

# Community Legal Aid

A non-profit law firm serving the legal needs of low-income individuals and families in central northeast Ohio

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So you're being sta

## So you're being stalked? Prove it.

By Jeanne Charles, managing attorney

*I called the police, and they won't do anything.*

*They said there is nothing they can do.*

*No one is going to do anything until I'm dead.*

There's a saying in the justice field: burden of proof. It's probably something you've heard before, even if you don't work in the legal or law enforcement system, but you may or may not know what it really means.

The United States' Constitution grants protections to people who have been charged with a crime. The state (prosecutors) have to prove that that person is guilty. They (prosecutors) carry the burden of proof.

But what happens when the true burden of proving something bad is happening falls on the person it's happening to?

*I called the police, and they won't do anything.*

Stalking victims may not have to prove to the court that their stalker is guilty, the way a prosecutor does. But they do have to prove that something serious is happening to them in order to get the protection they need.

That's more difficult than it sounds.

In the legal context, stalking requires fear -- fear of physical harm or fear that causes mental distress. Ohio law says that the stalker must knowingly cause fear. So victims of stalking have to prove their fear, and they have to prove that their stalker knows their behavior is unwanted.

*The police said there is nothing they can do.*

The larger problem is that much of "stalking behavior" is, in isolation, legal -- driving down your street; calling/texting you multiple times in a day; stopping by your work; sending you letters; adding you to their social media accounts. And without a court order saying that person is supposed to stay away from you, police don't do much about it.

What this does is empower the stalker. They know that they can insert themselves into a victim's life to manipulate, control, or scare their victim, as long as each individual action they take is legal on its own.

At the same time, the survivor feels helpless. It can often feel like no one cares or no one can do anything.

*No one is going to do anything until after I'm hurt or dead.*

It's no wonder, then, that less than 40% of stalking victims report incidents to law enforcement, even though 1 in 6 women and 1 in 17 men report being victims of stalking.

But when 76% of murdered women were stalked by their partner before being killed, we all must ask ourselves, what are we missing?

Part of the answer lies in the misconceptions and well intentioned (but ill informed) blanket advice our society tends to give: Block their number. Change your number. Stop responding to your stalker. A survivor's steps toward safety must be more nuanced. Blocked their number? A savvy stalker will get a new one. Changed your number? A persistent stalker will show up at your home. Stop responding? An agitated stalker may escalate to violence. Stalkers don't stop stalking just because you changed your number. They get more creative. More dangerous. For an adequate safety plan, a victim must assess their own situation and their stalker. There is no automatic way to ensure safety.

Additionally, advice like this unfairly places the responsibility for victimization on the victim. It shouldn't be the victim's responsibility to change their behavior in order to avoid being stalked.

It's the stalkers responsibility to change their behavior and stop stalking.

How do we shift the burden away from the survivors? We listen to survivors. We believe them. Victim advocates and first responders, including law enforcement, should receive access to training and resources, to address stalking with a victim-centered approach. If police don't have enough to make an arrest, offering resources like [incident logs](#) and [safety planning strategies](#) can empower victims to take the next steps in protecting themselves. And making referrals to victims advocates or legal aid organizations can get victims on the path to survivorship.

While stalking is a problem that leads to the death of primarily women, it's important to note that anyone can be a victim, regardless of gender, color, race, or identity. To break the cycle, we as a society must talk openly about it, identify the barriers that exist for survivors, and work together to break the stigma that keep people at risk.

Note: If you or someone you know is a victim of stalking, reach out for help. If you are in immediate danger, call 911. For information on safety planning, contact Legal Aid at (800) 998-9454 or your local domestic violence shelter. You can also learn more about [protection orders for stalking in Ohio](#). For more resources, visit the [Stalking Prevention, Awareness, and Resource Center](#). You can also apply for Legal Aid any time at [www.communitylegalaid.org/apply](http://www.communitylegalaid.org/apply).

*This article is part of Legal Aid's ["Big Ideas" series](#).*

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