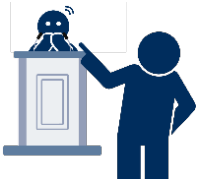


STALKING VIA THE COURT SYSTEM



While stalkers' motives vary, they generally want to be close to their victims, exert power and control over their victims, and demand their victims' attention. In order to achieve this – and to otherwise sabotage their victims – stalkers may misuse the legal system to compel victims to face them in court. **This tactic keeps the stalker relevant in the victim's life, potentially for years depending on the pace of the court system and the stalker's persistence.**



When abusers misuse the court system as a tactic to contact, harass, access, and/or sabotage their victims, it is called “vexatious” or “abusive” litigation, “paper” or “separation” abuse, or “stalking through the courts.” All stalkers can misuse the court system through tactics such as frivolous lawsuits, false allegations, and baseless continuances, and intimate partner stalkers may focus on custody interference and/or overcomplicate divorce proceedings.

Stalking through the courts costs victims time, money, and effort, and turns courts into unsafe places. Victims often have to miss work, arrange for child care, and spend their energy and finances navigating an often complex legal system. Stalkers may enlist their counsel to demand information about their victims (like new addresses), use the physical location of the court to approach or surveil their victims, and/or spread rumors about victims through frivolous allegations. **Facing stalkers in court can be extremely traumatic for victims,** as victims are often forced to be in the same room as their stalker or potentially cross-examined by their stalker or their stalker's counsel.

“There's a whole pattern of the next court date, and the motions I go through building up to it...and then actually being there and seeing him, and him stalking me in the halls... and having to do that week after week, year after year. It just never gets any better.”
-Domestic Violence & Stalking Survivor



HOW DO OFFENDERS USE COURTS TO STALK?

- Frivolous lawsuits
- Purposefully prolonging court cases
- Disrupting court hearings to cause delays and additional hearings
- Baseless continuances
- Filing motions to gain access to the victim's contact information and/or children's information (such as school information, extracurricular events, doctor's visits)
- Baselessly filing for a protection order against the victim
- Using the court to humiliate and/or traumatize the victim (by sharing mental health history, embarrassing personal details, stories of adultery – whether true or made up)
- False allegations against the victim (such as being denied access to children)
- Deliberately driving up the costs of a lawyer or using up a victim's legal aid time (such as setting up but failing to attend discoveries, making multiple offers in a short time)
- Intentionally misfiling in the wrong court
- Disingenuous court applications
- Repeating the same application that was previously denied without a material change in circumstances
- Taking photos or videos of the victim while at court
- Intimidating, threatening, or contacting the victim in hallways or courtrooms
- Waiting for the victim outside or following the victim as they leave the courthouse

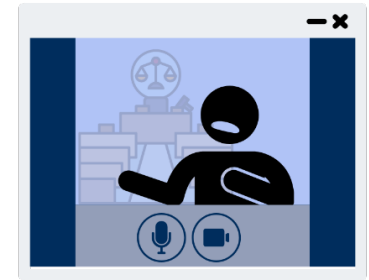
STALKING VIA THE COURT SYSTEM



HOW PROSECUTORS, ADVOCATES, AND COURTS CAN HELP

BEFORE COURT

- Discuss with victims when they must be present and when they do not need to attend unless they want to (for example, advance continuances or procedural hearings)
- When possible, allow survivors to participate in court by phone or video, if they choose to
- When possible, require the offender to attend court by phone or video
- Object to baseless continuances
- Determine if testimony from alternative witnesses (such as police) can be used to prevent the victim from being dragged into court
- File motions to exclude personal information being brought in by defense, where appropriate
- If the defense demands victim contact information/addresses for further investigation, try to have the contact instead be under supervision at a controlled location (i.e., prosecutor's office)



DURING COURT

- Ensure victims have a safe place to wait in the courthouse away from offenders
- If the victim must sit in the courtroom, have a plan for someone (advocate or assigned detective) to sit with them to discourage approach by the offender
- Leverage the courtroom's set up to block the offender from seeing victim
- Notify court officers and sheriffs of illegal behavior (i.e., recording in courtrooms, restraining order violations, intimidation)



AFTER COURT

- Work with victims to ensure they have a safe plan for leaving court; if feasible, have an advocate or officer escort them
- Ensure that if the defendant is not in custody, the court allows for a staggered departure of offender and victim
- Follow up with victims regarding any protection/restraining order violations after the court date
- Ensure court advocates have information for services victims can access to support their mental and physical well-being
- Consider sanctions or disciplinary actions for the offender for filing frivolous or improper claims¹
- Discuss the possibility of tort claims with victims (i.e. that they have suffered damages from these lawsuits, for which abusers can be found legally liable)¹



Stalking through the courts is a method stalkers use to control, coerce, intimidate, and threaten victims. For more information on stalking and how to support victims and hold offenders accountable, visit [StalkingAwareness.org](https://www.stalkingawareness.org).

¹ For more information, see: McLemore, A. (2021). Stalking by Way of The Courts: Tennessee's Abusive Civil Action Law and Why All States Should Adopt a Similar Approach to Abusive Litigation in the Family Law Context. *UCLA Journal of Gender and Law*, 28(1). <http://dx.doi.org/10.5070/L328155792>