

WORKPLACE STALKING: PROTECT YOURSELF AND THOSE AROUND YOU

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Even as recently as the early nineties, it was nearly impossible for victims of stalking to receive legal assistance or protection. At that time, the hands of police were tied by legislation that only allowed them to charge offenders for overtly threatening incidents. There was nothing in place to protect victims against the more insidious forms of stalking. For a woman named Laura Black, who was a victim of workplace stalking by one of her male coworkers, this proved fatal – not only for her, but also for six others who worked with her. It is the case that spawned the creation of anti-stalking legislation in California in 1993 that is now widely recognized throughout North America.

Stalking Is Illegal:

Subsection 264 of the Criminal Code states:

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

(2) The conduct mentioned in subsection (1) consists of (a) repeatedly following from place to place 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 business, or happens to be; or (d) engaging in threatening conduct directed at the other person or any member of their family.

In plain English, below are more specific examples of the types of behaviors that constitute Stalking (also known as Criminal Harassment):

- repeated, unwanted contact by telephone calls/hang-ups, letters, cards, faxes
- repeated, unwanted contact over the Internet in chat rooms, newsgroups, or through email (also known as "cyber stalking")
- sending unwanted gifts of any kind (pleasant gifts such as flowers, candy, toys, books, jewelry, pictures, et cetera; or, strange gifts such as bullet casings, locketts of hair, bloody clothing, et cetera)
- showing up uninvited wherever you happen to be
- stealing/opening your personal mail to find out more about you
- ordering/canceling goods or services on your behalf
- following you, watching you, maintaining surveillance on you
- threatening to harm you, your family, friends or pets
- harassing your family, friends, colleagues, or your employer

- convincing his/her friends to spy on you, or harass you (sometimes referred to as "stalking by proxy")
- filing multiple frivolous court claims against you in order to harass or simply keep in touch with you
- vandalizing your property
- breaking into your home/office
- kidnapping you, holding you hostage
- assaulting you

If convicted of this offense, men/women can face up to five years in prison. However, in order for their conduct to be considered Stalking/Criminal Harassment in a court of law, it must first meet the following five key elements:

- The offender engaged in the conduct described in subsection 264(2):

One overtly threatening attack can justify a charge of Criminal Harassment, such as verbally or physically threatening another person's physical safety or life. However, statistics have shown that stalking behavior need not be overtly threatening in order to be potentially dangerous later on; therefore, repeated contact that poses an implicit threat to the victim is also grounds for a charge by police. When using the word "repeated," this means that the offender carried out any of the above-mentioned behaviors more than once or twice.

- The offender did not have lawful authority to engage in the prohibited conduct:

A past union or marriage between the offender and his/her victim does not constitute lawful authority. This means that an estranged husband/wife, boyfriend/girlfriend, brother/sister, et cetera, does not have the right to continually contact you if you have asked to be left alone. Everyone has the right to end a consensual relationship if and when they choose to end it; so, if your ex won't leave you alone and this frightens you, you have the right to protection under this law.

- The offender knew that the victim was harassed, or was reckless/willfully blind as to whether the victim was harassed:

A lack of intent to harass or cause fear is not a defense. The issue is the effect the stalking had on the victim.

When prosecuting Stalking/Criminal Harassment cases, the Crown does not have to prove that the offender knew the victim feared for his/her safety, or that the offender was warned the behavior in question was a criminal offense. The victim does not even have to be forceful in rebuffing the defendant's attention. In other words, it is expected that the offender should have known that repeatedly bothering his/her victim would, reasonably, have the affect of making him/her feel harassed.

To be safe, victims of workplace stalking should file formal complaints with both the police and their employer early on, and request that the offender be given a stern warning. If this does not put a stop to the offender's behavior altogether, it will at least tell the stalker that his/her victim has a protective barrier in place, and it will also help the Crown Prosecutor's case in convicting him/her later on.

- The conduct causes the victim to fear for his/her safety or the safety of someone known to them:

Fear for safety is not restricted to a victim's fear for his/her life or physical safety. If a victim fears for his/her mental, psychological, and/or emotional safety, this is enough to warrant a charge of Stalking/Criminal Harassment.

- The victim's fear must be reasonable in all the circumstances:

Determining reasonableness of fear requires that a subjective test be done to learn the effects the offender's harassment had on the victim: What is the entire history between the victim and the accused? What was the sequence of events that led up to the victim's present state of distress? Has the victim provided physical evidence and/or a detailed log of these events? Does the victim appear to be a credible witness who is telling the truth?

In cases where there is one or more overtly threatening assault on the victim, reasonableness of fear can be more easily determined; however, history tells us that escalation of *any* of the above behavioral patterns is cause for concern. The very fact that the accused engaged in the repeated, unwanted pursuit of his/her victim is a strong indicator that something is very wrong.

Trust Your Instincts:

Most everyone has experienced a painful break-up at one point in their lives, so it is easy to sympathize with someone else who is having difficulty letting go – who continues phoning, or sending flowers, letters, and gifts to an estranged partner in an attempt to reconcile with him/her. Many of us have also had romantic crushes on another person, so we can relate to the kinds of tactics people sometimes use to get the attention of their objects of affection.

When you are on the receiving end of these types of pursuit, it can seem very romantic and flattering; but, when it crosses an invisible line, and makes you feel increasingly afraid, then that is your instinct telling you something very important – that you are being stalked, and you might very well be in danger.

This danger is very real, and should not be ignored or minimized in any way by anyone.

What To Do If You Are Being Stalked:

Say no ONCE then do not have any further personal contact with the person pursuing you. Do not reply to any future phone calls, not even to tell him/her, "Leave me alone!" If you do, chances are the only thing that person will understand is that it takes "x" number of phone calls to get you to answer, and he/she will continue pursuit in full force with the hopes you will respond again.

The reality is that, in most cases, a victim of stalking will not be able to correct the situation on his/her own. Very few stalkers desist from pursuing their targets until after law enforcement officials have intervened. Therefore, below is a list of precautions you can take to better your chances of getting the help you need:

- Do everything you can to avoid all contact with your stalker
- Inform those close to you (family, friends, coworkers) about what is going on
- If your stalker is a coworker, file a formal complaint of sexual harassment with your employer, and follow their internal harassment policy to protect yourself within the workplace
- Report all incidents of stalking to your local police, and obtain a restraining order to protect yourself outside the workplace
- As the police require evidence in order to charge an offender with stalking, be diligent in keeping all physical evidence you have received (such as letters, gifts, voice mails, and emails), and keep a written log of the intangibles (such as dates, times, and locations where you saw your stalker following or watching you, and the names/numbers of other witnesses)
- Keep your doors locked at all times (house and vehicle)
- Park your vehicle in well-lit areas, and do not go out to the parking lot alone
- Change your routine (such as traveling a different route to work each day) in order to avoid any activities that may be predictable to your stalker

The most important thing you can do to help yourself and others in stalking situations is to be informed, and make sure that those around you are also informed. You do not have control over a stalker's behaviour, and it is nearly impossible to predict who may become a target of stalking. But if you know the symptoms to watch for, and are aware of the law, then your chances of resolving the issue early on will be that much greater.

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Kim S. is a published author, award-winning speaker, and creator/presenter of *The Awareness Series* speaking series. Her mission is to deal head-on with stigmatized social issues such as workplace harassment, domestic abuse, depression, and single parenting. Each of these presentations is a must-see, delivered from the most alluring viewpoint there is: that of the survivor.

www.kimspromotionalkeynoter.com

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