



**OJP**  
Violence Against Women  
Grants Office

# Stalking and Domestic Violence

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*The Third Annual  
Report to Congress under the  
Violence Against Women Act*

**U.S. Department of Justice  
Office of Justice Programs**  
Washington, D.C. 20531

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**The Third Annual Report to Congress  
under the  
Violence Against Women Act**

Violence Against Women Grants Office

A publication of the Violence Against Women Grants Office,  
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## PREFACE

The Violence Against Women Act (VAWA), Title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), represents a giant step forward in our country's response to violence against women, including domestic violence and stalking. This legislation has transformed the criminal justice system's efforts to address this serious problem, making it a systemwide institutional priority.

In unprecedented numbers, police officers, prosecutors, victim advocates, and members of the judiciary are collaborating to leverage the coercive power of the criminal justice system to ensure victim safety and to hold offenders accountable. To help support their efforts, we at the U.S. Department of Justice Office of Justice Programs (OJP) are providing the tools and resources to develop and implement service programs, and to fund basic research to expand our knowledge and understanding of stalking and domestic violence.

This annual report to Congress is part of our ongoing commitment to share information about strategies that show promise in the field and research that enhances our understanding of stalking and domestic violence. It is produced in response to Subtitle F of the Violence Against Women Act, which directs the Attorney General to submit an annual report on these issues. In Fiscal Year 1998, Congress also directed the Attorney General to include information in the report concerning existing or proposed State laws and penalties for stalking crimes against children.

While our knowledge of domestic violence and stalking has grown exponentially, there is much we still do not know. Accordingly, OJP has committed significant resources through the National Institute of Justice (NIJ) to conduct research on effective strategies to stop violence against women, including domestic violence and stalking. NIJ is one of the cosponsors of the National Violence Against Women Survey discussed in this report. This survey provides some evidence that State antistalking laws are making a difference. Since enactment of these State laws, the number of stalking cases reported to police has increased substantially. Similarly, we at the Department of Justice are vigorously enforcing the Federal antistalking statute by bringing charges against stalkers in cases discussed in this report. OJP remains committed to aggressively addressing this problem on several fronts: by providing resources to communities across the country, by supporting research to help us understand and develop more effective approaches for responding to this crime, and by providing leadership to draw our Nation's attention to this important issue.

OJP thanks the many individuals involved in the preparation of this report for their time and commitment. The report was produced under the direction of OJP's Deputy Assistant Attorney General, Noël Brennan, and coordinated by VAWGO Administrator Kathy Schwartz. It was edited and written in part by Preet Kang, VAWGO. Special thanks to the staffs of OJP's bureaus and offices, as well as the Office of Policy Development and the Violence Against Women Office, for their assistance. OJP also gratefully acknowledges the invaluable contributions of the many criminal justice professionals and victim service providers contacted for this report.

**Laurie Robinson**  
Assistant Attorney General  
Office of Justice Programs

## FOREWORD

Passage of VAWA marked a major change in our national response to sexual assault, stalking, and domestic violence, and in our attitude toward women. VAWA was the first Federal law of its kind to recognize that gender-based crimes prevent women from being full participants in society.

This inequality is clear in stalking cases, where the majority of victims are women. Since the VAWA was enacted, we have seen significant progress in the investigation and prosecution of stalkers, which has helped women become safer from these frightening and dangerous perpetrators. All, but particularly women, can take heart in knowing that we are committed to enforcing the new Federal antistalking statute and have successfully prosecuted several stalking cases. The convictions obtained in these cases are sending a clear message that these perpetrators can and will be sought out, found, and punished — this behavior will no longer be tolerated in our society.

Last year our report focused on the law enforcement and prosecution aspects of stalking. We reported that we had developed a better understanding of the types of stalkers and their methods, and that law enforcement had acquired a better understanding of the seemingly innocent but inherently dangerous techniques stalkers use.

In this third annual report, the Department of Justice is again taking a close look at what is being done nationally to address stalking. Our focus this year is on sentencing and supervision of convicted offenders. As we continue to increase our knowledge about stalking and stalkers, we are able to be more proactive in our enforcement efforts. To do this, sentencing implications must be explored and understood so that the most productive sentencing options can be used. This is essential if we are to use every means possible to keep women safe. In this regard, the National Violence Against Women Survey completed by Pat Tjaden and Nancy Thoennes and discussed in this report, is a good first step toward accumulating the data we need to understand this crime. It is essential, however, that we have more such studies, and the data those studies can provide, to really make strides in crime prevention that will ensure that women remain safe from stalkers.

It is my fervent hope that this report, as well as the previous two, will be of use to criminal justice practitioners, victim advocates, and all who work to save the lives of those terrorized by this frightening crime. We must continue to learn as much as we can about this crime and those who perpetrate it. Lives are at stake. We cannot rest until everyone is safe.

**Bonnie J. Campbell**  
Director  
Violence Against Women Office

## INTRODUCTION

The Violence Against Women Act (VAWA), Title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), represents the culmination of more than 2 decades of efforts by the women's movement to impose social and criminal sanctions against those who perpetrate violence against women, including stalking, domestic violence, and sexual assault.<sup>1</sup> Recognizing the devastating consequences this violence has on women, families, and society as a whole, VAWA has brought this problem out of the shadows and into the center of public debate. This groundbreaking legislation transformed the legal landscape and social attitudes in this country toward violence against women.

This third annual report to Congress is submitted in response to Subtitle F of VAWA, which states:

The Attorney General shall submit to the Congress an annual report, beginning one year after the date of enactment of the Act, that provides information concerning the incidence of stalking and domestic violence, and evaluates the effectiveness of antistalking efforts and legislation.

In addition, in the Department of Justice's Appropriations Act for Fiscal Year 1998, Congress directed that:

The Attorney General shall include in an annual report under section 40610 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14039) information concerning existing or proposed State laws and penalties for stalking crimes against children.

## Background

The passage of VAWA notwithstanding, domestic violence and stalking continue to be significant problems facing our society. As reported in the first and second annual reports to Congress, because these social problems have gone unacknowledged for so long in this country, until recently there has been a dearth of reliable information about addressing or preventing domestic violence and stalking effectively. This knowledge deficit is particularly acute for stalking.

Although there is greater interest in this issue as a result of the passage of VAWA, research in this field is still in its infancy. Some of the earliest research focused on stalkers who had come to the attention of the criminal justice system. This nonrandom sample underrepresented stalkers who had a prior intimate relationship with their victims, in part because of the legal system's inclination to arrest and prosecute higher profile cases involving strangers and a general hesitance to prosecute cases involving domestic violence.<sup>2</sup> This systemic bias, combined with the enormous media attention accorded cases involving celebrities, created an impression that stalking is largely a crime involving strangers, generally with a public figure as the victim. Subsequent national surveys have revealed, however, that stalking most often occurs in an intimate-partner context.<sup>3</sup> Therefore, to develop appropriate responses and prevention strategies, this crime must be examined and understood in all its contexts.

Throughout this decade, behaviors generally associated with stalking — obsessive, repeated following and harassment — have received considerable attention from public policymakers and have led to the enactment of laws in



***The NVAW Survey also provided evidence of the positive impact of State antistalking laws: More victims are coming forward and reporting these crimes.***

every State. This in turn has generated considerable interest in learning more about all aspects of stalking, including the identity and motivation of perpetrators. While there are now many more variations as research increases, generally stalkers are classified in one of three broad categories based on their relationship with the victim:

- **Intimate or former intimate stalking:** The stalker and victim may be married or divorced, current or former cohabitants, serious or casual sexual partners, or former sexual partners. A history of domestic violence may exist.
- **Acquaintance stalking:** The stalker and victim may know each other casually, either through formal or informal contact. For example, they may be coworkers or neighbors, or they may have dated once or twice but were not sexual partners.
- **Stranger stalking:** The stalker and victim do not know each other at all. Cases involving celebrities and other public figures generally fall into this category.<sup>4</sup>

Some researchers have established classification systems that are based on the motivations and mental capacity of stalkers.<sup>5</sup> None of these classifications, however, provides a reliable indicator of a stalker's capacity for potential violence against the victim. It is estimated that stalkers are violent toward their victims between 25 and 35 percent of the time, and the group most likely to be violent is composed of those who have had an intimate relationship with the victim.<sup>6</sup> Nearly one-third of all women killed in this country die at the hands of a current or former intimate.<sup>7</sup> Although no national figures are available, it is estimated that between 29 and 54 percent of female

murder victims are battered women.<sup>8</sup> A significant number of these murders and attempted murders of women are believed to be preceded by stalking.<sup>9</sup>

Further, very little information is available on who will or won't become a stalker, particularly in cases involving strangers or acquaintances. In instances of stalking involving intimates, researchers at the University of Washington found that batterers who are insecure and fearful of abandonment are more likely to become obsessed and stalk their victims upon separation than other types of batterers.<sup>10</sup> Numerous studies indicate that separation is the most dangerous period for victims of domestic violence.<sup>11</sup> Fearing loss of control over their victims, batterers often escalate their abuse when their victims seek to escape.<sup>12</sup>

In the National Violence Against Women (NVAW) Survey, discussed in Chapter 1, victims cited the stalkers' desire to control them as the most frequent reason for the stalking behavior. Only a small percentage of the victims surveyed cited mental illness or substance abuse as the reason for the stalking. The survey corroborated what domestic violence victim advocates had long suspected — there is a strong link between stalking and abusive behavior in intimate relationships. Moreover, stalking by intimates or former intimates lasts significantly longer than stalking involving non-intimates.

The NVAW Survey also provided evidence of the positive impact of State antistalking laws: More victims are coming forward and reporting these crimes; however, the laws do not appear to have made a significant impact on law enforcement's response to these crimes. The number of arrests remained about the same before and after enactment of these State laws. Overall, the percentage of stalking cases prosecuted was quite small, but in nearly half the prosecuted cases, the perpetrator was convicted, and two-thirds of these convictions resulted in a jail or prison term.

An OJP-commissioned anecdotal survey of criminal justice practitioners found that stalkers continue to be charged and sentenced under harassment, intimidation, or other related laws instead of under a State's antistalking statute. This survey, as well as the NVAW Survey, found that criminal justice officials still do not fully understand — and, therefore, continue to underestimate — the potential dangerousness of stalkers to their victims. The results of both surveys underscore the need to provide comprehensive training to judges, prosecutors, law enforcement officers, probation and parole officers, and others in the criminal justice system who are involved in managing stalking cases. It is critical that all components of the system coordinate their efforts both within and among each other to ensure that victims are kept safe and offenders are held accountable.

## Scope of the Report

In the Attorney General's first annual report to Congress, domestic violence and stalking were discussed broadly, and key areas for additional research were identified. In response to these knowledge gaps, the Department of Justice commissioned several studies. The second annual report to Congress reported on preliminary results of the NVAW Survey, sponsored jointly by NIJ and the Centers for Disease Control and Prevention (CDC). The survey revealed that stalking was a bigger problem than previously estimated. The second report also included anecdotal information about how police officers, prosecutors, and victim service providers were responding

to these crimes. The criminal justice system practitioners contacted for this informal survey indicated that their approach to stalking was to pursue the case aggressively at the outset, so that the seriousness of the crime wasn't allowed to rise to the level that would trigger the State's antistalking statute. Moving along the case processing continuum within the criminal justice system, this year's report includes information regarding sentencing and supervision strategies being pursued by some jurisdictions to address stalking and domestic violence.

In addition to the results of the NVAW Survey and the anecdotal survey of practitioners, the third annual report has a chapter on the status of State and Federal antistalking legislation, including a State-by-State review of statutes as they pertain to minors and other issues. Chapter 4 of the report focuses on the Department of Justice's efforts to respond to stalking and domestic violence. The report concludes with recommendations for next steps to address stalking and domestic violence.

Appendix A lists stalking code citations and constitutional challenges, if any, for each State. Appendix B outlines State criminal and civil laws covering stalking by level of offense, while appendix C presents State harassment and threat laws by level of offense. Appendix D summarizes State harassment and other laws closely related to stalking. Appendix E lists a few stalking-related websites on the Internet. Appendix F updates the selected bibliography on stalking, and appendix G contains a list of names, addresses, and telephone numbers of criminal justice professionals and victim service providers contacted for the anecdotal survey.

# Chapter 1

## STALKING AND DOMESTIC VIOLENCE IN AMERICA<sup>13</sup>

**Stalking generally refers to harassing or threatening behavior that an individual engages in repeatedly. . .**

Unprecedented interest in stalking over the past decade has produced media accounts of stalking victims,<sup>14</sup> passage of antistalking laws in all 50 States and the District of Columbia,<sup>15</sup> and development of a model antistalking code.<sup>16</sup> Despite this interest, research on stalking has been limited to studies of small, unrepresentative, or clinical samples of known stalkers;<sup>17</sup> law journal reviews of the constitutionality and effectiveness of specific antistalking statutes;<sup>18</sup> and case studies of individual stalkers.<sup>19</sup> Thus, empirical data have been lacking on such fundamental questions about stalking as:

- How much stalking is there in the United States?
- Who stalks whom?
- How often do stalkers overtly threaten their victims?
- How often is stalking reported to the police?
- What are the psychological and social consequences of stalking?

This chapter presents data from the first-ever national study on stalking and addresses these and related questions. The data are from the National Violence Against Women (NVAW) Survey, a nationally representative telephone survey of 8,000 U.S. women and 8,000 U.S. men. The survey, which asked detailed questions about respondents' experiences with violence, including stalking, was sponsored jointly by the National Institute of Justice (NIJ) and the Centers for

Disease Control and Prevention (CDC) through a grant to the Center for Policy Research.

### What Is Stalking?

Stalking generally refers to harassing or threatening behavior that an individual engages in repeatedly, such as following a person, appearing at a person's home or place of business, making harassing phone calls, leaving written messages or objects, or vandalizing a person's property. These actions may or may not be accompanied by a credible threat of serious harm, and they may or may not be precursors to an assault or murder.<sup>20</sup>

Legal definitions of stalking vary widely from State to State. Though most States define stalking as the willful, malicious, and repeated following and harassing of another person, some States include in their definition such activities as lying-in-wait, surveillance, nonconsensual communication, telephone harassment, and vandalism.<sup>21</sup> While most States require that the alleged stalker engage in a course of conduct showing that the crime was not an isolated event, some States specify how many acts (usually two or more) must occur before the conduct can be considered stalking.<sup>22</sup> State stalking laws also vary in their threat and fear requirements. Most stalking laws require that the perpetrator, to qualify as a stalker, make a credible threat of violence against the victim; others include in their requirements threats against the victim's immediate family; and still others require only that the alleged stalker's course of conduct constitute an implied threat.<sup>23</sup>

The definition of stalking used in the NVAW Survey closely resembles the definition of stalking used in the *Model Antistalking Code for States* developed by NIJ.<sup>24</sup> The survey defines stalking as “a course of conduct directed at a specific person that involves repeated visual or physical proximity, nonconsensual communication, or verbal, written or implied threats, or a combination thereof, that would cause a reasonable person fear,” with repeated meaning on two or more occasions. The model antistalking code does not require stalkers to make a credible threat of violence against victims,

but it does require victims to feel a high level of fear (“fear of bodily harm”). Similarly, the definition of stalking used in the NVAW Survey does not require stalkers to make a credible threat against victims, but it does require victims to feel a high level of fear.

## How Much Stalking Is There?

In the NVAW Survey, stalking victimization was measured in terms of lifetime prevalence and annual prevalence. Lifetime prevalence refers to the percentage of persons within a demographic group (e.g., male or female) who were stalked sometime in their lifetime. Annual prevalence refers to the percentage of persons within a demographic group who were stalked sometime in the 12 months preceding the survey.

Using a definition of stalking that requires victims to feel a high level of fear, the NVAW Survey found that 8 percent of women and 2 percent of men in the United States have been stalked at some time in their life.<sup>25</sup>

Based on U.S. Census estimates of the number of women and men in the country, 1 out of every 12 U.S. women (8.2 million) has been stalked at some time in her life, and 1 out of every 45 U.S. men (2 million) has been stalked at some time in his life (see exhibit 1).<sup>26</sup>

Ninety percent of the stalking victims identified by the survey were stalked by just one person during their life. Nine percent of female victims and 8 percent of male victims were stalked by two different persons, and 1 percent of female victims and 2 percent of male victims were stalked by three different persons.

The survey also found that 1 percent of all women surveyed and 0.4 percent of all men surveyed were stalked during the 12 months preceding the survey. These findings equate to an estimated 1,006,970 women and an estimated 370,990 men who are stalked annually in the United States (see exhibit 2).

Exhibit 1

### Percentage and Estimated Number of Men and Women Stalked in Lifetime

Group	Persons Stalked in Lifetime	
	Percentage*	Estimated Number**
Men (N = 8,000)	2.2	2,040,460
Women (N = 8,000)	8.1	8,156,460

\* Differences between men and women are significant at  $\leq .001$ .

\*\* Based on estimates of men and women aged 18 years and older, U.S. Bureau of the Census, Current Population Survey, 1995.

Exhibit 2

### Percentage and Estimated Number of Men and Women Stalked in Previous 12 Months

Group	Persons Stalked in Previous 12 Months	
	Percentage*	Estimated Number**
Men (N = 8,000)	0.4	370,990
Women (N = 8,000)	1.0	1,006,970

\* Differences between men and women are significant at  $\leq .001$ .

\*\* Based on estimates of men and women aged 18 years and older, U.S. Bureau of the Census, Current Population Survey, 1995.

The average annual estimates of stalking victimization generated by the survey are relatively high compared to the average lifetime estimates. Two factors account for this finding. The first has to do with the age of the population most at risk of being stalked. The survey found that 74 percent of stalking victims are between 18 and 39 years old. Since men and women between 18 and 39 years comprise nearly half (47 percent) the adult population from which the sample was drawn, a large proportion of men and women in the survey sample were at risk of being stalked in the 12 months preceding the interview. As the proportion of the U.S. population aged 18–39 years declines, so should the number of persons stalked annually. However, the lifetime estimates of stalking victimization should remain relatively constant.

Another reason annual estimates of stalking victimization are relatively high compared to lifetime rates is that stalking, by definition, involves repeated and ongoing victimization. Thus, some men and women are stalked for months or years on end. Because some men and women are stalked from one year to the next, the average annual estimates of stalking victimization cannot be added to produce an estimate of the total number of men and women who will be stalked in two, three, or more years. Thus, average annual rates of stalking victimization will appear higher than expected when compared to lifetime rates of stalking victimization.

## Comparison with Previous Stalking Estimates

Prior to this study, information on stalking prevalence was limited to guesses provided by mental health professionals based on their work with known stalkers. The most frequently cited “guesstimates” of stalking prevalence were made by

forensic psychiatrist Park Dietz, who in 1992 reported that 5 percent of U.S. women are stalked at some time in their life and approximately 200,000 U.S. women are stalked each year.<sup>27</sup> Thus, the NVAW Survey’s estimate that 8 percent of U.S. women have been stalked at some time in their life is 1.6 times greater than Dietz’s guesstimate, and the survey’s estimate that 1,006,970 U.S. women are stalked annually is 5 times greater than Deitz’s guesstimate.

How prevalent is stalking compared to other forms of violence against women in the United States? The NVAW Survey found that 0.3 percent of all women surveyed experienced a completed or attempted rape in the 12 months preceding the survey, and 1.9 percent experienced a physical assault in the 12 months preceding the survey (see exhibit 3). Thus, in a 1-year period, women are three times more likely to be stalked than raped, but they are two times as likely to be physically assaulted than stalked.

Exhibit 3

### Percentage of Men and Women Victimized in Previous 12 Months, by Type of Violence

Type of Violence	Persons Victimized in Previous 12 Months (%)	
	Men (N = 8,000)	Women (N = 8,000)
Rape	<0.1*	0.3
Physical Assault	3.4	1.9
Stalking	0.4	1.0
Any of the Above	3.9	3.0

\* Based on five or fewer cases.



If a less stringent definition of stalking is used — one requiring victims to feel only somewhat frightened or a little frightened by their assailant’s behavior — stalking prevalence rates rise dramatically. Specifically, the lifetime stalking prevalence rate increases from 8 percent to 12 percent for women and from 2 percent to 4 percent for men; and the annual stalking prevalence rate increases from 1 percent to 6 percent for women and from 0.4 percent to 1.5 percent for men. Based on these higher prevalence rates, an estimated 12.1 million U.S. women and 3.7 million U.S. men are stalked at some time in their life; and 6 million women and 1.4 million men are stalked annually in the United States. These results show how stalking prevalence varies with the level of fear included in the definition. A higher standard of fear produces lower prevalence rates, and a lower standard of fear produces higher prevalence rates.

## Stalking Risk for Racial and Ethnic Minorities

Information from the NVAW Survey presents a complex picture of stalking, race, and ethnicity. When data on African–American, American Indian/Alaska Native, Asian/Pacific Islander, and mixed-race women are combined, there is no difference in stalking prevalence between white women and minority women: 8.2 percent of white women (see exhibit 4) and 8.2 percent of nonwhite women (not shown) reported ever being stalked in their lifetime. However, a comparison of stalking prevalence across specific racial and ethnic groupings shows that American Indian/Alaska Native women report significantly more stalking victimization than women of other racial and ethnic backgrounds (see exhibit 4). This finding should be viewed with caution, however, given the small number of American

Exhibit 4

### Percentage of Men and Women Stalked in Lifetime, by Race and Ethnicity of Victim

Group	Persons Stalked in Lifetime (%)					
	Total	White	African–American	Asian/Pacific Islander	American Indian/Alaska Native	Mixed Race
Men	(N = 7,759) 2.3	(N = 6,424) 2.1	(N = 659) 2.4	(N = 165) 1.8*	(N = 105) 4.8	(N = 406) 3.9
Women**	(N = 7,850) 8.2	(N = 6,452) 8.2	(N = 780) 6.5	(N = 133) 4.5	(N = 88) 17.0	(N = 397) 10.6

\* Based on five or fewer cases.

\*\* Differences between racial and ethnic groups are significant at  $\leq .05$ .

Indian/Alaska Native women in the sample. This finding also underscores the need for specificity when comparing prevalence rates among women of different racial or ethnic backgrounds.

Since information on violence against American Indian and Alaska Native women is limited, it is difficult to explain why they report more stalking victimization. A previous study found that the overall homicide rates for Native Americans were about two times greater than U.S. national rates.<sup>28</sup> Thus, there is some evidence that Native Americans are at significantly greater risk of violence — fatal and nonfatal — than other Americans. How much of the variance in stalking prevalence may be explained by demographic, social, and environmental factors remains unclear and requires further study. Moreover, there may be significant differences in stalking prevalence among women of diverse American Indian tribes and Alaska Native communities that cannot be determined from the survey, since data on all Native Americans were combined.

There is some evidence that Asian and Pacific Islander women are at significantly less risk of being stalked than women of other racial and ethnic backgrounds (see exhibit 4). Again, however, given the small number of Asian/Pacific Islander women in the sample, this finding must be viewed with caution. It has been suggested that traditional Asian values emphasizing close family ties and harmony may discourage Asian women from disclosing physical and emotional abuse by intimate partners.<sup>29</sup> Thus, the smaller stalking prevalence rate found among Asian/Pacific Islander women may be, at least in part, an artifact of underreporting. There may also be a significant difference in stalking prevalence between Asian women and Pacific Islander women that cannot be determined from the survey, since data on these two groups were combined.

The survey found no significant difference in stalking prevalence among men of different racial and ethnic backgrounds. This finding must also be viewed with caution, given the sample's small number of male victims falling into specific racial and ethnic groupings. A larger sample of male stalking victims is needed to produce more reliable information on the relative risk of stalking among men of different racial and ethnic backgrounds.

The survey found no significant difference in stalking prevalence among men and women of Hispanic and non-Hispanic origin (see exhibit 5). Since previous studies comparing the prevalence of violence among Hispanic and non-Hispanic women have produced contradictory conclusions,<sup>30</sup> these findings neither confirm nor contradict earlier findings.

Exhibit 5  
**Percentage of Men and Women Stalked in Lifetime, by Hispanic/Non-Hispanic Origin of Victim**

Group	Persons Stalked in Lifetime (%)		
	Total	Hispanic*	Non-Hispanic
Men	(N = 7,916) 2.2	(N = 581) 3.3	(N = 7,335) 2.1
Women	(N = 7,945) 8.1	(N = 628) 7.6	(N = 7,317) 8.2

\* Persons of Hispanic origin may be of any race.

**Contrary to popular opinion, women are often stalked by intimate partners while the relationship is still intact.**

## Who Stalks Whom?

Though stalking is a gender-neutral crime, women are the primary victims of stalking and men are the primary perpetrators. Seventy-eight percent of the stalking victims identified by the survey were women, and 22 percent were men. Thus, four out of five stalking victims are women. By comparison, 94 percent of the stalkers identified by female victims and 60 percent of the stalkers identified by male victims were male. Overall, 87 percent of the stalkers identified by victims were male.

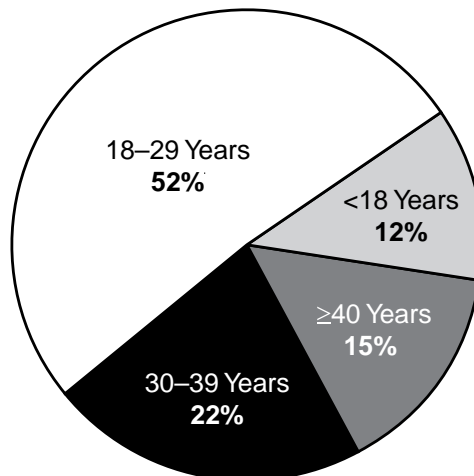
Young adults are also the primary targets of stalkers. Fifty-two percent of the stalking victims were 18–29 years old and 22 percent were 30–39 years old when the stalking started (see exhibit 6). On average, victims were 28 years old when the stalking started.

The survey confirms previous reports that most victims know their stalker.<sup>31</sup> Only 23 percent of female victims and 36 percent of male victims were stalked by strangers. The survey also indicates that women tend to be stalked by intimate partners, defined as current or former spouses, current or former cohabitants

(of the same or opposite sex), or current or former boyfriends or girlfriends. Thirty-eight percent of female stalking victims were stalked by current or former husbands, 10 percent by current or former cohabiting partners, and 14 percent by current or former dates or boyfriends. Overall, 59 percent of female victims, compared with 30 percent of male victims, were stalked by some type of intimate partner (see exhibit 7).

It has been reported previously that when women are stalked by intimate partners, the stalking typically occurs after the woman attempts to leave the relationship.<sup>32</sup> To test this assumption, the NVAW Survey asked women who had been stalked by former husbands or partners when in the relationship the stalking occurred. Twenty-one percent of these victims said the stalking occurred before the relationship ended, 43 percent said it occurred after the relationship ended, and 36 percent said it occurred both before and after the relationship ended (see exhibit 8). Thus, contrary to popular opinion, women are often stalked by intimate partners while the relationship is still intact.

Exhibit 6  
**Victim's Age When First Stalked\***

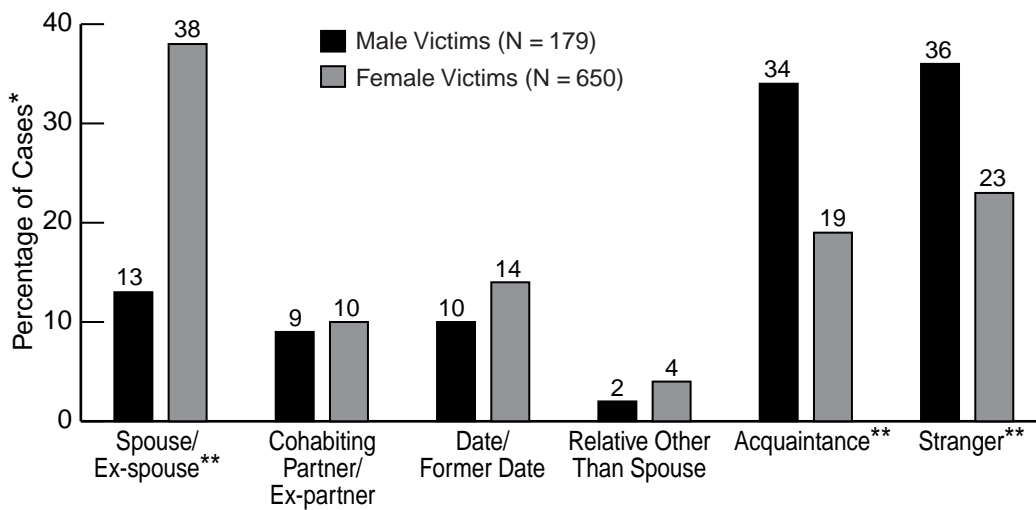


\* N = 797 male and female victims. Percentages do not total 100 due to rounding.



Exhibit 7

**Relationship between Victim and Offender**

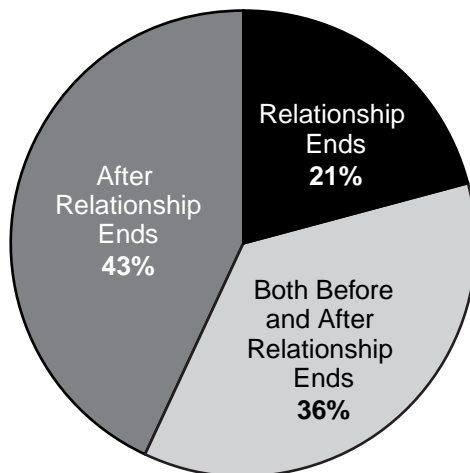


\* Percentages exceed 100% because some victims had more than one stalker.

\*\* Differences between males and females are significant at  $\leq .05$ .

Exhibit 8

**Point in Intimate Relationship When Stalking of Women\* Occurs**



\* N = 263 female victims.

The survey found that men tend to be stalked by strangers and acquaintances (see exhibit 7), 90 percent of whom are male. It is unclear from the survey data why men are stalked by male strangers and male acquaintances. There is some

evidence that homosexual men are at greater risk of being stalked than heterosexual men: Stalking prevalence was significantly greater among men who had ever lived with a man as a couple compared with men who had never lived

with a man as a couple (see exhibit 9). Thus, in some stalking cases involving male victims and stranger or acquaintance perpetrators, the perpetrator may be

motivated by hatred toward homosexuals, while in others the perpetrator may be motivated by sexual attraction. It is also possible that some men are stalked by male strangers and male acquaintances in the context of inter- or intragroup gang rivalries. Clearly, more research is needed to determine under what circumstances men are stalked by male strangers and male acquaintances.

Although men tend to be stalked by strangers and acquaintances, women are at significantly greater risk of being stalked by strangers and acquaintances than men. A comparison of stalking prevalence among women and men by victim-offender relationship shows that 1.8 percent of all U.S. women, compared with 0.8 percent of all U.S. men, have been stalked by strangers; and 1.6 percent of all U.S. women, compared with 0.8 percent of all U.S. men, have been stalked by acquaintances (see exhibit 10).

Exhibit 9

**Percentage of Men Stalked in Lifetime, by Whether They Ever Cohabited with a Man**

Men Stalked/ Not Stalked in Lifetime*	Cohabitation Experience	
	Cohabited with a Man (N = 65) %	Never Cohabited with a Man (N = 7,935) %
Stalked	7.7**	2.2
Not Stalked	92.3	97.8

\* Differences between men who “cohabited” and “never cohabited” are significant at < .01.

\*\* Based on five or fewer cases.

**How Do Stalkers Harass and Terrorize?**

When asked to describe specific activities their stalkers engaged in to harass and terrorize them, women were significantly more likely than men to report that their stalkers followed them, spied on them, or stood outside their home or place of work or recreation (see exhibit 11). Women were also significantly more likely to report that their stalkers made unsolicited phone calls. About equal percentages of female and male victims reported that their stalkers sent them unwanted letters or items, vandalized their property, or killed or threatened to kill a family pet (see exhibit 11).

Exhibit 10

**Percentage of Men and Women Stalked in Lifetime, by Victim-Offender Relationship**

Victim-Offender Relationship	Persons Stalked in Lifetime (%)	
	Men (N = 8,000)	Women (N = 8,000)
Intimate*	0.6	4.8
Relative	0.1**	0.3
Acquaintance*	0.8	1.6
Stranger*	0.8	1.8

\* Differences between men and women are significant at ≤.05.

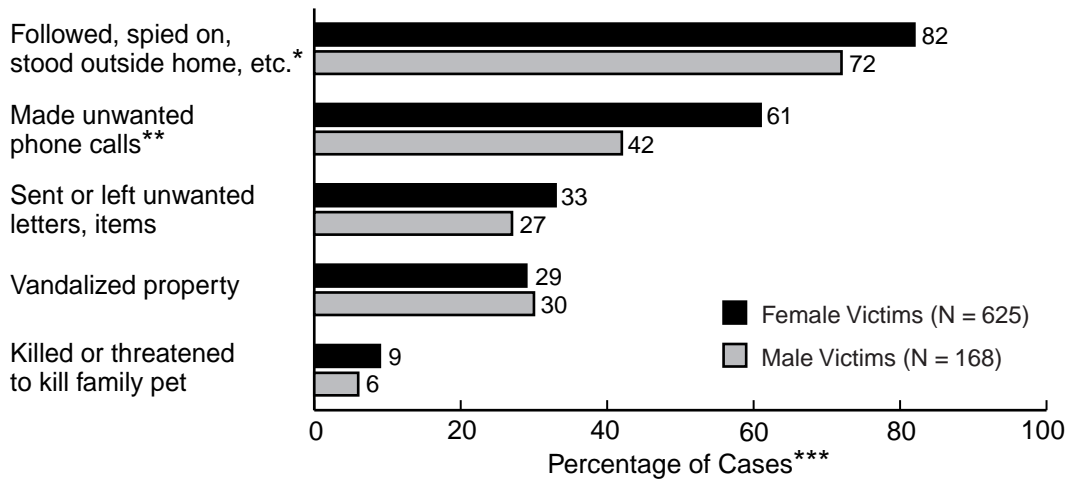
\*\* Based on five or fewer cases.

**How Often Do Stalkers Threaten Overtly?**

Many State antistalking laws include in their definition of stalking a requirement that stalkers make an overt threat of violence against their victim.<sup>33</sup> Survey

Exhibit 11

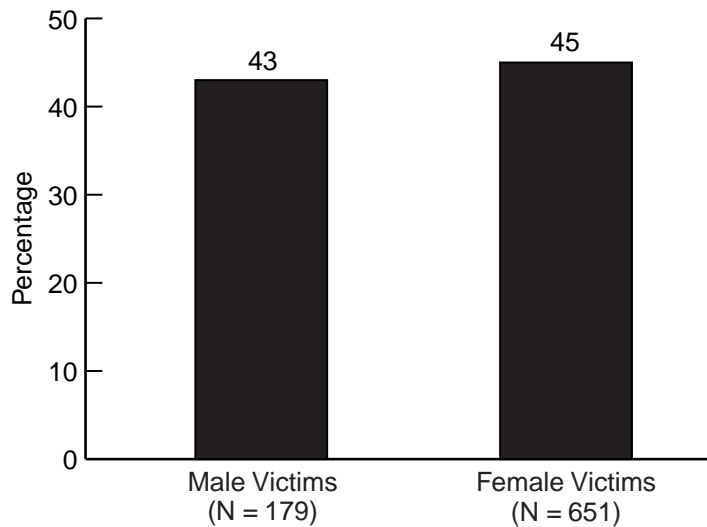
**Stalking Activities Engaged in by Stalkers**



\* Differences between males and females are significant at  $\leq .05$ .  
 \*\* Differences between males and females are significant at  $\leq .001$ .  
 \*\*\* Percentages exceed 100% because the question had multiple responses.

Exhibit 12

**Percentage of Victims Who Were Overtly Threatened by Their Stalkers**



findings suggest that this requirement may be ill-advised. By definition, stalking victims in this survey were either very frightened of their assailant's behavior or

feared their assailant would seriously harm or kill them or someone close to them. Despite the high level of fear required, the survey found that less than half the victims

***It appears that much stalking is motivated by stalkers' desire to control, or instill fear in, their victim.***

— both male and female — were directly threatened by their stalker (see exhibit 12). This finding shows that stalkers do not always threaten their victim verbally or in writing; more often they engage in a course of conduct that, taken in context, causes a reasonable person to feel fearful. The *Model Antistalking Code* reflects this reality by not including in its definition of stalking a requirement that the stalker make a credible threat of violence against the victim.<sup>34</sup>

### Why Stalkers Stalk Their Victims

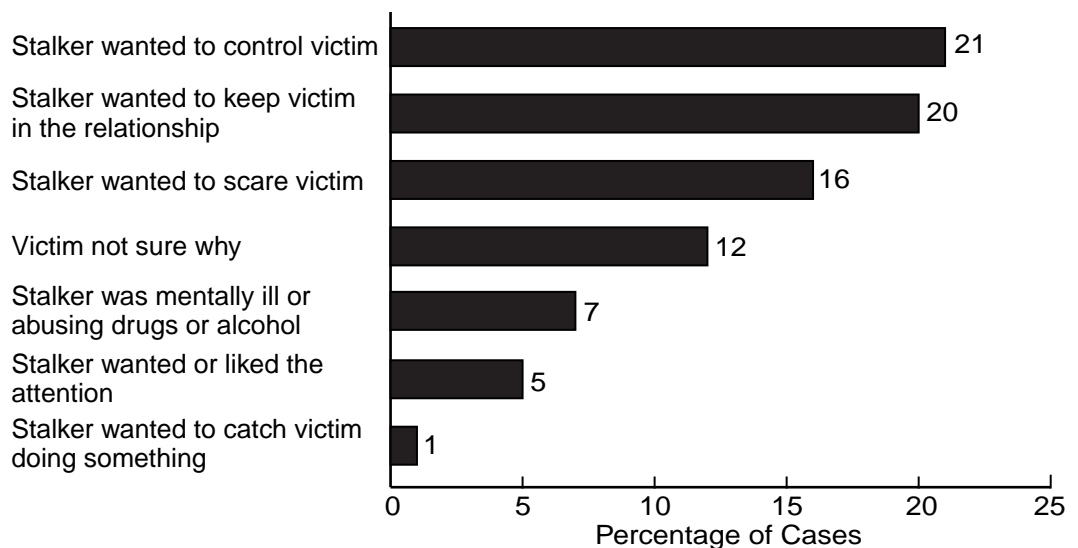
To generate information on motivations for stalking, the survey asked victims why they thought they had been stalked. Since stalking occurs in a variety of situations and between people who have various relationships, it is not surprising that responses to this question varied. Based on victims' perceptions of why they were stalked, it appears that much stalking is motivated by stalkers' desire to control, or instill fear in, their victim (see exhibit 13).

The survey results dispel the myth that most stalkers are psychotic or delusional. Only 7 percent of the victims said they were stalked because their stalkers were mentally ill or abusing drugs or alcohol.

### Relationship between Stalking and Other Forms of Violence

The NVAW Survey provides compelling evidence of the link between stalking and other forms of violence in intimate relationships. Eighty-one percent of the women who were stalked by a current or former husband or cohabiting partner were also physically assaulted by the same partner, and 31 percent of the women who were stalked by a current or former husband or cohabiting partner were also sexually assaulted by the same partner. By comparison, 20 percent of the women who were ever married or ever lived with a man were physically assaulted by a current or former husband or partner, and 5 percent of women who were ever married or ever lived with a man were sexually assaulted

Exhibit 13  
**Victims' Perceptions of Why They Were Stalked\***



\* N = 624 male and female victims.

by a current or former husband or partner. Thus, husbands or partners who stalk their partners are four times more likely than husbands or partners in the general population to physically assault their partners, and they are six times more likely than husbands and partners in the general population to sexually assault their partners.

The survey also provides compelling evidence of the link between stalking and controlling and emotionally abusive behavior in intimate relationships. To provide a context for violence occurring between intimate partners, respondents to the survey were asked a series of questions about controlling and emotionally abusive behavior they experienced at the hands of their current or former spouses or cohabiting partners. The survey found that ex-husbands who stalked (either before or after the relationship ended) were significantly more likely than ex-husbands who did not stalk to engage in emotionally abusive and controlling behavior toward their wife (see exhibit 14 for details).

## How Often Is Stalking Reported to Police?

Fifty-five percent of female victims and 48 percent of male victims said their stalking was reported to the police. In most of these cases, the victims made the report (see exhibit 15). The percentage of women reporting stalking is identical to the percentage of female victims reporting lone-offender violent crimes to police during 1987–89, as measured by the National Crime Victimization Survey.<sup>35</sup>

Police responses to stalking cases involving male victims and female victims were virtually identical, with two notable exceptions: Police were significantly more likely to arrest or detain a suspect in cases involving female victims, and they were significantly more likely to refer female victims to services (see exhibit 15).

Exhibit 14

### Percentage of Ex-Husbands Who Engaged in Emotionally Abusive or Controlling Behavior, by Whether They Stalked\*

Types of Emotionally Abusive/ Controlling Behavior**	Ex-Husbands Who Stalked (%) (N = 166)	Ex-Husbands Who Did Not Stalk (%) (N = 2,645)
Had a hard time seeing things from her point of view	87.7	57.8
Was jealous or possessive	83.7	46.3
Tried to provoke arguments	90.3	45.3
Tried to limit her contact with family and friends	77.1	32.3
Insisted on knowing where she was at all times	80.7	34.4
Made her feel inadequate	85.5	40.9
Shouted or swore at her	88.0	44.5
Frightened her	92.2	33.1
Prevented her from knowing about or having access to family income	59.6	20.8
Prevented her from working outside the home	30.7	13.0
Insisted on changing residences even when she didn't need or want to	33.9	11.9

\* Based on responses for first ex-husbands only.

\*\* Differences between ex-husbands who stalked and ex-husbands who did not stalk are significant at  $\leq .001$ .

Exhibit 15

**Percentage and Characteristics of Stalking Cases Reported to the Police, by Sex of Victim**

Reported to Police/Response	Stalking Victims (%)		
	Male	Female	Total
Was case reported to the police?	(N = 178)	(N = 641)	(N = 819)
Yes	47.7	54.6	53.1
No	52.3	45.4	46.9
Who reported the case?*	(N = 84)	(N = 350)	(N = 434)
Victim	75.0	84.0	82.3
Other	25.0	16.0	17.7
Police Response* **	(N = 84)	(N = 350)	(N = 434)
Took report	66.7	68.6	68.0
Arrested or detained perpetrator***	16.7	25.1	23.5
Referred to prosecutor or court	19.0	24.3	23.3
Referred to victim services*	8.3	15.1	13.8
Gave advice on self-protective measures	29.8	34.0	33.2
Did nothing	16.7	19.4	18.9

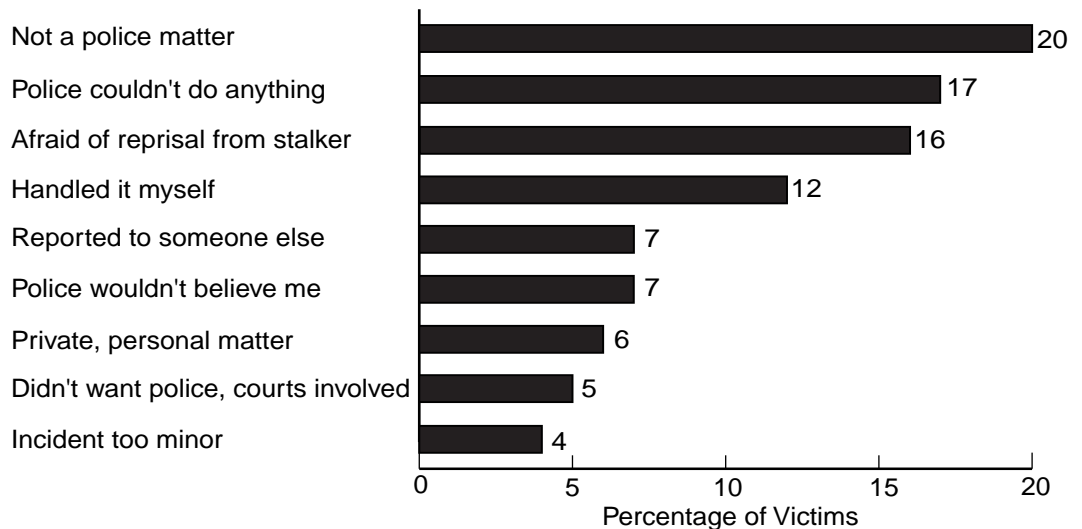
\* Based on responses from victims whose stalking was reported to the police.  
 \*\* Percentages exceed 100 percent because of multiple responses.  
 \*\*\* Differences between males and females are significant at  $\leq .05$ .

There is some evidence that stalking reports to the police by victims have increased since passage of antistalking laws. According to information from the survey, stalking cases occurring before 1990 — the year California passed the Nation’s first antistalking law — were significantly less likely to be reported to the police than stalking cases occurring after 1995, the year by which all 50 States and the District of Columbia had laws proscribing stalking. There was no significant difference, however, in the number of arrests made in stalking cases that occurred before 1990 and those that occurred after 1995. When asked why they chose not to report their stalking to the police, victims were most likely to state that their stalking was not a police matter, they thought the police would not be able to do anything, or they feared reprisals from their stalkers (see exhibit 16).

Overall, stalking victims gave police a 50/50 approval rating (see exhibit 17). Respondents who said their stalkers were arrested were significantly more likely to be satisfied with the way the police handled their case than respondents who said their stalkers were not arrested (76 percent versus 42 percent).

Exhibit 16

**Victims’ Reasons for Not Reporting Stalking to Police\***



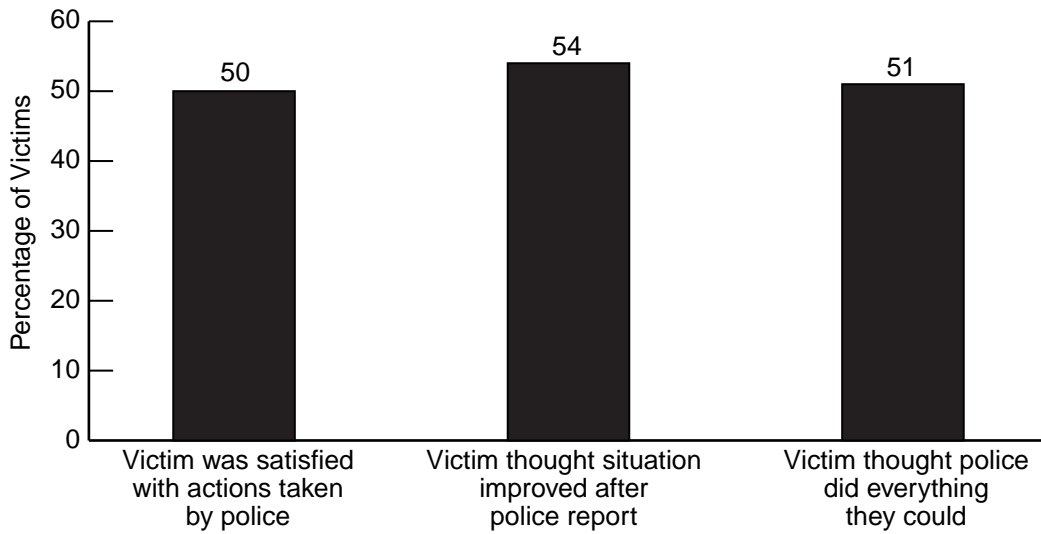
\* N = 348 male and female victims.

Victims who thought the police “should have done more” in their cases were asked to describe what specific actions they thought the police should have taken. Forty-two percent thought the

police should have put the assailant in jail, 20 percent said the police should have taken the situation more seriously, and 16 percent said the police should have done more to protect them (see exhibit 18).

Exhibit 17

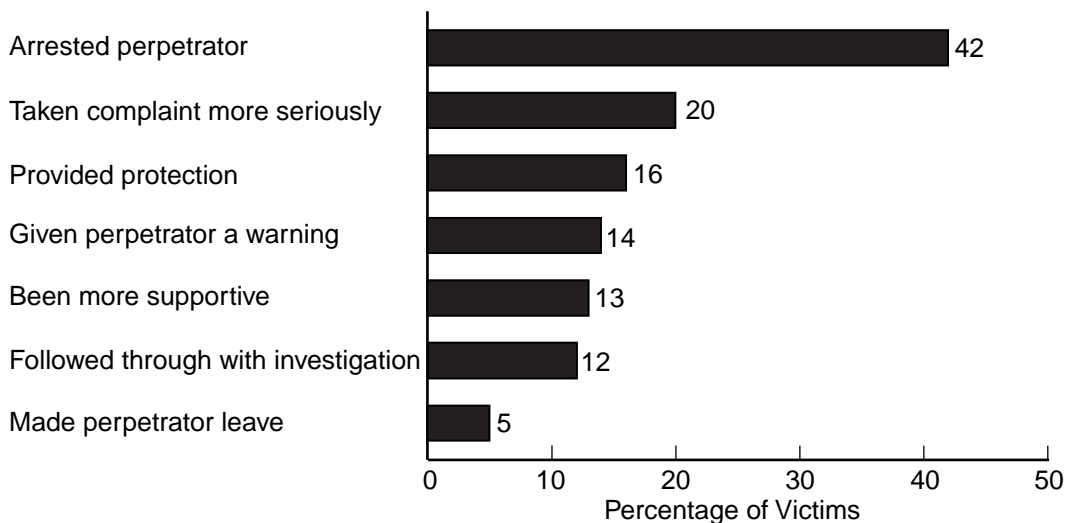
**Victims’ Satisfaction with the Police\***



\* N = 435 male and female victims.

Exhibit 18

**Victims’ View of Other Actions Police Should Have Taken\***



\* N = 201 male and female victims who thought police should have done more.



Exhibit 19

**Percentage and Outcomes of Criminal Prosecutions in Stalking Cases, by Sex of Victim**

Outcome	Stalking Victims (%)		
	Male	Female	Total
Was perpetrator prosecuted?	(N = 178)	(N = 645)	(N = 823)
Yes	9.0	13.1	12.1
No	91.0	86.9	87.9
Was perpetrator convicted?*	(N = 15)	(N = 72)	(N = 87)
Yes	60.0	52.8	54.0
No	40.0	47.2	46.0
Was perpetrator sentenced to jail or prison? **	(N = 9)	(N = 37)	(N = 46)
Yes	77.8	59.5	63.0
No	22.2***	40.5	37.0

\* Based on responses from victims whose perpetrator was prosecuted.

\*\* Based on responses from victims whose perpetrator was convicted.

\*\*\* Based on five or fewer sample cases.

Exhibit 20

**Percentage and Outcomes of Protective Orders in Stalking Cases, by Sex of Victim**

Outcome	Stalking Victims (%)		
	Male	Female	Total
Did victim obtain a protective or restraining order?*	(N = 175)	(N = 597)	(N = 772)
Yes	9.7	28.0	23.8
No	90.3	72.0	76.2
Was the order violated? * **	(N = 16)	(N = 166)	(N = 182)
Yes	81.3	68.7	69.8
No	18.7	31.3	30.2

\* Differences between males and females are significant at  $\leq .05$ .

\*\* Based on responses from victims who obtained a restraining order.

**How Often Are Stalkers Criminally Prosecuted?**

Overall, 13 percent of female victims and 9 percent of male victims reported that their stalkers were criminally prosecuted (see exhibit 19). These figures increase to 24 percent and 19 percent, respectively, when only those cases with police reports are considered. The stalkers were charged with a wide variety of crimes, including stalking, harassment, menacing or threatening, vandalism, trespassing, breaking and entering, robbery, disorderly conduct, intimidation, and simple and aggravated assault. Survey participants reported that about half the stalkers (54 percent) who had criminal charges filed against them were convicted of a crime. Of those convicted, nearly two-thirds (63 percent) were believed to have been sent to jail or prison.

**Obtaining Protective or Restraining Orders Against Stalkers**

Results from the survey also indicate that female victims were significantly more likely than male victims (28 percent and 10 percent) to obtain a protective or restraining order against a stalker (see exhibit 20). This finding is expected, since women are significantly more likely than men to be stalked by intimate partners who have a history of being violent toward them. Of those who obtained restraining orders, 69 percent of the women and 81 percent of the men said the stalker violated the order.

**What Are the Psychological and Social Consequences of Stalking?**

The survey produced strong confirmation of the negative mental health impact of stalking. About a third of the women

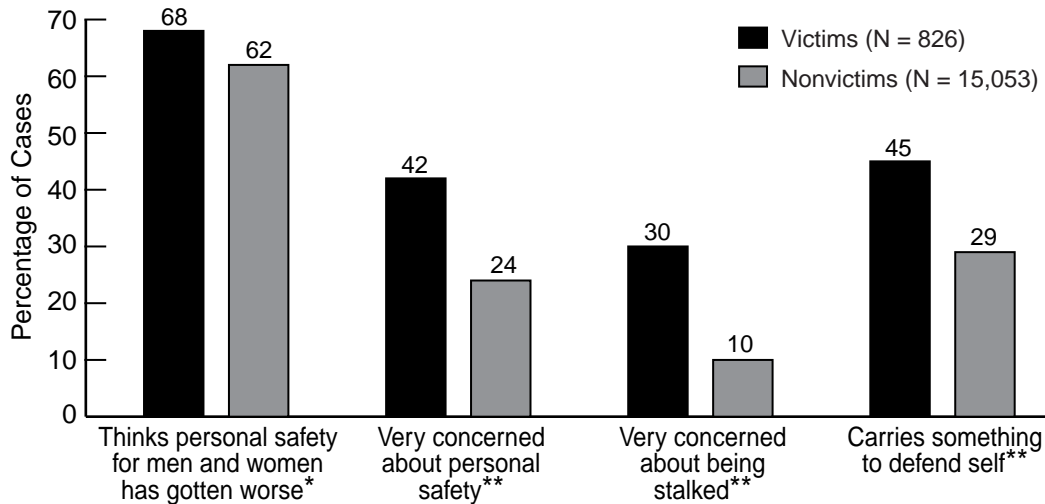


(30 percent) and a fifth of the men (20 percent) said they sought psychological counseling as a result of the stalking victimization. In addition, stalking victims were significantly more likely than non-stalking victims to be very concerned

about their personal safety and about being stalked, to carry something on their person to defend themselves, and to think personal safety for men and women had gotten worse in recent years (see exhibit 21).

Exhibit 21

**Fear for Personal Safety Among Victims and Nonvictims of Stalking**

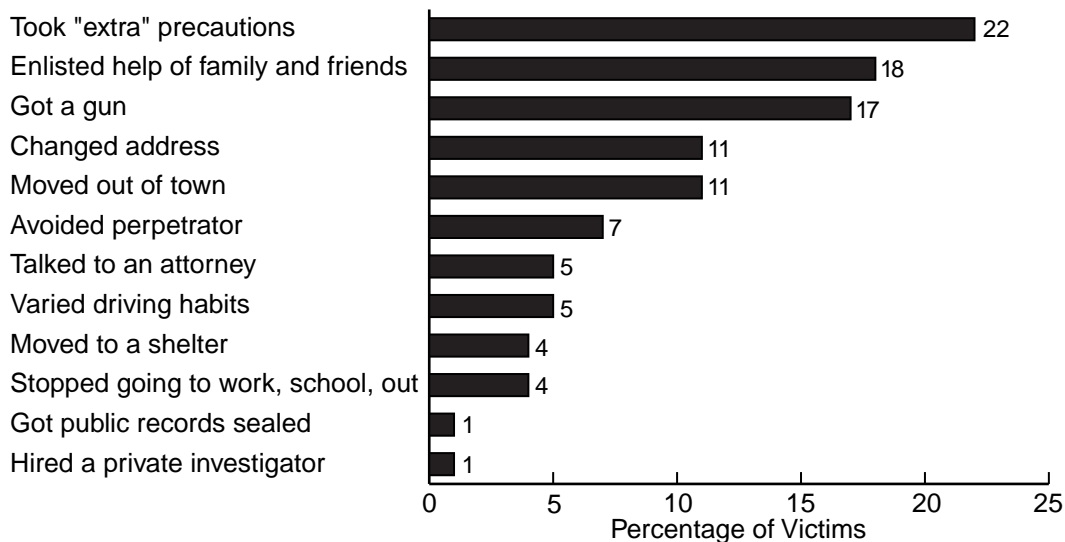


\* Differences between victims and nonvictims are significant at  $\leq .01$ .

\*\* Differences between victims and nonvictims are significant at  $\leq .001$ .

Exhibit 22

**Self-Protective Measures Undertaken by Stalking Victims\***



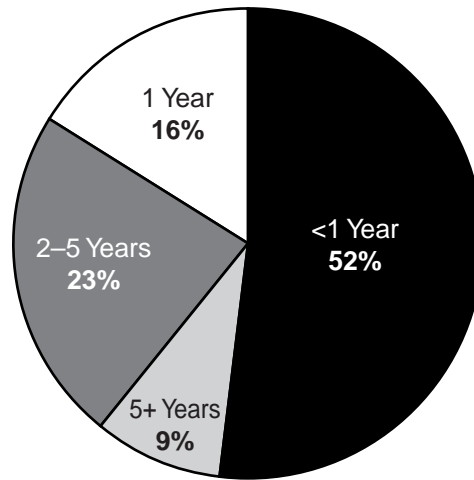
\* N = 440 male and female victims who took self-protective measures.

Over a quarter (26 percent) of the stalking victims said the victimization caused them to lose time from work. While the survey did not query victims about why they lost time from work, it can be assumed they missed work for a variety

of reasons — to attend court hearings, to meet with a psychologist or other mental health professional, to avoid contact with the assailant, and to consult with an attorney. When asked how many days of work they lost, 7 percent of these victims

Exhibit 23

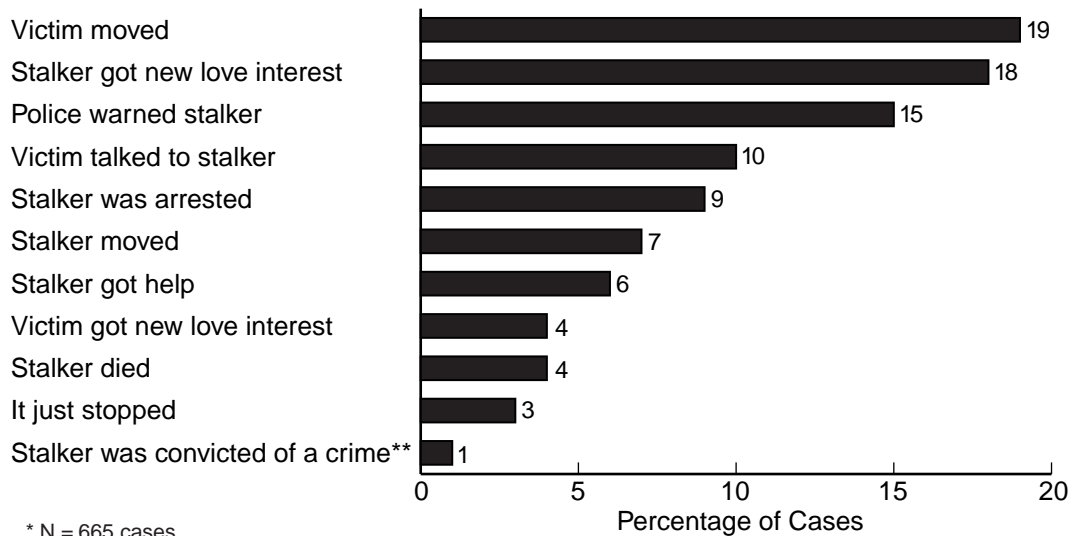
**Distribution of Cases by Number of Years Stalking Lasted\***



\* N = 759 cases.

Exhibit 24

**Victims' Perception of Why Stalking Stopped\***



\* N = 665 cases.

\*\* Based on 5 or fewer cases.

said they never returned to work. On average, however, victims who lost time from and returned to work missed 11 days.

Stalking victims were asked whether they took any measures (other than reporting their victimization to the police or obtaining a protective order) to protect themselves from the stalker. Fifty-six percent of the women and 51 percent of the men reported taking some type of self-protective measure (see exhibit 22).

## When and Why Does Stalking Stop?

At the time of the interview, 92 percent of the victims were no longer being stalked. Based on information provided by these victims, about two-thirds of all stalking cases last a year or less, about a quarter last 2–5 years, and about a tenth last more than 5 years (see exhibit 23). On average, stalking cases last 1.8 years. However, stalking cases involving intimates or former intimates last, on average, significantly longer than stalking cases involving nonintimates (2.2 years and 1.1 years, respectively).

Victims who were no longer being stalked at the time of the interview were asked why they thought the stalking had ceased; 19 percent said the stalking stopped because they (the victims) moved away (see exhibit 24). These findings suggest that address confidentiality programs may be an effective means of combating stalking. Such programs encourage victims who face continued pursuit and unusual safety risks to develop a personal safety plan that includes relocating as far from the stalker as possible and securing a confidential mailing address that provides mail-forwarding service but does not reveal the victim's new location.<sup>36</sup>

Some stalking cases are resolved when the perpetrator gets a new love interest. Eighteen percent of the victims said the stalking stopped because the

assailant got a new spouse, partner, or boyfriend/girlfriend.

It has been reported previously that informal law enforcement interventions, such as detective contacts, can be an effective means of deterring stalkers, particularly in cases where the victim and the suspect had some prior relationship and where the stalker is not suffering

## Violence Among Intimates in America

A report\* produced by the Justice Department's Bureau of Justice Statistics (BJS) indicated that women make up the vast majority of victims in crimes involving intimate\*\* violence. This report, which is a compilation of data from the National Crime Victimization Survey and the FBI's Uniform Crime Reporting Program, revealed the following:

- Women were more likely than men to have been murdered by an intimate. In 1996, nearly 2,000 murders were committed by intimates, and in almost 3 out of 4 of these killings, the victim was a woman.
- Each year, approximately 30 percent of all women killed in this country die at the hands of a current or former intimate, compared to 6 percent of men. The intimate murder rate for men has been sharply decreasing, dropping from 1,357 in 1976 to 516 in 1996.
- In 1996, women were victimized by intimates in about 840,000 incidents of rape, sexual assault, robbery, aggravated assault, and simple assault. By contrast, men were victims of about 150,000 violent crimes committed by an intimate. (On average, about a million women are victimized by an intimate each year.)
- The highest per capita rates of intimate violence were among women aged 16–24, paralleling the findings of the NVAW Survey, which revealed that more younger women were victims of stalking.
- Approximately half the incidents of intimate violence against women were reported to the police. These figures are similar to the findings of the NVAW Survey in which roughly half the stalking victims reported the crime to the authorities.
- The three most common reasons offered for not reporting the crime were that the incident was considered a private or personal matter, fear of offender reprisals, and a perception that law enforcement would not or could not assist. Again, these explanations virtually mirror the findings of the NVAW Survey.

\* Copies of this report, "Violence by Intimates," can be obtained from the BJS Internet website: <http://www.ojp.usdoj.gov/bjs/> or by calling (800) 732-3277 and requesting publication NCJ #167237.

\*\* Intimates can be spouses, ex-spouses, boyfriends, girlfriends, ex-boyfriends, and ex-girlfriends.

***The survey also revealed a strong link between stalking and domestic violence.***

from mental illness.<sup>37</sup> Findings from the NVAW Survey provide some support for this theory. Victims were more likely to credit informal, rather than formal, justice system interventions for the cessation of the stalking. For example, 15 percent of victims said the stalking stopped after their assailants received a warning from the police. By comparison, only 9 percent of victims said the stalking ceased because the stalker was arrested, 1 percent said the stalking stopped because the stalker was convicted of a crime, and less than 1 percent said the stalking stopped because they obtained a restraining order against the stalker. The fact that so few victims credited formal justice system interventions is not surprising, given the paucity of arrests, criminal prosecutions, and restraining orders in stalking cases.

## **Conclusion**

The results of the NVAW Survey clearly indicate that stalking is much more prevalent than previously thought and should be treated as a significant problem. An estimated 8 percent of women and 2 percent of men in the U.S. have been stalked at some point during their lifetime. While stalkers can be men or women, an overwhelming majority are male. Moreover, women are significantly more likely than men to be stalked by an intimate, such as a husband, cohabiting

partner, or date. The survey also revealed a strong link between stalking and domestic violence. Intimates who stalk their partners are also more likely to physically and sexually assault their victims prior to the termination of the relationship. What's more, stalking cases involving current or former intimates last longer than those involving nonintimates.

Stalkers employed a variety of activities to harass and terrorize their victims, but less than half the victims were overtly threatened, underscoring the need to eliminate the requirement in many State antistalking statutes that the stalker issue a credible threat of violence against the victim. This absence of overt threats complicates effective management of stalking cases by the criminal justice system and contributes significantly to the victim's sense of frustration at the system's inability to respond appropriately. The survey found that the State antistalking statutes are having a positive impact on the number of cases reported to authorities. However, victims were divided on police response, with half of them expressing dissatisfaction with the way their cases were handled by police. Overall, a very small percentage of the stalking cases were prosecuted, highlighting the critical need for criminal justice professionals to receive comprehensive training to process and manage these cases to enhance victim safety and hold offenders accountable.

## Chapter 2

# FEDERAL AND STATE ANTISTALKING LEGISLATION

In 1990, California became the first State to pass antistalking legislation. Since then all States and the District of Columbia have enacted laws making stalking a crime. In 1996, a Federal law was enacted to prohibit stalkers from traveling across a State line in pursuit of their victims.<sup>38</sup> This legislation enabled Federal prosecution in instances where the interstate feature of a stalking case created additional challenges to effective State investigation and prosecution of such crimes.

As mentioned previously, State antistalking statutes vary widely. For instance, at least four States and one Territory — Alaska, Michigan, Oklahoma, Wyoming, and Guam — specifically prohibit stalking through electronic means, such as e-mail. Nine States — Alaska, Connecticut, Florida, Iowa, Louisiana, Michigan, Minnesota, New Mexico, and Vermont — permit enhanced penalties in stalking cases involving victims who are minors. As of March 1998, legislation to enact new laws and strengthen existing ones addressing stalking of children is pending in 12 States.<sup>39</sup>

This chapter summarizes the cases prosecuted under the new Federal antistalking statute, offers a comprehensive analysis of State antistalking laws, and concludes with a brief analysis of the challenges mounted against some of these State statutes. A complete list of State stalking code citations and constitutional challenges to the statutes as of March 1998 can be found in appendix A.

### Federal Antistalking Legislation

The Interstate Stalking Punishment and Prevention Act of 1996 prohibits

individuals from traveling across a State line with the intent to injure or harass another person or placing such person in reasonable fear of death or bodily injury as a result of, or in the course of, such travel. Under this law, the Department of Justice has brought charges against nine stalkers as of April 1998. In all of these cases, the stalker was a male. In eight of these cases, the victim was a female. Six of the nine cases involved intimates, former intimates or dating partners, and two cases were related to the workplace.

As of the end of April, four defendants had been sentenced under the Federal antistalking statute and defendants in two other Federal antistalking cases were waiting to be sentenced. In one of the four cases in which sentences have been imposed, the defendant entered a guilty plea. He was sentenced to six months in a community-based facility and a 3-year term of supervised release. In the second case, the stalker was convicted and received a sentence of 20 years. In the third case, the stalker was convicted on three counts — interstate violation of a protection order, the interstate stalking statute, and the interstate domestic violence provision of VAWA. He received a sentence of 87 months. In the fourth case, the defendant was found guilty on six counts, including violation of the interstate stalking law. He was sentenced to 120 months on the stalking charge and 60 months for the remaining five charges. In at least two of the cases, the stalking occurred in a domestic violence context.

The Department of Justice is committed to prosecuting cases involving interstate stalking and plans to pursue these cases vigorously. The Federal law fills

an important gap in the legal system's ability to respond effectively to stalking crimes.

## State-by-State Analysis of Antistalking Statutes<sup>40</sup>

The Federal law notwithstanding, stalking crimes are largely the responsibility of State and local jurisdictions. In the past decade, States have responded to this crime with a myriad of statutory sanctions. The following State-by-State analysis describes the extent to which stalking and related laws have been enacted by the legislatures of the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. When appropriate, the analysis contrasts the enactment of stalking statutes with that of laws aimed at domestic violence, a common correlate of stalking behavior.

### Legal Context

Before the enactment of stalking laws, police officers and prosecutors dealt with stalking behavior using a variety of criminal law provisions. These included harassment, (terroristic) threats, criminal trespass, and specialized laws addressing telephone or letter harassment or threats. In a few States, civil law injunctions could also be used to keep stalkers at bay; and the criminal contempt powers of the court were used to enforce these injunctions.

In many jurisdictions, however, these laws failed to adequately address stalking behavior. Civil injunctions were too difficult to obtain. Criminal law penalties were often relatively light, while more serious criminal laws required a high burden of proof as to intent. Most important, stalking behavior was not a high priority with police officers and prosecutors, who often lumped stalking together with similarly unenforced laws against domestic violence.<sup>41</sup>

Stalking laws changed this environment in two important ways.

First, the enactment of such laws provided symbolic reinforcement of the seriousness with which legislators considered stalking, effectively increasing its enforcement priority. Second, these laws changed the elements of crime that needed to be proven, adding in a reasonableness test in many States that can be used to prove intent.

Stalking laws do not necessarily replace the earlier harassment, terroristic threats, and similar laws, however. These older statutes still play an important role in enforcement of the laws against stalking behavior. Thus, a full understanding of stalking laws in the 50 States requires inclusion of both stalking and these related statutes. Stalking laws are often supplemented by other laws that provide penalties for stalking-like behavior that lacks some element of stalking. This includes both harassing and threatening behavior.

### Criminal Law Provisions for Stalking

Exhibit 25 lists the types of laws found in each State by penalty and severity level. In 32 States, Guam, and the Virgin Islands, a first conviction for stalking can be a felony. However, in 16 of these States, felony penalties for stalking are restricted (denoted as [R] in exhibit 25) to specific types of stalking, such as where there is bodily injury, weapon use/carrying, or where the stalking constitutes a violation of a protective order. In 22 of these 32 States (including the 16 States with restricted felony penalties), stalking may also be a misdemeanor, depending on the specific behavior involved. In the remaining 18 States that provide only misdemeanor penalties for a first-offense stalking conviction, repeat stalking is a felony in all but 2. In the District of Columbia, a third stalking conviction calls for a maximum 3-year prison sentence.



Exhibit 25

**State Stalking Laws by Crime Level Seriousness**

State	Stalking Crime Level	State	Stalking Crime Level
Alabama	B or C felony	Montana	Misdemeanor; 2nd is felony
Alaska	C felony (R) or A misdemeanor	Nebraska	Class 1 misdemeanor; 2nd is Class 4 felony
Arizona	Felony 4 or 5	Nevada	B felony or misdemeanor
Arkansas	B or C felony	New Hampshire	A misdemeanor; 2nd is B felony
California	Felony or misdemeanor; 2nd has 4 year maximum	New Jersey	3rd (R) or 4th degree crime
Colorado	Felony 6; 2nd is Class 5 felony	New Mexico	Felony (R) or misdemeanor
Connecticut	D felony (R) or misdemeanor	New York	B misdemeanor
Delaware	C or D felony (R) or F felony	North Carolina	Misdemeanor A1 or 2; 2nd is felony
District of Columbia	Misdemeanor; 3 years for 3rd offense	North Dakota	C felony (R) or misdemeanor
Florida	Felony 3 or misdemeanor 1	Ohio	Misdemeanor 1; 2nd is felony 5
Georgia	Felony (R) or misdemeanor	Oklahoma	Felony (R) or misdemeanor
Hawaii	Misdemeanor; 2nd is C felony	Oregon	A misdemeanor; 2nd is C felony
Idaho	Misdemeanor; 2nd is felony	Pennsylvania	Misdemeanor; 2nd is felony
Illinois	Class 3 (R) or 4 felony	Rhode Island	Misdemeanor; 2nd is felony
Indiana	D felony (R) or A misdemeanor	South Carolina	Felony (R) or misdemeanor
Iowa	D felony (R) or aggravated misdemeanor	South Dakota	Misdemeanor; 2nd is felony 5
Kansas	Class 9 (R) or 10 felony	Tennessee	A misdemeanor; 2nd is C felony (if same victim) or E felony
Kentucky	D felony (R) or A misdemeanor	Texas	A misdemeanor; 2nd is felony 3
Louisiana	Felony (R) or misdemeanor	Utah	Felony (R) or misdemeanor
Maine	Class D crime; 3rd is Class C crime (5-year maximum)	Vermont	Felony
Maryland	Misdemeanor (5-year maximum)	Virginia	Class 1 or 2 misdemeanor; 3rd is felony 6
Massachusetts	Felony	Washington	C felony (R) or gross misdemeanor
Michigan	Felony or misdemeanor	West Virginia	Misdemeanor; 3rd in 5 years is felony
Minnesota	Felony or gross misdemeanor	Wisconsin	Felony (R) or A misdemeanor
Mississippi	Misdemeanor	Wyoming	Felony (R) or misdemeanor
Missouri	D felony or A misdemeanor	Guam	Felony 2 (R) or 3
		Virgin Islands	Felony

Source: Institute for Law and Justice, Alexandria, VA, March 1998.

## Stalking of Minors

Ten States mention stalking or harassing of a minor in their antistalking statutes; however, only 9 of them provide for enhanced penalties against persons who stalk or harass minors. In five of these States, minors under the age of 16 are covered by the law, while in three other States, coverage is extended to minors under the age of 18. In the ninth State, only minors under the age of 12 are covered by a law providing enhanced felony punishment for stalking (see appendix B). In California, harassing a minor because of the child's parents' employment is a misdemeanor. In Missouri, a special protection order for children is available that includes protection from stalking by a present or former household member; violation of the order is a Class A misdemeanor.

## Related Criminal Laws

Other criminal laws closely related to stalking include those that cover harassment and intimidation. A review of these laws for all 50 States is summarized in appendix C. This review indicates the following:

- Harassment laws have been adopted in 25 States and the territory of Guam. In three of these States, harassment may be a felony. In 3 other States, a second harassment offense may also be a felony. In the remainder of the States, harassment is either a misdemeanor or a summary offense (one State).
- Threatening or intimidating behavior is a statutory crime in 35 States, the District of Columbia, Guam, and Puerto Rico. In 17 of these States and Guam, threatening or intimidation may be a felony offense. Two States

call for enhanced penalties for repeat offenses.

- Laws specifically directed at telephone threats or harassment have been adopted in 43 States, Guam, and the Virgin Islands. Of these jurisdictions, only two States' laws provide felony sentences. An additional six States make a repeat telephone threat or harassment offense a felony crime.
- Letter threats are the subject of 21 States' and the Virgin Islands' criminal laws. Five of these States make letter threats a felony offense. One State provides misdemeanor penalties for "written" forms of harassment.
- With respect to other stalking-related crimes, one State criminalized threats by facsimile. Three other States have made stalking by e-mail or fax elements of their definition of a stalking crime. The territory of Guam forbids harassment by fax.

## Comparison of State Stalking Statutes to the NIJ Model Antistalking Law

In 1993, NIJ sponsored a study conducted by the National Criminal Justice Association to develop a *Model Antistalking Code* to assist States in developing felony-level antistalking laws.<sup>42</sup> The key crime elements of the NIJ-sponsored *Model Code* included:

- A course of conduct involving repeated physical proximity (following) or threatening behavior or both;



- The occurrence of incidents at least twice;
- Threatening behavior, including both explicit and implicit threats; and
- Conduct occurring against an individual or family members of the individual.

The criminal intent to commit stalking is measured by the *Model Code* by examining:

- Intent to engage in a course of conduct involving repeated following or threatening an individual;
- Knowledge that this behavior reasonably causes fear of bodily injury or death;
- Knowledge (or expectation) that the specific victim would have a reasonable fear of bodily injury or death;
- Actual fear of death or bodily injury experienced by a victim; and
- Fear of death or bodily injury felt by members of the victim’s immediate family.

The *Model Code* recommends that punishment for stalking crimes be set at the felony level. Other recommendations include:

- Expansion of the fear element to include fear of sexual assault; and
- Enactment of harassment/misdemeanor stalking or intimidation laws to deal

with annoying behavior, including aggravated harassment for persistent behavior that does not rise to felony-level fear.

A comparison of all State stalking laws to the *Model Antistalking Code* provisions requires some translation to match the *Code’s* specific use of language to the statutory language used in many States’ codes. The major differences between this review and a more formulaic review that allows for no deviation from the *Code’s* language involve four points of departure:

1. Many States distinguish between stalking and aggravated stalking; the latter involves especially dangerous behavior, such as weapon possession or physical injury. Many States that make this distinction limit felony penalties to aggravated stalking. This review identifies States that provide felony penalties for stalking *per se* and those that reserve it for aggravated stalking.
2. The *Model Code* uses the phrase “purposefully engages in a course of conduct” to denote an intent to cause fear. Many State laws, however, distinguish between the purposive act that constitutes stalking and the intent to instill fear itself. This review separates these two concepts.
3. The *Model Code* includes “maintaining visual or physical proximity” as a critical element of stalking. Many States, however, use the simpler term “following.” Because so few States use the *Model Code’s* broader language, the review does not distinguish between the two linguistic terms.

***The Model Code recommends that punishment for stalking crimes be set at the felony level.***

4. The *Model Code* language defining “course of conduct” was viewed as simply a guide because it, too, is rarely explicitly followed. Instead, the review looks for substantial compliance with this language’s intent (e.g., use of the phrase “pattern of behavior”).

With these changes, a review of State statutory agreement with the *Model Code*’s criminal law provisions shows that:

- Only 16 States, Guam, and the Virgin Islands make stalking a felony offense as recommended by the *Model Code*; an additional 16 States make only the most serious stalking incidents a felony.
- Forty-four States, the District of Columbia, Guam, and the Virgin Islands match the *Code*’s use and definition of “course of conduct” involving physical proximity.
- Twenty-five States use the *Code*’s definition of two or more incidents to specify how many incidents are required to demonstrate repeated behavior as part of a course of conduct; 24 States, the District of Columbia, and the Virgin Islands do not use this definition, although several of these States use the undefined term “repeated” in their laws. One State defines repeated behavior as at least three acts.
- Only 12 States and the Virgin Islands explicitly define “threat” to include implied threats.
- Thirty-two States, the District of Columbia, Guam, and the Virgin Islands make intent to instill fear

an element of the crime of stalking. Of those that do not, 14 States adopted the *Code*’s requirement that the acts constituting stalking be done purposefully. Only four States do not require some proof of intentional behavior as part of their stalking laws.

- Six States require using a “reasonable person” test to determine the reasonableness of any victim’s fear resulting from the stalking behavior.
- Twenty-six States, the District of Columbia, Guam, and the Virgin Islands require fear of death or bodily injury, as recommended by the *Model Code*; five States use similar language to define fear, such as fear for one’s physical safety; five other States add fear of sexual assault or battery, as recommended in the commentary to the *Model Code*; nine States protect against emotional distress and related responses, including feelings of annoyance or being threatened. Only six States’ statutes do not require that the stalking result in victim fear or some lesser response to the stalking.
- Twenty-six States and Guam extend the scope of fear to include the victim’s family, as recommended by the *Model Code*.

Exhibit 26 provides a State-by-State analysis of each of the key *Model Anti-Stalking Code* provisions. A checkmark in the statutory provision column indicates that the State’s statute generally meets the *Model Code*’s recommended language. The absence of a checkmark signifies that either the statute makes no reference to the *Model Code* provision in question or the language used is substantially different.

Exhibit 26

**State Stalking Laws' Agreement with Model Stalking Act**

State	Stalking Is Felony Crime	Stalking Has Special Felony Penalty	Stalking Is Misdemeanor	Course Conduct/Pattern Included	Two Events Are Required	Includes "Follow" Acts	Both Actual and Implied Threat	Purposeful Action (e.g., to follow)	Intended or Knew of Victim Fear	Reasonable Victim Fear	Actual Fear of Death or Injury	Family of Victim Covered
AL	✓	✓				✓	✓	✓	✓	✓	✓	✓
AK		✓	✓	✓		✓		✓	✓ <sup>1</sup>		✓	✓
AZ	✓			✓	✓	✓	✓	✓		✓	✓	✓
AR	✓	✓		✓	✓	✓		✓	✓		✓	✓
CA		✓	✓	✓		✓	✓	✓	✓	✓	✓ <sup>2</sup>	✓
CO	✓			✓	✓	✓				✓	✓ <sup>3</sup>	✓
CT		✓	✓	✓		✓		✓	✓	✓	✓ <sup>2</sup>	
DE	✓	✓		✓	<sup>4</sup>	✓	✓	✓		✓	✓	✓
DC			✓	✓		✓			✓	✓	✓	
FL	✓		✓	✓		✓			✓	✓	✓	
GA		✓	✓	✓		✓	✓	✓		✓	✓	✓
GU	✓	✓		✓		✓			✓	✓	✓	✓
HI		✓	✓		✓	✓				✓		
ID			✓	✓		✓		✓		✓	<sup>5</sup>	✓
IL	✓	✓			✓	✓		✓		✓	✓ <sup>6</sup>	

<sup>1</sup> Reckless language

<sup>2</sup> Safety fear

<sup>3</sup> Fear of physical action threat

<sup>4</sup> Three events required

<sup>5</sup> Stalking victim is annoyed, alarmed, or harassed

<sup>6</sup> Sexual assault fear added

Exhibit 26

**State Stalking Laws' Agreement with Model Stalking Act** (continued)

State	Stalking Is Felony Crime	Stalking Has Special Felony Penalty	Stalking Is Misdemeanor	Course Conduct/Pattern Included	Two Events Are Required	Includes "Follow" Acts	Both Actual and Implied Threat	Purposeful Action (e.g., to follow)	Intended or Knew of Victim Fear	Reasonable Victim Fear	Actual Fear of Death or Injury	Family of Victim Covered
IN		✓	✓	✓			✓			✓	✓ <sup>6</sup>	
IA		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
KS	✓	✓		✓		✓		✓		✓	5	
KY		✓	✓	✓	✓		✓	✓		✓ <sup>5</sup>		
LA		✓	✓	✓		✓		✓	✓	✓		
ME			✓	✓	✓	✓	✓	✓		✓	✓	✓
MD	✓			✓		✓		✓	✓	✓	✓	✓
MA	✓	✓		✓				✓	✓	✓	✓	
MI	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓
MN	✓		✓	✓	✓	✓			✓		✓	✓
MS			✓	✓		✓		✓	✓	✓	✓ <sup>2</sup>	
MO	✓		✓	✓		✓			✓	✓	✓	
MT			✓	✓		✓			✓	✓	✓	
NE			✓	✓		✓		✓	✓		7	
NV	✓		✓	✓				✓	✓	✓	✓	

<sup>2</sup> Safety fear

<sup>5</sup> Stalking victim is annoyed, alarmed, or harassed

<sup>6</sup> Sexual assault fear added

<sup>7</sup> Terrified, threatened, or intimidated

Exhibit 26

**State Stalking Laws' Agreement with Model Stalking Act** (continued)

State	Stalking Is Felony Crime	Stalking Has Special Felony Penalty	Stalking Is Misdemeanor	Course Conduct/Pattern Included	Two Events Are Required	Includes "Follow" Acts	Both Actual and Implied Threat	Purposeful Action (e.g., to follow)	Intended or Knew of Victim Fear	Reasonable Victim Fear	Actual Fear of Death or Injury	Family of Victim Covered
NH			✓	✓	✓	✓	✓	✓	✓	✓	✓	
NJ		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
NM		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
NY			✓	✓		✓			✓	✓	✓	
NC			✓		✓	✓			✓	✓	✓	
ND			✓	✓	✓			✓		✓	8	✓
OH			✓	✓	✓				✓		7	
OK		✓	✓	✓	✓	✓		✓		✓		✓
OR			✓			✓				✓	✓ <sup>2</sup>	✓
PA			✓	✓	✓	✓			✓	✓	✓	✓
RI			✓	✓		✓		✓		✓	5	
SC		✓	✓	✓	✓	✓			✓	✓	✓ <sup>6</sup>	✓
SD		✓	✓	✓		✓	✓		✓	✓	5	
TN			✓	✓	✓	✓		✓		✓		
TX			✓	✓	✓				✓	✓	✓	✓

<sup>2</sup> Safety fear

<sup>5</sup> Stalking victim is annoyed, alarmed, or harassed

<sup>6</sup> Sexual assault fear added

<sup>7</sup> Terrified, threatened, or intimidated

<sup>8</sup> Physical harm, fear, or mental distress

Exhibit 26

**State Stalking Laws' Agreement with Model Stalking Act** (continued)

State	Stalking Is Felony Crime	Stalking Has Special Felony Penalty	Stalking Is Misdemeanor	Course Conduct/Pattern Included	Two Events Are Required	Includes "Follow" Acts	Both Actual and Implied Threat	Purposeful Action (e.g., to follow)	Intended or Knew of Victim Fear	Reasonable Victim Fear	Actual Fear of Death or Injury	Family of Victim Covered
UT		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
VT	✓	✓		✓	✓	✓	✓	✓		✓	✓ <sup>6</sup>	
VA			✓	✓	✓			✓	✓	✓	✓ <sup>6</sup>	✓
WA		✓	✓	✓		✓		✓	✓	✓	✓	
WV			✓			✓		✓	✓			✓
WI		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
WY		✓	✓	✓		✓			✓	✓	<sup>7</sup>	
VI	✓	✓		✓		✓			✓	✓		

<sup>2</sup> Safety fear

<sup>6</sup> Sexual assault fear added

<sup>7</sup> Terrified, threatened, or intimidated

**Criminal Procedure Laws**

Criminal procedure laws regulate enforcement of criminal laws. They range from specifying how arrests are made to trial procedures to sentencing by the court. Often changes in criminal law require parallel changes in criminal procedure for the legislative intent to be fully realized. Stalking criminal law enactments are no exception.

**Arrest Without Warrant**

Under common law, arrest without a warrant occurs in two situations. First, officers may arrest without a warrant, if they see a person committing a crime. Second, police officers may have probable cause to arrest if they believe that an individual committed a crime, but they did not actually see the crime committed by the individual. Different rules apply to

warrantless arrest authority where the latter authority is relied upon, depending on the nature of the offense.

### ***States with Felony Stalking Laws***

Police can arrest without a warrant any person who they have probable cause to believe committed a felony. In 24 States, stalking may be a felony offense. In 11 of these States, stalking of any sort is a felony, and police may arrest a stalker based on probable cause. In the other 13 States, stalking may be either a felony or a misdemeanor, depending on a variety of factors such as use of a weapon, injury, or prior convictions. In these States, police may have to first ascertain the seriousness of the stalking charge before they can arrest based on probable cause.

### ***Special Misdemeanor Arrest Authority***

Police may arrest without a warrant a stalker charged with a misdemeanor offense on one of two legal bases. First, in 49 States, police may arrest without a warrant a person who they have probable cause to believe committed *misdemeanor domestic violence*, including stalking. Second, in 10 States where stalking may be a misdemeanor offense, police may arrest without a warrant for misdemeanor stalking *per se*, that is, without any domestic violence involvement.<sup>43</sup>

### **Other Criminal Procedure Provisions**

Other criminal procedure provisions include those relating to pretrial release of persons charged with stalking offenses, State registry of stalking protective orders, and training of police in investigating stalking complaints.

### ***Pretrial Release***

In 14 States, special pretrial release provisions are set for persons charged with

stalking. These include nine States (Alaska, Arkansas, Georgia, Iowa, Maryland, Ohio, Texas, Washington, and West Virginia) that authorize or require issuance of an antistalking protection order as part of any pretrial release order following arrest for stalking. In Illinois, bail may be denied if the stalker is found to be a serious threat to the safety of another person. Bail may also be denied in Georgia on the basis of prior violation of a pretrial release order or of parole/probation conditions. In two States (Montana and Oklahoma), police are not authorized to issue citations or bail release before judicial arraignment. Three States (California, Ohio, and Vermont) require courts to treat stalking as a serious crime in setting a bail level. In other States, the court's authority to issue a no-contact order is inherent in its discretionary authority to impose release conditions.

North Carolina has a unique provision aimed at protecting minors. There, State law provides for issuance of a no-stalking order as part of pretrial release for any person charged with a violent offense against a minor.

### ***State Registries of Orders***

In six States, a special registry for stalking orders is established by statute to facilitate police confirmation of the validity of any stalking order.<sup>44</sup> In addition to the stalking order registries, legislation in 33 States (including 5 of the 6 with stalking registries) requires the establishment of a special registry for domestic violence protection orders; these orders may, of course, include antistalking provisions.

### ***Training***

Police training about stalking is required in Minnesota. In 30 States, the District of Columbia, and the Virgin Islands, police training on domestic violence is required; this training is often administratively required to include stalking in the context of domestic violence.<sup>45</sup>

### Civil Law Injunctions and Penalties

In many States, criminal law penalties for stalking are complemented by civil law remedies for victims of stalking. Thus, injunctions against stalking behavior are available in 23 States. In the other 27 States, the District of Columbia, Puerto Rico, and the Virgin Islands, stalking may be enjoined as an element of a protection order issued against domestic violence or abuse (see exhibit 27).

In the 23 States with stalking injunction laws, criminal penalties are provided for violating the court order in all but 2 of these States. In the two States without specific criminal penalties for violating an antistalking court order, violations of the order may be punished under the criminal contempt authority of the court to punish violations of any court order (see exhibit 27).

In the remaining State, stalking violations of the court order are punished under the courts' general powers of

Exhibit 27

### Stalking Protection Orders

State	Civil Injunction Available/Penalty	State	Civil Injunction Available/Penalty
Arizona	Criminal contempt	New Hampshire	Misdemeanor; 2nd is felony
California	4-year maximum	North Dakota	Felony
Colorado	Class 6 felony	Oklahoma	Misdemeanor
Florida	Misdemeanor	Oregon	Class C felony or Class A misdemeanor
Idaho	Misdemeanor; 2nd is felony	Rhode Island	Felony
Maine	Class D crime	South Carolina	Misdemeanor
Michigan	No penalty	South Dakota	Felony 6 or misdemeanor
Minnesota	Misdemeanor	Virginia	Misdemeanor 1
Missouri	Misdemeanor; 2nd in 5 years is Class D felony	Washington	Class C felony
Montana	Misdemeanor	Wisconsin	Misdemeanor
Nebraska	Misdemeanor	Wyoming	Misdemeanor
Nevada	Class C felony		



criminal contempt (see appendix B). One unique provision is found in North Dakota, where State law requires that the stalking law provisions be attached to all domestic violence protection orders.

## **Tort Damages**

At least four States now specifically provide for a tort action based on stalking behavior. These States are California, Oregon, Texas, and Wyoming.<sup>46</sup> In the remaining States, such actions might be brought either as civil actions for assault or under the courts' inherent power to provide tort remedies for commission of a crime.<sup>47</sup> The key element of a civil assault action is being unreasonably placed in fear of injury.

Among the 27 States with no separate stalking protection order provisions, 3 States specifically provide criminal penalties for stalking violations of a domestic violence protection order. In 23 of the remaining 24 States with only domestic violence orders available, criminal penalties for violating a domestic violence protection order are applicable to stalking violations. In the remaining State, stalking violations of the court order are punished under the courts' general powers of criminal contempt (see appendix B).

## **New Challenges to State Antistalking Laws**<sup>48</sup>

All the State antistalking laws withstood legal challenges this past year (see appendix A). In April 1998, the U.S. Supreme Court denied petitions to hear challenges to antistalking laws in the District of Columbia and Virginia. The Court declined to review the two challenges to the State antistalking laws. The challenges were made on the grounds that these laws were constitutionally vague and overbroad.

In the District of Columbia case, Roy L. Jett was convicted of stalking for sending sexually explicit, threatening letters to a woman with whom he had previously been acquainted and also for sending threatening letters to the woman's mother. Jett appealed his conviction of stalking, challenging the statute on a constitutional basis. The D.C. Court of Appeals decided that Jett's rights were not violated because his letters were part of a course of conduct constituting the criminal offense of stalking (See Roy L. Jett v. United States, No. 95-CF-1529 [D.C. April 15, 1997]).

In the Virginia case, Michael Parker, who was serving a prison sentence for stalking his former intimate, was convicted of first-offense stalking for repeatedly telephoning her while he was incarcerated. Parker rarely chose to speak during these calls, although he did tell the victim that he "would be out" of jail and that she should "not be afraid." Parker challenged the constitutionality of Virginia's stalking statute on the grounds of vagueness and overbreadth. The court decided that these calls were multiple instances of conduct directed at the victim; they caused a reasonable fear of death, criminal sexual assault, or bodily injury; and Parker intended to cause fear or knew that fear would result from his conduct. The Virginia court dismissed Parker's vagueness challenge to the definition of the reasonable fear statutory element on the grounds that the reasonable fear standard was objective and limited in scope. The Virginia court found no merit in Parker's overbreadth challenge, stating that the purpose of the statute is clear, and the statute is tailored so that it does not substantially infringe upon speech protected by the First Amendment. (See Parker v. Commonwealth, 485 S.E.2d 150 [Va. Ct. App. 1997]).

## Conclusion

Every State and the Federal government now have enacted laws prohibiting stalking. While all State antistalking laws withstood legal challenges this past year, these laws remain incomplete. In several States, defects in the language of the stalking laws leave them vulnerable to constitutional challenge where courts are unable to provide ameliorating interpretations such as imputing the need for intent or *mens rea* where none exists in the statute. The *Model Antistalking Code* has not been widely followed. It is unclear how these defects are handled in practice by recourse to alternative criminal law approaches such as use of harassment or threatening behavior laws. NIJ is sponsoring ongoing

research to help answer this question. Results of this research will be included in future reports.

Other problems include the unavailability of stalking protection orders in most States except in the context of domestic violence. Of course, the courts may have issued such injunctions without explicit statutory authority, combining the court's common law ability to fashion remedies and the criminal law stalking provisions; there is no information currently available on this point. Nor do we know much about the significance of the absence of explicit authority to arrest without a warrant in states where stalking is a misdemeanor offense. Again, ongoing research may provide answers to both these questions.

## Chapter 3

# SENTENCING AND SUPERVISION OF STALKERS<sup>49</sup>

*Because of the potentially deadly nature of stalking behavior, protection of the victim is an overarching consideration at all stages of cases involving stalking.*

The management of cases involving stalking behavior in this country has been influenced profoundly by criminal justice officials' recognition of the persistence and potential lethality of stalking behavior. These characteristics of stalking behavior have become primary considerations in shaping strategies and protocols for investigating and prosecuting cases involving stalking behavior. They have been equally significant factors in influencing sentencing decisions in stalking cases.

Because of the potentially deadly nature of stalking behavior, protection of the victim is an overarching consideration at all stages of cases involving stalking. Moreover, this focus on victim protection does not diminish with the imposition of a sentence in stalking cases. Criminal justice officials are looking to the sentencing phase of these types of cases as the point at which they can place enforceable constraints on the behavior of the stalker. These officials assert that prevention is a primary goal in sentencing offenders convicted in cases involving stalking and that sentencing and supervision therefore are inextricably linked in these cases. Increasingly, criminal justice officials are seeking sanctions that will stop the stalking behavior for the foreseeable future and hold the offender accountable if he ever engages in such activity again.

### Scope of the Chapter

The second annual report to Congress on stalking and domestic violence included a section focusing on strategies for investigating and prosecuting stalking

cases. Moving along the criminal justice continuum, this chapter focuses on sentencing and supervision of stalkers. It presents a snapshot of existing strategies and protocols for imposing sanctions in cases involving stalking and explores some of the myriad of legal, policy, and practical considerations that have helped shape these strategies and protocols. It also examines perceived limitations and deficiencies in current stalking-related sentencing and supervision strategies and protocols, and describes some approaches that criminal justice officials interviewed for this report suggested could be pursued to overcome these limitations and deficiencies.

Information presented in this chapter was gathered through telephone interviews with numerous criminal justice officials across the country and from reports and other materials provided by these individuals. The chapter reflects the experiences, observations, and opinions of officials who have been in the forefront of efforts to develop stalking-related sentencing and supervision strategies and protocols. Admittedly, these officials by no means comprise the universe of dedicated criminal justice professionals and social service providers who currently are involved with initiatives aimed at improving the criminal justice system's management of stalking cases and stalkers themselves. (A list of those interviewed for this report appears in appendix G.) Many of the efforts mentioned in this chapter are being pursued by criminal justice practitioners at other agencies as well. These other practitioners are making equally significant contributions to addressing stalking.

## Uses and Limitations

This chapter provides some insights, but it does not answer questions such as how many cases involving stalking behavior are being prosecuted in this country; how many of these cases have resulted in convictions; and what sanctions have been imposed in these cases. Efforts to examine sentencing in stalking cases are particularly difficult because these cases often are not charged under stalking statutes. In fact, criminal justice officials interviewed for this report noted that the majority of offenders who have been convicted for offenses involving stalking in their respective jurisdictions were prosecuted and sentenced under statutes covering other criminal acts such as assault, harassment, or terroristic threats, or for violating the terms and conditions of a protection order.

In addition, stalking in most jurisdictions is being addressed as an integral component of an overall strategy to handle domestic violence cases. Therefore, most criminal justice officials interviewed could describe how stalking behavior might affect sentencing or supervision strategies if that behavior were an element of a domestic violence case. These strategies include closer supervision of the offender or an expedited response to violations of protection orders. They were unable to extract data and other information concerning specific stalking incidents from the broader body of information about domestic violence.

Many of these criminal justice practitioners said that they have implemented or plan to implement initiatives to improve the collection and analysis of data on cases involving stalking. However, these officials point to significant resource limitations and difficulties in developing and implementing appropriate data collection protocols as major obstacles that must be overcome to enhance the availability and

accessibility of data on cases involving stalking. For example, unless criminal justice officials have put in place special protocols for flagging and tracking cases involving stalking as they are accepted for prosecution, the retroactive identification of these cases would be a difficult, costly, and time-consuming task in most jurisdictions. One criminal justice official observed that in her jurisdiction, cases are recorded as felonies or misdemeanors, not by the charges brought in the cases. Consequently, she would have to review every case file to isolate information concerning the prosecution and disposition of cases involving stalking.<sup>50</sup>

## Sentencing Goals in Stalking Cases

The NIJ-sponsored *Model Antistalking Code for States*, produced in collaboration with an advisory panel composed of public and private interest group representatives, urged States to make stalking a felony.<sup>51</sup> Alternatively, the report advised, if a State declines to make stalking a felony, it “should consider incorporating a system of aggravating factors into its stalking sentencing policy so that a particular stalking incident can be elevated from a misdemeanor to a felony if those aggravating factors are present.”<sup>52</sup>

The report’s authors also urged States to consider adopting stalking sentencing policies that “seek to achieve an effective balance between punishment and public safety objectives.”<sup>53</sup> According to the report:

These policies should seek to protect the stalking victim; allow law enforcement officials to intervene when appropriate; provide appropriate sanctions for the convicted stalker; and ensure treatment services for a stalker who can be helped by medical and psychiatric intervention.<sup>54</sup>

The report continued that “[s]talkers have unique characteristics that must be taken into account by criminal justice officials in making sentencing decisions.”<sup>55</sup> The report’s authors noted that:

Stalkers may be obsessive, unpredictable, and potentially violent. They often commit a series of increasingly serious acts, which may become suddenly violent, and result in the victim’s injury or death.<sup>56</sup>

Therefore, the report concluded, “[s]tates should consider establishing a continuum of charges that could be used by law enforcement officials to intervene at various stages.”<sup>57</sup> Moreover, the report continued, “appropriate and reasonable mechanisms for managing the stalker should be incorporated into states’ sentencing schemes to reduce the potential threat to the victim.”<sup>58</sup>

The linking of sentencing and the management, or “supervision,” of stalkers arguably adds a new dimension to generally accepted goals of sentencing policy and one with which criminal justice officials interviewed for this report appear to be in agreement. Traditionally, sentencing is the reactive phase of a criminal proceeding. The sanction imposed during the sentencing phase is intended to punish the offender for the crime for which he was convicted and, in general terms, to protect the public from any further harm at the hands of the offender.

However, Steven R. Siegel, director of program development for the Denver (Colorado) District Attorney’s Office, observed that stalking behavior exhibits a characteristic that is “unlike any other subtlety that we deal with in any other criminal activity.”<sup>59</sup> Stalking “is very much defined by the psychological interplay that goes on [between the victim and the stalker],” Siegel said. With an arrest in a stalking case, he continued, “we light a fuse. Every stage [of a

stalking case] is a dangerous time.” Sentencing of stalkers therefore must center around victim safety and offender accountability, he added.

Pamela A. Paziopolous, supervisor of the Targeted Abuser Call (TAC) team in the Cook County (Illinois) State’s Attorney’s Office, agreed. Stalking, she asserted, is a “preventable crime.”<sup>60</sup> The objective of the court in imposing a sentence in a stalking case should be to impose proactive conditions and constraints on the behavior of the offender that allow criminal justice officials to intervene immediately if the offender persists in his pursuit of his victim.

Detective Howard E. Black of the Colorado Springs (Colorado) Police Department’s Domestic Violence Unit believes that sentencing in cases involving stalking behavior has both reactive and proactive elements: On the reactive side, the offender is being sanctioned for the crime that he was convicted of committing; on the proactive side, the offender is being told by the court, “If you engage in inappropriate behavior [again], we will intervene; there are going to be consequences.”<sup>61</sup>

## State Stalking Codes and Sentencing

As noted earlier in the report, all 50 States, the District of Columbia, and the Virgin Islands have enacted statutes that proscribe and provide sanctions for stalking behavior. However, criminal justice officials interviewed for this report indicated that, in their collective experience, most persons convicted in cases involving stalking behavior are sentenced under statutes other than stalking laws, even when stalking was among the original charges brought in the case. Andrew R. Klein, former chief probation officer for the Quincy (Massachusetts) District Court, said that between 1995 and 1996, only 5 of 400



**Most stalking offenders were sentenced for violations of protection orders that had been issued by the court in domestic violence cases.**

cases involving stalking behavior that came before the Quincy District Court were prosecuted under the State's stalking statute.<sup>62</sup>

Judge John Rowley of the Ithaca (New York) City Court said that none of the cases involving stalking that have come before his court have been charged under the State's stalking statute.<sup>63</sup> The cases involving stalking that he sees "usually are connected" to domestic violence and therefore "always [are handled] in the domestic violence arena," Rowley said. Most cases involving stalking that Rowley hears occur in the context of estranged relationships and involve such behavior as following, calling, and leaving notes. In one case, Rowley said, an offender who had a relationship with a woman was leaving compromising photographs of her on the windshield of her car and threatening to show the photographs to her grandmother. In such a case, stalking would be charged under the State's aggravated harassment statute, Rowley explained.

Gwen P. Wilkinson, Tompkins County (New York) domestic violence prevention coordinator and a former Tompkins County assistant district attorney, said that in her 5 years with the District Attorney's Office, no cases were prosecuted under the State's stalking statute.<sup>64</sup> Most allegations of stalking behavior that she encountered during her tenure in the District Attorney's Office occurred in the broader context of a domestic violence incident: "We didn't have very many straight stalking cases" in that substantially rural county of 102,000 residents, she explained. Most stalking offenders were sentenced for violations of protection orders that had been issued by the court in domestic violence cases, she added.

## **Issues Affecting Sentencing and Supervision of Stalkers**

Criminal justice officials confront numerous issues in imposing sentences in

stalking cases and formulating appropriate supervision strategies to intervene in stalking behavior. These issues arise from legal, policy, and practical considerations.

### *The Law*

Several of the criminal justice officials interviewed believe that serious deficiencies exist in antistalking and related laws that tend to undermine the prosecution and disposition of cases involving this behavior. Judge Rowley of the Ithaca City Court observed that, in New York, there is a "bad situation" with respect to the law covering domestic violence and, in that context, stalking. He said that domestic violence incidents "routinely are charged low." In addition, he said, New York provides "inadequate penalties for assaultive behavior." There is "an unbelievable level of violence that doesn't count" as domestic violence, he said; "Stealing a pack of cigarettes may result in a stiffer penalty than some kinds of domestic violence."

Moreover, the State's bail statute does not permit judges to consider the safety of the victim and the community in determining whether and with what conditions bail will be granted, Rowley said. This, he believes, is a serious deficiency that undermines the court's efforts to provide for the safety of domestic violence and stalking victims.

Rowley is undecided about the overall necessity and usefulness of stalking statutes, but believes that New York somehow must strengthen the body of laws that can be applied in domestic violence and stalking cases. If this is done, Rowley believes that these crimes "would be taken more seriously" by judges and prosecutors.

According to Rowley, efforts already are underway to make some of the changes in the law that he believes are necessary. The order of protection has been strengthened in New York to make it more easily obtainable by victims; on the

downside, he added, a lot of new paperwork is required under the new protection order provisions.

### *Proving the Stalking Case*

George E. Wattendorf, city prosecutor with the Dover (New Hampshire) Police Department's Prosecution unit, also believes that existing laws should be reexamined for their sufficiency with respect to stalking cases.<sup>65</sup> Wattendorf said that New Hampshire currently is examining its stalking law to consider changes that would allow "indirect contact" between the offender and the victim and prior acts to be admitted as evidence in support of a charge of stalking. Wattendorf said that it is "difficult under the current law to show that the victim is in fear."

Paziotopolous of the Cook County State's Attorney's Office said that her division prosecutes numerous stalking cases under Illinois' antistalking code. While certainly underscoring the seriousness of the crime, the felony status of a stalking offense creates a number of evidentiary problems that complicate the development and prosecution of stalking cases, Paziotopolous noted. She added that often it is difficult to convince a judge or a jury of the potential dangerousness of the stalking behavior. "We are not able to get prior acts admitted," she said, and therefore are unable to meet the burden of proving "a course of conduct" that is required under the State's stalking statute. And "we don't have pictures or witness corroboration" as generally is available in most criminal cases, she added.

Judge Rowley of the Ithaca City Court agreed that evidentiary issues make stalking a very difficult area for judges; for example, he explained, there are so many casual, inadvertent ways in which victims of stalking unintentionally may come in contact with their pursuers that, without adequate physical or corroborating

evidence, a judge may find it difficult to determine whether the contact was an act of stalking or an unintentional encounter between the alleged stalker and the complainant. Moreover, Rowley added, there still is a problem with recognizing the dangerousness of domestic violence and stalking incidents. The "casual" attitude toward these crimes, Rowley says, "goes back to men's devaluing of women."

Roxann Ryan of the Iowa Attorney General's Office said that judges' attitudes toward stalking vary widely across the State, but she agreed with Rowley and Paziotopolous that many judges do not appreciate the dangerousness of stalking behavior.<sup>66</sup> Ryan said many judges see stalking as a "trendy crime" instead of a real crime. They don't understand the terror that the victim feels, Ryan said. "They think, 'this is harassment, a civil case; the victim is overreacting.'"

Many criminal justice officials simply do not appreciate the impact of stalking behavior on the victim, said Robert C. Gallup, executive director of AMEND, a nonprofit program for domestic violence offenders in Denver. "Everyone minimizes [the fact] that this kind of behavior freaks people out," Gallup observed of criminal justice officials' reactions to stalking.

Because of evidentiary issues involved in proving stalking under existing law, Wattendorf of the Dover Police Department said criminal justice officials in New Hampshire, where stalking is considered a misdemeanor offense, often opt to prosecute cases involving stalking behavior under the State's protection order statute. Wattendorf explained that although a violation of a protection order stays a misdemeanor under New Hampshire law, a lesser standard of proof applies under the State's protection order statute. A violation of a protection order is an act of contempt against the court, he said. "The court is almost the victim in a protection order violation."

Gallup, of Denver's AMEND program agreed, that deficiencies in State stalking



laws impede the prosecution of these cases. He added that stalkers are being convicted under the State's stalking law, but "rarely." He said that Colorado's stalking law is only 4 or 5 years old and generally is not applied very often by police and prosecutors. Gallup said that the State sometimes is successful in prosecuting stalking cases involving a victim and a perpetrator who are boyfriend and girlfriend under Colorado's domestic violence statute even though that law generally does not cover individuals involved in such relationships. According to Gallup, Colorado's domestic violence statute applies only to spouses, former spouses, unmarried persons who currently cohabit or formerly lived together, or individuals who have a child in common. If the offender has a good lawyer, he could argue that the case is not domestic violence because the relationship under the law is not there, Gallup said; however, most offenders do not have lawyers representing them, he added.

Gallup said that AMEND successfully lobbied in the 1997 session of the State legislature to have threatening physical acts included in the State's stalking statute as a basis for proving credible threat; before securing that amendment, credible threat could be proved only where there was a verbal threat against the victim, he explained. "In one case, we had to put six misdemeanors together, because we did not have a credible threat" to the victim as is required under the Colorado stalking statute, Gallup said.

### *Stranger Stalking*

Roxann M. Ryan of the Iowa Attorney General's Office believes that existing laws and intervention strategies do not make adequate provisions for cases involving stranger stalking. Ryan said that Iowa law does provide for obtaining a restraining order in stranger stalking cases, but she added that these orders are "more difficult to get if it is not a domestic

violence case." Moreover, restraining orders can only be entered into the State's protection order registry if they are issued in a domestic violence case.

In addition, Ryan said, State "law allows protection orders to be renewed even after the offender is released from court supervision in domestic violence cases, but we can't do this when the case is not domestic-violence-related" until the behavior is more serious and has risen to the level of a felony. Moreover, Iowa's law allows domestic violence victims to represent themselves in their cases, Ryan said. By contrast, in a stranger stalking case, the victim must hire an attorney to represent her.

According to Pamela A. Paziopolous of the Cook County State's Attorney's Office, stranger stalking victims are a largely "neglected group" in Illinois. There are "not a lot of avenues for people who are victims of stranger stalking," she said. The "biggest thing" in a case involving stranger stalking is that "victims are not receiving long-term protection." There is "not a lot we can do to protect [victims of stranger stalking]. The court can issue a 4-year protection order on a conviction for domestic violence," Paziopolous said, but this option is not available in cases involving stranger stalking. Under Illinois law, protection orders can be issued only if the alleged offender and the victim are related or have been involved in a relationship. If there is no relationship between the principals, such as in the case of stranger stalking, no protection order can be issued.

Wattendorf of the Dover Police Department observed that "stalking is undercharged by police" in stranger stalking cases. Victims in cases involving stalking behavior need quick and easy access to protection orders, which is not characteristic of the process for getting an order in stranger stalking cases in New Hampshire, he said. In addition, Wattendorf continued, the federal restrictions on the ownership of handguns

by offenders convicted of domestic violence do not apply in stalking cases. Moreover, Wattendorf said, notice of the issuance of a protective order in a stranger stalking case may not be entered into the State's automated protection order registry.

### *Domestic Violence and Stalking*

The relationship between domestic violence and stalking raises the issue of whether the imposition of charges in and the prosecution of a case involving stalking should be driven by the offender's behavior or the underlying motive for that behavior. The public and private interest group representatives who were part of the project resource group for NIJ's *Model Antistalking Code for States* responded to that issue by asserting that "the alleged stalker's behavior, not motives, should be the most significant factor in determining" the charge in the case.<sup>67</sup>

Although motives are relevant to the ultimate management and disposition of a case, the resource group agreed that neither the stalker's motive nor the context in which the stalking occurred should be considered when the crime is charged. If the conduct in which the person engages is seriously threatening, it should be charged as stalking, regardless of the defendant's motivations or relationship to the victim.<sup>68</sup>

However, criminal justice officials indicate that the question of the relationship of domestic violence and stalking and the effects of this relationship on the charging and prosecution of stalking cases remains open. Steven R. Siegel of the Denver District Attorney's Office drew a parallel between criminal justice officials' initial handling of domestic violence and "how we currently are treating the crime of stalking. In the early days, we really thought it would be great to have a crime of domestic violence. Then we realized that was shortsighted." He continued, "Criminal justice officials recognized that domestic violence includes

a number of elements and that we needed to have a strategy to accommodate that characteristic of domestic violence."

Siegel added, "I think we are going through a similar situation now with stalking. We are starting to realize that stalking includes a range of behaviors that extend from less serious to more serious. We renamed domestic violence as an underlying element of any crime; if we could show that the underlying cause [of the criminal activity] was domestic violence, then all of those [criminal acts] pin you as a domestic violence offender. We need to go there also with stalking. We are not taking into account. . . [the] full continuum of stalking behavior."

Maryellen Martirano, second deputy district attorney with the Westchester County (New York) District Attorney's Office, believes that stalking should be separated from domestic violence entirely. Martirano said that she does not agree with the practice of "lumping the repeated course of conduct that occurs in almost every domestic violence case with stalking."<sup>69</sup> Instead, she suggested that the stalking behavior be treated as an element of the course of conduct underlying the domestic violence case. "The reality is that we have always charted course of conduct in domestic violence because it applies," she said, but "we don't classify [that course of conduct] as stalking." Moreover, she added, a course of conduct involving stalking in the context of domestic violence "doesn't produce different conditions for supervision" than otherwise might be imposed in a domestic violence case.

Martirano said that in domestic violence cases prosecuted by her office, stalking "usually is not the most serious charge presented; [it is] just an extra charge." If the offender were convicted of the stalking charge brought in a domestic violence case, he might receive a lesser penalty than he would if he had been convicted of one of the other charges brought in the case. Furthermore, she

***If the conduct in which the person engages is seriously threatening, it should be charged as stalking, regardless of the defendant's motivations or relationship to the victim.***

***The State's stalking statute can be "a wonderful tool" in responding to stalking behavior in domestic violence cases.***

added, domestic violence cases "don't slip through the cracks; stalking cases slip through the cracks."

Martirano said that in her opinion, "real stalking" involves offenders and victims who are strangers to one another; in other words, individuals who are not related or who are not in an estranged relationship. She said that her office does not see very much stranger stalking. She said that the "most serious" stalking cases that her office sees are cases that involve "obsessional" behavior: A couple has one date; the man wants to pursue a relationship with the woman and starts following her around. No special provisions have been made for handling such cases in the Westchester County District Attorney's Office, she added. Her office is "handling them by default."

By contrast, in Colorado Springs, bringing stalking charges appears to be an integral component of handling domestic violence cases involving stalking behavior. Black, of the Colorado Springs Police Department, said that the State's stalking statute can be "a wonderful tool" in responding to stalking behavior in domestic violence cases.

Under Colorado's stalking statute, stalking is "relatively easy to pull into a domestic violence case if the behavior is an element of the crime," Black said. "We just have to have a credible threat," and if that credible threat is present, "we can start to develop a stalking case."

Other criminal justice officials observed that stalking occurs so often in connection with domestic violence that the two crimes almost are inseparable. Robert C. Gallup of Denver's AMEND program said that a substantial number of offenders charged with domestic violence in Colorado also stalk; but he added that "a very small number of cases are charged under [the state's] stalking statute."<sup>70</sup> He said, "The problem is that so many domestic violence perpetrators are stalkers. It happens much more frequently than anyone would think." The presence

of stalking in a case is an indicator of a problem that does not get enough attention from criminal justice officials, Gallup added. Many times AMEND counselors discover during intake that offenders whose cases did not involve charges of stalking actually were in fact stalking their victims. Gallup said he believes that in Colorado, only the district attorneys in the Denver metropolitan and Boulder areas are equipped to put together stalking cases. Rural areas of Colorado, he observed, do not have the training or resources needed to follow through in stalking cases.

He said that difficulties in developing stalking cases are compounded by the tendency of the officials to "minimize in reporting what happened" in the incident or "they go to the other extreme" and report a number of unrelated, noncriminal acts and do not establish the relationship between or underlying threatening characteristic of these acts that is necessary to prove that stalking has occurred.

### *Training*

Steven R. Siegel of the Denver District Attorney's Office acknowledged, "We need to do a better job about training in [handling] stalking cases." Criminal justice officials are "getting on the bandwagon," Siegel said, and beginning to develop protocols for handling stalking cases. However, he added that progress in this arena is slow in coming.

For police and prosecutors, handling stalking cases may require departures from traditional ways of carrying out their respective responsibilities. "Cops are afraid that they will have to put 24-hour guards on stalkers," Siegel said. Prosecutors may see stalking cases as unwinnable, he observed. "Prosecutors generally get trained in how to win a case. When a case doesn't look winnable in the traditional sense, when essential elements of the case are missing, they say 'let's not

try the case.’” Because of this, Siegel especially emphasized the need for training prosecutors. “Prosecutors really understand an aggravated robbery,” Siegel observed. “They need to develop that [same] understanding of stalking.” Prosecutors need training about the specific dynamics of stalking and on protocols for handling stalking cases that are based on interdisciplinary cross-training, Siegel said.

Paziotopolous of the Cook County State’s Attorney’s Office underscored the need for training judges on stalking to help them understand the complexities and potential dangerousness of cases involving stalking behavior. “We need to make sure that training for judges includes a separate section on stalking,” Paziotopolous said. “Stalking needs to be explored separately [from domestic violence].”

Black of the Colorado Springs Police Department also believes that police, prosecutors, and judges need training in handling stalking cases. “We’re just not doing a good job in this country in investigating and prosecuting stalking cases,” Black said. He added, “We don’t understand stalking” or appreciate that handling stalking cases can be expensive and time-consuming. Stalking cases “can be easy to prosecute if we do a better job on their investigation,” Black said.

Gallup of Denver’s AMEND program also believes that criminal justice officials need additional training in strategies for building stalking cases. He said that he believes that criminal justice officials “are just beginning to understand how to put all the pieces together in a whole context” to build a stalking case. Social service providers also need to understand the potential dangerousness of stalking behavior, Gallup observed.

## **Sentencing in Cases Involving Stalking**

In the Ithaca City Court, Judge Rowley said, probation is the most likely sentence

in domestic violence cases and therefore in any cases involving stalking that result in convictions in his court. According to Rowley, the maximum sentence in a domestic violence case generally is a year, or eight months if the offender receives credit for good behavior while on probation. In a recent case that involved stalking, Rowley imposed a sentence of two months in jail and three years on probation.

Rowley reported that he also would condition probation in cases involving stalking behavior: For example, an offender who has physically abused his victim would be required to participate in a program for batterers; an offender who had engaged in some inappropriate sexual behavior might be referred to the mental health clinic for counseling.

Rowley indicated that the safety of the victim is a primary consideration in imposing sentences in domestic violence cases. He said that a final order of protection is issued at sentencing in domestic violence cases. But Rowley worried about the safety of victims during the time between conviction and sentencing. He asserted that in cases involving stalking, a protection order should be in place from arrest through sentencing and even after the offender has served his sentence.

In Colorado Springs, a multi-disciplinary response team has been put into place to enhance that community’s response to domestic violence, including cases involving stalking. Black of the Colorado Springs Police Department said that the Domestic Violence Enhanced Response Team, or DVERT program, which is funded through the Department of Justice’s Grants to Encourage Arrest Policies, has not been in operation long enough to have had much experience with sentencing in stalking cases. Black said that the first stalking case prosecuted under the DVERT program “involved an offender who had been arrested 24 times for domestic violence; he received [a sentence of] 18 months.” A second



***We need progressive sentencing [for stalkers]; sentences for second and subsequent offenses need to be profound and progressive.***

offender received a sentence of 2.5 years; a third case that is likely to be settled under a negotiated plea agreement is likely to result in a 2-year sentence for the offender.

Black said that in his experience, “Defense attorneys want to get pleas in stalking cases. But police and prosecutors won’t always capitulate.” He said that in one stalking case, the prosecutor and the defense counsel are involved in plea negotiations over a 10-year sentence.

According to Nancy M. Lick of the Westchester County (New York) Probation Department, offenders who violate protection orders are “getting jail time” for violations in that county. “Judges have been putting more teeth in their orders,” Lick added.<sup>71</sup>

Roxann M. Ryan, assistant attorney general in the Iowa Attorney General’s Office, said that under existing data collection protocols, Iowa cannot track dispositions in stalking cases. However, she said, although no formal data collection effort is in place, available data indicate that “we’re getting pleas in 95 percent of the cases” involving stalking.

She added that some offenders convicted in cases involving stalking will receive a little jail time or be placed in a halfway house. But most offenders in these cases, she said, are sentenced to supervised release. “The feeling is we can keep [the stalker] under court supervision longer if he is placed on probation.”

However, Ryan said, there are mixed reviews on probation officials’ follow-up on offenders convicted of stalking. This, she said, in part is because “we haven’t done anything to educate” state corrections officials about managing cases involving stalking. Many of these officials view cases involving stalking as “whining victim” cases, she said.

## **Supervision in Stalking Cases**

Siegel of the Denver District Attorney’s Office doesn’t think traditional

supervision strategies work with stalkers [because of the persistence of stalkers and the need to protect the victim]. Siegel believes that what is needed is a “containment protocol,” an approach that is predicated on containing the behavior of the stalker and holding him accountable.

“We [currently] don’t have long enough sanctions, and probably never will, to control the stalker in a way that is longer-term effective. We can’t give a stalker [a sentence of] 50 years,” Siegel said. And protective orders do not provide adequate protection for the victim when the offender is returned to the community. According to Siegel, what is needed is “a continuum of containment” that provides long-term protection for the victim. “We need progressive sentencing [for stalkers]; sentences for second and subsequent offenses need to be profound and progressive,” he recommended.

The Denver District Attorney’s Office is the “home of protocol,” Siegel said. “We have developed protocols to deal with child abuse and domestic violence, for example. We need that kind of protocol for stalking. That means cooperative agreements with police, victim advocates, prosecutors. If we don’t have that [interagency cooperative agreement], we might as well say there is a license to stalk,” Siegel said.

Nancy Lick and Robert Chace of the Westchester County Probation Department agree that supervision of offenders is critical at all stages in the processing of a domestic violence case, especially in cases involving stalking.<sup>72</sup> However, in Westchester County, the Probation Department is not permitted to supervise offenders in criminal court between conviction and sentencing. Unless supervision of the offender is ordered as a presentence condition, the Probation Department can not intervene. Currently, the department has to hope that if a violation of a protection order occurs between trial and sentencing, the victim will report a protection order violation,

because the department cannot do anything between adjudication and sentencing.

Lick said that the department is just “beginning to get a sense of the amount of harassment going on between adjudication of guilt and the sentencing hearing.” Probation officers are finding that when violence does occur between the trial and sentencing, it is “very severe,” she said. “Somehow we have to be able to condition bail. We need to have pre-sentence supervision of batterers; I think that this is do-able but will take some time,” Lick said. And it certainly would have resource implications for the department; currently, the Westchester County Probation Department has a total of nine probation officers assigned to handle cases that come before the County’s Family and Criminal Courts.

Wayne Maxey, district attorney investigator with the San Diego County District Attorney’s Office’s Stalking Unit, also said that there is “no formal monitoring system” in place in San Diego County to supervise stalkers between arrest and trial.<sup>73</sup> “If [the offender] violates conditions of bail and we get a call, we will pick him up,” Maxey said. According to Maxey, the Unit “is not currently looking at dealing with [offender supervision in the] period between arrest and trial.”

Criminal justice officials indicate that pretrial release conditions and protection orders alone do not offer adequate safety for stalking victims because, in general, they do not provide for supervision of the stalker. “If conditions of bail are violated [by the offender], the bond may be revoked or increased,” but only if the violation comes to the attention of the court, observed Paziopolous of the Cook County State’s Attorney’s Office. Moreover, even when a protection order is in place, there is no supervision of the accused offender; “we are dependent upon the victim to report the violation and trigger an arrest,” Paziopolous said.

Black of the Colorado Springs Police Department said that police and prosecutors there are “still struggling to keep [stalking] victims safe.” For Black, as for Siegel of the Denver District Attorney’s Office, protecting the stalking victim “gets back to [offender] accountability” and containing the stalking behavior. One stalker who was recently released from custody was placed on electronic monitoring and put under 90-hour supervision by Colorado Springs police: “We were concerned about what [the offender] would do when he first came out [of prison]. We want to make sure that whether it is a stalking case or a regular DVERT [domestic violence] case, if there is a violation of the law, [the offender is] going to see us, and it will be a custodial” sanction if he violates the terms of his release.

## **Selected Sentencing and Supervision Strategies**

The granting of protection orders appears to be a key element of most States’ strategies for intervening in stalking behavior, according to the criminal justice officials interviewed. Although in most jurisdictions statutory and resource constraints prohibit the close supervision of offenders, criminal justice officials say that protection orders serve as a vehicle for moving immediately to constrain an offender if he violates the terms of the order and threatens the victim. Martirano of the Westchester County District Attorney’s Office said that, in fact, “criminal contempt violations of protection orders are one of the best things to come along for dealing with domestic violence cases” when the safety of the victim is at issue.

Black of the Colorado Springs Police Department said that because violating a protection order is a felony in Colorado, “if [for example] we have someone with children, and we have a violation of a

no-contact order, arresting criminally for the violation allows [police to make] a quick turnaround [between the violation and the arrest].” Moreover, in jurisdictions where the violation of a protection order is a felony, the court may be able to impose a more severe penalty for that violation than the law allows for the acts that caused the order to be issued.

However, a protection order will provide little assurance of safety to the victim if the police are not aware that the order is in place. Delaware has taken steps to ensure that information concerning protection orders is available to police through the State’s protection order registry as the orders are issued.<sup>74</sup> In Delaware, where stalking is a felony, protection orders are issued by the family court. The protection order registry is a component of the State’s automated criminal justice information system.

According to Michael Arrington, director of special court services for the Family Court of Delaware, protection orders granted in the State go online immediately because the only way that the order can be generated is by entering the required data into the State’s automated protection order registry. In fact, Arrington said, “The order gets to the police before it gets to the court.” Arrington explained that Delaware also allows out-of-State protection orders to be entered into its registry. Currently, efforts are underway to make the registry’s data field compatible with that of the Federal Bureau of Investigation’s National Crime Information Center (NCIC), so that information on orders granted in Delaware can be transferred automatically to the NCIC, Arrington explained.

In Nashville, Tennessee, supervision also is an important element of the Metropolitan Police Department’s overall strategy for investigating cases involving stalking. According to Detective Sergeant Mark A. Wynn of the Department’s Domestic Violence Division, which uses a number of counter-stalking surveillance

measures to intervene and gather evidence in stalking cases, prevention of stalking behavior is at the heart of the division’s counter-stalking operations.<sup>75</sup>

### *Prioritizing Stalking Cases*

The Domestic Violence Division of the Cook County State’s Attorney’s Office is now in its second year of operation, according to Paziotopolous. The office’s objective in creating the Unit was threefold, Paziotopolous explained: first, to recast the office’s approach to prosecuting stalking cases, which has included introducing a vertical prosecution system for handling such cases; second, to extend services provided by the division to the suburban communities within the Chicago Metropolitan Area; and third, to put into operation a dedicated domestic violence felony court.

Paziotopolous reported that the first two phases of the division’s overall plan have been implemented, with creation of the domestic violence felony court to be undertaken in the future. The division also plans to develop a lethality assessment protocol for domestic violence cases, which it ultimately also will apply in stalking cases. The protocol will help division officials assess the risk that the offender poses to his victim.

### *The DVERT Program*

Black of the Colorado Springs Police Department said that not many cases involving stalking behavior were investigated or prosecuted as stalking cases there in the past. But all that is changing under the department’s DVERT program. According to Black, the Colorado Springs Metropolitan Area, with a population of about 500,000, experiences approximately 15,000 domestic violence incidents annually, of which between 4,700 to 5,000 result in an arrest. The DVERT program provides “three different



levels of intervention for domestic violence cases,” Black explained. Level one is reserved for the most lethal cases, including stalking cases. “For the most part, if we have stalking behavior [in a domestic violence case], the case will be handled as a level one,” Black explained.<sup>76</sup>

Black said that the department has the capacity to “handle [up to] 125 of the most serious cases at the DVERT level one.” Black said that of the 125 cases assigned to DVERT level one at any given time, “about 40 percent [have] elements of stalking going on.” Colorado Springs’ DVERT program currently is in its second year of operation. In that two-year period, 227 domestic violence cases have been assigned to level one, some of which, he noted, ultimately are dropped. Black said that currently 10 DVERT level one cases are being investigated and prosecuted under the State’s stalking statute. A fulltime prosecutor has been assigned to handle stalking cases assigned to the DVERT program.

Black said that the DVERT program has had a positive effect on the attitudes of criminal justice officials toward stalking cases. “When we first started filing [stalking] cases in Colorado Springs, police and prosecutors were hesitant to proceed under the stalking statute. Police [didn’t] understand stalking cases; police [had] the attitude that they ‘know it all’ and ‘don’t tell us how to do something different than what we are doing.’” Prosecutors are on the same learning curve as the police with respect to stalking cases, he said. “They wanted to go back to [pursuing charges of] tampering with witnesses or intimidation in stalking cases because that’s what they were familiar with.” Now, under the department’s DVERT program, “we are seeing the process change,” Black said. “It is interesting to watch and see that once officers do one or two of these cases, they look more and more at stalking.” Prosecutors likewise seem to be more willing to proceed with stalking cases.

The next step is the court, Black said. Judges are beginning to develop an understanding of stalking cases, Black observed, and “we are seeing nice changes” in judges’ attitudes toward stalking. But some judges “still have a way to go,” Black said. “I had a case argued yesterday, a felony stalking. The judge was having a problem with why there even is a stalking statute.”

### *A Stalking Strike Force*

Supervision of offenders in cases involving stalking also is the keystone of the operations of the San Diego County Stalking Strike Force. According to Maxey, the strike force was created in 1994, when, frustrated by their inability to intervene in stalking behavior, even in cases where protection orders had been granted, officials in the District Attorney’s Office began looking for a more aggressive strategy for managing stalking cases. At that time, California’s stalking statute, the Nation’s first, had been “on the books for 4 years but was not being used,” Maxey explained. The strike force was born when the District Attorney’s Office convened a group of police officials, prosecutors, judges, victim advocates, mental health professionals, and others to sit down to map out “what we wanted to do” about stalking in San Diego County.

In addition to calling for the creation of the strike force, Maxey said, the multidisciplinary group also recommended more training for criminal justice officials in handling stalking cases. One of the principal objectives of that training was to change criminal justice officials’ attitudes toward stalking. According to Maxey, at that juncture, many criminal justice officials look at a stalking case as “a domestic violence thing, and so they ignored it.”

The strike force’s Stalking Case Assessment Team (S.C.A.T.) develops strategies for handling the most difficult

stalking cases brought to the unit. The S.C.A.T. which involves police officials, prosecutors, victim/witness advocates, probation officials, and mental health professionals — meets once a month and serves “as a forum for dealing with problems reported by victims or police” in stalking cases, Maxey explained. The members of the S.C.A.T. design victim safety plans and discuss prosecution strategies for the cases they examine. A principal focus of the S.C.A.T.’s review of stalking cases is protection of the victim; S.C.A.T. determines whether and to what degree an offender poses a threat to his victim. Maxey said that the S.C.A.T. also operates on an “on call” basis and may be convened for an unscheduled meeting if the need arises.

In February 1998, the San Diego County District Attorney’s Office’s Stalking Unit assumed responsibility for handling all stalking cases that arise in San Diego County. Maxey said that funding from the STOP Violence Against Women Formula Grants has allowed the unit to assign two fulltime assistant district attorneys and two fulltime district attorney investigators to the unit. In addition, grant funds will be used to help the unit build capacities to collect and analyze statistics on stalking cases. Maxey said that the offender’s initial contact with the unit alone in some cases will deter further stalking behavior. Otherwise, through surveillance and occasional face-to-face contact with the offender, the unit is able to intervene effectively in the stalking behavior.

### *Involuntary Commitment*

Wattendorf of the Dover Police Department said that he frequently turns to the mental health system for assistance in managing cases involving stalking behavior. “We reject a lot of people [for prosecution under the State’s stalking statute] because they are not making explicit threats [toward the victim],”

Wattendorf said. “Maybe we don’t have enough to bring criminal charges.” If the case can be referred to the mental health system, he continued, “they can look at stalking behavior [and perhaps] get [the stalker] on medication.”

Wattendorf recalled “one stalking case where we couldn’t get much response from the criminal justice system.” Working through the mental health system, the department was able to get the accused offender involuntarily committed and placed on medication. Mental health issues “are variables that come up a lot” in cases involving stalking, Wattendorf said; it “makes it easier to go the involuntary [commitment] route” if cause can be found to do so, Wattendorf observed. He added, however, that the State’s legislature should consider changing relevant mental health statutes concerning involuntary commitment to specifically include stalking behavior and to require an assessment of whether the offender poses a danger to himself or to others.

### *Managing Offenders Under Supervision*

Nancy Lick, of the Westchester County (New York) Probation Department, observed that “working with the offender is part of a victim protection strategy.”<sup>77</sup> Lick said that the county’s family and criminal courts both use the same supervision model in managing cases involving offenders convicted of domestic violence, including batterers who stalk, although the criminal court offers the highest level of supervision. Lick said that the objective of her department’s strategy in dealing with offenders is to redirect their anger from the victim to the probation officer, to put the probation officer between the batterer and the victim.

Approximately 3,500 domestic violence cases are filed in Westchester County’s Family Court each year, according to Lick and Robert Chace, the assistant commissioner for family court

services with the county's Probation Department. Lick and Chace noted that domestic violence cases can be prosecuted concurrently in both the family and criminal courts. They said that the family and criminal courts receive more than 100 cases a month that involve an offender who will require intensive supervision. Under procedures in place for handling these cases, a protection order may be issued the same day that the case is filed.

Lick said that her department's strategy for managing domestic violence cases, including those that involve stalking, entails direct supervision of offenders by probation officers who are trained in surveillance techniques. "We use little if any electronic monitoring in supervising batterers and offenders whose acts have involved stalking, because it does not provide probation personnel any information concerning the offender's location in relationship to the victim; with electronic monitoring," Lick said, "[we're] not monitoring [the offender], [we're] monitoring the equipment." She said that her department plans to test the application of new global positioning system (GPS) technology in supervising offenders. "If we can track someone with GPS, and it is a serious case, and the victim is willing to go onto the [GPS] system, then we can track where [the offender] is in relation [to the victim]," Lick said. Her Department currently also is using funding received through the Department of Justice's Grants to Encourage Arrest Policies to determine the optimum supervision model for batterers.

According to Gallup, AMEND's mission is to eliminate domestic violence by counseling perpetrators. Gallup said that AMEND also provides victim service training, in the context of which counselors seek "to validate victims' experiences" and provide victims with insight into the motivations of domestic violence perpetrators. Gallup said that 75 percent of AMEND's 450 clients are court-ordered into counseling in domestic

violence cases. In order to charge domestic violence under Colorado statutes, Gallup explained, the victim and the perpetrator must have a child together or be living in the same domicile or have lived together at some point.

AMEND's program is clinical in orientation, Gallup explained. Offenders referred to the program are subjected to a personality inventory that, he said, may provide clues to their behavior. The offender then is placed in group counseling, which might be complemented by other forms of therapy if, for example, the offender is found to have a drug- or alcohol-related problem.

Gallup said supervision is an important element of any sentencing strategy when the offender is considered to be a continuing risk to the victim and certainly is a central feature of the program. At AMEND, "we talk about containment before talking about counseling," Gallup said. AMEND's strategy for handling domestic violence and stalking cases hinges upon "transferring the offender's obsession with the woman to the therapist. We want to take up a lot of [the offender's] time" and divert his attention from his victim. "But it's hard to do that," Gallup observed. "These guys go to absurd lengths to stalk their victims. Even though we are having intense contact with them, they still lie to you. They will hide the fact that they have been in contact with the victim."

According to Gallup, many offenders who stalk "have heroic fantasies" of establishing or reestablishing a relationship with the victim. "Then when they find the victim doing something with someone else, [the offenders] start the tracking [or stalking] behavior. That behavior satisfies [the offenders] sometimes; they get their jollies out of showing the victim who is exercising control. Then at some point, the tracking is no longer satisfying, and the stalker's behavior begins to escalate," he explained.

At AMEND, “we don’t want to let that escalation occur,” Gallup said. “As soon as we see [the escalation], we want to stop it.”

Close supervision of an offender who has stalked facilitates early detection of indications that his behavior is escalating. These signs would include indications that the offender is having difficulty at work, has disengaged himself from friends, has abandoned leisure time activities, or is suicidal. Once these elements of the stalker’s behavior have been identified, Gallup said, “It is then up to the therapist to work on that with the offender.”

If AMEND observes signs that the stalking behavior is escalating, the program will begin to intensify its contact with the offender. The offender will be moved from group to individual counseling. “We might do more day reporting to keep track of what the offender is doing,” Gallup said.

AMEND’s relationship with the probation officer in a given case is a critical element of the program’s overall strategy for working with the offender. It is important that the counselor and the probation officer work well and closely together in managing stalking cases, Gallup said. “We want to make sure that the probation officer intervenes appropriately with the stalker,” he added.

Gallup recalled one case in which the probation officer advised the stalker that his probation would be revoked in two weeks. Having been advised of the pending revocation, the stalker immediately escalated his pursuit of his victim.

Gallup said that client confidentiality is a fundamental tenet of the program, but that program officials, within the constraints of confidentiality, do try “to keep the victim apprised of what is going on.” Gallup said that if AMEND counselors “have real proof” that the offender is continuing his stalking behavior and poses an immediate threat to the victim, program officials would

bring this behavior to the attention of the court. “But we try to get the victim to do something to provide evidence [directly to the court] that she is being stalked,” Gallup said.

He reported that the Colorado Judicial Probation Department “has demanded that domestic violence cases be looked at as special supervision orders” and that offenders in these cases be screened to assess their potential dangerousness and threat to their victims. Gallup said that four pilot district court probation projects are being undertaken in Colorado in which a risk assessment tool developed by the Institute of Family Violence in British Columbia will be used with offenders in domestic violence cases.<sup>78</sup> If the pilot projects prove successful, use of the assessment tool will be transferred to other jurisdictions in the State.

Gallup said that he plans to use funding provided through the STOP Violence Against Women Formula Grants to train criminal justice officials in how to manage a stalking case. “Getting people to understand how to put together [stalking] cases is part of the training [that is needed], because they don’t understand how to do this,” Gallup said.

AMEND also is participating in an initiative to examine why stalking cases are being dropped in the Denver Metropolitan Area. Gallup said that in 1997, 100 stalking cases were filed, of which 45 were dropped. Gallup said Denver officials want “to look at why these cases were not filed or were dropped” as a basis for determining whether there are adjustments that should be made in existing case investigation and prosecution strategies.

## Conclusion

Supervision of the offender appears to be at the heart of current sentencing policy for disposing cases involving stalking. However, criminal justice officials

interviewed for this report indicated that numerous legal, practical, and resource issues must be resolved in implementing sentencing and supervision strategies that meet the dual objectives of protecting the victim and holding the offender accountable for his actions.

Notwithstanding the national attention on stalking for most of the 1990s, these officials say that many police officers, judges, and prosecutors neither fully understand nor appreciate the potential dangerousness of stalking behavior. In addition, these officials point to supervision as an issue that must be addressed at every stage in managing

stalking cases: from the arrest of the offender, to his conviction and sentencing, to his release back into the community.

Finally, criminal justice officials say that it is imperative that steps be taken to develop and implement protocols and procedures for collecting and analyzing statistics and other information concerning cases involving stalking. The efforts of officials to formulate and apply sound and potentially effective sentencing policies for handling stalking cases are likely to be seriously undermined by the lack of data on the prevalence of such cases and their handling within the criminal justice system.



## Chapter 4

# THE DEPARTMENT OF JUSTICE'S RESPONSE TO STALKING AND DOMESTIC VIOLENCE

The Department of Justice is continuing its vigorous efforts to combat violence against women, including stalking and domestic violence. Using the tools and resources at its disposal, the Department is committed to protecting women and holding offenders accountable for their criminal actions. Toward that end, the Department's various components are providing direct and indirect assistance to Americans across the country to carry out the mandate and spirit of VAWA and the Interstate Stalking Punishment and Prevention Act of 1996.

As mentioned in Chapter 2, the Department is aggressively pursuing stalkers who violate the Federal interstate stalking statute. To date, nine offenders have been charged under this law. In addition, 82 cases have been pursued under VAWA's criminal provisions. Convictions or guilty pleas have been won in 49 of these cases.

The Department is committed to raising awareness and concern about the nature and extent of domestic violence and stalking, both within and outside the agency. To educate its employees about these crimes, an information fair was held in October 1997 as part of Domestic Violence Awareness Month. Department staff also traveled around the country to heighten public awareness and concern about domestic violence and stalking. In addition, the Attorney General initiated a joint effort between the Justice Department and the Department of Health and Human Services, through CDC, to compile and distribute statistics on domestic violence. As part of this ongoing effort to learn what is working to prevent and reduce domestic violence, the Department is conducting an

evaluation of national efforts to meet the goals and objectives of VAWA. The Department is also encouraging communities to develop systematic methods for evaluating their efforts.

### Research Investments

The Department, through OJP, is supporting basic research projects, such as the NVAW Survey discussed in Chapter 1, to provide valuable information to enhance our understanding and facilitate development of effective strategies for prevention and intervention in domestic violence and stalking cases. Moreover, this research helps guide public policy decisionmaking at the Federal, State, and local levels.

NIJ is also funding a research project that examines stalking from the victim's viewpoint. Conducted by West Chester University in Pennsylvania, the project is examining the experiences of women who have been victims of stalking by former intimates. Participants were recruited by placing advertisements in newspapers, distributing flyers at criminal justice and victim service agencies, and writing letters to women who had sought protection orders. The study sample includes 187 women victims of stalking by former intimates. Extensive, confidential interviews lasting 1 to 3 hours were conducted with the women. The results of the study will be discussed in future annual reports.

Another NIJ-funded study is examining the extent and nature of sexual victimization of college women nationally. This study, being conducted by researchers at the University of Cincinnati,

***The Department of Justice encourages all segments of the community to collaborate. . .in the struggle to end domestic violence and stalking.***

involves a national telephone survey of 4,446 women attending 2- and 4-year colleges and universities. It measures the incidence of stalking, as well as other forms of sexual victimization. The respondents were asked questions such as: Since school began in Fall 1996, has anyone — from a stranger to an ex-boyfriend — repeatedly followed you, watched you, phoned, written, e-mailed, or otherwise communicated with you in a way that seemed obsessive and made you afraid or concerned for your safety? If the respondent answered affirmatively, she was asked additional questions about the nature of the stalking incident for each person who stalked her. Results of this study will be included in future annual reports.

## **Support for State and Local Efforts**

Consistent with the vision of VAWA, the Department is working in partnership with communities across the country to enhance Federal, State, and local efforts to prevent and eliminate all forms of violence against women, including domestic violence and stalking. The Department of Justice encourages all segments of the community to collaborate, including victim service providers and advocates, police officers, prosecutors, judges, court administrators, parole and probation officers, health care providers, educators, and others involved in the struggle to end domestic violence and stalking. Collaboration is especially important in the criminal justice system to leverage the coercive power of the entire legal system to enhance women's safety and hold perpetrators accountable. The various partners within the criminal justice system must look beyond their traditional roles and responsibilities to explore innovative strategies for developing effective responses that are at all times guided by concerns for

women's safety. Ultimately, assuring the victim's safety requires that every part of the system perform its functions fully. But beyond that, each partner in the system must consider what else can be done to ensure the safety of the victim. The courts can signal the seriousness of a stalker's or a batterer's crime by combining strong traditional sanctions with new punishments, such as longer prison sentences coupled with victim restitution or close, ongoing monitoring of the perpetrator.

Through OJP, the Department of Justice provides resources to investigate cases, prosecute perpetrators, provide services to victims of domestic violence and stalking, and explore new approaches to intervention and prevention of violence against women. To date, the Department has committed more than \$430 million in direct grants to States and communities through OJP's Violence Against Women Grants Office (VAWGO). A recent evaluation of VAWGO's largest program, the STOP Violence Against Women Formula Grants, revealed that since fiscal year 1995, at least 234 programs have received a total of more than \$3.1 million to address stalking, either by itself or in combination with domestic violence or sexual assault or both.<sup>79</sup>

To enhance the effectiveness of its grants, VAWGO offers extensive education and technical assistance to its grantees and subgrantees on an ongoing basis. For example, the American Prosecutors' Research Institute (APRI) was commissioned to hold several workshops on effective prosecution of domestic violence and stalking cases. In these highly interactive workshops, some of the leading practitioners in the fields of stalking and domestic violence shared their experiences and insights on prosecuting these cases successfully.

In October 1997, the Department of Justice sponsored a national conference on the full faith and credit provisions of VAWA, which require jurisdictions to



honor protection orders issued by another State, local, or tribal entity as if the orders were their own. To ensure broad participation and collaboration among the various components of the legal system, the National Council of Juvenile and Family Court Judges (NCJFCJ), the Battered Women's Justice Project (BWJP), the Conference of Chief Justices (CCJ), the Conference of State Court Administrators (COSCA), the National Center for State Courts (NCSC), and the State Justice Institute (SJI) joined forces with the Department to cosponsor this conference. It brought together teams of police officers, prosecutors, judges, and victim service providers and advocates from 45 States, 4 territories, the District of Columbia, 21 individual tribal governments, and 4 tribal consortia representing 37 pueblos, Alaska native villages, and reservations. More than 400 participants planned and discussed strategies for aggressively implementing the full faith and credit provisions in their respective jurisdictions.

In response to continuing requests from grantees for information about effective strategies for addressing stalking and domestic violence and fully implementing the provisions of VAWA, OJP is developing a promising practices manual. The manual provides checklists and profiles programs that have incorporated many of the identified practices. Parts of this manual are available on the Violence Against Women Resource Page, a new "cyberlibrary" located on the VAWGO homepage at <http://www.usdoj.ojp.gov/vawgo>. The complete manual is expected to be ready in summer 1998.

In addition, resources provided through the Office for Victims of Crime (OVC), the Bureau of Justice Statistics (BJS), and the Office of Community Oriented Policing Services (COPS) are assisting communities by supporting:

- a project to develop services and support for deaf victims of domestic

violence and sexual assault in five cities around the country;

- a project to develop a model training curriculum to improve the responses of attorneys to victims of elder abuse and domestic violence;
- a project to develop domestic violence education programs for dentists, physicians, and other health care providers;
- a project to develop training programs and materials related to domestic violence fatality reviews; and
- development of lethality assessment tools for police officers.

## **National Stalker and Domestic Violence Reduction Program (Stalker Reduction)**

The Department of Justice, through OJP's BJS, is continuing to assist States in strengthening their efforts to collect data on domestic violence and stalking and enter this information into local, State, and National databases consistent with the National Stalker and Domestic Violence Reduction Program (Section 40602 of VAWA), Title IV of the Violent Crime Control and Law Enforcement Act of 1994. The program is administered as part of the National Criminal History Improvement Program (NCHIP), which assists States in upgrading criminal history records.

As of the end of fiscal year 1997, 40 States and the District of Columbia had received funding under NCHIP to support the collection of data on domestic violence offenses, including protection orders and any violations of these orders. For instance, in one State, funds are being used to develop an automated system for data storage and retrieval of protection

orders related to domestic violence and stalking related. Another State is developing and implementing a temporary restraining order warrants system.

## Indirect Support

As part of its ongoing efforts to document the effectiveness of various strategies and practices to prevent and reduce domestic violence, OJP is once again conducting a national evaluation of its STOP Violence Against Women Formula Grants. This evaluation assesses State accomplishments in meeting the goals and objectives of VAWA. The long-term evaluation of the STOP program is critical to empirically gauging the effectiveness of the approach envisioned by the authors of VAWA to enhance victim safety and hold offenders accountable.

OJP's Bureau of Justice Assistance (BJA) commissioned APRI and the NCJFCJ to produce a manual for communities on developing coordinated community approaches to violence against women. "Confronting Violence Against Women: A Community Action Approach" provides guidance on starting a new council or task force and maintaining and enhancing existing councils, and it includes examples of innovative coordinated approaches. Copies of this report may be ordered by calling the BJA Clearinghouse at (800) 688-4252.

To educate future lawyers about domestic violence, OVC funded the American Bar Association's Commission on Domestic Violence to develop a report providing information about innovative programs law schools have implemented to teach about domestic violence and assist victims of these crimes. Also included are recommendations for replicating these programs in other law schools. The

publication, "When Will They Ever Learn? Educating to End Domestic Violence," can be obtained by calling the OVC Resource Center at (800) 627-6872.

To enhance information exchanges between criminal justice professionals and batterer treatment providers, NIJ published a report on batterer intervention programs. This report is designed to help prosecutors, judges, and probation officers better understand the issues surrounding batterer intervention and to enable them to make appropriate referrals to programs. Copies of "Batterer Intervention: Program Approaches and Criminal Justice Strategies," are available through the National Criminal Justice Reference Service (NCJRS) by calling (800) 851-3420.

## Conclusion

The Department of Justice will continue to take the lead in addressing stalking and domestic violence, and remains dedicated to maximizing the impact of Federal resources by providing communities across the country with the funds and support they need to respond to these crimes as effectively as current research and evaluation permit. As the Department's primary source of financial and programmatic assistance, OJP is committed to working in partnership with State and local jurisdictions, and with nonprofit and for-profit entities to develop coordinated, comprehensive efforts to prevent, detect, and stop violence against women, including stalking and domestic violence. In addition, through BJS and NIJ, OJP will continue to build on current knowledge and understanding of these crimes so that communities will be encouraged to explore creative, locally-driven solutions that are always mindful of victim safety and offender accountability.

## Chapter 5

# LOOKING AHEAD

***Stalking is a much bigger problem than previously assumed and should be treated as a major criminal justice problem and public health concern.***

In the past 2 decades, stalking and domestic violence have gained increasing recognition as significant problems confronting our society. In response to this heightened awareness, State laws have been enacted, and subsequently refined in some instances, to make stalking and domestic violence explicitly illegal and to send a signal that such behavior will not be tolerated by our society. As discussed earlier in this report, all the State antistalking statutes have withstood legal challenges. These State laws have been further supplemented by VAWA and the Interstate Stalking Punishment and Prevention Act of 1996. Since enactment of these laws, considerable resources have been devoted at the Federal, State and local levels to help prevent, detect, and end stalking and domestic violence and to learn more about the extent and intricacies of these crimes to further strengthen our response.

Our initial investments in research have yielded a clearer picture of the prevalence and characteristics of stalking, which will help shape policies and interventions. The results of the NVAW Survey produced some compelling results with serious policy and further research implications as follows:

- Stalking is a much bigger problem than previously assumed and should be treated as a major criminal justice problem and public health concern.
- Stalkers often do not threaten their victims verbally or in writing; therefore, credible threat requirements should be eliminated from antistalking statutes to make it easier to prosecute such cases.
- In the vast majority of stalking cases, the victim and perpetrator know each other and are usually current or former intimates; therefore, future research should focus on stalking between intimates and acquaintances rather than stalking of celebrities or politicians.
- In cases involving intimates, the strong link between stalking and other forms of violence between the victim and stalker suggests the need for comprehensive training of police officers, prosecutors, judges, parole and probation officers, and other criminal justice personnel on the specific safety needs of stalking victims.
- Stalking victims attributed the termination of stalking to informal police interventions such as police warnings, rather than to formal interventions, such as arrests, indicating the need for more research on the effectiveness of various legal interventions in different situations.
- Native American and Alaska native women were more likely to report being stalked than women of other racial or ethnic backgrounds, suggesting the need for more research to establish the degree of variance and determine how much of the variance may be explained by demographic, social, and environmental factors.
- There is some evidence that antistalking laws have increased the number of such crimes reported to authorities, but more research is

***The Department of Justice encourages States to consider making serious, persistent stalking behavior a felony charge.***

needed to determine the full extent of the impact of these laws on reporting.

- The mental health community must receive comprehensive training on appropriate treatment for victims of stalking.<sup>80</sup>

The Department of Justice encourages States to consider making serious, persistent stalking behavior a felony charge; setting bail requirements at higher amounts; factoring the risk posed by a stalker; and giving high priority to victim safety and offender accountability in all decisionmaking at every level of the system. The Department encourages State and local jurisdictions to train police officers, prosecutors, parole and probation officers, and judges about the complexity and potential risks involved in stalking cases and the efficacy of developing and implementing collaborative models to respond more effectively to domestic violence and stalking.

States are also encouraged to consider the unique characteristics of stalking crimes and broaden the eligibility criteria for victim compensation programs. Although many States compensate victims of stalking through victim compensation programs, some States limit eligibility for these programs to victims who have been physically injured.

As the findings of the NVAW Survey, as well as other sources, demonstrate, there remains a paucity of reliable information about effective intervention and preventive strategies for responding to stalking. Accordingly, the Department is committed to continuing funding basic research and providing program support and evaluation. Consistent with this commitment, future editions of this report will include the following:

- A comprehensive review of State court decisions since 1970 interpreting or ruling on the constitutionality of stalking and related State legislation, including harassment and threatening

laws. The review will provide capsule summaries of each court holding and State-reported citations. Analysis of the decisions will identify trends in decisions and will highlight the extent to which court decisions on stalking match relevant provisions of the NIJ-sponsored *Model Antistalking Code*.

- A national survey of local police and prosecutor agencies to determine the extent of any special efforts to combat stalking. The analysis will provide statistical and descriptive information about special stalking projects, such as the degree to which projects focus on stranger stalking or on domestic-violence-related stalking. The study will also identify those projects of greatest interest to other practitioners.
- Case histories of responses by police officers and prosecutors to “typical” stalking cases.
- The results of the ongoing research being conducted by West Chester University and the University of Cincinnati mentioned in the previous chapter.

All of these efforts signal the Department’s commitment and the high priority it places on developing a reliable body of knowledge to guide public policy decisionmaking and assist State and local jurisdictions in their efforts to prevent and end violence against women and provide meaningful protections to victims of such violence. The Department will continue to encourage communities across the country to keep building strong collaboration among victim service providers, health care providers, police officers, prosecutors, judges, probation and parole officers, and others within and outside the criminal justice community. Communities will be encouraged to think creatively to develop innovative ideas for preventing, detecting, and ending violence against women, including domestic violence and stalking.

## NOTES

- <sup>1</sup> Stalkers and batterers can be either men or women; however, for consistency in style, this report refers to stalkers and batterers as men and victims as women.
- <sup>2</sup> J. Reid Meloy, "Stalking (Obsessional Following): A Review of Some Preliminary Studies," *Aggression and Violent Behavior* 1 (1996): 149–150.
- <sup>3</sup> Patricia Tjaden and Nancy Thoennes, "Stalking in America: Findings From the National Violence Against Women Survey," National Institute of Justice and Centers for Disease Control and Prevention, April 1998, Grant No. 93-IJ-CX-0012. Doris M. Hall, "Outside Looking In: Stalkers and Their Victims," unpublished dissertation, 1997. Her findings are based on a nonrandom sample of 145 self-defined stalking victims across the country.
- <sup>4</sup> "Domestic Violence, Stalking, and Antistalking Legislation," Attorney General's First Annual Report to Congress under the Violence Against Women Act, *National Institute of Justice Research Report* (Washington, DC: U.S. Department of Justice, National Institute of Justice, April 1996): 5.
- <sup>5</sup> See, for instance, J. Reid Meloy, "Stalking (Obsessional Following): A Review of Some Preliminary Studies," p. 149. See also Ronnie B. Harmon, Richard Rosner, and Howard Owens, "Obsessional Harassment and Erotomania in a Criminal Court Population," *Journal of Forensic Sciences* 40 (March 1995): 189–191; Vernon Geberth, "Stalkers," *Law and Order* 40 (October 1992): 138–140; Harvey Wallace, *Family Violence: Legal, Medical, and Social Perspectives* (New York: Simon & Schuster, 1996): 280–283.
- <sup>6</sup> J. Reid Meloy, ed., *The Psychology of Stalking: Clinical and Forensic Perspectives* (San Diego, CA: Academic Press, 1998): 8.
- <sup>7</sup> Lawrence Greenfeld, Michael Rand, et al., "Violence by Intimates: Analysis of Data on Crimes by Current or Former Spouses, Boyfriends, and Girlfriends," *Bureau of Justice Statistics Factbook*, NCJ-167237, March 1998.
- <sup>8</sup> Neil Jacobson and John M. Gottman, *When Men Batter Women: New Insights into Ending Abusive Relationships* (New York: Simon & Schuster, 1998): 239.
- <sup>9</sup> Raoul Felder and Barbara Victor, *Getting Away with Murder: Weapons for the War Against Domestic Violence* (New York: Touchstone, 1997): 214.
- <sup>10</sup> Jacobson and Gottman, p. 253. They conducted a 10-year study of 200 couples involved in violent relationships and categorized the batterers in two distinct groups, based on several factors, including their emotional and physiological reactions preceding and during the aggression. They found that one type of batterer, which they labeled as "cobras," are much less likely to stalk the victim after she leaves because they are more independent and "not interested in deep emotional commitments."
- <sup>11</sup> Jacobson and Gottman, p. 239. See also Martha R. Mahoney, "Legal Images of Battered Women: Redefining the Issue of Separation," *Michigan Law Review* 90 (October 1991): 65.



- <sup>12</sup> Barbara J. Hart, "The Legal Road to Freedom," in *Battering and Family Therapy: A Feminist Perspective*, eds. M. Hansen and M. Harway (Newbury Park, CA: Sage Publications, 1993): 2.
- <sup>13</sup> This chapter was prepared by Dr. Patricia Tjaden and Dr. Nancy Thoennes of the Center for Policy Research as a "Research in Brief" and is based on findings of the National Violence Against Women Survey. This survey was jointly funded by NIJ and CDC under NIJ Grant No. 93-IJ-CX-0012. The opinions and conclusions expressed in this chapter are solely those of the authors and do not necessarily reflect the views of the Department of Justice or the agencies that funded the research.
- <sup>14</sup> See, for example, John Ellement, "Police Arrest Boston Man, 18, for Violating State Stalking Law," *Boston Globe*, May 28, 1992; Kristin N. Sullivan, "Woman's Case Illustrates Need for State Stalking Law, Some Say," *Houston Chronicle*, April 19, 1992; Josh Meyer, "Man Held in Stalking of Pop Singer Janet Jackson," *Los Angeles Times*, June 25, 1992; George Lardner, "The Stalking of Kristin: The Law Made It Easy for My Daughter's Killer," *Washington Post*, November 22, 1992; Maria Puente, "Legislators Tackling the Terror of Stalking: But Some Experts Say Measures are Vague," *USA Today*, July 21, 1992; Mike Tharp, "In the Mind of a Stalker," *U.S. News and World Report*, February 17, 1992.
- <sup>15</sup> Donna Hunzeker, "Stalking Laws," *State Legislative Report*, Denver, Col.: National Conference of State Legislatures, 17(19) October 1992: 1–6.
- <sup>16</sup> National Criminal Justice Association, *Project to Develop a Model Anti-Stalking Code for States*, (Washington, DC: U.S. Department of Justice, National Institute of Justice, October 1993).
- <sup>17</sup> See, for example, Park Dietz and Daniell Martell, "Threatening and Otherwise Inappropriate Letters to Members of the United States Congress," *Journal of Forensic Sciences* 36(5), 1991; Ronald Holmes, "Stalking in America: Types and Methods of Criminal Stalkers," *Journal of Contemporary Criminal Justice* 9(4), December 1993; M.A. Zona, *et al.*, "Comparative Study of Erotomanic and Obsessional Subjects in a Forensic Sample," *Journal of Forensic Sciences*, 38(4), July 1993; Rudden, M., *et al.*, "Diagnosis and Clinical Course of Erotomania and Other Delusional Patients," *American Journal of Psychiatry*, 147(5): 625–628, 1990.
- <sup>18</sup> See, for example, Susan E. Bernstein, "Living Under Siege: Do Stalking Laws Protect Domestic Violence Victims?" *Cardoza Law Review* 15 (1993): 525–529; Katherine M. Boychuk, "Are Stalking Laws Unconstitutionally Vague or Overbroad?" *Northwestern University Law Review* 88(2) (1994): 769–802; Robert A. Guy, Jr., "Nature and Constitutionality of Stalking Laws," *Vanderbilt Law Review* 46(4) (1993): 991–1029; Mattlaw Gilligan, "Stalking the Stalker: Developing New Laws to Thwart Those Who Terrorize Others," *Georgia Law Review*, 27 (1992): 285–342; Brenda K. Harmon, "Illinois' Newly Amended Stalking Law: Are All the Problems Solved?" *Southern Illinois University Law Journal* 19 (1994): 165–198; Richard A. Lingg, "Stopping Stalkers: A Critical Examination of Anti-Stalking Legislation," *Saint John's Law Review* 67(2) (1993): 347–381; Kathleen G. McAnaney, *et al.*, "From Impudence to Crime: Anti-Stalking Laws," *Notre Dame Law Review* 68 (1993): 819–909; K.S. Morin, "The Phenomenon of Stalking: Do Existing State Statutes Provide Adequate Protection?" *San Diego Justice Journal*, 1(1) (1993): 123–162; Ellen Sohn

- “Antistalking Statutes: Do They Actually Protect Victims?” *Criminal Law Bulletin* 30(3) (1994): 203–241; Silvija Strikis, “Stopping Stalking,” Note, *Georgetown Law Journal* 81 (1993): 2772–2813; Kenneth R. Thomas, “How to Stop the Stalker: State Anti-Stalking Laws,” *Criminal Law Bulletin* 29(2) (1992): 124–136; Julie Miles Walker, “Anti-Stalking Legislation: Does It Protect the Victim Without Violating the Rights of the Accused?” *Denver University of Law Review* 71(2) (1993): 273–302.
- <sup>19</sup> George Lardner, *The Stalking of Kristin: A Father Investigates the Murder of His Daughter*, (New York: Atlantic Monthly Press, 1995); Doreen Orion, “I Know You Really Love Me: A Psychiatrist’s Journal of Erotomania, Stalking, and Obsessive Love,” (New York: Macmillan, 1997).
- <sup>20</sup> Thomas, “How to Stop the Stalker: State Anti-Stalking Laws” (see note 18).
- <sup>21</sup> Hunzeker, “Stalking Laws” (see note 15).
- <sup>22</sup> “Domestic Violence, Stalking, and Antistalking Legislation,” Attorney General’s First Annual Report to Congress under the Violence Against Women Act (see note 4).
- <sup>23</sup> *Ibid.*
- <sup>24</sup> National Criminal Justice Association, *Project to Develop a Model Anti-Stalking Code for States* (see note 16).
- <sup>25</sup> The findings of the survey, as in any sample survey, are subject to sample fluctuations or sampling error. Using the sampling methods described in this report (see “Survey Methodology”), the maximum sampling error at the 95 confidence level for a sample of 8,000 is plus or minus 1.1 percentage points if the response distribution on a categorical variable is a 50/50 split.
- <sup>26</sup> According to U.S. Bureau of the Census estimates, there were 100,697,000 women and 92,748,000 men aged 18 years and older residing in the United States in 1995.
- <sup>27</sup> While testimony provided at a September 29, 1992, Senate Judiciary Committee Hearing on S.B. 2922 (Violence Against Women) is generally cited as the source for these estimates, the figures first appeared in a *USA Today* article on stalking (see Puente in note 14). The statistics contained in the article were attributed to “guesses” provided by Park Dietz, a Los Angeles-based forensic psychiatrist, presumably on the basis of his research on a nonrepresentative sample of known celebrity stalkers (see Dietz in note 17).
- <sup>28</sup> L.J.D. Wallace, A.D. Calhoun, K.E. Powell, J. O’Neill, and S.P. James, “Homicide and Suicide Among Native Americans, 1979–1992,” Violence Surveillance Summary Series, No. 2, Atlanta, GA: Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, 1996.
- <sup>29</sup> National Research Council, *Understanding Violence Against Women* (Washington, DC: National Academy Press, 1996): 40–41.
- <sup>30</sup> S.B. Sorenson, J.A. Stein, J.M. Siegel, J.M. Golding, and M.A. Burnam, “The Prevalence of Adult Sexual Assault: The Los Angeles Epidemiologic Catchment Area Project,” *American Journal of Epidemiology* 126 (1987): 154–1164; S.B. Sorenson and C.A. Tells, “Self-Reports of Spousal Violence in a Mexican American and a Non-Hispanic White Population,” *Violence and Victims* 6 (1991): 3–16.
- <sup>31</sup> A survey of 90 Florida law enforcement agencies reported that in most stalking



- cases, the victim knew the offender. See J. T. Tucker, "The Effectiveness of Florida Stalking Statutes Section 784.048," *Florida Law Review* 45 (4) (1993): 609–707.
- <sup>32</sup> See National Institute of Justice, "Domestic Violence, Stalking, and Antistalking Legislation" (see note 22).
- <sup>33</sup> *Ibid.*
- <sup>34</sup> See National Criminal Justice Association, *Project to Develop a Model Anti-Stalking Code for States* (see note 16).
- <sup>35</sup> Ronet Bachman, "Violence Against Women: A National Crime Victimization Survey Report," Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, January 1993.
- <sup>36</sup> See, for example, the Address Confidentiality Program, Post Office Box 69, Olympia, Washington 98507-0069, (360) 753–2971.
- <sup>37</sup> W.L. Williams, J.C.D. Lane, and M.A. Zona, "Stalking: Successful Intervention Strategies," *The Police Chief*, (February 1996): 24–26; and M.A. Zona, K.K. Sharma, and J.C. Lane, "A Comparative Study of Erotomanic and Obsessional Subjects in a Forensic Sample," *Journal of Forensic Sciences*, 38(4) (July 1993): 894–903.
- <sup>38</sup> This law was intended to fill a gap in the Federal law, which covered interstate domestic violence (18 U.S.C. 2261) but did not extend to essentially similar conduct where the victim either had not had an intimate relationship with the offender or had not obtained a protection order.
- <sup>39</sup> These States are Arizona, California, Connecticut, Iowa, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, and Oklahoma. This information was compiled by the Violence Against Women Office.
- <sup>40</sup> This State-by-State analysis was prepared in March 1998 by Neal Miller of the Institute for Law and Justice, Alexandria, VA.
- <sup>41</sup> It was not until the 1980s that domestic violence became widely recognized as the serious crime that it is. And it was not until 1994 that the Federal Government enacted comprehensive legislation to combat domestic violence.
- <sup>42</sup> National Criminal Justice Association, *Project to Develop a Model Anti-Stalking Code for States* (see note 16).
- <sup>43</sup> Arrest without a warrant for misdemeanor stalking is authorized in Florida, Idaho, Indiana, Maine, Maryland, Missouri, Montana, Nevada, New Hampshire, and Oregon. In South Carolina and Wyoming, police may arrest without a warrant based on probable cause that a stalking order violation has occurred.
- <sup>44</sup> These include Arizona (local registry for harassment order), Michigan, Ohio (local registry), Oregon, and Washington (antiharassment orders).
- <sup>45</sup> A survey by the Institute for Law and Justice, under an NIJ grant, found that 20 State agencies setting standards for training local police require specific training in handling stalking cases; another 24 agencies may include training as part of their domestic violence curriculum. In the past 2 years, local agencies have also developed or offered special training on stalking with funds provided under VAWA.
- <sup>46</sup> In 1993, only Oregon had a tort damage action available for stalking victims,

according to the *Model Anti-Stalking Code for States* report.

<sup>47</sup> See, for instance, South Carolina Code Annotated § 16-3-1830.

<sup>48</sup> The section on challenges to State stalking statutes was prepared by the Office of Policy Development, U.S. Department of Justice.

<sup>49</sup> This chapter was prepared by Gwen Holden under contract number OJP-98-113-M awarded by OJP.

<sup>50</sup> Telephone interview with Maryellen Martirano, second deputy district attorney, Westchester County (New York) District Attorney's Office (March 6, 1998). Unless otherwise indicated, all comments attributed to Martirano in this chapter were made during this telephone interview.

<sup>51</sup> National Criminal Justice Association, *Project to Develop a Model Anti-Stalking Code for States* (see note 16): 49.

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*, p. 50.

<sup>59</sup> Telephone interview with Steven R. Siegel, director of program development, Denver District Attorney's Office (March 17, 1998). Unless otherwise indicated, all comments attributed to Siegel in this chapter were made during this telephone interview and all descriptions in this report of

the Denver District Attorney's Office's handling of cases involving stalking are based on this interview.

<sup>60</sup> Telephone interview with Pamela A. Paziopolous, supervisor, Domestic Violence Division, Cook County (Illinois) State's Attorney's Office (March 12, 1998). Unless otherwise indicated, all comments attributed to Paziopolous in this chapter were made during this telephone interview and all descriptions in this report of the Cook County State's Attorney's Office's handling of cases involving stalking are based on this interview.

<sup>61</sup> Telephone interview with Detective Howard E. Black, Domestic Violence Unit, Colorado Springs (Colorado) Police Department (March 17, 1998). Unless otherwise indicated, all comments attributed to Black in this chapter were made during this telephone interview and all descriptions in this report of the Colorado Springs Police Department's handling of cases involving stalking are based on this interview.

<sup>62</sup> Telephone conversation with Andrew R. Klein, chief probation officer, Quincy (Massachusetts) District Court (Feb. 26, 1998).

<sup>63</sup> Telephone interview with Judge John Rowley, Ithaca (New York) City Court (March 18, 1998). Unless otherwise indicated, all comments attributed to Rowley in this chapter were made during this telephone interview.

<sup>64</sup> Telephone interview with Gwen P. Wilkinson, coordinator, Tompkins County (New York) Domestic Violence Prevention Unit (March 3, 1998). Unless otherwise indicated, all comments attributed to Wilkenson in this chapter were made during this telephone interview.

- <sup>65</sup> George E. Wattendorf, City Prosecutor, Prosecution, City of Dover Police Department (March 12, 1998). Unless otherwise indicated, all comments attributed to Wattendorf in this chapter were made during this telephone interview and all descriptions in this report of the Dover Police Department's handling of cases involving stalking are based on this interview.
- <sup>66</sup> Telephone interview with Roxann M. Ryan, assistant attorney general, Iowa Attorney General's Office (March 5, 1998). Unless otherwise indicated, all comments attributed to Ryan in this chapter were made during this telephone interview and all descriptions in this report of the Iowa Attorney General's Office's experience with cases involving stalking are based on this interview.
- <sup>67</sup> National Criminal Justice Association, *Regional Seminar Series on Developing and Implementing Antistalking Codes*, (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, June 1996): 4.
- <sup>68</sup> Ibid, p. 5.
- <sup>69</sup> Martirano (see note 50).
- <sup>70</sup> Telephone interview with Robert C. Gallup, executive director, AMEND (March 23, 1998). Unless otherwise indicated, all comments attributed to Gallup in this chapter were made during this telephone interview and all descriptions in this report of AMEND's handling of cases involving stalking are based on this interview.
- <sup>71</sup> Telephone interview with Nancy M. Lick, chief of research, planning, and development for the Westchester County (New York) Probation Department (March 4, 1998). Unless otherwise indicated, all comments attributed to Lick in this chapter were made during this telephone interview and all descriptions in this report of the Westchester County Probation Department's handling of cases involving stalking are based on this interview.
- <sup>72</sup> Telephone interview with Nancy M. Lick, chief of research, planning, and development, and Robert Chace, assistant commissioner for family court services, for the Westchester County (New York) Probation Department (March 5, 1998). Unless otherwise indicated, all comments attributed to Lick and Chace in this chapter were made during this telephone interview and all descriptions in this report of the Westchester County Probation Department's handling of cases involving stalking are based on this interview.
- <sup>73</sup> Telephone interview with Wayne Maxey, district attorney investigator, Stalking Unit, San Diego (California) County District Attorney's Office (March 19, 1998). Unless otherwise indicated, all comments attributed to Maxey in this chapter were made during this telephone interview and all descriptions in this report of the San Diego County District Attorney's Office's Stalking Unit and the San Diego County Stalking Strike Force are based on this interview.
- <sup>74</sup> Telephone interview with Michael Arrington, director of special court services, Family Court of the State of Delaware (March 6, 1998). Unless otherwise indicated, all comments attributed to Arrington in this chapter were made during this telephone interview and all descriptions in this report of the State of Delaware's protective order registry are based on this interview.

<sup>75</sup> Telephone interview with Detective Sergeant Mark A. Wynn, Domestic Violence Division, Nashville (Tennessee) Metropolitan Police Department (April 2, 1997), as reported in *Domestic Violence and Stalking: The Second Annual Report to Congress under the Violence Against Women Act*. (U.S. Department of Justice, Office of Justice Programs, Violence Against Women Grants Office, Washington, DC: July 1997).

<sup>76</sup> Black said that stalking may be an element in domestic violence cases handled at other levels, but that because of resource constraints, only cases

involving the most serious stalking behavior are assigned to level one.

<sup>77</sup> Lick (see note 71) .

<sup>78</sup> According to Gallup, the four project sites are Denver, Adams, Larimer, and Weld Counties.

<sup>79</sup> Data provided by the Urban Institute, Washington, DC, in July 1998.

<sup>80</sup> Tjaden and Thoennes, “Stalking in America: Findings From the National Violence Against Women Survey,” (See note 3): 2, 13–14.

## Appendix A

# ANTISTALKING LEGISLATION UPDATE FOR STATES AND SELECTED TERRITORIES<sup>1</sup>

### March 1998

State	Legislation	Legal challenges	Basis of challenge	Outcome	
<b>Alabama</b>	Ala. Code § 13 A-6-90 (1997) (enacted 1992)	Stalking	No new challenges		
	Ala. Code § 13 A-6-91 (1997) (enacted 1992)	Aggravated stalking			
	Ala. Code § 13 A-6-92 (1997) (enacted 1992)	Definitions			
	Ala. Code § 13 A-6-93 (1997) (enacted 1992)	Construction; similar provisions			
	Ala. Code § 13 A-6-94 (1997) (enacted 1992)	Construction; constitutionality of article			
<b>Alaska</b>	Alaska Stat. § 11.41.260 (1995) (enacted 1993)	Stalking in the first degree	No new challenges		
	Alaska Stat. § 11.41.270 (1995) (enacted 1993)	Stalking in the second degree			
<b>Arizona</b>	Ariz. Rev. Stat. Ann. § 13-2921 (West 1997) (enacted 1992)	Harassment; clarification; definition	No challenges		
<b>Arkansas</b>	Ark. Code Ann. § 5-71-229 (Michie 1997) (enacted 1993)	Stalking	No challenges		
	Ark. Code Ann. § 5-13-301 (Michie 1994) (enacted 1975)	Terroristic threatening			
	Ark. Code Ann. § 5-71-208 (Michie 1994) (enacted 1975)	Harassment			
	Ark. Code Ann. § 5-71-209 (Michie 1994) (enacted 1975)	Harassing communications			
<b>California</b>	Cal. Penal Code § 646.9 (West 1998) (enacted 1990)	Stalking	<u>People v. Falck</u> , 60 Cal. Rptr. 2d 624 (Dist. Ct. App. 1997)	Vagueness and overbreadth	Statute upheld
			<u>People v. McCray</u> , 67 Cal. Rptr. 872 (Cal. Ct. App. 1997)	Ambiguous construction	Statute upheld

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# ANTISTALKING LEGISLATION UPDATE FOR STATES AND SELECTED TERRITORIES<sup>1</sup>

### March 1998

State	Legislation		Legal challenges	Basis of challenge	Outcome
<b>California</b>	Cal. Penal Code § 646.91 (West 1998) (added 1997)	Stalking emergency protective orders			
	Cal. Penal Code § 646.92 (West 1998) (added 1995)	Notification to victim or witness of release of person convicted of stalking or domestic violence			
	Cal. Penal Code § 42 (West 1998) (enacted 1988)	Elements of offense; punishment; "immediate family" defined			
	Cal. Civil Code § 1708.7 (West 1998) (enacted 1993)	Stalking; tort action; damages and equitable remedies			
<b>Colorado</b>	Colo. Rev. Stat. Ann. §18-9-111 (West 1998)	Harassment - stalking	No new challenges		
<b>Connecticut</b>	Conn. Gen. Stat. Ann. § 53a-181-c (West 1998) (enacted 1992)	Stalking in the first degree	<u>State v. Marsala</u> , 688 A.2d 336 (Conn. App. 1997)	Vagueness and overbreadth	Statute upheld
	Conn. Gen. Stat. Ann. § 53a-181-d (West 1998) (enacted 1992)	Stalking in the second degree: Class A misdemeanor	<u>State v. Cummings</u> , 701 A.2d 663 (Conn. App. Ct. 1997)	Vagueness	Statute upheld
	Conn. Gen. Stat. Ann. § 53a-181e (West 1998)	Stalking in the third degree: Class B misdemeanor			
	Conn. Gen. Stat. Ann. § 54-1k (West 1998)	Issuance of protective orders			
	Conn. Gen. Stat. Ann. § 53a-40d (West 1998) (enacted 1995)	Persistent offenders of crimes involving assault, stalking, threatening, harassment of criminal violation of protective order. Authorized sentences			



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# ANTISTALKING LEGISLATION UPDATE FOR STATES AND SELECTED TERRITORIES<sup>1</sup>

### March 1998

State	Legislation		Legal challenges	Basis of challenge	Outcome
<b>Delaware</b>	Del. Code Ann. tit. 11, § 13121(1997) (enacted 1992)	Stalking; Class F Felony	<u>State v. Alvarado</u> , No. VK93-12-0227-RI, 9312007812, 1997 WL 524128 (Del. Super. Ct. July 23, 1997)	Vagueness	Statute upheld
<b>District of Columbia</b>	D.C. Code Ann. § 22-504 (b) (1997) (enacted 1992)	Assault or threatened assault in a menacing manner; stalking	No new challenges		
<b>Florida</b>	Fla. Stat. Ann. § 784.048 (West 1998) (enacted 1992)	Stalking; definitions; penalties	No new challenges		
<b>Georgia</b>	Ga. Code Ann. § 16-5-90 (1997) (enacted 1993)	Stalking	No new challenges		
	Ga. Code Ann. § 16-5-91 (1997) (amended 1995)	Aggravated stalking			
	Ga. Code Ann. § 16-5-93 (1997) (amended 1997)	Victim notification of release or escaped stalker			
<b>Guam</b>	9 Guam Code Ann. §19.69 (1995, 1996)	Definitions	No challenges		
	9 Guam Code Ann. §19.70 (1995, 1996)	Stalking			
<b>Hawaii</b>	Haw. Rev. Stat. Ann. § 711-1106 (Michie 1997) (enacted 1992)	Harassment	No challenges		
	Haw. Rev. Stat. Ann. § 711-1106.4 (Michie 1997) (enacted 1992)	Aggravated harassment by stalking			
	Haw. Rev. Stat. Ann. § 711-1106.5 (Michie 1997) (enacted 1992)	Harassment by stalking			
<b>Idaho</b>	Idaho Code § 18-7905 (1995) (enacted 1992)	Stalking; definitions; penalties	No challenges		

## Appendix A

# ANTISTALKING LEGISLATION UPDATE FOR STATES AND SELECTED TERRITORIES<sup>1</sup>

### March 1998

State	Legislation	Legal challenges	Basis of challenge	Outcome			
<b>Illinois</b>	720 Ill. Ann. Stat. para. 5/12-7.3 (West 1997) (enacted 1992)  Stalking	<u>People v. Nakajima</u> , No. 4-97-0584, 1998 WL 67402 (Ill. App. Ct. Feb. 19, 1998)	Vagueness and overbreadth	Statute upheld			
	720 Ill. Ann. Stat. para. 5/12-7.4 (West 1997) (enacted 1992)  Aggravated stalking	<u>People v. Zamudio</u> , 689 N.E.2d 254 (Ill. 1997)	Vagueness and overbreadth	Statute upheld			
		<u>People v. Rand</u> , 683 N.E.2d 1243 (Ill. App. Ct. 1997)	Vagueness and overbreadth	Statute upheld			
<b>Indiana</b>	Ind. Code § 35-45-10-5 (1996) (enacted 1993)  Violation-penalties	No new challenges					
	Ind. Code § 35-45-10-1 (1996) (enacted 1993)  "stalk"; defined						
	Ind. Code § 35-45-10-2 (1996) (enacted 1993)  "Harassment"; defined						
	Ind. Code § 35-45-10-3 (1996) (enacted 1993)  "Impermissible contact"; defined						
	Ind. Code § 35-45-10-4 (1996) (enacted 1993)  "Victim"; defined						
<b>Iowa</b>	Iowa Code Ann. § 708.11 (West 1997)  Stalking	No challenges					
<b>Kansas</b>	Kan. Stat. Ann. § 21-3438 (1996) (amended 1995)  Stalking	No new challenges					
<b>Kentucky</b>	Ky. Rev. Stat. Ann. § 508.130 (Michie 1996) (enacted 1992)  Definitions						
	Ky. Rev. Stat. Ann. § 508.140 (Michie 1996) (enacted 1992)  Stalking in the first degree				<u>Monhollen v. Commonwealth</u> , 947 S.W.2d 61 (Ky. Ct. App. 1997)	Vagueness	Statute upheld
	Ky. Rev. Stat. Ann. § 508.150 (Michie 1996) (enacted 1992)  Stalking in the second degree						

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# ANTISTALKING LEGISLATION UPDATE FOR STATES AND SELECTED TERRITORIES<sup>1</sup>

### March 1998

State	Legislation	Legal challenges	Basis of challenge	Outcome
<b>Louisiana</b>	La. Rev. Stat. Ann. § 14:40.2 (West 1997) (enacted 1992)      Stalking	No challenges		
<b>Maine</b>	Me. Rev. Stat. Ann. tit. 17-A § 210-A (West 1997) (enacted 1995)      Stalking	No new challenges		
<b>Maryland</b>	Md. Code Ann., art. 27, § 121B (1997) (effective 1993)      Stalking  Md. Code Ann., art. 27, § 121A (1997) (effective 1995)      Harassment  Md. Code Ann., Art. 27, § 768 (1997) (amended 1997)      Protection for stalking victim if defendant is released before trial	No challenges		
<b>Massachusetts</b>	Mass. Gen. Laws Ann. ch. 265, § 43 (West 1997) (effective 1992)      Stalking; punishment  Mass. Gen. Laws Ann. ch. 265, § 62B (West 1997) (effective 1996)      Stalking; jurisdiction	No new challenges		
<b>Michigan</b>	Mich. Comp. Laws Ann. § 600.2950 (West 1997) (amended 1997)      Personal protection orders  Mich. Comp. Laws Ann. § 600.2950a (West 1997) (amended 1997)      Stalking or aggravated stalking  Mich. Comp. Laws Ann. § 750.411h (West 1997) (amended 1998)      Stalking; definitions; violations; penalties; probation, term, conditions; evidence, rebuttable presumption; penalty additional	No new challenges		

## Appendix A

# ANTISTALKING LEGISLATION UPDATE FOR STATES AND SELECTED TERRITORIES<sup>1</sup>

### March 1998

State	Legislation	Legal challenges	Basis of challenge	Outcome	
<b>Michigan</b>	Mich. Comp. Laws Ann. § 750.411i (West 1997) (effective 1993)	Aggravated stalking; course of conduct; violation; penalties; probation; rebuttable presumption			
	Mich. Comp. Laws Ann. § 600.2954 (West 1997) (effective 1993)	Stalking or aggravated stalking, civil actions; damages; victim defined			
<b>Minnesota</b>	Minn. Stat. Ann. § 609.749 (West 1998) (effective 1992)	Harassment and stalking crimes	<u>State v. Machholz</u> , No. CX-96-1865, 1998 WL 19751 (Minn. Jan. 22, 1998)	Vagueness and overbreadth	Statute harassment provisions struck down
	Minn. Stat. Ann. § 609.7495 (West 1998) (effective 1992)	Definitions			
<b>Mississippi</b>	Miss. Code Ann. § 97-3-107 (1997) (effective 1992)	Stalking	No challenges		
<b>Missouri</b>	Mo. Ann. Stat. § 565.225 (West 1997) (enacted 1993)	Crime of stalking-definitions, penalty, arrest	No new challenges		
<b>Montana</b>	Mont. Code Ann. § 45-5-220 (1997) (enacted 1992)	Stalking-exemption-penalty	No challenges		
<b>Nebraska</b>	Neb. Rev. Stat. Ann. §§ 28-311.02 - 28-311.05 (1993) (Michie 1997)	Stalking; legislative intent; terms, defined; violations, penalties; not applicable to certain conduct	No challenges		
<b>Nevada</b>	Nev. Rev. Stat. Ann. § 200.575 (Michie 1997) (enacted 1993)	Stalking; definitions; penalties	No challenges		

## Appendix A

# ANTISTALKING LEGISLATION UPDATE FOR STATES AND SELECTED TERRITORIES<sup>1</sup>

### March 1998

State	Legislation	Legal challenges	Basis of challenge	Outcome
<b>New Hampshire</b>	N.H. Rev. Stat. Ann. § 633:3-a (1997) (enacted 1993)      Stalking	No challenges		
<b>New Jersey</b>	N.J. Stat. Ann. § 2C:12-10 (West 1998) (enacted 1993)      Stalking  N.J. Stat. Ann. § 2C:12-10.1 (West 1998) (enacted 1993)      Stalking restraining order	<u>State v. Saunders</u> , 695 A.2d 722 (N.J. Super. Ct. App. Div. 1997)	Vagueness and overbreadth	Statute upheld
<b>New Mexico</b>	N.M. Stat. Ann. § 30-3A-3, 3.1, 4.0 (Michie 1997) (enacted 1993)      Stalking; aggravated stalking, penalties; exceptions	No challenges		
<b>New York</b>	N.Y. Penal Law § 120.13 (McKinney 1997) (enacted 1993)      Menacing in the first degree  N.Y. Penal Law § 120.14 (McKinney 1997) (enacted 1993)      Menacing in the second degree  N.Y. Penal Law § 120.15 (McKinney 1997) (enacted 1993)      Menacing in the third degree	No challenges		
<b>North Carolina</b>	N.C. Gen. Stat. § 14-277.3 (Supp. 1997) (enacted 1993)      Stalking	No challenges		
<b>North Dakota</b>	N.D. Cent. Code § 12.1-17-07.1 (Supp. 1993) (enacted 1993)      Stalking	No challenges		
<b>Ohio</b>	Ohio Rev. Code Ann. § 2903.211-.215 (West 1998) (enacted 1992)      Menacing by stalking; protection orders	<u>State v. Smith</u> , No. 96 C.A. 83, 1998 WL 78657 (Ohio Ct. App. Feb. 11, 1998)  <u>State v. Schwab</u> , No. CA96-12-2631997 WL 249951 (Ohio Ct. App. May 12, 1997)	Vagueness and overbreadth  Vagueness	Statute upheld  Statute upheld

## Appendix A

# ANTISTALKING LEGISLATION UPDATE FOR STATES AND SELECTED TERRITORIES<sup>1</sup>

### March 1998

State	Legislation	Legal challenges	Basis of challenge	Outcome
<b>Oklahoma</b>	Okla. Stat. Ann. tit. 21, § 1173 (West 1997) (enacted 1992)	Stalking penalties	No new challenges	
<b>Oregon</b>	Or. Rev. Stat. § 163.730-.750 (1995) (enacted 1993)	Stalking	<u>Shook v. Ackert</u> , No. CA A93886, 1998 WL 18057 (Or. Ct. App. Jan. 21, 1998)	Overbreadth Statute upheld
	Or. Rev. Stat. § 30.866 (1995) (enacted 1993)	Stalking protective order	<u>State v. Rangel</u> , 934 P.2d 1128 (Or. Ct. App. 1997)	Overbreadth Statute upheld
<b>Pennsylvania</b>	18 Pa. Cons. Stat. Ann. § 2709 (West 1998) (enacted 1993)	Harassment and stalking	<u>Commonwealth v. Miller</u> , 689 A.2d 238 (Pa. Super. Ct. 1997)	Overbreadth; right to travel Statute upheld
<b>Rhode Island</b>	R.I. Gen. Laws §§ 11-59-1 - 11-59-3 (Supp. 1994) (enacted 1992)	Stalking	No new challenges	
<b>South Carolina</b>	S.C. Code Ann. § 16-3-1070 (Law. Co-op 1993) (enacted 1992)	Stalking	No challenges	
	S.C. Code Ann. §§ 16-3-1700 - 16-3-1-1840 (Law. Co-op 1996)	Definitions; penalties; restraining order		
<b>South Dakota</b>	S.D. Codified Laws §§ 22-19A-1 - 22-19A-7 (Michie 1997)	Stalking as misdemeanor; violation of restraining order and subsequent convictions as felony; “harasses,” “course of conduct,” and “credible threat” defined; stalking a child as misdemeanor	No new challenges	



## Appendix A

# ANTISTALKING LEGISLATION UPDATE FOR STATES AND SELECTED TERRITORIES<sup>1</sup>

### March 1998

State	Legislation	Legal challenges	Basis of challenge	Outcome
<b>Tennessee</b>	Tenn. Code Ann. § 39-17-315 (Supp. 1995) (amended 1995) Stalking  Tenn. Code Ann. § 36-3-606 (Supp. 1995) (enacted 1996) Scope of protection order	No new challenges		
<b>Texas</b>	Tex. Penal Code Ann. § 42.072 (West 1997) (enacted 1995) Stalking  Tex. Crim. P. Code Ann. art. 17.46 (West 1997) Conditions for a defendant charged with stalking  Tex. Crim. P. Code Ann. art. 56.11 (West 1997) Notification to victim of release or escape of defendant	No new challenges		
<b>Utah</b>	Utah Code Ann. § 76-5-106.5 (1996) (enacted 1992) Definitions - Crime of Stalking	<u>Salt Lake City v. Lopez</u> , 935 P.2d 1259 (Utah Ct. App. 1997)	Vagueness and overbreadth	Statute upheld
<b>Vermont</b>	Vt. Stat. Ann. tit. 13, §§ 1061-1063 (1997) (enacted 1993) Definitions; stalking; aggravated stalking	No challenges		
<b>Virgin Islands</b>	V.I. Code Ann. tit. 104 § 2071 (1995) Definitions  V.I. Code Ann. tit. 104 § 2072 (1995) Stalking prohibited; degrees of offense; punishment  V.I. Code Ann. tit. 104 § 91 (1995) Remedies for domestic violence	No challenges		
<b>Virginia</b>	Va. Code Ann. § 18.2-60.3 (Michie 1997) (amended 1996) Stalking; penalty	<u>Parker v. Commonwealth</u> 485 S.E.2d 150 (Va. Ct. App. 1997)	Vagueness and overbreadth	Statute upheld

## Appendix A

# ANTISTALKING LEGISLATION UPDATE FOR STATES AND SELECTED TERRITORIES<sup>1</sup>

### March 1998

State	Legislation	Legal challenges	Basis of challenge	Outcome
<b>Virginia</b>	Va. Code Ann. § 19.2-152.8 (Michie 1997) (added 1997)	Emergency protective orders authorized in cases of stalking		
	Va. Code Ann. § 19.2-152.9 (Michie 1997) (added 1997)	Preliminary protective orders in cases of stalking		
<b>Washington</b>	Wash. Rev. Code Ann. § 9A.46.110 (West 1995) (amended 1994)	Stalking	<u>State v. Paul</u> , No. 35225-3-I, 1997 WL 54740 (Wash. Ct. App. Feb. 10, 1997)	Vagueness and overbreadth
	Wash. Rev. Code Ann. § 13.40.215 (West 1995) (amended 1997)	Juveniles found to have committed violent or sex offense or stalking		
<b>West Virginia</b>	W.Va. Code § 61-2-9a (Supp. 1995) (enacted 1992)	Stalking, penalties; definitions	No challenges	
<b>Wisconsin</b>	Wis. Stat. Ann. § 940.32 (West 1998) (enacted 1993)	Stalking	<u>State v. Rapey</u> , No. 97-0279-CR, 1998 WL 86283 (Wis. Ct. App. Mar. 3, 1998)  <u>State v. Ruesch</u> , 571 N.W.2d 898 (Wis. 1997)	Vagueness and overbreadth
	Wis. Stat. Ann. § 165.829 (West 1998) (enacted 1993)	Stalking & harassment information		Vagueness and overbreadth
<b>Wyoming</b>	Wyo. Stat. Ann. § 6-2-506 (Michie 1997) (enacted 1993)	Stalking; penalty	No new challenges	
	Wyo. Stat. Ann. § 1-1-126 (Michie 1997) (enacted 1993)	Civil liability		
	Wyo. Stat. Ann. §§ 7-3-506 - 7-3-511 (Michie 1997) (enacted 1993)	Protection orders for stalking victims		

<sup>1</sup> This appendix updates appendix A of the Attorney General's Second Annual Report to Congress under the Violence Against Women Act, "Domestic Violence and Stalking." Office of Justice Programs Research Report, July 1997. This update was prepared by the Office of Policy Development.

## Appendix B

### STATE STALKING LAWS: CRIMINAL AND CIVIL LAWS BY LEVEL OF OFFENSE<sup>1</sup>

State	Criminal Laws	Civil Protective Laws
Alabama	B or C felony	Stalking violation of domestic violence protection order is misdemeanor
Alaska	C felony for limited set of stalking crimes, or A misdemeanor Enhanced penalty for stalking minor (age 16)	Stalking violation of domestic violence protection order is misdemeanor
Arizona	Felony 4 or 5	Harassment orders available; contempt penalty for violation
Arkansas	B or C felony	Stalking violation of domestic violence protection order is misdemeanor
California	Felony or misdemeanor; 2nd misdemeanor stalking has 4 year maximum	Stalking and harassment orders available; violation of order has 4 year maximum
Colorado	Felony 6; 2nd is Class 5 felony	Stalking order available; violation is Class 6 felony
Connecticut	D felony for limited set of stalking crimes, or misdemeanor Enhanced penalty for stalking minor (age 16)	Stalking violation of domestic violence protection order is misdemeanor; any violation of criminal protective order is felony
Delaware	C or D felony for limited set of stalking crimes, or F felony	2nd violation of domestic violence protection order is felony
District of Columbia	Misdemeanor; increase up to 10 months and 3 years for 2nd and 3rd offenses	Stalking violation of domestic violence protection order is misdemeanor
Florida	Felony 3 or misdemeanor 1 Enhanced penalty for stalking minor (age 16)	Stalking order available; violation of order is misdemeanor
Georgia	Felony for limited set of stalking crimes, or misdemeanor	Stalking violation of domestic violence protection order is misdemeanor
Hawaii	Misdemeanor; 2nd offense against same victim in violation of order is C felony	Stalking violation of domestic violence protection order is misdemeanor
Idaho	Misdemeanor; 2nd is felony	Stalking protective order available; Violation of order is misdemeanor; 2nd is felony
Illinois	Class 3 or 4 felony	Stalking violation of domestic violence protection order is misdemeanor
Indiana	D felony for limited set of stalking crimes, or A misdemeanor; D felony for 2nd misdemeanor stalking offense	Stalking violation of domestic violence protection order is misdemeanor
Iowa	D felony for limited set of stalking crimes, or aggravated misdemeanor Enhanced penalty for stalking minor (age 18)	Stalking violation of domestic violence protection order is misdemeanor
Kansas	Class 10 felony; Class 9 felony for order violation; 2nd offense and same victim is Class 8 felony	Criminal trespass in violation of domestic violence order is misdemeanor

## Appendix B

### STATE STALKING LAWS: CRIMINAL AND CIVIL LAWS BY LEVEL OF OFFENSE<sup>1</sup>

State	Criminal Laws	Civil Protective Laws
Kentucky	D felony for limited set of stalking crimes, or A misdemeanor	Stalking violation of domestic violence protection order is felony
Louisiana	Felony for limited set of stalking crimes, or misdemeanor Enhanced penalty for stalking minor (age 12)	Stalking violation of domestic violence protection order may be criminal contempt of court
Maine	Class D crime (1 year maximum); 3rd is Class C crime (5 year maximum)	Harassment protection order available; violation of order is Class D crime
Maryland	Misdemeanor (5 year maximum)	Stalking violation of domestic violence protection order is misdemeanor
Massachusetts	Felony; enhancement for order violation	Stalking violation of domestic violence protection order is felony
Michigan	Felony or misdemeanor Enhanced penalty for stalking of minor by adult (age 18)	Stalking protective order available; no statutory penalty set
Minnesota	Felony or gross misdemeanor Enhanced penalty for stalking minor (age 18)	Stalking protective order available; violation of order is misdemeanor
Mississippi	Misdemeanor	Stalking violation of domestic violence protection order may be criminal contempt of court
Missouri	D felony or A misdemeanor	Stalking protective order available; violation of order is A misdemeanor; 2nd in 5 years is D felony
Montana	Misdemeanor; 2nd is felony	Stalking protection order available; violation of order is misdemeanor
Nebraska	Class 1 misdemeanor; 2nd is class 4 felony	Stalking protection order available; violation of order is misdemeanor
Nevada	B felony or misdemeanor	Stalking protective order available; violation of temporary order is misdemeanor; permanent order violation is C felony
New Hampshire	Misdemeanor; 2nd is B felony	Stalking protective order available; misdemeanor penalty; 2nd is felony
New Jersey	3rd or 4th degree crime	Stalking violation of domestic violence protection order is misdemeanor
New Mexico	Felony for limited set of stalking crimes, or misdemeanor; 2nd misdemeanor level stalking is Felony 4 Enhanced penalty for stalking minor (age 16)	Stalking violation of domestic violence protection order is misdemeanor

## Appendix B

### STATE STALKING LAWS: CRIMINAL AND CIVIL LAWS BY LEVEL OF OFFENSE<sup>1</sup>

State	Criminal Laws	Civil Protective Laws
New York	B misdemeanor	Stalking violation of domestic violence protection order is felony if injury, otherwise is misdemeanor
North Carolina	Misdemeanor A1 or 2; 2nd is felony	Stalking violation of domestic violence protection order is misdemeanor
North Dakota	C felony for restricted set of stalking crimes, or misdemeanor	Disorderly conduct order available; violation of order is felony
Ohio	Misdemeanor 1; 2nd is felony 5	Stalking violation of domestic violence protection order or no-contact criminal protection order is misdemeanor 1; 3rd violation is felony
Oklahoma	Felony for limited set of stalking crimes, or misdemeanor; 2nd misdemeanor stalking is felony	Stalking protective order available; violation of order is misdemeanor
Oregon	A misdemeanor; 2nd is C felony	Stalking protective order available; violation is A misdemeanor or C felony
Pennsylvania	Misdemeanor 2nd is felony	Stalking violation of domestic violence protection order is criminal contempt of court
Rhode Island	Misdemeanor; 2nd is felony	Stalking protective order available; violation of order is felony
South Carolina	Felony for limited set of stalking crimes, or misdemeanor; 2nd misdemeanor stalking in 7 years is felony	Stalking protective order available; violation of order is misdemeanor
South Dakota	Misdemeanor; 2nd is felony 5	Stalking protective order available; violation of order is felony 6 if assault or stalking violation of abuse order; misdemeanor otherwise
Tennessee	A misdemeanor; 2nd is C felony (if same victim) or E felony	Stalking violation of domestic violence protection order with assault is felony, otherwise is misdemeanor
Texas	A misdemeanor; 2nd is felony 3	Stalking violation of domestic violence protection order with assault is felony, otherwise is misdemeanor; 3rd violation of order is felony
Utah	Felony for restricted set of stalking crimes, or misdemeanor	Stalking violation of domestic violence protection order is misdemeanor
Vermont	Felony Enhanced penalty for stalking minor (age 16)	Stalking violation of domestic violence protection order with assault is felony, otherwise is misdemeanor
Virginia	Class 1 or 2 misdemeanor; 3rd is felony 6	Stalking protective order available; violation of order is misdemeanor 1

## Appendix B

### STATE STALKING LAWS: CRIMINAL AND CIVIL LAWS BY LEVEL OF OFFENSE<sup>1</sup>

State	Criminal Laws	Civil Protective Laws
Washington	C felony for limited set of stalking crimes, or gross misdemeanor; 2nd misdemeanor stalking is C felony	Harassment Protective order available; violation of order is C felony
West Virginia	Misdemeanor; 3rd in 5 years is felony	Stalking violation of domestic violence protection order calls for enhanced misdemeanor penalties
Wisconsin	Felony for limited set of stalking crimes, or A misdemeanor; 2nd misdemeanor stalking is E felony	Antiharassment protective order available; violation of order is 90 days
Wyoming	Felony for limited set of stalking crimes, or misdemeanor; 2nd misdemeanor stalking is felony	Stalking protective order available; Violation of order is misdemeanor
Guam	Felony of 2nd degree for limited set of stalking crimes, or felony 3	Stalking violation of domestic violence protection order is misdemeanor
Virgin Islands	Felony	Stalking violation of domestic violence protection order calls for contempt penalties

<sup>1</sup> This table was prepared in March 1998 by Neal Miller of the Institute of Law and Justice, Alexandria, VA.



## Appendix C

### STATE STALKING LAWS: HARASSMENT AND THREATS BY LEVEL OF OFFENSE<sup>1</sup>

State	Harassment	Threats and Menacing	Telephone Threats or Harassment	Other
Alabama	Misdemeanor		Misdemeanor	
Alaska	B misdemeanor		B misdemeanor	
Arizona	Misdemeanor	Misdemeanor	Class 1 misdemeanor	
Arkansas	Misdemeanor	D felony or A misdemeanor	Misdemeanor	Letter threat is misdemeanor
California		Misdemeanor	Misdemeanor; violation of order has 1 year penalty	
Colorado	Class 3 misdemeanor	Class 3 misdemeanor; with weapon is felony 5	Misdemeanor	
Connecticut	D felony	A misdemeanor	C misdemeanor	Letter threat is C misdemeanor
Delaware	G felony or B misdemeanor	Felony or misdemeanor		
District of Columbia		Misdemeanor		
Florida		Felony 2	Misdemeanor 2	Threatening letter is felony 2 Harassing minor under age 16 is felony 3
Georgia		Felony	Misdemeanor	
Hawaii	Misdemeanor	C felony		
Idaho			Misdemeanor; 2nd is felony	
Illinois		C felony	Class 3 or 4 felony	Letter threat is C felony
Indiana		A misdemeanor	B misdemeanor	Letter harassment is B misdemeanor

## Appendix C

### STATE STALKING LAWS: HARASSMENT AND THREATS BY LEVEL OF OFFENSE<sup>1</sup>

State	Harassment	Threats and Menacing	Telephone Threats or Harassment	Other
Iowa	Misdemeanor		Misdemeanor	Letter threat is misdemeanor
Kansas		Class 9 felony	Class A misdemeanor	Threat by fax is A misdemeanor
Kentucky		B misdemeanor	B misdemeanor	Letter harassment is B misdemeanor
Louisiana		Felony	Misdemeanor; 2nd is felony	
Maine	Class C crime (5 year maximum)	Class C or D crime (misdemeanor)	Class E crime (misdemeanor)	
Maryland	Misdemeanor	Felony	Misdemeanor (3 year maximum)	Threatening letter is a felony
Massachusetts		Misdemeanor	Misdemeanor (intimidation)	Stalking by e-mail, facsimile etc.
Michigan			Misdemeanor	Letter harassment is misdemeanor  Stalking by e-mail crime
Minnesota	Gross misdemeanor	Felony or misdemeanor	Misdemeanor	
Mississippi				Threatening by letter is a misdemeanor
Missouri	A misdemeanor	B misdemeanor; 2nd is A misdemeanor	Misdemeanor A	Letter threat is A misdemeanor
Montana		Felony (intimidation)	Misdemeanor; 3rd is felony	
Nebraska		Class 4 felony		
Nevada	Misdemeanor		Misdemeanor	Threatening by letter is misdemeanor
New Hampshire	Misdemeanor	Misdemeanor		
New Jersey	4th degree crime	3rd degree crime		
New Mexico	Misdemeanor		Misdemeanor; 2nd is felony 4	

## Appendix C

### STATE STALKING LAWS: HARASSMENT AND THREATS BY LEVEL OF OFFENSE<sup>1</sup>

State	Harassment	Threats and Menacing	Telephone Threats or Harassment	Other
New York	A misdemeanor	E felony or misdemeanor; 2nd is 10 year sentence maximum	Misdemeanor	Letter threat is A misdemeanor  Electronic harassment is crime
North Carolina		Class 1 misdemeanor	Misdemeanor 1	Letter threat is misdemeanor 1
North Dakota	B misdemeanor	C felony or A misdemeanor (menacing)	A misdemeanor	
Ohio		Misdemeanor 1 or misdemeanor 4	Misdemeanor 1; 2nd is felony 5	Aggravated trespassing with intent to harm is misdemeanor 1
Oklahoma		Misdemeanor (30 day maximum)	Misdemeanor	Threatening letter is misdemeanor
Oregon	A or B misdemeanor	B misdemeanor	B misdemeanor	Letter threat is B misdemeanor
Pennsylvania	Summary offense	Misdemeanor 1	Misdemeanor 3	
Rhode Island				
South Carolina	Misdemeanor		Misdemeanor	
South Dakota			Misdemeanor 1	
Tennessee			A misdemeanor	Letter threat is A misdemeanor
Texas	B misdemeanor	Misdemeanor	B misdemeanor	Letter threat is B misdemeanor
Utah		B misdemeanor	B misdemeanor	Letter threat is B misdemeanor
Vermont		Misdemeanor	Misdemeanor	
Virginia			Misdemeanor 1	Letter threat is felony 6

## Appendix C

### STATE STALKING LAWS: HARASSMENT AND THREATS BY LEVEL OF OFFENSE<sup>1</sup>

State	Harassment	Threats and Menacing	Telephone Threats or Harassment	Other
Washington	Gross misdemeanor; 2nd is C felony	Felony or gross misdemeanor	Gross misdemeanor or C felony	
West Virginia			Misdemeanor	
Wisconsin	Class A misdemeanor; 2nd is E felony	D felony	B misdemeanor	Threat by e-mail or other electronic communication  Letter threat is D felony
Wyoming			Misdemeanor	Electronic communication can be part of stalking harassment
Guam	Misdemeanor	Misdemeanor	Misdemeanor	
Puerto Rico		Misdemeanor		
Virgin Islands			Misdemeanor	Letter threat is misdemeanor

<sup>1</sup> This table was prepared in March 1998 by Neal Miller of the Institute of Law and Justice, Alexandria, VA.

## Appendix D

### SUMMARY OF STATE STALKING AND RELATED LAWS<sup>1</sup>

State	Stalking is felony-only crime	Harassment is crime	Threat is crime	Stalking civil order available	Stalking order registry	Arrest w/o warrant for stalking	Pretrial release limits
AL	X	X	(T)*				
AK		X	(T)				X
AZ	X	X	X (T)	X	X		
AR	X	X	X (T L)				X
CA	X + misdemeanor		X (T)	X			X
CO	X	X	X (T)	X			
CT		X	X (T L)				
DE	X	X	X				
DC			X (T L)				
FL	X + misdemeanor		X (T)	X		X	
GA			X (T)				X
HI		X	X				
ID			(T)	X		X	
IL	X		X (T L)				X
IN			X (T L)			X	
IA		X	(T L)				X
KS	X		X (T)				
KY			X (T L)				
LA			X (T)				
ME		X	X (T)	X		X	
MD	X	X	X (T L)			X	X
MA	X		X (T)				
MI	X + misdemeanor		(T L)	X	X		
MN	X + misdemeanor	X	X (T)	X			
MS			(L)				
MO	X + misdemeanor	X	X (T L)	X		X	
MT		X	X (T)	X		X	X
NE		X	X	X			
NV	X + misdemeanor		(T L)	X		X	
NH		X	X	X		X	
NJ		X	X				
NM			(T)				
NY		X	X (T L)				
NC		X	X (T L)				
ND		X	X (T L)	X			
OH		X	X (T)		X		X
OK			X (T L)	X			X
OR		X	X (T L)	X	X	X	

## Appendix D

### SUMMARY OF STATE STALKING AND RELATED LAWS<sup>1</sup>

State	Stalking is felony-only crime	Harassment is crime	Threat is crime	Stalking civil order available	Stalking order registry	Arrest w/o warrant for stalking	Pretrial release limits
PA		X	X (T)				
RI				X			
SC		X	(T)	X		X(Order Viol)	
SD				X			
TN			(T L)				
TX		X	X (T L)				X
UT			X (T)				
VT	X		X (T)				
VA			(T L)	X			
WA		X	X (T)	X	X		X
WV			(T)				X
WI		X	X (T L)	X			
WY			(T)	X		X (Order Viol)	
GU	X	X	X (T)				
PR			X				
VI	X						

\* T = Telephone threat; L = Letter threat.

<sup>1</sup> This table was prepared in March 1998 by Neal Miller of the Institute of Law and Justice, Alexandria, VA.



## Appendix E

# STALKING RESOURCES ON THE INTERNET

The Internet has rapidly become the primary information source for many individuals. Legal resources are especially prevalent on the Internet, with all but a handful of States having a website offering legislative and court decision information. Criminal justice agencies also have a major presence on the Internet.

A study on domestic violence sponsored by NIJ identified several sites directly related to stalking, including locations containing government reports on stalking, fact sheets, and training materials. Also available on the Internet are several law review articles on stalking laws, and victim-oriented materials, including advice on what victims can do to fight stalking. Finally, information is provided about groups helping stalking victims. The following are among the Internet stalking sites identified by the study:

Website Content	Internet Addresses
DOJ First Annual Stalking Report to Congress (1996)	<a href="http://ncjrs.org/txtfiles/stlkbook.txt">http://ncjrs.org/txtfiles/stlkbook.txt</a>
DOJ Stalking Report to Congress (Mirror site)	<a href="http://www.ojp.usdoj.gov/ocpa/94Guides/DomViol/">http://www.ojp.usdoj.gov/ocpa/94Guides/DomViol/</a>
Second Annual Stalking Report to Congress (PDF file) (1997)	<a href="http://www.ojp.usdoj.gov/vawgo/reports.htm">http://www.ojp.usdoj.gov/vawgo/reports.htm</a>
Model Antistalking Code	<a href="http://www.ojp.usdoj.gov/ocpa/94Guides/DomViol/appendb.htm">http://www.ojp.usdoj.gov/ocpa/94Guides/DomViol/appendb.htm</a>
Bureau of Justice Assistance Seminar on Stalking Law Implementation	<a href="http://aspensys.aspensys.com:209/R0-185754-range/ncjrs/data/anticode.txt">http://aspensys.aspensys.com:209/R0-185754-range/ncjrs/data/anticode.txt</a>
National Victim Center- stalking law fact sheet	<a href="http://www.nvc.org/ddir/info71.htm">http://www.nvc.org/ddir/info71.htm</a>
Another Fact Sheet	<a href="http://www.privacyrights.org/fs/fs14-stk.html">http://www.privacyrights.org/fs/fs14-stk.html</a>
Iowa Attorney General fact sheet on stalking	<a href="http://www.state.ia.us/government/ag/stalker.htm">http://www.state.ia.us/government/ag/stalker.htm</a>
Stalking FAQ	<a href="http://www.madcapps.com/Writings/faqabout.htm">http://www.madcapps.com/Writings/faqabout.htm</a>
National Victim Assistance Academy training manual	<a href="http://www.ojp.usdoj.gov/ovc/assist/nvaa/ch21-2st.htm">http://www.ojp.usdoj.gov/ovc/assist/nvaa/ch21-2st.htm</a>
National Victim Center help guide for stalking victims	<a href="http://www.ojp.usdoj.gov/ovc/help/stalk/info44.htm">http://www.ojp.usdoj.gov/ovc/help/stalk/info44.htm</a>
National Victim Center safety tips	<a href="http://www.nvc.org/gdir/svsafety.htm">http://www.nvc.org/gdir/svsafety.htm</a>
State stalking laws	<a href="http://www.nvc.org/hdir/statestk.htm">http://www.nvc.org/hdir/statestk.htm</a>
Law review article on efficacy of California stalking law	<a href="http://www.uchastings.edu/womenslj/jordan.html">http://www.uchastings.edu/womenslj/jordan.html</a>
Allen law review article on United Kingdom stalking laws	<a href="http://webjcli.ncl.ac.uk/1996/issue4/allen4.html">http://webjcli.ncl.ac.uk/1996/issue4/allen4.html</a>
Cyberstalking	<a href="http://www.cyberangels.org/stalking/">http://www.cyberangels.org/stalking/</a>
Survivors of Stalking	<a href="http://www.soshelp.org/">http://www.soshelp.org/</a>
Portland (OR) stalking information	<a href="http://www.multnomah.lib.or.us/dcfv/dvman/stalking.html">http://www.multnomah.lib.or.us/dcfv/dvman/stalking.html</a>
Online Harassment Resources	<a href="http://www.io.com/~barton/harassment.html">http://www.io.com/~barton/harassment.html</a>
Personal Protection Orders (PPOs) forms for Michigan available online	<a href="http://www.mivictims.org/ppo/index.html">http://www.mivictims.org/ppo/index.html</a>
Michigan's antistalking law	<a href="http://www.ingham.org/bc/wom/stalking.htm">http://www.ingham.org/bc/wom/stalking.htm</a>
Stalking Victims Sanctuary	<a href="http://www.econ.com/stalkvictim/">http://www.econ.com/stalkvictim/</a>

## Appendix F

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## Appendix G

# LIST OF CONTACTS FOR SENTENCING AND SUPERVISION OF STALKERS

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#### Denver District Attorney's Office

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### DELAWARE

#### Family Court of the State of Delaware

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Cook County State's Attorney's  
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## **NEW YORK**

### **Ithaca City Court**

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### **Westchester County Probation Department**

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## **MASSACHUSETTS**

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U.S. Department of Justice  
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