

HB

64

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 64 (Jud)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act creating the crimes of stalking in the first and second ..." BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: Rep. Toohy, Phillips, et. al
 Requestor: House Finance COMPONENT SERIAL NO. 43

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF, MHTA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$ none

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McClellan, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: _____

Approved by Commissioner: Nancy Bear Usura Date: 3/8/93
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: CSHB 64(JUD)

Revision 3/8/93 Dept. Affected: Public Safety
 Title: "An Act creating the crimes of stalking in the first and second degree." BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Toohy
 Requestor: Representative Toohy COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0


POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

No significant fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 3/8/93
 Approved by Commissioner:  Date: 3/8/93
 Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 64 (JUD)

Revision Date: March 5, 1993
Title: "An Act creating the crimes of stalking in the first and second degrees..."
Sponsor: Representative Toohey
Requestor: Representative Toohey

Department Affected: Department of Law
BRU: Prosecution
Component: All
COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Richard I. Peques

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division

Phone: 465-3672
Date: March 5, 1993

Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Date: March 5, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 64 (JUD)

ANALYSIS (Continued):

As we noted in our February 18 fiscal note, the CS for HB 64, answers the concerns the department raised in its fiscal note of 2/1/93. The new version of the bill amends AS 11.41 to establish the crimes of stalking in the first degree and stalking in the second degree. The penalties for these crimes would be a class C felony and a class A misdemeanor, respectively. The bill also amends the assault, terroristic threatening, and domestic violence laws, in a manner that coordinates the anti-stalking provisions with these laws.

Although this bill will cause some new prosecutions, it will probably also prevent some more serious crimes from being committed. We cannot predict how many new prosecutions will occur. However, the prevention of one murder will certainly outweigh the prosecution of several stalking crimes, both in human and monetary terms.

Last, coordinating the anti-stalking provisions with existing laws will also help the state defend against legal challenges to overturn the anti-stalking law, because it helps demonstrate that these provisions are part of a broader legislative plan to protect the general population from the fear of death or physical injury at the hands of another person.

We do note that this version of the bill amends AS 12.55.090(c) to increase the maximum allowed period of probation for all felonies from 5 years to 10 years. This new provision should not have a fiscal impact for the Department of Law, because it is sometimes more expedient (and less expensive) to prosecute a probation revocation than prosecuting a new offense, particularly where the original offense represents a more serious crime. However, this provision will probably increase the probation and parole caseload and it could have a fiscal impact for the Department of Corrections.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 64 (Fin)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act creating the crimes of stalking in the first
and second . . ." BRU: Public Defender
 Component: Public Defender
 Sponsor: Reps Toohey, Phillips, et. al
 Requestor: House Finance COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$ none

ANALYSIS: (attach a separate page if necessary.)

Prepared By: John Salemi, Public Defender Phone: 279-7541
 Division: Public Defender Agency Date: _____

Approved by Commissioner: Nancy Bear Userra Date: 3/8/93
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 64 (JUD)

Revision Date: 3-8-93 Dept. Affected: Corrections
 Title: "An Act creating crime of BRU: Community Corrections
stalking." Component: _____
 Sponsor: Representative Toohy
 Requestor: House Finance COMPONENT SERIAL NO. 1861

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	-0-	-0-	-0-	-0-	-0-	-0-
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) is -0-

ANALYSIS: (Attach separate page if necessary)

Please see attached fiscal analysis.

Prepared by: Dana LaTour, Special Assistant *Dana LaTour*
 Division: Office of the Commissioner

Phone: 465-3376
 Date: 3-8-93

Approved by Commissioner: Lloyd G. Rupp
 Agency: Department of Corrections

Date: 3-8-93

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Page 2
Fiscal Analysis
CSHN 64 (JUD)

The Department's position is that there is no fiscal impact because the number of cases that will result in convictions for stalking is not easily quantifiable, although the Department assumes that the number will not be significant.

Section 8 allows the sentencing court to place an offender on probation for up to 10 years. The current maximum under the law is 5 years. Because most probation violations take place with the first year of supervision and because judges can terminate probation supervision at any time, few offenders are expected to be on supervision for the 10 year maximum.

If the court does leave a large number of offenders on probation after the current 5 year limit, it is estimated that a new probation officer position will be required for every 40 cases.

FISCAL NOTE

not adopted

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 64 (JUD)

Revision Date: _____
Title: "An Act creating the crimes of stalking in the first and second degrees . . ."
Sponsor: Representative Toohey
Requestor: House Finance

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	104.9	108.0	111.2	114.5	117.9	121.4
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	3.0	3.1	3.2	3.3	3.4	3.5
SUPPLIES	2.0	2.1	2.2	2.3	2.4	2.5
EQUIPMENT	4.0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	113.9	113.2	116.6	120.1	123.7	127.4

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	113.9	113.2	116.6	120.1	123.7	127.4
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	113.9	113.2	116.6	120.1	123.7	127.4

POSITIONS:

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: _____

ANALYSIS: (Attach a separate page if necessary.)
See attached.

Prepared by: John B. Salemi, Public Defender
Division: Public Defender Agency

Phone: 279-7541
Date: _____

Approved by Commissioner: Nancy Bear Usura
Agency: Administration

Date: 3/8/93

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CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 64

Introduction

This legislative proposal creates a new category of crime which generically has been referred to as "Anti-stalking". Both felony (class C) and misdemeanor level stalking crimes are included within the bill.

The bill also amends the definition of assault in the third degree, a class C felony, by making "repeated threats to cause death or serious physical injury" a category of felony assault. At the same time this conduct is removed from the definition of the current crime of "terroristic threatening".

The bill also expands the authority of police officers to arrest without a warrant under certain circumstances. The bail provisions with respect to domestic violence cases are amended to include stalking under the provisions of this bill.

The most significant provision with respect to the bill's fiscal impact on the Public Defender Agency is that which increases (doubles) the potential period of probation from five to ten years.

Fiscal Impact

1. Creation of a New Offense--Because this provision creates a new category of crime at both the misdemeanor and felony level there will be some increase in the Public Defender workload at the trial level. It is unknown to what extent cases will be filed if this bill becomes law. Therefore fiscal impact is uncertain.

2. Constitutional Challenge--Anti-stalking provisions as described in this bill may be susceptible to a constitutional challenge on vagueness and overbreadth grounds. This appeals process will necessarily consume considerable attorney time. However, these challenges are typically processed in the context of one case, and need not be repeated for every crime charged.

3. Increase in Potential Period of Probation-- In terms of fiscal impact this is the most significant provision of the bill (see page 6, line 18 of CSHB 64). It is expected that judges will regularly order a ten year period of probation in certain felony cases, especially sex offenses. Doubling the period of probation increases the likelihood that an individual will have his/her probation revoked by the Department of Corrections. Once that occurs at least three hearings are held (arraignment, adjudication hearing and disposition hearing). In a probation revocation proceeding an individual has the right to appointed counsel

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 64

assuming indigency. Because of civil liability concerns, probation officers often file petitions to revoke probation even for minor/technical violations. An example would be a probationer's failure to report to his/her probation officer as required. Any violation of a condition of probation can trigger a petition to revoke.

Having discussed this matter with representatives from the Department of Law there is agreement that there will be some increase in probation revocations because of longer probationary periods in some cases. The Department of Law is unable to estimate the number of cases which will be generated by this provision. Law correctly points out that there will be a greater impact on the Department of Corrections/Probation than on Law.

The Public Defender expects that the majority of these probation revocation cases will occur in Fairbanks and Anchorage. Taking the most conservative approach, this agency believes it can absorb the additional cases through the use of paralegals who will assist attorneys in client communication, witness coordination and predisposition workups. Therefore the Public Defender requests one paralegal position for its Anchorage and Fairbanks offices.

Budget Analysis

100	Personal Services:	
	Paralegal Assistant II (Anchorage)	51.5
	Paralegal Assistant II (Fairbanks)	<u>53.4</u>
	TOTAL	104.9
200	Travel	-0-
300	Contractual Office Space	3.0
400	Supplies	2.0
500	Equipment (one time)	<u>4.0</u>
	TOTAL	113.9

Position Title Paralegal Assistant II			No. of Positions 2	Range / Step 16/A	Barg. Unit GGU
Time Status PFT	Staff Months 24.0		Location Anchorage/Fairbanks	Election District 7 - 20	
TYPE OF EXPENDITURE			AMOUNT		
Salary			74,340.0	74,340.0	
Benefits			30,550.0	30,550.0	
Premium Pay					
Other					
Total Personal Services			104,890.0	104,890.0	
Travel				0.0	
Contractual				3,000.0	
Commodities				2,000.0	
Equipment				4,000.0	
Other					
Total Cost				113,890.0	
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts 1002					
G.F. Match 1003					
General Fund 1004				113,890.0	
I-A Receipts 1007					
CIP Receipts 1061					
Other					
Justification					

10/FY94/17/06421.A

Request For New Position

AGENCY ADMINISTRATION
 BRU Public Defender Agency
 COMPONENT Public Defender Agency

FY 94

Page 4 of 4
 Revised Date: _____

Bill No. CSHB 64 (Jud)

Date: March 5, 1993
Contact: Joanne F. Lopez
465-4356

Title: " An Act creating the crimes of stalking..... "

CSHB 64 (Jud) provides added protection for victims of domestic violence and sexual assault from violent pursuers who stalk the victim and thereby place them in fear of death or serious physical injury. The Council on Domestic Violence and Sexual Assault supports the concept of a bill that would create the crime of stalking, and provide police with the ability to make arrests based on probable cause.

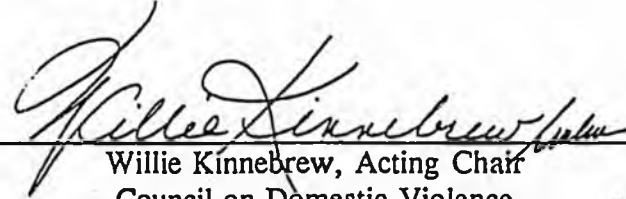
Violent, harassing and threatening behaviors toward innocent citizens have always been a serious problem particularly for victims of domestic violence and sexual abuse. While laws such as protective restraining orders exist to protect victims from violent pursuers, law enforcement officers may not intervene until such orders have been violated. By then, it is usually too late to prevent the offenders from harming or even killing those whom such orders were designed to protect.

Each year an estimated six million women are beaten by the men they live with. A third of the women who are murdered each year are killed by husbands or boyfriends. National statistics show that 30% of all female homicide victims were stalked prior to their murders. Leaving a bad relationship is often the most dangerous time for women. A national study reports that 75% of domestic assaults occur after the couple separate. More women are killed when the relationship breaks up than at any other time. A few stalkers fixate on co-workers or complete strangers, and not all victims are female, but the vast majority of cases involve former lovers or spouses.

CSHB 64 (Jud) covers gaps that restraining orders cannot. It gives more leverage against people who ignore restraining orders. If the offender is arrested and convicted for a felony crime they would be more likely to be subject to parole supervision after release.

California passed the nation's first "stalking law" in 1990, a year after five Orange County women were murdered in separate incidents despite temporary restraining orders against the assailants who were stalking them, their husbands or boyfriends. The bill had impetus from cases involving Hollywood celebrities who were stalked by obsessed fans. But California also uses its stalking law for domestic violence cases, and 27 other states have followed suit.

The Council on Domestic Violence & Sexual Assault supports passage of CSHB 64 (Jud).


Willie Kinnebrew, Acting Chair
Council on Domestic Violence
and Sexual Assault

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

February 26, 1993

LETTER OF INTENT

The House Judiciary Committee, in its review of HB 64, An Act Creating the Crime of Stalking, discussed some issues that were not clear from the analysis in the fiscal note submitted by the Department of Corrections. The Judiciary Committee respectfully urges the Finance Committee to ask the Department to clarify the expected fiscal impact of this bill (if any) on both probation and prison costs.

Brian S. Porter

Representative Brian Porter
Chairman, House Judiciary Committee



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA D. TOOHEY

State Capitol
Juneau, AK 99801-1182

DISTRICT 13

SPONSOR STATEMENT

HOUSE BILL 64

Reports across the country of victims being stalked by estranged boyfriends, husbands, acquaintances, or strangers has motivated states to take action against the perpetrators of such offenses. Stalking affects not only the victim, but often other members of the victim's household.

The stalking law was birthed in California. in 1990. The year before, actress, Rebecca Schaeffer, had been murdered by a fan who stalked her. Early in 1990 five Orange County women were murdered. In each case, the victim had been stalked and threatened and had a temporary restraining order against her assailant. One victim asked police, "What does he have to do--shoot me?" A few days later that is just what happened.

Alaska is not free of stalkers. A Homer woman was stalked by her ex-husband and it resulted in her friend being murdered by him. In Anchorage, a woman was stalked and eventually shot to death in her office by a former boyfriend. The stalker often knows the victim and, in the majority of cases, the estranged husband or boyfriend is the stalker.

HB64 creates the crimes of stalking in the first and second degree. In the first degree, it is a class C felony and in the second degree, a class A misdemeanor. A peace officer has the authority to arrest without a warrant. Like cases of domestic violence, stalking defendants are given conditions regarding their release before trial.

HB64 is modelled after the Michigan law which was passed in December 1992 and considered one of the toughest in the nation. Over 31 states now have stalking laws.

SECTIONAL ANALYSIS OF CSHB64 (JUD)

Section 1 of the bill creates the crimes of stalking in the first and second degrees. Stalking in the first degree is a class C felony and stalking in the second degree is a class A misdemeanor.

Section 2 of the bill amends AS 11.41.220(a) adds intent to place another person in fear of death or serious physical injury by making repeated threats to cause death or serious physical injury to another person as another form of assault in the third degree. This language was taken from AS 11.56.810(a) (See Section 3 of the bill.) and was moved as this conduct is basically an assault type of offense and is more properly placed in AS 11.41 as a crime against a person.

Section 3 of the bill amends AS 11.41.220 by adding a definition of "the person's family member."

Section 4 of the bill amends AS 11.56.810(a) removes intent to place another person in fear of death or serious physical injury by making repeated threats to cause death or serious physical injury to another person

Section 5 of the bill amends AS 12.25.030(b) to provide a peace officer with the authority to arrest without a warrant a person the peace officer has reasonable cause to believe has committed stalking in the second degree.

Section 6 of the bill amends AS 12.30.025 to extend the provisions of that section that relate to conditions of release before trial in cases involving domestic violence to stalking cases.

Section 7 of the bill amends AS 12.55.085(f) by extending the provisions of that subsection, that prohibit the suspension of imposition of sentence, to stalking cases.

Section 8 of the bill amends AS 12.55.090(c) to provide that the period of probation may not exceed 10 years.

Section 9 of the bill is an applicability section regarding Sections 1 and 2 of the bill and the effective date.

Section 10 of the bill is an applicability section regarding Section 8 of the bill and the effective date.

Section 11 of the bill provides for an immediate effective date.

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 1, 1993

FURTHER REFERRALS:

Date of Committee Action: 3/10/93

The FINANCE Committee considered:
HOUSE BILL NO. 64

HB 64
ANTI-STALKING LAW

"An Act creating the crimes of stalking in the first and second degrees and providing penalties for their violation; providing a peace officer with the authority to arrest without a warrant a person the peace officer has reasonable cause to believe has committed stalking; relating to the release before trial of a person accused of stalking; and prohibiting the suspension of imposition of sentence of a person convicted of stalking."

RECOMMENDATIONS:

be replaced with CS HB 64 (FIN) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note DOA/OPA DOA/PD DOC

zero fiscal note(s) PS 3/1/93 Law 3/1/93

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Mackean</u>					
<u>Eileen P. Meehan</u>	✓				
<u>Ronald J. Larson</u>	x				
<u>Mark Hanley</u>	✓				
<u>Terry Martin</u>	✓				
<u>Seal Parrell</u>	x				
<u>Sam Gussard</u>	✓				
<u>Mike Savarce</u>	✓				
<u>Gay Brown</u>	✓				
<u>Tom Therriault</u>	✓				

Ronald J. Larson
CHAIRMAN'S SIGNATURE

Back up

D. Elizabeth Cuadra
P. O. Box 33678
Juneau, AK 99803

February 16, 1993

The Honorable Cynthia Toohey
Alaska House of Representatives
State Capitol
Juneau, AK 99801-1182

Re: Anti-Stalking Legislation

Dear Representative Toohey:


Thank you for sponsoring legislation that would make stalking another person unlawful.

Enclosed is an article from a national newspaper, which I thought might be of help to you in presenting the problem to committees which will be considering your legislation.

If you are looking for personal testimony, please feel free to call on me. I can testify from personal experience (in Kansas) as to the terror such a situation causes. I can also testify as to my own attempts (in Virginia) to save my daughter (then newly graduated from high school) from a stalker who eventually gave her a broken nose and threatened to kill her if she reported it to the police. Needless to say, I shipped her out of the State of Virginia (to the west coast) immediately, in order to place her out of further danger from this man who was already awaiting trial for felonious assault (with a deadly weapon) against another person. The police had been of no help whatsoever, indicating that they could do nothing with respect to a stalker, nor could they provide any sort of help unless she could overcome her fear sufficiently to file a complaint.

I applaud what you are doing and wish you every success. I suspect there are many women who could provide personal testimony concerning similar events here in Alaska, and similarly "helpless" police absent a law that makes stalking a criminal offense.

Sincerely,


D. Elizabeth Cuadra

DEC/k11.212
Enclosure

Efforts to Protect Women From 'Stalkers' Gain Momentum at State, Federal Levels

By David Holmstrom

Staff writer of The Christian Science Monitor

BOSTON

THE many incidents of domestic violence in the United States, like frayed parts of a fabric, continue to challenge the viability of hundreds of thousands of families and relationships.

In an effort to stop more unraveling, Congress approved a plan in October to create a model antistalking law. The objective is to help states deal effectively with the estimated 200,000 people, mostly men, who stalk someone each year —

usually an estranged wife or girlfriend.

Since 1990, when California passed the first antistalking law after actress Rebecca Schaeffer was shot and killed by a stalker, 29 states have followed suit — despite claims that some of the laws are not constitutional. Five more states are preparing such legislation. Studies indicate that the leading cause of injury today for American women is the result of being beaten by a man.

According to Sen. William Cohen (R) of Maine, the sponsor of the congressional bill, each year in the US an estimated 4 million men kill or violently attack women they live with, date, or were formerly intimate with. "Women who seek protection," he said when the bill was passed, "often

See STALKING page 4

THE CHRISTIAN SCIENCE MONITOR

Tuesday, December 22, 1992

BILL NO: CSHB 64(JUD)

DATE: March 8, 1993

TITLE: "An Act creating the crimes of stalking. . ."

CONTACT: C.E. Swackhammer
Deputy Commissioner
465-4322

Section one of this legislation amends AS 11.41. Offenses Against the Person by adding a new section 11.41.260 Stalking in the First Degree. A person commits Stalking in the First Degree if the person violates Stalking in the Second Degree (new section AS 11.41.270) and 1) the action is in violation of the domestic violence order, or 2) the action is in violation of probation, release before trial, release after conviction or parole, or 3) the victim is under sixteen (16) years of age, or 4) the defendant at any time while committing the offense is in possession of a deadly weapon, or 5) the defendant has been previously convicted of a similar crime of stalking or violation of a domestic violence order, or 6) the defendant has been previously been convicted of the following crimes wherein the victim in the offense of stalking was the victim: murder in any degree, assault in any degree, kidnapping in any degree, sexual abuse, indecent exposure, terroristic threatening, or harassment.

Stalking in the First Degree is a class C felony.

Stalking in the Second Degree is committed when a person "recklessly places another person in fear of death or physical injury, or in fear of the death or physical injury of a family member."

Stalking in the second degree is class A misdemeanor. A family member is defined as:

- (A) a spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt, nephew or niece of the victim, whether related by blood, marriage, or adoption;
- (B) a person who lives or has previously lived in a spousal relationship; or
- (C) a person who lives in the same household, or
- (D) a former spouse of the victim or is or has been in a dating, courtship, or engagement relationship with the victim.

Stalking in the second degree includes the definition of "nonconsensual contact" and lists seven activities which would apply.

"Victim" means a person who is the target of a course of conduct.

Section Two of this legislation amends AS 11.41.220, Assault in the Third Degree, paragraph (a)(2), to include "placing another person in fear of death or serious physical injury to the person or person's family member [by making] repeated threats to cause death or serious physical injury to another person."

Section three amends AS 11.41.220 by adding the same definition of "family member" as is found in A-D, above.

Section four amends AS 11.56.810, Terroristic Threatening, paragraph (a) by moving language from this statute to AS 11.41.220 described in Section two, above.

Section five amends AS 12.25.030, Grounds for Arrest by Private Person or Peace Officer Without Warrant, to add AS 11.41.270 (Stalking in the Second Degree) to the crimes for which an officer may arrest without a warrant.

Section six amends AS 12.30.025, Release Before Trial in Cases Involving Domestic Violence, to include stalking and addresses prohibitions which include provisions against stalking the victim prior to trial.

Section seven amends AS 12.55.085, Suspending Imposition of Sentence, paragraph (f) by adding Stalking in the First or Second degree to crimes for which a court may not suspend the imposition of sentence.

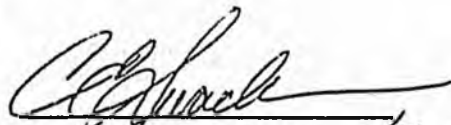
Section eight amends AS 12.55.090, Granting of Probation, by increasing the maximum years of probation from five to ten years.

Sections nine and ten provide that the commission of Stalking I or II apply only to offenses committed after this legislation is passed, but that convictions as an element of Stalking I can have occurred prior to this legislation becoming law.

Section eleven provides for the act to take effect immediately.

This legislation is a needed addition to the statutes which involve domestic violence as well as those less frequent situations where a fixation on the part of a individual creates fear and a possibly dangerous situation on the part of the victim.

The Department of Public Safety supports CSHB 64(JUD).


Richard L. Burton
Commissioner

**THE
FOLLOWING
DOCUMENTS
ARE
POOR
ORIGINAL
COPIES**

STALKING from page 1

face a judicial system that has traditionally viewed such violence as 'domestic disputes.'

Some argue that a pervasive male attitude that women should be subservient, and a judiciary inclined to see domestic violence not as a crime, but rather as a domestic issue, place many women in peril. Of all those women murdered by their ex-husbands or boyfriends, studies indicate that 90 percent had called the police at least once for protection, and more than half had called five times or more. The Federal Bureau of Investigation reports that 30 percent of female murder victims in 1990 were slain by husbands or boyfriends.

The congressional bill, signed by President Bush, directs the National Institute of Justice - a government criminal-justice research agency - to develop a statute against stalking that will be constitutional and based on recommendations from a number of law enforcement agencies and governmental public interest groups. Many law enforcement agencies could not take action against stalkers until now because they had not committed a crime.

The growing awareness of stalking as a crime is the product of recent, well-publicized deaths of several women. In suburban Boston, 21 year old Kristin Lusher was shot to death by her ex-boyfriend on the street recently. Last week two more women were slain here by stalkers.

Earlier this year in Elmhurst, Ill., a couple was shot to death in their driveway by a man who had been stalking the woman.

In Maine, a man who has been in and out

of mental hospitals, and repeatedly violated restraining orders, has been stalking Kimberly Poland for eight years. He first saw her photo in a newspaper and continues to stalk her. (In most cases, the men do not have mental disorders.)

In Massachusetts, officials say at least 40 women have been killed this year because of domestic violence, with several deaths preceded by stalking. In Minnesota last year 26 women were killed in domestic violence in-

States with 'Stalking' Laws

Stalking is typically defined as willful, malicious, and repeated following and harassing of another person.

Alabama, Iowa, Oklahoma
California, Kentucky, Rhode Island
Colorado, Louisiana, South Carolina
Connecticut, Massachusetts, South Dakota
Delaware, Missouri, Tennessee
Florida, Nebraska, Utah
Hawaii, New York, Virginia
Kansas, North Carolina, Washington
Kentucky, Ohio, West Virginia
Maine, Wisconsin

idents. Half of the Minnesota women had sought help from the state. "Whenever the woman takes a step to end an abusive relationship," says Janet Fine, chief of the Victim Witness Service in the Suffolk County, Mass., district attorney's office, "she is potentially at greater risk."

Typically, after being regularly battered, a woman obtains a restraining order against her abuser and tries to separate herself from him. In Massachusetts since September, when a new state record-keeping system went into effect, of the 2,000 restraining

orders issued, more than a third had been violated in the first few days. Often the order triggers men to stalk and harass the women.

Michael Paymar, training coordinator with the Duluth, Minn., Domestic Abuse Intervention Project, says: "There are a certain percentage of men who are extremely afraid of the law."

A battered and frightened woman seeking to end such a relationship needs help and support. In Massachusetts, the legislature has earmarked funds for support necessitated by domestic violence.

"In the courts here where the greatest number of restraining orders are issued," Ms. Fine says, "we have a program to assist women and assess their level of risk. We can help them get to a shelter or figure out another safe plan for them and provide other kinds of services. But there are so many victims here, and nationally, too, that we are nowhere near where we should be in terms of services."

In Minnesota, Mr. Paymar says, "the state has committed a lot of money to shelters and legal advocacy for women." Transitional housing is provided to abused women. For some women a two-year program in an apartment style complex helps them reorient their lives. Duluth also has programs to try to reform perpetrators of violence.

Paymar says: "It has been sanctioned in society for a thousand years that a man has control over his woman... We confront those beliefs and ask him where does he get the right to do it? What do you want a woman in your life for? You are depersonalizing her, humiliating and injuring her, yet you say you love her. It doesn't make sense. We help them learn how to live differently."

February 10, 1993

Representative Cynthia Toobey
State Capitol, Room 104
Juneau, Alaska 99801-1182

Re: Senate Bill # 64

Dear Representative Toobey,

Thank you for introducing Senate Bill # 64. I am writing all the Senators and Representatives to solicit their support to promptly pass this bill. This new bill is long overdue and should be approved immediately. Women have been abused much too long and this must be stopped now. The stalkers must be penalized for their actions. We can no longer ignore this very important issue that is affecting so many women.

I personally appreciate your vote and support of Senate Bill # 64.

I appreciate your concern and assistance in this very serious matter.

Sincerely,

Mark R. Williams

Mark R. Williams
Executive Vice President, COO

P.S. Thanks for your role in this very serious and important matter, Cynthia. Thank you!



Tom Fink, Mayor

ANCHORAGE POLICE DEPARTMENT

401 SOUTH BRAGAW STREET ♦ ANCHORAGE, ALASKA 99507-1599
TELEPHONE (907) 786-8500



Service since 1921

February 19, 1993

The Honorable Cynthia Toohey
Representative for the State of Alaska
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Toohey,

As a member of the Anchorage Police Department in charge of the Patrol Division, and as Co-Chair for Anchorage Task Force on Sexual Assault, as well as Chair for the Anchorage Domestic Violence Committee I would like to extend my support, my encouragement, my urging in the passage of House Bill No. 64 which would make stalking a crime.

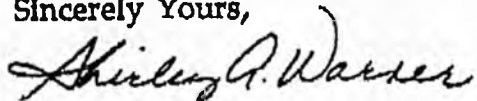
This bill would enable officers to take quick and sure action in situations that could be very volatile, or life-threatening in nature. Officers deal with many cases per year in which they are forced to tell victims of stalking there is nothing they can do. It is only after someone feared takes aggressive action toward the completion of a criminal act that officers may arrest.

Recently one of our officers was finally able to obtain a charge of disorderly conduct against a suspect who had repeatedly followed the victim. At one point the victim's husband took action by firing his weapon at the suspect. The family, as well as the officer, reported their frustration over the inability of the police to do anything to protect them. This situation had the potential for having a tragic ending as has been realized in our community in the past. This is one of many cases our officers have had to handle only to tell the victim other threatening events must occur before the police can protect them.

Aside from being able to protect the victim, this law would send a very clear message to people who feel they can violate the freedom of another. No matter the actions, intentions, or demeanor of those who choose to stalk another, their actions are threatening and they restrict the movements and alter the lives of our citizens.

Thank you for your foresight in the creation of this bill. We appreciate your support for our efforts in protecting citizens.

Sincerely Yours,

A handwritten signature in cursive script that reads "Shirley A. Warner".

Captain Shirley A. Warner
Patrol Division
786-8558

Alaska Association Chiefs of Police



March 5, 1993

Representative Cynthia Toohy
State Capitol
Room 104
Juneau, Alaska 99801-1182

Dear Representative Toohy:

On behalf of the Alaska Association of Chiefs of Police I would like to express our support for House Bill 64b. The Chiefs Association has supported other bills that deal with this issue. We believe that a Criminal Statute that identifies Stalking as a crime is long overdue in the State of Alaska.

All Chiefs from around the state can cite repeated examples from their communities of persons who have been seriously beaten, injured, or killed as a result of "family" or "domestic" violence. For many of these victims their injuries were preceded by periods of time wherein the offender stalked, harassed, threatened and intimidated before acting. Being able to intervene during this earlier conduct would be a welcome relief for law enforcement as well as the hundreds of victims.

There are many bills this year that address the Crime of Stalking. While they all have merit, HB64b seems to incorporate the best approach and language. If we can be of any assistance in the passage of your bill, please let me know.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Ronald L. Otte", is written over a horizontal line.

Ronald L. Otte
President

RLO/lp



CITY OF HOMER

POLICE DEPARTMENT

4060 HEATH STREET

HOMER, AK 99603-7609

EMERGENCY 911
TELEPHONE (907) 235-3150
TELECOPIER (907) 235-3151

February 18, 1993

Rep. Cynthia Toohey
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Toohey;

I am writing in support of House Bill 64, the so-called "Stalking" bill.

I have been a police officer for fifteen years and for the last three years I have served on the state Council on Domestic Violence and Sexual Assault. I strongly believe that this is necessary and important legislation and I support the version of the law contained in HB 64.

Our agency has had to deal with a significant increase in domestic violence crimes during the last decade and I have found that "stalking" conduct is often a part of a pattern that develops during the final, and most lethal, stages of family violence. Perpetrators filled with anger after being divorced or separated, and after being charged with other family violence crimes and being served with domestic violence restraining orders, often resort to stalking their former partners.

We've dealt with a handful of these cases in the last few years that were extremely frustrating because there was nothing we could do to intervene and yet it was clear that the potential for violence was very great and the victim was terrified. In several of the cases the victim was forced to simply pull up roots and move out of state. In the most notorious local case, a man stalked his ex-wife for two years in spite of five restraining orders convictions and an assault conviction. He followed her to restaurants and waited outside in his car with binoculars or sat at a nearby table and stared at her. He accosted her at work. He often followed her in his car. He even followed her out of state on one occasion and police had to meet his plane in Seattle and Portland. Even though he had been convicted of repeatedly violating restraining orders and assaulting her, his "stalking" conduct was lawful and there was nothing we or the district attorney's office could do. Finally, an incident triggered an extraordinary outburst of violence during one of his stalking forays. He drove by her home at about 2:30 in the morning and saw a visitor's truck parked in her driveway. He drove home and loaded a 30.06 hunting rifle and then returned to her neighborhood. He parked two blocks away and walked to her house. The victim heard him at one of her doors and grabbed a handgun she kept nearby because of

his threats. He kicked a door in and confronted her with his rifle and convinced her to give up her gun. She fled the house as he walked down the hallway and shot and killed her companion. He chased her to a neighbor's house, burst in and threatened to kill the neighbors and their children. While they fled, he attacked the woman, who was on the phone with a 911 operator. He was out of bullets and tried to kill the woman by beating her in the face with his gun and boots. He dragged her out of the house and dumped her in the yard. The damage to her face was so severe that the first arriving officers thought that she had been shot in the face. She required several operations to her face during the next year.

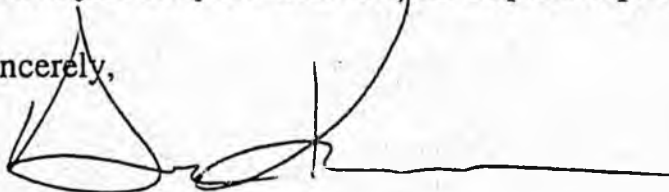
I think that it is possible that his tragedy would not have happened if we had been able to charge this man with an appropriately serious crime during the period of his stalking behavior. I believe that any law enforcement agency would have similar horror stories that involve this type of conduct.

I also strongly endorse the language of the bill that defines stalking as that conduct that includes violations of probation, release before trial, release after conviction or parole. It has been my experience that stalking conduct often violates existing conditions of release or probation but police are powerless to do much about it. Most people don't realize that law enforcement officers cannot arrest on probable cause for such violations; we are required to document the violation and submit it to the district attorney for action. This is a process that can take weeks or months. In situations involving such a high degree of danger the police need the ability to make immediate arrests.

I also applaud the fact that HB 64 creates a separate crime of "Stalking". One of the problems with tagging such a law onto an existing statute (such as Terroristic Threatening) is that it is often difficult or impossible to discern from a computerized criminal history printout which part of the overall statute has been violated in the past. For example, if a perpetrator has been charged with stalking under a subsection of Terroristic Threatening in the past and is arrested again and is at arraignment, the computer printout for the defendant's criminal history that is available through the APSIN system will not show whether the prior arrest(s) were for stalking or threatening to blow up a building. This was one of the reasons that the statute covering the violation of domestic violence restraining orders was removed from the umbrella of "Harassment" and a new, stand alone crime of "Violating a Domestic Violence Restraining Order" was created.

Thank you for your work on this important piece of legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Andy Klamsner", with a long horizontal line extending to the right.

Sgt Andy Klamsner

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION/THIRD JUDICIAL DISTRICT
OFFICE OF THE DISTRICT ATTORNEY

WALTER J. HICKEL, GOVERNOR

REPLY TO:

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- P.O. BOX 470
DILLINGHAM, ALASKA 99576-0470
PHONE: (907) 842-2482
- 145 MAIN STREET LOOP, ROOM 201
KENAI, ALASKA 99611-9798
PHONE: (907) 283-3131
- 328 CENTER AVENUE, SUITE 205
KODIAK, ALASKA 99615-9998
PHONE: (907) 486-5744
- 809 S. CHUGACH STREET, SUITE 3
PALMER, ALASKA 99645-9998
PHONE: (907) 745-5027
- P.O. BOX 3429
VALDEZ, ALASKA 99686-0671
PHONE: (907) 835-2462

February 18, 1993

Rep. Cynthia Toohey
Alaska State Legislature
Box V
Juneau, AK 99801

FAX 465-2137

Dear Representative Toohey:

Thank you very much for eliciting the District Attorney's Office input in committee substitute for House Bill No. 64, the stalking bill. I spoke with Marvena yesterday and informed her that our offices comments will be incorporated into the suggestions by the Department of Law's representative in Juneau, Margo Knuth.

As a felony attorney in the sexual assault and domestic violence unit in the Anchorage District Attorney's office I am very pleased to see the effort your office is putting into this bill. As you know from your experience speaking with constituents in the Anchorage area, this bill is very necessary. In my own experience and that of other prosecutors in this area it is very difficult to successfully prosecute people who are "stalking" their victims under the law as it presently stands. This bill you have sponsored is a very important step in addressing this ever increasing problem. In my experience in this office, I have seen numerous cases both in domestic violence situations as well as between parties that were, initially, virtual strangers. In both situations, reliance on existing law has been frustrating for both law enforcement as well as the victims.

For example, victims of domestic violence who have lawfully obtained restraining orders often times are not protected. The reasons being, restraining orders cannot stop someone from following a person in their car, from parking at their place of work and observing them for the entire eight hour period, following them home from work, and sometimes parking one block away, or within visible range night and day. Victims of this crime have attempted to use all lawful means to get this activity to cease, and our existing framework has no answers. Victims, at this point, have two choices, (a) they can live in fear day after day or (b) they can attempt to leave their homes, their families and often

Page 2
February 18, 1992
Rep. Cynthia Toohy Letter

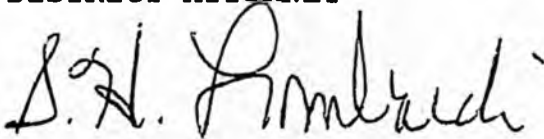
times their friends in a last desperate attempt to escape the person stalking them.

It is hoped that your continuing efforts as well as those in law enforcement and victim support groups will be able to again to address this serious need. Thank you again for soliciting our input and if I can be of any further assistance, for example with testimony from victims or my experience in prosecuting these cases, please feel free to contact me at 263-0169.

Sincerely yours,

CHARLES E. COLE
ATTORNEY GENERAL

EDWARD E. MCNALLY
DISTRICT ATTORNEY



Suzanne H. Lombardi
Assistant District Attorney

SHL:raa



NATIONAL CONFERENCE OF STATE LEGISLATURES

1560 BROADWAY SUITE 700 DENVER, COLORADO 80202
303-830-2200 FAX: 303-863-8003

ART HAMILTON
HOUSE OF REPRESENTATIVES
ARIZONA
PRESIDENT, NCSL

DON SCHNEIDER
CHIEF CLERK OF THE SENATE
WISCONSIN
STAFF CHAIR, NCSL

WILLIAM POUND
EXECUTIVE DIRECTOR

"STALKING" LEGISLATION UPDATE

December 18, 1992
Donna Hunzeker

Thirty states have "stalking" laws as of this writing. California passed the first law in 1990, creating (and coining) "stalking" as a crime. States known to have added similar laws this year are: Alabama, Colorado, Connecticut, Delaware, Florida, Hawaii, Kansas, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin.

New Jersey and Pennsylvania considered, but did not pass, stalking measures in 1992. A number of states, Arkansas, Indiana and Texas among them, are preparing stalking legislation to be introduced next year.

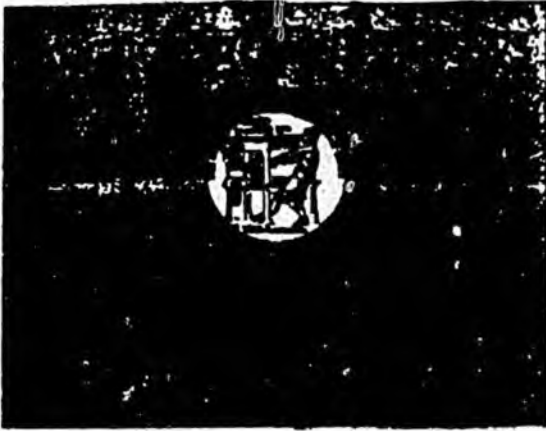
In other states, laws called something other than "stalking" have similar intent and purpose. For example, "terrorizing" in Maine is either a Class D crime or Class C crime when threats of violence are made. Since 1987, Minnesota has had "trespass" and "harassment" laws to apply to stalking situations that include "intent to harass, abuse or threaten." Multiple acts of harassment are punishable through enhanced penalties, and in the 1992 omnibus crime bill, Minnesota increased penalties for repeat offenses. Minnesota law also has felony penalties for "terroristic threats" which can apply to stalking situations. Arizona created misdemeanor classifications of harassment this year.

States typically have defined "stalking" as willful, malicious, and repeated following and harassing of another person. Most stalking laws require that the perpetrator make a "credible threat of violence" against the victim, and in many states, credible threat includes threats against the immediate family of the victim. Many provisions require that the victim have "reasonable fear of death or great bodily injury." Stalking laws generally apply to cases where women allegedly are terrorized by former boyfriends or husbands. Cases where women (or men) are stalked by casual acquaintances or even strangers have brought about some state laws and are applicable under most stalking laws. Statute language in most states broadly provides that the victim could be any person or circumstance in which following, threats and intimidation are present.

Many states have both misdemeanor and felony classifications of stalking, with up to one year of jail typical for first offenses. Tougher penalties (up to three, five and even six years) often apply to second or subsequent stalking offenses. Enhanced penalties also apply in many states where a stalker violates a protective order.

California amended its original stalking law this year, redefining "credible threat" of harm to include threats against immediate family, and increasing penalties for second or subsequent stalking convictions. The new law also allows restraining orders for up to 10 years.

For more information, please contact NCSL Marketing/Book Order Department at 303-830-2200 for "Stalking Laws" State Legislative Report.



Domestic violence

Alaska should look at stalker laws

Anyone familiar with domestic violence knows that leaving a relationship can be a risky act. One national study says that three-quarters of domestic assaults occur after the couple separated. More women are killed when leaving than at any other time.

We don't need statistics to understand this fact. Here in Anchorage over the last year, one woman was murdered by her ex-boyfriend when she went back to their apartment to pick up her belongings. Another barely escaped with her life after the man she'd broken up with stalked her with a bomb.

The law does what it can to safeguard women in these dangerous circumstances. Women can request restraining orders, and most of the time — but not always — their boyfriends or husbands obey a court order to stay away. The community also provides shelters for women who so fear their ex-partners they need a place to hide.

But when these measures don't work, we end up asking ourselves, is there more we can do?

Nineteen other states have answered, yes. They have passed stalker laws.

These originated in California, partly in response to a disturbed fan's stalking and murdering a Hollywood star. But California also uses its stalking law for domestic violence cases, and other states have started to follow suit.

The stalking law applies to anyone who follows or harasses another person and threatens violence. Stalking is considered a felony rather than a misdemeanor if the behavior is repeated, or if a restraining order already has been issued.

Stalking laws cover gaps that restraining orders don't fill. For example, say a man has never abused his ex-wife, and even keeps his distance from her. But he tells her that he'll kill her when she least suspects it, and every day she sees him waiting in the parking lot where she works. He could be arrested for stalking her.

California's stalking law also gives the state more leverage against people who ignore restraining orders. Say a woman gets a restraining order and her ex-partner continues to follow her. Under a stalking law, such behavior would be a felony, and the man, if convicted, would be more likely to serve jail time and would be subject to parole supervision afterwards.

The Alaska Network on Domestic Violence and Sexual Assault is looking into California's and other states' laws to see if a stalking law would be useful here. No one pretends it would guarantee safety. A person obsessed with revenge and indifferent to authority can still elude arrest or get out on bail. He will not stop being a danger.

But a stalking law could be one more tool to control this needless violence.

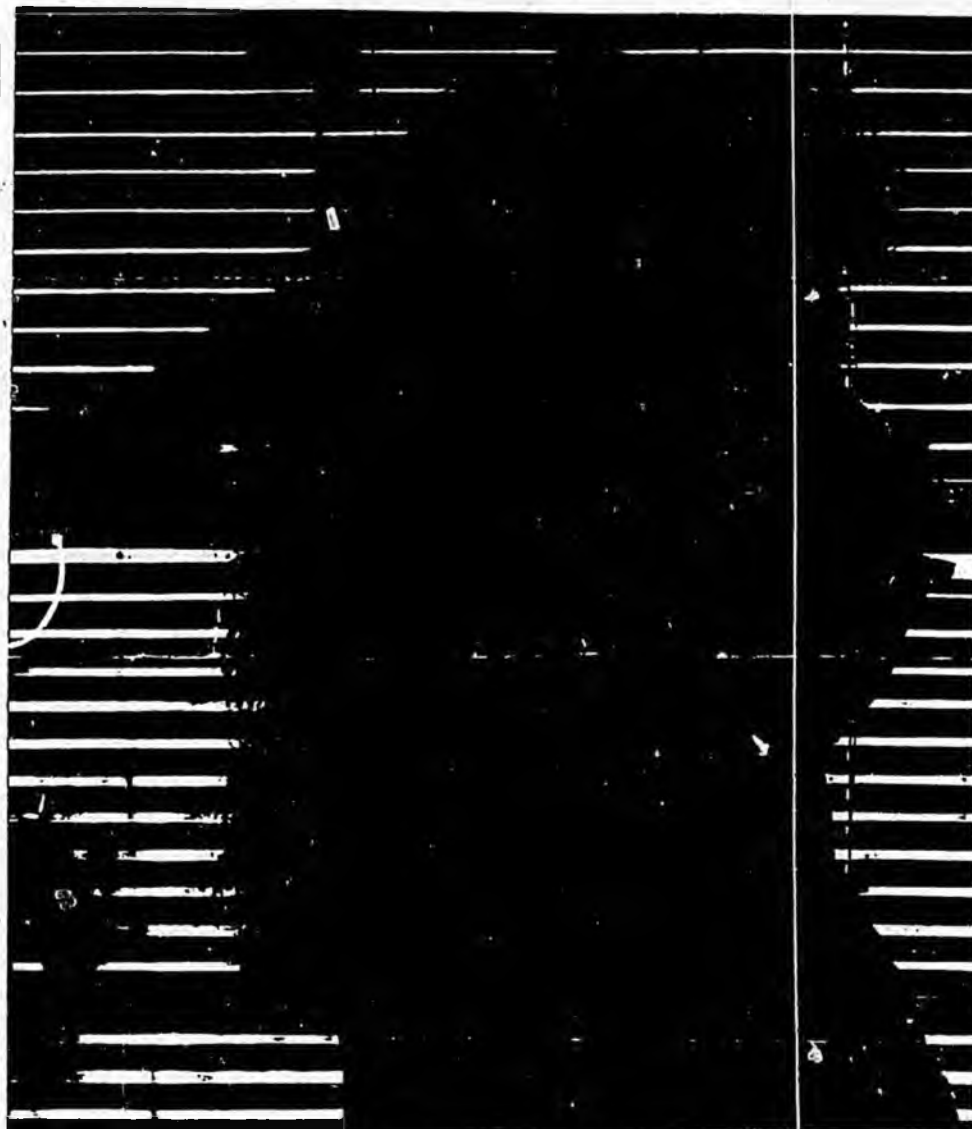
Murderous Obsession

Can new laws deter spurned lovers and fans from 'stalking'—or worse?

Barbara Erjavec and Grace Beach sometimes take a rug to the cemetery and have lunch by the graves of their children, sharing a sad litany of what ifs. What if they had known that Kenneth Kopecky had talked openly about his plans to kill the young lovers? What if the law now awaiting the Illinois governor's signature had been in place—could the police have done something then? Grace and Barbara will never know the answers. All they do know is that Kopecky became infatuated with Karen Erjavec last summer when they were both members of a wedding party, and that for the next six months Karen and her boyfriend, Glenn Beach, lived in fear. They received anonymous letters and bizarre, threatening phone calls. Glenn's car was vandalized, and there were tire tracks across the lawn of the house where he lived with his parents. Karen's father, a policeman, knew that the law was powerless against what seemed like just a persistent creep. Even the surveillance lights Glenn's parents installed around their home had no effect last Feb. 16. The Beaches returned from a movie that night to a bustling crime scene in their driveway. Glenn had been shot six times in the back and stabbed twice; Karen had been shot in the head at close range. Two days later, police tracked Ken Kopecky to a motel in Michigan. He shot himself to death as the cops moved in.

The stories sound like the plot lines of hit movies, from "Fatal Attraction" to "Sleeping With the Enemy" to "Cape Fear." But increasingly, state legislators are hearing real-life versions, and they are responding with astonishing speed. California passed the first "anti-stalking" law in 1990, making it a crime to repeatedly follow or harass someone with a "credible threat" to cause fear of bodily harm. Since then, 20 more states have enacted similar laws, and at least a dozen others are considering them. Most make the first stalking offense a misdemeanor, punishable by up to one year in jail and a \$1,000 fine, with felony counts and stiffer penalties for repeat offenses. Florida's law, which went into effect last week, even allows police to make arrests without obtaining a warrant.

Behind almost every state bill has been at least one local tragedy. Wisconsin lawmakers acted after Shirley Lowery was fa-



tally stabbed 19 times, allegedly by her ex-boyfriend in a Milwaukee courthouse where she had gone to obtain a protective order. Virginia lawmakers were moved after Regina Butkowski's mother testified that her daughter had been stalked for six months by a weight lifter who finally shot her, set her body on fire and dumped it into a creek, where it was found eight months later. Georgia's proposed law may pick up more support after the sad case of Joyce Durden, whose estranged husband carried out his repeated death threats last month. He gunned her down at a school where she taught mentally disabled preschoolers, then shot himself in the head.

Love gone mad: A battered wife living in fear in Tampa, grieving mothers Beach (left) and Erjavec

Such horrifying examples aside, no one can say how widespread a problem stalking is—mainly because it has never been a crime category before. The new laws aim at halting a pattern of threats and harassment that often precedes violent acts, from assault to rape, child molestation and murder. Some of the most publicized cases have involved celebrities, like actress Rebecca Schaeffer, fatally shot by an obsessed fan, Robert John Bardo, in 1989. A few stalkers

fixate on co-workers or complete strangers, and not all victims are female; women sometimes stalk men. But the vast majority of cases involve former lovers or spouses. Nearly one third of all women killed in America are murdered by their husbands or boyfriends, and, says Ruth Micklem, codirector of Virginians Against Domestic Violence, as many as 90 percent of them have been stalked.

Some civil-liberties experts argue that the new laws are overly vague and carry a potential for misuse, particularly in marital disputes. "There are very often false allegations made in all sorts of contexts against spouses or former spouses," says Miami criminal-defense attorney Jeffrey Weiner, who thinks Florida's no-warrant provision may be unconstitutional. Critics also say that people who fear for their safe-

Will the laws actually deter such crimes? Much depends on what twisted logic motivates the stalker. "A lot of these people are just caught up in the emotion of a bad breakup," says David Beatty of the National Victim Center in Arlington, Va. "Sitting someone down in jail for a while may make him rethink his actions." But some stalkers are mentally deranged. Stanton Samenow, a Virginia clinical psychologist and author of "Inside the Criminal Mind,"

says that many have disturbed self-images in which they see themselves as irresistible or complete zeros. When they are rejected, they resort to intimidation in a desperate attempt to try to regain self-esteem. The threat of prison may deter some of them, but for others, says Samenow, "it's like putting fuel on a fire."

For the anti-stalking laws to have a real impact, courts must take them seriously and apply the new legal muscle they provide. Ironically, the first person sentenced under California's law, Mark David Bleakley, was put on probation and ordered to serve time in a psychiatric facility. Unsupervised, he wandered away and was found waiting outside his victim's health club. Fortunately, he was reapprehended before he could harm her and sentenced to three years in prison.

Won't hunt: Kristin Lardner wasn't so lucky. The 21-year-old Brookline, Mass., art student was murdered by her former boyfriend in May, just two weeks after the state's anti-stalking law went into effect. Michael Cartier had already served six months in jail and was on probation for attacking another ex-girlfriend. He was attending a violence-treatment program when he began beating Lardner. She reported the



NICK UT-AP

Bardo behind bars

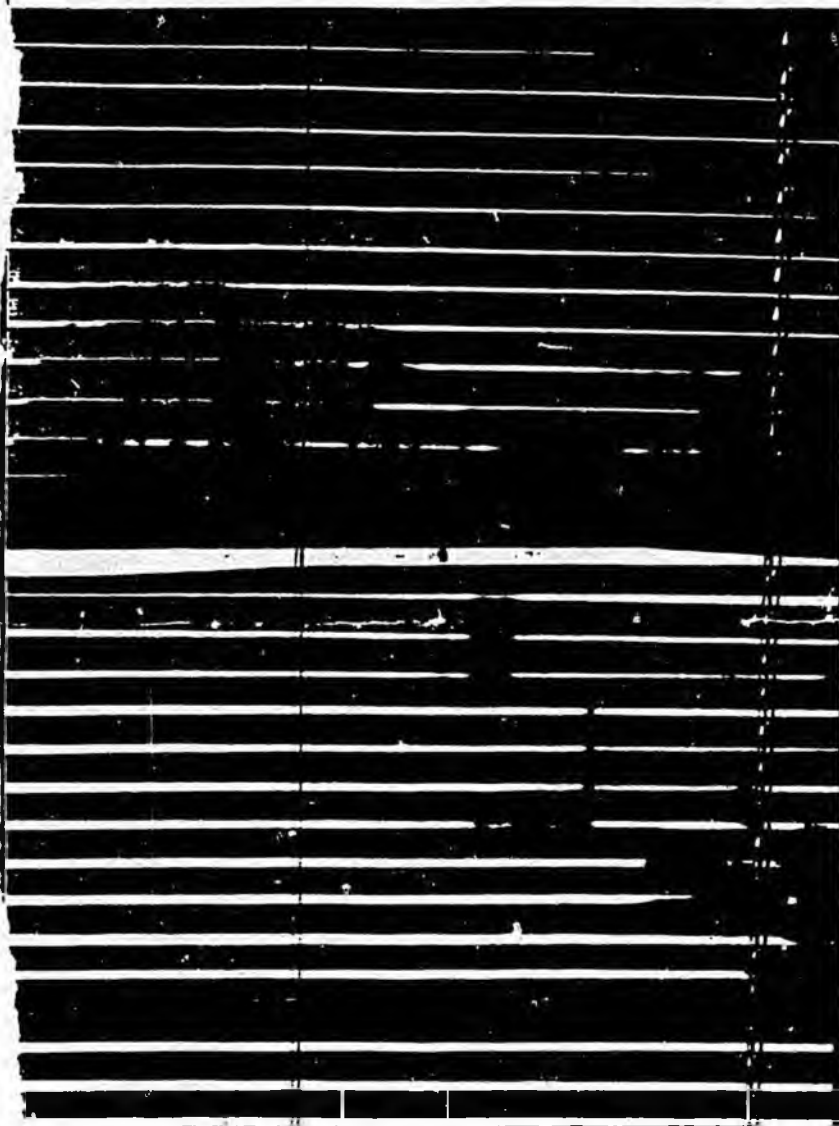
Where Stalking Is Illegal

- California
- Colorado
- Connecticut
- Delaware
- Florida
- Hawaii
- Idaho
- Iowa
- Kentucky
- Massachusetts
- Mississippi
- Nebraska
- Oklahoma
- South Carolina
- South Dakota
- Tennessee
- Utah
- Virginia
- Washington
- West Virginia
- Wisconsin

SOURCE: NATIONAL CONFERENCE OF STATE LEGISLATURES

ty can already apply to the civil courts for restraining orders. But such orders are notoriously hard to enforce, and all too often, the first violation is fatal. The California law was drafted after five Orange County women were killed in a six-week period in early 1990. All but one had sought help in vain from authorities. "What does he have to do—shoot me?" 19-year-old Tammy Marie Davis asked police just days before an ex-boyfriend did just that, fatally, in Huntington Beach. When Patricia Kastle, a onetime Olympic skier from Newport Beach, was shot by her former husband, police found a restraining order in her purse.

incidents to the police, who issued a warrant for his arrest. She also obtained two restraining orders from civil-court judges, but they were unaware of the outstanding warrant and merely barred Cartier from going within 200 feet of her. That didn't faze him. On May 30, Cartier waited outside the liquor store where Lardner worked and shot her repeatedly as she walked down Boston's Commonwealth Avenue. Police found him in his apartment, dead from a self-inflicted gunshot wound. "The restraining orders don't restrain, and I strongly suspect the new anti-stalking order won't hunt," says Kristin's father, Washington Post reporter George Lardner.



ABOVE: BILL GENTILE FOR NEWSWEEK, BELOW: DAVID WALBERG



Massachusetts has since instituted a number of reforms—including computerizing all records of restraining orders and violations. By fall, any police officer or judge should be able to cross-reference them to pinpoint repeat offenders. In Brookline, civil-court judges now routinely look at criminal records of all accused batterers. A committee of the chief justice's office is also studying the idea of outfitting stalkers and their victims with electronic monitoring devices, like those used in house-arrest cases, that would automatically sound an alarm if a stalker came within a certain range.

ADT Security Systems is testing another kind of personal-alarm system for battered women. The victim wears a pendant around her neck, and if she spots her stalker, she presses a button that triggers an alarm at an ADT monitoring station, which in turn alerts police. The system isn't foolproof, however. It works only in close range of a receiving device installed in her home, and a determined stalker could foil it by disconnecting the phone lines. Six Tampa, Fla., women, all former residents of The Spring women's shelter, have been wearing the beepers for the last six months. But only one has used it, when her ex-husband turned up at her home, daring her to shoot him. Police arrived, but the episode left the woman so shaken that she handed in her beeper and went underground. Staffers at The Spring say they don't know what's become of her.

Packing weapons: Other desperate victims have taken to packing their own weapons. Sabine Tsang, 27, had filed numerous futile complaints about a former co-worker. Last month, when Irineo Dominguez allegedly accosted her in a parking lot and ordered her into her car, she pulled out a handgun and shot him twice in the abdomen. Dominguez, now recovering in a Houston hospital, has been charged with attempted kidnapping, according to police. But they have not charged Tsang. "I don't think you'd find a jury in Texas that would convict her, so why try?" says Houston homicide Sgt. Doug Bacon.

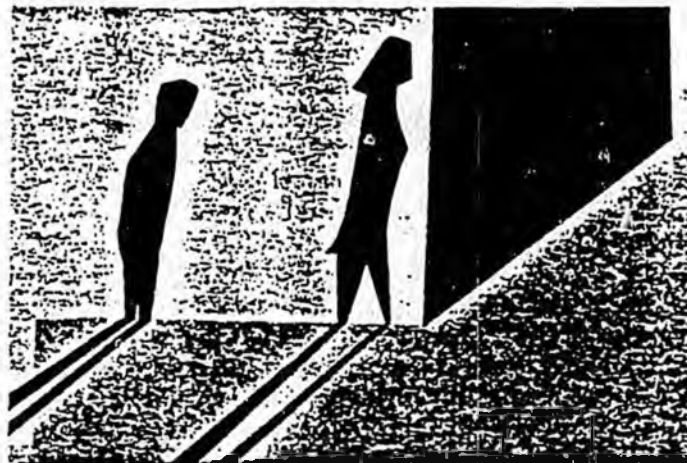
The prospect of more victims arming themselves is no comfort to law-enforcement officials. Yet most admit there is very little they can do in the face of a persistent stalker. "You can put a person in jail for a year or so, but they eventually will get out," says Det. John Lane, part of a four-member anti-stalking unit established by the Los Angeles police after Schaeffer's murder. Even so, the new laws do give police one more weapon to employ against stalkers—and if they deter even a small percentage of crimes, that's better than none.

MELINDA BECK with DEBRA ROSENBERG in Boston, FANAI CRINETA in Chicago, SUSAN MILLER in Houston, DONNA FOOTE in Los Angeles, HOWARD MANLY in Atlanta and PETER KATZ in Tampa

California Law Targets Obsessed Fans, Vengeful Lovers

In separate cases this summer two California men were convicted for repeatedly harassing their former girlfriends, marking the first time in the nation that people have been prosecuted successfully under a felony "stalking" law.

The legislation was passed by California lawmakers last year to give police and courts authority to intervene when victims are being seriously and repeatedly threatened but before they are attacked. Senator Ed Royce introduced the stalking bill after five Orange County women were murdered in 1989, even though they had obtained temporary restraining orders against their assailants and had reported threats of violence to police. Without a law prohibiting harassment, police had been powerless to act until victims were actual-



ly assaulted.

The new law, which went into effect Jan. 1, defines stalking as "willfully, maliciously and repeatedly following or harassing another person" and making credible threats that create a fear of death or serious injury. If the victim has obtained a temporary restraining order against the assailant, stalking is a felony. If no restraining

order is in effect, a first offense of stalking is a misdemeanor; a second similar conviction becomes a felony.

The law also permits judges to establish high bail in some stalking cases to ensure that dangerous individuals are not released to continue to harass, terrorize and possibly kill their victims. The maximum penalty for felony stalking is three years

in prison and a fine of up to \$10,000.

The most sensational stalking cases involved celebrities harassed by obsessed fans. David Letterman, Michael J. Fox and Sharon Gless were recent victims; and two actresses, Rebecca Schaeffer and Theresa Saldana, were brutally attacked by men who lay in wait for them. Schaeffer died. The legislation was strongly supported by groups representing Hollywood stars.

The usual stalking victim, however, is a woman terrorized by a vengeful ex-husband or boyfriend. Senator Royce cites a 1987 report of the U.S. Department of Justice, stating that 31 percent of all female murder victims are killed in incidents of domestic violence; many of the women were harassed or terrorized before being murdered. Although men are stalked less often than women, male victims of harassment received some notoriety in the movie "Fatal Attraction."

In one California case, the court found that the victim's former boyfriend had repeatedly violated a restraining order and had threatened to "blow her head off." The man was sentenced to two years in prison. In the other stalking case, a woman's former boyfriend allegedly poured acid on her car and slashed its tires, abducted her dog, confronted her on the street and shoved her into a pole, and made threatening phone calls. He was awaiting sentencing at press time.

Checks May Stop Criminals from Buying Guns

In its first year, Oregon's new gun law kept almost 1,000 firearms out of the hands of people prohibited from owning them, according to a study by the Oregon State Police. The state's 15-day handgun waiting period and mandatory background check on all firearm sales uncovered convicted felons and other prohibited purchasers trying to buy firearms from licensed gun dealers.

"The report demonstrates that a handgun waiting period combined with a mandatory background check of

criminal and mental health records works," said Representative Vera Katz, who sponsored the law.

For the study, the first of its kind conducted by a law enforcement agency in the nation, the Oregon State Police screened all firearm sales during 1990 by federally licensed firearm dealers in Oregon. The report, "The 1990 Study of Retail Firearm Sales and Concealed Handgun Licensing in Oregon," indicated that at least 968 people who attempted to buy firearms from licensed

gun dealers had been convicted of felony crimes, convicted during the past four years of violent misdemeanor crimes or committed to a state mental hospital for mental illness.

The state police report was mandated by a law that regulates the sale and possession of firearms, passed in 1989 by the Oregon legislature. The bill had support from the National Rifle Association, local gun organizations, law enforcement agencies in Oregon and gun control advocates.

MAY 19 1992

LUCILLE BROWN: BRINGING PEACE



Over the course of the 1980s, cities all over the country lived through the phenomenon of the razzie-dazzle school superintendent: arrival from out-of-state, accompanied by high hopes and a glittering résumé; promises of instant change and dramatic educational improvement; bitter quarrels with the existing power structure; and finally, after only a couple of years, a disillusioned community and one more fired superintendent.

Richmond, Virginia, has been through all that. But last year, when Albert L. Jones became the latest in a long string of highly touted failures in the superintendent's office, the city went for somebody completely different: Lucille M. Brown.

Lucille Brown is no newcomer. She has been in the Richmond school system since her days there as a pupil, and she has worked there as teacher, principal and administrator for the past 34 years.

She not only doesn't court the press, she doesn't even want to be interviewed. She offers no promises of dramatic change, only a promise to go slow and keep things calm.

And the city seems to like it. When the *Richmond Times-Dispatch* profiled Brown recently, just about everyone said she was just what Richmond needed after years of educational turmoil. "She's bringing some peace that needed to be back," said the school board chairman. "We had too many new initiatives coming out too fast," said a principal. "She saw the need to slow down the pace."

Brown has faced her share of problems, such as a serious equipment shortage and a protest by senior teachers who feel the salary scale discriminates against them. A few critics complain that she is so slow-moving as to border on indecisiveness. But Brown clearly has some priorities. She has launched an interdisciplinary science program at the high-school and middle-school levels. She surprised some observers by staking out a pro-neighborhood school policy and reversing an earlier decision to turn a large neighborhood high school into a regional school exclusively for the gifted.

Mostly, though, Lucille Brown seems to be doing well because of what she isn't: a flashy and charismatic salesperson of the sort that has failed too many times in too many places in America in the last few years.

—Alan Ehrenhalt

person faculty includes teachers, a medical director and support staff. The school will admit 20 students by June, and hopes to hold a maximum of 100 by 1993. After spending time in this transitional, non-diploma program, students can then transfer credits back to Albuquerque's other high schools.

Principal Hayes has received positive feedback from participants thus far. For students who used to spend their days on drugs, a day in this school "is a whole different situation," says Hayes. "but they are kept busy, and the day goes by fast."

—Jeanne Ponessa

For more information, contact Marjo Rymer, Public Information Director, Albuquerque Public Schools, P.O. Box 25704, Albuquerque, NM 87125.

A High School Just for Kids Kicking the Drug Habit

Don't look for football or cheerleaders at a new Albuquerque high school. From its name, Recovery High, to some of its activities, including extensive therapy sessions, the school is anything but traditional.

Recovery High, which opened in February, is believed to be the only high school in the country dedicated exclusively to former substance abusers.

The school offers a regular curriculum for

grades 9 through 12. But along with math and English, the program includes art therapy, group discussions about recovery and weekly meetings with students' families. "We also have experiential or adventure therapy such as rock climbing or ropes courses all day every Wednesday," says Principal Jan Hayes.

The idea for Recovery High was first developed by an Albuquerque neighborhood anti-drug organization in 1990. The

Robert Wood Johnson Foundation awarded an \$800,000 grant for the school's first 18 months, and the school district provided the remaining \$267,000 needed to open the doors.

Students are admitted to Recovery High on a voluntary basis after referral from a counselor or treatment center—and after passing a drug test. "What we're looking for is an interest and a commitment to recovery," says Hayes. And the idea seems to be catching on—so far, the school has been swamped with referrals.

Recovery High's 12-

Stalking 'Stalkers' With Tough New Laws

For nearly a year, Carrie Prickett successfully shielded herself from harassment by an ex-boyfriend, moving in with friends and having them screen her telephone calls. Her efforts, however, could not prevent an outcome that is all too familiar in "stalking" cases: Police recovered Prickett's charred body from a creek near her Virginia home and charged the man with her slaying.

Stalking Legislation Sweeps the Nation

Violent, harassing and threatening behaviors toward innocent citizens have always been a serious problem particularly for victims of domestic violence and sexual abuse. Yet it has taken a series of high profile cases during the last few years — often involving celebrity victims — to focus public attention on stalking as a serious crime problem.

While laws such as protective injunctions and stay-away orders do exist to protect victims from violent pursuers, law enforcement officers may not intervene until such orders have been violated. By then, it is usually too late to prevent the offenders from harming or even killing those whom such orders were designed to protect.

In recognition of the ineffectiveness of such orders and in response to a series of tragic crimes committed by perpetrators who stalked and harassed their victims before turning to violence, California passed the nation's first "stalking" law in 1990. In simple terms, the law makes it a crime to engage in a pattern of behavior that harasses and/or threatens other people. Its purposes are twofold: to eliminate behaviors which disrupt normal life for the victim, and to prevent such behaviors from escalating into violence.

In July 1991, the Center included the concept of stalking laws in its *Crime Victims and Corrections* training and technical assistance project sponsored by the U.S. Department of Justice Office for Victims for Crime. Two months later, Center staff appeared on NBC's *The Today Show* and *A Closer Look with Faith Daniels* to emphasize the importance of stalker laws. In September 1992, Center staff joined journalist Ted Koppel on ABC's *Nightline* to defend the constitutionality of such legislation.

California's landmark legislation has led to an unprecedented deluge of "anti-stalking" legislation nationwide. To date, twenty-seven states have passed laws based on the California model this year alone.

In most states, stalking is defined as the "willful, malicious and repeated following or harassing of another person, and requires the existence of a credible threat of violence." Penalties for violation vary; however, most carry a penalty of one year in jail and/or a \$1000 fine.

Senator Bill Cohen (R-ME) has introduced legislation which charges the National Institute of Justice with developing a model stalking law which should pass constitutional muster. This model would then be made available to state legislators.

In Los Angeles, stalking laws have led to the creation of the four-member *Threat Management Division* of the Los Angeles Police Department. In the last year and a half, the Division has handled more than 150 stalking cases. In other states, law enforcement officials are already making arrests under these newly passed statutes.

The National Victim Center has acted as an information clearinghouse regarding stalking laws. By providing interested legislators with information and technical assistance, and heightening public awareness through the media, the Center has assisted many states in drafting and passing anti-stalking laws. The Center intends to keep abreast of all aspects of this significant and expedient legislative trend.

For additional information, please contact the Center's Director of Public Affairs, David Beatty, at (703) 276-2880.

States With Anti-Stalking Laws

- California
- Colorado
- Connecticut
- Delaware
- Florida
- Idaho
- Iowa
- Illinois
- Hawaii
- Kentucky
- Louisiana
- Massachusetts
- Mississippi
- Nebraska
- New York
- North Carolina
- Ohio
- Oklahoma
- South Carolina
- South Dakota
- Tennessee
- Utah
- Virginia
- Washington
- West Virginia
- Wisconsin

Police say anti-stalking law would protect women

THE ASSOCIATED PRESS

ANCHORAGE — An anti-stalking bill now before the Legislature would stiffen penalties against men who obsessively follow women, a move police and victims say is desperately needed.

Under laws now on the books, police often can only charge stalkers with misdemeanors like trespassing and disorderly conduct, sanctions victims and their families call inadequate.

That may change, however, because lawmakers have introduced legislation this session that would make stalking a felony in certain circumstances.

"This is a major concern," said state Rep. Cynthia Toohey, a sponsor of the stalking bill. "As women get more involved in working and supporting their families, they need more protection."

At least 27 states have passed such laws.

One case involving a 32-year-old Anchorage woman provides a compelling example.

Police say Gary Woodrow Petersen's obsession began in 1990 when he went to a chiropractic clinic and met a woman who looked like his late wife.

For more than a year, he didn't want to let her out

of his sight. Police say he would hang out in the parking lot of the building where she worked. He would follow her home. He would watch her house at night.

On Jan. 18, after the woman had filed six complaints with police, the 56-year-old Federal Aviation Administration employee was arrested and charged with disorderly conduct. He was released from jail four days later after posting \$2,000 bail.

Police won't release the name of the woman in the case.

According to the criminal complaint filed against Petersen, the woman and her husband befriended him until he began following her. At one point, the clinic where she worked issued him a notice not to trespass or bother employees. Then Petersen got a call from Anchorage police.

"The police officer called him and told him to stay away," APD spokeswoman Jo Katkus said.

But police say that didn't stop Petersen, who continued to wait, follow and stare.

On Jan. 6, 1992, he parked his car in the driveway of the woman's home. Her husband turned on the floodlights outside, approached Petersen with a gun

and fired two warning shots. Petersen finally left, but police later cited him for trespassing.

Almost two weeks later, he called officers to report that one of the bullets fired that day had hit his car. The woman's husband was cited for misconduct involving weapons, police said.

Petersen, reached at his home recently, denied ever bothering the woman. He would not comment further and referred questions to his attorney, who would not talk about the case.

This year, exactly one year after the shooting incident, police say the woman had another confrontation with Petersen: She spotted him watching her when she left work Jan. 6, and he followed her in his car as she tried to speed away.

After a short chase at speeds that reached 80 mph, she was sure she had lost him. But when she got to an intersection near her home, she saw Petersen's car parked in a lot nearby, at South Birchwood and the Old Glenn Highway. Petersen gunned his accelerator and drove straight toward her. She veered out of the way and sped home.

Police arrested Petersen 12 days later.

If found guilty of disorderly conduct, Petersen would face up to 90 days in jail and a \$1,000 fine.

The proposed legislation would carry both misdemeanor and felony penalties. If someone continues to follow and harass a person in violation of a restraining order, he or she could be charged with a felony that carries up to five years in jail and a \$50,000 fine.

Petersen's victim had obtained a restraining order against him, but that failed to stop him.

Police Capt. Shirley Warner, who serves on the Anchorage Domestic Violence Committee and the Task Force on Sexual Assault, says a stalking law would help the efforts of both organizations.

Police generally can't do much if someone is on public property, but a stalking law would prevent someone from hanging around and intimidating the victim, even if the stalker is not violent.

"They are somebody who is just obsessed," Warner said.

Sometimes the obsession turns deadly. In 1990, 21-year-old Andy Nelson of Anchorage was charged and convicted of murder after he stalked his former girlfriend, then shot and killed her.



JIM LAVRAKAS / Anchorage Daily News

Gary Pogany listens to opening arguments at the trial of Andy Nelson.

Family keeps watch through murder trial

'Long, hard battle' for victim's kin, friends

By DON HUNTER
Daily News reporter

It was Sandra Pogany who wanted to be a lawyer, not her father.

At 21, she had the tools. She was bright, a good student, a national debate champion. But it is Gary Pogany who has prowled the hallways and offices of the state courthouse the past 10 months, a guy in jeans and a weather-worn brown leather jacket among the suits and wingtips.

"There's not really much a person can say," Pogany said Thursday, a few moments after the state's case against the young man who killed Sandy Pogany last summer went to the jury.

"It's been a long, hard battle. Susan Parkes did a good job with

her presentation. She worked hard, and so did Jim Hanley."

The jury in Andy Nelson's case is deliberating today. Nelson, 22, has conceded firing the shots that killed Pogany and wounded Thomas Van Flein, a law clerk who was dating Pogany for the second time. But his attorneys and a psychiatrist who interviewed him this spring say Nelson was overcome by a psychotic depression and mentally unable to form the intent to kill necessary for a first-degree murder conviction.

At trial, the psychiatrist, Dr. G. Christian Harris, said Nelson was confused and uncertain when he opened fire, but told him he drove home with the sense that a burden

Please see Back Page. **MURDER**

MURDER TRIAL: Victim's family endures long ordeal

Continued from Page A-1

d been lifted from him. "When he said that he felt relieved after the killing," Gary Pogany said, "any compassion in our family for a was gone at that time." months, Gary Pogany prodded and pushed to the charges against Nelson to trial. He worried when Nelson's family hired Bryson, a sought-after defense attorney with a reputation built on a steady diet of high-profile felony cases, fearing that Parkes, a less-experienced state prosecutor, might be out of depth.

"I had a lot of concern about that," he said, although Parkes did a good job. "The victim's family could have some rights in

deciding who prosecutes the case."

By the time Nelson came to trial, the patience, and sometimes the composure, of the Pogany family was wearing thin.

Early in the trial, the judge warned that it was important for Sandy's family and friends to mask their feelings in the courtroom. It wasn't easy to keep a mask in place. The trial brought hurts and subtle affronts.

When the attorneys described how Nelson stalked Sandy at a couple of Anchorage nightspots before her death, reporters picked it up; the retelling seemed to make Sandy sound more like a carouser than the dutiful student who occasionally went dancing on weekends.

And then Harris, the defense expert, talked about the relationship between Nelson and Sandy Pogany: "I didn't feel the psychiatrist had a right to call Sandy by her first name when he always called Andy 'Mr. Nelson,'" said Sandy's brother, Steve Pogany. "And when they used the term 'making out,' they made it seem like she'd done a lot of that. She hadn't."

Steve testified early in the case and then joined his father in the first row behind the prosecution table for the duration of the trial.

A couple of days later, one of the alternate jurors complained to the judge that he felt pressured when Steve looked at him. If one juror felt pressured, another

seemed oblivious. An elderly woman who appeared to keep nodding off was eventually excused before deliberations began.

Harris also testified that the attack on Sandy early on the morning of Aug. 5 was one of several options racing through Nelson's mind. He also considered shooting Louise Pogany, Sandy's mother, thinking that hurting her mother would cause Sandy the kind of pain he felt, Harris said.

"We thought we knew him," Gary Pogany said. "But you couldn't read him. He called my wife up on July 15; he called her to wish her a happy birthday. And then in a matter of a couple of weeks later, he's thinking about killing her."

2-2-93

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'Stalkers' must face punishment

What happens when a man repeatedly follows a woman down the street, lurks outside her house, tails her in his car or waits for her in the office parking lot? In Alaska, too often, the answer is nothing.

Thankfully, there are efforts under way in the Legislature to change that.

Several so-called "anti-stalking" measures are now under consideration. It's a good bet they'll be consolidated into a new law that will stiffen the penalties for such behavior.

That's good news, because stalking is a crime that terrorizes women and, sometimes, their families. On occasion the roles have been reversed, with women following men.

Usually it's a would-be boyfriend or angry ex-lover or estranged husband. Sometimes it's a stranger.

In the worst instances, their threats eventually escalate into violence. Even when they don't, the fear of what might happen is enough to terrify the victims of stalkers. No one should have to live like that.

Under current Alaska law, authorities can't do much to discourage stalking — trespassing and disorderly conduct charges aren't a strong enough deterrent — until the incident turns violent. In other words, the victim isn't helped until it's too late.

There are seven bills in the Legislature to change the law. Although the proposals are different — some would expand the existing prohibition against terroristic threatening, others would create a new anti-stalking statute — the ideas generally are the same. First-time stalking offenses would be a misdemeanor and, probably, the crime would become a felony if it's repeated, if it's done in violation of a court order or if it involves a weapon.

The intent is clear: With an anti-stalking law on the books, authorities will be able to act before threats become violent.

As many as 30 states have adopted similar legislation in the past couple of years. Alaska needs to do so, too.

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Anchorage Daily News

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ANCHORAGE, ALASKA, THURSDAY, MARCH 26, 1992

PRIC

Hostage-taker kille

4 freed; blast ends standoff in Chugiak

By PETER BLUMBERG
and LARRY CAMPBELL
Daily News Staff Writers

A man boiling with rage over a woman who left him died amid gunfire and a fiery explosion Wednesday afternoon after holding a family hostage with a gun and a bomb in a Chugiak trailer.

Conn Wayne Duncan, 40, held Bob and Wendy Lydy and their two young daughters for nearly five hours before attempting a desperate bolt to freedom with one of his hostages.

Police bullets and his own bomb stopped him.

The Lydy home had been a refuge for Duncan's ex-girlfriend, who had been fleeing his violent attacks for nearly a month. But that haven turned to hell when Duncan showed up Wednesday morning.

Anchorage Police sharpshooters' bullets dropped Duncan to the ground outside the trailer as he tried to escape to a pickup truck with Bob Lydie. The hostage ran to safety before the plastic explosive clutched by Duncan blew up in his hand.

Lydy's wife, Wendy, and the couple's 10- and 4-year-old daughters, were released earlier unharmed. Lydy's only injury was a cut on the chin.

Duncan's violent death marked the end of a month of terror he inflicted on the 30-year-old woman he once lived with, as documented in court records.

On Feb. 28, the woman was granted a restraining order against Duncan after she told a judge he'd threatened her by holding a gun to her head. A judge also issued an arrest warrant for assault.

The following week Duncan, under arrest, appeared in court on a charge of growing some 60 mari-



After the bomb exploded, police officers train their rifles on Conn Duncan in case he is still alive while firefighters move to put out the fire.

■ **'TAKE HIM OUT':** Order to fire was first for special city police team. B-1

Juana plants at a Spenard trailer he owned. At another hearing later that day, he tried to have the arrest warrant on the assault dropped. He denied ever threatening his ex-girlfriend.

"I'm not a violent person," Duncan told one judge. "I have no record of that. I have no desire to bother (the victim). I'm not going to do that."

Duncan posted a \$2,500 bond March 4 and was freed. Five days later, he allegedly abducted her from work, took her to her South

Anchorage home and, over the next 36 hours, raped her seven times. According to police investigators, the attacks were interspersed with aimless ramblings and violent assaults.

At one point he bound her to the bed with duct tape. And he threatened her again with a gun. Only when her boss called her at home for missing work did Duncan leave.

"She was definitely a woman living in fear," said Sgt. Gory Apperson, who investigated the assault.

Another arrest warrant was issued.

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APD Lt. Audio Holloway (left) helps to the 10-year-old girl after the assault.

Captor had violent background



Conn Wayne Duncan

By DAVID HULEN
Daily News reporter

Conn Wayne Duncan, the man who took four people hostage in Chugiak Wednesday before being blown to bits by a bomb he was holding, was no stranger to violence — or explosives.

Five years ago this month, Duncan was arrested for beating up his former wife, Laura Risinger, according to court records. Police seized a 9mm handgun.

Angry about their pending divorce, he had been calling her as often 30 times a day with threats, Risinger recalled in an interview Wednesday.

And, she said, he threatened to kill her with a bomb.

"He was harassing me," Risinger said. "He took to following me around with plastic explosives. He was calling me every 15 minutes telling me how much of the neighborhood he could flatten."

The woman obtained a court order requiring Duncan to stay away from her, though prosecutors never filed criminal charges against him. When she got an unlisted phone number, Duncan's threats ended, she said.

Duncan, an auto-body repairman,

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THE BACK PAGE

Standoff ends in flames

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sued for rape and kidnapping and the restraining order was continued.

At the end of a hearing where the woman repeated her fear of Duncan, Magistrate Andrew Brown asked her if she wanted an escort from court.

"I have a bodyguard," she said without further explanation.

Wednesday morning, Duncan arrived at the trailer at Mile 18 of the Old Glenn Highway shortly before 8 a.m. looking for the woman. She'd taken refuge with the Lydys two weeks ago.

"The girl was visiting Bob and Wendy," said Chel Giles, owner of the A Transmission auto shop across the street from the trailer. "According to her, she told Bob that this guy had a gun and was looking for her, and Bob said, 'I've got a gun, too.'"

"Bob probably never thought it was going to happen like this."

Duncan tried to force the woman to leave with him. But while Duncan thought she was tying her shoes to leave, she ducked out of the trailer and ran to a neighbor's house, where she called police.

By 10:30 a.m., the police bomb squad and the Crisis Intervention Response Team were poised around the trailer. Police hostage negotiators established telephone lines from a command van parked nearby while other officers closed off the surrounding area and blocked traffic on the Old Glenn Highway.

Giles, who had watched the drama from his shop since early that morning, listened in as police questioned the ex-girlfriend inside his shop.

At one point, he said, Duncan ordered Bob Lydy to leave the trailer and look for her. Lydy caught up with her at the neighbor's house, but instead of asking her to

'We made the decision that we would not let him get in a vehicle and leave.'

— Deputy Chief Duane Udland

return, told her to stay put. Lydy returned to the trailer and his captive family.

Police had decided early on that they would kill Duncan rather than let him escape with explosives, according to Deputy Chief Duane Udland. They already knew he'd fired one shot from his 9mm pistol into the floor.

They also believed his bomb threat.

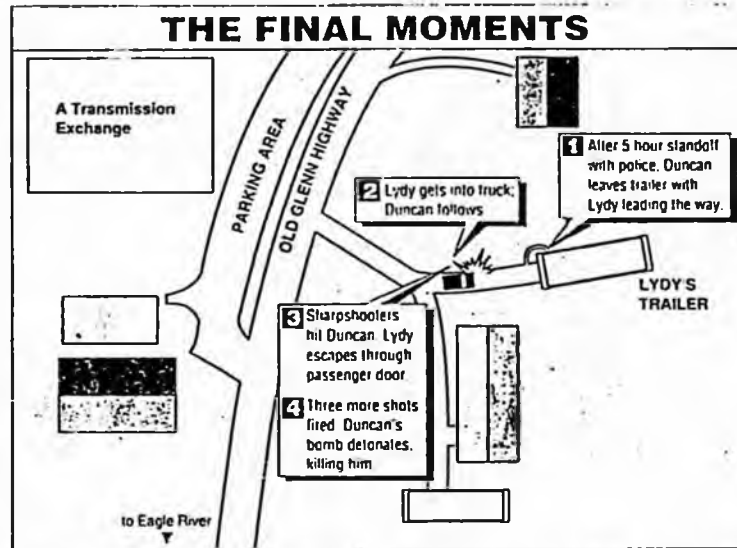
"They'd been told that morning, by his ex-wife, the ex-girlfriend and an acquaintance of Duncan who showed up at the scene, that he had up to 10 pounds of plastic explosive.

"We were convinced he had a real bomb," Udland said. "Our hope was he would come out of the trailer by himself. We made the decision that we would not let him get in a vehicle and leave."

Trained negotiators at police headquarters in Anchorage had made three or four telephone calls to the trailer, and officers in the command van made several more, Udland said. Duncan's only clear demand was that police bring back his ex-girlfriend.

"He talked in vague terms about how life couldn't go on any more and how he couldn't go back to jail," Udland said. "I don't think he was too worried about us hurting him. He said, 'I know you'll end up arresting me and I'm not going back to jail.'"

Then came a note, carried



SEQUENCE OF EVENTS	
Before 8:00 a.m.	Conn Duncan arrives at trailer of Bob and Wendy Lydy, looking for his ex-girlfriend.
8:07 a.m.	Duncan's ex-girlfriend calls police from neighbor's house after escaping.
8:13 a.m.	Police arrive at Lydy's trailer.
10:35 a.m.	Eight members of Crisis Intervention Response Team stake out positions surrounding trailer. Bob and Wendy Lydy and their two daughters are hostage inside.
11:15 a.m.	4 year old girl released unharmed, note demands that Duncan's ex-girlfriend return to trailer within one hour.
12:15 p.m.	10 year old girl released unharmed.
1:04 p.m.	Wendy Lydy released unharmed.
1:06 p.m.	Duncan and Bob Lydy emerge from trailer.
1:07 p.m.	Police shoot Duncan. A plastic explosive he was carrying explodes.



leave the trailer — and was going to take the Lydys with him. But Bob Lydy refused to go unless his wife was released first, Udland said.

That demand "may very well have saved both their lives," Udland said.

The trailer door opened and Wendy Lydy walked away.

Just after 1 p.m. Duncan left the trailer, with Bob Lydy leading the way. Police CIRT members aimed their M-16 assault rifles at Duncan as he motioned Lydy to his ex-girlfriend's truck.

As Lydy climbed into the driver's door and into the cab, a sharpshooter fired. The shot knocked Duncan to his knees.

Duncan rose to his feet. From their positions, the police could see Duncan pull something on the bomb in his hand.

Seconds later, police fired three more shots. One hit Duncan. As he struggled on the ground, Lydy fled out the truck's passenger door.

Suddenly Duncan disappeared in a flash of light, and a split second later came a muffled blast. Lydy, in the midst of his dash, raised a fist.

When the smoke lifted, the truck was ablaze and Duncan's body was gone.

"The good guy is OK! The good guy is OK!" a voice screamed over a police radio.

Udland said later that Lydy used his head. "He did exactly what we were crossing our fingers and hoping he would do."

Across the street in his shop, Giles said police found some of Duncan's remains strewn about his yard.

Police and federal agents plan to analyze the bomb to determine what it was made of and how

to police by the terrified 4-year-old girl.

"I want my mommy! I want my mommy!" she cried. Sgt. Walt Monegan bundled her in his arms and carried her to safety.

Police read the message she brought: Duncan said he would detonate his bomb if his demand wasn't carried out within the hour.

A short time later the older daughter was allowed

to leave. The three adults inside were calm and huddled in the kitchen, she told police.

But negotiations between Duncan and police were falling apart.

Daily News reporters Marilee Enge, Don Hunter and Pamela Doto contributed to this report.

Why Duncan wasn't in jail

Man killed in hostage standoff sounded like a good bail risk in court

By DON HUNTER
Daily News reporter

In court three weeks ago, Conn Wayne Duncan looked and sounded like a pretty good bail risk, especially compared with the other criminal defendants sitting around him.

He had lived in Alaska for years and hadn't been in any serious trouble before. In his recent brushes with the law, he had voluntarily showed up for court dates on a charge of growing marijuana.



Duncan

■ **NO GUARANTEES FOR WOMEN:** The Conn Duncan case underlines the plight of domestic-violence victims. F-1

■ **INVESTIGATION:** Parked car may have signaled ex-girlfriend's presence to Duncan; police look for more explosives. B-1

Largely as a result, the man who this week held a Chugiak family hostage before exploding himself with a homemade bomb was able to persuade a judge to reduce his bail from \$10,000 to \$2,500 on a charge of threatening his

ex-girlfriend with a gun.

After failing to talk another judge into letting him go solely on his promise to show up for trial, Duncan bailed out of jail March 4 and skewed out of control.

On tape recordings of his court appearances, Duncan sounds calm and intelligent as he tried to convince judges that the charges against him were false, that the woman who claimed he held a gun to her head was lying or mistaken, and that he would stay out of trouble.

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THE BACK PAGE

DUNCAN: Man who took hostages went free on lower bail

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Assistant District Attorney Steve Branchflower argued against reducing Duncan's bail at those hearings. On Thursday night, however, Branchflower said the 40-year-old divorced father had done a good job of concealing his anger.

"A lot of times crazy people let off vibrations," Branchflower said. "This guy acted like a regular person. There was nothing about his appearance that would cause you to get scared."

In court March 3 and 4, Duncan insisted he had done nothing wrong.

"Your honor," he told one judge, "I'm not trying to sound like a really super good guy or anything. ... I understand that my ex-girlfriend was upset with me. We were both upset. But I do not know where she got the idea that I had a gun. I haven't had one since 1987. I

“A lot of times crazy people let off vibrations. This guy acted like a regular person. There was nothing about his appearance that would cause you to get scared.”

— Assistant District Attorney Steve Branchflower

don't have one now. I don't need one."

People accused of crimes under state law are entitled to a reasonable bail. The trick is deciding what's reasonable. Judges usually go on a defendant's history and his ties to Alaska. In Duncan's case, his record before the pot bust was practically spotless.

Duncan and his attorney asked Judge John Lohff to let him go on his own recognizance, which is basically an unsecured promise that he would show up for future court dates. His argument was strengthened by the fact he had voluntarily appeared in court that very day.

But Duncan hadn't known that there was a second arrest warrant out for him when he appeared in court on the drug charge March 3. The second warrant — for the assault charge against his ex-girlfriend — was served on Duncan in court. The judge who had issued it set bail at \$10,000.

"If he had known earlier that there was a warrant (for the assault), he would have turned himself in," said the assistant public defender who was representing him. "There's no indication he's a flight risk. He's lived in Alaska for 14 years. I think his record speaks for itself."

Branchflower, however, argued against reducing Duncan's bail, much less setting him free on his own recognizance.

"I've seen this situation happen many times, where a matter is brought to the attention of the police," Branchflower told the judge on March 3.

"Usually, the boyfriend, the husband ... their reaction is anger and rage. This is a particularly dangerous time now when the defendant finds that someone he has trusted and loved has resorted to the police."

Lohff refused to let Duncan free without bail, but he reduced it to \$2,500.

Duncan stayed in jail that night. The next day, he tried to persuade Judge Natalie Finn to let him out without posting bail.

"I'm not a violent person," Duncan told Finn.

"Your honor, I guarantee you, you have my word, my sacred honor, I will be here to take care of this. I'm not going to run."

Finn also refused to reduce Duncan's bail below \$2,500.

About 10 p.m. the same day, Duncan made bail and checked out of Cook Inlet Pre-Trial Facility.

The next time authorities heard of him was March 10, when the woman who said Duncan had held a gun to her head reported that he appeared at her door March 9, held her captive for more than 24 hours and raped her.

More charges were filed, this time for rape and kidnapping, and the judge who signed that warrant set bail at \$100,000. But Duncan was nowhere to be found.

He didn't appear again until the morning of March 25, when he tracked his ex-girlfriend to the home of friends in Chugiak.

Branchflower said he had argued against decreasing Duncan's bail because he thought Duncan needed time to cool off. People who have just been arrested can get pretty angry at the people who accuse them, especially when they're accused by girlfriends or wives, he said.

"I've developed a sense of radar with these guys, and I knew something would happen," he said. "I didn't know it would be this bad."

"That's not to say I haven't made that argument many times and been wrong," Branchflower said. "I've often said our job is very much like defusing bombs. And every once in a while one blows up. You never hear about the ones that don't. You hear about the one that blows up. Unfortunately, in this case, literally."



Alaska State Legislature

~~Senate~~ House

Please enter into the record my testimony to the

Judicial Committee
committee name

committee on HB/64
bill/subject

, dated 19 FEB 93

ie: imminent serious ~~danger~~ serious injury
by means of a dangerous instrument -
in my instance the stalker has used
his own vehicle to threaten myself & my
family in our own vehicle.

Subtle psychological terrorism feeds the
stalker's need of power, motivates them
towards more violent acts.

It starts out small w/ telephone contact,
to personal contact in a private area to
open contact to harmful violent contact.
There is a definite history to their actions.

Signed: _____

Laure B. Knapp
Testifier

Representing (Optional)

P.O. Box 794 Delta Jct AK
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907-895-4150
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