

## Addressing Stalking in Native American Communities

By Jo Hally, Director  
Native American Circle, Ltd.

While more than one million women in the United States are stalked each year, American Indian/Alaska Native women are stalked at a rate at least twice that of any other race. Statistics established by the 1998 National Violence Against Women Survey reflect that 17 percent of American Indian and Alaska Native women are stalked in their lifetime, compared to 8.2 percent of white women, 6.5 percent of African-American women, and 4.5 percent of Asian/Pacific Islander women.

Although there is a tendency to view these findings with skepticism due to a variety of reasons, including the small number of American Indian/Alaska Native women participating in the survey (88 out of 8,000), the statistics are consistent with other studies showing that Native Americans are at a significantly greater risk of violence than other Americans. In fact, American Indians are sexually assaulted at a rate 3.5 times higher than that for all races, and approximately 75 percent of the violence perpetrated involves offenders of a different race.

In recognition of these and other issues, the Violence Against Women Office funded a Technical Assistance

initiative in late 2001 to specifically assist tribal nations in developing effective interventions, services, and coordinated community responses to stalking crimes perpetrated on Indian women. The project involves a collaborative effort between the Stalking Resource Center and Native American Circle, Ltd., a nonprofit, victim advocacy, technical assistance and training organization.

The District of Columbia, Puerto Rico, the Virgin Islands, and Guam, as well as all fifty states, have enacted antistalking laws. Formal programs to enforce the laws and support stalking victims have been or are being developed in jurisdictions across the country. However, despite these efforts nationwide, few tribes, as sovereign tribal governments, have legal code in place to address stalking and even fewer have developed formal criminal justice protocol to effectively and appropriately respond to those crimes. In fact, few tribes possess arrest records substantiating arrests for stalking, and even fewer possess prosecution case summaries.

The reasons for these problems are many and are as uniquely varied as the cultures, customs and traditions of the more than 500 federally-recognized

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### TARGETED TECHNICAL ASSISTANCE

**The Stalking Resource Center provides on-site problem-solving and consultation services. Whether you are planning a training, drafting and implementing a protocol, or establishing a multidisciplinary response, we can provide targeted technical assistance to your community. Contact us at 202-467-8700 or via e-mail at [src@ncvc.org](mailto:src@ncvc.org).**

Newsletter of the  
Stalking Resource Center  
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#### Stalking Resource Center Staff:

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**Susan Herman**  
Executive Director  
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**Michael Kaiser**  
Director of Program Services

### New Staff

We are pleased to announce two new staff members. **Tracy Bahm** has joined the National Center for Victims of Crime as director of the Stalking Resource Center following several years as a senior attorney at the American Prosecutors Research Institute, where she worked on violence against women issues. Prior to that, Tracy was a Deputy Prosecuting Attorney in Kitsap County, Washington, where she also chaired the Kitsap County Domestic Violence Task Force. **Matt Markon** is our new Program Attorney. Matt is a former law enforcement officer who has made working on the issues of domestic violence and stalking a primary interest throughout his law enforcement career.

## ***Native Americans and Stalking***

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American Indian and Alaska Native tribes. The result of complex relationships that have historically existed between tribes and federal and state governments, public policy dating back to the 1830s has over time created substantial jurisdictional issues that directly impact the type and quality of victim response programs in Indian country.

The concept of tribal sovereignty—the power and right of Tribal Nations to self-governance—was first recognized by Chief Justice John Marshall of the U.S. Supreme Court in 1832 when he wrote that Indian tribes are “distinct, independent, political communities.” In November 2000, President Clinton re-affirmed the power of Indian Nations to self-government when he signed an executive order that included the goal of ensuring “that all executive departments and agencies consult with Indian tribes and respect tribal sovereignty as they develop policy on issues that impact Indian communities.”

While it is generally recognized that Indian Nations have authority to form their own government, establish leadership, create and enforce their own laws, and punish criminal activity on reservation or Indian trust land (*except where a non-Indian or a federal crime is involved*), various U. S. Supreme Court decisions and Congressional Acts since 1832 have had the overall effect of blurring jurisdictional lines and limiting the punitive powers of tribes over their own citizens.

For example, the Major Crimes Act, 18 U.S.C.S. 1153, enacted in 1885, authorized federal jurisdiction over certain defined “major offenses” committed by Indians on Indian land, in-

cluding murder, kidnapping, maiming, and sexual abuse. But since the Act did not directly address the issue of tribal authority over the same offenses, tribal courts retain concurrent jurisdiction over the same crimes (See *e.g.*, *Westit v. Stafne*, 44 F3d 823, (9<sup>th</sup> Cir., 1995)). Also, as tribal courts possess sole, exclusive jurisdiction over all other offenses not listed in the Major Crimes Act, it can be generally presumed that domestic violence and stalking-related offenses perpetrated by one Indian against another Indian on Indian land are crimes that fall within the jurisdiction of the tribe.

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***Many Indian Nations committed to providing safety and legal protection to stalking victims do not possess the financial resources necessary to develop tribal court systems or tribal police forces.***

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Further complicating matters was Public Law 83-280, Chapter 505, H.R. 1063 (cited as 67 U.S. Statutes at Large, Chapter 505, pp. 588-590) “Indians—Criminal Offenses and Civil Causes—State Jurisdiction,” enacted by Congress in 1953. Enacted during a period in federal Indian policy known as the “Termination Era”, Public Law 83-280 transferred to certain states criminal and civil jurisdiction over Indian persons in Indian country within those states without tribal consent, thereby negating the power of self-government by the tribes in these “mandated” states and superceding both tribal and federal authority.

Although P. L. 83-280 initially affected only six states (California,

Minnesota, Nebraska, Oregon, and Wisconsin, with Alaska becoming the sixth upon statehood), the Act also authorized “nonmandatory” states to “assume jurisdiction” over tribal nations within their state boundaries by taking “affirmative legislative action” and *without* tribal consent. As a consequence, several more states subsequently assumed jurisdiction, either in whole or in part, over Indian country within their borders.

In 1968, when Congress enacted the Indian Civil Rights Act (ICRA) (82 Stat. 77, 25 U.S.C.S. 1301, *et seq.*), P.L. 83-280 was amended to require tribal consent of subsequent transfers of jurisdictions to states. The tribal consent requirement is not retroactive, however. As a consequence, the amendment did not apply to transfers of tribal jurisdiction to states that had already taken place prior to 1968. Title 25, U.S.C.S. 1323 then authorized a retrocession of jurisdiction by any state to the federal government of “all or any measure of the criminal or civil jurisdiction, or both, acquired by such State” by virtue of Public Law 83-280. Tribes within states affected by P.L. 83-280 effectively retain concurrent jurisdiction with the state in both investigation and prosecution matters, which can be an additional burden to Tribal Nations’ criminal justice response teams.

Additionally, the Indian Civil Rights Act, enacted in 1968, limited the sentencing authority of tribal courts to a maximum of a \$5,000 fine and/or a one year jail term. This particular policy poses special concerns for tribes which have taken on the arduous task of developing and adopting tribal legal code that effectively addresses stalking crimes since the limited sentencing authority imposed by the ICRA leaves little leeway for establishing graduated sanctions as pu-

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### *Native Americans and Stalking*

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nitive measures against stalkers that re-offend.

Lack of financial resources adds further difficulties to the already confusing mix of what some feel amounts to “opposing” public policy, at both a state and federal level. Many Indian Nations that are committed to providing safety and legal protection to stalking victims do not possess the financial resources necessary to develop tribal court systems or tribal police forces. Tribes that rely on Bureau of Indian Affairs law enforcement personnel to respond to stalking crimes may find that BIA budget constraints result in officer staff shortages in the field, which in turn, result in longer officer response times to reports of stalking crimes. (Wakeling, Stewart et al, “Policing on Indian Reservations”, *National Institute of Justice Journal*, January 2001, p. 4.: “Existing data suggest that tribes have between 55 percent and 75 percent of the resource base available to non-Indian communities.”)

Even Indian Nations that do possess strong tribal court systems and police forces will have a difficult time holding offenders accountable if the tribe has not successfully designed and adopted tribal legal code that effectively addresses stalking crimes — particularly as “stand-alone” crimes, independent of domestic violence-related offenses.

But what happens when the Native stalking victim seeks protection from a non-Native stalker in Indian country? In these cases, there may be no recourse under the law for the victim, either at a tribal or state level. The U.S. Supreme Court decision in *Oliphant vs. Suquamish* (435 U.S. 191 (1978)) makes it clear that tribal governments have no criminal jurisdic-

tion over non-Indians for any violation of tribal law, and since non-P.L. 83-280 states do not have jurisdiction over crimes committed in Indian country against Indian persons, the Native victim of stalking may have nowhere to turn to seek either justice or protection.

This circumstance is further aggravated by policies that do not allow for prosecution of misdemeanor domestic violence and stalking offenses in a federal court unless the crime committed involves either “serious bodily injury or death.”

The standard definition for “serious bodily injury,” per 18 U.S.C.S. 1365(g)(3), is “bodily injury which involves – (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.” It is a high price for a victim to pay before getting justice in the federal system.

The overall effect of these combined factors is that Native victims of do-

mestic violence and stalking may justifiably feel that “equal protection under the law” has been denied them as a direct consequence of race and ethnicity.

The Violence Against Women Act II (VAWA II), signed into law effective November 1, 2000, clarifies some of the confusion that has resulted from public policy, particularly around the authority of tribal courts to enforce civil protection orders against non-Indians. However, a number of barriers still prevent Native stalking victims in Indian country from seeking the safety and justice they deserve. Indian Nation governments that design, develop, and implement their own culturally-specific legal code to address domestic violence and stalking crimes will further their sovereignty by protecting their citizens, empowering victims of stalking, and holding perpetrators of these crimes accountable.

*You may contact the Native American Circle, Ltd. by e-mail at: nac@ionet.net or by phone at (toll*

Native American Circle, Ltd. and the Stalking Resource Center have defined project objectives and goals as:

- ◆ Assist tribal nations in developing tribal legal codes that effectively and appropriately address stalking crimes against American Indian/Alaska Native women;
- ◆ Provide educational materials and training programs to educate victim advocates, police officers, prosecutors, and other criminal justice professionals serving tribal nations in identifying and managing stalking cases in American Indian/Alaska Native communities;
- ◆ Develop model protocol for use by

tribal nations to implement coordinated, multidisciplinary responses to stalking crimes in Indian country;

- ◆ Assist in forming dedicated teams of police officers, prosecutors, court personnel, and parole and probation officers from existing domestic violence units to investigate, monitor, arrest, and aggressively prosecute stalkers;
- ◆ Identify promising practices to prevent and reduce stalking in domestic violence cases;
- ◆ Provide technical assistance and training in the use of federal laws regarding interstate stalking, as defined by VAWA 2000.

## Practitioner Profile: Interview with Daniel Renteria, Parole Agent III

*Daniel Renteria is a Unit Supervisor with the California Department of Corrections, Parole Division. He is also the state's foremost trainer on domestic violence and stalking for the Department. Mr. Renteria has been a parole agent in Fresno, California, for the past 15 years, and previously served in the Fresno County Probation Department for over 13 years. He is a Parole Agent Safety and Tactics (PAST) instructor which involves self defense and related training. He also teaches Intermediate Sanctions and Developing Community Resources at the parole agent academy.*

### **Why did you decide to begin training parole agents on stalking?**

California passed a law mandating stalking training for parole agents. Because of my work with domestic violence, I understood the severity and seriousness of stalking, so I started doing some research and put together a draft lesson plan for the Academy. They actually received my draft lesson plan at about the same time they received their directions from headquarters to develop stalking training.

### **Do you conduct the training yourself?**

Yes, I teach a class of approximately 40 new agents at the parole academy.

### **What is the objective of this training?**

We want to sensitize the agents to the seriousness of stalking behavior. We have agents who are not aware of the dangers stalkers pose to their victims, or the type of behavior they might see in a stalking case.

### **What does the training consist of?**

This is a four-hour training, mandatory for all new parole agents. We discuss the typologies—categories of stalking. We talk about the impact of stalking on victims. We provide instruction in the protocol for notifying and interacting with stalking victims, especially in regard to a stalker's release to parole. Special parole conditions are discussed and how to use them to provide protection to the victim and maximize community supervision. Training also includes investigation of stalking offenses and what questions to ask the victim to establish a parole violation.

One of the main topics is the lethality risk assessment to determine the danger of the stalker. Is this person apt to reoffend? Part of the lethality assessment is psychiatric. Most stalkers on parole are referred for psychiatric evaluation and/or treatment. Agents also look at the offender's file for information about prior incidents. We want agents to be able to identify early warning signs that the offender may relapse and to look for the general precursors for stalkers—is the offender using alcohol again, blaming the victim, depressed?

Our parole conditions include “no contact” and “no attempt to contact” the victim through third parties. Even that is a parole violation. We do not allow phone contact, or correspondence with the victim. The offender cannot cross over the line even briefly. If we allow this type of behavior to continue, the stalker will become relentless and will push his or her limit. We want to be able to intervene early and take immediate action.

### **Is there one type of stalking you**

### **focus on more than others?**

As the majority of all stalking victims are also victims of physical abuse, we focus more on domestic violence stalkers; they are the most dangerous. They know the victim intimately—where she lives and works, where her parents live, where she takes her children to school—and they have a history of violence.

This type of offender often comes out of prison with a mission to pursue the victim in hopes of winning her back. Many of them feel the victim is their property, and they have the right to track her down and punish her for leaving. They may also believe they're beyond the law. Studies show that 80 percent of domestic violence stalkers violate a restraining order. If a female leaves a relationship and she's stalked, she has a 75 percent higher chance of being killed by the stalker. We also know that over 30 percent of female homicide victims are killed by an intimate partner. We provide training in domestic violence prior to the stalking training.

In the stalking training, of course, we also talk about the other typologies, including celebrity stalking and stranger stalking.

### **What types of assistance do victims seek from parole agents?**

Protection. Upon request, we notify the victim prior to the offender being released from prison. We impose special parole conditions to abstain from contacting the victim and we enforce these conditions with a zero tolerance. In addition, we evaluate the circumstances of the offense and make a determination whether to re-

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## Practitioner Profile

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locate the offender to another community upon his or her release. If a parolee is involved in stalking behavior, we take immediate steps to locate the subject and place him or her in custody. We also refer victims to victim service programs.

### How closely do you work with victim services?

The Department of Corrections Victim Services Office operates out of Sacramento and provides services and resources to victims throughout the state. Agents also utilize local resources and community-based victim programs. For example, the Fresno County Probation Department administers the local victim/witness center. Agents refer victims to the center who need financial aid, medical assistance, emotional support, and related services.

### How many agents have you trained?

We've trained over 200 new agents to date. At the present time, this training only reaches the new parole agents. We hope soon to be able to train additional trainers and expand the training to existing agents statewide. Since January, I have also provided training to the California Youth Authority, and to Fresno County Probation Officers.

### What type of feedback are you getting from the agents?

I've had agents tell me our training is excellent. Until they took the training, they didn't realize the seriousness of stalking behavior. They only hear about the celebrity stalking, not the stalking of everyday people. And with domestic violence cases, they may hear about the assault or the murder, but they don't hear about the stalking that preceded that. The training opens their eyes to the seriousness

and prevalence of stalking.

The training is really hands on, which the new agents appreciate. Part of the training involves letting the agents look at an actual case, read through the case study and develop a plan how to supervise the parolee. This gives them experience and insight on how to work those cases. They learn what risk factors to look for, and how to act with the protection of the victim as their prime concern. They also learn how to investigate a stalking offense which ultimately becomes a parole violation. Agents are also taught about stalking laws and department policies.

### What has been the impact of having more parole agents trained?

The impact of having more agents trained is increased public safety through being aware of current laws, providing high-level supervision to parolees who pose a risk, and being diligent when enforcing parole conditions.

### Do parole agents serve on any multidisciplinary task forces or committees to deal with stalking or domestic violence?

Agents in various communities serve on domestic violence committees and are members of boards which monitor domestic violence programs. Parole agents also work closely with local law enforcement agencies on these types of cases. Agents are fully aware that through a joint effort we can be more effective and provide maximum protection to victims of stalkers.

### How can people contact you if they have questions about the training?

They can call me at (559) 444-2400, Ext. 243, or e-mail me at [DRenteria@parole.corr.ca.gov](mailto:DRenteria@parole.corr.ca.gov)

## Stalking & Sexual Assault: Exploring the Nexus

One out of every 12 women will be stalked sometime during their lifetime (Tjaden: National Violence Against Women Survey, 1998). Thirty-one percent of female victims of intimate partner stalking report that they have been sexually assaulted by their stalker (Ibid). These statistics reveal in a very horrifying way the tragic relationship between stalking and sexual assault.

While we as a society are still learning about all the dynamics of stalking, there is even less known about the relationship between stalking and sexual assault. The Stalking Resource Center is committed to addressing this issue and motivated to expand our understanding of the interplay between these two crimes.

In collaboration with the Connecticut Sexual Assault Crisis Services, Inc., the Stalking Resource Center brought together members of the *Sisters of Color Ending Sexual Assault: National Women of Color Leadership Project* in a roundtable meeting held last May at the National Center for Victims of Crime's office in Washington, DC. The goal of this meeting was to address the relationship between stalking and sexual assault and the effects of stalking on all populations.

Seven state sexual assault coalitions were represented at the meeting. These members indicated that training opportunities and educational materials were fairly limited with respect to the issues of sexual assault and stalking, especially with regard

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to the unique issues faced by women of color. All participants reported that the majority of training addresses law enforcement issues almost exclusively. While there has been some work done on creating stalking protocols, neither the training nor protocol efforts have addressed sexual assault. In many communities, stalking is handled by domestic violence programs and not sexual assault agencies.

The Stalking Resource Center is working with roundtable participants to develop a stalking curriculum specifically addressing sexual assault issues for communities of color. We are committed to exploring all aspects of this issue and would welcome the opportunity to work with all communities to address the important relationship between stalking and sexual violence.

This is an exciting and developing area involving issues that have often been left unaddressed. If you or your community are currently working on these issues, or would like assistance with regard to this or any other stalking matter, please contact us by phone at 202-467-8700, or by e-mail at [src@ncvc.org](mailto:src@ncvc.org).

Coming soon to our website!

[www.ncvc.org/src](http://www.ncvc.org/src)

A searchable index of the materials in our Information Clearinghouse!

## Case Law Update

### *Curry v. Florida, 811 So. 2d 736 (Fla. Distr. Ct. App. 2002)*

The Florida Court of Appeals reversed the judgment of the trial court denying the defendant's motion for acquittal and convicting him of aggravated stalking. The defendant made at least forty requests for public records concerning the victim and filed forty complaints against her with various government agencies, including law enforcement, the city, and the Department of Motor Vehicles. At trial, the victim testified that the defendant's conduct had caused her substantial emotional distress. The appellate court held that the defendant's conduct did not constitute the crime of aggravated stalking because his conduct was constitutionally protected activity falling outside the statutory definition of criminal harassment, and when viewed objectively, served a legitimate purpose within the meaning of the stalking statute, regardless of the defendant's motivation.

This decision can be found online at: <http://www.4dca.org/opfrm.html>

### *Ohio v. Harrington, 2002 Ohio 2190 ( Ohio Ct. App. 2002)*

The appellate court reversed the trial court's decision finding the defendant guilty of felony menacing by stalking and remanded the case. Under Ohio law, menacing by stalking is a misdemeanor offense, unless the prosecution proves that the defendant has a previous conviction for the same offense, in which case it becomes a felony. In this case, the defendant was found guilty of a felony

on the basis of evidence of a prior conviction for stalking someone else. The evidence presented included an incomplete judgment entry bearing the defendant's name without the jury's guilty verdict or the court's findings, and testimony from the victim of the crime referenced in the judgment entry. Although the victim testified that she was the complaining party in the previous menacing by stalking case, and that the defendant had been convicted in that case, she never identified the defendant in court to connect him to a prior conviction. The defendant challenged the sufficiency of this evidence. The Ohio Court of Appeals agreed, holding that the evidence of the prior conviction presented was insufficient to support the defendant's felony conviction in the present case. In addition, the trial court violated Ohio law by allowing the victim in the previous case to testify in great detail about her experiences with the defendant. While the victim's testimony was admissible to establish the defendant's conviction for a prior crime, it must be presented in such a manner so as to keep the jury from being prejudicially influenced by the details of the prior crime and convicting the defendant on the basis of the prior crime rather than on the evidence before it in the present case.

This case can be accessed online at: <http://www.sconet.state.oh.us/rod/documents/default.asp#results>



## Research Notes

### *Women As Perpetrators Of Stalking*

Research shows that most stalkers are men. According to the 1998 Department of Justice study, 87 percent of the stalkers identified by victims were male; consequently, most research on stalking offenders focuses on male perpetrators. A recent study from Australia [Purcell et al. *A Study Of Women Who Stalk*. Amer. J. of Psychiatry, 2001] looked at the characteristics of both male and female stalkers.

Demographic characteristics (such as age, race, etc.) of the two groups were very similar. However, more male stalkers had a criminal history. The prevalence of substance abuse was also higher among men, but the psychiatric status of the groups was otherwise comparable, as was the duration of stalking and the frequency of associated violence. Nevertheless, the study demonstrated that there were a number of ways in which female stalkers differed from their male counterparts. The nature of the prior relationship with the victim was different, with men more likely to pursue intimate partners than women (30 percent vs. 20 percent), and female stalkers more likely to focus on professional contacts and less likely to target strangers. Female stalkers were also more inclined than male stalkers to pursue victims of the same gender (almost 50 percent vs. 10 percent). The motivation behind the majority of female stalkers was the desire to establish intimacy with their victim. Men, on the other hand, exhibited a greater range of motivations. What is especially interesting is that 40 percent of female stalkers sought to attain intimacy with a person in the pro-

fessional role of helper, such as psychologists and family doctors. By comparison, less than 20 percent of males pursued such persons.

### *The Toll of Stalking*

Even though it is often stated that stalking causes harm to victims, information about the specific toll of stalking on victims is scarce. A recently published study of Dutch stalking victims [Blaauw et al. *The Toll of Stalking*, J. of Interpersonal Violence, 2002] examined the degree to which stalking is linked to an increased prevalence of psychopathology among victims.

It showed that the stalking victims' scores for somatic symptoms, anxiety and insomnia, social dysfunction, and severe depressions were much closer to those of the psychiatric outpatients, than those of the general Dutch population. Furthermore, a diagnosable psychiatric disorder was present in 78 percent of the stalking victims, and 31 percent of the victims had recurring thoughts about suicide. The investigation of the relationship between stalking features (telephone calls, sending letters, surveillance of victim's home, following, unlawful entry in home, destruction of property, direct unwanted approach, physical assault, threats to harm or kill victim, duration) and psychopathology revealed that the presence of theft/destruction of property or following is associated with higher symptom levels. Also, when six or more behaviors were present or when the frequency of stalking was high and had not decreased, the levels of psychopathology were higher. The type of stalker-victim relationship or the occurrence of physical assault were not

found to be associated with higher symptom levels.

### *Support Groups for Stalking Victims – An Update From Australia*

In the premier issue of our newsletter (Summer 2001) we informed you about several support groups for stalking victims. One of the groups mentioned was a proposed pilot program to be run by Rosemary Purcell and the staff of the *Victorian Institute of Forensic Mental Health* in Australia. The pilot has been completed. While the official results have not yet been published, we have contacted Ms. Purcell and inquired about the success of the group.

The pilot group involved a closed group format held over ten weeks. There were eight participants including both current and recent victims of stalking. The group focused on: (1) social support, (2) practical safety measures and strategies to end/minimize the stalking intrusion, and (3) cognitive-behavioral techniques to reduce anxiety/avoidance symptoms which many in the group experienced. This approach was chosen as the program staff specifically wanted to assess the efficacy of a time-limited group that was action focused, rather than "problem dwelling." This approach proved to be very successful for those victims who were motivated to attend. Motivated victims experienced both a reduction in the stalking and their psychological distress. The not-so-motivated victims, who attended less frequently, did not exhibit the same benefits. However, those clients still stated that the contact with other stalking victims was valuable.

## Legislative Update

### Arizona

SB 1394, signed by the governor on May 30, 2002, eliminates fees for service of domestic violence orders of protection and injunctions against harassment if the court indicates that the basis for the injunction arises out of a dating relationship.

### Colorado

Colorado legislators enacted a new law requiring an employer with fifty or more employees to permit an employee who is the victim of domestic abuse, stalking, sexual assault, or other crimes involving domestic violence to take up to three days of leave in a twelve-month period to seek protection for him or herself. An employee may use the leave time to pursue a civil restraining order, obtain medical care or mental health counseling for self or children, secure his or her home from the perpetrator of the crime, seek legal assistance, or to prepare for and attend related court proceedings. In order to qualify for this leave time, the employee must have been employed for twelve months or more, and must give the employer appropriate advance notice of the need for such leave time except when there is imminent danger to the employee's health or safety. An employer is prohibited from discharging or discriminating against an employee who exercises his or her rights under these provisions. In addition, HB 1051 authorizes a judge or magistrate to issue a civil restraining order to a business entity in order to protect employees of the business upon finding that an imminent danger exists. An employer shall not be liable for failing to obtain such an order to protect its employees and patrons.

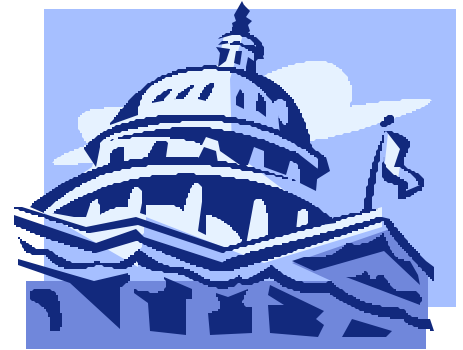
Under an amendment to Colorado's civil restraining order law, victims of domestic abuse or violence, stalking, or sexual assault seeking restraining orders may not be assessed filing or service of process fees. The court may order the respondent to pay such fees and to reimburse the victim for costs incurred in bringing the action at the permanent restraining order hearing. HB 1034 takes effect on July 1, 2002, and applies to all petitions for civil restraining orders filed on or after that date.

### Georgia

On May 13, 2002, Georgia's governor signed HB 1206 into law. The legislation adds good behavior bonds to the list of orders which, if violated, constitutes the crime of aggravated stalking.

### Kansas

Kansas' protection from stalking act was signed into law on May 17, 2002. Under the act, a stalking victim may file a verified petition for a civil protection from stalking order. The parent or an adult residing with a minor may also seek relief on the child's behalf. A protection from stalking order shall remain in effect for up to one year, and may be extended for an additional year if a continuing threat of stalking is shown. Knowingly or intentionally violating such an order is a class A person misdemeanor. Applicable definitions, procedural requirements, and the relief available are set out in the act. In addition, the act contains provisions prohibiting disclosure



of the victim's address and telephone number, and authorizing the issuance of ex parte, temporary orders, as well as allowing attorney fees to be awarded to the victim in any case in which a protection from stalking order is granted.

### Kentucky

Under a new law in Kentucky, a plea or verdict of guilty to the offense of stalking in the first or second degree operates as an application for a civil restraining order limiting contact between the victim and the stalker, unless the victim requests otherwise. An order issued pursuant to the provisions of HB 428, enacted on April 1, 2002, may prohibit the defendant from entering into the victim's residence, property, school, or place of employment; from contacting the victim personally or through an agent; or from initiating any personal, written, telephonic, electronic, or any other communication likely to seriously alarm, annoy, intimidate, or harass the victim. Such an order may be valid for up to ten years with the specific duration to be determined by the court based on such factors as the probability of future violations and the safety of the victim or an immediate family member of the victim. A person who violates a stalking restraining order commits a class A misdemeanor, and is subject to a mandatory warrantless

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arrest by a law enforcement officer who has probable cause to believe that a violation has occurred.

## Minnesota

S.F. 3172, enacted on May 21, 2002, amended Minnesota's stalking law to, among other things, expand the law's definition of aggravated harassing conduct to include acts of criminal sexual conduct as offenses which may be considered to establish a pattern of harassing conduct. In addition, specific penalties for certain violations under the law were added, including making it a felony for stalking a victim under eighteen when the stalker is more than thirty-six months older than the victim and the conduct is committed with sexual or aggressive intent. That crime is punishable for up to ten years imprisonment, a fine of not more than \$20,000, or both.

## New Hampshire

HB 1285, which takes effect on January 1, 2003, amends New Hampshire's stalking statute to extend the relief available under civil protective orders to stalking victims who are minors. A separate bill, HB 1286, enacted on May 3, 2002, increases the time in which a warrantless arrest may be made for the violation of a stalking protective order from six to twelve hours after the violation occurs.

## North Carolina

North Carolina's stalking law was amended by SB 346, enacted on January 5, 2002. The new legislation expands the conduct which constitutes stalking to include harassment, defined to include written, telephonic, cellular, facsimile, voice mail, computerized, and other electronic com-

munications or transmissions which torment, terrorize, or terrify the person to whom they are directed. The amendment also eliminates the specific intent requirement and lowers the level of fear that the victim must experience as a result of the conduct. In addition, stalking is reclassified as a Class A1 misdemeanor while a person who commits the offense of stalking after having been previously convicted of a stalking offense is guilty of a Class F felony.

## Oklahoma

HB 2400, signed into law on April 17, 2002, establishes Oklahoma's Victim Protective Order Task Force for the purpose of studying and preparing recommendations for improvements to the Protection from Domestic Abuse Act, particularly in relation to procedures for issuing protective orders. The Task Force shall issue its report on or before December 1, 2002. The bill also standardizes the form for all *ex parte* and final protective orders entered within the state effective July 1, 2002. A separate bill, HB 2921, establishes an Address Confidentiality Program to protect persons attempting to escape from domestic violence, sexual assault, or stalking. Under the program, such victims may apply to the Secretary of State to have a substitute address designated and may request that state and local agencies used the designated address in place of their actual addresses in order to keep their whereabouts confidential. Agencies that provide counseling and shelter to domestic violence, sexual assault, and stalking victims are directed to assist such victims in applying for certification in the program. Eligible applicants shall be certified as program participants for a period of four years from the date of filing; however, a participant who obtains a name change loses certification as a pro-

gram participant. The new law becomes effective on November 1, 2002.

## Rhode Island

Rhode Island's legislature amended its stalking law to make the crime of stalking a felony offense, punishable by imprisonment for up to five years, a \$10,000 fine, or both. The new law, SB 2935, took effect upon passage on June 25, 2002.

## South Carolina

SB 134, enacted on March 5, 2002, prohibits the court from charging the petitioner a fee for filing a complaint and motion for a harassment or stalking restraining order.

## South Dakota

On February 8, 2002, South Dakota's governor signed HB 1016 which eliminated filing and service fees relating to stalking and domestic abuse protection orders. In addition, HB 1138 increased the crime of stalking of a child aged twelve or younger from a misdemeanor to a Class 6 felony. A person who violates this provision is now guilty of felony stalking.

## Virginia

With the enactment of HB 488/SB 290 on April 8, 2002, Virginia legislators mandated the establishment of a computerized protective order registry within the Department of State Police. The registry will serve as a central repository for information regarding protective orders. Registry information shall be made available to criminal justice agencies upon request. In addition, the state's stalking law was amended to exempt law enforcement officers who are acting in the

(Continued on page 10)

## Legislative Update

(Continued from page 9)

performance of their official duties and registered private investigators who are acting in the course of their legitimate business from the provisions of the statute. HB 456 was signed into law on April 1, 2002.

## Washington

Victims of stalking and domestic violence may now be eligible to receive unemployment insurance benefits upon showing that their unemploy-

ment was necessary to protect themselves or their family members from being stalked or abused. In looking for suitable work for such victims, the individual's need to address the physical, psychological, legal, and other effects of the stalking or domestic violence must be considered. HB 1248 became law on March 12, 2002.

## West Virginia

West Virginia's legislature passed HB 97 on March 7, 2002, enacting the West Virginia Computer Crime and Abuse Act. Under the new law, it is a misdemeanor for any person to, with the intent to harass or abuse another, use a computer to: make contact with a person without disclosing his or her identity; make contact with a person after that person has requested the contact to cease; threaten to commit a crime against any person or property; or cause obscene material to be transmitted to a person who has requested that such material not be sent.

## New Resources

The National Center for Victims of Crime, under a cooperative agreement with the U.S. Department of Justice's Office for Victims of Crime (OVC), has developed a new series of legal bulletins. The following two bulletins provide an overview of state legislation relative to stalking and protection orders:

**Strengthening Anti-Stalking Statutes** (NCJ 189192) Available online at <http://www.ojp.usdoj.gov/ovc/publications/bulletins/legalseries/bulletin1/ncj189192.pdf>.

**Enforcement of Protection Orders** (NCJ 189190) Available at <http://www.ojp.usdoj.gov/ovc/publications/bulletins/legalseries/bulletin4/ncj189190.pdf>.

Eds. Julian Boon and Lorraine Sheridan. *Stalking and Psychosexual Obsession: Psychological Perspectives for Prevention, Policing and Treatment*. West Sussex, UK: John Wiley & Sons, Ltd. 2002. *Stalking and Psychosexual Obsession* represents a showcase of contemporary research and theory. The articles are drawn from the spheres of psychology, psychiatry, the police, and the law. They provide a comprehensive picture of what is currently known about stalking. Some of the topics covered are victimology, violence risk assessment, and case management issues.

Questions, comments, or suggestions regarding this newsletter?

We welcome your input!

E-mail us at [src@ncvc.org](mailto:src@ncvc.org)

## Promising Practices

In an ongoing effort to expand our knowledge of various innovative practices in the field, we are interested in hearing from you. If you have developed a brochure, started a support group, developed or implemented a model protocol/policy, or in some other way helped raise your community's awareness and response to stalking, let us know about it by filling out our online Promising Practices Questionnaire. You can access the questionnaire on our website at [www.ncvc.org/src/questionnaire1.php](http://www.ncvc.org/src/questionnaire1.php).

**National Center for Victims of Crime operates a toll-free Helpline for crime victims. Our trained staff can help victims:**

- understand more about the impact of stalking
- make a safety plan
- learn their legal rights and options
- connect with direct victim service providers
- pursue civil lawsuits
- access victim compensation

Victims can obtain help by calling  
**1-800-FYI-CALL**  
 (TTY 1-800-211-7996)  
 or e-mailing at  
[gethelp@ncvc.org](mailto:gethelp@ncvc.org)

Monday-Friday  
 8:30 am - 8:30 pm EST

[www.ncvc.org/src](http://www.ncvc.org/src)

THE NATIONAL CENTER FOR  
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## Locations:

### **West Coast**

San Francisco, CA: September 18-19, 2002

### **Mid-Atlantic**

Arlington, VA: October 10-11, 2002

### **Midwest**

Minneapolis, MN: October 29-30, 2002

### **New England**

Danvers, MA: November 5-6, 2002

**REGISTER ON-LINE AT [WWW.NCVC.ORG](http://WWW.NCVC.ORG)**

## **Who Should Attend**

- ◆ all victim service providers
- ◆ law enforcement officers
- ◆ healthcare providers, counselors, psychologists
- ◆ anyone who serves crime victims

**“This is one of the best workshops I’ve ever attended.”**

*Irena Lieberman, Esq.,  
Director of Legal Services,  
Tahirih Justice Center*

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