

Stalking is a Crime

**What to do if
you are being
stalked or
criminally
harassed**

Manitoba 

This brochure contains information that is intended to help keep you safe from stalking. You may choose to carry this brochure with you as a resource. If you do not wish for others to see that you have information about stalking, this brochure can be made to look like a notepad by removing the front cover.



Table of Contents

Stalking/Criminal Harassment 3

Planning for Your Safety 7

Cyberstalking 12

Calling the Police 19

The Legal System 20

- Criminal Court 20
- Civil Court 21
- Family Court 28

Summary of Court Orders
of Protection 29

Manitoba Justice Victim Services
Provincial toll-free number:
1-866-484-2846

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Stalking/Criminal Harassment

What is stalking or harassment?

Stalking occurs when a person who has no legal reason to contact you, continues to bother you after you have said you want to be left alone. This repeated, unwanted contact can make you afraid for your personal safety. We call this behaviour stalking and it is against the law. In Canada, when criminal charges are laid by the police for stalking, the crime is known as criminal harassment. This booklet will help you understand stalking and find ways to protect yourself.

Do not blame yourself if you are being stalked – YOU are not causing it.

Stalking can happen to anyone. **We use the term target**, to refer to anyone who is being stalked. Targets are most often women, but children, teenagers and men can also be targets.

Stalking may include:

- following you from place to place or following your family or friends to get information about you

- communicating directly or indirectly with you or your family or friends to get information about you
- watching you in your home, workplace or any other place
- threatening and intimidating behaviour or comments directed at you

Stalkers sometimes also break other criminal laws, such as intimidation, uttering threats, making harassing phone calls, trespassing and mischief. It is important for you to report these offences to your local police. They will decide if any criminal laws are being broken, and will lay criminal charges if appropriate.

How do I know if I'm being stalked?

If you think you are being stalked, answer these questions:

- Are you being bothered repeatedly by this person?
- Do you believe that the stalker has no intention of stopping?
- Have you told this person in any way that you do not want any further contact?
- Does the unwanted activity include more than one kind of contact?
- Are you worried that the behaviour is affecting your job, or your relationship with others?

- Have you considered moving or changing your phone number or Internet address?
- Have you tried to avoid this person by changing your daily routine and asking family, friends or co-workers not to give out information about you?
- Do you fear for your personal safety?

If you answer “yes” to any of these questions, you might be the target of a stalker. It is very important that you immediately create a protection plan for yourself and use it. Don’t ignore the signs of being stalked. While most stalkers only want your attention, you can’t predict how far a stalker will go. Some do become violent and even kill their targets.

To protect yourself from a stalker – call the police and ask for help.

Are there different types of stalkers?

Yes, just about anyone can be a stalker: your spouse, a person you live with, someone you dated, a client, a co-worker, someone you met briefly, or someone you have no relationship with at all.

People who stalk their former partners are often very emotionally dependent on them. Because they have difficulty letting go, they often decide that if they cannot have the relationship, then no one else will. These stalkers are often jealous and their anger can lead to violence and even murder.

Not all stalkers have been in a relationship with their targets or even know them. Some stalkers have a mistaken belief that there is a relationship when there is none. Some believe that if they just keep trying, their targets will want to be with them. Others don't want to start a relationship, but seek out a particular person to scare and sometimes hurt. One common link between the different kinds of stalkers is that telling them to stop generally does not work.

A stalker may promise to leave you alone if you'll just go somewhere with him/her to talk – but do NOT go anywhere with a stalker.

Planning for Your Safety

Should I talk to or go anywhere with a stalker?

Don't have conversations with a stalker, it only encourages him/her. A stalker's offer to discuss his/her feelings or reasons for stalking can easily turn violent if he/she realizes you don't want to have any contact. Stalkers are often unable to judge or control their own emotions.

How can I protect myself from a stalker?

There are many ways to increase your level of safety, whether you are dealing with a stalking/harassment situation or ending an abusive relationship. Here are some things to consider:

- Call the police at **911** if you are in immediate danger. If you don't have 911 in your area, call your local police. Tell the operator that you believe you are in danger and are afraid for your safety. Also tell the operator if you have any court orders of protection.
- Don't try to handle this problem on your own. Find out what help there is in your community. For a list of community resources go to: www.gov.mb.ca/justice/victims/pdf/dviu_resource_card.pdf or call 1-866-484-2846 for more information.

- Set up a protection plan and use it. You need to think of ways you can keep yourself safe at places where the stalker might try to bother you (ex: walking on the street, going to work or any activity where you are open to harm or harassment).
- Discuss protection planning with your children and any other family members who may be at risk. Tell your children exactly who they can go to and who they can trust if they are in danger or need help.
- Find a good counsellor or a trusted person to talk to. Being stalked can be very frightening and confusing. Talking about it can help keep you mentally healthy and emotionally strong.
- Prepare and practise evacuating your home, in case it becomes necessary.
- Program emergency numbers into all your phones, especially cellphones, or tape the numbers to all your phones.
- Get a court order of protection (previously known as a restraining order) that states the stalker/offender cannot follow you, make contact with you, or otherwise continue the stalking behaviour. Call the police if the stalker continues to bother you once you have a court order.

- Tell people you trust – family, friends, neighbours, co-workers, landlords – about your situation. If possible, give these people a photo or description of the stalker, so they can tell you if they see him/her hanging around.
- If you are being followed, even in traffic, get someone's attention. Remain as calm as possible, but go where there are other people, such as a nearby business, and call 911 or the local police.
- Change your daily routines and travel routes as much as possible. Leave for work at different times. Shop for groceries on different days and at different stores.
- Develop a secret code with people you speak to regularly on the phone. You can use the code as a signal you're in danger, without alerting the stalker. For example, **"I crave blueberry ice cream"** could be the signal that you are in danger and the person you're talking to should contact police at once.
- Keep a pen and paper with you and by the phone. Write down the times, dates and what was said during unwanted contact. Get the names and numbers of any witnesses.

- If the caller is someone you don't know, write down any identifying information (ex: male or female, young or older). Note any background noise that might be a clue about where the call is being made from.
- If your phone service includes call tracing, hang up the phone and press *57 to activate it. Also report all the calls to the police.
- Never throw out or destroy anything the stalker has sent you. Cards, e-mails, letters, flowers, gifts, etc. might be helpful as evidence if the police become involved.
- Take pictures of any property damage or vandalism. Save the evidence and collect names of witnesses, but do not take any personal risks to get evidence in your case.
- When you're outdoors, stay in well-lit areas where other people are around. Avoid walking alone.
- Keep your car doors locked at all times. Look in and around your vehicle before you get in it.
- Trust your instincts; pay attention to your feelings of fear and respond to them by getting help immediately.

Stalking may happen in person, through family or friends, over the phone, by mail, fax or e-mail. A person can also be stalked using technology such as cellphones, global positioning systems (GPS), cameras and other intercepting devices.



Cyberstalking

Cyberstalking involves the use of information and communication technology, particularly the Internet, by an individual or group to harass, intimidate and cause you fear. Common abusive behaviours that occur with the use of technology include monitoring communications with others, transmitting threats, making false accusations, identity theft, damage to personal data or equipment, solicitation of minors for sexual purposes and other forms of aggression.

The Internet can be used in many ways to find out information about you and to harass you. The most common methods to watch out for include:

E-mail: When an abuser has access to your e-mail account, he/she may be able to read your incoming and outgoing mail. Anyone who has your e-mail address can send you unwanted mail.

Instant messaging (IM): This allows people to send messages back and forth online, like having a conversation over the computer. IM programs allow people to share images, sounds, video links and files.

IM can be used to harass a person with frequent, unwanted messages.

Text messaging: This allows people to send written messages on cellphones. Texting is often used to harass a person by sending frequent unwanted messages that often have a threatening or intimidating tone.

Blogs: Personal blogs often include information that might let stalkers know about your emotional state, what you do with your time and who your friends and associates are. This information may give away more information than is safe to share.

Social networking: When you put your profile on a social network (ex: MySpace, Facebook, Twitter), on an online dating service or on any site that shares information about the users, it is accessible to anyone using a computer. Once your information is in the network, it may continue to be available to anyone, even strangers, even though you remove it from the site address.

Spyware: Spyware is a computer software program or hardware device that lets unauthorized people (such as a stalker) secretly monitor and gather information about your computer use. There are many types of computer software programs and hardware

devices that can be installed on your computer without your knowledge, and the person installing them doesn't even need to have physical access to your computer.

Spyware can keep track of every keystroke you type, every software application you use, every website you visit, every chat or instant message you send, every document you open and everything you print. Some spyware allows an outsider to freeze, shut-down or restart your computer.

Phone: Answering machine messages can be intercepted and erased, even remotely, when the stalker has or is able to guess the password.

Fax: Information posted on the top of faxed documents, such as the area code, fax number and the name of the agency you are faxing from can be used to find out where you are.

Global Positioning Systems (GPS): A GPS can be used to monitor your whereabouts. Newer model cellphones often have a GPS that can be traced to determine your location.

GPS Data in Photographs: GPS data in photographs is known as Geotagging. A Geotagged photograph is a photo that includes geographical

location data obtained from a GPS included with a camera or Smartphone. When Geotagged photos are uploaded online, the photo can be placed onto a map to view the location where the photo was taken.

Safety tips if you are being cyberstalked

- Choose a gender-neutral username and mail address when communicating online. Do not use passwords that are easy to guess. Never use identifying information such as your name, address, birthdates in your password. Do not use pet names. Use a combination of letters, symbols and numbers to make it impossible to guess your password. Never share your password with anyone including people who claim to be from your Internet service provider, bank customer service, or other online service.
- Use a free e-mail account such as Hotmail (www.hotmail.com), YAHOO! (www.yahoo.com), or Gmail (www.google.ca), for news-groups, social network sites, mailing lists, chat rooms, IMs, e-mails from strangers, message boards, filling out forms and other online activities.

- Do not give your primary e-mail address to anyone you do not directly know or trust. Tell anyone who does have your address not to include it in group e-mails.
- Limit or avoid the use of social networking sites such as Facebook or MySpace. If you do use them, do not put identifying information in your profile. Use the security features to allow only known friends and associates access to your profile.
- Tell your friends that you do not want them posting any pictures or information about you on their social networking sites.
- Only use computers that you trust are secure and make sure that all operating system and application security updates have been applied. Make sure you have anti-virus and anti-spyware software running and that it's current. For tips on protecting your computer, your family and yourself online see:
www.microsoft.com/protect/default.aspx
- Trust your instincts. If you suspect an abusive person knows too much, it is possible that your phone, computer or e-mail have been tampered with and your activity may be monitored.

- Disable the GPS functionality on your camera or Smartphone.
- Plan for safety. Stalking can be very dangerous, even if it is over the Internet and the stalker is not trying to contact you directly. Talk to someone who can help you create a plan to protect yourself.
- Save and document everything. Even if you are unsure about calling the police, it is a good idea to keep a log (write down information) about all incidents. Write down the time, date and place of each contact. If you get harassing messages by e-mail, do not delete them. Save them and print off a copy of each message for your records as well. If you make a report to police or if you decide to apply for an emergency Protection Order, the printed messages can be used as evidence.
- Save all threatening or harassing text messages or voice messages received on your cellphone.
- Conversations on cordless phones can sometimes be picked up by radio scanners that allow eavesdropping. Whenever possible, avoid using cordless phones for sensitive conversations. It is illegal in Canada to intercept your phone calls without your

permission. If you know this is happening, report it to the police.

- If you think the person stalking you may have access to your e-mail, start another private account that includes no personally identifiable information in your user name. Make sure you use a secure password. Do not use this address for any social network contacts such as Facebook, MySpace, or Twitter.
- Find out how accessible you are on the Internet by searching for your name on a search engine such as Google or Yahoo. It is helpful to know what information about you is available on the Internet. Major search engines such as Google and Yahoo may have links to your contact information.
- Report computer harassment to your Internet service provider as well as the Internet service provider of the person harassing you.

Calling the Police

What will happen if I call the police and they lay criminal charges against the person who has been stalking or harassing me?

Once the police have enough evidence against a person, they will lay criminal charges and a judge or the police will decide if the accused should be released. Regardless of how or when the accused is released, he/she will be ordered not to communicate with you or go near where you live, work, go to school or worship. Failure to follow these conditions will result in further criminal charges for the accused.



The Legal System

In Manitoba, there are three different kinds of courts that offer help to victims of stalking/criminal harassment:

- Criminal Court
- Civil Court
- Family Court

Criminal Court

Criminal court is mainly concerned with deciding whether a person has or has not committed a crime.

What happens to my case in criminal court?

In Manitoba, when criminal charges are laid for criminal harassment or domestic violence, the police are responsible for laying the charges. A Crown attorney is a lawyer who works for the government and prosecutes the case. If an accused is found guilty or pleads guilty to the offence, the judge will impose a sentence.

A Manitoba Justice Victim Services worker will contact you when criminal harassment and/or domestic violence charges are laid, to offer information and support. Under *The Victims' Bill of Rights*, anyone who is a victim of criminal harassment can register for certain rights, such as notification of court dates and developments in the case.

Civil Court

Are there other ways to get a court order of protection?

Yes. There are a number of options available to you through the civil court including **Protection Orders, Prevention Orders and Peace Bonds.**

What is a Protection Order?

Protection Orders are granted on an urgent basis by a judicial justice of the peace, without notice to the respondent (the person stalking, harassing or abusing you). Protection Orders state that certain conditions apply to the behaviour of the respondent, including the condition that the respondent cannot have any contact with you.

In Manitoba, there are two kinds of Protection Orders. Protection Orders granted under *The Domestic Violence and Stalking Act* allow for protective conditions for victims of domestic violence and/or stalking. The information in this booklet is about Protection Orders granted under this act.

The second kind of Protection Order granted under *The Sexual Exploitation and Human Trafficking Act* allows protective conditions for people victimized by sexual exploitation and human trafficking. If you are interested in more information about this type

of Protection Order go to: <http://www.gov.mb.ca/justice/csehtact.html>.

The person applying for a Protection Order must give evidence about the stalking or domestic violence. You will have to complete the written application form, and then you will have to answer questions from the judicial justice of the peace, under oath, to explain what has been happening to you.

An adult can apply for a Protection Order on behalf of a child and a court-appointed committee or substitute decision-maker can apply on behalf of a vulnerable person. Protection Orders can include all or some of these seven conditions that are needed for your immediate safety:

- prohibit the respondent from following you or any other specified people
- prohibit the respondent from directly or indirectly contacting or communicating with you or any other specified people
- prohibit the respondent from going to your house or workplace, or to the house or workplace of any other specified people
- provide a police officer's help to remove the respondent from your home if necessary
- give you or the respondent temporary possession of necessary personal property

- provide a police officer's help to ensure any personal property is removed from the home in an orderly manner
- require the respondent to turn over weapons and authorize the police to search for and seize weapons

Protection Order conditions imposed under *The Domestic Violence and Stalking Act* as of October 17, 2012, may include an exception that allow a respondent to attend court or other court-related proceedings when a protected person is present. Specific conditions related to this exception would apply, such as the respondent would have to stay at least two metres away from the protected person and not communicate with her/him unless the judge or mediator is present and approves communication.

Although Protection Orders are made without notice to the respondent (the person who is stalking, harassing or abusing you), once it is granted, the court arranges for a sheriff or a police officer to give him/her a copy of the order. A respondent can apply within 20 days after being served with the order, to have it set aside by the Court of Queen's Bench. In certain circumstances the respondent can apply for an extension of time.

What is a Prevention Order?

Prevention Orders are made by a Court of Queen's Bench judge and can include the same conditions as a Protection Order. They can also:

- allow only you to live in the family home
- give temporary possession of specified personal property, such as household goods, furniture or vehicles
- seize items used by the respondent to stalk or harm you
- recommend or require the respondent to get counselling
- prohibit the respondent from damaging or dealing with property in which you have an interest
- order the respondent to pay compensation to you for any money lost because of the stalking or violence (ex: expenses for counselling, security measures, moving or lost income)
- order that the respondent's driver's licence be suspended if a vehicle has been used in stalking or domestic violence

Who can apply for a Protection Order or a Prevention Order?

Under *The Domestic Violence and Stalking Act* anyone who is a victim of family violence or stalking

can apply for one of these orders. The orders can apply to any family relationship including:

- people who live together or have lived together in a family, spousal or intimate relationship
- people who have, or had, a family relationship even if they have not lived together
- people who have, or had, a dating relationship
- people who have a child together even if they haven't lived together

Under this act, if you are being stalked you do not have to have any relationship with the stalker to apply for a Protection Order.

Can a person still apply for an order if there hasn't been any physical violence?

Yes. Often there is no direct physical violence in stalking, harassment or domestic abuse. The victim is often afraid because of threats of violence, and/or the fear that the threatening, upsetting, unpredictable behaviour will never stop. You don't need to wait until you are hurt before seeking a Protection Order or a Prevention Order.

Do I need a lawyer to apply for an order?

You don't need a lawyer to apply for a Protection Order.

Normally you can get a Protection Order by going to the nearest court office. People who can't get to a court office (including those who live in remote or rural areas), can apply by phone or fax, but only with the help of a police officer, lawyer or a Protection Order designate (POD). PODs are people who work in shelters and other agencies who have been trained to help with Protection Order applications. For more information about PODs, contact Manitoba Justice Victim Services, toll free, at 1-866-484-2846.

With Prevention Orders, it is best to hire a lawyer. Legal papers must be filed and you must appear in the Court of Queen's Bench. A lawyer knows the best way to deal with the paperwork and the court process.

How much does it cost to get a court order?

There is no charge to apply for a Protection Order. There is a fee for filing the papers when applying for a Prevention Order.

If you get a Protection Order or a Prevention Order and later decide you no longer want it, there is a fee for filing the papers in the Court of Queen's Bench to have it revoked.

How long do these court orders last?

Protection Orders that have been granted since October 31, 2005, have an expiry date – usually three years.

Prevention Orders remain in effect until they are set aside or changed by a later court order.

Are these court orders valid outside of Manitoba?

Protection Orders and Prevention Orders are in effect once they are granted. Stalkers or abusers must obey the order once they are aware of it (usually, after they are served with a copy), even if they are not in Manitoba.

Whether or not a stalker or abuser can be criminally charged with disobeying the order, may still depend on their actions. If you have questions about whether the order you have from Manitoba or any Canadian province is in effect, contact **Manitoba Justice Victim Services**, toll free, at **1-866-484-2846**.

What is the tort of stalking?

The tort makes it possible for a person to sue a stalker. If you are considering a lawsuit against someone who has stalked you, talk with a lawyer first.

What is a Peace Bond?

If you fear that someone may hurt you or your children, or damage your property, you may apply for a Peace Bond in a provincial court office. You do not need to have lived with the person or have had a relationship. There is no fee to apply for Peace Bonds, but they are not recommended if you need immediate protection – they can take several months to get.

Family Court

Family courts deal with the rights and duties of people in family relationships. Most commonly, they deal with rights and duties when a family relationship breaks down, such as in a separation or divorce.

Can I get a court order of protection when I apply for a separation or divorce?

Yes. Under *The Family Maintenance Act*, a person who is married to, or has lived with someone can apply for an order stating that communication and contact between the two people is prohibited or restricted.

Usually, a person seeking an order under *The Family Maintenance Act* would also be applying to the family court for other orders (ex: child custody, access to children, child support, spousal support, division of property or divorce).

Summary of Court Orders of Protection

Recognizance or undertaking:

- issued as part of a release condition when criminal charges are laid by police
- can prohibit contact with you and not allow the accused to go to your home, school, workplace, or place of worship
- other criminal charges laid if accused does not keep the conditions
- effective until the court deals with the criminal charges
- no cost to you

Probation Order:

- imposed when the accused is found guilty or pleads guilty to criminal charges
- can prohibit contact with you and not allow the offender to go to your home, school, workplace or place of worship
- effective for the time of the probationary period
- no cost to you

Protection Order:

- for emergency situations
- application in-person to the justice of the

peace or over the phone with the help of a police officer, lawyer or a Protection Order Designate

- you or the person making the application on your behalf, must provide information about stalking or domestic violence (ex: explanation of why you are afraid of the stalker or abuser; why you believe the stalking or abuse will continue; what makes the situation an emergency)
- can include as many of the seven Protection Order conditions as needed for your safety
- the respondent has 20 days after being served to apply to have the order set aside
- effective for at least three years
- no cost to you

Prevention Order:

- lawyer usually needed to file legal papers and represent your interests at a Court of Queen's Bench hearing
- a variety of conditions including restriction of contact and communication with you; temporary possession of items such as furniture; compensation for monetary losses
- in effect unless changed or revoked by another court order
- fees for lawyer and court filings

Peace Bond:

- must reasonably fear personal injury or damage to your property
- can include conditions prohibiting contact with you or being anywhere near your address
- must go to a court hearing and may have to give evidence before a judge
- effective for one year
- no cost to you

Family Court orders

- best to hire a lawyer for the family court process
- can prohibit or restrict contact or communication between spouses/partners
- in effect unless changed or revoked by another court order
- fees for lawyers and court filings

NOTE: If you cannot afford a lawyer you may be eligible for Legal Aid Manitoba. In Winnipeg call 204-985-8500, or outside of Winnipeg call toll-free at 1-800-261-2960 for information.



**MANITOBA JUSTICE
VICTIM SERVICES**

204-945-6851

1-866-484-2846

(provincial toll-free number)

**This line is available
Monday to Friday
8:30 a.m. to 4:30 p.m.**