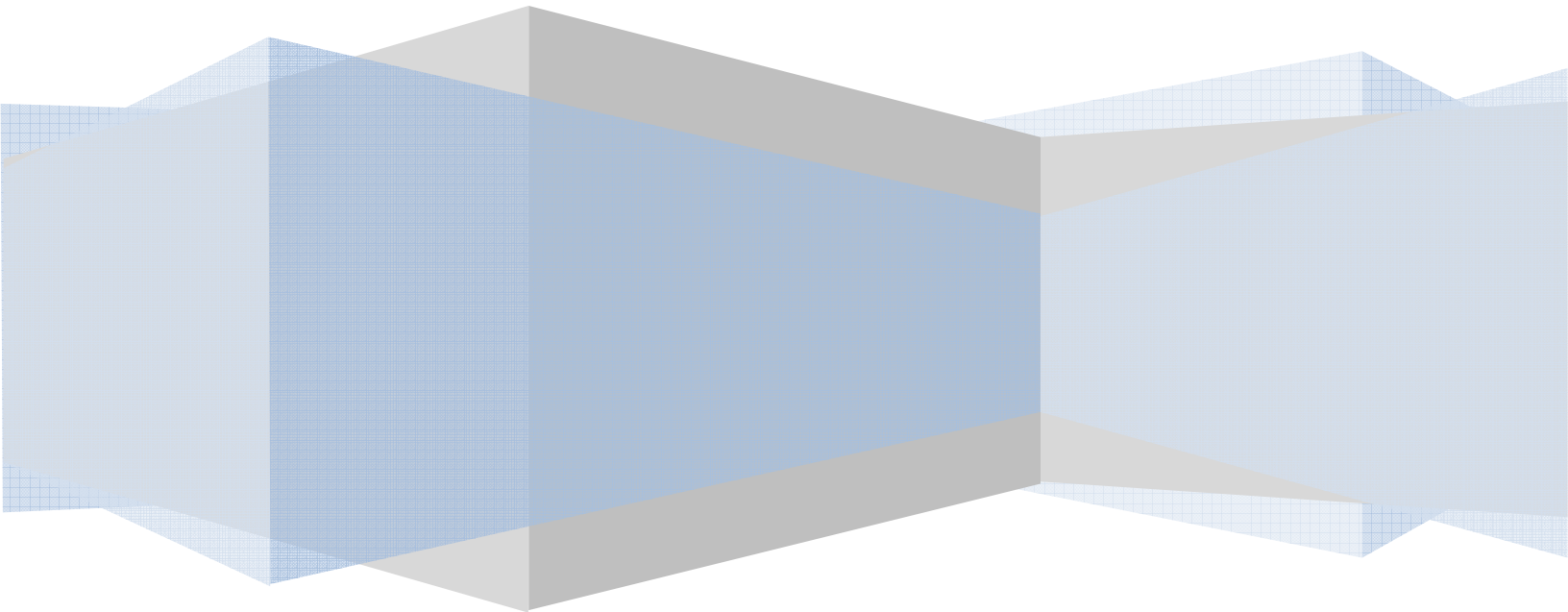


A Guide to Encourage Best Practices for New Mexico Law Enforcement in Stalking Investigations

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The New Mexico Sexual Assault Coalition received a grant to develop guidelines to encourage best practices for law enforcement officers in order to improve law enforcement response to stalking in New Mexico. A committee consisting of various disciplines assisted in creating these guidelines. The members of this committee were: Ann Badway, NM Office of the Attorney General, Anthony Maez, Albuquerque Police Department, Jolene Altwies, NM Office of the Attorney General, Randall Glover, Instructor/Consultant, Elena Giacci, Sacred Circle, Anne Keener, Public Defender’s Office, Louise Tracey, La Pinon Trauma Recovery Services, Lyndy Bennett, 11th Judicial DA’s Office – Div. I, Sandy Rumore, Farmington Police Department, and Ellen Gatewood, New Mexico Coalition of Sexual Assault Programs, Inc. The committee acknowledges that not all law enforcement agencies may be able implement all of the guidelines; the purpose of the guidelines is to encourage best practices.

These guidelines, which are suggestions only, are offered to assist agencies throughout New Mexico in their response to stalking.

Since each jurisdiction is unique, these guidelines contain examples of strategies and approaches to help dispatchers, responding officers, investigators, detectives, victim service providers, and victims in stalking investigations. Depending on the size of the jurisdiction and law enforcement agency, in some cases the initial officer will do the entire case from beginning to end. In other agencies, where case responsibility is split, the patrol officer may document a single crime of stalking and/or violation of a restraining order, and an investigator/detective will do the follow-up work. Whichever system is used, it is critical that all law enforcement officers and those involved in stalking response understand the risks to the safety of the stalking victim.



I will point out throughout this guide common mistakes and things to remember.

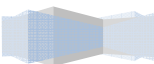


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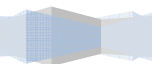
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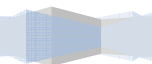
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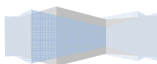
INTRODUCTION

Why do we need to encourage stalking best practices?

Basics of law enforcement response and the early recognition of potential stalking cases are critical to aid in victims' safety. Many stalking cases do come to the attention of the police early in the stalking behaviors, and appropriate stalker interventions by law enforcement can often stop the stalking behaviors before serious crimes or injuries occur. However, not all cases are referred or readily identified through standard means or channels. Law enforcement officers need to develop ways to identify these cases. By the time some stalking cases reach the attention of law enforcement or the courts, criminal offenses have already been committed that pose serious risks to the safety of the victims, and therefore require an affirmative response to reduce the risks for the victim.

The first responder should take whatever steps are reasonably necessary to protect the victim. Generalizing about what a stalking victim should do in any particular case can be dangerous. Not all stalkers are the same, nor are they predictable. Most stalking victims are afraid of their stalker whether they have been expressly threatened with harm or not. But the degree to which the stalker really poses a threat is often difficult to assess. However, it is generally agreed that the domestic violence stalker may pose the highest risk of all.

These guidelines will describe best practices to enhance police responses to stalking. Its focus is collaborative community partnerships and best practice guidelines to help police departments address stalking more effectively and appropriately. Stalking is not a new phenomenon, but has only recently been recognized as a significant and widespread problem. It differs from many other crimes in at least two respects. By definition, it is a form of **repeat victimization–behavior** constituting a series of incidents rather than a single criminal act. It is also a crime that is defined, in part, by its impact on the victim–by the fear it induces.

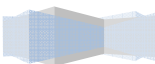


Individual stalking incidents looked at in isolation often appear innocent. But once identified as part of a pattern of behavior of unwanted contact imposed on the victim by the perpetrator, it's another story. Whether they are linked to domestic violence or involve perpetrators who are acquaintances or strangers, stalking incidents become threatening and sinister, even in the absence of any overt threats to harm the victim. In a significant number of cases, stalking is in fact, a precursor to lethal violence.

The fear induced by stalking, the drastic way it disrupts victims' lives, and the real dangers faced by many victims all demand effective intervention by law enforcement. Yet, stalking is exceptionally difficult to police—difficult to investigate, prosecute, and prevent—and the majority of police departments in the United States lack clearly defined policies to deal with it.

Traditional "reactive" policing is ill-suited to the challenges because it means waiting for something to happen and then responding. Where there is an ever-present risk that stalking will cross over into physical violence, and victim safety and prevention are the priorities, such an approach inevitably falls short. Stalking by its nature calls for early intervention, preventive action, and proactive problem-solving, these are the hallmarks of community policing.

According to the *Statewide Survey of Victimization in New Mexico* conducted by Betty Caponera, Ph.D. with the New Mexico Sexual Assault Coalition, it's estimated that **nearly one in four women and one in fourteen men are stalked at least once in their lifetime in the State of New Mexico.** Increasing awareness about the impact of stalking has prompted the the New Mexico legislature to pass anti-stalking laws. However, while enacting legislation is a critical step, laws alone accomplish little without clear anti-stalking policies and effective enforcement on the ground. Yet, most law enforcement agencies across the country have not adopted distinct policies and procedures for intervention in stalking cases. It is therefore not surprising that nearly twenty percent of the stalking victims say that police departments did absolutely nothing in response to their complaints.

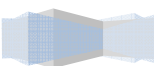


This stalking guide to encourage best investigative practices is based on the premise that a comprehensive, coordinated, community response is the best way to effectively address the needs of stalking victims and hold stalkers accountable. It is designed to clarify the nature of stalking and map out ways in which law enforcement can work collaboratively with community stakeholders to improve their responses to stalking.

Stalking cases present a unique and ongoing threat to the victim, the seriousness of which is difficult to predict and may involve ongoing behavior by a suspect that can literally last for years. Due to the difficult and dangerous nature of this conduct, law enforcement throughout the State of New Mexico should act quickly to investigate all harassment, threatening behavior, and stalking reports in a manner that will protect the victim and facilitate the arrest of the stalker. Emphasis should be on providing as many measures of safety for the victim as possible through all available strategies and interventions.

Law Enforcement should convey sensitivity to victims and an attitude that stalking is criminal behavior and will not be tolerated. Law Enforcement should treat all acts of stalking as criminal conduct, determining if probable cause exists for an arrest, and then taking the appropriate action. Law Enforcement should make efforts to ensure that victims are informed of all available services within the department and the community.

Each individual Law Enforcement agency in this State should act as the lead in implementation of a collaborative plan to involve all disciplines in promoting a coordinated team approach towards stalking cases. The ultimate goal of the collaborative plan, and the policy itself, is to significantly reduce stalking in the community.



Tribal police impediments to a successful response

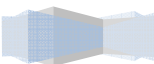
- There may be **logistical problems** that face law enforcement.

For example:

- In rural areas there are usually a limited number of police officers to respond to calls.
- Officers must usually travel long distances to reach victims who may already be in a life threatening situation.
- Some tribal police departments do not have a 911 emergency system in place.
- Many tribes do not have tribal jails, or lack sufficient space in their jails to keep suspects in custody pending their first court appearance.

There can be **jurisdictional issues** that complicate the law enforcement situation:

- For example, there can be confusion as to which law enforcement agency has jurisdiction over a call in checkerboard reservations.
- There may also be issues about which agency has jurisdiction over the stalker.
- There can be societal/cultural issues that complicate the law enforcement situation.
- Rural victims often have limited access to phones, transportation, emergency services and shelters.
- In small communities, where everyone knows everyone else, victims may hesitate to contact law enforcement, or seek other support services out of shame or for fear that their stalker will find out.
- A victim may be deterred from contacting law enforcement because their stalker is a friend or relative of a law enforcement officer or service provider.



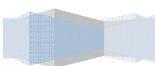
Tribal police officers should be familiar with **federal and state statutes** and how they apply to stalking. In many cases the completed case may be turned over to another jurisdiction.

The Struggle for Underserved Populations

Research on victimization has revealed that some population segments are more likely to be victimized than others (USDOJ/OVC, 2006). The Bureau of Justice Statistics in 1999, published *American Indians and Crime* (Greenfeld & Smith, 1999). This was the first extensive statistical report on violent crime and victimization among American Indians/Alaska Indians (AI/AN) produced by the United States Department of Justice. In the 2000 Census, 4.3 million people, or 1.5 percent of the total U.S. population reported that they were American Indian and Alaska Native. Unfortunately this group experiences violent victimization at a rate of 124 per 1,000 persons over age 12, whereas all races have a violent victimization rate of 50 per 1,000 persons over age 12. This means that Indians experience violent victimization at more than twice the national rate.

American Indian Statistics:

- Population estimates from the Bureau of the Census for July 1, 1998, indicated that American Indians account for just under 1% of the U.S. population.
- 17% of Native American women have been stalked. *American Indians and Crime Report* US Department of Justice, Bureau of Justice Statistics – February 1999.
- NVAW survey found that American Indian/Alaska Native women reported more stalking victimization than female victims of other racial or ethnic background.
- About 1 in 4 employed American Indian victims of violence said that the incident occurred in the workplace.
- More than 40% of American Indian murder victims were killed by an offender who was not an American Indian; in 33% of the cases the offender was white. In American Indian murder cases in which the victim offender-relationship was known, strangers accounted for approximately 16% of the murders. Acquaintances accounted for about half the murders. (According to the NCVS on "Injuries from Violent Crime, 1992-1998," homicide is among the top 5 causes of death for persons younger than 35.)



- American Indians experience per capita rates of violence which are more than twice those of the U.S. resident population. (120 per 1000 persons age 12 or older--or about 2-1/2 times the national rate, compared to less than 50 per 1000 persons for Asian/Pacific-Islanders.)
- The murder rate among American Indians is 7 per 100,000, a rate similar to that found among the general population. (The rate of murder among blacks is more than 5 times that among American Indians, however.)

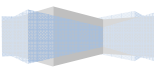
Immigrant Stalking Victims Face Complex Challenges

All stalking victims face complex questions when deciding whether to report the crime. They want to know, *"Should I report it?" "How do I file a report?" "Will anyone believe me?" "Will anyone help me?" "What will happen if the stalker is someone I love?" "Will reporting the crime put me in even greater danger?"* These questions are even more daunting when the victim is an immigrant woman living in the United States, married to her stalker, and unfamiliar with the language, laws, legal system, or culture. These victims may ask, *"Is this really a crime? "If I report this problem to the police, will I lose my legal immigration status?" "Will the report bring shame on my family?" "Doesn't my husband have the right to treat me like this?"* Law Enforcement agencies who serve stalking victims in immigrant communities must **understand** both the **cultural and legal barriers** that make it difficult for immigrant women to report stalking and gain access to services.

Cultural Barriers

Fears about Immigration Status

One of the main instruments of control that stalkers use against immigrant victims is to threaten victims' immigration status and exploit their fears of being deported. Immigrant women may be legally present in the United States under a variety of different immigration laws or rules. The immigration status of women married to stalkers may be tied to the status of their husbands. These women may be reliant on their husbands for their legal right to stay in the United States or petition for their own residency status, and their children's immigration status may also be related to the stalker's status. If a victim is in the United States on a temporary visa that is tied to her stalker's visa, the stalker's threats of deportation and return to the home country are both credible



and frightening for the victim. Stalking victims in this country on visas that require the stalker's sponsorship may fear the withdrawal of that sponsorship.

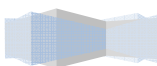
Isolation

Immigrant stalking victims are often particularly susceptible to isolation tactics of stalkers. Some women may have no extended family network in the United States and no one to confide in. Stalkers may also limit their contact with their families, both in the United States and abroad, and prevent the women from learning English. Immigrant women victims may also be isolated from American neighbors and community members. By preventing the victims from learning English or wearing "American" clothes, stalkers may limit victims' ability to function and find support in the United States. With no access to informal support networks, the victims find it difficult to find the help they need. Stalkers also use varied tactics to isolate their victims from families abroad. In addition to limiting victims' contact with their families, stalkers may use technology to send inaccurate information abroad. Stalkers may also prevent their victims from reporting stalking, by implicating their victims in crimes.

Stigma and Shame

Compounding the isolation of many immigrant victims of stalking is their fear that reporting the crime would expose them, their husbands, and their families to shame before their own and their new U.S. communities. Because many cultures view intimate partner stalking as merely a "family issue," victims may hesitate to "dishonor" their families by exposing the problem.

Legal Status of Stalking in Home Countries



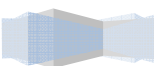
Immigrants who come from communities or countries that do not criminalize stalking may not understand that in the United States, stalking is a crime. It usually does not occur to victims from countries without stalking laws to call the police and report being stalked. And even if the victim knows that stalking is a crime in the United States, she may not be aware of the resources available to support her in seeking help (e.g., social, legal, and health services).

Economic Factors

Finally, economic factors may affect a victim's response to stalking. Immigrant victims of stalking may lack access to work, money, and the language skills needed to operate in American society. The stalker may control all the family's resources. Economically vulnerable stalking victims may fear that reporting their victimization will jeopardize their ability to take care of their families or to send resources to their families abroad. They may fear that an interruption in the flow of such resources would alert their extended families to the stalking occurring within their marriages. These factors can greatly influence the woman's decision to make an official report.

Mobilizing to Serve Immigrant Victims

Victim service providers must understand and be sensitive to the cultural barriers that may prevent immigrant women from reporting their victimization. Service providers must also understand that members of different cultural communities may describe types of stalking that providers might not immediately recognize. For example, some immigrants are stalked by their own family members because they have chosen to marry someone they love instead of someone pre-selected by their family. In such situations, families may follow the victim and monitor her movements, lock her in a certain location to prevent her from meeting the person she wishes to marry, threaten to harm her or her intended spouse if they do not end their relationship, and even kill her to prevent her from marrying.



Advocates, law enforcement officers, prosecutors, and legal services attorneys need training to understand the different populations they are serving and the cultural prism through which immigrant communities view the issue of stalking. Victim service providers should develop alliances with and learn from the culturally specific service agencies and community leaders who serve those communities. Partnering with such agencies may increase the resources available to the victims they seek to serve. These agencies can provide translators and increase service providers' understanding of the factors influencing the stalking victim's decisions. Such collaboration will lead to better and more culturally competent services for victims of stalking and perhaps encourage them to seek help and protect their rights.

LAWS

New Mexico Law

30-3A-3. Stalking penalties

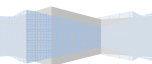
b. As used in this section, "household member" means a spouse, former spouse, family member, including a relative, parent, present or former step-parent, present or former in-law, child or co-parent of a child, or a person with whom the victim has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for the purposes of this section.



Note: child is considered a household member under the Stalking statutes.

Stalking. 30-3A-3

- ❖ Knowingly pursuing a **pattern of conduct** that would cause a reasonable person to feel



- frightened
- intimidated or threatened



*Remember: charge if more than one act
("pattern of conduct")*

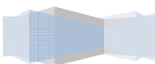
*Did the victim "feel frightened, intimidated or
threatened"? (not found in harassment statute)*

- The Stalker must intend to place another person in reasonable apprehension of :
 - death
 - bodily harm
 - sexual assault
 - confinement or restraint
- ✚ or
- The stalker must intend to cause a reasonable person to fear for his safety or the safety of a "household member."
- The Stalker must **commit one or more of the following acts on more than one occasion:**
 1. following another person, in a place other than the residence of the alleged stalker;
 2. placing another person under surveillance by being outside the person's
 - residence
 - workplace
 - motor vehicle or
 - any other place frequented by that person
 - or
 3. harassing another person

Penalty: Whoever commits stalking is guilty of a misdemeanor, upon second or subsequent conviction, guilty of a fourth degree felony.

Aggravated Stalking. 30-3A-3.1

- ❖ Consists of stalking perpetrated by:



1. knowingly violating a permanent or temporary Order of Protection
2. violating court orders setting conditions of release and bond
3. when the person is in possession of a deadly weapon

(State of NM v. Anderson , 130 N.M. 295, 24 P.3d 327 N.M. Ct. App. 2001).

Under an aggravated stalking charge, when there is the presence of a deadly weapon that falls within the catchall language of the deadly weapon statutes, the jury must be instructed: (1) that the defendant must have possessed the object or instrument with the intent to use it as a weapon, and (2) the object or instrument is one that, if so used, could inflict dangerous wounds.)

4. victim is less than 16 years of age

Penalty: Whoever commits aggravated stalking is guilty of a 4th degree Felony, upon a second or subsequent conviction, guilty of 3rd degree.



Note: You must show the elements of Stalking to have Aggravated Stalking!

What is a deadly weapon?

- ❖ 30-1-12(B)NMSA “deadly weapon” means any firearm, whether loaded or unloaded; or any weapon which is capable of producing death or great bodily harm, including but not restricted to any kind of daggers, brass knuckles, switchblade knives, bowie knives, poniards, butcher knives, dirk knives and all such weapons with which dangerous cuts can be given or with which dangerous thrusts can be inflicted, including sword canes, and any kind of sharp pointed canes, also slingshots, slung shots, bludgeons; or other

weapons with dangerous wounds can be inflicted. “Or any weapon which is capable of producing death or great bodily harm.”

Other Applicable Legal Considerations

The Stalking law does not necessarily replace similar laws. This statute can play an important role in enforcement of the laws against stalking behavior. Stalking is often supplemented by other laws that provide penalties for stalking-like behavior that lacks some element of stalking, and such laws can often be applied to as stalking behaviors and situations in order to effectively respond to incidents and provide safety for the victim.

Harassment is a law that has been **incorrectly charged** as Stalking because the conduct is very similar to a lesser degree.

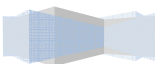
Harassment. 30-3A-2

- ❖ Knowingly pursuing a pattern of conduct that is intended to
 - annoy
 - seriously alarm or terrorize
 - **and** serves no lawful purpose.
- The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.

Penalty: Whoever commits harassment is guilty of a misdemeanor.

Other applicable State Statutes

- 30-2-1. Murder
- 30-4-1. Kidnapping



- 30-4-3. False Imprisonment
- 30-9-11. Criminal Sexual Penetration
- 30-20-12. Use of Telephone to Terrify, Intimidate, Threaten, Harass, Annoy or Offend
- 40-13-6. Violation of Order of Protection
- 30-3-1. Assault
- 30-3-4. Battery
- 30-16-1. Larceny
- 30-9-11. Criminal Sexual Penetration
- 30-12-1. Interference with Communication
- 30-24-3(A). Bribery Intimidation of a Witness
- Domestic violence statutes
 - ✓ 30-3-14. Assault against a household member with intent to commit a violent felony
 - ✓ 30-3-15. Battery on a Household Member
 - ✓ 30-3-16. Aggravated battery against a household member

➤ *Case law*



In State of New Mexico v. Gonzales, 123 N.M. 337, 940 P.2d 185 (N.M. Ct. App. 1997) defendant convicted of contempt for violating domestic violence protection order not shielded by double jeopardy for subsequent prosecution for stalking and harassment. Each offense contained at least one element that the other did not. The statute for violation of a protection order did not require that the element of a pattern of conduct be proved as did both the stalking and harassment statutes.

In State of New Mexico v. Duran, 126 N.M. 60, 966 P.2d 768(N.M. Ct. App. 1986) where the state relies on identical acts of an accused involving the same course of conduct to prove both the offenses of harassment and of stalking, double jeopardy provisions preclude multiple punishments. In such case the offense of harassment is subsumed into the offense of misdemeanor stalking.

Federal Laws

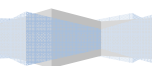
Interstate Stalking, 18 U.S.C. Sec. 2261A

(1) It is a federal crime to travel across state, tribal or international lines to stalk another person. The defendant must have the intent to kill, injure, harass, or intimidate the victim, or to place the victim, a family member, or a spouse or intimate partner of the victim, in fear of death or serious bodily injury. This crime is punishable by a period of incarceration from five years to life.

(2) It is a federal crime to stalk another person across state, tribal or international lines, using regular mail, e-mail, or the Internet. The defendant must have the intent to kill or injure the victim, or to place the victim, a family member, or a spouse or intimate partner of the victim in fear of death or serious bodily injury. This crime is punishable by a period of incarceration from five years to life.

The Interstate Travel to Commit Domestic Violence Act, 18 U.S.C. § 2261 (1994; 2000)

states it is a federal crime to travel across state, tribal, or international lines with the intent to kill, injure, harass, or intimidate a spouse or intimate partner and to commit, or attempt to commit, a



crime of violence against that spouse or intimate partner, and §2261 (a) (2) makes it a federal crime to cause a spouse or intimate partner to cross state, tribal, international lines, by force, coercion, duress, or fraud, and to commit, or attempt to commit, a crime of violence against that spouse or intimate partner.

Harassing Telephone Calls in Interstate Communications Act, 47 U.S.C. § 223 (a) (1) (c),

makes it a federal crime to use a telephone or other telecommunications device to annoy, abuse, harass, or threaten another person at the called number.

Interstate Communications, 18 U.S.C. 875 (c)

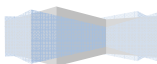
It is a federal crime to transmit in interstate or foreign communications, any threat to kidnap or injure another person. This crime is punishable by a period of incarceration up to five years.

The Violence Against Women Act I and II, 18 U.S.C. 2265

This civil law provides that a civil or criminal domestic protective order issued by a court in one state or Indian tribe shall be accorded full faith and credit by the court of another state or tribe, and is to be enforced as if it were the order of the court of the second state or tribe.

- This law applies to permanent, temporary and ex parte protection orders that comply with the statute's requirements. To comply, the protective order must have provided the defendant with reasonable notice and an opportunity to be heard, in a manner consistent with due process.
- Tribal Court Jurisdiction was clarified to specify that a Tribal Court shall have full civil jurisdiction over protection orders, including authority to enforce its orders through civil contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms in matters arising within the authority of the tribe, and in which at least one (1) of the parties is an Indian.

Full Faith and Credit Act, 18 U.S.C. § 2265 (1994, 2000)



mandates all law enforcement authorities to recognize and enforce all valid orders of protection issued by all courts throughout the United States and its territories, including injunctions against harassment and stalking, in state, tribal, and territorial courts.

Stalking Investigations

Investigation of a Stalking Case

Evidence collection is an essential part of the investigation in order to establish corroboration of the stalking conduct. It is vital that the investigator learns as much as possible about the stalker and his/her method of operation. Assessment of the potential threat posed by the suspect is also essential. Due to the potential danger inherent in stalking situation, **threat assessment** must be an ongoing part of any stalking case.



The three basic questions an investigator must answer while conducting any stalking investigation or threat assessment are:

- 1) Who is the suspect?
- 2) What risks of violence does the suspect pose to the victim?
- 3) How does the investigator manage the suspect and dangers

posed to the victim?

Evidence Collection

a. Initially, responding officers should look for evidence that identifies and describes the suspect, such as:

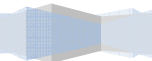


- 1) Name
- 2) Description
- 3) Personal information
- 4) Residence
- 5) Place of work
- 6) Mode of transportation
- 7) Vehicle make and model
- 8) License plate number

b. Evidence collection from the victim

Be sure to impound any tangible items of evidence from the victim that corroborates the stalking behavior. Things to be seized may include:

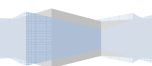
1. Any letters or notes written by the suspect to the victim. Keep latent print and DNA possibilities in mind when handling these items.
2. Any objects sent to the victim or left for the victim, including "gifts" or flowers.
3. Any answering machine tapes, voice mail, or other forms of taped phone messages. Document time and date. Make a tape recording of these messages to submit as evidence. This documents not only content but also tone of communication.
4. Any telephone call trace or phone trap information from the telephone company (e.g., Call Trace/Caller ID/*57 records for the victim's phone).
5. Any evidence of phone tapping by the suspect.



6. Any log/journal/diary of suspect contacts that the victim may have been keeping which shows any dates, times, and locations of suspect encounters.

c. Police-generated evidence collection

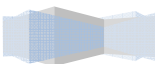
- 1) Law enforcement officers should consider using search warrants in these cases. Serving a search warrant on the suspect's residence, vehicle, and workplace can be an invaluable tool in obtaining evidence to support the charge of stalking and in providing pertinent information about the stalker. Items to be alert for when serving a warrant:
 - a) Any photographs of the victim. Many times these will have comments or drawings on them.
 - b) Photographs, diagrams, or drawings of the victim's home or workplace.
 - c) Writings, journals, logs, or diaries kept by the suspect that describe his stalking activities or thoughts/fantasies about the victim or other victims.
 - d) Personal items belonging to the victim.
 - e) Video or cassette tapes that might have information concerning the stalking, such as surveillance footage.
 - f) Books describing stalking techniques or having a subject matter dealing with stalking, harassment, or violence.
 - g) Any keys that fit the house or vehicle of the victim.
 - h) Any equipment that appears to have been used to stalk the victim, such as cameras, binoculars, video recorders, computers, fax machines, etc.
- 2) Any videotape surveillance or still photography of the stalker generated by law enforcement officers should be collected as evidence.
- 3) Any security video (from grocery stores, banks, parking lot/workplace security cameras) that is evidence of the suspect stalking the victim should be collected.



- 4) Telephone records of the suspect. Consider seizing the suspect's/defendant's cellular phone.
- 5) Documentation of email sent by the stalker to the victim. (Note: Internet service providers only keep email records for one to five days. Police have to obtain a search warrant; however, a phone call or fax to the provider may be enough to freeze the suspect's account until a search warrant is completed.
- 6) Certified copies of police reports from other jurisdictions, convictions sheets, prior restraining orders, etc. should be collected as evidence.

d. Further corroboration evidence collection by law enforcement:

- 1) Photograph any items vandalized, damaged, written on, etc.
- 2) Check for fingerprints or DNA on vandalized items or other objects sent to or left for the victim.
- 3) Ask the victim to contact the phone company to have a trap installed on her/his phone.
- 4) If the victim's phone is not set up to record messages or conversations, have the victim obtain such a machine.
- 5) For any incident of harassment, determine whether other witnesses were present and interview them. Often friends, family members, coworkers, employees, employers, etc. have information regarding the suspect's behavior. This corroboration is crucial.
- 6) Research the suspect's whereabouts during the times of alleged acts to deter "alibi" defenses.
- 7) On serious cases, consider surveillance of the suspect. This may be particularly useful in a case where there appears to be a specific pattern to the suspect's conduct. (Threat assessment in each case should help assist in determining whether or not surveillance is needed.)



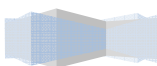
e. **The New Mexico stalking statute requires proof not only of the suspect's intent and conduct, but the victim's state of mind. The crime of stalking requires that the victim actually feels frightened, intimidated or threatened.**



Note: It is important to document any evidence of the victim's response to the stalking which shows "state of mind."

Showing the victim's state of mind:

- 1) Moved to a new location?
- 2) Obtained a new phone number? (Sometimes it is advantageous for the victim to keep the old phone number with an answering machine to record all messages from the suspect and only actively use the new unpublished phone line.)
- 3) Put a tap on the phone?
- 4) Told friends, coworkers, or family about the harassment?
- 5) Told building security at home, work, or school?
- 6) Given photos of the suspect to security?
- 7) Asked to be escorted to the parking lot and worksite?
- 8) Changed work schedule or route to work?
- 9) Stopped visiting places previously frequented?
- 10) Taken self-defense courses?
- 11) Bought pepper spray?
- 12) Purchased a gun?
- 13) Installed an alarm system?
- 14) Purchased a guard dog?





*Remember the state statute:
Electronic Recordings of Custodial Interrogations!*

Electronic recordings of custodial interrogations. 29-1-16

A. A state or local law enforcement officer shall comply when reasonably able to do so with the following procedures when conducting a custodial interrogation:

- (1) the custodial interrogation *shall be electronically recorded in its entirety*;
- (2) if conducted in a police station, the custodial interrogation shall be electronically recorded by a method that includes audio or visual or both, if available; and
- (3) the electronic recording shall include the *advice of constitutional rights* required by law.

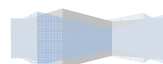
(Note: There are some exceptions, review statute.)

Suspect Interviews

1. The goal of the interview is to gather as much information as possible about the suspect's thinking, behavior patterns, and activities regarding the victim and to encourage change in the stalker's behavior.



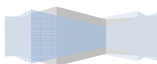
Officers should be aware that in some cases interviewing the suspect may serve to intensify his interest in the victim and provoke him into more extreme action. Precautions, such as safety planning with the victim, must always be taken whenever a suspect interview is conducted.



2. Research the suspect's background before the interview, if possible, as it can be very helpful to catch the suspect off guard with known information. However, be on guard. Stalking suspects can be very cunning and manipulative. They will often attempt to deny or rationalize their behavior or try to outsmart law enforcement.
 - a. Conduct database checks, i.e., Department of Motor Vehicles, local records, criminal records, etc.
 - b. Search state and national databases, Internet services, and police contact records maintained by jurisdictions where the suspect has lived.
 - c. Interview people that may provide relevant information about the suspect such as:
 - 1) Family
 - 2) Friends
 - 3) Employer(s), both prior and current
 - 4) School officials
 - 5) Child welfare investigators

3. Have a strategy prior to actually contacting the suspect. It is recommended that investigators:
 - a. Interview any stalking suspect in pairs.
 - b. Be aware of officer safety.
 - c. Remember to obtain as many details as possible and document the interview extensively.
 - d. Provide the suspect a chance to view his/her actions as misunderstood by the victim and how others could have misunderstood his/her intentions.
 - e. Remember to question the suspect about other potential victims or crimes.

4. Objectives of the suspect's interview:

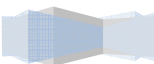


- a. Determine criminal activity.
 - b. Determine the suspect's current state of mind.
 - c. Attempt to assess the threat posed by the suspect.
 - d. Learn if the suspect has other victims in mind.
 - e. Encourage the suspect to change his/her behavior.
 - f. Advise the suspect that the behavior is unwanted, unacceptable, and must stop immediately.
5. If the investigator's involvement is post-arrest, best practices should guide the investigator in conducting the investigation as stated above. It is also imperative that all bail and/or restraining or protective orders are reinforced with the defendant. It must be clear that all violations of orders or laws will result in arrest and possible incarceration.
 6. Videotape the interview, whenever possible. Body language, gestures, voice tone, eye contact, etc. are all important aspects in evaluating the suspect.

Stalking Behaviors

Because stalking is a "**pattern of conduct**," stalking can consist of a wide variety of criminal behavior and noncriminal behavior. Any type of crime, from vandalism to homicide, could be part of a stalking case. Stalking laws also criminalize noncriminal behavior, such as letter sending, phone calls, and other contacts if that behavior is part of a pattern that creates an implicit or explicit threat to the victim. Generally, stalking is an escalating series of actions and incidents. Common stalking behaviors include, but are not limited to:

1. Violations of any protective order by visits to the victim's home or any other location frequented by the victim.
2. Telephone calls to the victim (harassing, threatening, obscene, or otherwise).
3. Mail, cards, letters, or gifts to the victim.
4. Trespassing.

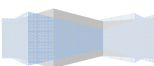


5. Burglary of the victim's home (often there is no forced entry because the stalker may have a key).
6. Following the victim on foot or in a vehicle.
7. Showing up at the victim's place of employment or other frequented establishments.
8. Keeping the victim under surveillance or monitoring of the victim's activities.
9. Making slanderous statements or false reports concerning the victim, calling law enforcement or CYFD.
10. Delivery of objects to the victim intended to cause fear to that victim (these objects, taken out of context, may seem innocuous to outsiders).
11. Threats made to the victim (direct, veiled, or conditional).
12. Vandalism or theft of the victim's property, home, vehicle, workplace, or vandalism to the property, etc., of any friend or family member who helps her, especially by allowing her to stay at their home.
13. Vandalism affecting the security of the victim's home, such as unscrewing outside lights or disabling the alarm system.
14. Disabling the victim's vehicles.
15. Transferring the victim's phone line to another line in order to monitor messages, disabling the phone, or planting listening devices in the victim's home.
16. Filing "change of address" forms at the post office under the victim's name in order to "intercept" the victim's mail.
17. Harassing or threatening the victim by use of computers and the Internet.

Unique Aspects of Stalking Cases

Stalking cases are unique and sometimes difficult cases for law enforcement for several reasons, including, but not limited to, the following:

1. Stalking cases often appear insignificant to the patrol officer in the beginning. This is because they manifest as violations of protective orders or harassing phone calls which can be viewed as low priority. Quite often nothing physically has happened to the victim *yet*. Unless the patrol officer questions the victim thoroughly, a potential or present



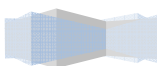
stalking case can be completely missed. Often, the victim will not be aware that they are being stalked. They are aware only that there is a problem in their life.

2. For the majority of stalking victims, the fear that something will happen is overwhelming, and they *never* feel safe. To further complicate stalking cases, many people believe stalking victims are merely paranoid and not in any real danger. Some even think stalking is a form of flattery. Others blame the victim, wondering what she/he has done to encourage the stalker. Because of these perceptions, the stalking victim may feel very isolated and because nothing may have *happened to her* yet, no one may help her/him. The victim is further isolated from support systems if she/he has moved or changed jobs as a protective measure. The victim may also feel guilty about putting family or friends in possible danger if the stalker has made threats against them. Acknowledging the legitimacy of the victim's fear and recognizing that stalking behavior can indeed be the precursor of significant violence is a critical first step in any stalking investigation.

3. **Stalkers may commit criminal acts in multiple jurisdictions.** The victim may live in one city or town, work in another, attend school in a third location and may also flee to a relative's or friend's home because of the harassment. Consequently, there will be different locations—and sometimes different victims' names on crime reports (especially when the friend's or relative's property is vandalized)—which all relate to acts committed by the same stalker, but not being investigated by the same police officer or even the same police department. Different agencies must communicate on these incidents or the complete pattern of the stalking case gets lost, or is never recognized, and the victim is not helped.

4. Stalking cases can last for several years with varying periods of inactivity or increased activity.

5. Arrest and prosecution of stalkers, and/or the victim's obtaining a protective order, is not any guarantee that the stalker will cease and desist; in fact, these actions may aggravate the situation. This does not mean that these remedies should not be used, but only in conjunction with safety planning for and with the victim. It is also critical that appropriate bail, conditions of release, and ultimate penalties are leveled against the stalker.



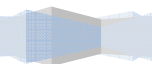


Does this stalker have a history in another jurisdiction? Does the stalker have a anniversary date each year? Is there an Order of Protection? Has the stalker ever been arrested? Is the stalker on probation? Are there any other victims?

Document the following about the suspect

Responding officers, detectives, and victim service providers should work together as investigators, gathering information about the victim and the stalker. Duties for officers, detectives, and service providers should be clearly defined.

- a. The responding officer should document the following by thoroughly interviewing the victim about the suspect:
 - 1) Any prior threats made to the victim (direct or indirect).
 - 2) Develop a timeline of the stalking behaviors towards the victim.
 - 3) Any actual pursuit or following of the victim.
 - 4) Any history of violence against the victim or others.
 - 5) Any history of prior sexual intimacy with the victim?
 - 6) Any information regarding the suspect's tendency towards emotional outburst or rage.
 - 7) Prior mental illness history of the suspect.
 - 8) Substance abuse problems of the suspect.
 - 9) Suspect's possession of, knowledge of, or fascination with weapons.
 - 10) Any history of filed protective orders against the suspect or protective order violations by the suspect.
 - 11) Any annoying phone calls made by the suspect to the victim or anyone connected to the victim.



- 12) Any unsolicited correspondence, threatening or non-threatening, from the suspect to the victim.
- 13) Threats of murder and/or suicide by the suspect.
- 14) Any acts of vandalism or arson committed by the suspect against the victim or anyone connected to the victim.
- 15) Is the victim in fear?

- b. If children are present, interview the children about the stalking in a careful, gentle manner appropriate to the child's age and emotional state. Be alert for excited utterances from children while interviewing adults and witnesses.
- c. Every stalking investigation should include a thorough research of the suspect's prior criminal history and/or prior contacts with law enforcement.

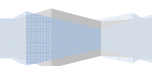
Threat Assessment

In stalking cases, law enforcement officers have a unique opportunity to act in a proactive way and prevent future harm to a victim. Assessing the potential threat posed by a stalking suspect is an important step towards that goal. The primary objective of a threat assessment investigation is to gather as much information as possible on both the victim and the suspect.

a. Suspect Information

Multiple sources of information should be consulted to learn about the suspect's behavior, interests, and state of mind. These can include:

- 1) Personal interviews with the suspect.
- 2) Material created by or possessed by the suspect such as journals, letters, books, magazines, or other items collected.



- 3) Interviews with people who know or have known the suspect, such as friends, family, coworkers, supervisors, neighbors, landlord, previous victims, etc.
- 4) Any public records, such as police, court, probation or corrections records, mental health records, or social services records.

b. Victim Information

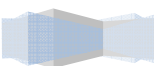
The patrol officer and/or investigator need specific information about the victim, such as:

- 1) Is the victim well known to the suspect? Does the suspect know about the victim's work, home, personal lifestyle, patterns of living, daily comings and goings?
- 2) Is the victim vulnerable to attack? Does the victim have resources to arrange for physical security? What can change about the victim's lifestyle that could make attack by the suspect more difficult or less likely?
- 3) Is the victim afraid of the suspect? Is that degree of fear shared by the victim's friends, family, and colleagues?
- 4) How sophisticated or naive is the victim about the need for caution? How able is the victim to communicate a clear and consistent "I want no contact with you" message to the suspect?

c. Will the suspect attack?

Using the information obtained throughout the investigation, the police officer must then seek to determine whether the suspect appears to be moving toward or away from an attack. Factors which suggest a high risk to the victim include:

- 1) Present threats to kill the victim.
- 2) Past threats to kill this victim or other victims.
- 3) Use of weapons such as guns, knives, or other potentially lethal weapons.
- 4) Possession of lethal weapons.
- 5) Degree of obsession, possessiveness, and/or jealousy regarding the victim.

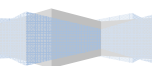


- 6) Violations of a restraining order with demonstration of little concern for the consequences of arrest and jail time.
- 7) Past incidents of violence against this victim and/or others.
- 8) Present or past threats of suicide.
- 9) Access to the victim and/or the victim's family.
- 10) Hostage taking.
- 11) Depression.
- 12) Other mental illness evidence or indicators regarding the stalker.
- 13) Drug or alcohol abuse of the stalker.
- 14) History of prior stalking of this victim or other victims.

d. Questions to consider in assessing threats:

1) **Basic Questions:**

- a) Does the victim believe the threat?
- b) This is important information, even if the victim is minimizing the danger she/he faces. Consider also that words or acts that are not particularly threatening in one cultural frame of reference could well be terrorizing in another.
- c) Was the threat made in the presence of other people? In writing? In a recorded telephone conversation? *Willingness to "leave evidence" or "not caring who knows" may indicate a more serious intention to follow through.*
- d) Is the threat detailed and specific? *Evaluate threats in stalking the same as potential suicides—the more thought that has gone into the plan (evidenced by the amount and specificity of the detail), the more likely it is to be acted on: "I'm going to kill you" is cause for concern; "Tonight, I'm going to rape and strangle you and hide your body where no one will ever find it" is cause for greater alarm.*
- e) Is the threatened act consistent with his past behavior?
- f) Does the stalker have the means to carry it out? *Again, consider the parallel to assessing potential suicides—there's having the thought, then*

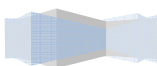


there's having a plan, then there's being able to follow through. Where the "means" are at hand, there is more risk.

- g) Have there been "rehearsals" of the act that is being threatened? *These can be verbal run-throughs ("let me tell you what I'm going to do") or partial re-enactments (showing someone the intended weapon or the intended site for the murder or burial).*
- h) Does the threat extend to others (such as, children, family members, police, or new lover)? *Fear of harm to others may restrict a victim's willingness to resist and/or to follow through with police and the courts.*
- i) Does the threat involve murder, suicide, or both? *If the stalker is a current or former intimate partner, remember that a substantial percentage of domestic homicides are multiple-victim killings, murder-suicides, or murder-suicide attempts.*

2) Questions regarding any history of violence/use of force by the stalker:

- a) Was the suspect abusive to former partners or family members?
- b) Has the physical violence increased in frequency or intensity over the past year?
- c) Did the physical violence involve choking or attempted strangulation or a head injury?
- d) Does the suspect have a history of violence toward people who aren't intimates or family members?
- e) Does the suspect have a history of sexual assault behavior?
- f) Has the suspect ever abused pets or other animals?
- g) Has the suspect ever destroyed property, especially a former partner's or current target's personal property? (Intentional and terrorist destruction of property is often an "it could just as well be you, and next time might be" message.)
- h) Does the suspect have a special interest in/fascination with movies, television shows, video games, or books that focus on themes of violence, power, and revenge?



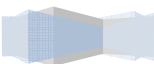
3) Questions regarding weapons (consider not only firearms, but also other dangerous weapons such as compound bows, swords, large hunting knives, or martial arts weapons):

- a) Does the stalker have access to weapons? Does the stalker keep weapons in more than one place? Does the stalker have access to weapons owned by others? Is the stalker trained in their use?
- b) Does the stalker have illegal or exotic weapons?
- c) Is having and being willing to use weapons part of the stalker's self-image? (This is particularly crucial in relationships that involve people in law enforcement, corrections, the military, and the criminal justice system.)
- d) Has the suspect's past violence involved the display, use or threatened use of firearms or other weapons?
- e) Does the victim possess weapons? What kind? Is the victim trained in their use?

4) Questions regarding escalation of stalking behaviors:

- a) Does the offender enlist others in monitoring the victim's behavior? (Not only the offender's friends, family, coworkers and cell mates, but also the victim's friends, family, and coworkers.)
- b) Has the offender contacted or threatened the victim's friends, relatives, or coworkers?
- c) Has the offender followed, spied on, staked out, or otherwise stalked the victim?
- d) Has the offender made unwanted attempts to communicate by mail or telephone, or through third parties? (These communications don't have to be threats. They can be "I was so wrong, I don't know what came over me; can you ever forgive me; let's work it out together" messages, flowers, gifts, etc.)

5. Other threat assessment considerations:



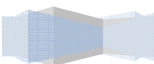


- a) Number of times a restraining order has been issued against the stalker and number of times the stalker has violated restraining orders (checking all available jurisdictions).
- b) Search warrants and seizure of tangible items of evidence.
- c) Seizure of any firearms accessible to the stalker.
- d) Special considerations when the stalker is a law enforcement officer.
- e) Special considerations when the stalker is in the military.

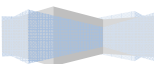
H. Advising the Stalking Victim

1. A response to a victim of stalking should include whatever steps are reasonably necessary to protect the victim, including:

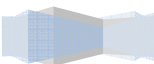
- a) Advising the victim about criminal and civil orders of protection and other legal tools for prohibiting contact between the stalker and the victim.
- b) Providing the victim with written referral contact information for victim service programs within the community that provide assistance with obtaining such orders.
- c) Providing written referral information regarding the availability of shelter, medical care, counseling, and other services within the community.
- d) Providing the victim in writing with the responding officer's name, badge number, the incident report number, and a telephone number that the victim can call for information about the case.
- e) Advising the victim about procedure for initiating criminal proceedings and the collection and preservation of evidence for police investigators and prosecutors.
- f) Providing the victim with a brochure or pamphlet that explains their rights as crime victims, available services and compensation and how to access such services, etc.



- g) Offering to arrange for the department's crime prevention unit to come to the victim's residence and conduct a walkthrough security check of the residence and recommend measures to improve security.
 - h) Providing written information about safety planning and victim advocates who can assist with safety strategies.
 - i) Helping the victim leave her/his residence, for safety reasons, by accessing resources in the community such as family, friends, and community shelters and/or actually transporting the victim to a secure location.
 - j) If there are children in the household, establish what steps need to be taken to ensure they remain safe, including crisis planning, relocation, and communication with school authorities. If the stalker is a parent of children living in the household, arrange through the court for custody or visitation through a third party.
2. Be honest with the victim about any information that suggests that the suspect is a real threat to her/him.
 3. Advise the victim to take extra safety precautions.
 4. Although officers should be cautious in making generalizations, the following advice can usually be given in all cases:
 - a. Stop all contact with the stalker. It is important that the victim be very direct and firm. Repeatedly telling the stalker that she/he doesn't want to talk to him/her is *still talking to the stalker* and may be perceived by the stalker as carrying a mixed message. If after leaving forty messages on her/his answering machine, the victim returns the call to demand that he/she stop, the lesson learned is that the cost of getting a call from her/him is to call and leave forty messages. It's essential to cut off all contact.
 - b. Don't let third parties other than law enforcement and/or persons serving a restraining/protective order (if applicable) intervene with the stalker.
 - c. Take the following actions if the stalker poses a genuine threat:



- 1) Obtain a restraining order or a criminal/civil protective order, but appreciate that it is not a guarantee of safety and, sometimes, may provoke rather than deter the stalker.
- 2) Take additional safety precautions when a restraining/protective order is served. For example, change the phone number or get an additional unlisted number and keep the original number connected to an answering machine that receives messages from the stalker.
- 3) Alter work hours and routes to work and other places.
- 4) Always maintain a full gas tank.
- 5) Inform employers, coworkers, and workplace security about the stalking problem and provide them with a photo/description of the stalker. If the stalker shows up at work, have someone call the police immediately. Avoid contact with the stalker, even if he/she is causing a scene.
- 6) If your residence or neighborhood has security staff, provide a photo/description of the stalker, the stalker's vehicle, and a copy of any restraining order.
- 7) Keep a diary with all contact attempts, dates, times, and details of any witnesses to incidents. If there is a restraining order, call police immediately if the stalker attempts contact.
- 8) Save all evidence of stalking-related incidents, even if it seems insignificant.
- 9) If there are hang-up calls to home or work, arrange with the telephone company for a phone trap to be installed.
- 10) If there are harassing emails, contact the Internet service provider to find out options for preserving existing messages from the stalker and blocking new ones.
- 11) Avoid places frequented by the stalker.



- 12) Instruct children in the household to keep all address and telephone information confidential.
- 13) If possible, move to a new address with a roommate and put all the bills (utilities etc.) in the roommate's name.

4. Encourage the victim to work with law enforcement, victim advocates, and/or prosecutors to develop specific, personalized, and detailed safety plans and provide written information about who can assist with safety planning. Explain that:



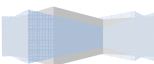
- a. Safety plans must be continually assessed and adjusted in light of developments in the investigation and prosecution of the case.
- b. It's essential to plan for safety in the home and at locations away.
- c. All strategies and technologies to promote safety.

5. Tell the victim about early warning strategies involving neighbors, known as "cocoon watches" that can provide them with additional protection. (These strategies were first developed by law enforcement in Great Britain.) Subject to the victim's *informed consent*, based on current risks posed by the stalker, law enforcement can work with Neighborhood Watch (and/or other neighbors) to turn neighbors into "eyes and ears" that watch out for the stalker and contact the victim and 911 if he/she is sighted. Even a five minute warning may help save a stalking victim's life. Consent from the victim is critical because some victims do not want neighbors to know about their problems.

Types of stalkers

It is important for law enforcement officers to remember that there is no one profile or type of a stalker. They can be male or female. The relationship between the stalker and victim can include past intimates, acquaintances, coworkers, or complete strangers. Stalkers can be motivated by anger, revenge, jealousy, or absolute fantasy or delusion.

Domestic Stalker - They are among the most persistent and potentially dangerous offenders. Domestic violence stalkers have a need to control their victims. When the victim leaves the relationship, he or she interprets this as a loss of control and is preconditioned to attempt



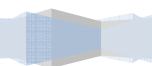
reasserting control by whatever means necessary, including stalking, often coupled with violence. Tactics vary enormously. Some stalkers simply follow their victims continuously. Many others destroy or vandalize property, send packages or deliveries often of inappropriate or bizarre items, poison or kill pets, use phone threats, and contact employers, neighbors, and relatives, making normal life impossible.

Rejected Stalker - The most common, persistent and intrusive of all stalkers, the rejected stalker is obsessed with someone who is a former romantic partner or friend, and who has ended their relationship with the stalker, or indicates that he or she intends to end the relationship; usually struggles with the complex desire for both reconciliation and revenge. They may become jealous if their victim enters or continues a romantic relationship with another person.

Resentful Stalker - Looking for revenge against someone who has upset them. The behaviors are meant to frighten and distress the victim. The stalker views the target as being similar to those who have oppressed and humiliated them in the past, and they may view themselves as someone striking back against an oppressor. They may use personal threats, complaints to law enforcement and local government, property damage, theft or killing of pet, letters or notes on the victim's car or house, breaking into the victim's house or apartment, or watching the victim's movements.

Predatory Stalker -The least common of all the stalkers, this is the classic sexual predator whose plan is to physically or sexually attack the victim. This stalker may engage in such behaviors as surveillance of the victim, obscene phone calls, fetishism, voyeurism, sexual masochism and sadism, exhibitionism. The victim can be either someone the stalker knows, or a complete stranger.

Intimacy Seeker Stalker - The intimacy seeker seeks to establish an intimate, loving relationship with their victim. To them, the victim is a long sought-after soul mate, and they were meant to be together. They may interpret any kind of response from the victim as encouragement, even negative responses. This stalker may write letters, send gifts, or call their



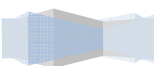
victim. They may believe the victim owes them love because of all they have invested in stalking them, and is very resistant to changing their beliefs.

Incompetent Suitor Stalker - The Incompetent Suitor desires a romantic or intimate relationship with the victim but is impaired in their social and courting skills. This stalker may be very narcissistic, and cut off from victim's feelings (lack of empathy). The incompetent believes that anyone should be attracted to them. Typically, this stalker will repeatedly ask for dates, or call on the phone, even after being rejected. They may attempt physical contact by trying hold the victim's hand or kiss the victim, however, they will not become physically violent or threatening.

Erotomaniac and Morbidly Infatuated Stalker - This stalker believes that the victim is in love with them. They believe this even though the victim has done nothing to suggest it is true, and may have made statements to the contrary. The erotomaniac reinterprets what their victim says and does to support the delusion, and is convinced that the imagined romance will eventually become a permanent union. This stalker may suffer from acute paranoia, and typically chooses a victim of higher social status. Without psychological treatment, this stalker is likely to continue with their activities.

Cyberstalking and Cyberstalkers - Cyberstalking is an extension of the physical act of stalking; however, the behavior occurs using electronic mediums, such as the Internet and computer spy ware. They may use spy ware to access their target's computer and the personal information contained within. Given the vast distances that the Internet spans, a "pure" cyberstalker will never move beyond electronic mediums and into physical stalking; cyberstalker's motives can fit any of the categories described above.

False Victimization Syndrome - This is an extremely rare occurrence that involves someone who consciously or subconsciously desires to be placed in the role of a victim. They therefore establish a complex tale of being stalked, which is in fact false. Sometimes this individual is the actual perpetrator, and the stalker they identify may well be their own target.

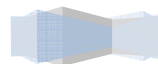




Note: Remember that some stalkers can exhibit factors from more than one category.

Suspect Contact by Law Enforcement

Law enforcement contact, especially by an investigator or detective, 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 from mental illness. This type of stalker is more likely to understand an officer's explanation of the potential consequences of his continued harassment or escalation of stalking behaviors. This type of warning contact is most appropriate when the behavior does not yet constitute a full violation of law or involves very low-grade activities. It can include contact by mail through a police warning letter, a phone call, or an in-



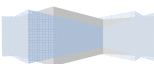
person visit. Often, a face-to-face visit at the suspect's workplace or residence may be all it takes to have a deterrent effect on the inappropriate behavior. This type of contact can also occur by way of a scheduled interview at the police station.

1. The goals of stalker-focused interventions are:

- a. To establish that stalkers are strictly and solely accountable for their own actions, and to hold them to the standards established by law.
- b. Through community collaborative efforts, send the message that stalking is considered a serious matter, and to establish a "social hold" over the abuser. (This includes seriously establishing bail, conditions of pre-trial release, terms of protective orders, conditions of probation, and the terms of custody/visitation and support with the intent of constraining the stalker's behavior.)

2. Stalker interventions that may involve law enforcement:

- a. Contact by a law enforcement officer.
- b. Counter-stalking and other anti-stalking surveillance and apprehension measures, including technological monitoring both pretrial and post-conviction.
- c. Temporary/permanent orders of protection (including orders issued on behalf of non-victim witnesses).
- d. Arrest and detention for victim-directed criminal conduct.
- e. Arrest and detention for other criminal conduct (such as independent criminal activity, possession or sale of illegal drugs, weapons charges, or probation or parole violations).
- f. Revocation of weapon permits/weapons confiscation (by search warrant or court order, whether as a condition of bail or through a restraining/protective order).
- g. Officers may appear at bail arraignments and hearings to inform the court about stalkers history.

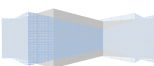


- h. **Case management** - Involves developing a plan that moves the suspect away from feeling violence against the victim as a viable option. At times, effective case management may require the investigator to draw on resources connected to the suspect, but not traditionally used by law enforcement, such as friends family associates, employers, mental health, social services, and other community members. All of these contacts may be used in seeking to lead the suspect to formulate more appropriate goals.

Restraining/Protective Orders

- a. While it is recognized that restraining/protective orders may not always be effective in actually protecting a victim, the primary advantage to having such an order against the suspect is that it allows him to be immediately arrested when a violation occurs. Therefore, it is vitally important when a law enforcement agency is attempting to utilize such orders as part of an overall stalking intervention plan that the involved personnel be prepared to respond quickly to each violation. Only then is there a sanction for the actions of the suspect and a motivation to change behavior. If a person is a documented victim of stalking, and calls police because of a violation of a restraining order, priority response should be given to this call.
- b. A second advantage to obtaining a restraining order is that in many jurisdictions it allows for enhanced charging of the stalking crime so as to have a more significant hold over the suspect.
- c. One strategy that has appeared to be successful is when the same officer, investigator, or detective working with the victim also is the individual who serves the suspect with the restraining/protective order.

Technology Options for Managing Stalking Cases



Implement available technology as a tool to enhance victim safety and collect evidence. Types of technology that can be used to contain stalkers while they are under investigation or supervision:

- a. Global positioning tracking systems—i.e., systems that use transponders and the geographic positioning system to constantly monitor and document the location of an offender. In jurisdictions using GPS, its implementation is by a court-ordered condition of the defendant's bail or sentence and is paid for by the defendant.
- b. Surveillance systems—i.e., cameras and/or human systems that maintain a lookout for the stalker.
- c. Monitoring of telecommunications—i.e., systems that monitor the stalker's attempts to communicate with the victim, such as Caller ID/Call Trace and other technologies.
- d. Cellular telephones programmed to 911 or the police department can be used by stalking victims to make immediate reports of stalking behaviors to the police.

Working with Prosecution

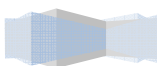
Successful prosecution for stalking depends on the concerted team effort of dispatch, responding officers, investigators, detectives, victim services, consultants, prosecutors, and the court system from the time stalking behaviors are first reported. For those suspects who continue the stalking behaviors and course/pattern of conduct and present a continuing risk to the victim, vigorous prosecution for their criminal conduct is the only option. The goal of any such prosecution is to ensure conviction so that maximum controls can be placed on the defendant, thus increasing the safety of the victim while holding the stalker accountable for his/her actions.

Arrest, Charging, and Jail/Detention

Purpose

The ultimate purpose of an investigation is to determine if probable cause exists for the charge of stalking and/or violation of a protective/restraining order has occurred.

Investigation



1. Probable cause may be obtained by a written statement from a person stating the offender has committed a stalking-related offense.
2. Officers should inquire whether a civil or criminal protective order is in effect. If so, officers should ask for a copy of the order. If unavailable, officers should find out which court granted the order so that dispatch can verify the existence and duration of the order.
3. Upon reviewing the prosecution order, officers should determine if the order has been violated.
4. If a stalking-related protection order has been violated, whether issued by a court in New Mexico or another state, it is mandatory for officer to arrest the offender pursuant NMSA 1978, 40-13-6©.

If offender has left the scene

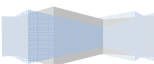
If probable cause exists, an officer should obtain an arrest warrant.

Once arrest warrant has been obtained

1. If immediate arrest is not possible, make the victim aware of the warrant and what the victim should do upon learning of the offender's whereabouts.
2. Officer should contact the prosecutor's office for appropriate charging. For example, if a related crime has been committed, it may be more appropriate to arrest the offender on the related charge.

What to do if a juvenile is arrested

1. If a juvenile is arrested, an officer should immediately contact the juvenile detection center to obtain a verbal authorization of admission.
2. An officer should follow juvenile report and booking procedures at the juvenile detention center.
3. An officer should sign the stalking complaint at the juvenile intake unit within the required number of hours of the juvenile's admission to the detention center.



Bail considerations

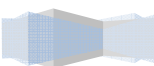
1. Officers who appear at arraignment can provide valuable information to the prosecution and the Court. If the offender is to be released, a request should be made for supervision and frequent monitoring if available.
2. The victim should be notified as soon as possible if the defendant has been released or there has been a change in bail status
3. A form should be designed to fax to the jail or detention center to alert police prior to release of the defendant
4. Officers should obtain phone numbers, cell phone numbers, and pager numbers for the victim's home, work, and relatives to facilitate contact.

Offender in jail detention center

1. Officers should know that stalkers often continue their harassment from behind bars, intimidating the victim through phone contacts, letters, third person threats, etc.
2. Officers should advise victims of this and be prepared to document any such activity.
3. A request can also be made for a court order stating no contact with the victim from jail/detention or through a third party.
4. Harassment from jail or detention can be used to support prosecution of stalking.

Reporting and Filing Best Practices

1. **To encourage best practices**, officers should be required to make a written report for any incident of harassment, threat, stalking, violation of a protection order, or for any other offense arising out of a call to a scene involving an event or incident that may be a pattern of conduct, whether or not an arrest has been made or not.
2. In the case of an arrest or when seeking a warrant, the officer shall document the facts and circumstances which are the basis for establishing probable cause.
3. All forms required by departmental policies should be completed and attached to the report.
4. Department coding systems should enable the collection of data regarding the incidence of stalking in the jurisdiction.



FAX 602-452-8359

Cricket 858-882-9237

Qwest For Law Enforcement Trap and Trace (*57)

800-446-8134 or 206-346-6384

Subpoenas 303-896-2522 FAX 303-896-4474

Customer annoyance line 800-582-0655

Emergency 800-215-4829 or 303-244-1302

1005 17th street suite 120

Denver, CO 80202

Sprint (Nextel) 800-877-7330

FAX 913-315-0736

6480 Sprint Parkway

Overland Park, KS 66251

T-Mobile 973-292-8911

FAX 973-292-8693

4 Sylvan Way

Parsippany, NJ 07054

Cellular Subpoena Compliance information

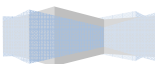
Verizon Wireless Security

Custodian of Records-Subpoena Compliance

800-451-5242

FAX 888-667-0028

Internet



AOL Custodian of Records
America On Line (AOL)
FAX 703-265-2305

MySpace MySpace.com
Custodian of Records
MySpace.com
1333 2nd Street, First Floor
Santa Monica, CA 90401
FAX 310-394-4180

Appendix 2: Investigative Websites

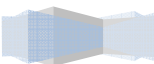
Websites

<http://www.abika.com/Reports/FindPhoneNumbers.htm> (paid site)

<http://www.antistalking.com/>

<http://www.blackbookonline.info/>

http://www.best411.com/free_searches.htm

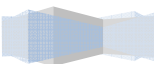


<http://www.feelsafeagain.org/index.htm>
<http://www.ip-adress.com/>
<http://www.iinvestigate.net/>
<http://www.haltabuse.org/>
<http://www.nationalnanpa.com/index.html>
http://www.ncvc.org/src/main.aspx?dbID=dash_Home
<http://www.npac.com/>
<http://www.ojp.usdoj.gov/ovc/welcome.html>
<http://www.stalkingassistance.com/>
<http://www.usaskiptrace.com/>
http://www.wiredsafety.org/cyberstalking_harassment/index.html
<http://www.zabasearch.com/>

Appendix 3: Resources

- National Domestic Violence Hotline
 - 📞 1-800-799-SAFE (7233)
 - 1-800-787-3224 (TTY)

- Stalking Resource Center
 - 📞 1-800-FYI-CALL



Appendix 4: Sample Search Warrant

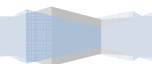
STATE OF NEW MEXICO

COUNTY OF XXXXXXXXX

IN THE DISTRICT COURT

STATE OF NEW MEXICO

Vs.



SEARCH WARRANT

[including tapes, computer discs, film, writings & messages, etc.]

THE STATE OF NEW MEXICO, TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

Proof by Affidavit for Search Warrant having been submitted to me, I am satisfied that the person named/described and/or property(evidence) described in the Affidavit are located where alleged in the Affidavit, and I find that grounds exist for the issuance of the Search Warrant. A copy of the Affidavit is attached and made a part of this Search Warrant.

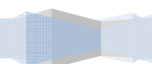
YOU ARE HEREBY COMMANDED TO SEARCH FORTHWITH the person and/or place and equipment described in the Affidavit, commencing between the hours of 6:00 a.m. and 10:00 p.m. [UNLESS I have specifically authorized a nighttime search as stated below], and continuing thereafter until completed, for the person and/or property (evidence) described in the Affidavit, serving this Warrant together with a copy of the Affidavit, and making the search, and if the person and/or property (evidence) be found there, to seize the person and/or property and hold for safekeeping until further Order of the Court.

Executing officers and all successor investigating law enforcement officers and prosecuting attorneys are authorized as follows: [check all applicable boxes]:

to listen to tape recording(s) described in the Affidavit, and to transcribe and/or make duplicate recordings of them;

to view and listen to video tape(s) and/or movies, Compact Discs (CD's) and DVD's (Digital Video Discs) described in the Affidavit, and to transcribe and/or make copies of them;

as to Computer(s), computer "hard drives," computer discs, modem(s) and/or computer hardware or computer software described in the Affidavit, to bring up on computer monitor screen, read, make printed copies from, and make duplicate disc(s) of,



the contents of the computer hard drive(s) and/or computer discs and/or computer software, and files therein.

to view photo negatives, photo slides and digital photos described in the Affidavit, and develop and make photos and/or slides of photographic negatives and/or film and/or digital photos.

to read, translate, photograph and/or photocopy all writings described in the Affidavit.

to enter Cell Phone(s) described in the Affidavit, retrieve & read and/or listen to messages therein, obtain phone directory therein, & phone numbers dialed to or from the phone(s).

Executing Officer(s) are directed to prepare a written inventory of any person or property/ evidence seized. You are further directed to file the Return and written inventory with the Clerk of this Court promptly after execution of this Search Warrant.

DATED THIS ____ DAY OF _____, 200__ at _____. M.

JUDGE

