Legal Protections for Immigrant Stalking Victims

Immigrant victims of stalking face legal as well as cultural barriers when deciding to report their victimization. Victims have to consider that reporting the crime may jeopardize their legal status, particularly if they lose their husbands’ sponsorship. Yet recent federal laws—especially the Violence Against Women Act (VAWA)—allow immigrant women being stalked or battered by their husbands to petition for legal immigration status without their husbands’ sponsorship. Practitioners who work with immigrants need to understand the complex impact of immigration laws on their clients’ legal status and be able to help clients obtain the skilled legal help they need.

Violence Against Women Act of 1994
The 1994 Violence Against Women Act (VAWA I) allows the battered spouse of a U.S. citizen or legal permanent resident to apply for legal status on behalf of herself or himself in the U.S. This law takes away the power of a batterer or stalker to threaten his victim with deportation if she reports the abuse.

Prior Sexual Intimacy—An Important Factor in Threat Assessment

On the west side of town, a woman is murdered by her stalker while walking to her car. In the suburbs, a man kills his ex-wife and three children and then turns the gun on himself. In the industrial district, a man takes a gun to his wife’s workplace and begins shooting. Each of these events raises the same question: could this tragedy have been prevented?

Threat assessment—a term often used by criminal justice and mental health professionals but seldom defined—is an investigative and analytical process that seeks to answer this question. Threat assessment examines the social, biological, and psychological factors that affect whether an individual is likely to act violently at a given time. Unlike traditional
From the Desk of the Director:

Rethinking Our Advice to Stalking Victims

The Stalking Resource Center is always looking for the best, most up-to-date advice to give stalking victims. We subscribe to many journals and newsletters, and we read books on stalking. As we talk to practitioners in the field, we learn more about this crime and what can be done to help keep victims safe. One result of this search is that we are constantly rethinking and reevaluating the criminal justice system’s responses to stalking.

Because stalking has been recognized as a crime for only about a decade, our approach to the problem is still in its infancy. Creative practitioners around the country have developed great ways to respond to the crime and to keep victims safe. Those ideas, shared and spread around the country, have gained wide acceptance. For the most part, that’s great. But what do we do when we find out that our well-intentioned advice might actually be putting victims in danger? Experts are now struggling to find the best advice for victims about whether, when, and how they should respond to contact from their stalkers.

One common piece of advice is telling victims that if they “just ignore the stalker, the stalking will stop.” Experience has taught us that this advice seldom works. The stalker is pursuing the victim for a reason, and the behavior is likely to escalate if he or she is not getting the desired reaction from the victim. For example, if a victim who is being stalked via the Internet completely stops using the computer (even if that were possible), the stalker usually recognizes that he or she is being ignored and does something else to get the victim’s attention. Rather than ignoring the behavior, victims of stalking should seek help from trained advocates and law enforcement officers who can help them assess the threat level that the stalker poses and advise them what measures they can take to stay safe.

We are also reconsidering what to tell victims who report that stalkers are harassing or threatening them by phone. The standard advice has been that victims should disconnect their phones and get a new, unlisted phone number. Getting a new number is a good idea, but it turns out that disconnecting the old one may be a mistake. The Seattle Police Department’s Domestic Violence Unit has found that when stalking victims disconnect the phone, virtually 100 percent of the stalkers escalate their contact to in-person stalking. The Seattle Police now advise victims to get a new phone number but keep their old phone line active and connected to an answering machine to capture any possible evidence.

So, if ignoring stalkers doesn’t work, what about the advice many well-meaning professionals often give victims, to tell their stalkers—once and forcefully—to leave them alone? This advice may serve a purpose if the stalker doesn’t understand that his or her attentions are unwelcome and fear-inducing. Such stalkers may stop if they are appropriately warned. However, much stalking involves unmistakably deliberate behavior that could never be confused with innocent, possibly welcome, non-criminal behavior. In such cases, encouraging a victim to have contact with the stalker, in any form, only increases the stalker’s sense of power and control. Even when a warning seems appropriate, a great deal of thought and safety planning must precede contact with the stalker. Trained law enforcement officers or other legal agents, rather than the victim, should deliver the warning (which should not be a substitute for criminal charges). Because stalkers are dangerously unpredictable, warnings can put them “over the edge,” further endangering the victim.

So, as we work with victims, we need to keep helping them with safety planning and threat assessment, and keep looking for better ways to address the problem of stalking. But, as we do this, we must think through the ramifications of all our advice and regularly reevaluate strategies to make sure they are working as intended. Never underestimate the potential threat that a stalker may pose. And, as you figure out what is effective and what isn’t, please share your insights with us, so we can pass them along to other practitioners in the field!

Contact us at src@ncvc.org.

Tracy Bahm, Director
Stalking Resource Center
investigations, which happen after a crime takes place, threat assessments are conducted to prevent future violence from occurring. The goal of this approach, which is still developing, is to identify and manage the highest-risk offenders to prevent future violence. For stalking, a crime that is by definition ongoing, the benefits of threat assessment are significant.

Threat assessment begins with identifying and investigating the risk factors that indicate someone may be likely to commit a violent crime. Perpetrators of violence often have a “traceable history of problems, conflicts, disputes, and failures that affect their potential for future violence.” Identifying, investigating, and evaluating the factors that influenced a perpetrator’s history (and their combined effect) help evaluators assess the likelihood that a subject is moving in the direction of violence. Although it is not possible to identify all the risk factors affecting an individual, investigators try to identify as many of these indicators as they can.

In practice, the threat assessment process ranges from using a computer program to weigh and score risks to using checklists to assemble and then assess any available data on the perpetrator. Under ideal circumstances, threat assessments are done by a trained forensic psychologist with full access to information about them. In reality, most criminal justice agencies do not have that luxury. Yet all professionals who come into contact with victims and perpetrators (e.g., police, advocates, prosecutors, and probation officers) should be doing some form of threat assessment.

Post-threat-assessment strategies vary widely, depending on the crime and the resources available in the victim’s community. At a minimum, identifying a high level of threat should result in extensive safety planning for the victim and heightened vigilance from law enforcement in investigating the crime. Every professional who works with victims should be familiar with threat assessment and should play a role in using the technique to prevent crimes.

**Prior Sexual Intimacy**

Many experts view prior sexual intimacy between the stalker and the victim as one of the most significant predictors of violence in stalking cases. Law enforcement and the public tend to underestimate or even discount the high level of danger associated with this factor. Yet the research results are clear. J. Reid Meloy, a nationally recognized forensic psychologist and researcher in threat assessment and stalking, analyzed a number of risk factors, including major mental disorders (such as schizophrenia and mood disorders), explicit threats toward the victim, presence of personality disorders, chemical dependence or abuse, and prior criminal history. Of the three most significant predictors identified by the study (prior sexual intimacy, prior criminal history, and chemical abuse or dependence), prior intimacy showed the highest correlation with violence.

Meloy’s results are not surprising when viewed alongside other major research findings on stalking. In the National Violence Against Women Survey (cosponsored by the National Institute of Justice and the Centers for Disease Control and Prevention), 77 percent of female stalking victims were stalked by someone they knew and 59 percent by an intimate partner. Women stalked by a current or former husband or cohabitating partner reported that they were physically assaulted 81 percent of the time and sexually assaulted 31 percent of the time. Stalking and Intimate Partner Femicide, the National Femicide study on women who were murdered by former intimate partners, found that 76 percent of the victims had been stalked before being murdered.

Why is former intimacy such a red flag? Former intimate partners often stalk to exact revenge for the rejection and humiliation they experienced when the relationship ended. For many of these stalkers, rejection leads to rage. Investigator Amy Santiago, a detective who investigates serial stalking cases in the Domestic Violence Unit of the Alexandria, Virginia Police Department, reports that, “with past intimates, there is often an anger and rage that is not always present in cases involving non-intimates…. If the victim answers the door, the stalker could kill her.” “In homicides by former intimates,” Santiago added, “the murder is sometimes more violent than in non-intimate homicides. The body may be in worse shape—maybe the face is mutilated. The victim may be both shot and stabbed.” Investigators need to understand that the high degree of anger often present in intimate partner stalking cases may indicate a high risk of future violence.

Even the most angry and violent stalker can’t harm the victim, if he can’t find her. Yet former intimates are extraordinarily well equipped to hunt down their former partners because of all they know about the victims. They know where their victims work; the route they take to work; who their friends and family are; where they shop for groceries; their favorite restaurants, dentist, and hobbies; their Social Security number; and a great deal of other information. Stalkers can use this information to

Continued on page 11
Recent Stalking Court Cases
September 2003 – January 2004

Injunction against Repeat Violence Upheld
Huch v. Marrs, 858 So.2d 1202 (Fla. Ct. App. 2003)
The court affirmed the grant of an injunction against repeat violence and held that there was sufficient evidence to establish that the respondent had stalked the victim. The respondent repeatedly showed up uninvited to the victim’s home, workplace, and social activities, and followed her from Texas to Florida. Those activities showed a continuing, ongoing act that caused emotional distress to the victim and served no legitimate purpose. The stalking and repeat violence statutes were designed to protect victims by ensuring that they do not have to be injured or threatened with death before they can stop a stalker’s harassment.

Defendant’s Bizarre Sexual Requests and Persistent Questioning Found to Constitute Stalking
Iowa v. Evans, 671 N.W.2d 720 (Iowa 2003)
The court found there was sufficient evidence to support the defendant’s convictions for stalking and harassment. The record clearly showed that the defendant purposefully engaged in a course of conduct directed at the victim that would cause a reasonable person to fear bodily injury, and the defendant knew the victim would be placed in such fear. Given the defendant’s repeated and escalating attempts to photograph the victim, her steadfast refusals, and the bizarre sexual nature of the defendant’s proposals, a rational jury could have found that a reasonable person would fear injury. Also, given the persistent, repeated, and sexual nature of the defendant’s questioning, including his unexpected arrivals at the victim’s home, a rational jury could have found the defendant guilty of stalking.

Pattern of Conduct Directed at the Victim Is Sufficient for a Stalking Protection Order
In this case, in which two petitioners filed for protection orders because of stalking against the same respondent, the court held in one case that the petitioner had not met all of the elements of the definition of stalking.

Defendant’s Repeat Visits to Woman’s Home Lead to Aggravated Stalking Conviction
The court upheld the defendant’s conviction for aggravated stalking and found the evidence sufficient to support the conviction. The defendant was in direct violation of a condition of his probation when he came to the victim’s home. Even though the victim refused to open the door and requested that he leave, the defendant returned a short time later. The defendant’s actions caused the victim to feel it was necessary to call the police for protection. A rational jury could have found beyond a reasonable doubt that such acts were intended to harass and intimidate and that they reasonably placed the victim in fear for her safety.
and reversed the grant of a protection order. For the second petitioner, the court found that all of the elements of stalking had been proven and affirmed the grant of a protection order. Petitioner Overstreet failed to present sufficient evidence that the defendant engaged in a series of acts which would cause a reasonable adult to suffer substantial emotional distress. One personal interaction and one memo addressing the issue of sexual harassment in the workplace that was provided to several employees is not sufficient evidence of a “series of acts over a period of time.” Petitioner Montgomery proved that the defendant made verbal threats to her in a loud voice on more than one occasion, walked toward her with his arms flailing on one instance, and told her that she “better watch her back” and take that threat for “what it is worth.” Montgomery felt fear for her safety. The evidence was sufficient to establish a pattern of conduct consisting of several acts over a period of time that were directed at the victim. The actions served no legitimate purpose.

**Montana Stalking Statute Not Vague or Overbroad**

The court upheld the defendant’s stalking conviction. The court found that the statute was not vague or overbroad and did not violate the defendant’s constitutional rights. The words “repeatedly,” “harassing,” and “intimidating” have commonly understood meanings. The statute served a plainly legitimate purpose—to discourage the repeated, intentional, harmful conduct that constitutes stalking. Finally, the defendant’s contacts with the victim were not constitutionally protected and did not meet the exception for constitutionally protected activities in the stalking statute.

**Defendant’s Double Jeopardy Rights Not Violated and Ohio’s Stalking Statute Not Unconstitutional**

The court affirmed the defendant’s convictions for menacing by stalking. The court held that there was no violation of double jeopardy because the defendant was not being charged a second time for the same conduct for which he was previously charged, convicted, and punished. The use of his past convictions for domestic violence as sentencing enhancements did not constitute double jeopardy. The past evidence also tended to show the existence of “scheme, plan, or system” and was admissible under the evidentiary rules. The court also held that the statute was not overbroad. Although the phrases “history of violence” and “violent acts” were not specifically defined, such phrases had an ordinary meaning that did not include benign, otherwise protected conduct, such as corresponding with one’s children. The court found that the statute was not vague. The statute required the defendant to act “knowingly.” This knowing requirement helped to vitiate any vagueness claims. Finally, the court held that the exclusion of the testimony of the defendant’s psychiatrist was proper. The exclusion of psychiatric testimony on the issue of mens rea or specific intent did not violate a criminal defendant’s constitutional rights to due process.

**Stalking Protection Order Upheld**

The court upheld the grant of a stalking protection order requiring the respondent to have no contact with the petitioner and to turn over all of his firearms to the sheriff. The respondent had engaged in a pattern of conduct intended to cause mental distress to the petitioner. The first instance of conduct was the alleged threat made to a third party that he would shoot the petitioner; the second instance was the firing of his rifle over the petitioner’s car; and the third was the respondent’s chasing of the petitioner’s car. All of these instances formed the pattern of conduct.

**Felony Stalking Conviction Changed to Misdemeanor**

The court held that the evidence established the elements of misdemeanor stalking, but the aggravation of the stalking offense to a felony was improper. The conviction was reentered as a misdemeanor stalking offense. The court found that for an offense to be a felony, a stalking offense must have occurred not only subsequently to a previous stalking offense, but also subsequently to, and within seven years of, the prior conviction resulting from the prior offense. This did not occur in the present case. The evidence did show that the defendant intentionally and repeatedly followed and harassed the victim within the meaning of the statute. Because the victim had been previously assaulted by the defendant and the defendant threatened to whip the victim and brandished a brick, the victim would reasonably be fearful of bodily injury at the hands of the defendant. The evidence established the elements of misdemeanor stalking.
Stalking: A Guide for Law Enforcement

Stalking, a Problem Oriented Policing guide developed by the National Center for Victims of Crime, reviews the problem of stalking and the factors that contribute to it. The guide identifies a series of questions to help you analyze your local problem. Finally, it also reviews responses to stalking and insights into these responses from evaluative research and police practice. Download the guide on the Stalking Resource Center’s Web site, www.ncvc.org/src.

get these resources at www.ncvc.org/src

Stalking Resource Center Releases New Brochure for Victims of Stalking

“Are You Being Stalked,” our new brochure for victims of stalking and individuals who suspect they are being stalked, defines and describes stalking, identifies common emotional reactions of victims, and provides information on safety planning and community resources. It gives victims useful information on stalking and how to stay safe and get help.

Download the brochure from www.ncvc.org/src. To print the brochure with your organization’s contact information, call the SRC at (202) 467-8704. The staff will add your information to the PDF and e-mail the file to you.


For example, after victims report the crime, social workers can help victims navigate the legal labyrinth and deal with the disbelief that victims sometimes encounter from authorities. They can also help victims decide whether to obtain a protective order.

The article includes tips that social workers can give victims to decrease their vulnerability. Social workers can develop a complete picture of a stalking victim’s situation and help devise effective coping and safety strategies. Drawing on this knowledge, they can also develop educational and advocacy programs to help communities and law enforcement agencies effectively combat stalking.


YOUR INPUT

Is there a topic you would like us to cover in our newsletter? Are you interested in contributing an article for publication in The Source? Send us your articles or story ideas, and also let us know how you like our new design and name.

src@ncvc.org
The Use of Technology in Intimate Partner Stalking

A Conference for Grantees of the Office on Violence Against Women

Free registration available at www.ncvc.org/src.
Little information is available on the prevalence and characteristics of stalking among young people because most research on stalking focuses on adult victims. A recent survey, however, sheds some light. “Stalking and Other Forms of Intrusive Contact After the Dissolution of Adolescent Dating or Romantic Relationships” (Haugaard & Seri, Violence and Victims, Volume 18, Number 3) found that a significantly high percentage of the teenage respondents (20 percent) had been stalked or harassed.

Researchers distributed questionnaires to 790 undergraduates enrolled in social science classes at 2 medium-sized public universities in the eastern United States. The researchers specifically examined dating relationships that began during high school or college and lasted at least a month; in these relationships, one party clearly expressed a desire to end the relationship and the other party began engaging in stalking and other intrusive contact that lasted at least two weeks.

Prevalence
Twenty percent of the survey respondents had been stalked or harassed; eight percent had initiated stalking or harassment; and one percent had been both the target and the initiator. Fifty-seven percent of the targets of stalking had been stalked after only one relationship, twenty percent after two different relationships, and almost six percent after three relationships. Female respondents were more likely than male respondents to have been stalked.

The average age of the victim when her or his relationship with the perpetrator began was 17 for females and 16 for males, indicating that the respondents had been in high school at the time. The average age of the initiator of stalking and other intrusive contact was 18 for females and 16 for males. Ninety-five percent of female victims had been targeted by a male, and 85 percent of male victims had been targeted by a female.

Reasons for ending the relationship included recognizing negative qualities in the partner (52 percent), losing interest (38 percent), feeling smothered (33 percent), wanting to move on (26 percent), developing another relationship (15 percent), and going away to college (9 percent).

Nature of Stalking and Harassment
In 50 percent of the cases, the intrusive contact began within a day after the end of the relationship, and in many other cases within three weeks. In cases where the intrusive contact had already ended (at the time of the survey), the median duration of the contact had been eight weeks. In cases where stalking or harassment was ongoing at the time of the survey, the median duration of ongoing intrusive contact was twenty-two weeks.

The most common methods of contact were phoning; stopping by the victim’s residence; calling back repeatedly; calling at inappropriate times; waiting outside the victim’s residence, class, or work; calling and hanging up; driving by the victim’s residence; leaving notes on their front door or window; and following the victim. Researchers found no statistically significant associations between the gender of the person initiating the behavior and any of the individual behaviors, except that waiting outside the victim’s residence, class, or work was not as prevalent among female perpetrators. Ninety-four percent of the respondents told someone—mostly friends, parents or siblings—about the intrusive contact. Only 15 percent of the respondents reported the stalking and other intrusive contact to a counselor or a counseling agency, and 8 percent contacted local law enforcement.

Impact of Stalking
Researchers examined the consequences of stalking and other intrusive contact, both short-term and long-term. They found that 12 percent of those pursued by females and 23 percent of those pursued by males feared for their safety. The study found no association between the victims’ gender and fear for their safety.

Thirty-one percent of the respondents said that being stalked or harassed had a negative impact on either their future dating relationships or their life in general. Twenty-one percent of the respondents said that this experience had a decidedly positive influence on their subsequent dating relationships, and 26 percent reported a positive impact on their life in general. Researchers were unable to uncover relationship variables associated with a positive or a negative influence on victims’ dating relationships or life in general.

(Footnotes)
2 This finding is similar to one in the Fisher study (footnote 1), which found that 93 percent of victims told someone about what had happened to them.
Immigrant Victims (Continued from Page 1)

An immigrant woman seeking to apply for legal status under VAWA must prove that she is a “battered immigrant woman” who has been the victim of “battery or extreme cruelty,” a term recognizing that domestic violence encompasses more than physical and sexual abuse.² Battery or extreme cruelty is defined as “any act or a threatened act of violence, including any physical or mental injury, which results or threatens to result in physical or mental injury.”³ The VAWA regulations, phrased in much more specific language than that of the broader statutes,⁴ define battery and extreme cruelty as abuse that includes, but is not limited to, causing or threatening to cause physical or mental injuries, psychological or sexual abuse, and actions that in and of themselves may not initially appear violent, but are part of an overall pattern of violence.⁵

Battery or extreme cruelty includes acts that constitute the pattern of behavior found in stalking cases. Some behaviors that courts and researchers have found to constitute extreme cruelty include social isolation, possessiveness and harassment, threats, economic abuse, degradation, and sexual abuse.⁶ An individual who has been subjected to types of abuse other than physical violence can be successful in applying on her own (self-petition) for legal status if she can prove her case.⁷

VAWA I was a dramatic victory for battered immigrant women. Yet the law specified a number of requirements (most of which still apply) that the self-petitioner must meet. The battered immigrant woman had to:

- Prove the legal immigration status of her abuser.
- Have entered into the marriage in good faith.
- Currently reside in the U.S.
- Have resided in the U.S. with the abuser at some time.
- Have good moral character (i.e., not have been convicted of a crime within the last several years).
- Prove that she would suffer extreme hardship if deported.⁸

Some of these requirements made it particularly difficult for a battered immigrant woman to petition for legal status. If she divorced her husband, she could not file because VAWA required her to have been married to the abuser at the time of the petition. If she had been convicted of a crime—for example, as a result of a domestic violence incident—she might not have been able to prove her good character.

Cancellation of Removal

In addition to self-petition, VAWA I allows a battered immigrant woman to apply for “cancellation of removal” if her spouse has placed her in a removal proceeding (asking to remove her from the country). To apply, she must prove that she had been in continuous residence in the United States for three years immediately preceding filing, she has been subject to battery or extreme cruelty by her spouse while in the United States, her own moral character is good, she or her child would suffer extreme hardship if deported, and she is currently deportable/removable (undocumented or out of status).⁹

VAWA II: Self-Petitioning

As legislators began to recognize the hardships imposed by some of the VAWA I requirements, they began to modify the law. VAWA II, passed in 2000, eliminated several of the barriers to battered immigrant women seeking to self-petition for legal status. First, if reporting the crime results in the batterer’s loss of legal
Battered immigrant women need referrals to trained immigration attorneys or leaders in the immigrant community to help them navigate the legal procedures that determine their status.

status, the woman may still file a self-petition if she does so within two years of the batterer’s loss of status or citizenship. Another improvement is that under VAWA II, a battered immigrant woman who has divorced her batterer can still self-petition as long as she does so within two years of the divorce and the divorce is related to the domestic violence. VAWA II also eliminates the extreme hardship requirement for battered immigrant women self-petitioning for legal status.

VAWA II broadens the categories of immigrants who can apply for self-petitions to include battered spouses who unwittingly married bigamists and battered spouses who filed VAWA self-petitions within two years of an abusive spouse’s death. Battered immigrants who are living abroad and married to U.S. government employees or members of the military can also apply.

**U-Visas**

VAWA II also allows legal immigrant status under the new U-Visa, which offers new hope to immigrant victims who are not married to their stalkers or batterers (but who are in the United States on a work, student, or other visa). The U-Visa was designed for non-citizen crime victims who have suffered substantial physical or mental abuse flowing from criminal activity and who have agreed to cooperate with government officials investigating or prosecuting such criminal activity.

A petitioner for a U-Visa must meet five conditions. She must have suffered substantial physical or mental abuse as a result of having been a victim of one or more criminal activities listed in the act. She must possess information concerning the criminal activity that is being investigated. She must be helpful, have been helpful, or show that she is likely to be helpful in a federal, state, or local investigation or prosecution of a form of listed criminal activity. She must obtain certification from a law enforcement officer, prosecutor, judge, Bureau of Citizenship and Immigration Services official, or other federal or state authority investigating or prosecuting any of the criminal activities. Finally, the criminal activity described must have violated the laws of the United States or have occurred in the United States or territories and possessions of the United States. Applicants for U-Visas may submit “any credible evidence” to support their petitions. There is still some debate about who can apply for U-Visas and how much applicants need to prove. The guidelines are unclear, and there is discretion in applying them to individual cases.

**Conclusion**

The Violence Against Women Act allows immigrant women who are being battered or stalked to apply for legal immigration status without the sponsorship or cooperation of their batterers and stalkers. Immigrant victims may be unaware of these available protections and confused about how to apply for them. They may also not understand other immigration laws that affect their status. Professionals in victim services, law, and law enforcement who work with these victims must understand the complexity of these laws, the extensive proof they often require, and their impact on victims’ legal rights. Battered immigrant women need referrals to trained immigration attorneys or leaders in the immigrant community to help them navigate the legal procedures that determine their status. By working together, practitioners in stalking and immigration can help immigrant women assert their rights.

(Endnotes)

1 Cultural barriers faced by immigrant stalking victims were covered in the last issue of this newsletter, and the article “Immigrant Stalking Victims Face Complex Challenges” is available at www.ncvc.org/src.


4 Ibid.

5 Ibid.

6 American Bar Association at 19.

7 Ibid.

8 8 C.F.R. 204.2

9 American Bar Association at 13.

10 8 C.F.R. 204.2

11 Ibid.

12 Ibid.

13 Ibid.

For more resources on stalking and immigrant victims, visit:

http://www.ncvc.org/src


http://uscis.gov/graphics/howdoi/battered.htm

http://www.ojp.usdoj.gov/avao/regulations.htm
Threat Assessment
(Continued from Page 3)

track, access, and physically confront their victims. Stalkers who share custody or have visitation rights also have a court-ordered opportunity for physical confrontation and murder.

Implications
What do professionals who work with stalking victims need to know about prior intimacy as a risk factor for violence? Above all, they should recognize that stalkers who are prior intimates may pose a grave threat to their victims. They should assign these cases a high priority and consider using surveillance and other aggressive investigative techniques when possible and appropriate. Investigators should ask, “How much and what information does this stalker have about the victim? What opportunities does the stalker have to commit violence?” They should also collaborate with any community agencies that can contribute to keeping victims safe. Victims urgently need to have a safety plan and know whom to call if the stalker initiates direct or indirect contact. Thoroughly investigating and vigorously prosecuting these (and other) stalking cases can prevent future violence.

The threat assessment field, still in its infancy, has great potential for use by investigators. This article is the first in a series on the practical implications of threat assessment and its role as a useful tool in stalking cases. We'd like to hear about how your agency uses threat assessment. If you know about any good work being done in this area, please contact us at src@ncvc.org.

(Footnotes)

Legislative Update

California
AB 184, signed by the governor on October 8, 2003, allows stalking victims to keep their address and other personal information confidential for a period of four years when they register their cars or obtain a driver’s license from the Department of Motor Vehicles. Stalking victims must provide the department with either a certificate or identification card issued by the Secretary of State or verification acceptable to the department that victims have reasonable cause to believe either that they are the subject of stalking, or that there exists a threat of death or great bodily injury to their persons.

New York
SB 519 amends the stalking in the second degree statute and adds a section that states a person is guilty of stalking in the second degree when he or she commit the crime of stalking in the third degree against ten or more persons or in ten or more separate transactions for which the actor has not been previously convicted. This bill was enacted into law on September 30, 2003.

New Jersey
AB 276 makes it a crime for persons convicted of stalking, either in New Jersey or elsewhere, to purchase, own, possess, or control a firearm. Upon conviction of this crime, the person shall be sentenced to a term of imprisonment by the court. That term shall include the imposition of a minimum term, which shall be fixed at five years, during which the defendant is ineligible for parole. This bill was signed into law on January 14, 2004.

3 Meloy, 3.
4 Meloy, 3.
5 A personality disorder is an inflexible pattern of behavior and experience that leads to distress and impairment. (American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision. Washington, DC, American Psychiatric Association, 2000.) Personality disorders are distinguished from other disorders such as psychotic disorders (which can be associated with gross impairment in thought patterns, and delusions, auditory or visual hallucinations.) Psychotic disorders, for example, are classified by the American Psychiatric Association as Axis I, or clinical disorders. Meloy makes a distinction between psychotic disorders and personality disorders, which the American Psychiatric Association classifies as Axis II (not clinical disorders).
6 Meloy, 3.

8 Ibid.
9 Ibid.

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