge the person who is harassing me?

If there is enough evidence of an offence, the police will charge the person. In some provinces, the police must consult with the Crown prosecutor before they lay charges. However, if the police do not charge the person, it does not mean that they do not believe you. There may not be enough evidence to support a charge and the police may suggest other legal options such as a *peace bond*, *restraining order* or *protection order* (see pages 7 and 8 for definitions).

What would the police charge the person with?

Depending on what has happened and the type of evidence, the police might charge the person with one or more *Criminal Code* offences, such as:

- criminal harassment
- trespassing at night
- assault
- uttering threats
- intimidation



Will the person harassing me be arrested and sent to jail?

The answer is not simple. It depends on the facts and the seriousness of the behaviour. The police will assess each situation and take the appropriate action under the circumstances. For example, if the police do not arrest the person, they may require him or her to sign a “promise to appear” in court to answer the charge. Tell the police and victim services if you still fear for your safety. If the police do make an arrest, ask them to let you know if they release the person from custody. If the person goes before a judge or a Justice of the Peace, which usually happens within hours, he or she might be:

- released on an “undertaking” (a promise that usually has conditions to stay away from the victim and other related persons);
- released on bail after signing a “recognizance” (a promise to appear in court which includes a financial penalty for not showing up and perhaps restrictions like promising not to contact you); or
- kept in jail until the trial. This might happen if the crime was serious and the court believes the person may not show up, or will commit another offence before the trial.

Will I have to go to court?

If charges are laid, the police will turn the file over to the Crown prosecutor’s office. The Crown prosecutor is responsible for taking the case to court. If the accused person pleads guilty, you may not have to go to court. If he or she pleads not guilty, the Crown prosecutor would summon you as a witness at the trial to prove that the person committed the crime. Ask for help from victim services. A victim service worker can answer questions about what will happen in court, and keep you updated on the status of your case. They can also make sure you have an interpreter in court if you need one. You can contact the Crown prosecutor in your case if you have questions about the evidence you will present in court.



What happens if the person is found guilty?

If the accused person pleads guilty or is found guilty, the judge will decide the sentence. Before sentencing, you can give the court a written victim impact statement describing how the crime affected you. If you wish, you may read the statement at the sentencing hearing. The sentence for a criminal harassment conviction may range from jail in the most serious cases (up to 10 years) to probation in less serious cases. Probation orders can include conditions such as no contact. The court can also impose a fine. The exact sentence depends on many factors – whether violence was used, whether the person already has a criminal record, whether drugs and alcohol were involved, and so on.

Other Legal Options

Peace bond

- This is a court order under the *Criminal Code* made by a provincial court judge, or an agreement the person makes with the court, for a period up to 12 months.
- It can include reasonable conditions such as not to visit you, not to contact you, your children or family, not to have guns, and so on.
- You may wish to consider a peace bond if you have good reason to feel that someone like an ex-partner will harm you, your children or property.
- To request a peace bond, go to the nearest police station. You may need a lawyer. In some provinces a Crown prosecutor or victim services will make the application for you. A peace bond may take several weeks to get, and it applies only in the province that issued it.
- If the person breaks any conditions, call the police immediately. This person may be charged for breaking conditions, and if convicted, he or she could be sent to jail or fined, or both, and would also get a criminal record.

What You Should Know About Court Orders

Court orders do not guarantee your safety. Some people ignore court orders!

- *Ask the court for a copy of any order it makes.*
- *Give copies to your local police, your children's day care or school, your workplace and so on.*
- *Never contact the person or break the conditions yourself.*
- *Continue to take care.*



Restraining order

- A restraining order is not a criminal order. It is a family court order made under provincial civil law. It forbids a spouse or partner from molesting, annoying, harassing you or communicating with you and the children, except as set out in the order.
- It serves basically the same function as a peace bond but does not necessarily carry the same penalties if the person disobeys it. To get a restraining order, you may need a lawyer to make an application to the court.
- A judge can give a restraining order even if you are not afraid for your personal safety. If the person ignores the order, your lawyer has to start a civil contempt proceeding in court. The police do not enforce civil orders. The person would have to explain to the court why he or she broke the conditions of the order. The judge could order that the person be fined or go to jail until he or she obeys the court order.

Protection order

This is a civil court order issued under provincial family violence legislation. Not all provinces have such legislation. Where it exists, it provides various emergency and long-term orders to protect victims of family violence. A protection order may give temporary custody of children and the home to the victim, while ordering the abusive person out of the home. It can include conditions such as not allowing any contact.

Ways to Increase Your Personal Safety

Some of the following tips apply if a stranger is stalking you, others if an ex-partner is bothering you. ***You should not use this information in place of seeking police assistance.***



Tell others

- Tell your supervisor and co-workers. Your workplace may have programs to help deal with harassment. They may be able to screen calls or prevent delivery of unwanted parcels or mail. Ask them *never* to give out your personal information.
- Tell your child's school or day care, and give them copies of any orders that prohibit the non-custodial parent from contacting the child. If a stranger is stalking you, provide a description of the person, the car, the licence plates and so on.
- Let all of these people know if you have a court order or peace bond and what conditions apply.

*Be sure **family and friends** know what is happening. Ask them to keep written records and to let you know if the person contacts them.*

Keep personal information private

- Do not use your social insurance number except for banking and income tax forms. It could help someone track you down.
- Remove personal details from things you throw out or recycle.
- At work, remove your nameplate and other personal information, if possible.

Take your name off your mailbox or consider getting a post office box.

Be safe on the telephone

- Consider an unlisted phone number.
- Carry a cell phone for emergency calls.
- Tell your telephone company about your situation. Ask about tracing calls and security and privacy features like blocking personal information from call displays.

Never agree to meet the person who is harassing you.



Practise Internet safety

- Be careful about posting personal or private information.
- Check the harassment policies of your Internet Service Provider (ISP).
- Do not use your full name for your user ID, and change your password often.
- Report harassing e-mail or chat room abuse to your ISP. If you know the ISP of the person, tell that ISP too. They can cut off the person's account if it is being used to harass others. Ask about tools to block unwanted communication.
- Do a Web search on cyberstalking. You will find many sites with tips and information. Some can help track down harassers, document their origin and send reports to you or the police.

Do a home security check

- Ask the police to help you do a home security check.
- Be sure your windows and doors are always locked and use deadbolts.
- Change your locks if the person is an ex-partner.
- Consider security features like motion detectors and an alarm system.



Always be alert and have a plan

- Always think about your safety.
- Ask the court for a copy of any restrictions in a court order.
- If possible, do not walk alone and stay on well-lit streets.
- If you are being followed on foot, go somewhere safe (like the nearest store) and call for help.
- Always look around and be aware of what is happening.
- Keep paper and pen on you at all times so you can write down a licence number or other details.
- Sit near others when travelling on a bus or subway, and try not to arrive at your stop early. If you do have to wait around, stay in well-lit areas.
- When travelling in your car, always lock the doors. Plan alternative routes and know how to get to the police or fire station.
- If you are being followed in a car, drive somewhere safe and honk until someone comes to help you.
- Change the route you travel to work or home often.

Make an emergency escape plan. Keep a packed bag and some money in your car or workplace. Let your family know about your plan.



Getting Information, Help and Support

Information about your case

- Check the status of your case by contacting the police.
- Be sure to use the police file number assigned to your case.
- Stay in touch with the police, victim services and the Crown prosecutor and let them know of any changes to your address or telephone number.

Community Resource List

Create your personal community resource list. In addition to the police, there are a variety of organizations that can offer support or helpful information. Look in the white, yellow or blue pages of your telephone book for contact numbers for the following local or provincial agencies (opposite page):



| Helpful Resource | Telephone Number |
|---|-------------------------|
| <p>Police Can help you assess your safety and take action against someone committing a crime.</p> | (911 in an emergency) |
| <p>Public Legal Education and Information Can share general information about the law, the legal system and your rights.</p> | |
| <p>Victim Services Can refer you to counselling and tell you about programs and services for victims of crime.</p> | |
| <p>Crisis Line May be able to help with crisis intervention and refer you to helpful services.</p> | |
| <p>Transition House Can provide shelter, information and referrals for women who are stalked by partners or ex-partners.</p> | |
| <p>Mental Health Office Can offer information or counselling on depression, stress and mental health issues.</p> | |
| <p>People you trust Family, friends, doctor, or religious adviser may be able to offer emotional support.</p> | |
| <p>Other Look for other resources. You may be able to get help from a local women's centre, a sexual assault centre, a gay/lesbian support group, and so on.</p> | |



SECTION 264

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