

HB

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Anti-Stalking Statutes: Background and Constitutional Analysis

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RESEARCH

ANTI-STALKING STATUTES: BACKGROUND AND CONSTITUTIONAL ANALYSIS

SUMMARY

Over the past two years, twenty-seven state legislatures have passed legislation which prohibits "stalking." These laws have apparently been passed in response to a number of well-publicized cases where criminal assailants repeatedly followed, harassed, or threatened their victims, generally women, prior to an assault on those victims. Although some of the more publicized cases have involved attacks on individuals by strangers, many "stalking" incidents involve attacks on victims by people they know.

This report analyzes the various deficiencies which prevent traditional state legal systems from responding and effectively punishing "stalking." The report will then examine the various approaches that states have taken in passing laws on this issue, and discuss constitutional challenges that might be made to these statutes. Finally, the report discusses legislative phrasing that would be likely to satisfy constitutional concerns.

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ANTI-STALKING STATUTES: BACKGROUND AND CONSTITUTIONAL ANALYSIS

Over the past two years, twenty-seven state legislatures have passed legislation which prohibits "stalking."¹ These laws have apparently been passed in response to a number of well-publicized cases where criminal assailants repeatedly followed, harassed, or threatened their victims, generally women, prior to an assault on those victims.² Although some of the more publicized cases have involved attacks on individuals by relative strangers,³ many "stalking" incidents involve attacks on victims by people they know.⁴

Anti-stalking laws appear to have been passed to address various perceived problems with how traditional criminal laws are applied to threatening behavior. Certain stalking behavior, although disturbing to the victim and often indicative of potential future harm, may not rise to the level of criminal activity under traditional criminal statutes, or it may violate laws under which only minimal sanctions can be imposed. Absent statutes specifically prohibiting such

¹ Those states which have passed laws relating to stalking include: Arizona, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New York, Oklahoma, Ohio, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia, Wisconsin. *Id.* See AZ Legis 241 (Westlaw 1992)(slip) to be codified at Ariz. Rev. Stat. Ann. §13-2921 (1991); Cal. Penal Code §646.9 (1992) & 1991 CA S.B. 1342 (Westlaw 1992); CO LEGIS H.B. 92-1189 (Westlaw 1992) to be codified at Colo. Rev. Stat. §18-9-111; CT LEGIS 92-237 (Westlaw 1992); DE LEGIS 250 (Westlaw 1992) to be codified at Del. Code Ann. tit. 11, §1312A; FL LEGIS 92-208 (Westlaw 1992) to be codified at Fla. Stat. §784.048; ID LEGIS 227 (Westlaw 1992) to be codified at Idaho Code §18-7905; Illinois Public Act 87-870 to be codified at Ill. Rev. Stat. ch. 38, §12-7.3; IA LEGIS H.F. 2025 (Westlaw 1992) to be codified at Iowa Code §708.11; KS LEGIS 298 (Westlaw 1992) to be codified at Kan. Crim. Code Ann §8-1567; KY LEGIS 443 (Westlaw 1992); LA LEGIS 80 (1992) to be codified at La. Rev. Stat. Ann. §40.2; MA LEGIS 31 (Westlaw 1992) to be codified at Mass. Gen. L. ch. 31, §43; MS LEGIS 532 (Westlaw 1992); NE LEGIS 1098 (Westlaw 1992); NY LEGIS 345 (Westlaw 1992) to be codified at New York Penal Law §120.13-.15 & §240.25-.30; OK LEGIS 42 to be codified at Okla. Stat. tit. 22, § 60.1; OK LEGIS 107 (Westlaw 1992) to be codified at Okla. Stat. tit. 21, § 1173; SC LEGIS 417 (Westlaw 1992) to be codified at S.C. Code Ann. §16-3-1070; SD LEGIS 162 (Westlaw 1992); TN LEGIS 795 (Westlaw 1992); UT LEGIS 188 (Westlaw 1992) to be codified at Utah Code Ann. §76-5-106.5; VA LEGIS 888 (Westlaw 1992) to be codified at Va. Code Ann. §18.2-60.3; WA LEGIS 186 (Westlaw 1992); WV LEGIS 52 (Westlaw 1992) to be codified at W. Va. Code. §61-2-91; WI LEGIS 194 (Westlaw 1992) to be codified at Wis. Stat. §29.05. Bills have also been introduced in both the Senate and the House directing that the Attorney General, through the National Institute of Justice, develop model anti-stalking legislation. See S. 2922, 102d Cong., 2d Sess. (1992); H.R. 5876, 102d Cong., 2d Sess. (1992).

² Melinda Beck, *Murderous Obsession*, Newsweek, July 13, 1992, at 60.

³ Marie Puente, *Legislators tackling the terror of stalking*, USA Today, January 21, 1992, at 9A.

⁴ Beck, *supra* note 2, at 61.

activities, law enforcement officials may be disinclined to vigorously respond to "stalking" reports, or they may find that the legal remedies available to prevent such behavior are inadequate.⁶

Anti-stalking statutes may also serve to supplement various civil laws to which individuals turn when subjected to threatening behavior. Individuals who are threatened by another person may seek a "civil protection order" or a "restraining order" under which a court will order an individual to cease harassing behavior against the individual seeking the order. Obtaining a civil protection order, however, is generally the responsibility of the victim of the harassment, and enforcement of such orders has proven problematic. Consequently, anti-stalking statutes may be an additional legal basis on which victims may seek protection from threats or harassment.

The "anti-stalking" statutes which have been passed by the various states vary in the type of behavior which is sanctioned. Some statutes are narrowly drafted, and are restricted to those individuals who make credible threats of serious harm coupled with some overt following or harassment. Other statutes, however, appear to prohibit any repeated unwelcome contact between individuals, regardless of potential threat.⁶ Consequently, concerns have been raised that some of these statutes may punish non-threatening or even constitutionally protected activities, such as picketing.

This report analyzes deficiencies which often prevent traditional state legal systems from responding and effectively punishing "stalking." The report then examines the various approaches that states have taken in passing laws on this issue.

I. Traditional Criminal Law Punishments Against Stalking

Stalking behavior generally refers to harassing or threatening behavior which an individual engages in repeatedly, such as following a person, appearing at a person's home or place of business, making harassing phone calls, leaving written messages or objects or vandalizing a person's property.⁷ These actions may or may not be preliminary steps taken before a stalker commits an act of assault, rape, child molestation or murder.⁸ Although women stalking men is not unknown, and some stalkers are strangers to their victims, the majority of cases reportedly involve women being stalked by former lovers or spouses.⁹ As

⁶ Danielle Bochove, *Living in Fear*, Calgary Herald, July 26, 1992, at A10.

⁶ See *infra* note 35-37 and accompanying text.

⁷ Melinda Beck, *supra* note 2, at 60 (July 13, 1992).

⁸ *Id.*

⁹ *Id.*

many as 90 percent of women killed by their husbands or boyfriends have been stalked prior to the attack.¹⁰

Stalkers generally engage in behavior which is threatening to the victim, but which may not, absent an anti-stalking statute, rise to the level of a criminal violation. For instance, the crime of assault is committed when an individual attempts or places a person in reasonable apprehension of being subjected to immediate physical violence.¹¹ While an individual who is "stalking" another may intend or threaten physical violence, the crime of assault is not generally committed unless there is such "proximity" between the potential assailant and the victim that immediate violence is anticipated. In the words of one court, the "proximity" required is such that "the next movement would . . . complete the battery."¹² Consequently, stalking behavior which threatens a physical harm at some future unspecified time would not generally be considered an "assault."¹³

A "stalker" who follows a person need not necessarily engage in actions which would violate a state criminal law, such as trespass or destruction of property.¹⁴ When a stalker does violate criminal law, they are often misdemeanors, and the penalties imposed are usually fines and probation. More serious criminal violations are not generally available if the "stalker" has made no overt attacks on the person being followed. Consequently, there may be no adequate criminal deterrent to prevent stalking behavior.

II. Civil Protective Orders and Stalking

Courts generally have the authority to order that an individual refrain from contacting or coming within the vicinity of another person, if a sufficient basis for such an order can be established. Such an order is generally referred to as a civil protection order. If a civil protection order is violated, then a court may

¹⁰ *Id.*

¹¹ Perkins & Boyce, *Criminal Law* 163 (1982). The crime of assault, traditionally meant an attempt to complete a simple "battery" or act of physical violence. *Id.* By statute, however, it has been expanded to include numerous other forms of threatened violence such as assault with a deadly weapon and assault with intent to kill. *Id.*

¹² *Fox v. State*, 34 Ohio St. 377 (1878).

¹³ Similarly, laws regarding an "attempt" to commit physical violence could generally not be applied to a stalker, as an attempt to commit a crime generally requires that the assailant has gone beyond preparation, and has acted towards the consummation of the illegal goal. *Id.* at 614.

¹⁴ Harassment by phone, on the other hand, will generally be a violation of federal law. See 47 U.S.C. §223 (1988)(fines of up to \$50,000 or imprisonment for up to six months for making repeated phone calls solely to harass a person).

hold the violator in contempt, and impose fines or incarceration.¹⁶ Some states only provide for the imposition of civil contempt for the violation of a civil protective order, while others mandate criminal sanctions.¹⁶ Most states leave it to the court's discretion whether to hold a violator in civil or criminal contempt.¹⁷

Absent anti-stalking laws, the civil protection order is generally the only basis by which an individual can prevent another individual from approaching her, her home, or her work place. There are inherent problems in obtaining civil protection orders, however, and enforcement of these orders has often proven to be a problem. Although there has been some movement to strengthen these laws, there are questions whether the civil protection order is a sufficient response to the problem of stalking, and whether the criminal law system is a more appropriate avenue for addressing this issue.

There are a number of differences between the operation of the civil protection order system and the criminal law. Under the criminal law system, the police and prosecutors are generally responsible for investigating a crime, initiating legal proceedings, providing evidence, and seeking sanctions against the law breaker. Under the civil protection system the victim, not the state, is responsible for initiating civil protection proceedings, proving her case, obtaining a protection order, and then seeking to have the order enforced. This process often requires the expenditure of significant time and money to hire a lawyer, pay court costs, develop a case, and follow the necessary legal process. These may represent significant emotional, logistical or financial hurdles for women who may need the protection the most.

¹⁵ A contempt of court is a willful disregard of the authority of a court. Wright, Federal Practice and Procedure, Criminal 2d, §702. Although the powers of a court to move against an individual for contempt were originally held to be "inherent" powers of the court, Note, *Civil and Criminal Contempt in the Federal Courts*, 57 Yale L.J. 83, 85 (1947), there is now extensive statutory authorization for the imposition of sanctions against such acts.

¹⁶ Finn, *State-by-State Guide to Enforcement of Civil Protection Order*, 14 Response 3-4 (1991).

¹⁷ *Id.* The distinction between acts which constitute civil contempt and criminal contempt is often unclear, because some conduct can be both criminal and civil contempt. Fundamentally, incarceration or fining for civil contempt is a remedial measure, designed to coerce an individual into compliance with a court order. *Shillitani v. United States*, 384 U.S. 364, 368 (1966). A person incarcerated or fined for civil contempt of court may agree to comply with the court order, at which time he will be released from jail. *In Re Grand Jury Investigations*, 600 F.2d 420, 423 (3rd Cir. 1979). However, an individual convicted of criminal contempt is incarcerated as punishment, and the incarceration or fine is unconditional.

Some other distinctions between the two, as noted by the Supreme Court, include the following: (1) refusal to do an act commanded is civil contempt, while doing a forbidden act is criminal contempt; (2) civil contempt proceedings are entitled as a part of the main cause, while criminal contempt actions are brought in the name of the United States; and (3) the notice in a criminal contempt proceeding must state that the proceeding is criminal in nature. *Gompers v. Buck's Stove & Range Company*, 221 U.S. 418 (1911); See Wright, *supra* note 15, at §2960.

Another difference between the criminal law and civil protection system is how quickly a "stalker" can be sanctioned under each system. A stalker who violates an anti-stalking law can be arrested immediately upon the commission of the stalking behavior. Under the civil protection system, however, a victim of a stalker must first experience some event which would create a sufficient basis for the issuance of a protective order. The victim must then apply for a protection order, which in some cases may take months to obtain. Then, if a violation occurs, the victim will generally have to go back to the court to seek the imposition of sanctions against the stalker.

Arresting an individual in the process of stalking may also differ under the two different systems. If the state only provides for civil contempt, then police may not have the authority to arrest the individual, as the defendant must be given the opportunity by a judge to "undo" his behavior.¹⁸ Even if criminal contempt is available, police are often unaware of their authority to arrest for violation of a protective order, or are reluctant to do so.¹⁹ If the violator has left before the police arrive, the police may then be required to obtain a warrant to effect an arrest.²⁰ Finally, violating a civil protective order is generally a misdemeanor, and the penalties are generally light; incarceration for more than six months is unusual.

III. Constitutional Challenges to "Anti-Stalking" Statutes

Although it does not appear that there are reported decisions regarding constitutional challenges to anti-stalking statutes, similar state laws which punish "harassment" or "phone harassment" have come under constitutional scrutiny by the Court. Generally, these statutes have been challenged as unconstitutionally vague and consequently in violation of the due process clause of the Fourteenth Amendment. An evaluation of these cases may indicate what factors a court will look to in making a determination as to the constitutionality of the anti-stalking statutes.

A. Void for Vagueness

Under the due process clause of the Fourteenth Amendment,²¹ legislation must be written with sufficient specificity so that a person of common intelligence can ascertain the limits of lawful behavior.²² If the language of a particular statute is so vague that an individual cannot ascertain whether or not

¹⁸ See Finn, *supra* note 16, at 5.

¹⁹ *Id.* at 3.

²⁰ As a violation of a civil protective order is often a misdemeanor, a police officer who has not witnessed the offense must obtain a warrant before arresting the individuals. *Id.*

²¹ U.S. Constitution, XIV Amendment. "No State shall . . . deprive any person of life, liberty or property, without due process of law"

²² *Winters v. New York*, 333 U.S. 507 (1948).

his or her behavior constitutes criminal behavior, then that statute will be held unconstitutional. Courts have also been reluctant to enforce statutes whose vague language, if interpreted broadly, bear no reasonable relation to the underlying purpose of the statute.²³

When a court finds that a statute is overly vague "on its face," it may be struck down in its entirety; or, if a court finds that it could be applied properly in some cases, and if its value outweighs its negative effects, it might be held unconstitutional only as "applied" to particular cases. Where a vague statute regulates in the area of the free speech under the First Amendment, it may be found void in its entirety;²⁴ if constitutionally protected conduct is not implicated, however, then a court will be more likely to examine the statute on a case by case basis.

B. Are Some Anti-Stalking Statutes Unconstitutionally Vague

The anti-stalking statutes currently in place range from narrowly drawn laws which restrict clearly dangerous activities to broadly drawn laws which may punish non-dangerous or even constitutionally protected activities. A narrow statute, such as California's anti-stalking law, generally prohibits the following or harassment of an individual when combined with the making of "credible threats."²⁵ Florida, on the other hand, provides that any person who willfully, repeatedly or maliciously follows or harasses another person commits the crime of stalking.²⁶ Further, some of the statutes treat stalking as a misdemeanor, while others treat it as a felony with punishments ranging as high as ten years incarceration for repeated offenses.²⁷

When a state is formulating an "anti-stalking" law, a tension may arise between the desire to punish a broad range of "stalking" behavior, and the desire

²³ See *People v. Dupont*, 486 N.Y.S.2d 169 (A.D. 1 Dept. 1985)(holding that distribution of indecent material about an attorney did not violate harassment statute).

²⁴ *Lewis v. City of New Orleans*, 415 U.S. 130, 133-134 (1948), *But see Broadrick v. Oklahoma*, 413 U.S. 601 (1973)(holding that a statute infringing on the First Amendment is facially invalid only if its overbreadth is "substantial").

²⁵ Cal. Penal Code §646.9 (1992) & 1991 CA S.B. 1342 (Westlaw 1992). In order to punish a person for stalking under California law, a prosecutor must prove two elements: 1) that the person "repeatedly" followed or harassed another person, and 2) that the person has made a "credible" threat with the intent of placing that person in reasonable fear of death or great bodily injury. *Id.* at §646.9(a). In addition, harassment, as used in element one, means to alarm, annoy or harass in a way which serves "no legitimate purpose," and the emotional distress caused must be a reasonable response to the activity. Further, any constitutionally protected activity is not included in the meaning of "course of conduct".

²⁶ FL LEGIS 92-208 (Westlaw 1992) *to be codified at Fla. Stat. §784.048.*

²⁷ Compare, AZ Legis 241 (Westlaw 1992)(slip) *to be codified at Ariz. Rev. Stat. Ann. §13-2921* (1991)(harassment which includes following classified as a misdemeanor) and MA LEGIS 31 (Westlaw 1992) *to be codified at Mass. Gen. L. ch. 31, §43* (Westlaw 1992)(imprisonment for up to ten years for second offense).

to develop a law which does not sweep too wide and consequently punish constitutionally protected or otherwise inoffensive behavior. The California statute for instance, by requiring that the act of stalking be linked to behavior threatening death or serious bodily harm, links stalking behavior with acts which are clearly punishable under criminal law. However, by refraining from making verbal threats, a stalker may apparently still follow or harass a person without falling under the prohibitions of such a law.

A statute such as Florida's, on the other hand, appears to include conduct which may be non-threatening,²⁸ or even constitutionally protected. For instance, under the Florida statute, a person who willfully, maliciously, and repeatedly "follows" another person may be prosecuted for a misdemeanor, even if the following is not threatening.²⁹ Thus, a television camera crew which repeatedly followed a public figure from her home to her work place could arguably be in violation of this statute, although its actions would be otherwise constitutionally protected.

Some of the constitutional problems with anti-stalking statutes appear to stem from inadequate definitions of terms used or from failing to distinguish between behavior which is offensive and that which is not. In some instances, however, the underlying problem is that the legislatures are attempting to prevent aberrant behavior which is indicative of potential future harm; however, such behavior is not easily distinguishable from non-criminal activity. Consequently, as a legislature attempts to expand the scope of an anti-stalking law, it may incrementally lessen the likelihood that the law will pass constitutional muster.

C. Evaluation of Specific Provisions of Existing Statutes

Although there are a variety of anti-stalking statutes, there appear to be a limited number of drafting approaches which have been used. Some of these approaches may raise constitutional issues which are resolvable by redrafting; some of the other approaches, however, are a reflection of a decision to sanction certain behavior which may be difficult to punish constitutionally. What follows is an evaluation of these various provisions.

²⁸ One of the first persons prosecuted under this statute was a sixty-six year old man who, according to the victim "had never threatened her," but who called her repeatedly and appeared uninvited at her door. Ardy Friedberg, *Elderly man may be first charged under Florida stalking law*, The Houston Chronicle, July 12, 1992, at 16.

²⁹ Although, under the Florida law, the term "harassment" requires a showing that emotional distress has been caused, the term "follows" is not similarly limited. FL LEGIS 92-208 (Westlaw 1992) to be codified at Fla. Stat. §784.048. In addition, while the term "harassment" is defined so as not to include constitutionally protected activities, the term "follows" is left undefined. *Id.* Under the language of the Florida statute, it is not even clear whether the victim need be aware that they are being followed. *See id.*

1. Various Statutory Formulations Prohibiting Anti-Stalking Behavior

Some of the existing anti-stalking laws require that the prohibited stalking behavior be linked with a threat of physical violence in order to fall under the provisions of the act.³⁰ This is similar to provisions in other laws which prohibit threats of physical violence,³¹ and there does not appear to be a significant constitutional argument that laws prohibiting threats of physical violence are inherently vague. As this form of anti-stalking statute is only violated when both a threat and some stalking behavior such as following or harassment are present, the law is actually punishing a subset of threatening behavior. As the underlying offense, making threats, is a sufficiently definitive prohibition so as to be constitutional, there is less of a threat of the laws being overbroad or prohibiting innocent behavior; thus the use of the limiting terms "harassment" and "follows" in conjunction with threats of physical violence would be an unlikely basis for a successful constitutional challenge.

Some statutes, however, provide that a person may be found guilty for stalking behavior alone, even if no specific threat is not made. In some cases, if the terms are sufficiently defined, this formulation may also be constitutionally acceptable. For instance, one section of the Delaware anti-stalking statute prohibits harassment, which is defined as a knowing course of conduct which seriously alarms, annoys, or harasses a person, and which would cause a reasonable person substantial emotional distress;³² this provision would appear sufficiently definitive to avoid constitutional challenges on its face.³³ However, this formulation might be held unconstitutional in application in some narrow instances, especially if there are First Amendment issues involved.³⁴

A number of the statutes, however, appear to require that a person be arrested or punished for the mere act of following a person.³⁵ For instance, in Florida, it is a misdemeanor for a person to willfully, maliciously and repeatedly

³⁰ See, e.g., Cal. Penal Code §646.9 (1992) & 1991 CA S.B. 1342 (Westlaw 1992); CO LEGIS H.B. 92-1189 (Westlaw 1992) to be codified at Colo. Rev. Stat. §18-9-111; TN LEGIS 795 (Westlaw 1992); UT LEGIS 188 (Westlaw 1992) to be codified at Utah Code Ann. §76-5-106.5.

³¹ See, e.g., 18 U.S.C. §1951 (prohibiting interference with commerce by threats of physical violence).

³² DE LEGIS 250 (Westlaw 1992)

³³ *People v. Lamb*, 384 N.Y.S.2d 929 (1976)(upholding a statute which prohibits a "course of conduct . . . which alarm[s] or seriously annoy[s] [another] person"

³⁴ See *People v. Dupont*, 486 N.Y.S.2d 169 (A.D. 1 Dept. 1985)(holding that distribution of indecent material about an attorney did not violate harassment statute).

³⁵ See, e.g., ID LEGIS 227 (Westlaw 1992) to be codified at Idaho Code §18-7905; DE LEGIS 250 (Westlaw 1992) to be codified at Del. Code Ann. tit. 11, §1312A; FL LEGIS 92-208 (Westlaw 1992) to be codified at Fla. Stat. §784.048; NY LEGIS 345 (Westlaw 1992) to be codified at New York Penal Law §120.13-.15 & §240.25-.30.

to follow a person.³⁶ The statute does not define "to follow," and thus there is no indication as to how far, or how often, or in what context such a following is prohibited. Thus private detectives, newspaper reporters, policemen, or suspicious neighbors who follow a particular person more than once in order to observe that person might be prosecuted under this law; even so trivial an act as one football player chasing another with "malicious intent" might arguably be covered under this statute.³⁷ Consequently, a court might find that the statutory language at issue was unconstitutional on its face.

2. Intent to a Place a Person in Fear of Physical Injury

An important narrowing feature of a number of the anti-stalking statutes is the requirement that the acts in question were intended to place another person in fear of physical injury.³⁸ This "intent" requirement is to be distinguished from the simple requirement that a person accused of stalking be "willfully" or intentionally following a person; the former intent requirement, unlike the latter, narrows the various statutes so that the nature and context of the action in question would be considered by the court or the jury.³⁹ Thus, under this narrowing language, mere following would not be the basis for a conviction without some evidence that the following was done as part of an intentional scheme to harm the victim.⁴⁰

³⁶ FL LEGIS 92-208 (Westlaw 1992) to be codified at Fla. Stat. §784.048;

³⁷ According to Blacks Law Dictionary, "malice" is present when an act is done with evil intent, or with intent to cause harm. The requirement that the following be "malicious" does little to narrow the statute, as there is no indication as to what type of "malicious" harm must be intended.

³⁸ See, e.g. NY LEGIS 345 (Westlaw 1992) to be codified at New York Penal Law §120.13-.15 & §240.25-.30.

³⁹ This intent requirement can also be used to distinguish stalking laws from those harassment laws which are directed primarily towards protecting individuals from non-physical threats; for instance, law which prohibit actions which threaten of physical injury might provide for more severe punishments than simple harassment. See, e.g., NY LEGIS 345 (Westlaw 1992) to be codified at New York Penal Law §120.13-.15 & §240.25-.30.

⁴⁰ A concern might be raised that some mentally disturbed stalkers do not actually intend to instill fear, but are actually attracted to their victims, and thus might evade the prohibitions of the law. Under most criminal statutes, however, an intent requirement is met if a reasonable person would be aware that his actions would have a prohibited effect. Thus, if a person's actions were likely to place a person in fear of physical violence, a jury would generally be allowed to assume that these actions were intended to convey that intent. However, a legislature might desire to make it clear that the intent requirement was to include those cases where an individual knew or should have known that his behavior would be perceived as threatening; for this reason, such clarification might be set out either in the legislative history or in the text of the statute.

3. Exclusion of Lawful, Legitimate or Constitutionally Protected Behavior

A number of statutes provide exclusions for "constitutionally protected activities" or condition restrictions on harassment or following to those acts which have no "lawful" purpose. These exclusions are to a degree redundant; for instance, if an act is constitutionally protected, then the statute prohibiting that act would be unenforceable. Or, if a person has a "lawful" reason to be harassing a person, then they are by definition not in violation of any statute, including the one being interpreted; thus the phrase "lawful" has a circular meaning. Although these provisions might have the effect of discouraging a law enforcement officer from enforcing the law in marginal cases or cases involving free speech, a sufficiently definitive statute would not need the addition of these narrowing provisions.

Some statutes also use the exclusionary phrase "for no legitimate purpose;" this language, however, might be the partial basis for a court to strike down a statute for unconstitutional vagueness.⁴¹ In one state, where a harassment statute prohibited an act "that alarms or annoys another person and that serves no legitimate purpose," a court found that the phrase "serves no legitimate purpose" was vague and injected uncertainty into the statute.⁴² The court appears to have determined that the phrase "no legitimate purpose" had no defined meaning under the statute and no objective meaning outside of the statute; thus the statute's language invited subjective evaluations of what behavior was prohibited by the law.

4. Anti-Stalking Legislative Phrasing

Although narrow anti-stalking language such as California's may be on the firmest ground constitutionally, a legislature may decide that for policy reasons, a broader statute is desired in order to punish the widest possible range of stalking behavior. Thus, a legislature might need to determine whether broad anti-stalking language can be drawn while still defining the offense with constitutionally definitive language. Following is an example of language which would appear likely to pass constitutional muster.

Any person who repeatedly follows or harasses another person with the intent to place that person in reasonable fear of sexual battery, bodily injury or death; and whose actions would cause a reasonable person to suffer substantial emotional distress; and whose acts induce emotional distress to that person; is guilty of the crime of stalking.

The various terms used in such language would also need to be defined. Thus, for purposes of the above section:

⁴¹ See *People v. Norman*, 703 P.2d 1261 (Colo. 1985).

⁴² 703 P.2d 1266-67.

"Harasses" means a course of conduct directed at a specific person which would cause a reasonable person to fear sexual battery, bodily injury, or death, including by not limited to verbal threats, written threats, vandalism, or unconsented to physical contact.

"Follows" means maintaining a visual or physical proximity over a period of time to a specific person in such a manner as would cause a reasonable person to have a fear of sexual battery, bodily injury, or death.

"Repeatedly" means on two or more separate occasions.



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Constituency N

Bill Number SB 11

Response SUPPORTS

Subject

SB 11/ HB 11/ SB 22 STALKING IS A MAJOR WEAPON OF INTIMIDATION. THE POLICE HAVE BEEN UNABLE TO DO ANYTHING ABOUT IT. PLEASE PROTECT THE CITIZENS OF ALASKA BY SUPPORTING THESE BILLS.

1/26/93

Cathy -

I agree with you & am the sponsor
of SB 22. I plan to hear this bill
in State Affairs next week.

Thanks,

Jerem

Respond

Stalking Bill / SB 22

House Bill 64 - ANTI-STALKING

Information provided by the Legislative Research Agency reports that of the 32 states that have already passed "stalking" laws, 16 have statutory exclusions for "constitutionally protected activity."

Numerous articles and reports have discussed the potential constitutional problems with the various "stalking" laws being considered and implemented throughout the United States.

During deliberations, discussions, and testimony on House Bill 64 and other "stalking" legislation in the Senate State Affairs Committee, it was uniformly stated that constitutionally protected activity is NOT meant to be covered by this legislation, nor was it the intent of the sponsor to include constitutionally protected activity as some kind of criminal offence under HB64.

This section was added simply to clarify that "purely" constitutionally protected activity is not criminal. Free speech and other first amendment rights should be excluded from the definition of "course of conduct" to protect the rights of all citizens, as well as enabling the legislation to withstand Court scrutiny.

This section places the burden on the defence to PROVE that the defendant was involved in a "constitutionally protected activity."

House Bill 64 is a critical piece of legislation needed to protect our citizens against dangerous criminals. Lets pass a good, solid piece of legislation that will help our law enforcement personnel protect Alaskans ~~against~~ criminals.

from

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 Kaikus 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.

JUNEAU EMPIRE

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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, notably, 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.

TOPIC: Measures that would make 'stalking' a crime

States' new laws include 'stalking bans'

By MITCHELL LANDSBERG
The Associated Press

Laws against "stalking" take effect in several states this week, part of a rapidly spreading effort to protect women from the terrifying advances of obsessed men.

Such statutes in Colorado, Florida and Mississippi are among hundreds of new laws around the country that come into force on July 1. Others include a compromise law on abortion in Kansas, the biggest tax cut in New Jersey's history, an "assault pistol" ban in Hawaii and assorted environmental regulations in several states.

So far this year, laws

against stalking have been enacted in 19 states, a remarkable number considering that only one state had a stalking law on the books at the beginning of the year. Laws in many states take effect on July 1 as well as Jan. 1 of each year.

"This was a very popular thing this year," said Donna Hunzeker, manager of the criminal justice program at the National Conference of State Legislatures in Den-

ver.

The pioneering state, California, passed an anti-stalking law in 1990, a year after four women in Orange County were killed despite temporary restraining orders against men who were following them.

The California bill had added impetus from cases involving Hollywood celebrities who were stalked by obsessed fans.

After that law was

passed, Hunzeker said, stalking victims in other states "started coming forward and saying, 'We have a problem here, too.'"

She said states typically define stalking as "willful, malicious and repeated following and harassing of another person." Most require some "credible threat" of violence against the victim.

Previously, the only weapon against stalking was a restraining order.

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

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.

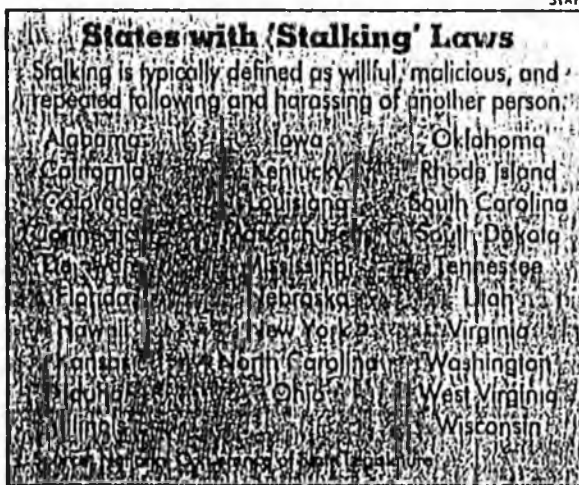
The growing awareness of stalking as a crime is the product of recent, well-publicized deaths of several women. In suburban Boston, 31 year old Kathleen Lardner was shot to death by her ex-boyfriend on the street recently. Last week, two more women were slain here by stalkers.

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-



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."

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**



JIM LAVRAKAS / Anchorage Daily News

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

MURDER TRIAL: Victim's family endures long ordeal

Continued from Page A-1

had been lifted from him.

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

"I had a lot of concern about that," he said, although Parkes did a good job. "The victim's family should 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."



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ANCHORAGE, ALASKA, THURSDAY, MARCH 26, 1992

Hostage-taker kills

4 freed; blast ends standoff in Chugiak

By PETER BLUMBERG
and LARRY CAMPBELL
Daily News reporters

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 Lydy. 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 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

■ 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. Gary Apperson, who investigated the assault.

Another arrest warrant was is-

Please see Back Page
HOSTAGE-TAKER



APD Lt. Audie Holloway talks to the 10-year-old g

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 women 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,

Please see Back Page, DUNCAN

Female victim of Oceanview shooting dies

By Jean Lamling

Times Writer

Renee Vega, the 31-year-old woman shot in an Oceanview Insurance office Tuesday afternoon, died Wednesday night and the prosecutor says he will upgrade the charges to first-degree murder against her former boyfriend.

The former boyfriend, William O'Shea, 35, was arraigned on charges of first-degree attempted murder and first-degree misconduct involving weapons in Anchorage Superior Court Wednesday. Assistant District Attorney Stephen Branchflower said he will file a murder charge against O'Shea today.

Alaska State Troopers said Wednesday they had filed complaints from Vega against O'Shea before the attack.

Troopers said there was nothing extraordinary about Vega's complaints against O'Shea or her fear of being attacked by him. But within minutes of the time a trooper left her office Tuesday afternoon she was shot four times and fatally wounded.

Vega died at 8 p.m. Wednesday at Providence Hospital. She suffered from gunshot wounds in her head, chest, shoulder and wrist.

A friend of Vega's said Tuesday the 31-year-old insurance agent was terrified in the hours before she was shot, and was almost expecting a confrontation with O'Shea.

Through the morning and early afternoon O'Shea called her Huffman Road Allstate Insurance Co. office about 20 times, according to Vega's friend Marcel Pritchett. "That was the day she learned he was drinking again," Pritchett said.

Vega had asked him to seek help for a drinking problem, Pritchett said. The two had been girlfriend and boyfriend for several months but she had asked him to move out of her Hillside home.

Friday night, troopers had escorted O'Shea from Vega's house.

Pritchett said a drunken O'Shea ripped up some of her clothing and beat Vega.

Monday, troopers served O'Shea with a restraining order.
See Shooting, page A-3

Shooting: Charges raised to 1st-degree murder

Continued from page A-1

order barring him from seeing her, according to Lt. George

Tuesday, Vega called a friend for help and he sent Pritchett to stay with her until he got to her office. "She was afraid that he might come and get her up again," Pritchett

At 1:30 p.m. Pritchett had stalled himself in the reception area of her office

When a trooper came to take part on the calls shortly before 3 p.m. shooting, Vega told him she was afraid of being

"She was asking him what if he comes in with a gun and shoots me?" Pritchett said. "He (the trooper) was there about 30 minutes before the shooting."

A man using O'Shea's name bought a 22-caliber Luger handgun and ammunition at the Fred Meyer Shopping Center on Northern Lights Boulevard after 1:30 p.m. Tuesday, according to the Anchorage District Attorney's office. One of the charges against O'Shea stems from the fact he is a convicted felon and is not allowed to own a firearm.

Just after 3 p.m. a man burst into Vega's office and shot her four times with a Luger while Pritchett tried to wrestle the gun

from him.

"He just ran in and I jumped up and got between them and tried to talk him out," Pritchett said. The man's words were slurred, he said.

Meanwhile Vega called police and was on the phone when the man reached to his back, pulled out a pistol and started firing. The first shot hit Vega in the head, Pritchett said.

The men wrestled about five feet from Vega, and the gun fired at least three more times. At one point Pritchett said the man aimed the gun down his own throat. Pritchett pulled it out.

When he was able to take the pistol from the assailant, the

man, said he had another and reached for something. Pritchett said he pushed the man against a wall and out of the office.

The gunman fled and police immediately closed in on the neighborhood with a helicopter, state and city patrol units, and police dogs. At 6 p.m. they took O'Shea into custody about a mile from the insurance office.

Pritchett said he thought police could have prevented the shooting.

But Lt. Pollitt said that up until the shooting, there had been no impetus to arrest O'Shea.

When a trooper responded to Vega's home at 12:30 a.m. Satur-

injured and she did not ask for O'Shea to be arrested. Troopers told Vega how to apply for a restraining order.

On Saturday, she secured an order from a magistrate and Sunday troopers attempted to serve it. They found O'Shea Monday.

Vega was upset and afraid but never told troopers she feared for her life, Pollitt said. O'Shea's extensive criminal record didn't indicate he should be suspected of murder, Pollitt said.

On March 2, O'Shea was released from probation for a

Police staked out site for week seeking Dore

By KRIS CAPPS
Staff Writer

For one week before Jack Dore killed his wife, Carmen, and then himself, city police officers staked out Carmen's apartment periodically, hoping to catch him.

With an arrest warrant for harassment in hand, they searched the woods and alleys near her South Fairbanks home. They made sure he wasn't lurking in a nearby vacant house.

"No one was taking him lightly," said Lt. Victor Gunn, who kept a log on Jack's activities when he began publicly threatening his wife. "We simply hadn't found him."

Early last Tuesday morning, Jack shot and killed his wife of nearly 10 years outside her 17th Avenue apartment building, as she and a neighbor got into her car to drive to the store. Her friend Carl Emery, who was shot in the head and upper back shoulder, was released from Fairbanks Memorial Hospital a few days ago.

Then Jack, 33, drove his taxi cab to the parking lot behind the Maranatha Inn. As an intoxicated passenger slept beside him, he pointed

Courts filled with domestic violence cases. Page A-3

the .22 weapon at his head and pulled the trigger.

Police conducted an investigation this week to doublecheck their own actions in the case. The detective doing the report made two recommendations—that one police officer be assigned to serve warrants, and that all records be computerized.

Computerization is already under way. But because records are not yet centralized, police did not discover that Jack obtained a chauffeur's license last February. They didn't know he had started working for King Cab six days before the shooting.

Had they known, however, a check of cab companies would have occurred several days before Jack was actually hired, according to Acting City Police Chief Richard Cummings.

"We did everything reasonable we could do, given our manpower," Cummings said.

(See DORE, back page)

by
Donna Hunzeker

January 1993

Volume 1, No. 4

Stalking Laws

States have enacted "stalking" laws to punish people who repeatedly watch, follow, harass or threaten someone with physical harm or death. Stalking laws criminalize these activities and give police recourse before an attack takes place.

*Restraining orders
inadequate*

States passing stalking laws determined there were inadequate provisions in existing law to protect stalking victims. In drafting and considering laws, legislatures in many states heard about victims who were brutally attacked and sometimes killed after enduring months and even years of threats and intimidation. Civil restraining or protective orders were nearly always in place but inadequate to deter the stalker from committing an act of violence. A third of female murder victims in 1990 were slain by husbands or boyfriends, according to the FBI.

*Twenty-nine states
with stalking laws*

Twenty-nine states now have stalking laws. California passed the first in 1990, creating (and coining) stalking as a crime. States enacting similar laws in 1992 were: Alabama, Colorado, Connecticut, Delaware, Florida, Hawaii, Kansas, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin.

States with stalking measures pending on November 1, 1992, include Michigan, New Jersey and Pennsylvania. Other states, including Texas and Indiana, are preparing legislation to be introduced in 1993.

In other states, laws called something other than stalking have similar intent and purpose. Since 1987, Minnesota has had trespass and harassment laws on the books to apply to stalking situations that include "intent to harass, abuse or threaten." Minnesota law also has felony penalties for "terroristic threats" which can apply to stalking situations. Similarly in Maine, "terrorizing" is a Class D or Class C crime when threats of violence are made. Arizona created misdemeanor classifications of harassment last year.

*Stalking defined,
classified*

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, it includes threats against the immediate family of the victim. Many provisions require that the victim have "reasonable fear of death or great bodily injury."

The 1990 California measure was enacted following the murders of five Orange County women the year before. In each case, the victim had been stalked and threatened and had a temporary restraining order against her assailant. The California measure was hailed by victims' and women's groups, and had support from the entertainment community because of cases in which celebrities are stalked and threatened by obsessed fans.

Nineteen states have both misdemeanor and felony classifications of stalking with up to one year of jail typical for first offenses. Tougher penalties of up to three, five and even six years often apply to second or subsequent stalking offenses. Enhanced penalties also apply in 18 states where a stalker violates a protective order.

In some states with a felony stalking provision, bail can be established to increase the likelihood or duration of detention of alleged stalkers. Stalking laws in Iowa, Ohio and Illinois deal more specifically with the bail issue.

Constitutionality

Stalking laws in Florida and Ohio provide for warrantless arrest of alleged stalkers. Defense attorney groups and others have questioned the appropriateness, if not constitutionality, of warrantless arrest of stalkers, but other observers point out that such provisions in domestic violence laws have been found permissible.

A report last fall by the federal Congressional Research Service discussed whether some state stalking laws are too vague to be constitutional. In particular, that report questioned constitutionality of state laws in which following and harassing are considered stalking without also requiring credible threats of violence.

The U. S. Congress last year approved legislation under which the National Institute of Justice will work with states to monitor constitutionality and other outcomes of state stalking laws. Model provisions will be developed to help states adapt or enact laws.

STALKING CRIME CLASSIFICATIONS

Felony only:	Delaware, Florida, Illinois
Misdemeanor only:	Colorado, Kansas, Hawaii, Utah, South Carolina, West Virginia
Both Felony and Misdemeanor crimes:	California, Connecticut, Idaho, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Virginia, Washington, Wisconsin.

(Where both felony and misdemeanor classifications can apply, felony treatment is generally for when a protective order is violated and for second or subsequent stalking convictions.)

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"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.

HB64



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA D. TOOHEY

DISTRICT 13

State Capitol
Juneau, AK 99801-1182

March 16, 1993

Senator Loren Leman
Capitol, Room 113
Juneau, AK 99811-1182

MAR 17 1993

Dear Loren,

Thank you for cross-sponsoring my anti-stalking bill, House Bill 64. I appreciate your support and your help. The bill will hopefully have quick passage through the Senate. I have had several individuals comment to me about the importance of this legislation. These individuals either have been stalked themselves or know someone who has been stalked. Several work in this building.

As you may know, the bill passed the House unanimously. Again, thanks, Loren.

Sincere regards,

Cynthia

*I appreciate your
working on this with
me - Loren -
C.*

Mrs. Sandra Street 776-3577 Distribution 60
PO Box 835
Kenai AK 99611 Date POM Sent 03/17/93
Constituency N Bill Number HB 64 Response OPPOSES
Subject LL Back?

I FEEL IT IS A DEEP TRAVESTY THAT WE WANT TO DESIGN A BILL THAT WOULD TAKE AWAY OUR CIVIL RIGHTS AND PROTECT THE RIGHTS OF THOSE WHO WOULD TAKE LIVES.

Ms Vicky Armstrong 225-1329 Distribution 20
450 Washington St
Ketchikan AK 99901 Date POM Sent 03/17/93
Constituency N Bill Number HB 64 Response SUPPORTS
Subject LL Back?

I ASK FOR YOUR SUPPORT FOR HB 64. IT IS IMPORTANT TO ASSIST INNOCENT PERSONS WHO ARE VICTIMS OF THIS CRIME.

Miss Krista Francois 543-2319 Distribution 28
PO Box 1765
Bethel AK 99559 Date POM Sent 03/17/93
Constituency N Bill Number HB 64 Response SUPPORTS
Subject LL Back?

PLEASE SUPPORT HB64. ANTI-STALKING LAWS ARE IMPORTANT FOR PROTECTING VICTIMS OF DOMESTIC VIOLENCE.

Mrs. Michele Hall NONE Distribution 28
PO Box 2025
Bethel AK 99559 Date POM Sent 03/17/93
Constituency N Bill Number HB 64 Response SUPPORTS
Subject LL Back?

PLEASE SUPPORT HB64. ANTISTALKING LAWS ARE IMPORTANT TO PROTECT VICTIMS OF DOMESTIC VIOLENCE.

Ms. Hollis Hamel 543-5566 Distribution 28
PO Box 1184
Bethel AK 99559 Date POM Sent 03/17/93
Constituency N Bill Number HB 64 Response SUPPORTS
Subject LL Back?

PLEASE SUPPORT HB64 ANTI-STALKING LEGISLATION. STALKING IS A COMMON FORM OF ABUSE IN OUR STATE, OF WHICH VICTIMS CURRENTLY HAVE NO RECOURSE. THIS BILL WILL HELP SEND A CLEAR MESSAGE TO OFFENDERS THAT WE WILL NOT ACCEPT THIS TYPE OF ABUSE.

Ms. Irma Hooper 543-3444 Distribution 28
PO Box 1537
Bethel AK 99559 Date POM Sent 03/17/93
Constituency N Bill Number HB 64 Response SUPPORTS
Subject LL Back?

PLEASE SUPPORT HB64. ANTISTALKING LAWS ARE VERY IMPORTANT FOR THE PROTECTION OF VICTIMS OF DOMESTIC VIOLENCE.

Ms. Tracy Merriam NONE Distribution 28
PO Box 1547
Bethel AK 99559 Date POM Sent 03/17/93
Constituency N Bill Number HB 64 Response SUPPORTS
Subject LL Back?

I AM WRITING IN SUPPORT OF THE ANTI-STALKING BILL, HB64. IT BEHOOVES ALL TO SUPPORT HB64. A LARGE PERCENTAGE OF STALKERS END UP SERIOUSLY INJURING THEIR VICTIMS OR KILLING THEM. THE SERIOUSNESS OF THIS CRIME REQUIRES SERIOUS MEASURES.

Mr. Al Neimeyer 376-8864 Distribution 20
PO Box 2541
Palmer AK 99645 Date POM Sent 03/17/93
Constituency N Bill Number HB 64 Response SUPPORTS
Subject LL Back?

I STRONGLY URGE YOU TO SUPPORT HB 64. PRESENTLY THERE IS LITTLE OR NO PROTECTION FROM THOSE WHO STALK OTHERS. PASSAGE OF THIS BILL WILL GREATLY HELP ONE TO DEFEND HIMSELF/HERSELF AGAINST IRRATIONAL AND CRIMINAL BEHAVIOR THAT ALL TOO OFTEN CULMINATES INTO A VIOLENT ACT.

Ms. Nastasia Nick 543-5609 Distribution 28
PO Box 864
Bethel AK 99559 Date POM Sent 03/17/93
Constituency N Bill Number HB 64 Response SUPPORTS
Subject LL Back?

PLEASE SUPPORT HB64. THE ANTI-STALKING BILL IS IMPORTANT TO PROTECT VICTIMS OF DOMESTIC VIOLENCE.

Ms. Helen Sorenson 543-3444 Distribution 28
PO Box 1537
Bethel AK 99559 Date POM Sent 03/17/93
Constituency N Bill Number HB 64 Response SUPPORTS
Subject LL Back?

PLEASE SUPPORT HB64. ANTI-STALKING LAWS ARE IMPORTANT FOR PROTECTING VICTIMS OF DOMESTIC VIOLENCE.

Ms. Norma Wong NONE Distribution 28
PO Box 2063
Bethel AK 99559 Date POM Sent 03/17/93
Constituency N Bill Number HB 64 Response SUPPORTS
Subject LL Back?

PLEASE SUPPORT HB64. ANTI-STALKING LAWS ARE IMPORTANT TO PROTECT VICTIMS OF DOMESTIC VIOLENCE.

Mrs. Bridgett
P.O. Box 3461

Barrett

encl

AK 99611

262-4441

date sent 04/22/93

distribution 60

N

bill No. HB 64 position SUPPORTS. subject

PLEASE PASS THIS BILL, BECAUSE IN CASE 3KN-93-302 MY HUSBAND HAS THREATENED TO KILL ME AND HE STALKS ME. I NEED THIS LAW PASSED BEFORE THE END OF THIS SESSION. PLEASE HELP ME.

Sunday April 23

Dear Senators —

I beg of you — Don't play politics
with this bill — This is a life and
death situation.

Stella Looney

HB64

VERBATIM TRANSCRIPT OF THE TESTIMONY OF DEBORAH LUPER
HOUSE JUDICIARY COMMITTEE
FEBRUARY 19, 1993
1:00 P.M.
HOUSE BILL 64

DEBORAH LUPER: Thank you Chairman. First of all, let me say that, I am in full support of this...the concept of this bill. And as you probably know, I...the Senator that I work for also sponsored a bill...is the prime sponsor of a bill on the Senate side, Senate Bill 22. But I have some concerns about a few portions of the bill that I think need to be addressed. First of all, I would like to see a definition of the word "repeated." Does repeated mean more than once? Does it mean three or four times?

My other concern is, as Representative Phillips so kindly brought up, I would like to play devil's advocate for a moment. And let's consider the case of the Greens Creek Mine. You have a potential there that was a managerial decision to close down that mine and shut down effectively about 230 jobs. Conceivably, that could raise a lot of concern and anger among those workers. They have the Constitutionally protected right of being able to assemble and to picket and to protest. My concern is that in the course of this protest you might have some high feelings there. And the manager approaches the building where the assembly is and there is a lot of screaming, shouting picketers. This bill says where a person knowingly engages in a course of conduct...and "course of conduct" ...there's a definition there that says "approaching or confronting that person in a public place or on private property." The Greens Creek Mine property would fall under that. And it goes on to say that recklessly places another person in the fear of death or physical injury.

Now, when I worked...I was a police officer in Fairbanks for some time and the definition of physical injury then and I checked it again in the statute and what it means now is if your toe gets stepped on and you feel pain, then it qualifies for physical injury. So, conceivably, the manager of the Greens Creek Mine might be approaching his building and there's picketers there and they're screaming and shouting and he has to push his way through. Conceivably, if he's placed in fear of having his toe stepped on, he could have someone arrested for stalking. Now if you looked again, say this person is released and he goes right back out there...and he commits the crime again the next day or the next week or whatever, he's up for a felony. And I think that's a very dangerous precedent to set.

I think that portion needs to be worked on...that this bill will allow all Constitutionally...or will very clearly state that Constitutionally protected acts are allowed. And in fact, on line, or excuse me, page 2, on lines 18 and 19, I would advocate that instead of just simple physical injury, that we use the verbiage "serious physical injury." That, of course, is much worse. It involves broken limbs, et cetera.

We may also wish to, as was mentioned earlier, have a definition of "fear." And perhaps go into...a little bit more into the intent of delivering an object onto property. This bill does address husbands and boyfriends and conceivably a husband and wife will own the same property. And if he delivers an object to his property, even though perhaps he has a court order not to be there when his wife is there...but say he delivers a car and parks it on the property, or whatever...an object. We want to make certain that an innocent act will not be penalized.

HB64

BY FAX 907-465-3810

February 22, 1993

Hon. Loren Leman
State Capitol
Juneau, Alaska 99811

Dear Senator Leman:

Enclosed is a copy of Nebraska L.B. 425, which your assistant, Deborah Luper, requested. In regard to C.S. for House Bill 64, the bill should be amended in several respects:

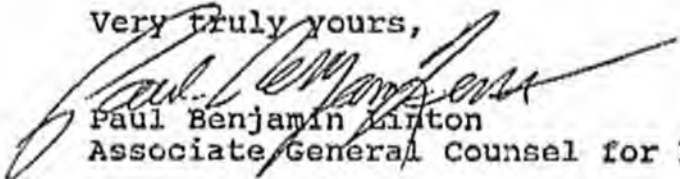
The definition of the offense in §11.41.270(a) should be amended to include the term "serious" before the phrase "physical injury" where that phrase appears on p. 2, lines 18 and 19. "Serious physical injury" is defined in Alaska law at §11.81.900(a)(51). This will limit the scope of the bill to conduct that creates a fear of death or serious physical injury, not merely a fear of any physical injury, which is very broadly defined in §11.81.900(a)(41), Alaska Statutes.

The "second-offense" felony enhancement in §11.41.260(4) should be eliminated. "Stalking" laws are new in the United States, and until their constitutionality and scope are tested in appropriate cases, it seems the better part of wisdom not to make the offense a felony.

In defining the scope of the stalking law, that the "fear" referred to in §11.41.270(a) be a reasonable one. Perhaps the word "reasonably" should be used in place of the word "recklessly" on p. 2, line 18.

The same changes should be made in S.B. 11, p. 2, lines 13 and 14 (serious physical injury, not just any physical injury), p. 2, lines 2 and 3 (deleting felony enhancement provision), and p. 2, lines 13 (substituting "reasonably" for "recklessly"). Also, the language in S.B. 11 (p. 2, lines 15 and 16), "engaging in conduct similar to following or lying in wait" is arguably vague and should be deleted.

Very truly yours,


Paul Benjamin Linton
Associate General Counsel for Litigation

Encs.



*Public Interest
Law & Education*

343 S. Dearborn Street
Suite 1804
Chicago, IL 60604
312.786-9494

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AUL FAX COVER SHEET

To: Deborah Laper

From: Paul Linton

Date: 2/22/93 Pages (Incl. Cover Sheet) 19

Comments: See letter (6/1)

If there are problems with this transmission call: 312. 786-9494 or FAX: 312. 786-2131



343 S. Dearborn Street
Suite 1804
Chicago, IL 60604

House passes bill to outlaw stalking

By ERIC S. AVBE
The Associated Press

JUNEAU — Legislation to make it a crime to stalk another person passed the House on Monday without opposition.

Outlawing stalking, rather than the most popular bill, seven anti-stalking bills have been filed.

House Bill 64 would make stalking a felony or misdemeanor, depending on circumstances surrounding the crime. The bill defines stalking as "conduct that recklessly places another person in fear of death or physical injury, or in fear of the death or physical injury of a family member."

The threat can involve following a person, lying in

wait, or contacting a person by telephone, mail or other means.

Supporters of the legislation cited cases in which police may have been able to prevent a murder had they had the power to arrest someone under an anti-stalking law.

"This bill is long overdue," said Rep. Gal Phillips, R-Hoonah. "We should have passed it many years ago."

makers said.

"People have no recourse nothing they can do to solve the problem," said Rep. John Davila, D-Fairbanks.

"This bill makes one step in the right direction," Rep. Cynthia Toohy, R-Anchorage, said.

The bill's primary sponsor, said the legislation is based on a Michigan law passed last year and considered one of the strongest in the nation. She said more than 30 states have stalking laws.

She noted that stalkers are not limited to former boyfriends or husbands. "Bitter enemies can be stalked by someone," she said.

The bill was referred to the Senate.

People have nothing they can do to solve the problem. This bill makes one step in the right direction.

Rep. John Davila, D-Fairbanks

Rep. Jerry Mackie, D-Craig and a former village public safety officer, recalled his difficulty dealing with a victim of domestic violence who was being stalked by her estranged spouse or boyfriend.

"I don't know how many times I was asked, 'Do I have to be killed first before you can do anything?'"

Restraint orders usually are inadequate to stop someone from stalking, law-

New Senate bill would regulate Alaska Railroad

The Associated Press 3.16.93

JUNEAU — A bill before the Senate would make the state-owned Alaska Railroad more like a private entity when it comes to taxes, but more like a government entity when it comes to accountability and spending.

The railroad, which has been criticized for getting into the hotel business, would have to pay taxes on railroad land that is leased to businesses.

Its top officials would have to file reports with the Alaska Public Offices Commission on potential conflicts of interest, and its board meetings would be subject to the public meetings law.

Senate Bill 148, introduced by the Senate Finance Committee, also would require the railroad to get legislative approval before incurring more than \$1 million in debt, according to Sen. Drus Pearce's office. Pearce, R-Anchorage, is a committee co-chairman.

Bob Hatfield, board member and chief operating officer of the railroad, said too much legislative oversight would hamper the railroad's ability to respond to market conditions.

He said an upturn in the gravel market might make it necessary for the railroad to suddenly buy side-dump cars and lease new locomotives at \$1.2 million each.

"If we can't finance our capital improvements without waiting for legislative approval, I'm afraid that ultimately it's going to put us on the state dole," Hatfield said.

Hatfield said a sentence in the bill defining the railroad's purpose as providing "railroad-related transportation services in the state" might place too strict limits on the railroad's activities.

Ralph Nogal, general manager of the Anchorage Hilton, said he wants to see more limits. Nogal said the railroad's foray into the hotel business represents unfair competition.

The Alaska Railroad owns 40 percent of the Comfort Inn in Anchorage and the land under it.

17B64



SENATOR LOREN LEMAN

Northwest Anchorage

3111 "C" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2095

March 24, 1993

Ms. Karen Berg
PO Box 4177
Soldotna AK 99669

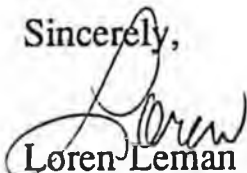
Dear Ms. Berg:

Thank you for your March 19 Public Opinion Message opposing HB64 and urging swift passage of anti-stalking legislation.

I believe anti-stalking legislation is long overdue. I sponsored SB22 in the Senate to create the crime of stalking. I share your concern with HB64 regarding its possible restrictions on the right to assemble. I will work to incorporate changes to the bill now that it has been assigned to the Senate.

Anti-stalking legislation has strong support. I expect that it will pass this session, without restrictions on the right to assemble.

Sincerely,


Loren Lemman
Senator

LL/rw



SENATOR LOREN LEMAN

Northwest Anchorage

3111 "C" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2095

March 24, 1993

Mr. Burt Neimeyer
PO Box 900638-UAF
Fairbanks AK 99775

Dear Mr. Neimeyer:

Thank you for your March 22 Public Opinion Message supporting HB64 and urging swift passage of anti-stalking legislation.

I also believe that stalking needs to be addressed. I am the prime-sponsor of SB22, which criminalizes stalking. Two other versions have also been introduced in the Senate. However, I expect that HB64 will be the vehicle that the Senate will use.

Anti-stalking legislation has strong support. I expect that it will pass this session.

Sincerely,

A handwritten signature in cursive script, appearing to read "Loren Lemman".

Loren Lemman
Senator

LL/rw



SENATOR LOREN LEMAN

Northwest Anchorage

3111 "C" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2095

March 24, 1993

Ms. Rachel James
PO Box 264
Seward AK 99664

Dear Ms. James:

Thank you for your March 22 Public Opinion Message supporting HB64 and urging swift passage of anti-stalking legislation.

I also believe that stalking needs to be addressed. I am the prime-sponsor of SB22, which criminalizes stalking. Two other versions have also been introduced in the Senate. However, I expect that HB64 will be the vehicle that the Senate will use.

Anti-stalking legislation has strong support. I expect that it will pass this session.

Sincerely,

A handwritten signature in cursive script, appearing to read "Loren Lemman".

Loren Lemman
Senator

LL/rw



SENATOR LOREN LEMAN

Northwest Anchorage

3111 "C" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2095

March 24, 1993

Ms. Lori Barker
PO Box 2604
Seward AK 99664

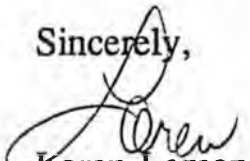
Dear Ms. Barker:

Thank you for your March 22 Public Opinion Message supporting HB64 and urging swift passage of anti-stalking legislation.

I also believe that stalking needs to be addressed. I am the prime-sponsor of SB22, which criminalizes stalking. Two other versions have also been introduced in the Senate. However, I expect that HB64 will be the vehicle that the Senate will use.

Anti-stalking legislation has strong support. I expect that it will pass this session.

Sincerely,


Loren Leman
Senator

LL/rw



SENATOR LOREN LEMAN

Northwest Anchorage

3111 "C" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2095

March 31, 1993

Ms. Carol Smith
PO Box 1474
Seward AK 99664

Dear Ms. Smith:

Thank you for your March 24 Public Opinion Message supporting HB64 and urging swift passage of anti-stalking legislation.

I also believe that stalking needs to be addressed. I am the prime-sponsor of SB22, which criminalizes stalking. Two other versions have also been introduced in the Senate. However, I expect that HB64 will be the vehicle that the Senate will use.

Anti-stalking legislation has strong support. I expect that it will pass this session.

Sincerely,


Loren Lemman
Senator

LL/rw

AP-AL-Campus Shooting
P AK-Campus Shooting, TOPS<

! Alaska News !

one dead, one injured in shooting at UAA.<

(Anchorage) -- Anchorage police say a man is dead and his wife wounded in a shootout with campus police at the University of Alaska Anchorage early today (Tuesday).

Police spokeswoman Jo Katkus identified the dead man as 37-year-old Robert Fletcher of Anchorage.

Katkus said the wounded woman -- university employee Ann Fletcher -- was taken to Providence Hospital. Her condition was upgraded this afternoon from critical to serious.

Katkus said the incident started at about 9-30 this morning when the woman was heard screaming for help in front of the university's Sports Center.

She said a passerby notified campus security, which sent a guard to the scene.

Katkus said an exchange of shots between Robert Fletcher and the security officer then followed before the man apparently shot himself.

It wasn't (not) clear how Ann Fletcher was shot -- but university spokesman Mel Kalkowski says the woman has said she was shot by Robert Fletcher.

Police are still investigating.
(Update from Jerry Ritter, KENI)
APNP-04-06-93 1543PDT<

*TO: Senator Leman
From: Sara Mirabito*

H264

7800ak-n

n AP-AK--CampusShooting

P-AK--Campus Shooting, TOPSK

! Alaska News !

one dead, one injured in shooting at UAA.<

(Anchorage) -- Anchorage police say a man is dead and his wife wounded in a shootout with campus police at the University of Alaska Anchorage early today (Tuesday).

Police spokeswoman Jo Kattus identified the dead man as 37-year-old Robert Fletcher of Anchorage.

Kattus said the wounded woman -- university employee Ann Fletcher -- was taken to Providence Hospital. She was reported in critical condition.

Kattus said the incident started at about 8-30 this morning when the woman was heard screaming for help in front of the university's Arts Center.

She said a passerby notified campus security, which sent a guard to the scene.

Kattus said an exchange of shots between Robert Fletcher and the security officer then followed before the man apparently shot himself.

It wasn't (not) clear whether Ann Fletcher was shot by her husband or in the crossfire.

Police are still investigating at the crime scene.

(Update from Dave Taylor, KYAK)

APNF-04-06-93 1517PDT<

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 11

Revision Date: February 1, 1993
Title: "An Act relating to the crime of terroristic
threatening."
Sponsor: Senator Kerttula
Requestor: Senator Kerttula

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						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
-------------------------	--	--	--	--	--	--

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.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: February 1, 1993
Date: February 1, 1993

PREPARER TO PREPARE FISCAL NOTE FOR LEGISLATIVE OFFICE

For

FISCAL NOTE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 11

ANALYSIS (Continued):

This bill amends the state's existing terroristic threatening law, AS 11.56.810, to make stalking a criminal act. The bill does this by dividing terroristic threatening into two levels, terroristic threatening in the first degree and terroristic threatening in the second degree. The first degree would be a class C felony and the second degree would be a class A misdemeanor.

Terroristic threatening in the first degree includes the criminal conduct contained in the existing law. It also includes conduct that constitutes terroristic threatening in the second degree when the conduct violates a court order, or when the person who commits the crime of terroristic threatening in the second degree has been convicted of the crime of terroristic threatening in the second degree within seven years before committing the new crime.

Terroristic threatening in the second degree would cover situations where a person recklessly places another person in fear of death or physical injury, or in the fear of the death or physical injury of a family member, by knowingly and repeatedly following or lying in wait for the person or family member, or engaging in conduct similar to following or lying in wait for the person or family member.

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 terroristic threatening crimes, both in human and monetary terms.

Last, including the anti-stalking provisions in the existing terroristic threatening law will also help the state defend against legal challenges to overturn the amended 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.

BILL NO: SB 11

DATE: January 26, 1993

TITLE: An Act relating to the
Crime of Terroristic
Threatening

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

SB 11 amends AS 11.56.810 Terroristic Threatening and defines two levels of terroristic threatening. Existing statute provides for a class C felony; this is amended by defining the class C felony as Terroristic Threatening in the First Degree to include violation of a court order, covers individuals who have been previously convicted of terroristic threatening in the Second Degree and also changes the individuals who are covered from the individuals' "immediate family" to "family member." Terroristic Threatening in the First Degree, a Class C Felony, carries a penalty of fine of up to \$50,000 and 0-5 years in jail. Additionally, SB 11 provides for Terroristic Threatening in the Second Degree, a class A misdemeanor, which addresses placing a person in fear by following or lying in wait for the person.

The Department of Public Safety suggests the following amendments:

The Department recommends that definition of "family member" (lines 18-23) be amended and broadened to include "...a person who ...is in or has been in a dating, courtship of engagement relationship...". Lack of this language may eliminate a substantial number of victims from recourse under the proposed statute.



Richard L. Burton
Commissioner

1-28-93

Alaska Association Chiefs of Police



January 25, 1993

Senator Jay Kerttula
State Capital Building
Room 427
Juneau, Alaska 99811-1182

Dear Senator Kerttula:

On behalf of the Alaska Association of Chiefs of Police I would like to express our support for Senate Bill 11. 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.

If we can be of any assistance in the passage of your bill, please let me know.

Very truly yours,

Ronald L. Otte
President

RLO/lp



Official Business

Alaska State Legislature

Senate

Committee on Finance

Pouch V
State Capitol
Juneau, Alaska 99811

January 25, 1993

Senator Loren Lemman, Chairman
Senate State Affairs Committee
State Capitol Building, Room 113
Juneau, Alaska 99811-1182

Dear Chairman Lemman: *Loren*

I respectfully request that you schedule Senate Bill 11, relating to the crime of stalking, for public hearing by the Senate State Affairs Committee. *Thanks*

Pursuant to your memorandum of January 13, 1993, I have enclosed with this request:

- 1) a copy of S.B. 11;
- 2) a sectional analysis of the bill as it is currently written;
- 3) a legal opinion on S.B. 11 from the Department of Law's Criminal Division;
- 4) letters supporting an anti-stalking law from various private support groups;
- 5) background material, including newspaper and magazine articles; and
- 6) a review of anti-stalking laws by the National Conference of State Legislatures.

Mr. Richard Pegues, of the Department of Law, is having a fiscal note on the bill prepared, this will be provided to the committee as soon as it is completed.

A departmental position paper on anti-stalking laws has been drafted by the Dept. of Public Safety and, according to the department's legislative liaison, Mr. Swackhammer, has been forwarded to the Governor's office for review.

Sen. Loren Lemman, Chairman
Senate State Affairs Committee
Page 2

I have requested supporting material and statements from the Palmer Police Dept., the Anchorage Domestic Violence Committee, and other groups. I will provide the committee copies of these additional documents as soon as they arrive.

My thanks in advance for your consideration of this request.

Sincerely,

Jay Kerttula
State Senator

JK:whk

Enclosures

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 19, 1993

SUBJECT: Sectional Analysis of SB 11 (Work Order No. 18-LS0200\A)

TO: Senator Jay Kerttula
Attn: Bill

FROM: Jerry Luckhaupt *JL*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill amends AS 11.56.810, terroristic threatening, to create the crime of terroristic threatening in the first degree. The bill retains the existing forms of terroristic threatening as violations of terroristic threatening in the first degree and adds that a person commits a violation of terroristic threatening in the first degree if the person commits a violation of terroristic threatening in the second degree and that conduct violates a court order or occurs within seven years of a previous conviction for terroristic threatening in the second degree. The bill retains terroristic threatening's classification as a class C felony.^{1/}

Section 2 of the bill creates the crime of terroristic threatening in the second degree, a class A misdemeanor.^{2/} A person commits terroristic threatening in the second degree if the person

- (1) recklessly places another person in fear of death or bodily injury, or in fear of death or bodily injury of a family member;
- (2) by knowingly and repeatedly following or lying in wait for the person of family member or similar conduct.

^{1/} A class C felony is punishable as provided in AS 12.55.125(e).

^{2/} A class A misdemeanor is punishable as provided in AS 12.55.135(a).

Senator Jay Kerttula

January 19, 1993

Page 2

Section 3 of the bill amend AS 12.25.030(b) to provide a peace officer with the authority to arrest a person the peace officer has reasonable cause to believe has committed the types of terroristic threatening in the first or second degrees added in section 1 and 2 of the bill, or similar ordinance, when the victim is in a domestic relationship, as defined in AS 12.25.030(b)(2), with the defendant.

GPL:gc

93-038.glc

ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

*Copy in file
all BIC up*

January 22, 1993

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE
P. O. BOX 110300 - STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 W. 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

JAN 22 1993

The Honorable Jay Kerttula
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: SB 11, "An Act relating to the crime of terroristic threatening"

Dear Senator Kerttula:

By letter dated January 19, 1993, you have requested our opinion as to whether SB 11, "An Act relating to the crime of terroristic threatening," presents any legal difficulties. The purpose of this bill is to criminalizing "stalking." Although some stalking laws are subject to challenge on the basis that they are constitutionally vague or overbroad, SB 11 has been carefully drafted and we do not believe that it presents either of these problems.

We note that this bill creates the crime of stalking by amending Alaska's existing terroristic threatening statute and adding terroristic threatening in the second degree. We believe that this is the best method of addressing stalking and, in particular, that this method is least likely to inadvertently jeopardize the state's existing offenses relating to terroristic threatening.

For your general information, we have just been advised of a Library of Congress publication entitled "Anti-Stalking Statutes: Their Background and Constitutionality." We have requested a copy of this report, which was published in September 1992. Please let us know if you would like a copy, as well; if so, we will provide one to you when we receive it.

Finally, we have also just learned that the National Criminal Justice Association will be coordinating a "stalking laws project," to be undertaken by the National Institute of Justice for the purpose of considering and drafting model legislative options. This project is to be initiated within the next two months or so and its work is expected to be completed within six or eight months.

The Honorable Jay Kerttula

January 22, 1993
Page 2

Thank you for the opportunity to comment on SB 11. If you have any further questions, or if we may be of assistance in any other fashion, please do not hesitate to contact me.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: Margot Q. Knuth
Margot Q. Knuth
Assistant Attorney General

MOK/sf

cc: Deborah Behr
Legislation Attorney
Department of Law

Kris Lethin
Legislative Liaison

Bruce Botelho
Deputy Attorney General

Charles Cole
Attorney General

C.E. Swackhammer
Deputy Commissioner
Department of Public Safety

ALASKA NETWORK
ON
DOMESTIC VIOLENCE
AND
SEXUAL ASSAULT

419 6th Street, No. 116 • Juneau, Alaska 99801 • (907) 586-3650

Abused Women's Aid in Crisis (AWAIC); Advocates for Victims of Violence (AVV);
Aiding Women in Abuse and Rape Emergencies (AWARE);
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);
Bering Sea Women's Group (BSWG); Emmonak Women's Shelter;
Kodiak Women's Resource & Crisis Center (KWRCC);
Manilaq Regional Women's Crisis Program; Parent Aid Family Support Center;
Safe & Fear-Free Environment (SAFE); Seward Life Action Council (SLAC);
Sitkans Against Family Violence (SAFV); South Peninsula Women's Services (SPWS);
Standing Together Against Rape (STAR);
Tongass Community Counseling Center; Tundra Women's Coalition (TWC);
Unalaska Against Sexual Assault & Family Violence (USAFV);
Valley Women's Resource Center (VWRC);
Women in Crisis Counseling & Assistance (WCCA);
Women in Safe Homes (WSH); Women's Resource & Crisis Center (WRCC)

January 15, 1993

The Honorable Jay Kerttula
Alaska Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Kerttula:

The Alaska Network on Domestic Violence and Sexual Assault is pleased to write in support of SB11, which creates the crime of stalking, and provides police with the ability to make arrests for this offense based on probable cause.

The Alaska Network on Domestic Violence and Sexual Assault is a statewide non-profit organization comprised of 22 member programs from around Alaska which work with victims and their families. Every Network program has worked with victims of domestic violence or sexual assault who are being stalked, know their lives are in danger and are unable to gain protection for themselves or their families under current statutes.

Currently twenty-seven states have passed legislation similar to Senate Bill 11. Stalking is commonly recognized by victim's advocates and police as potentially lethal behavior. Ironically, victims are told over and over that nothing can be done unless they're injured or killed. And each year, they are. I enclose some clippings from recent cases that ended in death here in Alaska.

In reviewing your bill, the Network would request that two changes be considered. They are:

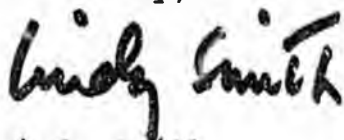
1. An additional aggravating factor should be added that causes the crime to be charged as a felony if the offender stalks the victim and is in possession of a deadly weapon. This is clearly a very dangerous combination. Such a change was made two years ago to the restraining order provisions in recognition of the higher risk of lethality this behavior presents.

Senator Kerttula
Page Two

2. In Section 1(3)(B), the provision should be broadened to include the conviction of any violent crime against a person. In domestic violence and sexual assault cases, while there may be no prior record of stalking (and there certainly won't be for some time) there may be repeated convictions for assault or sexual assault. A past history of violence is another strong indicator of potential lethality.

Thank you for your sponsorship of this important legislation. Please let me know if you need other information or if the Network can be of any assistance in the passage of this bill.

Sincerely,

A handwritten signature in cursive script that reads "Cindy Smith". The signature is written in dark ink and is positioned above the typed name.

Cindy Smith
Executive Director

c.c. Council on Domestic Violence and Sexual Assault
Network programs

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

February 16, 1993

The Honorable Loren Leman
Alaska House of Representatives
State Capitol
Juneau, AK 99801-1182

Re: Anti-Stalking Legislation

Dear Senator Leman:

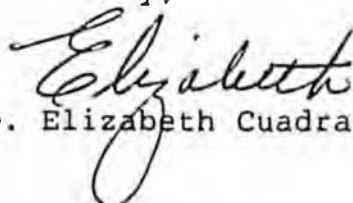
Thank you for sponsoring legislation that would make stalking another person unlawful.

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

8-LS0283NR
Luckhaupt
2/16/93

CS FOR HOUSE BILL NO. 64()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES TOOHEY, Phillips, Olberg, Ulmer, Hudson, Porter, B.Davis,
Mackie, Carney

A BILL

FOR AN ACT ENTITLED

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

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 11.41 is amended by adding new sections to article 2 to read:

10 Sec. 11.41.260. STALKING IN THE FIRST DEGREE. (a) A person commits
11 the crime of stalking in the first degree if the person violates AS 11.41.270 and

12 (1) the actions constituting the offense are in violation of an order
13 issued under AS 25.35.010(b) or 25.35.020;

(2) the actions constituting the offense are in violation of a condition of probation, release before trial, release after conviction, or parole;

(3) the victim is under 16 years of age;

(4) the defendant has been previously convicted of a crime under this section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another jurisdiction with elements similar to a crime under this section, AS 11.41.270, or AS 11.56.740; or ~~deadly~~ ~~weapons~~ or firearm

(5) the defendant has been previously convicted of (A) a crime, or an attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of this or another jurisdiction with elements similar to a crime, or an attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460, AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

(b) Stalking in the first degree is a class C felony.

(c) In this section, "victim" has the meaning given in AS 11.41.270(c).

Sec. 11.41.270. STALKING IN THE SECOND DEGREE. (a) A person commits the crime of stalking in the second degree if the person knowingly engages in a course of conduct that recklessly places another person in fear of death or physical injury, or in fear of the death or physical injury of a family member.

(b) Stalking in the second degree is a class A misdemeanor.

(c) In this section,

(1) "course of conduct" means a pattern of conduct directed toward a victim, that is composed of repeated acts of nonconsensual contact involving the victim or a family member of the victim;

(2) "family member" means

(A) a spouse, child, grandchild, parent, grandparent, or sibling;

(B) a person who lives in a spousal relationship; or

(C) a person who lives in the same household;

(3) "nonconsensual contact" means any contact with another person that is initiated or continued without that person's consent, that is beyond the scope of the consent provided by that person, or that is in disregard of that person's expressed

robbery firearm

stalking

physical injury

definition of repeated

in laws?

1 desire that the contact be avoided or discontinued; "nonconsensual contact" includes

2 (A) following or appearing within the sight of that person;

3 (B) approaching or confronting that person in a public place or
4 on private property;

5 (C) appearing at the workplace or residence of that person;

6 (D) entering onto or remaining on property owned, leased, or
7 occupied by that person;

8 (E) contacting that person by telephone;

9 (F) sending mail or electronic communications to that person;

10 (G) placing an object on, or delivering an object to, property
11 owned, leased, or occupied by that person;

12 (4) "victim" means a person who is the target of a course of conduct.

13 * Sec. 2. AS 11.41.220(a) is amended to read:

14 (a) A person commits the crime of assault in the third degree if that person

15 (1) recklessly

16 (A) [(1)] places another person in fear of imminent serious
17 physical injury by means of a dangerous instrument;

18 (B) [(2)] causes physical injury to another person by means of
19 a dangerous instrument; or

20 (C) [(3)] while being 18 years of age or older

21 (i) [(A)] causes physical injury to a child under 10 years
22 of age and the injury reasonably requires medical treatment;

23 (ii) [(B)] causes physical injury to a child under 10 years
24 of age on more than one occasion; or

25 (2) with intent to place another person in fear of death or serious
26 physical injury to the person or the person's immediate family makes repeated
27 threats to cause death or serious physical injury to another person.

28 * Sec. 3. AS 11.56.810(a) is amended to read:

29 (a) A person commits the crime of terroristic threatening if the person

30 [(1)] knowingly makes a false report that a circumstance dangerous to
31 human life exists or is about to exist and

1 (1) [(A)] places a person in fear of physical injury to any
2 person;

3 (2) [(B)] causes evacuation of a building; or

4 (3) [(C)] causes serious public inconvenience [; OR

Revised

5 (2) WITH INTENT TO PLACE ANOTHER PERSON IN FEAR OF
6 DEATH OR SERIOUS PHYSICAL INJURY TO THE PERSON OR THE PERSON'S
7 IMMEDIATE FAMILY, MAKES REPEATED THREATS TO CAUSE DEATH OR
8 SERIOUS PHYSICAL INJURY TO ANOTHER PERSON].

9 * Sec. 4. AS 12.25.030(b) is amended to read:

10 (b) In addition to the authority granted under (a) of this section, a peace officer
11 without a warrant may arrest a person when the peace officer has reasonable cause for
12 believing that the person has committed a crime under

13 (1) AS 11.41.270 or AS 11.55.740; or

14 (2) AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an
15 ordinance with elements substantially similar to the elements of a crime under
16 AS 11.41, AS 11.46.330, or AS 11.61.120, when the victim is a spouse or former
17 spouse of the person who committed the crime; a parent, grandparent, child, or
18 grandchild of the person who committed the crime; a member of the social unit
19 comprised of those living together in the same dwelling as the person who committed
20 the crime; or another person who is not a spouse or former spouse of the person who
21 committed the crime but who previously lived in a spousal relationship with the person
22 who committed the crime or is in or has been in a dating, courtship, or engagement
23 relationship with the person who committed the crime.

24 * Sec. 5. AS 12.30.025 is amended to read:

25 Sec. 12.30.025. RELEASE BEFORE TRIAL IN CASES INVOLVING
26 DOMESTIC VIOLENCE OR STALKING. (a) In determining the conditions of
27 release under AS 12.30.020 in cases involving domestic violence or stalking, the court
28 shall consider the following conditions and impose one or more conditions it considers
29 reasonably necessary to protect the alleged victim of the domestic violence or
30 stalking, including ordering the defendant

31 (1) not to subject the victim to further domestic violence or stalking;

1 (2) to vacate the home of the victim;

2 (3) not to contact the victim other than through counsel;

3 (4) to engage in counseling; if the court directs the defendant to engage
4 in personal counseling, the court shall provide in the order that the counseling must
5 propose alternatives to aggression if that type of counseling is available; if the court
6 directs the defendant to participate in family counseling, it shall make a finding that
7 family counseling will not result in additional domestic violence or stalking;

8 (5) to refrain from the consumption of alcohol or the use of drugs.

9 (b) As used in this section,

10 (1) "domestic violence" means a crime specified in AS 11.41 when the
11 victim is a spouse or a former spouse of the defendant; a parent, grandparent, child,
12 or grandchild of the defendant; a member of the social unit comprised of those living
13 together in the same dwelling as the defendant; or a person who is not a spouse or
14 former spouse of the defendant but who previously lived in a spousal relationship with
15 the defendant or is in or has been in a dating, courtship, or engagement relationship
16 with the defendant;

17 (2) "stalking" means a violation of AS 11.41.260 or 11.41.270.

18 * Sec. 6. AS 12.55.085(f) is amended to read:

19 (f) The court may not suspend the imposition of sentence of a person who

20 (1) is convicted of a violation of AS 11.41.410 - 11.41.455;

21 (2) uses a firearm in the commission of the offense for which the
22 person is convicted; or

23 (3) is convicted of a violation of AS 11.41.210 - 11.41.270
24 [AS 11.41.210 - 11.41.250] or 11.41.510 - 11.41.530, and the person has, within the
25 10 years preceding the commission of the offense for which the person has been
26 convicted, one or more prior convictions for a violation of AS 11.41 or for a violation
27 of a law in this or another jurisdiction having substantially similar elements to an
28 offense defined in AS 11.41; for the purposes of this paragraph, a person shall be
29 considered to have a prior conviction even if that conviction has been set aside under
30 (e) of this section or under the equivalent provision of the laws of another jurisdiction.

31 * Sec. 7. AS 12.55.090(c) is amended to read:

1 (c) Except as provided in (f) of this section, the [THE] period of probation,
2 together with any extension, shall not exceed five years.

3 * Sec. 8. AS 12.55.090 is amended by adding a new subsection to read:

4 (f) Notwithstanding (c) of this section, for a violation of AS 11.41.260 the
5 period of probation may not be less than five years nor more than 99 years.

6 * Sec. 9. APPLICABILITY. AS 11.41.260 and 11.41.270, enacted by sec. 1 of this Act,
7 apply to acts committed on or after the effective date of this Act.

HOUSE BILL NO. 64

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES TOOHEY, Phillips, Olberg, Ulmer, Hudson

Introduced: 1/15/93

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

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

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 11.41 is amended by adding new sections to article 2 to read:

9 Sec. 11.41.260. STALKING IN THE FIRST DEGREE. (a) A person commits
10 the crime of stalking in the first degree if the person violates AS 11.41.270 and

11 (1) the actions constituting the offense are in violation of an order
12 issued under AS 25.35.010(b) or 25.35.020 and the defendant has received actual
13 notice of the order;

1 (2) the actions constituting the offense are in violation of a condition
2 of probation, release before trial, release after conviction, or parole;

3 (3) the course of conduct engaged in by the defendant includes the
4 making of one or more credible threats against the victim, a member of the victim's
5 immediate family, or another person living in the victim's household; or

6 (4) the defendant has been previously convicted of a violation of this
7 section, AS 11.41.270, or AS 11.56.740.

8 (b) Stalking in the first degree is a class C felony.

9 (c) In this section,

10 (1) "course of conduct" has the meaning given in AS 11.41.270(e);

11 (2) "credible threat" means a threat to kill another person or a threat
12 to inflict physical injury upon another person that is made in any manner or context
13 that causes the person hearing or receiving the threat to reasonably fear for the
14 person's safety or the safety of another person;

15 (3) "victim" has the meaning given in AS 11.41.270(e).

16 Sec. 11.41.270. STALKING IN THE SECOND DEGREE. (a) A person
17 commits the crime of stalking in the second degree if the person knowingly engages
18 in a course of conduct that would cause a reasonable person to feel threatened or
19 harassed, and that actually causes the victim to feel threatened or harassed.

20 (b) In a prosecution under this section, evidence that the defendant continued
21 to engage in a course of conduct involving repeated nonconsensual contact with the
22 victim after having been requested by the victim to discontinue the same or a different
23 form of nonconsensual contact, and to refrain from any further contact without the
24 consent of the victim, shall give rise to a rebuttable presumption that the continuation
25 of the course of conduct caused the victim to feel threatened or harassed.

26 (c) It is an affirmative defense to a prosecution under this section that the
27 course of conduct engaged in by the defendant is constitutionally protected or serves
28 a legitimate purpose. If a defendant affirmatively shows that an act of the defendant
29 is a constitutionally protected activity or serves a legitimate purpose, that act may not
30 be considered in finding that a defendant engaged in a course of conduct in violation
31 of this section.

*Constitutionally
Protected Activity - excluded!*

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(d) Stalking in the second degree is a class A misdemeanor.

(e) In this section,

(1) "course of conduct" means a pattern of conduct directed toward a victim, evidencing a continuity of purpose, that is composed of a series of two or more separate noncontinuous acts of nonconsensual contact involving the victim, a member of the victim's immediate family, or another person living in the victim's household;

(2) "nonconsensual contact" means any contact with another person that is initiated or continued without that person's consent, that is beyond the scope of the consent provided by that person, or that is in disregard of that person's expressed desire that the contact be avoided or discontinued; "nonconsensual contact" includes

(A) following or appearing within the sight of that person;

(B) approaching or confronting that person in a public place or on private property;

(C) appearing at the workplace or residence of that person;

(D) entering onto or remaining on property owned, leased, or occupied by that person;

(E) contacting that person by telephone;

(F) sending mail or electronic communications to that person;

(G) placing an object on, or delivering an object to, property owned, leased, or occupied by that person;

(3) "victim" means a person who is the target of a course of conduct.

* Sec. 2. AS 12.25.030(b) is amended to read:

(b) In addition to the authority granted under (a) of this section, a peace officer without a warrant may arrest a person when the peace officer has reasonable cause for believing that the person has committed a crime under

(1) AS 11.41.270 or AS 11.56.740; or

(2) AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an ordinance with elements substantially similar to the elements of a crime under AS 11.41, AS 11.46.330, or AS 11.61.120, when the victim is a spouse or former spouse of the person who committed the crime; a parent, grandparent, child, or grandchild of the person who committed the crime; a member of the social unit

1 comprised of those living together in the same dwelling as the person who committed
2 the crime; or another person who is not a spouse or former spouse of the person who
3 committed the crime but who previously lived in a spousal relationship with the person
4 who committed the crime or is in or has been in a dating, courtship, or engagement
5 relationship with the person who committed the crime.

6 * Sec. 3. AS 12.30.025 is amended to read:

7 Sec. 12.30.025. RELEASE BEFORE TRIAL IN CASES INVOLVING
8 DOMESTIC VIOLENCE OR STALKING. (a) In determining the conditions of
9 release under AS 12.30.020 in cases involving domestic violence or stalking, the court
10 shall consider the following conditions and impose one or more conditions it considers
11 reasonably necessary to protect the alleged victim of the domestic violence or
12 stalking, including ordering the defendant

13 (1) not to subject the victim to further domestic violence or stalking;

14 (2) to vacate the home of the victim;

15 (3) not to contact the victim other than through counsel;

16 (4) to engage in counseling; if the court directs the defendant to engage
17 in personal counseling, the court shall provide in the order that the counseling must
18 propose alternatives to aggression if that type of counseling is available; if the court
19 directs the defendant to participate in family counseling, it shall make a finding that
20 family counseling will not result in additional domestic violence or stalking;

21 (5) to refrain from the consumption of alcohol or the use of drugs.

22 (b) As used in this section,

23 (1) "domestic violence" means a crime specified in AS 11.41 when the
24 victim is a spouse or a former spouse of the defendant; a parent, grandparent, child,
25 or grandchild of the defendant; a member of the social unit comprised of those living
26 together in the same dwelling as the defendant; or a person who is not a spouse or
27 former spouse of the defendant but who previously lived in a spousal relationship with
28 the defendant or is in or has been in a dating, courtship, or engagement relationship
29 with the defendant;

30 (2) "stalking" means a violation of AS 11.41.260 or 11.41.270.

31 * Sec. 4. AS 12.55.085(f) is amended to read:

1 (f) The court may not suspend the imposition of sentence of a person who
2 (1) is convicted of a violation of AS 11.41.410 - 11.41.455;
3 (2) uses a firearm in the commission of the offense for which the
4 person is convicted; or
5 (3) is convicted of a violation of AS 11.41.210 - 11.41.270
6 [AS 11.41.210 - 11.41.250] or 11.41.510 - 11.41.530, and the person has, within the
7 10 years preceding the commission of the offense for which the person has been
8 convicted, one or more prior convictions for a violation of AS 11.41 or for a violation
9 of a law in this or another jurisdiction having substantially similar elements to an
10 offense defined in AS 11.41; for the purposes of this paragraph, a person shall be
11 considered to have a prior conviction even if that conviction has been set aside under
12 (e) of this section or under the equivalent provision of the laws of another jurisdiction.

13 * Sec. 5. AS 12.55.090(c) is amended to read:

14 (c) Except as provided in (f) of this section, the [THE] period of probation,
15 together with any extension, shall not exceed five years.

16 * Sec. 6. AS 12.55.090 is amended by adding a new subsection to read:

17 (f) Notwithstanding (c) of this section, for a violation of AS 11.41.260 the
18 period of probation may not be less than five years nor more than 99 years.

19 * Sec. 7. AS 12.55.100 is amended by adding a new subsection to read:

20 (d) In addition to any other condition of probation permitted under this section,
21 a defendant convicted of a violation of AS 11.41.260 or 11.41.270 may be required to

- 22 (1) refrain from stalking any person during the term of probation;
23 (2) refrain from any contact with the victim of the offense;
24 (3) be evaluated to determine the need for psychiatric, psychological,
25 or social counseling, and if determined appropriate by the court, receive psychiatric,
26 psychological, or social counseling at the defendant's expense.

27 * Sec. 8. APPLICABILITY. AS 11.41.260 and 11.41.270, enacted by sec. 1 of this Act,
28 apply to acts committed on or after the effective date of this Act.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 11
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR KERTTULA

Introduced: 2/10/93
Referred: STA, JUD, FIN

"Stalking"

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the crime of terroristic threatening."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 11.56.810 is amended to read:

11.41.....

4 Sec. 11.56.810. TERRORISTIC THREATENING IN THE FIRST DEGREE.

5 (a) A person commits the crime of terroristic threatening in the first degree if the
6 person

7 (1) knowingly makes a false report that a circumstance ~~dangerous~~ to
8 human life exists or is about to exist and

9 (A) places a person in fear of physical injury to a [ANY]
10 person;

11 (B) causes evacuation of a building; or

12 (C) causes serious public inconvenience; [OR]

13 (2) with intent to place another person in fear of death or serious
14 physical injury to the person or a [THE PERSON'S IMMEDIATE] family member.

under 110
Violent history
deadly weapon

1 makes repeated threats to cause death or serious physical injury to another person; or
2 (3) commits the crime of terroristic threatening in the second
3 degree and

(A) the conduct that constitutes the crime violates a court
order; or

(B) within seven years before the commission of the crime
the person has been convicted of the crime of terroristic threatening in the
second degree.

(b) Terroristic threatening in the first degree is a class C felony.

* Sec. 2. AS 11.56 is amended by adding new sections to read:

Sec. 11.56.812. TERRORISTIC THREATENING IN THE SECOND

DEGREE. (a) A person commits the crime of terroristic threatening in the second
degree if the 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, by knowingly and
repeatedly following or lying in wait for the person or family member, or engaging in
conduct similar to following or lying in wait for the person or family member.

(b) Terroristic threatening in the second degree is a class A misdemeanor.

Sec. 11.56.814. DEFINITION. In AS 11.56.810 - 11.56.814, "family member"

of a person means:

(1) a spouse, child, grandchild, parent, grandparent, or sibling of the
person;

In laws

(2) a person who lives in a spousal relationship with the person;

(3) a person who lives in the same household as the person; or

(4) a person who is in a dating, courtship, or engagement relationship

with the person.

* Sec. 3. AS 12.25.030(b) is amended to read:

(b) In addition to the authority granted under (a) of this section, a peace officer
without a warrant may arrest a person when the peace officer has reasonable cause for
believing that the person has committed a crime under -

(1) AS 11.56.740; or

(2) AS 11.41, AS 11.46.330, AS 11.56.810(a)(3) - 11.56.814, or

1-
2-
3-

2

"serious"
how long
do we
want
this.

Police in
FBIS.
Likes
this.

"current" - (AST would support this)

put in section one

get from Margo Knuth

1 AS 11.61.120, or has violated an ordinance with elements substantially similar to the
2 elements of a crime under AS 11.41, AS 11.46.330, AS 11.56.810(a)(3) - 11.56.814.
3 or AS 11.61.120, when the victim is a spouse or former spouse of the person who
4 committed the crime; a parent, grandparent, child, or grandchild of the person who
5 committed the crime; a member of the social unit comprised of those living together
6 in the same dwelling as the person who committed the crime; or another person who
7 is not a spouse or former spouse of the person who committed the crime but who
8 previously lived in a spousal relationship with the person who committed the crime or
9 is in or has been in a dating, courtship, or engagement relationship with the person
10 who committed the crime.

SENATE BILL NO. 23

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR ZHAROFF

Introduced: 1/11/93
Referred: STA, JUD, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the crime of terroristic threatening."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 11.56.810 is amended to read:

4 Sec. 11.56.810. TERRORISTIC THREATENING IN THE FIRST DEGREE.

5 (a) A person commits the crime of terroristic threatening in the first degree if the
6 person

7 (1) knowingly makes a false report that a circumstance dangerous to
8 human life exists or is about to exist and

9 (A) places a person in fear of physical injury to a [ANY]
10 person;

11 (B) causes evacuation of a building; or

12 (C) causes serious public inconvenience; [OR]

13 (2) with intent to place another person in fear of death or serious
14 physical injury to the person or a [THE PERSON'S IMMEDIATE] family member.

1 makes repeated threats to cause death or serious physical injury to another person or
2 (3) is convicted of the crime of terroristic threatening in the second
3 degree and knowingly contacts, except as allowed by court order, the victim or
4 a family member of the victim while the person is serving, including being on
5 probation, the sentence for the crime, or within seven years after the person
6 completes serving the sentence.

7 (b) Terroristic threatening in the first degree is a class C felony.

8 * Sec. 2. AS 11.56 is amended by adding new sections to read:

9 Sec. 11.56.812. TERRORISTIC THREATENING IN THE SECOND
10 DEGREE. (a) A person commits the crime of terroristic threatening in the second
11 degree if the person recklessly places another person in fear of death or physical
12 injury, or in fear of the death or physical injury of a family member, by knowingly and
13 repeatedly following or lying in wait for the person or family member, or engaging in
14 conduct similar to following or lying in wait for the person or family member.

15 (b) Terroristic threatening in the second degree is a class A misdemeanor.

16 Sec. 11.56.814. DEFINITION. In AS 11.56.810 - 11.56.814, "family member"

17 of a person means

18 (1) a spouse, child, grandchild, parent, grandparent, or sibling of the
19 person;

20 (2) a person who lives in a spousal relationship with the person; or

21 (3) a person who lives in the same household as the person.

22 * Sec. 3. AS 12.25.030(b) is amended to read:

23 (b) In addition to the authority granted under (a) of this section, a peace officer
24 without a warrant may arrest a person when the peace officer has reasonable cause for
25 believing that the person has committed a crime under

26 (1) AS 11.56.740; or

27 (2) AS 11.41, AS 11.46.330, AS 11.56.810(a)(3) - 11.56.814. or
28 AS 11.61.120, or has violated an ordinance with elements substantially similar to the
29 elements of a crime under AS 11.41, AS 11.46.330, AS 11.56.810(a)(3) - 11.56.814,
30 or AS 11.61.120, when the victim is a spouse or former spouse of the person who
31 committed the crime; a parent, grandparent, child, or grandchild of the person who

1 committed the crime; a member of the social unit comprised of those living together
2 in the same dwelling as the person who committed the crime; or another person who
3 is not a spouse or former spouse of the person who committed the crime but who
4 previously lived in a spousal relationship with the person who committed the crime or
5 is in or has been in a dating, courtship, or engagement relationship with the person
6 who committed the crime.

SENATE BILL NO. 22

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS LEMAN, Pearce

Introduced: 1/11/93
Referred: STA, JUD, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the crime of terroristic threatening."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 11.56.810 is amended to read:

4 Sec. 11.56.810. TERRORISTIC THREATENING IN THE FIRST DEGREE.

5 (a) A person commits the crime of terroristic threatening in the first degree if the
6 person

7 (1) knowingly makes a false report that a circumstance dangerous to
8 human life exists or is about to exist and

9 (A) places a person in fear of physical injury to a [ANY]
10 person;

11 (B) causes evacuation of a building; or

12 (C) causes serious public inconvenience; [OR]

13 (2) with intent to place another person in fear of death or serious
14 physical injury to the person or a [THE PERSON'S IMMEDIATE] family member.

1 makes repeated threats to cause death or serious physical injury to another person; or
2 (3) commits the crime of terroristic threatening in the second
3 degree and

4 (A) the conduct that constitutes the crime violates a court
5 order; or

6 (B) within seven years before the commission of the crime
7 the person has been convicted of the crime of terroristic threatening in the
8 second degree.

9 (b) Terroristic threatening in the first degree is a class C felony.

10 * Sec. 2. AS 11.56 is amended by adding new sections to read:

11 Sec. 11.56.812. TERRORISTIC THREATENING IN THE SECOND
12 DEGREE. (a) A person commits the crime of terroristic threatening in the second
13 degree if the person recklessly places another person in fear of death or physical
14 injury, or in fear of the death or physical injury of a family member, by knowingly and
15 repeatedly following or lying in wait for the person or family member, or engaging in
16 conduct similar to following or lying in wait for the person or family member.

17 (b) Terroristic threatening in the second degree is a class A misdemeanor.

18 Sec. 11.56.814. DEFINITION. In AS 11.56.810 - 11.56.814, "family member"
19 of a person means

20 (1) a spouse, child, grandchild, parent, grandparent, or sibling of the
21 person;

22 (2) a person who lives in a spousal relationship with the person; or

23 (3) a person who lives in the same household as the person.

24 * Sec. 3. AS 12.25.030(b) is amended to read:

25 (b) In addition to the authority granted under (a) of this section, a peace officer
26 without a warrant may arrest a person when the peace officer has reasonable cause for
27 believing that the person has committed a crime under

28 (1) AS 11.56.740; or

29 (2) AS 11.41, AS 11.46.330, AS 11.56.810(a)(3) - 11.56.814, or
30 AS 11.61.120, or has violated an ordinance with elements substantially similar to the
31 elements of a crime under AS 11.41, AS 11.46.330, AS 11.56.810(a)(3) - 11.56.814,

1 or AS 11.61.120, when the victim is a spouse or former spouse of the person who
2 committed the crime; a parent, grandparent, child, or grandchild of the person who
3 committed the crime; a member of the social unit comprised of those living together
4 in the same dwelling as the person who committed the crime; or another person who
5 is not a spouse or former spouse of the person who committed the crime but who
6 previously lived in a spousal relationship with the person who committed the crime or
7 is in or has been in a dating, courtship, or engagement relationship with the person
8 who committed the crime.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

JAN 21 1993

MEMORANDUM

January 21, 1993

SUBJECT: Sectional Summary of HB 64 (Work Order 18-LS0283\A))

TO: Representative Cynthia Toohey
Attn: Marveen

FROM: Jerry Luckhaupt *JLB*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

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 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 3 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 4 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 5 of the bill amends AS 12.55.090(c) to conform to section 6 of the bill.

Section 6 of the bill provides that for a conviction of stalking in the first degree a probationary term may not be less than five years nor more than 99 years.

Representative Cynthia Toohey
January 21, 1993
Page 2

Section 7 of the bill provides specific conditions of probation that may be imposed by the court in stalking cases.

Section 8 of the bill is an applicability section.

GPL:pl
93-032.plm

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

February 16, 1993

The Honorable Loren Leman
Alaska House of Representatives
State Capitol
Juneau, AK 99801-1182

Re: Anti-Stalking Legislation

Dear Senator Leman:

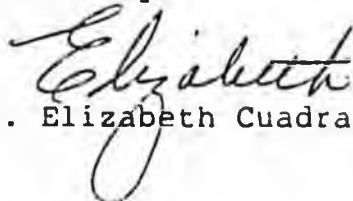
Thank you for sponsoring legislation that would make stalking another person unlawful.

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

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 Lardner 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-

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."

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	Mississippi	Tennessee
Florida	Nebraska	Utah
Hawaii	New York	Virginia
Kansas	North Carolina	Washington
Idaho	Ohio	West Virginia
Illinois		Wisconsin

Source: National Conference of State Legislatures

cidents. 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

STAFF

NOV 10 1992

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

reasonably be said to be in fear of serious injury or death. In other words, in certain states, an action becomes a "threat" based upon the state of mind of the "threatened" individual.

In addition, some statutes define "harassment" as a knowing and willful "course of conduct" composed of a series of acts over a period of time, no matter how short, directed at a specific person which seriously alarms, annoys or harasses the person.

As those who try to save babies well know, abortion advocates attempt to portray all direct-action pro-life activists as "harassers," "zealots" or "extremists." A prosecutor may make the case that an abortionist or woman seeking an abortion was repeatedly followed or harassed; that, if necessary to the proof, a threat of death or bodily injury was made, and that the "victim" or a reasonable person would have perceived such threat to be credible.

Consider, for example, the following scenario: A sidewalk counselor repeatedly tries to hand a woman a brochure or engage the woman in conversation as she is walking into a "clinic." Is the counselor engaged in a course of conduct that alarms, annoys or harasses the woman? Can handing the woman a brochure or speaking in a certain tone of voice be considered "threatening"? Is the counselor a "stalker"? The answer is, of course, that it depends.

A prosecutor might argue that the counselor in the above example was willfully and maliciously harassing (or following) the woman. The "victim" might assert that she was, or any reasonable person in a like circumstance would have been, fearful of death or serious injury from the counselor's posture, *i.e.*, the way the counselor was attempting to get the woman to view the brochure or engage in conversation. Thus, the counselor may well be prosecuted as a "stalker." In addition, take away from the scenario, as some states do, the necessity of a "credible threat," and sidewalk counseling may become actionable as "stalking."

Exempted Activities

To be sure, lawful picketing of an abortion mill, engaging a woman or abortionist in conversation or handing out brochures or pamphlets on public property are activities by and large protected by the First Amendment to the U.S. Constitution. The issue is whether stalking laws sufficiently put activists on notice as to what activities are or are not permissible.

Again, the states are not uniform on this point. Some statutes provide no guidance, *i.e.*, the statute is silent regarding permissible or impermissible activities. Other stalking statutes broadly exempt "constitutionally protected activities" (California, for example) or "constitutionally protected activity," which includes "picketing or other organized protests" (Florida). Still other statutes specifically exempt certain activities from application of the law (for example, the activities of a private investigator in Washington).

Whether or not a stalking statute exempts constitutional protests or other activities, many times pro-life activists cannot, because of the vague or overbroad language that characterizes many stalking statutes, be sure whether the stalking statute in their state will be applied to their activities, even if those activities are, in fact, perfectly lawful. An activist may, of course, always raise a constitutional defense to a charge. Vague or overbroad language or no language at all that specifies those activities in which one may or may not be engaged, however, invites at least the claim by a "victim" or the authorities that a stalking law has been violated.

A basic premise of the criminal law is that statutes must be clearly written so that one can readily ascertain what is and is not prohibited by law. If a pro-life activist wishes to engage in lawful activities, stalking laws that do not specifically spell out permissible or impermissible actions may create a "chilling effect" on the pro-lifer's rights: the activist is dissuaded from acting because she does not know whether her activities will end in arrest and/or prosecution for stalking.

"Constitutionally protected activity" clauses appear to offer some protection or certainty, but they may also create a "chilling effect" because, among other reasons, (1) they do not appear to cover "following" (they most often are included in the definitions of "course of conduct," which applies to "harassment"); (2) they do not specifically declare what is permissible or impermissible activity; and (3) in jurisdictions like Florida, they may lead activists to believe that conduct not specifically allowed is prohibited, *e.g.*, that only activities such as picketing or organized protests fall outside the application of the law.

Penalties

Some states have both misdemeanor and felony classifications of stalking. A sentence of one year in jail may be imposed for a first offense. More stringent penalties of three, five and even six years can apply to second or subsequent stalking offenses. Enhanced penalties also apply in many states where a protective order is violated in the act of stalking. For example, Illinois created a higher-level felony for aggravated stalking, which occurs when a person causes bodily harm to a victim, confines or restrains the victim, or violates a protective order in the act of stalking.

Stalking laws in Florida and Ohio provide for the warrantless arrest of alleged stalkers upon a finding by a law-enforcement officer that he or she has probable cause. In Ohio, the stalking law adds "menacing by stalking" and "aggravated trespass" to the list of offenses for which specified peace officers can arrest and detain (until a warrant is obtained) a suspect who he or she has reasonable cause to believe is guilty of committing an offense of violence, including domestic violence. Washington State's stalking law includes telephone harassment and intimidation.

Conclusion

Certainly, to the extent stalking laws were designed to criminalize an activity for which there was either no lawful remedy or the remedy was ineffectual (e.g., a restraining order to keep threatening boyfriends or former husbands away from women), stalking laws have a place in the code books. The potential for broad or selective application of these laws to pro-life activists, as well as other activists (e.g., animal-rights activists, environmental activists, etc.), creates uncertainty and may stifle legitimate activity.

All activists should know whether stalking laws are in place or are being proposed in their state. Where these laws are proposed or in place, they should be drafted or amended, at the very least, to exempt all constitutionally protected activity. Ideally, such laws should specifically enumerate the type of

conduct that is or is not covered by the legislation (legitimate pro-life activity should, of course, always be taken into account). Simply stated, activists should have some notice as to the propriety of their activity before they act.

Finally, pro-lifers should also be aware that while pro-abortionists are increasingly calling for the application of stalking laws to pro-lifers, a host of other laws exist that also may be used to stifle activists from conveying the pro-life message: for example, state statutes proscribing annoying telephone calls, interfering with privacy, terrorizing, interfering with another person's constitutional right because of the person's gender, or using mail for harassment. In addition, federal legislation has been, and under the Clinton administration will continue to be, proposed that is intended to thwart legitimate pro-life activism.

* * * * *

Freedom From Access to the Truth

The truth hurts those who try to conceal it.

Anyone paying attention to abortion industry reports over the past few years knows that the industry is facing a serious crisis: There are fewer and fewer people willing to do abortions in this country. In fact, 83 percent of American counties do not have even one person who will do an abortion,¹ and only 12 percent of hospitals with obstetrics-gynecology programs require training in first-trimester abortions.²

While there may be numerous explanations for this phenomenon, recent pro-abortion legislative initiatives make at least one apparent: The ongoing battle against abortion waged in the public eye is having a profoundly discouraging effect on the career decisions of would-be abortionists.

Nowhere has the battle been more effective in this respect than at the abortion "clinic." It should come as no surprise, then, that it is against pro-life clinic activism that many new pro-abortion legislative initiatives are aimed. This article briefly discusses some of these measures in order to arm pro-lifers against the dangers they present.

Pro-Life Activism at the Abortion "Clinic"

The scenes differ, but their common elements are familiar.

At the local abortion clinic, a group of pro-lifers engages in a weekly, sometimes daily, vigil. Ignoring the taunts and bullying of the clinic's "defense team," they circle the sidewalk, praying, singing hymns and carrying posters.

From time to time, one of their members breaks off. This "sidewalk counselor" tries to hand pamphlets and offer assistance to drivers pulling into the parking lot or to women

hurrying to the abortuary. Sometimes the counselor is able to convince the abortion-bound to stop and consider the information provided. Sometimes the counselor is even able to change a heart and mind to choose life instead of death for a child.

On occasion, a much larger group organizes a demonstration around the clinic. A multitude of pro-life voices are raised in song and prayer, while "rescuers" peacefully lock arms in a blockade of the entrance.

Admittedly, as pro-life frustrations mount over the rising death toll, these scenes have sometimes become dominated by other elements, obscuring their purpose. Unfortunately, angry words and clever media soundbites have in some cases shifted the focus from the message to the messengers.

When the messengers do not let their activities degenerate into distraction, however, they send a clear message: Babies are dying and mothers are being injured at the hands of the abortionist. Regardless of whether the public is ready to accept it or not, this message in and of itself is a potent one. Its expression at the abortion clinic makes it even more powerful—and undeniably bad for the abortion industry and its practitioners.

The Pro-Abortion Legal Campaign

In an effort to undermine the potency of this message, the abortion industry has mounted an aggressive legal campaign against pro-life clinic activities. One facet of this campaign is reflected in the *Bray v. Alexandria Women's Health Clinic* case currently before the Supreme Court.

The *Bray* case involves the successful use by abortion advocates of an 1871 federal law to obtain an injunction

HIGHLIGHT: NEW THREATS TO PRO-LIFE ACTIVISM

In their pre-election book, Putting People First: How We Can All Change America, Bill Clinton and Al Gore describe what their administration will do to "make government work for women." Among other things (e.g., signing the Freedom of Choice [to Kill] Act and urging repeal of the Hyde amendment), Clinton and Gore promise that their administration will "initiate measures to protect women and care-givers from intimidation, harassment, and threats posed by radical demonstrators who illegally block health clinics" [p. 170,

emphasis in original].

Pro-lifers need not have waited for the election results to understand what "measures" they have in mind.

This issue of LegisLetter examines two types of legislative initiatives: so-called "stalking" laws and so-called clinic access legislation. Both are designed, in whole or in part, to "protect" women. Both, however, could have the effect of protecting the abortion industry at the expense of oppressing pro-life activism.

When Is "Stalking" Really "Stalking" and Who Decides?

Over the past two years the crime of "stalking" has quickly gained prominence and recognition. This article will familiarize pro-life leaders and activists with the general parameters of the crime, its exemptions, penalties and, most importantly, its possible application to pro-life activities.

First, a short quiz:

Under certain state and local laws, who may be convicted of the crime of "stalking"?

- (A) An obsessed fan who harasses and threatens a Hollywood star.
- (B) A former husband who follows and terrorizes his ex-wife.
- (C) A casual acquaintance or stranger who follows and threatens another person.
- (D) A pro-life activist who counsels a woman not to have an abortion or who attempts to persuade an abortionist to stop performing abortions.
- (E) An elderly woman who continually calls or sends letters to an abortionist pleading that he or she stop killing children.
- (F) All of the above.

The answer is (F).

Pro-Life Activists as "Stalkers"?

Since 1990, twenty-six states (California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin) and a number of communities have passed "stalking" legislation. While these laws ostensibly were written to address the situations suggested in (A)-(C) of our short quiz above, pro-abortion forces are calling increasingly for application of these laws to pro-lifers. Whether these laws can be successfully applied to an activist depends, of course, on where the activist lives, the range of activities in which he or she is engaged and, importantly, the perception and interpretation of those activities by the "victim" and the authorities.

Stalking Laws Generally

Although the precise language of stalking laws varies from state to state, a stalking law generally requires the willful, malicious and repeated following or harassment of another person and a credible threat against an individual with the intent to place that person (or, under some statutes, the person's immediate family) in reasonable fear of death or great bodily harm.

As of this writing, intentional, malicious and repeated following or harassment and a threat of serious injury or death appears to be the majority rule. A minority of states, however, allow for something less than a threat of great bodily injury or death.

In Washington, for example, intentional and repeated following coupled with intimidation, harassment or fear that a "stalker" intends to injure the person or "property" of the person being followed or another person is enough to bring a perpetrator under the stalking statute. Attempts to contact or follow a person after being given actual notice that the person does not want to be contacted or followed is, on its face, evidence of the stalker's intent to intimidate or harass.

In Idaho, no threat is required. Any person who willfully, maliciously and repeatedly follows or harasses another person or immediate family member of that person is guilty of stalking.

In Florida, willful, malicious and repeated following or harassing combined with a credible threat intended to place the victim in reasonable fear of injury or death is a felony. Following or harassing with no threat is a misdemeanor.

In those states where a credible threat of bodily injury or death is essential for a conviction under a stalking statute, it would appear at first glance that most pro-life activities would fall outside the application of a majority of stalking laws. This is not necessarily the case.

A "credible threat" of serious bodily injury or death as defined in the majority of statutes need not be explicit. A threat is, in fact, "credible" if the victim or, under some statutes, a "reasonable person" in like circumstances, could

OPINION

Anchorage Daily News

Gerald E. Grilly
Publisher

Howard Weaver
Editor



Michael Carey, Editorial Page Editor
Patrick Dougherty, Managing Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1946 by Norman G. Brown

Stalker laws

Other states have them; should we?

Another state governor — Jim Edgar of Illinois — signed an anti-stalking law earlier this month, raising to 21 the number of states to have passed such laws since Jan. 1.

The new Illinois law makes it a felony to threaten a person, then follow or wait for that person outside the home, school or workplace. A first-time offender can receive up to three years in prison.

Alaska would do well to consider such a law.

States typically define stalking as willful and repeated following and harassing of another person. Anti-stalking laws generally are crafted to apply to cases where women are terrorized by former boyfriends or husbands.

Crime classifications and penalties vary. In Wisconsin, stalking someone is a misdemeanor with punishment of up to nine months in prison and a \$10,000 fine; a second offense is a felony. In Florida, a first offense is a felony punishable by up to five years in prison.

In Washington state, a 1992 anti-stalking law includes telephone harassment and intimidation, and specifies that the victim and local law enforcement be notified if a convicted stalker is released or escapes.

These laws all take into account the devastating toll domestic violence takes on women. Each year an estimated 6 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.

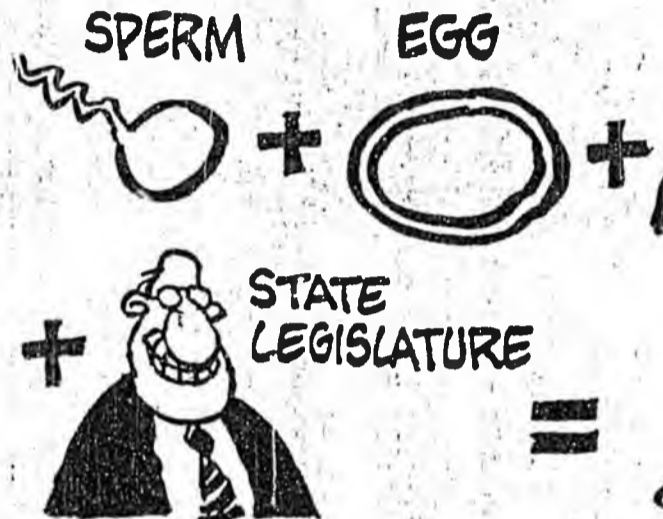
Ironically, leaving a bad relationship is often the most dangerous time for women. This is where anti-stalking laws come in. They will not save all women, just as restraining orders and other laws have not. But they are one more tool to control domestic violence, as well as one more message from the community that such violence is unequivocally unacceptable.

Bulldozer bully

Developer developing a bad reputation

Maybe Anchorage developer Joe Cange should apply for a job in the Hickel administration. He seems to share the governor's enthusiasm for digging dirt and his disinclination to follow rules that might slow down development.

GEORGE BUSH EXPLAIN BABIES ARE MADE



Women take center

NEW YORK — When Bill Clinton stopped in to the women's caucus it was more than a courtesy call. Standing in front of a line of women candidates, he said flat out: "I think we know where the energy of the Democratic Party in America is."

Women are, to put it mildly, the life of this party. The female candidates and officeholders have been feted and toasted, put up front and center stage at Madison Square Garden. They've been star attractions at a running list of receptions East Side, West Side, all around the town.

The most popular sticker at the convention reads: When Women Run, Women Win. The most popular money-raiser is Emily's List, the fund for electing Democratic women to the Senate. Even Nancy Reagan's old hairdresser has defected and is coiffing the Democratic women's backstage.

As Barbara Mikulski, the shortest U.S. senator with the longest repertoire of sound bites, says when she introduces the Democratic class of '92 female candidates: "This is the new world order." Pat Schroeder describes them as a "tsunami of women getting ready to wash into Washington."

The enthusiasm is close to contagious even for those of us who have developed some immunity to the Year(s) of the Woman. We remember when '72 was the year of the woman: Shirley Chisholm



**ELLEN
GOODMAN**

of women reporters was sent to their first political convention to cover the "women's story."

Then of course '84 was the year of the woman when Geraldine Ferraro got on the ticket. And so were '88 and '90 ... well, you get the idea. Change has been so gradual where between glacial and gradual. It's tough to believe in breakthroughs.

Indeed, as Ruth Mandel, head of the Center for American Woman in Politics, not to mention residence scorekeeper and somewhat wet blanket says, "I do like this year of the woman business. We're turning the story around and one year not going to do it."

She cautions that even six women are added to the U.S. Senate — the number handled about half — that means only 8 percent will be female. Many would rather talk less about the year and more about "the era of our empow

New bill targets stalkers

Under proposal, penalties may rise

By PAMELA DOTO
Daily News reporter

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 a half-dozen complaints with police about Petersen, the 56-year-old Federal Aviation Administration employee was arrested and charged with disorderly conduct. He was released from the Sixth Avenue Jail four days later after posting \$2,000 bail.

Disorderly conduct, a misdemeanor, is the most police could charge Petersen with because Alaska has no laws

Please see Back Page, STALKER

THE BACK PAGE

STALKER: Proposal would raise penalty in some circumstances

Continued from Page A-1

specifically addressing stalking another person. 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.

Police won't release the name of the 32-year-old woman involved in the Anchorage 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.

"That's just the police report. There are falsehoods," he said. "There's more involved than what you think."

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.

"Petersen's harassment has caused her to not feel safe in her own home and she constantly fears for her husband and children's welfare," the complaint says.

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

The proposed anti-stalking 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, would help the efforts of both organizations.

Police generally can't do much if someone is on public property and watching, even if they are in front of the victim's home.

"There is really nothing we can do unless they trespass or directly harass the victim," Warner said.

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 An-

chorage was charged and convicted of murder after he stalked his former girlfriend, then shot and killed her.

Janice Lienhart, director of Victims For Justice in Anchorage, says about five women a year call her to say they are afraid of men who are stalking them.

"I have encouraged them to contact their legislators to help get a stalking law."

One woman was so frightened that she left her job and the state, Lienhart said.

Lienhart said she knows of another woman being stalked and terrorized by a man she once had a relationship with. The woman tells few people where she lives and approaches each day with fear.

"She's basically in her own little prison," Lienhart said. "It's sad to have to live that way."

SB22

by
Donna Hunzeker

January 1993

Volume 1, No. 4

Stalking Laws

States have enacted "stalking" laws to punish people who repeatedly watch, follow, harass or threaten someone with physical harm or death. Stalking laws criminalize these activities and give police recourse before an attack takes place.

*Restraining orders
inadequate*

States passing stalking laws determined there were inadequate provisions in existing law to protect stalking victims. In drafting and considering laws, legislatures in many states heard about victims who were brutally attacked and sometimes killed after enduring months and even years of threats and intimidation. Civil restraining or protective orders were nearly always in place but inadequate to deter the stalker from committing an act of violence. A third of female murder victims in 1990 were slain by husbands or boyfriends, according to the FBI.

*Twenty-nine states
with stalking laws*

Twenty-nine states now have stalking laws. California passed the first in 1990, creating (and coming) stalking as a crime. States enacting similar laws in 1992 were: Alabama, Colorado, Connecticut, Delaware, Florida, Hawaii, Kansas, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin.

States with stalking measures pending on November 1, 1992, include Michigan, New Jersey and Pennsylvania. Other states, including Texas and Indiana, are preparing legislation to be introduced in 1993.

In other states, laws called something other than stalking have similar intent and purpose. Since 1987, Minnesota has had trespass and harassment laws on the books to apply to stalking situations that include "intent to harass, abuse or threaten." Minnesota law also has felony penalties for "terroristic threats" which can apply to stalking situations. Similarly in Maine, "terrorizing" is a Class D or Class C crime when threats of violence are made. Arizona created misdemeanor classifications of harassment last year.

*Stalking defined,
classified*

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, it includes threats against the immediate family of the victim. Many provisions require that the victim have "reasonable fear of death or great bodily injury."

The 1990 California measure was enacted following the murders of five Orange County women the year before. In each case, the victim had been stalked and threatened and had a temporary restraining order against her assailant. The California measure was hailed by victims' and women's groups, and had support from the entertainment community because of cases in which celebrities are stalked and threatened by obsessed fans.

Nineteen states have both misdemeanor and felony classifications of stalking with up to one year of jail typical for first offenses. Tougher penalties of up to three, five and even six years often apply to second or subsequent stalking offenses. Enhanced penalties also apply in 18 states where a stalker violates a protective order.

In some states with a felony stalking provision, bail can be established to increase the likelihood or duration of detention of alleged stalkers. Stalking laws in Iowa, Ohio and Illinois deal more specifically with the bail issue.

Constitutionality

Stalking laws in Florida and Ohio provide for warrantless arrest of alleged stalkers. Defense attorney groups and others have questioned the appropriateness, if not constitutionality, of warrantless arrest of stalkers, but other observers point out that such provisions in domestic violence laws have been found permissible.

A report last fall by the federal Congressional Research Service discussed whether some state stalking laws are too vague to be constitutional. In particular, that report questioned constitutionality of state laws in which following and harassing are considered stalking without also requiring credible threats of violence.

The U. S. Congress last year approved legislation under which the National Institute of Justice will work with states to monitor constitutionality and other outcomes of state stalking laws. Model provisions will be developed to help states adapt or enact laws.

STALKING CRIME CLASSIFICATIONS

Felony only:	Delaware, Florida, Illinois
Misdemeanor only:	Colorado, Kansas, Hawaii, Utah, South Carolina, West Virginia
Both Felony and Misdemeanor crimes:	California, Connecticut, Idaho, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Virginia, Washington, Wisconsin.

(Where both felony and misdemeanor classifications can apply, felony treatment is generally for when a protective order is violated and for second or subsequent stalking convictions)

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COMMENTS:

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NUMBER OF PAGES TO FOLLOW: 3

16/23 states have
this protection
CT supported the amendment
(did not oppose)

TWO ANCHORAGE LEGISLATORS SAID WEDNESDAY THAT A VIOLENT SHOOTING AT THE UNIVERSITY OF ALASKA ANCHORAGE MIGHT HAVE BEEN AVOIDED IF HOUSE BILL 64 WAS ALREADY ON THE BOOKS.

THE LEGISLATION, MODELED AFTER BILLS IN NUMEROUS OTHER STATES, ENACTS THE THE CRIMES OF STALKING IN THE FIRST OR SECOND DEGREE, AND SPELLS OUT PUNISHMENT FOR THOSE CONVICTED.

STALKING IS DEFINED AS REPEATED THREATENING OF SOMEONE OR, OF IN THE LANGUAGE OF THE BILL, "NONCONSENSUAL" CONTACT OF A PERSON BY ANOTHER.

THAT INCLUDES, FOLLOWING SOMEONE, APPROACHING THEM, TELEPHONE CALLS, MAIL OR ANY ELECTRONIC COMMUNICATION.

COURT DOCUMENTS ON FILE IN ANCHORAGE SHOW THAT SHOOTING VICTIM ANNE FLETCHER HAD REPEATEDLY SOUGHT EMERGENCY RESTRAINING ORDERS AGAINST HER HUSBAND ROBERT FLETCHER.. WITH A 90 DAY RESTRAINING ORDER FINALLY BEING ISSUED AGAINST THE MAN IN LATE MARCH. TUESDAY MORNING, ROBERT FLETCHER WAS WAITING FOR HIS EX WIFE AT A UNIVERSITY PARKING LOT...HE SHOT HIS EX WIFE ONCE BEFORE EXCHANGING GUNFIRE WITH A UNIVERSITY POLICE OFFICER AND THEN ROBERT FLETCHER SHOT HIMSELF.

THE STALKING BILL'S PRIME SPONSOR REPUBLICAN REPRESENTATIVE CYNTHIA TUOHY OF ANCHORAGE SAYS TUESDAY MORNING'S VIOLENCE NEED NOT HAVE HAPPENED.

(((toohyone

:28 "cause more harm"))

THE BILL PICKED UP AN AMENDMENT THIS WEEK AFTER GOING THROUGH THE SENATE STATE AFFAIRS COMMITTEE, CHAIRED BY ANCHORAGE REPUBLICAN LOREN LEMAN.

LEMAN GAVE A PRESS STATEMENT IN JUNEAU SAYING EARLIER PASSAGE OF THE STALKING LAW MAY HAVE HELPED TO PREVENT THE FLETCHER SHOOTING. A STAFF MEMBER OF LEMAN'S OFFICE SAYS THE SO-CALLED "AFFIRMATIVE DEFENSE" CLAUSE ADDED MONDAY IS DESIGNED TO PREVENT ABUSES OF THE LAW, IN SUCH CASES AS PROTECTING THE RIGHTS OF LABOR PICKETS.

THE AMENDMENT READS .IT IS AN AFFIRMATIVE DEFENSE OF A STALKING CHARGE IF THE CONDUCT UNDER QUESTION IS CONSTITUTIONALLY PROTECTED... TOOHEY SAYS THERE IS A CLEAR, IF UNWRITTEN INTENT OF THE AMENDMENT SUPERVISED BY LEMAN ... IT WILL PROTECT THE RIGHTS OF PEOPLE WHO PROTEST OUTSIDE ABORTION CLINICS ... BUT TOOHEY SAYS THAT SHOULDN'T AFFECT PASSAGE OF THE BILL.

...

THE STALKING LAW IS NOW BEFORE THE SENATE FINANCE COMMITTEE. LEMAN'S LEGISLATIVE AID STAFFER SAYS THE SENATOR HAS ASKED FOR A WAIVER TO ALLOW THE BILL TO GO DIRECTLY TO A FLOOR VOTE, BUT AN AIDE WITH SENATOR DRUE FEARCE, WHO IS CO CHAIR OF SENATE FINANCE, SAYS THE SENATOR INTENDS TO HOLD A HEARING ON THE BILL EARLY NEXT WEEK.

LEMAN AND TOOHEY BOTH SAY THERE IS LITTLE REASON FOR THE FINANCE COMMITTEE TO WORRY ABOUT THE BILL...IT HAS ZERO FISCAL NOTES ATTACHED TO IT, WHICH IN JUNESEAK . MEANS IT WON'T HAVE AN IMPACT ON THE BUDGET.

AS TOOHEY PUTS IT, AS SOON AS THE GOVERNOR SIGNS THE

BILL, IT WILL BEGIN SAVING THE STATE MONEY BY PROTECTING
POTENTIAL VICTIMS FROM VIOLENT ENCOUNTERS.

~~INDUSTRY WILL BE PRESENTED THE STATE LEGISLATION MOST
IMPORTANT TO ENFORCE IN EVERY AREA OF THE STATE~~

The scientists say they are coming up with new evidence that a tiny structure in the nose is the long-lost human sense organ that detects pheromones. About two years ago, some researchers began looking for this tiny organ in humans at Dr. Berliner's behest. Contrary to what had been assumed for decades, they discovered that the organ is present in all humans.

The organ looks like a tiny pit just

say that some mysterious cells seen in the VNO tissues from adult humans not only look like nerve cells but have many of the same chemical and molecular properties as functioning nerve cells. Indeed, the same properties are seen in the nerve cells in the nearby olfactory organ that gives humans their sense of smell, according to the report.

Few are more surprised to discover that

Turning Nerves On

In the experiments, microscopic electrodes were attached to the nerves of both the VNO and the olfactory organ in six women and nine men volunteers. When the volunteers sniffed odors like the musk used in conventional perfumes, the olfactory nerves were turned on but the VNO nerves

Please Turn to Page B6, Column 4

chassis. Can the pickup chassis then mount diff on the pickup fr

But GM displays trucks and any or that install practical. "Pre been grossly Please Turn

LAW

Stalking Laws Used to Fight Abortion Foes

By BOB ORTEGA

Staff Reporter of THE WALL STREET JOURNAL

A protester in Charleston, S.C., apparently became the first anti-abortion activist to be charged criminally with stalking after she allegedly threatened the director of a clinic.

Meanwhile, in Melbourne, Fla., a state Circuit Court judge said he would issue an order this week protecting abortion clinic workers from harassment by anti-abortion activists. He was responding to a request from clinic workers that cited the state's anti-stalking law.



These two moves represent the first fruits of an effort by abortion providers to use anti-stalking measures to protect themselves. Such measures have been used primarily to prevent domestic violence and attacks on celebrities. Providers are asking legislators to adopt new statutes or amend current anti-stalking statutes so that they apply more clearly to anti-abortion harassment tactics. They are going to court to try to broaden the interpretation of some of the 33 existing anti-stalking measures.

Despite some successes, many abortion providers are predicting a hard fight for protection. City and state legislators, it appears, are having trouble grappling with conflicts between the protesters' right to free speech and the abortion providers' right to privacy.

In California, the first state to pass a stalking law, the state assembly is considering one bill that would make it easier to prosecute protesters who stalk abortion providers, and another to let those targeted file civil suits seeking monetary damages. A third proposed measure would limit picketing in residential areas.

In Congress, Rep. Nita Lowey, a Democrat from New York, is sponsoring a measure that would withhold some federal

Please Turn to Page B10, Column 1

COMPUTERS

Dealers Accuse Compaq of Jilting

By KYLE POPE

Staff Reporter of THE WALL STREET JOURNAL
David McDonough feels betrayed.

A decade ago, the San Diego personal computer dealer helped peddle Compaq Computer Corp.'s first PC. Last year, he sold more than 3,600 of the company's machines. But now, as the big Houston computer maker seeks to woo sexier, faster-growing distribution channels, Mr. McDonough is left with nearly 300 Compaq machines on back order and the prospect that the orders won't be filled for weeks.

To salvage critical accounts, Mr. McDonough is sacrificing his profit and shopping for Compaq PCs at a nearby superstore and from Compaq's new mail-order operation, which somehow manage to find machines he can't seem to snag. "All these years, Compaq has been so loyal and we've been so loyal," Mr. McDonough says. "Basically, they've destroyed a 10-year relationship in 90 days."

Mr. McDonough's anger is shared by many other traditional PC dealers caught in Compaq's efforts to increase its consumer sales by shifting its attention to mail-order sales, superstore vendors and even warehouse clubs. With its new line of lower-priced computers in much demand, Compaq has had difficulty feeding all of the hungry mouths. And the company's old core of dealers — most offering service and installation as well as sales — insist they are going the hungriest.

Nimble Competitors

Compaq's dealers aren't the only ones suffering. Over the past several years, traditional dealers have gradually lost market share to cheaper, nimbler retail competitors. Apple Computer Inc. and International Business Machines Corp., among others, have also been shifting channels, leaving dealers desperate for inventory amid growing shortages.

Among the big computer makers, however, Compaq had resisted the trend to mass merchandising the longest, citing its obligation to the dealer channel that had nurtured its growth. Even when the company decided to introduce its low-cost ProLinea computers, it said it would go slow on entering other retail channels.

But Compaq's slow move has turned into a sprint, and dealers say they are being left behind. Matt Fitzsimmons, a ComputerLand dealer in White Plains, N.Y., says he lost \$250,000 in orders in

Where Companies Buy Computers

	BIG BUSINESS	SMALL BUSINESS	
Value-added resellers/ systems integrators	27%	13%	Wholesale distribut
Major dealer chains	27	13	Mail-order compan
Independent dealers	16	30	Computer superstor
Manufacturers	10	8	Laptop/notebook-or dealers

Note: Big business is defined as Fortune 1,000 companies. Small business is cor in revenue and between 100 and 1,000 employees. Source: Computer Rese

March, or about 40% of his revenue for the month, because Compaq couldn't deliver enough ProLinea machines to satisfy his customers. "It's not just that we lose an order," Mr. Fitzsimmons says. "We lose a long-term relationship with a customer."

Like his California counterpart, Mr. Fitzsimmons discovered that 32 machines that Compaq said would take until June to deliver could be at his office by next Friday through the company's mail-order line. "What they are doing doesn't make sense," he says.

Ross Cooley, the Compaq senior vice president in charge of the company's distribution strategy, acknowledges that dealers are angry but denies that the company has intentionally diverted its inventory to the new sales channels. He says that Compaq shipped more computers to dealers in the last two weeks of March than in any other period. And he says that the record shipments are continuing into the second quarter. "One of the realities of this is that even though they are frustrated, their overall Compaq business is up 1½, two, 2½, even three times what it was in March of last year," he says.

Very Frustrating

Nonetheless, Compaq is still able to fill only about half of the orders it receives, he says, a backlog that could keep Compaq dealers fuming for some time. "I am not downplaying the level of frustration."

Analysts say dealers' exasperation over backlogged PCs has been compounded by broader fears about the future of their business. Though traditional dealers still account for about two-thirds of all corporate PC sales, growth in the sector last year fell slightly. At the same time, analysts expect mail-order and su-

perstore sales over the next y 19% of the U.S with 13% two y

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"It just bu says Mike B ager at InaC dealer that Compaq macl

Dealers, o by the impac Herron, a McDonough. puter coordin of San Diego new machine

"We wan Mr. Herron. work. "I like when it come today or in si business to t

Fearful c McDonough machines m "We sure a tomer on Co got to save r

U.S. Journal
4/27/93

Abortion Clinics Turn to Laws On Stalking to Fight Protesters

Continued From Page B1

funds from cities that don't enforce local harassment and anti-stalking laws to protect abortion providers.

Meanwhile, in Melbourne, state Circuit Court Judge Robert McGregor said Friday he would issue an order this week broadening an injunction that now bars anti-abortion protesters from blocking access to local clinics. Judge McGregor did not specify the details of his order; clinic attorneys, invoking the stalking statute, had asked that protesters be prohibited from picketing within 500 feet of staff members' homes or making harassing phone calls.

Blunting anti-abortion tactics, which have driven scores of doctors out of the abortion business, has proven difficult. Even those who decry the protesters' actions are loath to circumscribe First Amendment rights. And pro-choice groups have chosen to focus their political efforts on protecting women's legal rights to have abortions, rather than the rights of doctors to provide the service.

The problem is that most of the actions that anti-abortion activists take against doctors are legal, protected by First Amendment rights, or difficult to prosecute, says Elaine Metlin, who manages the legal clearinghouse for the National Abortion Foundation, an abortion providers' group. "I get calls all the time from doctors who say, 'Can't you make them go away?' and the answer is no," she says.

"We don't break any laws when we're out there," says Tom Cyr, leader of a group that has dogged Dr. Norman Tompkins, a Dallas obstetrician and gynecologist, for nearly six months. "We don't damage property, we don't assault anybody." Mr. Cyr's group disclaims responsibility for death threats against Dr. Tompkins.

Dr. Tompkins, who hired 24-hour-a-day security guards after the recent murder of abortion doctor David Gunn in Pensacola, Fla., has a motion pending in state court for an injunction against Mr. Cyr's Dallas Pro-Life Action Network. His neighbors have asked the city council to pass a law restricting residential picketing.

But the experience of Dr. Benjamin Victoria of Brookfield, Wis., illustrates how difficult it is to squelch the harassment. Dr. Victoria seemingly won a resounding victory in 1988 when the U.S. Supreme Court upheld an ordinance that his city had adopted to protect him, banning residential picketing that targets one house. "There simply is no right to force speech into the home of an unwilling listener," wrote Justice Sandra Day O'Connor for the court.

But she also noted that as long as

protesters didn't target only one home, picketing would be allowed. The effect was to render the decision nearly meaningless. Pickets on his street continued. So did other forms of harassment: constant phone calls and threatening letters, as well as vandalism of his home, car and office.

Forced to move his practice and beset with financial problems, partly stemming from a malpractice suit sponsored by abortion opponents, Dr. Victoria declared personal bankruptcy last year and publicly announced he would no longer perform abortions.

Abortion providers who hope that stalking laws will vanquish that kind of harassment may be disappointed. Jeri Rasmussen, an abortion clinic operator in Minnesota, found that her state's stalking law didn't help her stop harassment, because it requires that the target be under threat of imminent physical harm. "As a woman, any time someone follows you, or issues your name and address and urges people to go to your home without your consent, I consider that violence," says Ms. Rasmussen, but "the police didn't see any of this as threatening." A broader stalking law passed by the city where she lives, Shorefield, did stop picketing at her home, and she's now pushing for a similar state measure.

Abortion providers remain guarded in their optimism about the newest legal efforts. Past stalking laws "have not been too helpful to us," says Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, because the laws usually require imminent fear of grave bodily harm. In the wake of Dr. Gunn's death, however, Mr. Fitzsimmons said he's issued a memo to all clinics, saying, "Look, if you have stalking laws, now's the time to use them."

James Dean Legal Fees

Warner Brothers Inc. was ordered to pay \$1.6 million in defendants' legal fees and expenses in its unsuccessful court battle over the licensing rights to James Dean memorabilia.

A federal judge in Los Angeles ruled last year that the Time Warner Inc. unit doesn't have the merchandising rights to the late actor's name and image. That decision was heralded as a victory for other movie stars, who could have been sued under the same studio-contract claim that Warner used in the Dean case.

Judge Matthew Byrne Jr. ordered Warner to pay \$978,949 to Los Angeles law firm Gibson, Dunn & Crutcher, the main attorneys for the James Dean family and Curtis Management Group Inc., which licenses the actor's name and image. The total in

defense fees also includes \$339,125 for Indianapolis law firm Kineman, Rose, Wolf & Wallack and \$293,371 to Curtis Management's in-house counsel.

A Warner spokesman wasn't available for comment. The company has said it would likely appeal the decision.

Curtis Management of Indianapolis said it's considering filing a malicious-prosecution lawsuit against Warner because of the Dean litigation.

(Warner Brothers Inc. vs. Curtis Management Group Inc., U.S. District Court, Central District of California, CV 91 4016)

Law Notes. . .

WHO'S NEWS: David H. Spencer is joining Weil, Gotshal & Manges as head of the New York law firm's new project finance group. Mr. Spencer was a partner at New York's Howard, Darby & Levin.

HIGH-TECH ADDITIONS: Boston law firm Fish & Richardson opened a new Silicon Valley office and added seven new partners specializing in intellectual property. The new partners in Palo Alto, Calif., include James H.A. Pooley of Graham & James and David A. Henderson of Brown & Bain. In the firm's Boston office, Ronald E. Myrick, previously Digital Equipment Corp.'s assistant general counsel for intellectual property, joined as a partner. Douglas Baldwin, former assistant general counsel, intellectual property, for Shell Oil Co., has become a senior counsel in the law firm's Houston office.

-Wade Lambert contributed to this article.

As King Verdict Nears, Los Angeles Acts to Keep Peace

By DAVID J. JEFFERSON

Staff Reporter of THE WALL STREET JOURNAL

LOS ANGELES — With the federal trial in the case of four white policemen who beat black motorist Rodney King expected to go to the jury sometime this weekend, Mayor Tom Bradley made a public appeal to "preserve peace and harmony in the city."

Meanwhile, Police Chief Willie Williams outlined his department's plans to prevent a repeat of last year's violence.

Saying he wants to alleviate "the fears and concerns and the hysteria" surrounding the coming verdict in the King civil rights case and the subsequent trial of several black men who allegedly beat white truck driver Reginald Denny at the start of last year's riots, Chief Williams said his department is prepared to face "any unusual event" that may erupt.

However, excluding a "major occurrence" of violence, "there are no plans to close down this city in anticipation of any problems," he said. "We want people to go about their normal lives."

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Staff Reporter:

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SENATE CS FOR CS FOR HOUSE BILL NO. 64(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/5/93
Referred: FINANCE

Sponsor(s): REPRESENTATIVES TOOHEY, Phillips, Olberg, Ulmer, Hudson, Porter, B.Davis,
Mackie, Carney, Nordlund, Parnell, Sitton, Brown

SENATORS Leman, Ellis, Donley, Little, Salo

A BILL

FOR AN ACT ENTITLED

1 "An Act creating the crimes of stalking in the first and second degrees and
2 providing penalties for their violation; providing a peace officer with the authority
3 to arrest without a warrant a person the peace officer has reasonable cause to
4 believe has committed stalking; relating to the release before trial of a person
5 accused of stalking; prohibiting the suspension of imposition of sentence of a
6 person convicted of stalking; relating to the crime of assault in the third degree;
7 and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 11.41 is amended by adding new sections to article 2 to read:

10 Sec. 11.41.260. STALKING IN THE FIRST DEGREE. (a) A person commits
11 the crime of stalking in the first degree if the person violates AS 11.41.270 and

12 (1) the actions constituting the offense are in violation of an order
13 issued under AS 25.35.010(b) or 25.35.020;

1 (2) the actions constituting the offense are in violation of a condition
2 of probation, release before trial, release after conviction, or parole;

3 (3) the victim is under 16 years of age;

4 (4) at any time during the course of conduct constituting the offense
5 the defendant possessed a deadly weapon;

6 (5) the defendant has been previously convicted of a crime under this
7 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another
8 jurisdiction with elements similar to a crime under this section. AS 11.41.270, or
9 AS 11.56.740; or

10 (6) the defendant has been previously convicted of (A) a crime, or an
11 attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 -
12 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of this or
13 another jurisdiction with elements similar to a crime, or an attempt or solicitation to
14 commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460,
15 AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

16 (b) In this section, "course of conduct" and "victim" have the meanings given
17 in AS 11.41.270(b).

18 (c) Stalking in the first degree is a class C felony.

19 Sec. 11.41.270. STALKING IN THE SECOND DEGREE. (a) A person
20 commits the crime of stalking in the second degree if the person knowingly engages
21 in a course of conduct that recklessly places another person in fear of death or physical
22 injury, or in fear of the death or physical injury of a family member.

23 (b) It is an affirmative defense to a prosecution under this section or
24 AS 11.41.260 that the course of conduct engaged in by the defendant is
25 constitutionally protected. If a defendant affirmatively shows that an act of the
26 defendant is a constitutionally protected activity, that act may not be considered in
27 finding that a defendant engaged in a course of conduct in violation of this section.

28 (c) In this section,

29 (1) "course of conduct" means repeated acts of nonconsensual contact
30 involving the victim or a family member;

31 (2) "family member" means a

1 (A) spouse, child, grandchild, parent, grandparent, sibling, uncle,
2 aunt, nephew, or niece. of the victim, whether related by blood, marriage, or
3 adoption;

4 (B) person who lives, or has previously lived, in a spousal
5 relationship with the victim;

6 (C) person who lives in the same household as the victim; or

7 (D) person who is a former spouse of the victim or is or has
8 been in a dating, courtship, or engagement relationship with the victim;

9 (3) "nonconsensual contact" means any contact with another person that
10 is initiated or continued without that person's consent, that is beyond the scope of the
11 consent provided by that person, or that is in disregard of that person's expressed
12 desire that the contact be avoided or discontinued; "nonconsensual contact" includes

13 (A) following or appearing within the sight of that person;

14 (B) approaching or confronting that person in a public place or
15 on private property;

16 (C) appearing at the workplace or residence of that person;

17 (D) entering onto or remaining on property owned, leased, or
18 occupied by that person;

19 (E) contacting that person by telephone;

20 (F) sending mail or electronic communications to that person;

21 (G) placing an object on, or delivering an object to, property
22 owned, leased, or occupied by that person;

23 (4) "victim" means a person who is the target of a course of conduct.

24 (d) Stalking in the second degree is a class A misdemeanor.

25 * Sec. 2. AS 11.41.220(a) is amended to read:

26 (a) A person commits the crime of assault in the third degree if that person

27 (1) recklessly

28 (A) [(1)] places another person in fear of imminent serious
29 physical injury by means of a dangerous instrument;

30 (B) [(2)] causes physical injury to another person by means of
31 a dangerous instrument; or

1 (C) [(3)] while being 18 years of age or older

2 (i) [(A)] causes physical injury to a child under 10 years
3 of age and the injury reasonably requires medical treatment;

4 (ii) [(B)] causes physical injury to a child under 10 years
5 of age on more than one occasion; or

6 (2) with intent to place another person in fear of death or serious
7 physical injury to the person or the person's family member makes repeated
8 threats to cause death or serious physical injury to another person.

9 * Sec. 3. AS 11.41.220 is amended by adding a new subsection to read:

10 (c) In this section, "the person's family member" means

11 (1) a spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt,
12 nephew, or niece, of the person, whether related by blood, marriage, or adoption;

13 (2) a person who lives or has lived, in a spousal relationship with the
14 person;

15 (3) a person who lives in the same household as the person; or

16 (4) a person who is a former spouse of the person or is or has been in
17 a dating, courtship, or engagement relationship with the person.

18 * Sec. 4. AS 11.56.810(a) is amended to read:

19 (a) A person commits the crime of terroristic threatening if the person

20 [(1)] knowingly makes a false report that a circumstance dangerous to
21 human life exists or is about to exist and

22 (1) [(A)] places a person in fear of physical injury to any
23 person;

24 (2) [(B)] causes evacuation of a building; or

25 (3) [(C)] causes serious public inconvenience [; OR

26 (2) WITH INTENT TO PLACE ANOTHER PERSON IN FEAR OF
27 DEATH OR SERIOUS PHYSICAL INJURY TO THE PERSON OR THE PERSON'S
28 IMMEDIATE FAMILY, MAKES REPEATED THREATS TO CAUSE DEATH OR
29 SERIOUS PHYSICAL INJURY TO ANOTHER PERSON].

30 * Sec. 5. AS 12.25.030(b) is amended to read:

31 (b) In addition to the authority granted under (a) of this section, a peace officer

1 without a warrant may arrest a person when the peace officer has reasonable cause for
2 believing that the person has committed a crime under

3 (1) AS 11.41.270 or AS 11.56.740; or

4 (2) AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an
5 ordinance with elements substantially similar to the elements of a crime under
6 AS 11.41, AS 11.46.330, or AS 11.61.120, when the victim is a spouse or former
7 spouse of the person who committed the crime; a parent, grandparent, child, or
8 grandchild of the person who committed the crime; a member of the social unit
9 comprised of those living together in the same dwelling as the person who committed
10 the crime; or another person who is not a spouse or former spouse of the person who
11 committed the crime but who previously lived in a spousal relationship with the person
12 who committed the crime or is in or has been in a dating, courtship, or engagement
13 relationship with the person who committed the crime.

14 * Sec. 6. AS 12.30.025 is amended to read:

15 Sec. 12.30.025. RELEASE BEFORE TRIAL IN CASES INVOLVING
16 DOMESTIC VIOLENCE OR STALKING. (a) In determining the conditions of
17 release under AS 12.30.020 in cases involving domestic violence or stalking, the court
18 shall consider the following conditions and impose one or more conditions it considers
19 reasonably necessary to protect the alleged victim of the domestic violence or
20 stalking, including ordering the defendant

21 (1) not to subject the victim to further domestic violence or stalking;

22 (2) to vacate the home of the victim;

23 (3) not to contact the victim other than through counsel;

24 (4) to engage in counseling; if the court directs the defendant to engage
25 in personal counseling, the court shall provide in the order that the counseling must
26 propose alternatives to aggression if that type of counseling is available; if the court
27 directs the defendant to participate in family counseling, it shall make a finding that
28 family counseling will not result in additional domestic violence or stalking;

29 (5) to refrain from the consumption of alcohol or the use of drugs.

30 (b) As used in this section,

31 (1) "domestic violence" means a crime specified in AS 11.41 when the

1 victim is a spouse or a former spouse of the defendant; a parent, grandparent, child,
2 or grandchild of the defendant; a member of the social unit comprised of those living
3 together in the same dwelling as the defendant; or a person who is not a spouse or
4 former spouse of the defendant but who previously lived in a spousal relationship with
5 the defendant or is in or has been in a dating, courtship, or engagement relationship
6 with the defendant;

7 (2) "stalking" means a violation of AS 11.41.260 or 11.41.270.

8 * Sec. 7. AS 12.55.085(f) is amended to read:

9 (f) The court may not suspend the imposition of sentence of a person who

10 (1) is convicted of a violation of AS 11.41.410 - 11.41.455;

11 (2) uses a firearm in the commission of the offense for which the
12 person is convicted; or

13 (3) is convicted of a violation of AS 11.41.210 - 11.41.270
14 [AS 11.41.210 - 11.41.250] or 11.41.510 - 11.41.530, and the person has, within the
15 10 years preceding the commission of the offense for which the person has been
16 convicted, one or more prior convictions for a violation of AS 11.41 or for a violation
17 of a law in this or another jurisdiction having substantially similar elements to an
18 offense defined in AS 11.41; for the purposes of this paragraph, a person shall be
19 considered to have a prior conviction even if that conviction has been set aside under
20 (e) of this section or under the equivalent provision of the laws of another jurisdiction.

21 * Sec. 8. APPLICABILITY. AS 11.41.260 and 11.41.270, enacted by sec. 1 of this Act,
22 apply to acts committed on or after the effective date of this Act. However, to the extent a
23 previous conviction is an element of the offense under AS 11.41.260, that previous conviction
24 may have occurred before, on, or after the effective date of this Act.

25 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).



Alaska State Legislature
LEGISLATIVE RESEARCH AGENCY
130 Seward Street, Suite 218, Juneau, Alaska 99801-2196
907-465-3991 Fax: 907-463-3351

TO: Sen. Loren Leman DATE: 4/7/93
FROM: Christine CheFF
Attn: Portia Babcock

FyI here's a follow-up to the
research memo (93.180) we
recently prepared for you concerning
stalking laws -

The attached article appeared in
today's Wall Street Journal.

It looks at how enforcement
of the law may result in
conflict over constitutional
issues.

Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 218
Juneau, Alaska 99801-2196

Phone: (907) 465-3991
Fax: (907) 463-3351

March 26, 1993

MEMORANDUM

TO: Senator Loren Leman

FROM: Christine M. Cheff *CWC*
Legislative Analyst

RE: **Stalking Laws in Other States**
Research Request 93.180

You asked the following questions about **stalking** or **terroristic threatening** laws in other states:

- How many states have passed such laws?
- In how many states is legislation pending?
- In the states which already have laws, how many include a specific exemption for constitutionally protected activities?

According to a March 5, 1993 legislation update prepared by the National Conference of State Legislatures (NCSL), **thirty-two states have already passed "stalking" laws and legislation is pending in 15 others.**¹

A table that shows current and pending state laws is attached to this memorandum. It also identifies the 14 states we found which provide that constitutionally protected activities are not included within the "course of conduct" actions otherwise described as stalking.² Labor picketing is another activity that several states specifically exclude from classification as stalking behavior.

I hope this information will be useful. Please do not hesitate to call if we can be of further assistance on this matter.

Attachments

¹Donna Hunzeker, "'Stalking' Legislation Update," National Conference of State Legislatures, March 5, 1993, attached.

²Our source of information on this point is a computer search conducted in the WESTLAW database of state statutes.

STALKING LAWS IN OTHER STATES

STATES	STALKING LAWS PASSED	STALKING LAWS PENDING	CONSTITUTION PROTECTED ACTIVITIES	SPECIFIC PROTECTED ACTIVITIES
Alabama	X		X	
Alaska		X		
Arkansas		X		
California	X		X	
Colorado	X			
Connecticut	X			
Delaware	X		X	Picketing
Florida	X		X	
Georgia		X		
Hawaii	X			
Idaho	X		X	
Illinois	X			Picketing
Indiana		X		
Iowa	X			
Kansas	X			
Kentucky	X		X	
Louisiana	X		X	
Maine		X		
Massachusetts	X			
Michigan	X			
Minnesota		X		
Mississippi	X		X	
Missouri		X		
Nebraska	X		X	Picketing
Nevada		X		

STALKING LAWS IN OTHER STATES (continued)

STATES	STALKING LAWS PASSED	STALKING LAWS PENDING	CONSTITUTION PROTECTED ACTIVITIES	SPECIFIC PROTECTED ACTIVITIES
New Hampshire		X		
New Jersey	X			
New Mexico		X		
New York	X			
North Carolina	X			
North Dakota		X		
Ohio	X			
Oklahoma	X		X	
Oregon		X		
Pennsylvania		X		
Rhode Island	X		X	
South Carolina	X		X	
South Dakota	X		X	
Tennessee	X			Lawful Business Activities
Texas		X		
Utah	X		X	
Vermont		X		
Virginia	X			
Washington	X			
West Virginia	X			
Wisconsin	X			
Wyoming	X			

Prepared by the Legislative Research Agency, March 1993 (93.180)



NATIONAL CONFERENCE OF STATE LEGISLATURES

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

ART HAMILTON
HOUSE MINORITY LEADER
ARIZONA
PRESIDENT, NCSL

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

WILLIAM POUND
EXECUTIVE DIRECTOR

"STALKING" LEGISLATION UPDATE

March 5, 1993
Donna Hunzeker

Thirty-two states have "stalking" laws as of this writing.

California passed the first law in 1990, creating (and coining) stalking as a crime. California expanded and increased penalties under its stalking law in 1992. States that passed stalking laws in 1992 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. States that have enacted stalking laws so far in 1993 are New Jersey and Wyoming.

Fifteen states now have pending legislation that would create and classify the crime of stalking. Those are: Alaska, Arkansas, Georgia, Indiana, Maine, Minnesota, Missouri, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, Pennsylvania, Texas, Vermont.

In some states, laws called something other than "stalking" have similar intent and purpose. For example, Arizona created misdemeanor classifications of harassment in 1992. Since 1987, Minnesota has had trespass and harassment laws which apply to stalking situations, and penalties were increased for repeat offenses in 1992. This year, bills are pending in both houses of the Minnesota Legislature to create misdemeanor and felony classifications of "stalking" and "aggravated stalking." Similarly in Maine, which has Class D and Class C crimes of "terrorizing" when threats of violence are made, "stalking" bills are pending this year, one of which specifies intention to expand crime of harassment to more clearly cover conduct known as stalking.

Eleven states that passed laws in 1992 have bills pending in 1993 to amend or expand stalking provisions. Those are: Alabama, California, Colorado, Connecticut, Iowa, Nebraska, Rhode Island, South Dakota, Tennessee, Washington, West Virginia.

States typically have defined "stalking" as willful, malicious and repeated following and harassing of another person. Many require a pattern of conduct and that the perpetrator make a "credible threat of violence" against the victim. Many states include threats against immediate family members. Some provisions require that the victim have reasonable fear of personal safety, or of death or great bodily injury.

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 may apply in some states where a stalker violates a protective order.

For more information, please contact NCSL Marketing/Book Order Dept. at 303-830-2200 for "Stalking Laws" State Legislative Report. Copies are free to legislatures, at-cost to others.

LEGISLATOR'S COPY -- If you have modifications, please contact the assigned staff immediately

Legislative Research Agency
Phone: 465-3991 Fax: 463-3351

WORK ORDER

No. 93.180

Short Title: Stalking Laws: Exemption for Constitutionally Protected Activities

Legislator: Senator Loren Leman Phone: 465-4522

Requested By: Portia Babcock Phone Memo

Date Requested: March 18, 1993

MAR 24 1993

Staff Assignment: Christine M. Cheff

Date Assigned: March 18, 1993

QUESTIONS ASKED/INFORMATION SOUGHT:

Per memorandum dated March 18, 1993.

PURPOSE:

REGARDING BILL NUMBER:

INFORMATION GATHERED/SOURCES CONTACTED:

COMPLETION DATE:

March 29, 1993



DEPARTMENT OF PUBLIC SAFETY
City of Fairbanks
656 7th Avenue
Fairbanks, Alaska 99701
(907) 459-6500



R. JOHN SHOVER, DIRECTOR

March 22, 1993

The Honorable Representative Toohey
Alaska State Legislature
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Toohey:

The Fairbanks Department of Public Safety, Police Bureau, supports the passage by the Senate of CSHB64 (FIN). The addition of an anti-stalking law in Alaska will be a tool that aids law enforcement in investigating and prosecuting criminals exhibiting this type of behavior.

Stalking is not a frequent crime, but it is a terrifying crime to the victim. I urge Senate support of this bill. Further, I add my thanks to you and your co-sponsors for the work on this bill.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. Pulice".

MICHAEL E. PULICE
Director

MEP:VRG:rlc

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

WALTER J. HICKEL, GOVERNOR

P.O. BOX 111200
JUNEAU, ALASKA 99811-1200
PHONE: (907) 465-4356

OFFICE ADDRESS: 450 WHITTIER ST.

February 25, 1993

FEB 26 1993

Senator Loren Leman, Chairman
Senate State Affairs Committee
State Capitol, Room 113
Juneau, AK 99801-1182

Dear Senator Leman:

Thank you for the opportunity to provide suggestions for changes to be incorporated into a Committee Substitute bill dealing with stalking.

As I mentioned, the Council would prefer that legislation define stalking as a separate crime rather than through definitions which amend the existing statute concerning terroristic threatening. Our concern is that when there would be a charge for a repeat offense, this should be considered in the judicial process. If a previous conviction is listed in the criminal justice information system under the terroristic threatening statute, it is not possible to distinguish stalking behavior from such activity as threatening an explosion in a public place.

The Council would also like to recommend two other changes:

- 1) An additional aggravating factor should be included that would make the crime a felony if the offender stalks the victim and is in possession of a deadly weapon. A similar change was added to the domestic violence restraining order provision two years ago in recognition of the lethal combination of this type of behavior.
- 2) The provision wherein a repeat offense within seven years raises the second offense to a Class C felony should be expanded to include any violent crime against a person. An offender may have repeated convictions for assault or sexual assault, and this past history of violence is a strong indicator of potential lethality.

Finally, the Council would support maintaining the current language in the legislation which covers threats of "physical injury" as opposed to the more strict legal definition of "serious physical injury". As was discussed at the Committee hearing on February 24, there are many situations in which a person can be significantly injured but which do not meet the legal definition of "serious physical injury". An example of physical injury which would not meet

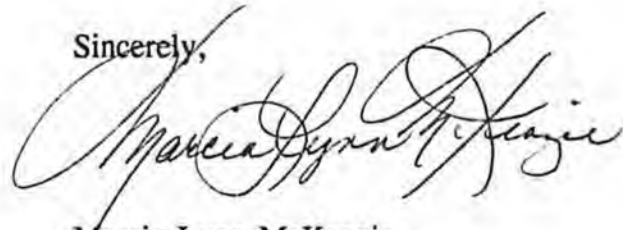
Senator Leman
February 25, 1993

Page 2

the strict legal standard of "serious" would be a non-fatal stab wound wherein the victim survives but is not permanently disfigured or loses a body part or function. To require the strict legal standard of "serious" physical injury would significantly weaken the legislation and deny its applicability in most stalking situations.

We appreciate the Committee's considerations of the Council's concern in this important legislation.

Sincerely,

A handwritten signature in cursive script, reading "Marcia Lynn McKenzie". The signature is written in dark ink and is positioned above the typed name.

Marcia Lynn McKenzie
Program Coordinator

cc: Council Legislative Committee members

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

419 6th Street, No. 116 • Juneau, Alaska 99801 • (907) 586-3650

Abused Women's Aid in Crisis (AWAIC); Advocates for Victims of Violence (AVV);
Aiding Women in Abuse and Rape Emergencies (AWARE);
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);
Bering Sea Women's Group (BSWG); Emmonak Women's Shelter;
Kodiak Women's Resource & Crisis Center (KWRC);
M̄nīl̄aq Regional Women's Crisis Program; Parent Aid Family Support Center;
Safe & Fear-Free Environment (SAFE); Seward Life Action Council (SLAC);
Sitkans Against Family Violence (SAFV); South Peninsula Women's Services (SPWS);
Standing Together Against Rape (STAR);
Tongass Community Counseling Center; Tundra Women's Coalition (TWC);
Unalaskans Against Sexual Assault & Family Violence (USAFV);
Valley Women's Resource Center (VWRC);
Women in Crisis Counseling & Assistance (WCCA);
Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

February 24, 1993

Honorable Loren Leman
Alaska Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Leman:

Per your request, the Network on Domestic Violence and Sexual Assault would like to make the following comments and suggestions for incorporation into a committee substitute bill on stalking.

1. The Network requests that the crime be called stalking, and has no problem with the conceptual language outlined by Legislative Counsel which was used in House Bill 64. This will allow law enforcement, when performing criminal background checks, to see quickly when there have been prior arrests or convictions for this specific crime.
2. The possession of a deadly weapon by the offender during a stalking offense should be listed as an additional felony aggravator to the crime in Section 1. This recognizes the higher level of danger of conduct, and will also allow a convicted offender to be monitored through probation.
3. Rather than citing only prior convictions for stalking as a felony aggravator in Section 1, any prior offense involving violence against persons, trespass or harassment should be cited, and should include similar crimes in other jurisdictions. A person with a history of violence is likely to be a much more dangerous person. Again, this also allows the offender to be monitored through probation.
4. Current language in Section 2 addressing physical injury should be retained, rather than imposing the higher standard of serious physical injury. As I noted in testimony, even very serious acts, such as rape, physical injury through weapons, choking, etc., are not covered under the standard of "serious physical injury" which requires substantial and/or protracted disfigurement or loss of function.

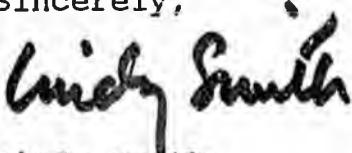
Senator Leman
Page Two

5. The Network supports the Department of Law's recommendation to list stalking as a separate offense under Section 3. This will allow probable cause arrests for cases that involve stalking by a stranger or other non-domestic violence cases.

6. Current language regarding prosecution standards is appropriate and sufficiently stringent to prevent prosecution of frivolous complaints. If this bill were to pass it is the police who will be making decisions as to whether to arrest and charge persons for such a crime. The bill requires that an offender recklessly (which involves a conscious decision) places a victim in fear by knowingly and repeatedly following or lying in wait for them. Police departments will not use this bill to make unnecessary arrests, and circumstances such as unintentional contact, or one-time contact (such as picketing) do not meet the elements of the crime.

Thanks for the opportunity to provide information on this important legislation.

Sincerely,

A handwritten signature in cursive script that reads "Cindy Smith".

Cindy Smith
Executive Director

c.c. Network programs

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(33) "offense" means conduct for which a sentence of imprisonment or fine is authorized; an offense is either a crime or a violation.

(34) "official detention" means custody, arrest, surrender in lieu of arrest, or confinement under an order of a court in a criminal or juvenile proceeding, other than an order of conditional bail release.

(35) "official proceeding" means a proceeding heard before a legislative, judicial, administrative, or other governmental body or official authorized to hear evidence under oath;

(36) "omission" means a failure to perform an act for which a duty of performance is imposed by law;

(37) "organization" means a legal entity, including a corporation, company, association, firm, partnership, joint stock company, foundation, institution, government, society, union, club, church, or any other group of persons organized for any purpose;

(38) "peace officer" means a public servant vested by law with a duty to maintain public order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders;

(39) "person" means a natural person and, when appropriate, an organization, government, or governmental instrumentality;

(40) "physical injury" means a physical pain or an impairment of physical condition;

(41) "police dog" means a dog used in police work under the control of a peace officer;

(42) "possess" means having physical possession or the exercise of dominion or control over property;

(43) "premises" means real property and any building;

(44) "propelled vehicle" means a device upon which or by which a person or property is or may be transported, and which is self-propelled, including automobiles, vessels, airplanes, motorcycles, snow machines, all-terrain vehicles, sailboats, and construction equipment;

(45) "property" means an article, substance, or thing of value, including money, tangible and intangible personal property including data or information stored in a computer program, system, or network, real property, a credit card, a domestic pet or livestock regardless of value, choses-in-action, and evidence of debt or of contract a commodity of a public utility such as gas, electricity, steam, or water constitutes property but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits, or other equipment is considered a rendition of a service rather than a sale or delivery of property;

(46) "public place" means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of sports

signed for actual residence;

(47) "public record" means a document, paper, book, letter, drawing, map, plat, photo, photographic file, motion picture, film, microfilm, microphotograph, exhibit, magnetic or paper tape, punched card or other document of any other material, regardless of physical form or characteristic, developed or received under law or in connection with the transaction of official business and preserved or appropriate for preservation by any agency, municipality, or any body subject to the open meeting provision of AS 44.62.310, as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the state or municipality or because of the informational value in it; it also includes staff manuals and instructions to staff that affect the public;

(48) "public servant" means each of the following, whether compensated or not, but does not include jurors or witnesses:

(A) an officer or employee of the state, a municipality or other political subdivision of the state, or a governmental instrumentality of the state, including legislators, members of the judiciary, and peace officers;

(B) a person who participates as an advisor, consultant, or assistant at the request or direction of the state, a municipality or other political subdivision of the state, or a governmental instrumentality;

(C) a person who serves as a member of the board or commission created by statute or by legislative, judicial, or administrative action by the state, a municipality or other political subdivision of the state, or a governmental instrumentality;

(D) a person nominated, elected, appointed, employed, or designated to act in a capacity defined in (A) — (C) of this paragraph, but who does not occupy the position;

(49) a "renunciation" is not "voluntary and complete" if it is substantially motivated, in whole or in part, by

(A) a belief that circumstances exist which increase the probability of detection or apprehension of the defendant or another participant in the criminal enterprise, or which render more difficult the accomplishment of the criminal purpose; or

(B) a decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar objective;

(50) "serious physical injury" means

(A) physical injury caused by an act performed under circumstances that create a substantial risk of death; or

(B) physical injury that causes serious and protracted disfigurement, protracted impairment of health, protracted loss or impairment of the function of a body member or organ, or that unlawfully terminates a pregnancy;

8-LS0283ND
Luckhaupt
4/5/93

SENATE CS FOR CS FOR HOUSE BILL NO. 64(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES TOOHEY, Phillips, Olberg, Ulmer, Hudson, Porter, B.Davis,
Mackie, Carney, Nordlund, Parnell, Sitton, Brown

SENATORS Leman, Ellis, Donley, Little, Salo

A BILL

FOR AN ACT ENTITLED

1 "An Act creating the crimes of stalking in the first and second degrees and
2 providing penalties for their violation; providing a peace officer with the authority
3 to arrest without a warrant a person the peace officer has reasonable cause to
4 believe has committed stalking; relating to the release before trial of a person
5 accused of stalking; prohibiting the suspension of imposition of sentence of a
6 person convicted of stalking; relating to the crime of assault in the third degree;
7 and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 11.41 is amended by adding new sections to article 2 to read:

10 Sec. 11.41.260. STALKING IN THE FIRST DEGREE. (a) A person commits
11 the crime of stalking in the first degree if the person violates AS 11.41.270 and

12 (1) the actions constituting the offense are in violation of an order
13 issued under AS 25.35.010(b) or 25.35.020;

1 (2) the actions constituting the offense are in violation of a condition
2 of probation, release before trial, release after conviction, or parole;

3 (3) the victim is under 16 years of age;

4 (4) at any time during the course of conduct constituting the offense
5 the defendant possessed a deadly weapon;

6 (5) the defendant has been previously convicted of a crime under this
7 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another
8 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or
9 AS 11.56.740; or

10 (6) the defendant has been previously convicted of (A) a crime, or an
11 attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 -
12 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of this or
13 another jurisdiction with elements similar to a crime, or an attempt or solicitation to
14 commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460,
15 AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

16 (b) In this section, "course of conduct" and "victim" have the meanings given
17 in AS 11.41.270(b).

18 (c) Stalking in the first degree is a class C felony.

19 Sec. 11.41.270. STALKING IN THE SECOND DEGREE. (a) A person
20 commits the crime of stalking in the second degree if the person knowingly engages
21 in a course of conduct that recklessly places another person in fear of death or physical
22 injury, or in fear of the death or physical injury of a family member.

23 (b) It is an affirmative defense to a prosecution under this section or
24 AS 11.41.260 that the course of conduct engaged in by the defendant is
25 constitutionally protected. If a defendant affirmatively shows that an act of the
26 defendant is a constitutionally protected activity, that act may not be considered in
27 finding that a defendant engaged in a course of conduct in violation of this section.

28 (c) In this section,

29 (1) "course of conduct" means repeated acts of nonconsensual contact
30 involving the victim or a family member;

31 (2) "family member" means a

1 (A) spouse, child, grandchild, parent, grandparent, sibling, uncle,
2 aunt, nephew, or niece, of the victim, whether related by blood, marriage, or
3 adoption;

4 (B) person who lives, or has previously lived, in a spousal
5 relationship with the victim;

6 (C) person who lives in the same household as the victim; or

7 (D) person who is a former spouse of the victim or is or has
8 been in a dating, courtship, or engagement relationship with the victim;

9 (3) "nonconsensual contact" means any contact with another person that
10 is initiated or continued without that person's consent, that is beyond the scope of the
11 consent provided by that person, or that is in disregard of that person's expressed
12 desire that the contact be avoided or discontinued; "nonconsensual contact" includes

13 (A) following or appearing within the sight of that person;

14 (B) approaching or confronting that person in a public place or
15 on private property;

16 (C) appearing at the workplace or residence of that person;

17 (D) entering onto or remaining on property owned, leased, or
18 occupied by that person;

19 (E) contacting that person by telephone;

20 (F) sending mail or electronic communications to that person;

21 (G) placing an object on, or delivering an object to, property
22 owned, leased, or occupied by that person;

23 (4) "victim" means a person who is the target of a course of conduct.

24 (d) Stalking in the second degree is a class A misdemeanor.

25 * Sec. 2. AS 11.41.220(a) is amended to read:

26 (a) A person commits the crime of assault in the third degree if that person

27 (1) recklessly

28 (A) [(1)] places another person in fear of imminent serious
29 physical injury by means of a dangerous instrument;

30 (B) [(2)] causes physical injury to another person by means of
31 a dangerous instrument; or

- 1 (C) [(5)] while being 18 years of age or older
 2 (i) [(A)] causes physical injury to a child under 10 years
 3 of age and the injury reasonably requires medical treatment;
 4 (ii) [(B)] causes physical injury to a child under 10 years
 5 of age on more than one occasion; or
 6 (2) with intent to place another person in fear of death or serious
 7 physical injury to the person or the person's family member makes repeated
 8 threats to cause death or serious physical injury to another person.

9 * Sec. 3. AS 11.41.220 is amended by adding a new subsection to read:

- 10 (c) In this section, "the person's family member" means
 11 (1) a spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt,
 12 nephew, or niece, of the person, whether related by blood, marriage, or adoption;
 13 (2) a person who lives or has lived, in a spousal relationship with the
 14 person;
 15 (3) a person who lives in the same household as the person; or
 16 (4) a person who is a former spouse of the person or is or has been in
 17 a dating, courtship, or engagement relationship with the person.

18 * Sec. 4. AS 11.56.810(a) is amended to read:

- 19 (a) A person commits the crime of terroristic threatening if the person
 20 [(1)] knowingly makes a false report that a circumstance dangerous to
 21 human life exists or is about to exist and
 22 (1) [(A)] places a person in fear of physical injury to any
 23 person;
 24 (2) [(B)] causes evacuation of a building; or
 25 (3) [(C)] causes serious public inconvenience [; OR
 26 (2) WITH INTENT TO PLACE ANOTHER PERSON IN FEAR OF
 27 DEATH OR SERIOUS PHYSICAL INJURY TO THE PERSON OR THE PERSON'S
 28 IMMEDIATE FAMILY, MAKES REPEATED THREATS TO CAUSE DEATH OR
 29 SERIOUS PHYSICAL INJURY TO ANOTHER PERSON].

30 * Sec. 5. AS 12.25.030(b) is amended to read:

- 31 (b) In addition to the authority granted under (a) of this section, a peace officer

1 without a warrant may arrest a person when the peace officer has reasonable cause for
2 believing that the person has committed a crime under

3 (1) AS 11.41.270 or AS 11.56.740; or

4 (2) AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an
5 ordinance with elements substantially similar to the elements of a crime under
6 AS 11.41, AS 11.46.330, or AS 11.61.120, when the victim is a spouse or former
7 spouse of the person who committed the crime; a parent, grandparent, child, or
8 grandchild of the person who committed the crime; a member of the social unit
9 comprised of those living together in the same dwelling as the person who committed
10 the crime; or another person who is not a spouse or former spouse of the person who
11 committed the crime but who previously lived in a spousal relationship with the person
12 who committed the crime or is in or has been in a dating, courtship, or engagement
13 relationship with the person who committed the crime.

14 * Sec. 6. AS 12.30.025 is amended to read:

15 Sec. 12.30.025. **RELEASE BEFORE TRIAL IN CASES INVOLVING**
16 **DOMESTIC VIOLENCE OR STALKING**. (a) In determining the conditions of
17 release under AS 12.30.020 in cases involving domestic violence or stalking, the court
18 shall consider the following conditions and impose one or more conditions it considers
19 reasonably necessary to protect the alleged victim of the domestic violence or
20 stalking, including ordering the defendant

21 (1) not to subject the victim to further domestic violence or stalking;

22 (2) to vacate the home of the victim;

23 (3) not to contact the victim other than through counsel;

24 (4) to engage in counseling; if the court directs the defendant to engage
25 in personal counseling, the court shall provide in the order that the counseling must
26 propose alternatives to aggression if that type of counseling is available; if the court
27 directs the defendant to participate in family counseling, it shall make a finding that
28 family counseling will not result in additional domestic violence or stalking;

29 (5) to refrain from the consumption of alcohol or the use of drugs.

30 (b) As used in this section,

31 (1) "domestic violence" means a crime specified in AS 11.41 when the

1 victim is a spouse or a former spouse of the defendant; a parent, grandparent, child,
2 or grandchild of the defendant; a member of the social unit comprised of those living
3 together in the same dwelling as the defendant; or a person who is not a spouse or
4 former spouse of the defendant but who previously lived in a spousal relationship with
5 the defendant or is in or has been in a dating, courtship, or engagement relationship
6 with the defendant;

7 (2) "stalking" means a violation of AS 11.41.260 or 11.41.270.

8 * Sec. 7. AS 12.55.085(f) is amended to read:

9 (f) The court may not suspend the imposition of sentence of a person who

10 (1) is convicted of a violation of AS 11.41.410 - 11.41.455;

11 (2) uses a firearm in the commission of the offense for which the
12 person is convicted; or

13 (3) is convicted of a violation of AS 11.41.210 - 11.41.270
14 [AS 11.41.210 - 11.41.250] or 11.41.510 - 11.41.530, and the person has, within the
15 10 years preceding the commission of the offense for which the person has been
16 convicted, one or more prior convictions for a violation of AS 11.41 or for a violation
17 of a law in this or another jurisdiction having substantially similar elements to an
18 offense defined in AS 11.41; for the purposes of this paragraph, a person shall be
19 considered to have a prior conviction even if that conviction has been set aside under
20 (e) of this section or under the equivalent provision of the laws of another jurisdiction.

21 * Sec. 8. APPLICABILITY. AS 11.41.260 and 11.41.270, enacted by sec. 1 of this Act,
22 apply to acts committed on or after the effective date of this Act. However, to the extent a
23 previous conviction is an element of the offense under AS 11.41.260, that previous conviction
24 may have occurred before, on, or after the effective date of this Act.

25 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

SENATE CS FOR CS FOR HOUSE BILL NO. 64(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/5/93
Referred: FINANCE

Sponsor(s): REPRESENTATIVES TOOHEY, Phillips, Olberg, Ulmer, Hudson, Porter, B.Davis, Mackie, Carney, Nordlund, Parnell, Sitton, Brown

SENATORS Leman, Ellis, Donley, Little, Salo, *Pearce*

A BILL

FOR AN ACT ENTITLED

1 "An Act creating the crimes of stalking in the first and second degrees and
2 providing penalties for their violation; providing a peace officer with the authority
3 to arrest without a warrant a person the peace officer has reasonable cause to
4 believe has committed stalking; relating to the release before trial of a person
5 accused of stalking; prohibiting the suspension of imposition of sentence of a
6 person convicted of stalking; relating to the crime of assault in the third degree;
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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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10 Sec. 11.41.260. STALKING IN THE FIRST DEGREE. (a) A person commits
11 the crime of stalking in the first degree if the person violates AS 11.41.270 and

12 (1) the actions constituting the offense are in violation of an order
13 issued under AS 25.35.010(b) or 25.35.020;

1 (2) the actions constituting the offense are in violation of a condition
2 of probation, release before trial, release after conviction, or parole;

3 (3) the victim is under 16 years of age;

4 (4) at any time during the course of conduct constituting the offense
5 the defendant possessed a deadly weapon;

6 (5) the defendant has been previously convicted of a crime under this
7 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another
8 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or
9 AS 11.56.740; or

10 (6) the defendant has been previously convicted of (A) a crime, or an
11 attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 -
12 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of this or
13 another jurisdiction with elements similar to a crime, or an attempt or solicitation to
14 commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460,
15 AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

16 (b) In this section, "course of conduct" and "victim" have the meanings given
17 in AS 11.41.270(b).

18 (c) Stalking in the first degree is a class C felony.

19 Sec. 11.41.270. STALKING IN THE SECOND DEGREE. (a) A person
20 commits the crime of stalking in the second degree if the person knowingly engages
21 in a course of conduct that recklessly places another person in fear of death or physical
22 injury, or in fear of the death or physical injury of a family member.

23 (b) It is an affirmative defense to a prosecution under this section or
24 AS 11.41.260 that the course of conduct engaged in by the defendant is
25 constitutionally protected. If a defendant affirmatively shows that an act of the
26 defendant is a constitutionally protected activity, that act may not be considered in
27 finding that a defendant engaged in a course of conduct in violation of this section.

28 (c) In this section,

29 (1) "course of conduct" means repeated acts of nonconsensual contact
30 involving the victim or a family member;

31 (2) "family member" means a

1 (A) spouse, child, grandchild, parent, grandparent, sibling, uncle,
2 aunt, nephew, or niece, of the victim, whether related by blood, marriage, or
3 adoption;

4 (E) person who lives, or has previously lived, in a spousal
5 relationship with the victim;

6 (C) person who lives in the same household as the victim; or

7 (D) person who is a former spouse of the victim or is or has
8 been in a dating, courtship, or engagement relationship with the victim;

9 (3) "nonconsensual contact" means any contact with another person that
10 is initiated or continued without that person's consent, that is beyond the scope of the
11 consent provided by that person, or that is in disregard of that person's expressed
12 desire that the contact be avoided or discontinued; "nonconsensual contact" includes

13 (A) following or appearing within the sight of that person;

14 (B) approaching or confronting that person in a public place or
15 on private property;

16 (C) appearing at the workplace or residence of that person;

17 (D) entering onto or remaining on property owned, leased, or
18 occupied by that person;

19 (E) contacting that person by telephone;

20 (F) sending mail or electronic communications to that person;

21 (G) placing an object on, or delivering an object to, property
22 owned, leased, or occupied by that person;

23 (4) "victim" means a person who is the target of a course of conduct.

24 (d) Stalking in the second degree is a class A misdemeanor.

25 * Sec. 2. AS 11.41.220(a) is amended to read:

26 (a) A person commits the crime of assault in the third degree if that person

27 (1) recklessly

28 (A) [(1)] places another person in fear of imminent serious
29 physical injury by means of a dangerous instrument;

30 (B) [(2)] causes physical injury to another person by means of
31 a dangerous instrument; or

1 (C) [(3)] while being 18 years of age or older

2 (i) [(A)] causes physical injury to a child under 10 years
3 of age and the injury reasonably requires medical treatment;

4 (ii) [(B)] causes physical injury to a child under 10 years
5 of age on more than one occasion; or

6 (2) with intent to place another person in fear of death or serious
7 physical injury to the person or the person's family member makes repeated
8 threats to cause death or serious physical injury to another person.

9 * Sec. 3. AS 11.41.220 is amended by adding a new subsection to read:

10 (c) In this section, "the person's family member" means

11 (1) a spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt,
12 nephew, or niece, of the person, whether related by blood, marriage, or adoption;

13 (2) a person who lives or has lived, in a spousal relationship with the
14 person;

15 (3) a person who lives in the same household as the person; or

16 (4) a person who is a former spouse of the person or is or has been in
17 a dating, courtship, or engagement relationship with the person.

18 * Sec. 4. AS 11.56.810(a) is amended to read:

19 (a) A person commits the crime of terroristic threatening if the person

20 [(1)] knowingly makes a false report that a circumstance dangerous to
21 human life exists or is about to exist and

22 (1) [(A)] places a person in fear of physical injury to any
23 person;

24 (2) [(B)] causes evacuation of a building; or

25 (3) [(C)] causes serious public inconvenience [; OR

26 (2) WITH INTENT TO PLACE ANOTHER PERSON IN FEAR OF
27 DEATH OR SERIOUS PHYSICAL INJURY TO THE PERSON OR THE PERSON'S
28 IMMEDIATE FAMILY, MAKES REPEATED THREATS TO CAUSE DEATH OR
29 SERIOUS PHYSICAL INJURY TO ANOTHER PERSON].

30 * Sec. 5. AS 12.25.030(b) is amended to read:

31 (b) In addition to the authority granted under (a) of this section, a peace officer

1 without a warrant may arrest a person when the peace officer has reasonable cause for
2 believing that the person has committed a crime under

3 (1) AS 11.41.270 or AS 11.56.740; or

4 (2) AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an
5 ordinance with elements substantially similar to the elements of a crime under
6 AS 11.41, AS 11.46.330, or AS 11.61.120, when the victim is a spouse or former
7 spouse of the person who committed the crime; a parent, grandparent, child, or
8 grandchild of the person who committed the crime; a member of the social unit
9 comprised of those living together in the same dwelling as the person who committed
10 the crime; or another person who is not a spouse or former spouse of the person who
11 committed the crime but who previously lived in a spousal relationship with the person
12 who committed the crime or is in or has been in a dating, courtship, or engagement
13 relationship with the person who committed the crime.

14 * Sec. 6. AS 12.30.025 is amended to read:

15 Sec. 12.30.025. RELEASE BEFORE TRIAL IN CASES INVOLVING
16 DOMESTIC VIOLENCE OR STALKING. (a) In determining the conditions of
17 release under AS 12.30.020 in cases involving domestic violence or stalking, the court
18 shall consider the following conditions and impose one or more conditions it considers
19 reasonably necessary to protect the alleged victim of the domestic violence or
20 stalking, including ordering the defendant

21 (1) not to subject the victim to further domestic violence or stalking;

22 (2) to vacate the home of the victim;

23 (3) not to contact the victim other than through counsel;

24 (4) to engage in counseling; if the court directs the defendant to engage
25 in personal counseling, the court shall provide in the order that the counseling must
26 propose alternatives to aggression if that type of counseling is available; if the court
27 directs the defendant to participate in family counseling, it shall make a finding that
28 family counseling will not result in additional domestic violence or stalking;

29 (5) to refrain from the consumption of alcohol or the use of drugs.

30 (b) As used in this section,

31 (1) "domestic violence" means a crime specified in AS 11.41 when the

1 victim; is a spouse or a former spouse of the defendant; a parent, grandparent, child,
2 or grandchild of the defendant; a member of the social unit comprised of those living
3 together in the same dwelling as the defendant; or a person who is not a spouse or
4 former spouse of the defendant but who previously lived in a spousal relationship with
5 the defendant or is in or has been in a dating, courtship, or engagement relationship
6 with the defendant;

7 (2) "stalking" means a violation of AS 11.41.260 or 11.41.270.

8 * Sec. 7. AS 12.55.085(f) is amended to read:

9 (f) The court may not suspend the imposition of sentence of a person who

10 (1) is convicted of a violation of AS 11.41.410 - 11.41.455;

11 (2) uses a firearm in the commission of the offense for which the
12 person is convicted; or

13 (3) is convicted of a violation of AS 11.41.210 - 11.41.270
14 [AS 11.41.210 - 11.41.250] or 11.41.510 - 11.41.530, and the person has, within the
15 10 years preceding the commission of the offense for which the person has been
16 convicted, one or more prior convictions for a violation of AS 11.41 or for a violation
17 of a law in this or another jurisdiction having substantially similar elements to an
18 offense defined in AS 11.41; for the purposes of this paragraph, a person shall be
19 considered to have a prior conviction even if that conviction has been set aside under
20 (e) of this section or under the equivalent provision of the laws of another jurisdiction.

21 * Sec. 8. APPLICABILITY. AS 11.41.260 and 11.41.270, enacted by sec. 1 of this Act,
22 apply to acts committed on or after the effective date of this Act. However, to the extent a
23 previous conviction is an element of the offense under AS 11.41.260, that previous conviction
24 may have occurred before, on, or after the effective date of this Act.

25 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

Sen. Robin Taylor, *Chair*
Sen. Rick Halford, *Vice Chair*
Sen. George Jacko, *Member*
Sen. Dave Donley, *Member*
Sen. Suzanne Little, *Member*



State Capitol
Juneau, AK 99801-1182
.....
907 465-3717
Fax: 907 465-3922

Senate Judiciary Committee

Letter of Intent

(attached to)

CS HB 64(FIN)

It is the intent of the legislature that, in prosecutions for the offense of stalking in the first degree in violation of AS 11.41.260 or stalking in the second degree in violation of AS 11.41.270, the State of Alaska must prove beyond a reasonable doubt that the victim was placed in actual fear of death or physical injury by the defendant's course of conduct. This gives the same meaning to the phrase "recklessly places another person in fear" as is given to that phrase in the offense of assault in the third degree in violation of AS 11.41.220(a)(1) ("recklessly places another person in fear of imminent serious physical injury by means of a dangerous instrument"). This is also consistent with the decision of the Alaska Court of Appeals in *DeHart v. State*, 781 P.2d 989 (Alaska Ct. App. 1989).

the threat of physical abuse by the child's mother, the conviction for an offense different than the one charged was a fatal variance, and required reversal. *Michael v. State*, 805 P.2d 371 (Alaska 1991).

Sentence upheld.

See *Brogdon v. State*, 781 P.2d 1370 (Alaska Ct. App. 1989).

Imposition of an aggravated presumptive term of ten years for nonalcohol-related vehicular manslaughter and a con-

secutive suspended four-year sentence for assault in the second degree was not clearly mistaken, where defendant's callousness and irresponsibility were evidenced by his conduct in eluding police officers, racing down a highway, and running red lights before colliding with another vehicle. *Barney v. State*, 786 P.2d 925 (Alaska Ct. App. 1990).

Cited in *Erickson v. State*, 824 P.2d 725 (Alaska Ct. App. 1992).

Sec. 11.41.220. Assault in the third degree. (a) A person commits the crime of assault in the third degree if that person recklessly

(1) places another person in fear of imminent serious physical injury by means of a dangerous instrument;

(2) causes physical injury to another person by means of a dangerous instrument; or

(3) while being 18 years of age or older

(A) causes physical injury to a child under 10 years of age and the injury reasonably requires medical treatment;

(B) causes physical injury to a child under 10 years of age on more than one occasion.

(b) Assault in the third degree is a class C felony. (§ 5 ch 102 SLA 1980; am § 4 ch 143 SLA 1982; am § 4 ch 79 SLA 1992)

Effect of amendments. — The 1992 amendment, effective September 14, 1992,

added paragraph (a)(3) and made related stylistic changes.

NOTES TO DECISIONS

Charge as to fear of injury. — Trial court properly refused to give a proposed instruction requiring the jury to find that the victim's fear of injury was reasonable, where defendant was charged as a result of an incident in which he threatened a police officer with a chain saw, and, since the officer was not actually injured, the issue before the jury was whether he was placed in fear of serious physical injury. *Wyatt v. State*, 778 P.2d 1169 (Alaska Ct. App. 1989).

Trial court properly denied an instruction requiring the jury to find that the victims' fear of injury was reasonable, where the victims, who were state troopers, testified that defendant's actions in drawing a pistol and cocking it had placed them in fear of being shot and that this was their reason for disarming and arresting him. *DeHart v. State*, 781 P.2d 989 (Alaska Ct. App. 1989).

Sufficient evidence for conviction. — Evidence was sufficient to allow rea-

sonable jurors to conclude that a correctional officer had been placed in imminent fear of being shot by defendant, where the two men were engaged in a physical struggle over the officer's gun and the officer believed that defendant was about to succeed in his efforts to gain control of the weapon. *Perotti v. State*, 818 P.2d 700 (Alaska Ct. App. 1991).

Sentence upheld. — See *Perotti v. State*, 818 P.2d 700 (Alaska Ct. App. 1991).

A total term of twenty-five years with ten years suspended was not excessive where sentence represented conviction of one class A felony (convictions of alternative counts of attempted kidnapping were merged into a single count), three class C felonies (third-degree assault), and two class A misdemeanors (reckless endangerment); this was so under the circumstances of this case, even though defendant was a first offender. *Ramsey v. State*,

Leave in file - attached to Letter of Intent

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 5
 Bill Version: CSHB 64 (FTN)
 (H) Publish Date: _____

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. Toohey, 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/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: Brant McVey, 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

4

Bill Version: CSHB 64 (FIN)

(H) Publish Date: 3/12/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act creating the crimes of stalking in the first BRU: Public Defender
and second" 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
 Division: Public Defender Agency

Phone: 279-7541
 Date: _____

Approved by Commissioner: Nancy Bear Usery
 Agency: Department of Administration

Date: 3/8/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill Version: CSHB 64 (JUD)
(H) Publish Date: 3/1/93

Revision: 2/18/93 Dept. Affected: Public Safety
 Title: "An Act creating the crimes of stalking in the first and second degree." BRU: Alaska State Troopers
 Sponsor: Representative Toohy Component: Detachments
 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: 769-5291
 Division: Alaska State Troopers Date: 2/12/93
 Approved by Commissioner: *Richard L. Burton* Date: 2/19/93
 Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

1
Version: CSHB 64 (JUD)
(H) Publish Date: 3/1/93

Revision Date: February 18, 1993
Title: "An Act creating the crimes of stalking in the first and second degrees..."
Sponsor: Representative Toohy
Requestor: Representative Toohy

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						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

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.

Prepared by: Richard I. Peques, Director Phone: 465-3672
Division: Administrative Services Division Date: February 18, 1993
Approved by Commissioner: Charles E. Coie, Attorney General
Agency: Department of Law Date: February 18, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

CSHB 64(Jud) -
NO. 1
Pg 2 of 2

ANALYSIS (Continued):

The work draft version of CSHB 64, dated 2/16/93, 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.

FISCAL NOTE

No. 6

Bill Version: CSHD 64 (FIN)

(H) Publish Date: 3/12/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: 3-8-93

Dept. Affected: Corrections

Title: "An Act creating crime of
stalking."

BRU: Community Corrections

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						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

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) impact: \$ -0-

ANALYSIS: (Attach a 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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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 64 (FIN)

ANALYSIS (Continued):

The House Finance Committee substitute for HB 64 drops the provision in the earlier version of the bill, that would have doubled the period of probation that a court could sentence a convicted felon, that we commented on in our fiscal note of March 5, 1993. This change will avoid the possibility of increasing the probation caseload, and avoid causing a fiscal impact for the Department of Corrections. Otherwise, there are no other changes in the bill, and there should not be a fiscal impact for the Department of Law.

Stalker laws

Give us something more we can do

These are words we don't want to hear anymore:

"She did everything right."

"She did all she could do."

"She used every legal means she could to protect herself. But it wasn't enough."

Alaskans said those words to each other in the spring of 1988 when William O'Shea went to Renee Vega's office, shot and killed her.

Ms. Vega knew she was in danger from her ex-boyfriend. She'd gotten a restraining order, a piece of paper telling him to stay away. She'd even asked a male friend to hang around, be a bodyguard.

It wasn't enough.

Last spring Conn Wayne Duncan ignored the

restraining order his ex-girlfriend had taken out against him. He went to her house and hit her. He threatened her with a gun. When she hid with friends, he tracked her there.

Anti-stalking laws cover gaps that restraining orders don't fill . . . If the stalker violates a restraining order, he can be charged with a felony and subject not only to stiffer sentences than a misdemeanor but to probation on release.

She was one of the lucky ones — if you can call this experience lucky. She was not hurt. Conn Duncan ended up dying outside her hideaway in a fiery explosion from a bomb in his truck.

Robert Fletcher Jr. had stalked his ex-wife for more than six months when he caught up with her for the last time Tuesday morning

at the University of Alaska Anchorage. Ann Fletcher had taken out a restraining order. It wasn't enough.

Today Ann Fletcher is in the hospital, shot in the face by her ex-husband before he turned the gun on himself.

Here are the statistics behind these real people:

Domestic violence causes more harm to American women than car accidents, rapes and muggings combined. An estimated 8 million women a year are beaten by the men they live with. Thirty percent of female homicide victims die at the hands of their partners or ex-partners. More die when trying to leave a relationship than at any other time.

Tougher laws alone won't prevent this onslaught of violence. What is needed is a societywide change in attitude, about violence against women, about anger, about self-respect. But that change is a long way off, if it ever comes, and until then we need the toughest laws we can pass.

Restraining orders work most of the time; those are the times we don't hear about. But for the times they don't work, we need something more.

Anti-stalking laws cover gaps that restraining orders don't fill. A person can be arrested for threatening or intimidating another, even if no violence has yet taken place. If the stalker violates a restraining order, he can be charged with a felony and subject not only to stiffer sentences than a misdemeanor but to probation on release.

Some 30 states have passed anti-stalking laws in the past three years. The laws are an answer to a question too many women feel forced to ask of police officers and judges: "Do I have to be killed first before you can do anything?"

The Alaska House unanimously passed a law last month making it a crime to stalk someone. The Senate should waste no time doing the same.

*Editorial
ADN 4-8-93*

ADN 4-8-93

PETERSEN: Sentenced

Continued from Page B-1

for her in a parking lot near her house. Petersen gunned the accelerator and drove toward her car, forcing her to swerve out of the way to avoid being rammed.

Petersen's lawyer, Sue Ellen Tatter, said the police officer who wrote the complaint was overly dramatic. She said her client is not a stalker but a gentle, nonviolent man.

"He fell in love and he pestered," Tatter said. "He thought she was interested in him. At a certain point he should have realized it wasn't true, but he didn't.... He lost some judgment."

She said Petersen became depressed after his wife died of cancer. He is now being treated by a psychiatrist and understands why the massage therapist reacted as she did, Tatter said.

Tuesday, a woman who

had complained to authorities that her ex-husband had been stalking her was shot in the eye by the man, who then turned the gun on himself.

Municipal Prosecutor Jim Wolf said the Petersen case is one more example of why Alaska needs an anti-stalking law of the sort that is now making its way through the legislature.

Without such laws, he said, stalkers can keep their victims virtual hostages without crossing the line that would bring them assault or harassment charges.

Petersen's sentence includes five years of probation and a requirement that he continue psychiatric treatment, have no contact with the victim and not go within one block of her house or her work places.

"This is really something I regret. I wish I could take it all back," Petersen told the judge.



JIM LAVINAKAS / Anchorage Daily News

Gary Petersen apologizes to the judge during his sentencing Wednesday. His attorney, Sue Ellen Tatter, stands at his side.

Antagonist cops plea

Alleged stalker gets 15 days for scaring woman with car

By LIZ RUSKIN
Daily News reporter

A federal worker who police say obsessively stalked an Eagle River woman for more than a year was sentenced in District Court on Wednesday to 15 days in jail for frightening her with his automobile.

Gary Woodrow Petersen, a 56-year-old employee of the Federal Aviation Administration, pleaded no contest to misdemeanor assault as part of a plea agreement with municipal prosecutors.

"All I wanted to do is just talk to her," Petersen told Judge John Lohff.

Police say the woman — who was not named in court — first met Petersen about three years ago when he went to the chiropractic clinic where she works as a massage therapist. She and her husband befriended him and she continued to treat him at the clinic.

Eventually, though, Petersen started following her. He told her in October 1991 that he was obsessed with her because she reminded him of his deceased wife, according to a complaint filed against him in January.

The police and the clinic's law firm told him to leave her alone, but he didn't. He would wait for her at work and watch her house at

The police and the clinic's law firm told him to leave her alone, but he didn't. He would wait for her at work and watch her house at night, police say.

night, police say.

In January 1992, he parked his car in the driveway of her home around 1 a.m., ignoring a restraining order that she had obtained to keep him away. Her husband approached Petersen with a gun and fired two warning shots. Petersen left and was cited for trespassing, but the woman's husband was cited for weapons misconduct.

The assault charge that was the subject of Wednesday's sentencing stems from a Jan. 6, 1993, incident in which she spotted him watching her when she left work one night. According to municipal prosecutors, he followed her and she sped away, only to find his car waiting

Please see Page B-3, PETERSEN

8-LS0200NK
Luckhaupt
3/11/93

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 11(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): **SENATORS KERTTULA, Duncan**

A BILL

FOR AN ACT ENTITLED

1 "An Act creating the crimes of stalking in the first and second degrees and
2 providing penalties for their violation; providing a peace officer with the authority
3 to arrest without a warrant a person the peace officer has reasonable cause to
4 believe has committed stalking; relating to the release before trial of a person
5 accused of stalking; prohibiting the suspension of imposition of sentence of a
6 person convicted of stalking; relating to the crime of assault in the third degree;
7 and providing for an effective date."

8 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

9 * Section 1. AS 11.41 is amended by adding new sections to article 2 to read:

10 Sec. 11.41.260. STALKING IN THE FIRST DEGREE. (a) A person commits
11 the crime of stalking in the first degree if the person violates AS 11.41.270 and

12 (1) the actions constituting the offense are in violation of an order
13 issued under AS 25.35.010(b) or 25.35.020;

1 (2) the actions constituting the offense are in violation of a condition
2 of probation, release before trial, release after conviction, or parole;

3 (3) the victim is under 16 years of age;

4 (4) at any time during the course of conduct constituting the offense
5 the defendant possessed a deadly weapon;

6 (5) the defendant has been previously convicted of a crime under this
7 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another
8 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or
9 AS 11.56.740; or

10 (6) the defendant has been previously convicted of (A) a crime, or an
11 attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 -
12 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of this or
13 another jurisdiction with elements similar to a crime, or an attempt or solicitation to
14 commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460,
15 AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

16 (b) In this section, "course of conduct" and "victim" have the meanings given
17 in AS 11.41.270(c).

18 (c) Stalking in the first degree is a class C felony.

19 Sec. 11.41.270. STALKING IN THE SECOND DEGREE. (a) A person
20 commits the crime of stalking in the second degree if the person knowingly engages
21 in a course of conduct that recklessly places another person in fear of death or physical
22 injury, or in fear of the death or physical injury of a family member.

23 (b) It is an affirmative defense to a prosecution under this section or
24 AS 11.41.260 that the course of conduct engaged in by the defendant is
25 constitutionally protected. If a defendant affirmatively shows that an act of the
26 defendant is a constitutionally protected activity, that act may not be considered in
27 finding that a defendant engaged in a course of conduct in violation of this section.

28 (c) In this section,

29 (1) "course of conduct" means repeated acts of nonconsensual contact
30 involving the victim or a family member;

31 (2) "family member" means a

1 (A) spouse, child, grandchild, parent, grandparent, sibling, uncle,
2 aunt, nephew, or niece, of the victim, whether related by blood, marriage, or
3 adoption;

4 (B) person who lives, or has previously lived, in a spousal
5 relationship with the victim;

6 (C) person who lives in the same household as the victim; or

7 (D) person who is a former spouse of the victim or is in a
8 dating, courtship, or engagement relationship with the victim;

9 (3) "nonconsensual contact" means any contact with another person that
10 is initiated or continued without that person's consent, that is beyond the scope of the
11 consent provided by that person, or that is in disregard of that person's expressed
12 desire that the contact be avoided or discontinued; "nonconsensual contact" includes

13 (A) following or appearing within the sight of that person;

14 (B) approaching or confronting that person in a public place or
15 on private property;

16 (C) appearing at the workplace or residence of that person;

17 (D) entering onto or remaining on property owned, leased, or
18 occupied by that person;

19 (E) contacting that person by telephone;

20 (F) sending mail or electronic communications to that person;

21 (G) placing an object on, or delivering an object to, property
22 owned, leased, or occupied by that person;

23 (4) "victim" means a person who is the target of a course of conduct.

24 (d) Stalking in the second degree is a class A misdemeanor.

25 * Sec. 2. AS 11.41.220(a) is amended to read:

26 (a) A person commits the crime of assault in the third degree if that person

27 (1) recklessly

28 (A) [(1)] places another person in fear of imminent serious
29 physical injury by means of a dangerous instrument;

30 (B) [(2)] causes physical injury to another person by means of
31 a dangerous instrument; or

1 (C) [(3)] while being 18 years of age or older

2 (i) [(A)] causes physical injury to a child under 10 years
3 of age and the injury reasonably requires medical treatment;

4 (ii) [(B)] causes physical injury to a child under 10 years
5 of age on more than one occasion; or

6 (2) with intent to place another person in fear of death or serious
7 physical injury to the person or the person's family member makes repeated
8 threats to cause death or serious physical injury to another person.

9 * Sec. 3. AS 11.41.220 is amended by adding a new subsection to read:

10 (c) In this section, "the person's family member" means

11 (1) a spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt,
12 nephew, or niece, of the person, whether related by blood, marriage, or adoption;

13 (2) a person who lives or has lived, in a spousal relationship with the
14 person;

15 (3) a person who lives in the same household as the person; or

16 (4) a person who is a former spouse of the person or is in a dating,
17 courtship, or engagement relationship with the person.

18 * Sec. 4. AS 11.56.810(a) is amended to read:

19 (a) A person commits the crime of terroristic threatening if the person

20 [(1)] knowingly makes a false report that a circumstance dangerous to
21 human life exists or is about to exist and

22 (1) [(A)] places a person in fear of physical injury to any
23 person;

24 (2) [(B)] causes evacuation of a building; or

25 (3) [(C)] causes serious public inconvenience [; OR

26 (2) WITH INTENT TO PLACE ANOTHER PERSON IN FEAR OF
27 DEATH OR SERIOUS PHYSICAL INJURY TO THE PERSON OR THE PERSON'S
28 IMMEDIATE FAMILY, M.A.K.E.S REPEATED THREATS TO CAUSE DEATH OR
29 SERIOUS PHYSICAL INJURY TO ANOTHER PERSON].

30 * Sec. 5. AS 12.25.030(b) is amended to read:

31 (b) In addition to the authority granted under (a) of this section, a peace officer

1 without a warrant may arrest a person when the peace officer has reasonable cause for
2 believing that the person has committed a crime under

3 (1) AS 11.41.270 or AS 11.56.740; or

4 (2) AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an
5 ordinance with elements substantially similar to the elements of a crime under
6 AS 11.41, AS 11.46.330, or AS 11.61.120, when the victim is a spouse or former
7 spouse of the person who committed the crime; a parent, grandparent, child, or
8 grandchild of the person who committed the crime; a member of the social unit
9 comprised of those living together in the same dwelling as the person who committed
10 the crime; or another person who is not a spouse or former spouse of the person who
11 committed the crime but who previously lived in a spousal relationship with the person
12 who committed the crime or is in or has been in a dating, courtship, or engagement
13 relationship with the person who committed the crime.

14 * Sec. 6. AS 12.30.025 is amended to read:

15 Sec. 12.30.025. RELEASE BEFORE TRIAL IN CASES INVOLVING
16 DOMESTIC VIOLENCE OR STALKING. (a) In determining the conditions of
17 release under AS 12.30.020 in cases involving domestic violence or stalking, the court
18 shall consider the following conditions and impose one or more conditions it considers
19 reasonably necessary to protect the alleged victim of the domestic violence or
20 stalking, including ordering the defendant

21 (1) not to subject the victim to further domestic violence or stalking;

22 (2) to vacate the home of the victim;

23 (3) not to contact the victim other than through counsel;

24 (4) to engage in counseling; if the court directs the defendant to engage
25 in personal counseling, the court shall provide in the order that the counseling must
26 propose alternatives to aggression if that type of counseling is available; if the court
27 directs the defendant to participate in family counseling, it shall make a finding that
28 family counseling will not result in additional domestic violence or stalking;

29 (5) to refrain from the consumption of alcohol or the use of drugs.

30 (b) As used in this section,

31 (1) "domestic violence" means a crime specified in AS 11.41 when the

1 victim is a spouse or a former spouse of the defendant; a parent, grandparent, child,
2 or grandchild of the defendant; a member of the social unit comprised of those living
3 together in the same dwelling as the defendant; or a person who is not a spouse or
4 former spouse of the defendant but who previously lived in a spousal relationship with
5 the defendant or is in or has been in a dating, courtship, or engagement relationship
6 with the defendant;

7 (2) "stalking" means a violation of AS 11.41.260 or 11.41.270.

8 * Sec. 7. AS 12.55.085(f) is amended to read:

9 (f) The court may not suspend the imposition of sentence of a person who

10 (1) is convicted of a violation of AS 11.41.410 - 11.41.455;

11 (2) uses a firearm in the commission of the offense for which the
12 person is convicted; or

13 (3) is convicted of a violation of AS 11.41.210 - 11.41.270
14 [AS 11.41.210 - 11.41.250] or 11.41.510 - 11.41.530, and the person has, within the
15 10 years preceding the commission of the offense for which the person has been
16 convicted, one or more prior convictions for a violation of AS 11.41 or for a violation
17 of a law in this or another jurisdiction having substantially similar elements to an
18 offense defined in AS 11.41; for the purposes of this paragraph, a person shall be
19 considered to have a prior conviction even if that conviction has been set aside under
20 (e) of this section or under the equivalent provision of the laws of another jurisdiction.

21 * Sec. 8. APPLICABILITY. AS 11.41.260 and 11.41.270, enacted by sec. 1 of this Act,
22 apply to acts committed on or after the effective date of this Act. However, to the extent a
23 previous conviction is an element of the offense under AS 11.41.260, that previous conviction
24 may have occurred before, on, or after the effective date of this Act.

25 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

Act No. 262
Public Acts of 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Senators Geake, Bouchard, Cisky, Dingell, Conroy, DeGrow, Kelly, Schwarz and Ehlers

ENROLLED SENATE BILL No. 1095

AN ACT to amend Act No. 236 of the Public Acts of 1961, entitled as amended "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act," as amended, being sections 600.101 to 600.9947 of the Michigan Compiled Laws, by adding sections 2950a and 2954.

The People of the State of Michigan enact:

Section 1. Act No. 236 of the Public Acts of 1961, as amended, being sections 600.101 to 600.9947 of the Michigan Compiled Laws, is amended by adding sections 2950a and 2954 to read as follows:

Sec. 2950a. (1) An individual may, by commencing an independent action to obtain relief under this section, or by joining a claim to an existing action, petition the circuit court to restrain or enjoin an individual from engaging in conduct that is prohibited under section 411h or 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.411h and 750.411i of the Michigan Compiled Laws. Relief may be sought and granted under this section whether or not the individual to be restrained or enjoined has been charged or convicted under section 411h or 411i of Act No. 328 of the Public Acts of 1931 for the alleged violation.

(2) An order issued under subsection (1) shall include all of the following:

(a) A statement that the order has been entered pursuant to this section to enjoin or restrain conduct prohibited under section 411h or 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.411h and 750.411i of the Michigan Compiled Laws.

(b) A statement listing the type or types of conduct restrained or enjoined.

(c) A statement of the period of time for which the order is valid.

(d) A statement that violation of the order will subject the individual restrained or enjoined to immediate arrest and the civil and criminal contempt powers of the court, and that if he or she is found guilty of criminal contempt, he or she shall be imprisoned for not more than 90 days and may be fined not more than \$500.00.

(3) An order issued under subsection (1) shall be personally served on the individual to be restrained, and proof of service shall be filed with the clerk of the court. Upon filing of the proof of service, the clerk of the court shall file true copies of the order and the proof of service with the law enforcement agency having jurisdiction of the area in which the petitioner resides. Upon receipt of the true copies of the order and the proof of service, the law enforcement agency shall enter the order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, Act No. 163 of the Public Acts of 1974, being sections 28.211 to 28.216 of the Michigan Compiled Laws.

(4) An individual who violates an order issued under subsection (1) after having been served with a copy of the order under subsection (3) is subject to the civil and criminal contempt powers of the court and, if found guilty of criminal contempt, shall be imprisoned for not more than 90 days and may be fined not more than \$500.00.

(5) An order issued under subsection (1) that complies with section 15b of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 764.15b of the Michigan Compiled Laws, is enforceable under that section.

(6) An order issued under subsection (1) is also enforceable under chapter 17 of this act.

Sec. 2954. (1) A victim may maintain a civil action against an individual who engages in conduct that is prohibited under section 411h or 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.411h and 750.411i of the Michigan Compiled Laws, for damages incurred by the victim as a result of that conduct. A victim may also seek and be awarded exemplary damages, costs of the action, and reasonable attorney fees in an action brought under this section.

(2) A civil action may be maintained under subsection (1) whether or not the individual who is alleged to have engaged in conduct prohibited under section 411h or 411i of Act No. 328 of the Public Acts of 1931 has been charged or convicted under section 411h or 411i of Act No. 328 of the Public Acts of 1931 for the alleged violation.

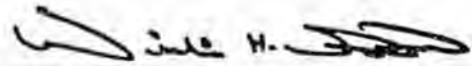
(3) As used in this section, "victim" means that term as defined in section 411h of Act No. 328 of the Public Acts of 1931.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 86th Legislature are enacted into law:

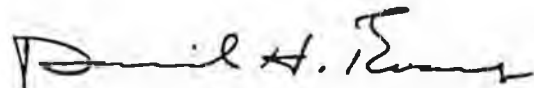
- (a) Senate Bill No. 719.
- (b) House Bill No. 5472.
- (c) House Bill No. 6038.

Section 3. This amendatory act shall take effect January 1, 1993.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved.....

.....
Governor.



Act No. 251
Public Acts of 1992
Approved by the Governor
November 19, 1992
Filed with the Secretary of State
November 19, 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Byrum, Scott, Yokich, Porreca, Bartnik, Baade, Dobronski, Gire, Varga, Brown, Pitoniak, Walberg, Perry Bullard, Middleton, Dolan, Bennane, Smagars, Goss, Bankes, Dobb, Hertel, Profit and DeMars
Reps. Allen, Alley, Anthony, Bandstra, Barns, Bender, Bennett, Berman, Bobier, Bodem, Brackenridge, Willis Bullard, Clack, DeBeaussaert, Dresch, Fitzgerald, Gagliardi, Gernaat, Gilmer, Gnodtke, Gubow, Harder, Harrison, Hoekman, Hoffman, Hollister, Horton, Jamian, Jaye, Johnson, Keith, Kilpatrick, Knight, London, McBryde, Middaugh, Munsell, Murphy, Muxlow, Niederstadt, Olshove, Ostling, Palamara, Power, Randall, Robertson, Rocca, Strand, Van Singel, Wallace, Weeks and Joe Young, Jr. named co-sponsors

ENROLLED HOUSE BILL No. 6038

AN ACT to amend section 15b of chapter IV and section 2 of chapter XI of Act No. 175 of the Public Acts of 1927, entitled as amended "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," section 15b of chapter IV as amended by Act No. 230 of the Public Acts of 1983 and section 2 of chapter XI as amended by Act No. 78 of the Public Acts of 1988, being sections 764.15b and 771.2 of the Michigan Compiled Laws; and to add section 2a to chapter XI.

The People of the State of Michigan enact:

Section 1. Section 15b of chapter IV and section 2 of chapter XI of Act No. 175 of the Public Acts of 1927, section 15b of chapter IV as amended by Act No. 230 of the Public Acts of 1983 and section 2 of chapter XI as amended by Act No. 78 of the Public Acts of 1988, being sections 764.15b and 771.2 of the Michigan Compiled Laws, are amended and section 2a is added to chapter XI to read as follows:

CHAPTER IV

Sec. 15b. (1) A peace officer, without a warrant, may arrest and take into custody a person when the peace officer has reasonable cause to believe that all of the following exist:

(a) One of the following injunctive orders:

(i) An injunctive order issued pursuant to section 14 of chapter 84 of the Revised Statutes of 1846, as amended, being section 552.14 of the Michigan Compiled Laws.

(ii) An injunctive order issued by the circuit court as authorized by law and stating on its face the period of time for which the order is valid and specifically restraining or enjoining a spouse, a former spouse, or a person residing or having resided in the same household as the victim from entering onto premises, from assaulting, beating, molesting, or wounding a named person, or from removing minor children from the person having legal custody of the children.

(iii) An injunctive order issued by the circuit court as authorized by law and stating on its face the period of time for which the order is valid and specifically restraining or enjoining a person from engaging in conduct prohibited under section 411h or 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.411h and 750.411i of the Michigan Compiled Laws.

(b) A true copy and proof of service of the order has been filed with the law enforcement agency having jurisdiction of the area in which the moving party resides.

(c) The person named in the order has received notice of the injunctive order.

(d) The person named in the order is acting in violation of the order. A person is in violation of the order if that person commits 1 or more of the following acts specifically enumerated in the order to restrain or enjoin the person from:

(i) Assaulting, beating, molesting, or wounding a named person.

(ii) Removing minor children from a person having legal custody of the children, in violation of custody and visitation orders as issued by the court.

(iii) Entering onto premises.

(iv) Engaging in conduct prohibited under section 411h or 411i of Act No. 328 of the Public Acts of 1931.

(e) The order states on its face that a violation of its terms subjects the person to immediate arrest and to criminal contempt of court and, if found guilty of criminal contempt, the person shall be imprisoned for not more than 90 days and may be fined not more than \$500.00.

(2) A person arrested pursuant to this section shall be brought before the circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violation of the injunctive order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the injunctive order within 72 hours after arrest, unless extended by the court on the motion of the arrested person.

(b) Set a reasonable bond pending a hearing of the alleged violation of the injunctive order.

(c) Notify the party who has procured the injunctive order and direct the party to appear at the hearing and give evidence on the charge of contempt.

(3) In circuits where the circuit court judge may not be present or available within 24 hours after arrest, a person arrested pursuant to this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall order the defendant to appear before the circuit court of the county for a hearing on the charge. The district court shall set bond for the person.

(4) The circuit court for each county of this state shall have jurisdiction to conduct contempt proceedings based upon a violation of an injunctive order as provided in this section, which is issued by the circuit court in any county of this state. The court of arraignment shall notify the circuit court which issued the injunctive order that the issuing court may request that the defendant be returned to that county for violating the injunctive order. If the circuit court which issued the injunctive order requests that the defendant be returned to that county to stand trial, then the requesting county shall bear the cost of transporting the defendant to that county.

(5) Upon receipt of a true copy and proof of service of an injunctive order issued pursuant to this section, the law enforcement agency shall enter the order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, Act No. 163 of the Public Acts of 1974, being sections 28.211 to 28.216 of the Michigan Compiled Laws.

CHAPTER XI

Sec. 2. (1) Except as provided in section 2a of this chapter, if the defendant is convicted for an offense which is not a felony, the period of probation shall not exceed 2 years. Except as provided in section 2a of this chapter, if the defendant is convicted of a felony which is not a major controlled substance offense, the period of probation shall not exceed 5 years.

(2) The court shall by order, to be filed or entered in the cause as the court may direct by general rule or in each case, fix and determine the period and conditions of probation. The order, whether it is filed or entered, shall be considered as part of the record in the cause and shall be at all times alterable and amendable, both in form and in substance, in the court's discretion.

(3) A defendant who is placed on probation pursuant to section 1(3) of this chapter shall be placed on probation for life. That sentence may be made subject to conditions of probation specified in section 3 of this chapter and to revocation for violation of those conditions, but the period of probation shall not be reduced other than by a revocation which results in imprisonment.

(4) Subsections (1) and (3) do not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to a state institution or agency described in the youth rehabilitation services act, Act No. 150 of the Public Acts of 1974, being sections 803.301 to 803.309 of the Michigan Compiled Laws.

Sec. 2a. (1) The court may place an individual convicted of violating section 411h of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.411h of the Michigan Compiled Laws, on probation for not more than 5 years. The sentence is subject to the conditions of probation set forth in section 411h(3) of Act No. 328 of the Public Acts of 1931 and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(2) The court may place an individual convicted of violating section 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.411i of the Michigan Compiled Laws, on probation for any term of years, but not less than 5 years. The sentence is subject to the conditions of probation set forth in section 411i(4) of Act No. 328 of the Public Acts of 1931 and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(3) The court shall by order, to be filed or entered in the cause as the court directs by general rule or in each case, fix and determine the period and conditions of probation. The order, whether it is filed or entered, shall be considered as part of the record in the cause and shall be at all times alterable and amendable, both in form and in substance, in the court's discretion.

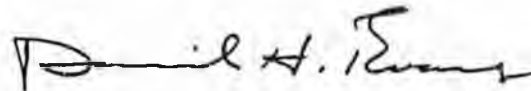
(4) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to a state institution or agency described in the youth rehabilitation services act, Act No. 150 of the Public Acts of 1974, being sections 803.301 to 803.309 of the Michigan Compiled Laws.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 86th Legislature are enacted into law:

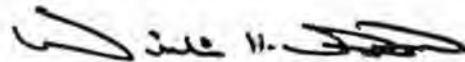
- (a) Senate Bill No. 719.
- (b) House Bill No. 5472.
- (c) Senate Bill No. 1095.

Section 3. This amendatory act shall take effect January 1, 1993.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

.....
Governor.



Act No. 260
Public Acts of 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Byrum, Kilpatrick, Clack, Varga, Gire, Dobronski, Yokich, Johnson, Munsell, Pitoniak, Dolan, Walberg, Fitzgerald, Goss, Shugars, Berman, Baade, Olshove and Joe Young, Jr. Reps. Allen, Alley, Anthony, Bandstra, Barns, Bartnik, Bender, Bennane, Bennett, Bobier, Bodem, Brackenridge, Brown, Willis Bullard, DeBeaussaert, DeMars, Dobb, Dresch, Gallardi, Gernaat, Gilmer, Gnodtke, Gubow, Harder, Harrison, Hertel, Hoekman, Hoffman, Hollister, Horton, Jamian, Jaye, Keith, Knight, London, McBryde, Middaugh, Middleton, Murphy, Muxlow, Niederstadt, Ostling, Palamara, Porreca, Power, Profit, Randall, Robertson, Rocca, Scott, Strand, Van Singel, Wallace and Weeks named co-sponsors
Reps. Bankes, Bryant, Clarke, Dalman, Jonker, Kosteva, Lipsey, Martin, McNutt, O'Neill, Saunders, Sikkema, Stallworth and Wozniak named co-sponsors

ENROLLED HOUSE BILL No. 5472

AN ACT to amend Act No. 328 of the Public Acts of 1931, entitled as amended "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, by adding section 411h.

The People of the State of Michigan enact:

Section 1. Act No. 328 of the Public Acts of 1931, as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, is amended by adding section 411h to read as follows:

Sec. 411h. (1) As used in this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of 2 or more separate noncontinuous acts, evidencing a continuity of purpose.

(b) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling.

(c) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable individual to suffer emotional distress, and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(d) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(e) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent, or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

- (i) Following or appearing within the sight of that individual.
- (ii) Approaching or confronting that individual in a public place or on private property.
- (iii) Appearing at the workplace or residence of that individual.
- (iv) Entering onto or remaining on property owned, leased, or occupied by that individual.
- (v) Contacting that individual by telephone.
- (vi) Sending mail or electronic communications to that individual.
- (vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.
- (f) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(2) An individual who engages in stalking is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(3) The court may place an individual convicted of violating subsection (2) on probation for a term of not more than 5 years. If a term of probation is ordered, the court may, in addition to any other lawful condition of probation, order the defendant to do any of the following:

- (a) Refrain from stalking any individual during the term of probation.
- (b) Refrain from having any contact with the victim of the offense.
- (c) Be evaluated to determine the need for psychiatric, psychological, or social counseling and, if determined appropriate by the court, to receive psychiatric, psychological, or social counseling at his or her own expense.

(4) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, shall give rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

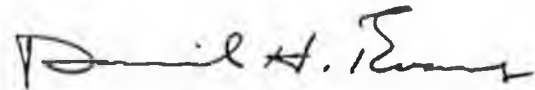
(5) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 86th Legislature are enacted into law:

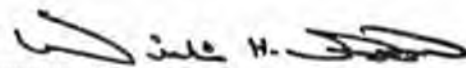
- (a) Senate Bill No. 719.
- (b) Senate Bill No. 1095.
- (c) House Bill No. 6038.

Section 3. This amendatory act shall take effect January 1, 1993.

This act is ordered to take immediate effect.



.....
Clerk of the House of Representatives.



.....
Secretary of the Senate.

Approved

.....
Governor.



Act No. 361
Public Acts of 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Senators Geake, Dingell, McManus, Welborn, Emmons, Cisky, Pollack, Conroy,
Bouchard, Honigman and DiNello

ENROLLED SENATE BILL No. 719

AN ACT to amend Act No. 328 of the Public Acts of 1931, entitled as amended "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, by adding section 411i.

The People of the State of Michigan enact:

Section 1. Act No. 328 of the Public Acts of 1931, as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, is amended by adding section 411i to read as follows:

Sec. 411i. (1) As used in this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of 2 or more separate noncontinuous acts, evidencing a continuity of purpose.

(b) "Credible threat" means a threat to kill another individual or a threat to inflict physical injury upon another individual that is made in any manner or in any context that causes the individual hearing or receiving the threat to reasonably fear for his or her safety or the safety of another individual.

(c) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling.

(d) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable individual to suffer emotional distress, and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(e) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(f) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent, or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

- (i) Following or appearing within the sight of that individual.
- (ii) Approaching or confronting that individual in a public place or on private property.
- (iii) Appearing at the workplace or residence of that individual.
- (iv) Entering onto or remaining on property owned, leased, or occupied by that individual.
- (v) Contacting that individual by telephone.
- (vi) Sending mail or electronic communications to that individual.
- (vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

(g) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(2) An individual who engages in stalking is guilty of aggravated stalking if the violation involves any of the following circumstances:

(a) The actions constituting the offense are in violation of a restraining order and the individual has received actual notice of that restraining order, or the actions are in violation of an injunction or preliminary injunction.

(b) The actions constituting the offense are in violation of a condition of probation, a condition of pretrial release, or a condition of release on bond pending appeal.

(c) The course of conduct includes the making of 1 or more credible threats against the victim, a member of the victim's family, or another individual living in the victim's household.

(d) The defendant has been previously convicted of a violation of this section or section 411h.

(3) Aggravated stalking is a felony, punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(4) The court may place an individual convicted of violating this section on probation for any term of years, but not less than 5 years. If a term of probation is ordered, the court may, in addition to any other lawful condition of probation, order the defendant to do any of the following:

(a) Refrain from stalking any individual during the term of probation.

(b) Refrain from any contact with the victim of the offense.

(c) Be evaluated to determine the need for psychiatric, psychological, or social counseling, and, if determined appropriate by the court, to receive psychiatric, psychological, or social counseling at his or her own expense.

(5) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, shall give rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(6) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for contempt of court arising from the same conduct.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 86th Legislature are enacted into law:

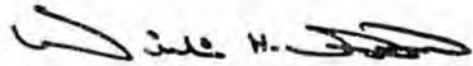
(a) House Bill No. 5472.

(b) Senate Bill No. 1095.

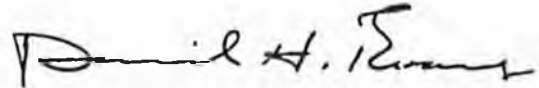
(c) House Bill No. 6038.

Section 3. This amendatory act shall take effect January 1, 1993.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved.....

.....
Governor.



ck w/
drafted on
"other jurisdictions"

Legal: 8-LS0283U
Jerry
Hochhaupt

CS FOR HOUSE BILL NO. 64(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/1/93
Referred: Finance

Sponsor(s): REPRESENTATIVES TOOHEY, Phillips, Olberg, Ulmer, Hudson, Porter, B.Davis,
Mackie, Carney, Nordlund, Parnell

A BILL

FOR AN ACT ENTITLED

1 "An Act creating the crimes of stalking in the first and second degrees and
2 providing penalties for their violation; providing a peace officer with the authority
3 to arrest without a warrant a person the peace officer has reasonable cause to
4 believe has committed stalking; relating to the release before trial of a person
5 accused of stalking; prohibiting the suspension of imposition of sentence of a
6 person convicted of stalking; relating to the crime of assault in the third degree;
7 extending the maximum period of probation after conviction for a crime; and
8 providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 11.41 is amended by adding new sections to article 2 to read:

11 Sec. 11.41.260. STALKING IN THE FIRST DEGREE. (a) A person commits
12 the crime of stalking in the first degree if the person violates AS 11.41.270 and

1 (1) the actions constituting the offense are in violation of an order
2 issued under AS 25.35.010(b) or 25.35.020;

3 (2) the actions constituting the offense are in violation of a condition
4 of probation, release before trial, release after conviction, or parole;

5 (3) the victim is under 16 years of age;

6 (4) at any time during the course of conduct constituting the offense
7 the defendant possessed a deadly weapon;

8 (5) the defendant has been previously convicted of a crime under this
9 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another
10 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or
11 AS 11.56.740; or

12 (6) the defendant has been previously convicted of (A) a crime, or an
13 attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 -
14 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of this or
15 another jurisdiction with elements similar to a crime, or an attempt or solicitation to
16 commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460,
17 AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

18 (b) In this section, "course of conduct" and "victim" have the meanings given
19 in AS 11.41.270(b).

20 (c) Stalking in the first degree is a class C felony.

21 Sec. 11.41.270. STALKING IN THE SECOND DEGREE. (a) A person
22 commits the crime of stalking in the second degree if the person knowingly engages
23 in a course of conduct that recklessly places another person in fear of death or physical
24 injury, or in fear of the death or physical injury of a family member.

What about "repeatedly"?

25 (b) In this section,

26 → (1) "course of conduct" means repeated acts of nonconsensual contact
27 involving the victim or a family member;

28 (2) "family member" means a

29 (A) spouse, child, grandchild, parent, grandparent, sibling, uncle,
30 aunt, nephew, or niece, of the victim, whether related by blood, marriage, or
31 adoption;

(covers in-laws)

1 (B) person who lives, or has previously lived, in a spousal
2 relationship with the victim;

3 (C) person who lives in the same household as the victim; or

4 (D) person who is a former spouse of the victim or is or has
5 been in a dating, courtship, or engagement relationship with the victim;

6 *"is currently"* → been in a dating, courtship, or engagement relationship with the victim; NO!
7 (3) "nonconsensual contact" means any contact with another person that
8 is initiated or continued without that person's consent, that is beyond the scope of the
9 consent provided by that person, or that is in disregard of that person's expressed
10 desire that the contact be avoided or discontinued; "nonconsensual contact" includes

11 (A) following or appearing within the sight of that person;

12 (B) approaching or confronting that person in a public place or
13 on private property;

14 (C) appearing at the workplace or residence of that person;

15 (D) entering onto or remaining on property owned, leased, or
16 occupied by that person;

17 (E) contacting that person by telephone;

18 (F) sending mail or electronic communications to that person;

19 (G) placing an object on, or delivering an object to, property
20 owned, leased, or occupied by that person;

21 (4) "victim" means a person who is the target of a course of conduct.

22 (c) Stalking in the second degree is a class A misdemeanor.

23 * Sec. 2. AS 11.41.220(a) is amended to read:

24 (a) A person commits the crime of assault in the third degree if that person

25 (1) recklessly

26 (A) [(1)] places another person in fear of imminent serious
27 physical injury by means of a dangerous instrument;

28 (B) [(2)] causes physical injury to another person by means of
29 a dangerous instrument; or

30 (C) [(3)] while being 18 years of age or older

31 (i) [(A)] causes physical injury to a child under 10 years
of age and the injury reasonably requires medical treatment;

1 (ii) [(B)] causes physical injury to a child under 10 years
2 of age on more than one occasion; or
3 (2) with intent to place another person in fear of death or serious
4 physical injury to the person or the person's family member makes repeated
5 threats to cause death or serious physical injury to another person.

6 * Sec. 3. AS 11.41.220 is amended by adding a new subsection to read:

- 7 (c) In this section, "the person's family member" means
- 8 (1) a spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt,
9 nephew, or niece, of the person, whether related by blood, marriage, or adoption;
 - 10 (2) a person who lives or has lived, in a spousal relationship with the
11 person;
 - 12 (3) a person who lives in the same household as the person; or
 - 13 (4) a person who is a former spouse of the person or is or has been in
14 a dating, courtship, or engagement relationship with the person. "is in"

15 * Sec. 4. AS 11.56.810(a) is amended to read:

- 16 (a) A person commits the crime of terroristic threatening if the person
17 [(1)] knowingly makes a false report that a circumstance dangerous to
18 human life exists or is about to exist and
- 19 (1) [(A)] places a person in fear of physical injury to any
20 person;
 - 21 (2) [(B)] causes evacuation of a building; or
 - 22 (3) [(C)] causes serious public inconvenience [; OR
- 23 (2) WITH INTENT TO PLACE ANOTHER PERSON IN FEAR OF
24 DEATH OR SERIOUS PHYSICAL INJURY TO THE PERSON OR THE PERSON'S
25 IMMEDIATE FAMILY, MAKES REPEATED THREATS TO CAUSE DEATH OR
26 SERIOUS PHYSICAL INJURY TO ANOTHER PERSON].

27 * Sec. 5. AS 12.25.030(b) is amended to read:

- 28 (b) In addition to the authority granted under (a) of this section, a peace officer
29 without a warrant may arrest a person when the peace officer has reasonable cause for
30 believing that the person has committed a crime under
- 31 (1) AS 11.41.270 or AS 11.56.740; or

1 (2) AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an
2 ordinance with elements substantially similar to the elements of a crime under
3 AS 11.41, AS 11.46.330, or AS 11.61.120, when the victim is a spouse or former
4 spouse of the person who committed the crime; a parent, grandparent, child, or
5 grandchild of the person who committed the crime; a member of the social unit
6 comprised of those living together in the same dwelling as the person who committed
7 the crime; or another person who is not a spouse or former spouse of the person who
8 committed the crime but who previously lived in a spousal relationship with the person
9 who committed the crime or is in or has been in a dating, courtship, or engagement
10 relationship with the person who committed the crime.

11 * Sec. 6. AS 12.30.025 is amended to read:

12 Sec. 12.30.025. RELEASE BEFORE TRIAL IN CASES INVOLVING
13 DOMESTIC VIOLENCE OR STALKING. (a) In determining the conditions of
14 release under AS 12.30.020 in cases involving domestic violence or stalking, the court
15 shall consider the following conditions and impose one or more conditions it considers
16 reasonably necessary to protect the alleged victim of the domestic violence or
17 stalking, including ordering the defendant

18 (1) not to subject the victim to further domestic violence or stalking;

19 (2) to vacate the home of the victim;

20 (3) not to contact the victim other than through counsel;

21 (4) to engage in counseling; if the court directs the defendant to engage
22 in personal counseling, the court shall provide in the order that the counseling must
23 propose alternatives to aggression if that type of counseling is available; if the court
24 directs the defendant to participate in family counseling, it shall make a finding that
25 family counseling will not result in additional domestic violence or stalking;

26 (5) to refrain from the consumption of alcohol or the use of drugs.

27 (b) As used in this section,

28 (1) "domestic violence" means a crime specified in AS 11.41 when the
29 victim is a spouse or a former spouse of the defendant; a parent, grandparent, child,
30 or grandchild of the defendant; a member of the social unit comprised of those living
31 together in the same dwelling as the defendant; or a person who is not a spouse or

1 former spouse of the defendant but who previously lived in a spousal relationship with
2 the defendant or is in or has been in a dating, courtship, or engagement relationship
3 with the defendant;

4 (2) "stalking" means a violation of AS 11.41.260 or 11.41.270.

5 * Sec. 7. AS 12.55.085(f) is amended to read:

6 (f) The court may not suspend the imposition of sentence of a person who

7 (1) is convicted of a violation of AS 11.41.410 - 11.41.455;

8 (2) uses a firearm in the commission of the offense for which the
9 person is convicted; or

10 (3) is convicted of a violation of AS 11.41.210 - 11.41.270
11 [AS 11.41.210 - 11.41.250] or 11.41.510 - 11.41.530, and the person has, within the
12 10 years preceding the commission of the offense for which the person has been
13 convicted, one or more prior convictions for a violation of AS 11.41 or for a violation
14 of a law in this or another jurisdiction having substantially similar elements to an
15 offense defined in AS 11.41; for the purposes of this paragraph, a person shall be
16 considered to have a prior conviction even if that conviction has been set aside under
17 (e) of this section or under the equivalent provision of the laws of another jurisdiction.

18 * Sec. 8. AS 12.55.090(c) is amended to read:

19 (c) The period of probation, together with any extension, may [SHALL] not
20 exceed 10 [FIVE] years.

21 * Sec. 9. APPLICABILITY. AS 11.41.260 and 11.41.270, enacted by sec. 1 of this Act,
22 apply to acts committed on or after the effective date of this Act. However, to the extent a
23 previous conviction is an element of the offense under AS 11.41.260, that previous conviction
24 may have occurred before, on, or after the effective date of this Act.

25 * Sec. 10. APPLICABILITY. AS 12.55.090(c), as amended by sec. 8 of this Act, does not
26 apply in the case of a conviction for a criminal act committed before the effective date of this
27 Act.

28 * Sec. 11. This Act takes effect immediately under AS 01.10.070(c).



October 1992

Vol. 17, No.19

NOV 19 1992

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Stalking Laws

By
Donna Hunzeker
Program Manager

NOV 17 1992

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In 1990, the California Legislature passed a law creating and coining "stalking" as a criminal offense and setting penalties. The California law followed five murders which had taken place the year before in Orange County. In each, the victim had reported to the police that she was in fear of her safety because of repeated following, harassment and threats, and had obtained a temporary restraining order against her assailant. Because the "stalking" law gives police a recourse against stalkers before an attack takes place, it has been hailed by victims' rights groups as an important means for protecting potential victims who often are women being intimidated and threatened by estranged boyfriends or husbands. Passage of the California measure also was supported by the entertainment community because of cases where celebrities are stalked and threatened by obsessed fans, including the murder of actress Rebecca Schaeffer by a man who had stalked her.

Publicity about the California law encouraged victims, victim advocates, law enforcement officials and others throughout the states to come forward and demonstrate that "stalking" is not just a Hollywood phenomenon.

Twenty-seven other states enacted similar "stalking" laws this year: Colorado, Connecticut, Delaware, Florida, Hawaii, Kansas, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin.

Stalking laws also are pending in Michigan, New Jersey and Pennsylvania. Both houses of the Michigan Legislature are working on a four-bill package that includes a civil cause of action in stalking, warrantless arrest and a specific

restraining order to apply in stalking situations. Proposed Michigan law calls for a term of probation following incarceration for both misdemeanor and felony classifications of stalking. Misdemeanant stalking allows up to 5 years' probation after a one year jail term. Under proposed felony provisions, a convicted stalker could be on probation for life since the bill calls for a required 5 years' probation and allows for an indeterminate maximum number of years' probation. Action on the Michigan stalking package is expected later in the fall. In New Jersey, also, stalking bills are pending in both houses of the legislature. The Pennsylvania Senate passed a stalking bill which now is pending in the House. Texas and Indiana are among states preparing stalking legislation to be introduced next year.

Other states have laws called something else but which apply to stalking situations. Since 1987, Minnesota has had "trespass" and "harassment" laws that have the same intent and purpose as the "stalking" laws which followed. (An early version of the 1987 Minnesota harassment bill used the term "stalking," but it was later deleted because it was seen as perhaps too dramatic and vague a characterization.) Under Minnesota law, "intent to harass, abuse or threaten" is included and multiple acts of harassment are punishable through enhanced penalties. Minnesota increased penalties for repeat offenses in the 1991 omnibus crime bill. It is now a gross misdemeanor for harassment violations within five years of a previous harassment or misdemeanor assault conviction involving the same victim, or within two years of a harassment or misdemeanor assault conviction involving any victim. Minnesota law also has felony penalties for "terroristic threats" which can apply to stalking situations. Similarly in Maine, "terrorizing" is either a Class D or Class C crime when threats of violence are made. Arizona created misdemeanor classifications of harassment this year.

Stalking laws in Florida and Ohio provide for warrantless arrest of alleged stalkers. Florida law states that "Any law enforcement officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this section." Similarly in Ohio, specified peace officers can arrest and detain, pending a warrant, any person believed to be guilty of committing menacing by stalking and aggravated trespass. The constitutionality of warrantless arrest of alleged stalkers has been questioned by criminal defense groups, but an actual legal challenge has yet to materialize.

Washington state's 1992 law includes telephone harassment and intimidation. That provision also requires notification of victims and local law enforcement when a felony stalker is released, escapes, is transferred to a less-restrictive facility, or is released on furlough. The Hawaii stalking law also mentions fax transmissions among unwelcome, harassing communications between an alleged stalker and his or her victim.

Both houses of the California Legislature this year passed an amendment to the original stalking law, redefining "credible threat" of harm to include threat of harm to the person allegedly being stalked or to someone in his or her immediate family. In addition, all second or subsequent stalking offenses within 7 years of a prior felony conviction for violence or threat of violence against the same victim or victim's immediate family becomes a felony. The amended California stalking measure awaits the governor's signature.

A September report of the federal Congressional Research Service discussed whether some state stalking laws are too vague to be constitutional. In particular, that report questioned laws in which following and harassing are considered "stalking" without also requiring credible threats of violence. The United States Congress has approved legislation under which the National Institute of Justice will work with states to monitor constitutionality and other outcomes of state stalking laws. It is expected that model provisions will be developed to help states adapt or enact laws.

Few statistics are available about prosecutions and convictions under stalking laws because most are so new. The Judicial Council of California has reported that through December 31, 1991, 10 persons have been convicted and sentenced under the 1990 stalking law.

State lawmakers generally have enacted stalking laws to fill what was determined to be a void in existing law for dealing with these cases, rather than on an assumption that there are numerous stalking offenders likely to be incarcerated. In Tennessee, for example, where state law requires a fiscal analysis and an accompanying appropriation for actions which increase use of imprisonment, it was estimated that local budget impact was not significant and that state corrections expenditures of \$4,860 per year may result from an estimated one "stalking" conviction every three years under which the offender receives a sentence of one year.

Some states—including Colorado, Hawaii, Idaho, Illinois, Massachusetts, Rhode Island, Virginia and Wisconsin—passed laws to take immediate or emergency effect. In doing so, legislatures have underscored the peril of victims who currently are being stalked and threatened, and the urgent need to protect them.

According to the FBI's Uniform Crime Reports, 30 percent of female murder victims in 1990 were slain by husbands or boyfriends. The broader issues of domestic violence and violence against women will require comprehensive state responses, of which stalking laws can be a part. In considering or evaluating stalking laws, however, policy makers will be mindful of the discretion carried out by police and prosecution in handling stalking situations. Improved public safety under stalking laws will depend on the degree to which all components of the criminal justice system and the public regard domestic violence and violence against women as serious and lethal problems.



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Stalking Laws

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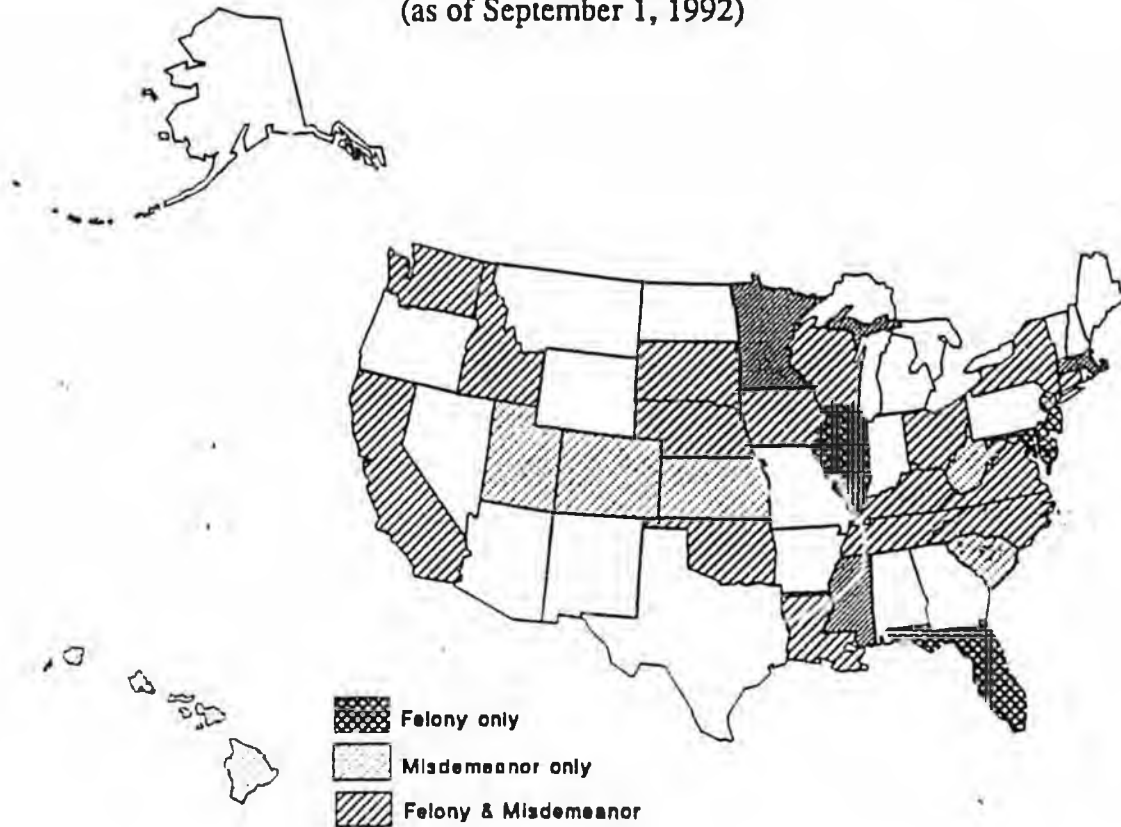
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Other states have laws called something else but which apply to stalking situations. Since 1987, Minnesota has had "trespass" and "harassment" laws that have the same intent and purpose as the "stalking" laws which followed. (An early version of the 1987 Minnesota harassment bill used the term "stalking," but it was later deleted because it was seen as perhaps too dramatic and vague a characterization.) Under Minnesota law, "intent to harass, abuse or threaten" is included and multiple acts of harassment are punishable through enhanced penalties. Minnesota increased penalties for repeat offenses in the 1991 omnibus crime bill. It is now a gross misdemeanor for harassment violations within five years of a previous harassment or misdemeanor assault conviction involving the same victim, or within two years of a harassment or misdemeanor assault conviction involving any victim. Minnesota law also has felony penalties for "terroristic threats" which can apply to stalking situations. Similarly in Maine, "terrorizing" is either a Class D or Class C crime when threats of violence are made. Arizona created misdemeanor classifications of harassment this year.

Stalking Law Crime Classifications (as of September 1, 1992)



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 laws require that the victim have "reasonable fear of death or great bodily injury." While stalking laws were typically crafted to apply to cases where women 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. In Florida, cases as varied as a young boy stalked by a pedophile and a fired employee who stalked his former employer were considered in enacting the law there. Statute language in most states broadly provides that the victim could be any person being followed, threatened and intimidated. The West Virginia law, however, is specific that the victim be "any person with whom that person formerly resided or cohabited or with whom that person formerly engaged in a sexual or intimate relationship."

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. Illinois created a higher level felony for aggravated stalking, which occurs when a person causes bodily harm to the victim, confines or restrains the victim, or violates a protective order in the act of stalking.

In some states, stalking laws work with release-on-recognizance policy to protect alleged or potential victims. Since stalking is a felony in some circumstances under the California law, for example, judges can establish bail which increases the likelihood or duration of detention of alleged stalkers.

Iowa has created presumption of *ineligibility* for bail in felony cases of stalking. Illinois has provisions for bail denial: a court can determine that release of the defendant "would pose real and present threat to the physical safety of the alleged victim of the offense and that denial of bail is necessary to prevent fulfillment of the threat upon which the charge is based." Ohio has statutory language to require courts to consider certain factors in setting bail for persons charged with menacing by stalking, aggravated trespass, aggravated menacing or menacing. Those factors include the alleged perpetrator's history of violence, mental health, history of violating court orders, level of threat and how detention would interfere with the treatment or counseling the alleged perpetrator is undergoing.

Appendix
CRIME CLASSIFICATIONS AND PENALTIES CREATED IN STATE STALKING LAWS

CALIFORNIA (1990)	Misdemeanor and felony: up to 1 year in jail, \$1,000. Subsequent felony conviction in 7 years: up to 3 years' imprisonment, \$10,000.	D Felony: up to 5 years' imprisonment.
COLORADO (1992)	Class 3 Misdemeanor: up to 6 months' imprisonment, \$750. If protective order is violated, is Class 1 Misdemeanor: up to 24 months' imprisonment, \$5,000.	Class B Misdemeanor: up to 6 months jail. If restraining order is violated or second or subsequent conviction within 7 years, same victim, is Class A Misdemeanor: up to 1 year in jail.
CONNECTICUT (1992)	Class A Misdemeanor: 1 year imprisonment. If second or subsequent conviction, court order is violated, or victim is under 16 years of age, is Class D Felony: 1-5 years' imprisonment.	Class A Misdemeanor: up to 1 year imprisonment. If protective order is violated, second offense is within 5 years or acts were committed with deadly weapon, is Class D Felony: 1-5 years' imprisonment.
DELAWARE (1992)	Class F Felony. If protective order is violated: 6 months' imprisonment, \$1,000. Subsequent conviction within 7 years: 1 year imprisonment, \$1,000.	Up to 6 months jail, \$1,000. If protective order is violated: mandatory minimum of 30 days and up to 1 year, \$5,000. Subsequent conviction: mandatory minimum of 90 days and up to 2 years, \$5,000.
FLORIDA (1992)	Felony 3: up to 5 years' imprisonment, \$5,000.	Up to 2-1/2 years' imprisonment, \$1,000. If protective order is violated: mandatory minimum of 1 year and up to 5 years in prison. Second or subsequent offense: mandatory minimum jail of 2 years.
HAWAII (1992)	Petty Misdemeanor: up to 30 days in jail, \$1,000. If stalking occurs on two or more occasions, a Misdemeanor is committed: up to 1 year in jail, \$2,000.	Multiple acts of harassment are punishable as a Gross Misdemeanor: up to 1 year in jail, \$3,000. Terroristic threats are a felony: under sentencing guidelines offender without criminal history could receive 1 year probation plus jail time; with criminal history state prison sentence of up to 5 years possible.
IDAHO (1992)	Misdemeanor: up to 1 year in jail, \$1,000. Second or subsequent conviction within 7 years is a Felony: up to 5 years in prison, \$1,000.	MISSISSIPPI (1992) Up to 6 months in jail, \$1,000. If protective order is violated: up to 1 year in jail, \$1,000. Second or subsequent conviction within 7 years: up to 2 years' imprisonment, \$2,000.
ILLINOIS (1992)	Class 4 Felony: up to 3 years' imprisonment, \$10,000. Second or subsequent conviction is a Class 3 Felony: up to 5 years in prison, \$10,000. Aggravated stalking is a Class 3 Felony. Second or subsequent conviction for aggravated stalking is a Class 2 Felony: up to 7 years in prison, \$10,000.	NEBRASKA (1992) If protective or bail order is violated, is Class I Misdemeanor: up to 1 year in prison, \$1,000. Subsequent offense within 7 years is Class IV Felony: up to 5 years' imprisonment, \$10,000.
IOWA (1992)	Simple Misdemeanor: up to 1 year in prison, \$100. If protective or bail order is violated, is Serious Misdemeanor: up to 1 year imprisonment, \$1,000. Second offense is Aggravated Misdemeanor: up to 2 years in prison, \$5,000. Third or subsequent offense is Class	
		KANSAS (1992)
		KENTUCKY (1992)
		LOUISIANA (1992)
		MASSACHUSETTS (1992)
		MINNESOTA (1987, 1988, 1992)

NEW YORK (1992)	Either a Class B Misdemeanor: up to 90 days in prison, \$500 or a Class A Misdemeanor: up to 1 year in prison, \$1,000. Second or subsequent conviction is a Class E Felony: up to 4 years' imprisonment, \$5,000.	VIRGINIA (1992)	Class 2 Misdemeanor: up to 6 months in jail, \$500. If protective order is violated or second offense occurs within 5 years, is Class 1 Misdemeanor: up to 1 year in prison, \$1,000. A third offense within 5 years is a Class 6 Felony: 1-5 years in prison, \$1,000.
NORTH CAROLINA (1992)	Misdemeanor: up to 6 months in jail, \$1,000. If protective order is violated: up to 2 years in prison, \$2,000. Second or subsequent conviction is a Class I Felony: up to 5 years in prison.	WASHINGTON (1992)	Gross Misdemeanor: up to 1 year in jail, \$5,000. Second offense (no time limit specified) or if protection order is violated, is Class C Felony: up to 5 in years prison, \$10,000.
OHIO (1992)	First Degree Misdemeanor: up to 6 months in jail, \$1,000. Second or subsequent offense involving same victim is a Fourth Degree Felony: up to 5 years in prison, \$2,500.	WEST VIRGINIA (1992)	Misdemeanor: up to 6 months in jail, \$1,000. If protection order is violated, Misdemeanor: up to 1 year in jail, \$3,000.
OKLAHOMA (1992)	Misdemeanor: up to 1 year in jail, \$1,000. If protective order is violated, condition of probation or parole is violated, or if second offense within 10 years, is Felony: up to 5 years in prison, \$2,500.	WISCONSIN (1992)	Class A Misdemeanor, including if protective order is violated: up to 9 months' imprisonment, \$10,000. Second offense within 7 years is Class E Felony: up to 2 years in prison, \$10,000.
RHODE ISLAND (1992)	Up to 1 year imprisonment, \$3,000. If restraining order is violated, is Felony: up to 2 years' imprisonment, \$6,000. Second or subsequent conviction against same victim, is Felony: Up to 5 years' imprisonment \$10,000.		
SOUTH CAROLINA (1992)	Up to 1 year imprisonment, \$1,000. If protective order is violated: up to 2 years' imprisonment, \$1,000. Second or subsequent offense: up to 3 years in prison, \$2,000.		
SOUTH DAKOTA (1992)	Class 1 Misdemeanor: 1 year in jail, \$1,000. Second or subsequent conviction within 7 years is a Class 6 Felony: 2 years in prison, \$2,000.		
TENNESSEE (1992)	Class A Misdemeanor: up to 1 year in jail, \$2,500. If second or subsequent conviction within 7 years or if protective order is violated, is Class E Felony: 1-6 years' imprisonment, \$3,000.		
UTAH (1992)	Class B Misdemeanor: up to 6 months in jail.		

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Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA D. TOOHEY

DISTRICT 13

State Capitol
Juneau, AK 99801-1182

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. The probation period for stalking in the first degree is 5 to 99 years.

HB64 is modelled after the Michigan law which was passed in December 1992 and considered one of the toughest in the nation. Over 30 states now have stalking laws.

SECTIONAL ANALYSIS OF PROPOSED 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 11.56.810(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 4 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 5 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 6 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 7 of the bill amends AS 12.55.090(c) to conform to section 8 of the bill.

Section 8 of the bill provides that for a conviction of stalking in the first degree a probationary term may not be less than five years nor more than 99 years.

Section 9 of the bill is an applicability section

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

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

WALTER J. HICKEL, GOVERNOR

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AND APPEALS
1031 W. 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

February 17, 1993

The Honorable Cynthia Toohey
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: HB 64, An Act relating to the crime of stalking

Dear Representative Toohey:

You have asked for our review of the February 16, 1993, work draft of a Committee Substitute for HB 64, "An Act creating the crimes of stalking in the first and second degrees." We are pleased to indicate that this version addresses virtually all of the concerns raised for us by the original version of the bill.

A minor, technical point we note is that usually the class of offense is the last subsection of a statute. To be consistent with this, proposed AS 11.41.270(b) and (c) should be reversed.

Further review leads us to believe that it would be beneficial to narrow the definition of "course of conduct" to the following:

"course of conduct" means repeated acts of nonconsensual contact directed toward the victim or a family member of the victim.

This eliminates any ambiguity as to whether "pattern of conduct" means something other than repeated acts.

The Honorable Cynthia Toohey

February 17, 1993
Page 2

If you have any questions or comments, or if we may be of assistance in any other manner, please do not hesitate to contact us.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: Margot O. Knuth
Margot O. Knuth
Assistant Attorney General

cc: Charles Cole
Attorney General

Deborah Behr
Legislation Attorney
Department of Law

Kris Lethin
Legislative Liaison
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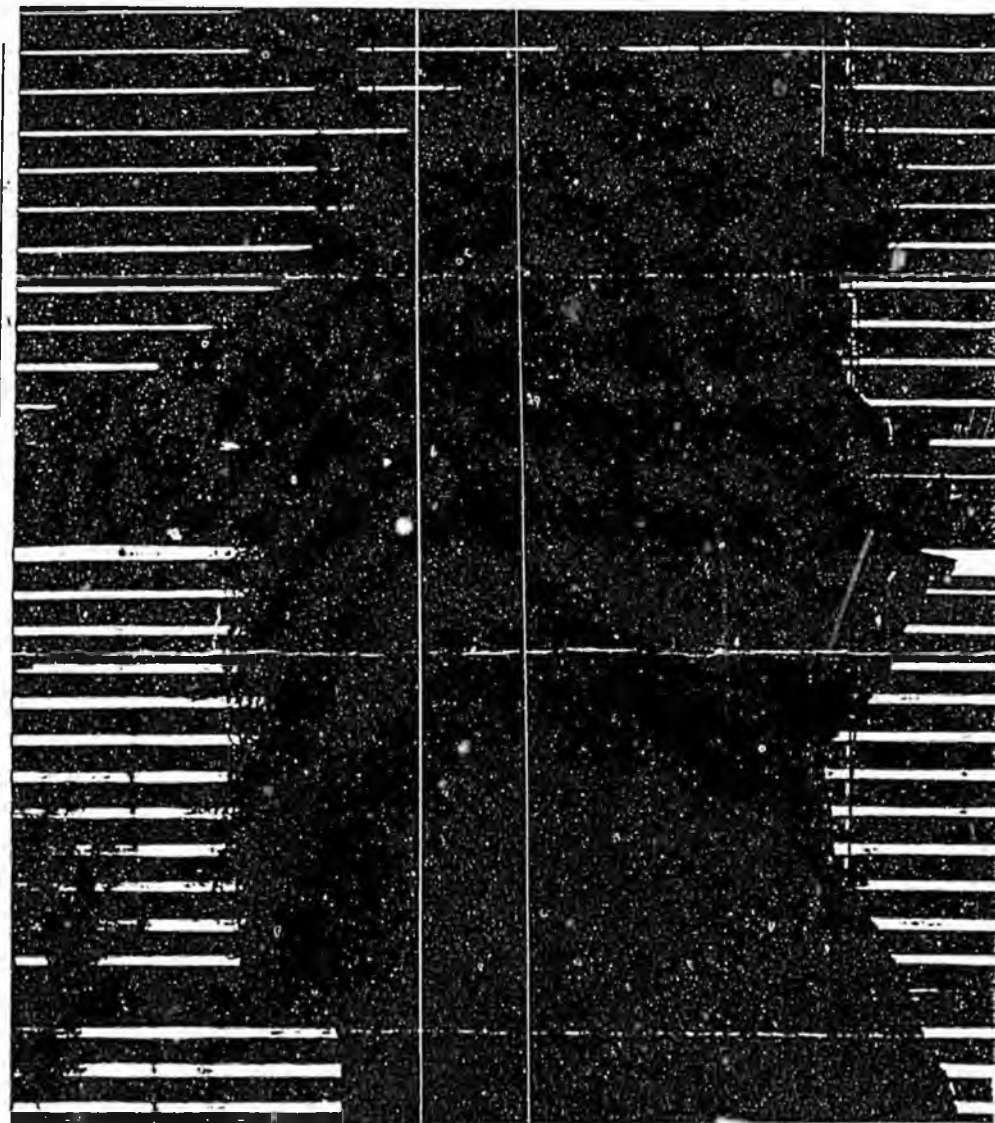
Murderous Obsession

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 Butkowiak'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.

Lowery 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

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.



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

ABOVE: BILL GENTILE FOR NEWSWEEK, BELOW: DAVID WALBERG

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.



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.

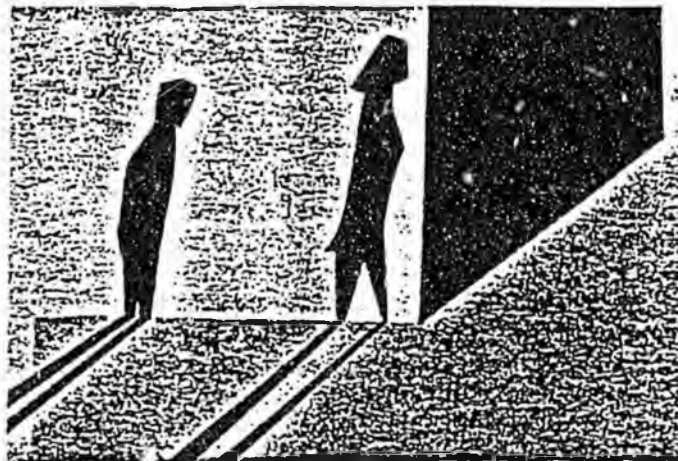
The prospect of more victims arming themselves is no comfort to law-enforcement officials. Yet most admit there is very little they can do in the face of a persistent stalker. "You can put a person in jail for a year or so, but they eventually will get out," says Det. John Lane, part of a four-member 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, FARAI CHIDEYA in Chicago, SUSAN MILLER in Houston, DONNA FOOKE 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 razzle-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 Marijo 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.

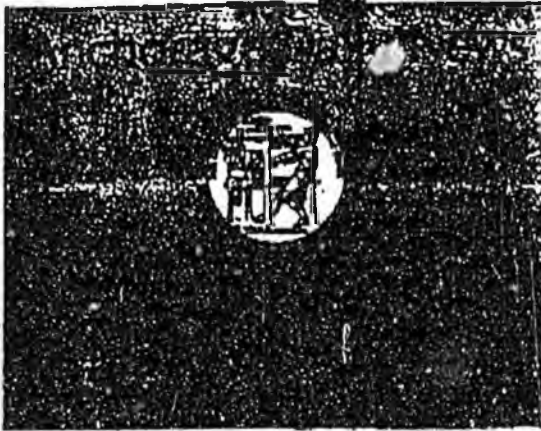
The National Victim Center has acted as an information clearinghouse regarding stalking laws. By providing interested legislators with information and technical assistance, and heightening public awareness through the media, the Center has assisted many states in drafting and passing anti-stalking laws. 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

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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.

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



JIM LAVRAKAS / Anchorage Daily News

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

MURDER TRIAL: Victim's family endures long ordeal

Continued from Page A-1

been lifted from him. "When he said that he felt relieved after the killing," Gary Pogany said, "any compassion in our family for him was gone at that time." For months, Gary Pogany had prodded and pushed to get the charges against Nelson to trial. He worried when Nelson's family hired a sought-after defense attorney with a reputation built on a steady stream 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 should 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."

THE BACK PAGE

STALKER: Proposal would raise penalty in some circumstances

Continued from Page A-1

specifically addressing stalking another person. 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 Toohay, a sponsor of the stalking bill. "As women get more involved in working and supporting their families, they need more protection." At least 25 states have passed such laws.

Police won't release the name of the 32-year-old woman involved in the Anchorage 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 Kalkus 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. "That's just the police report. There are falsehoods," he said. "There's more involved than what you think."

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. 8, and he followed her in his car as she tried to speed away.

After a short chase, speeds that reached 80 mph, she was safe. She had lost sight of him. But when she got to the 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.

Petersen's harassment has caused her to not feel safe in her own home and she constantly fears for her husband and children's welfare, the complaint says. If found guilty of disorderly conduct, Petersen would face up to 90 days in jail and a \$1,000 fine.

The proposed anti-stalking 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 and watching, even if they are in front of the victim's home.

"There is really nothing we can do unless they trespass or directly harass the victim," Warner said.

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 An-

chorage was charged and convicted of murder after he stalked his former girlfriend, then shot and killed her.

Janice Lienhart, director of Victims For Justice in Anchorage, says about 150 women a year call her to say they are afraid of men who are stalking them.

"I have encouraged them to contact their legislators to help get a stalking law."

One woman was so frightened that she left her job and the state, Lienhart said.

Lienhart said she knows of another woman being stalked and terrorized by a man she once had a relationship with. The woman tells few people where she lives and approaches each day with fear.

"She's basically in her own little prison," Lienhart said. "It's sad to have to live that way."

New bill targets stalkers

Under proposal, penalties may rise

By PAMELA TOTO
Daily News reporter

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 a half-dozen complaints with police about Petersen, the 36-year-old Federal Aviation Administration employee was arrested and charged with disorderly conduct. He was released from the Sixth Avenue Jail four days later after posting \$2,000 bail.

Disorderly conduct, a misdemeanor, is the most police could charge Petersen with because Alaska has no laws

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STALKER

SENATOR LOREN LEMAN'S OFFICE

TELECOPIER COVER SHEET

State Capitol, Juneau, Alaska 99811
907-465-2095 (office) 907-465-3810 (fax)

ATTN: Denise Mackura-Tromski FAX: 312-786-2131

OFFICE: Americans United for Life PHONE: 312-786-9494

FROM: Deborah Luper DATE/TIME: 2/19/93 11:00PM

NUMBER OF PAGES (including cover sheet): 12

Here is a copy of HB64 (committee substitute) sponsored by Representative Cynthia Toohey of Anchorage. This bill, in its original form, did not appear to threaten constitutionally protected activity (I am sending the original version for your perusal as well.).

I am very concerned that the current version will be used against demonstrators (see page two, lines 16-19. "Physical injury" in Alaska means pain (stepping on a toe, for example). The victim would only have to be placed in "fear" of physical injury.

Of additional concern, is the felony charge for those convicted the second time of a stalking charge. Pro-life demonstrators, told once that their presence was not wanted, could be arrested and charged with a misdemeanor, I believe, and then arrested and charged with a felony the second time.

I apologize for my note taking in the margins. This was my working copy, and I did not get a chance to get a clean one.

Please let me know if there is anything I can assist you with. I anxiously await your analysis.

God Bless You.

How Kristin Died

A disturbed man, and a flawed system, took her young life

By George Lardner Jr.
Washington Post Staff Writer

The phone was ringing insistently, hurrying me back to my desk. My daughter Helen was on the line, sobbing so hard she could barely catch her breath. "Dad," she shouted. "Come home! Right away!"

I was stunned. I had never heard her like this before. "What's wrong?" I asked. "What happened?"

"It's—it's Kristin. She's been shot... and killed."

Kristin? My Kristin? Our Kristin? I'd talked to her the afternoon before. Her last words to me were, "I love you Dad." Suddenly I had trouble breathing myself.

It was 7:30 p.m. on Saturday, May 30. In Boston, where Kristin Lardner was an art student, police were cordoning off an apartment building a couple of blocks from the busy, sunlit sidewalk where she'd been killed 90 minutes earlier. She had been shot in the head and face by an ex-boyfriend who was under court order to stay away from her. When police burst into his apartment, they found him sprawled on his bed, dead from a final act of self-pity.

This was a crime that could and should have been prevented. I write about it as a sort of cautionary tale, in anger at a system of justice that failed to protect my daughter, a system that is addicted to looking the other way, especially at the evil done to women.

But first let me tell you about my daughter.

She was, at 21, the youngest of our five children, born in Washington, D.C., and educated in the city's public schools, where not much harm befell her unless you count her taste for rock music, lots of jewelry, and funky clothes from Value Village. She loved books, went trick-or-treating dressed as Bette Garbo, played one of the witches in "Macbeth" and had a grand time in tap-dancing class even in her sneakers. She made life sparkle.

When she was small, she always got up in time for Saturday morning cartoons at the Chevy Chase library, and she took cheerful care of a succession of cats, mice, gerbils, hamsters and guinea pigs. Her biggest fault may have been that she took too long in the shower—and you never knew what color her hair was going to be when she emerged. She was compassionate, and strong-minded too; when a boy from high school dropped his pants in front of her, Kristin knocked out one of his front teeth.

"She didn't back down from anything," said Amber Lynch, a close friend from Boston University. "You could tell that basically from her art, the way she dressed, the opinions she had. If you said something stupid, she'd tell you."

Midway through high school, Kristin began thinking of becoming an artist. She'd been taking art and photography classes each summer at the Corcoran School of Art and was encouraged when an art teacher at Wilson High decided two of her paintings were good enough to go on display at a little gallery there. She began studies at Boston University's art school and transferred after two years to a fine arts program run jointly by the School of the Museum of Fine Arts and Tufts University. She particularly liked to sculpt and make jewelry and, in the words of one faculty member, "showed great promise and was extremely talented."

In her apartment were scattered signs of that talent. Three wide-banded silver and brass rings, one filigreed with what looked like barbed wire. Some striking sculptures of bound figures. A Madonna, painstakingly gilded. A nude self-portrait in angry reds, oranges and yellows, showing a large leg bruise her ex-boyfriend had given her on their last date in April.

"It felt as though she was telling all her secrets to the world," she wrote of her art in an essay she left behind. "Why would anyone want to know them anyway? But making things was all she wanted to do... She always had questions, but never any answers, just frustration and confusion, and a need to get out whatever lay inside of her, hoping to be meaningful."

Kristin wrote that essay last November for a course at Tufts taught by Ross Ellenhorn, who also happens to be a counselor at Emerge, an educational program for abusive men. He had



Kristin Lardner, killed at the age of 21.

once mentioned this to his students. He would hear from my daughter in April, after she met Michael Cartier.

By then, Kristin had been dating Cartier, a 22-year-old bouncer, for about 2½ months. She broke off with him on the early morning of April 16. On that night, a few blocks from her apartment, he beat her up.

They "became involved in an argument and he knocked her to the ground and started kicking her over and over," reads a Brookline, Mass., police report. "She remembers him saying, 'Get up or I'll kill you.' She staggered to her feet, a car stopped and two men assisted her home.

"Since that night," the report continues, "she has refused to see him, but he repeatedly calls her, sometimes 10 or 11 times a day. He has told her that if she reports him to the police, he might have to do six months in jail, but she better not be around when he gets out.

"She also stated the injuries she suffered were hematomas to her legs and recurring headaches from the kicks."

Kristin didn't call the police right away. But she did call Ellenhorn in hopes of getting Cartier into Emerge. "I made clear to her that Emerge isn't a panacea, that there was still a chance of him abusing her," Ellenhorn says. "I told her that he could kill her... because she was leaving him and that's when things get dangerous."

Cartier showed up at Emerge's offices in Cambridge, around April 28 by Ellenhorn's calculations. Ellenhorn, on duty that night, realized who Cartier was when he wrote down Kristin's name under victim on the intake form.

"I said, 'Are you on probation?'" Ellenhorn remembers. "He said yes. I said, 'I'm going to need the name of the probation officer.' He said, '[Expletive] this. No way.'"

With that, Cartier ripped up the contract he was required to sign, ripped up the intake form, put the tattered papers in his pocket and walked out.

"He knew," Ellenhorn says. "He knew what kind of connection would be made." Michael Cartier was, of course, on probation for attacking another woman.

Cartier preyed on women. Clearly disturbed, he once talked of killing his mother. When he was 5 or 6, he dismembered a pet rabbit. When he was 21, he tortured and killed a kitten. In



a bizarre 1989 incident at an Andover restaurant, he injected a syringe of blood into a ketchup bottle. To his girlfriends, he could be appallingly brutal.

Rose Ryan could tell you that. When Kristin's murder was reported on TV—the newscaster described the killing as “another case of domestic violence”—she said to a friend, “That sounds like Mike.” It was. Hearing the newscaster say his name, she recalls, “I almost dropped.”

When Ryan met Cartier at a party in Boston in the late summer of 1990, she was an honors graduate of Lynn East High School, preparing to attend Suffolk University. She was 17, a lovely, courageous girl with brown hair and brown eyes like Kristin's.

“He was really my first boyfriend,” she told me. “I was supposed to work that summer and save my money, but I got caught up with the scene in Boston and hanging out with all the kids. . . . At first, everything was fine.”

CARTIER WAS A FAMILIAR FACE ON THE BOSTON Common, thanks to his career as a freelance nightclub bouncer. He had scraped up enough money to share a Commonwealth Avenue apartment with a Museum School student named Kara Boettger. They dated a few times, then settled down into a sort of strained coexistence.

“He didn't like me very much,” Boettger said. “He liked music loud. I'd tell him to turn it down.”

Rose Ryan liked him better. She thought he was handsome—blue eyes, black hair, a tall and muscular frame—with a vulnerability that belied his strength. To make him happy, she quit work and postponed the college education it was going to pay for. “He had me thinking that he'd had a bad deal his whole life,” she said, “that nobody loved him and I was the only one who could help him.”

Cartier also knew how to behave when he was supposed to. Ryan said he made a good first impression on her parents. As with Kristin, it took just about two months before Cartier beat Ryan up. She got angry with him for “kidding around” and dumping her into a barrel on the Common. When she walked away, he punched her in the head; when she kept going, he punched her again.

"I'd never been hit by any man before and I was just shocked," she said. But what aggravated her the most, and still does, is that "every time something happened, it was in public, and nobody stopped to help."

Cartier ended the scene with "his usual thing," breaking into tears and telling her, "Oh, why do I always hurt the people I love? What can I do? My mother didn't love me. I need your help."

Shortly after they started dating, Ryan spent a few days at the Cartier-Boettger apartment. He presented her with a gray kitten, then left it alone all day without a litter box. The kitten did what it needed to do on Cartier's jacket.

"He threw the kitten in the shower and turned the hot water on and kept it there under the hot water," Ryan remembers in a dull monotone. "And he shaved all its hair off with a man's shaving razor."

The kitten spent most of its wretched life hiding under a bed. On the night of Oct. 4, 1990, Cartier began drinking with two friends and went on a rampage. He took a sledgehammer and smashed through his bedroom wall into a neighbor's apartment. And he killed the kitten, hurling it out a fourth-floor window.

"I'd left the apartment without telling them," Ryan said. "When I came back, the police were in the hallway. . . . They said, 'Get out. This guy's crazy.' They were taking him out in handcuffs."

Three months later, Cartier, already on probation, plea-bargained his way to probation again—pleading guilty to malicious destruction. Charges of burglary and cruelty to animals were dismissed; the court saw nothing wrong with putting him back on the street.

"I thought he was going to jail because he violated probation," Kara Boettger said. So did Cartier. "[But after the January hearing] he told me. . . . 'Oh yeah, nothing happened. They slapped my wrist.'"

WHEN MICHAEL CARTIER WAS BORN IN NEWBURYPORT, Mass., his mother was 17. Her husband, then 19, left them six months later; Gene Cartier has since remarried twice. Her son, Penny Cartier says, was a problem from the first.

"He'd take a bottle away from his [step]sister. He'd light matches behind a gas stove. He was born that way," Penny Cartier asserted. "When he was five or six, he had a rabbit. He ripped its legs out of its sockets."

"None of this," she added in loud tones, "had anything to do with what he did to Kristin. . . . Michael's childhood had nothing to do with anything."

Life with mother, in any case, ended at age 7, when she sent him to the New England Home for Little Wanderers, a state-supported residential treatment center for troubled children. Staff there remember him—although Penny Cartier denies this—as a child abused at an early age. "That's the worst childhood I've ever seen," agrees Rich DeAngelis, one of Cartier's probation officers. "This didn't just happen in the last couple of years."

Cartier stayed at the New England Home until he was 12. In October 1982, he was put in the Harbor School in Amesbury, a treatment center for disturbed teenagers. He stayed there for almost four years and was turned over to his father, a facilities maintenance mechanic in Lawrence.

Michael Cartier was bitter about his mother. "I just know he hated her," Kara Boettger said. "He said he wanted to get a tattoo, I think maybe on his arm, of her hanging from a tree with animals ripping at her body."

Penny Cartier didn't seem surprised when I told her this. In fact, she added, after he turned 18, "he asked my daughter if she wanted him to kill me."

Cartier entered Lawrence High School but dropped out after a couple of years. "He was just getting frustrated. He couldn't keep up," said his father. By his second semester, he was facing the first of nearly 20 criminal charges that he piled up in courthouses from Lawrence to Brighton over a four-year period.

Along the way, he enjoyed brief notoriety as a self-avowed skinhead, sauntering into the newsroom of the Lawrence Eagle-Tribune with his bald friends in June 1989 to complain of the bad press and "neo-Nazi" labels skinheads usually got. "The state supported me all my life, with tree doctors and dentists and everything," Cartier told columnist Kathie Neff. "My parents never had anything to do with that because they got rid of me. This is like my way of saying thanks [to them]."

Neff said Cartier cut an especially striking figure, walking in patches and wearing a patch on one eye. He had just survived a car accident that produced what seems to have



Michael Cartier, Kristin Lardner's killer

been a magic purse for him. He told friends he had a big insurance settlement coming and would get periodic advances on it from his lawyer. Gene Cartier said his son got a final payment late last year of \$17,000 and "went through \$14,000" of it before he murdered Kristin.

The high-ceilinged main courtroom in Brighton has a huge, wide-barred cell built into a wall. On busy days, it is a page from Dickens, crowded with yelling, cursing prisoners waiting for their cases to be called.

Cartier turned up in the cage April 29, 1991, finally arrested for violating probation. Ten days earlier, when Rose Ryan was coming home from a friend's house on the "T," Boston's trolley train and subway system, Cartier followed her—and accosted her at the Government Center station with a pair of scissors. She ducked the scissors and Cartier punched her in the mouth.

Even before that, Ryan and her older sister Tina had become alarmed. After a party in December, Cartier got annoyed with Rose for not wanting to eat pizza he'd just bought. She began walking back to the party when he backhanded her in the face so hard she fell down. "And I'm lying on the ground, screaming, and then he finally stopped kicking me after I don't know how long, and then he said, 'You better get up or I'll kill you.'"

The same words he would use with Kristin. And how many other young women?

Rose Ryan said Cartier threatened to kill her several times after they broke up in December and, in a chance encounter in March, told her he had a gun. The Boston police called his probation officer in Brighton, Tom Casey. He told Rose to get a restraining order and, on March 28, he obtained a warrant for Cartier's arrest. It took a month for police to pick him up even though Cartier had, in between, attacked Rose in the subway and been arraigned on charges for that assault in Boston Municipal Court.

"Probation warrants have to be served by the police, who don't take them seriously enough," said another probation officer. "Probationers know they can skip court appearances with impunity."

When Cartier turned up in Brighton, "he was very quiet, sullen, and withdrawn," Casey said. "It was obvious he had problems deeper than I could ever get to." Yet a court psychiatrist, Dr. Mike Annunziata, filed a report stating that Cartier had "no acute mental disorder, no suicidal or homicidal ideas, plans or intents." The April 29, 1991, report noted that Cartier was being treated by the Tri-City Mental Health and Retardation Center in Malden and was taking 300 milligrams of lithium a day to control depression.

Cartier, the report said, had also spent four days in January 1991 at the Massachusetts Mental Health Center in Boston. He was brought there on a "Section 12," a law providing for emergency restraint of dangerous persons, because of "suicidal ideation" and an overdose of some sort. On April 2, 1991, he was admitted to the Center on another "Section 12," this time for talking about killing Rose Ryan with a gun "within two weeks." He denied making the threats and was released the next day.

Tom Casey wanted to get him off the streets this time, and a like-minded visiting magistrate ordered Cartier held on bail for a full hearing in Brighton later in the week. When the Ryan sisters arrived in court, they found themselves five feet away from Cartier in the cell. "Soon as he saw me," Tina Ryan said, "he said, 'I know who you are, I'm going to kill you too.' All these filthy words, calling me everything he could..."

After listening to what the Ryans had to say, the judge sent Cartier to jail on Deer Island for three months for violating probation. The next month, he was given a year for the subway attack, but was committed for only six months.

That didn't stop the harassment. Cartier began making collect calls to Ryan from prison and he enlisted other inmates to write obscene letters. The district attorney's office advised the Ryans to keep a record of the calls so they could be used against Cartier later.

Despite all that, Cartier was released early, on Nov. 5, 1991. "He's been a very good prisoner and we're overcrowded," the Ryans say they were told.

Authorities in Essex County didn't want to see him out on the streets even if officials in Boston didn't care. As soon as he was released from Deer Island, Cartier was picked up for violating his probation on the ketchup-bottle incident and sentenced to 59 days in the Essex County jail. But a six-month suspended sentence that was hanging over him for a 1988 burglary—which would have meant at least three months in jail—was wiped off the books.

"That's amazing," said another probation officer who looked at the record. "They dropped the more serious charges."

Cartier was released after serving 49 of the 59 days.

Ryan had already been taking precautions. She carried Mace in her pocketbook, put a baseball bat in her car and laid out a bunch of knives next to her bed each night before going to sleep. "I always thought that he would come back and try to get me," she said.

KRISTIN LOVED TO GO OUT WITH FRIENDS UNTIL ALL hours of the morning, but she didn't have many steady boyfriends. Most men, she said more than once, "are dogs" because of the way they treated girls she knew.

She was always ready for adventure, hopping on the back of brother Charles's motorcycle for rides; curling up with Circe, a pet ball-python she kept in her room; and flying down for a few weeks almost every August to Jekyll Island, Ga., to be with her family, a tradition started when she was less than a week old. Last year she caught a small shark from the drawbridge over the Jekyll River.

"I think she'd give anything a go," said Jason Corkin, the young man she dated the longest, before he returned last year to his native New Zealand. "When she set her mind to something, she wouldn't give it up for anything."

She could also become easily depressed, especially about what she was going to do after graduation. As she once wrote, her favorite pastime was "morbid self-reflection." Despite that, laughter came easily and she was always ready for a conversation about art, religion, philosophy, music. "I don't really remember any time we were together that we didn't have a good time," said Bekky Elstad, a close friend from Boston University.

Left in her bedroom at her death was a turntable with Stravinsky's "Rites of Spring" on it and a tape player with a punk tune by Suicidal Tendencies. Her books, paperbacks mostly, included Alice Walker's "The Color Purple" and Margaret Atwood's "The Handmaid's Tale," along with favorites by Sinclair Lewis, Dickens and E.B. White and a book about upper- and middle-class women in Hindu families in Calcutta.

Her essays for school, lucid and well-written, showed a great deal of thought about art, religion and the relationship between men and women. She saw her art as an expression of parts of her hidden deep inside, waiting to be pulled out, but still to be guarded closely. "Art could be such a selfish thing. Everything she made, she made for herself and not one bit of it could she bear to be parted with. Whether she loved it, despised it or was painfully ashamed of it, she couldn't stand the thought of these little parts of her being taken away and put into someone else's possession."

Buddhism appealed to her, and once she wrote this: "Pain only comes when you try to hang on to what is impermanent. So all life need not be suffering. You can enjoy life if you do not expect anything from it."

SHE MET CARTIER LAST JAN. 30 AT A BOSTON NIGHT-club called Axis, having gone there with Lauren Mace, Kristin's roommate and best friend, and Lauren's boyfriend. At Axis, Kristin recognized Cartier as someone she'd seen at Bunnratty's, a hard-rock club where Cartier had been a bouncer. Cartier was easily recognizable; he had a large tattoo of a castle on his neck.

What did she see in him? It's a question her parents keep asking themselves. But some things are fairly obvious. He reminded her of Jason, her friend from New Zealand. He could be charming. "People felt a great deal of empathy for him," said Octavia Ossola, director of the child care center at the home where Cartier grew up, "because it was reasonably easy to want things to be better for him." At the Harbor School, said executive director Art DiMauro, "he was quite endearing. The staff felt warmly about Michael."

So, at first, did Kristin. "She called me up, really excited and happy," said Christian Dupre, a friend since childhood. "She said 'I met this good guy, he's really nice.'"

Kristin told her oldest sister, Helen, and her youngest brother, Charlie, too. But Helen paused when Kristin told her that Cartier was a bouncer at Bunnratty's and had a tattoo.

"Well, ah, is he nice?" Helen asked.

"Well, he's nice to me," Kristin said.

Charlie, who had just entered college after a few years of blue-collar jobs, was not impressed. "Get rid of him," he advised his sister. "He's a zero."

Her friends say they got along well at first. He told Kristin he'd been in jail for hitting a girlfriend, but called it a bum rap. She did not know he'd attacked Rose Ryan with scissors, that he had a rap sheet three pages long.

Kristin, friends say, often made excuses for his behavior. But they soon started to argue. Cartier was irrationally jealous, accusing her of going out with men who stopped by just to talk. During one argument, apparently over her art, Cartier hit her, then did his "usual thing" and started crying.

Cartier, meanwhile, was still bothering Ryan. A warrant for violating probation had been issued out of Boston Municipal Court on Dec. 19, in part for trying to contact her by mail while he was in jail. But when he finally turned up in court, a few days before he met Kristin, he got kid-glove treatment. Rather than being sentenced to complete the one-year term he'd gotten for the scissors attack, he was ordered instead to attend a once-a-week class at the courthouse for six weeks called "Alternatives to Violence."

"It's not a therapy program, it's more educational," said John Tobin, chief probation officer at Boston Municipal Court. "It's for people who react to stress in violent ways, not just for batterers. Cartier... showed up each time. You don't send probationers away when they do what they're supposed to do."

What Tobin didn't mention was that Cartier had actually dropped out of his Alternatives to Violence course—and, incredibly, was allowed to sign up for it again. According to a chronology I obtained elsewhere, Cartier attended the first meeting of the group on Feb. 5 and skipped the class Feb. 12. His probation was revoked two days later. But instead of sending him back to jail, the court allowed him to start the course over, beginning April 1.

Cartier's probation officer, Diane Barrett Moeller, a "certified batterer specialist" who helps run the program, declined to talk to me, citing "legal limitations" that she did not spell out. Her boss, Tobin, said she was "a ferocious probation officer."

"We tend to be a punitive department," Tobin asserted. "We are not a bunch of social rehabilitators."

However that may be, it is a department that seems to operate in a vacuum. Cartier's record of psychiatric problems, his admissions to the Boston mental health center in January and April 1991 and his reliance on a drug to control manic-depression should have disqualified him from the court-run violence program.

"If we had information that he had a prior history of mental illness, or that he was treated in a clinic or that he had been hospitalized, then what we probably would have done is recommend that a full-scale psychological evaluation be done for him," Tobin told the Boston Herald last June following Kristin's murder. "We didn't know about it."

Probation officer Tom Casey in Brighton knew. All Tobin's office had to do was pick up the phone to find out what a menace Cartier was. Meanwhile, in Salem, where she had moved

to work with her sister at a family-run business, Rose Ryan remained fearful. But she had a new boyfriend, Sean Casey, 23, and, as Rose puts it, "I think he intimidated Mike because he had more tattoos. Mike knew Sean from before."

Around March 1, Sean went to Boston to tell Cartier to leave Rose alone. As they were talking, Kristin walked by. Sean didn't know who she was, but recognized her later, from newspaper photos.

Cartier nodded at Kristin as she passed. "He said, 'I don't need Rose any more.'" Casey recalled. "I have my own girlfriend."

Cartier was a frequent visitor at the six-room flat Kristin shared with Lauren Mace and another BU student, Matt Newton, but he didn't have much to say to them or the other students who were always stopping by. He told Kristin they "intimidated" him because they were college-educated.



A nude self-portrait features angry colors and a large leg bruise.

As the weeks wore on, they started to argue. When he hit her the first time, probably in early March, Kristin told friends about it, but not Lauren. She was probably too embarrassed. She had always been outspoken in her disdain for men who hit women.

"He hit her once. She freaked out on that. . . ." Bekky Elstad said. "She wanted him to get counseling. . . . He told her he was sorry. He was all broken up. She wanted to believe him."

Kristin came home to Washington in mid-March, outwardly bright and cheerful. She was more enthusiastic than ever about her art. She was "really getting it together," she said. She had yet to tell her parents that she had a boyfriend, much less a boyfriend who hit her.

When she got back to Boston, Cartier tried to make up with her. He gave her a kitten. "It was really cute—black with a little white triangle on its nose," Amber Lynch said. "It was teeny. It just wobbled around."

It didn't last long. Over Kristin's protests, Cartier put the kitten on top of a door jamb. It fell off, landing on its head. She had to have it destroyed.

Devastated, Kristin called home in tears and told her parents, for the first time, about her new boyfriend. Part of her conversation with her mother was picked up by a malfunctioning answering machine.

Rosemary: What does Mike do?

Kristin: Well, he does the same thing Jason did actually. He works at Bunratty's.

Rosemary: He does what?

Kristin: He works at Bunratty's.

Rosemary: Oh. Is he an artist also?

Kristin: No.

Rosemary: Well, that's what I was asking. What does he—? Is he a student?

Kristin: No. He just—he works. He's a bouncer."

"Oh," Rosemary said, asking after a long pause why she was going out with a boy with no education. Kristin told her that she wanted to have a boyfriend "just like everyone else does."

When I came home, Rosemary said, "Call your daughter." When I did, Kristin began crying again as she told me about the kitten. She was also upset because she had given Cartier a piece of jewelry she wanted to use for her annual evaluation at the Museum School. He told her he'd lost it.

Gently, perhaps too gently, I said I didn't think she should be wasting her time going out with a boy who did such stupid things. We talked about school and classes for a few minutes more and said goodnight.

She went out with him for the last time on April 16, the day after one of his Alternatives to Violence classes. He pushed her down onto the sidewalk in front of a fast-food place, cutting her hand. She told him several times to "go home and leave me alone," but he kept following her to a side street in Allston.

"Kristin said something like, 'Get away from me. I never want to see you again.'" Bekky Elstad remembers. But when Kristin tried to run, he caught up with her, threw her down and kicked her repeatedly in the head and legs. She was crying hysterically when she got home with the help of a passing motorist. She refused to see him again.

But Cartier kept trying to get her on the phone. He warned her not to go to the police and, for a while, she didn't. She felt sorry for him. She even agreed to take a once-a-week phone call from him the day he went to his Alternatives to Violence class.

He was rated somewhat passive at the meetings, but he got through the course on May 6 without more truancy. The next day, he walked into Gay's Flowers and Gifts on Commonwealth Avenue and bought a dozen red roses for Kristin. He brought in a card to be delivered with them.

Leslie North, a dark-haired, puffy-faced woman who had known Cartier for years, had helped him fill it out in advance. "He always called me when he had a fight with his girlfriends," she said. "He said that he was trying to change, that he needed help, that he wanted to be a better person. He said, 'I'm trying to get back with her.'"

Flower shop proprietor Alan Najarian made the delivery to Kristin's flat. "One of her roommates took them," Najarian remembers. "He was kind of reluctant. . . . I think he must have known who they were from."

Police think Cartier may have gotten his gun the day of the murder, but Leslie North remembers his showing it to her "shortly after [he and Kristin] broke up," probably in early May.

Why did he get the gun? "He said, 'Ah, just to have one.'" North says. "I asked him, 'What do you need a gun for?' He said, 'You never know.' I didn't realize you're not supposed to get a gun if you've been in jail. I didn't tell anyone he had it."

"He told me he paid \$750 for it," she continues. "I showed him just a little bit of safety . . . how to hold it when you shoot. . . . It looked kind of old to me."

The gun found in Cartier's apartment after he killed Kristin and himself was 61 years old, a Colt .38 Super, serial number 13645, one of about a 100 million handguns loose in the United States. It was shipped brand new on Jan. 12, 1932, to a hardware store in Knoxville, Tenn., where all traces of it disappeared.

North remembered something else she says Cartier told her after he got the gun. "He goes, 'If I kill Kristin, are you going to tell anyone?'"

"I said, 'Of course, I'm going to tell.' I didn't take him seriously. . . . He said that once or twice to me."

On May 7, the same day Cartier sent flowers to Kristin, he told her that he was going to cheat her out of the \$1,000 Nordic Flex machine she'd let him charge to her Discover card. When she told him over the phone that she expected him to return the device, he laughed and said, "I guess you're out the \$1,000."

Kristin was furious. She promptly called Cartier's probation officer, Diane Barrett Moeller, and gave her an earful: the exercise machine, the beating.

Kristin's call for help was another of the probation office's secrets. Tobin said nothing about it to the Boston press in the days after Kristin's murder, when it grew clear that there was something desperately wrong with the criminal justice system. Tobin told me only after I found out about it from Kristin's friends.

"Your daughter was concerned," Tobin said. "She put a lot of emphasis on the weight machine. Mrs. Moeller said, 'Get your priorities straight. You should not be worrying about the weight machine. You should be worrying about your safety. . . . Get to Brookline court, seek an assault complaint, a larceny complaint, whatever it takes . . . and get a restraining order.'"

According to Tobin, Kristin wouldn't give her name even though Moeller asked for it twice. "We can't revoke someone's probation on an anonymous phone call," he said. Kristin, he added, "did say she didn't want this man arrested and put behind bars."

Tobin also claimed that his office could have taken no action because Kristin was "not the woman in the case who were supervising," which is like saying that probationers in Boston Municipal Court should only take care not to rob the same bank twice.

The next day, Friday, May 8, instead of moving to revoke Cartier's probation, Moeller called Cartier and, in effect, told him what was up. Tobin recalled the conversation. "She told him to get the exercise machine back to her. She told him she didn't want to hear about it anymore. And she ordered a full-scale psychiatric evaluation of him. She also ordered him to report to her every week until the evaluation is completed."

Cartier did all that while planning Kristin's murder.

When Cartier called Kristin again, she told him that if he didn't return the exercise machine, she was going to take court action. "He called back 10 minutes later from a pay phone," remembers Brian Fazekas, Lauren's boyfriend. "He said, 'Okay, okay, I'll return the stupid machine.'"

Kristin was skeptical about that. And she was worried about more violence. The warnings of her friends, her brother Charlie, her teacher Ross Ellenhorn and now Cartier's probation officer rang in her ears. Her art reflected her anguish. She had painted her own self-portrait, showing some of the ugly bruises Cartier had left. Hanging sculptures showed a male, arms flexed and fists clenched. The female hung defensively, arms protecting her head.

BY MONDAY, MAY 11, SHE HAD MADE UP HER MIND. She was going to rely on the system. She decided to ask the courts for help. She talked about it afterwards with her big sister, Helen, a lawyer and her lifelong best friend. Kristin told her, sparingly, about the beating and, angrily, about the exercise machine. Helen kept the news to herself, as Kristin requested. "She said she found out what a loser he was. She said, 'He's even been taking drugs behind my back.'" Helen recalls. He was snorting heroin, confirms Leslie North—it helped him stay calm, she remembers him saying.

Late in the day, Kristin went to the Brookline police station, Lauren Mace and Brian Fazekas beside her.

"The courts were closed by the time we got there. We waited outside," Lauren said. "An officer showed her [Cartier's] arrest record. When she came out, she said, 'You won't believe the size of this guy's police record. He's killed cats. He's beat up ex-girlfriends. Breaking and enterings.' The officer just sort of flashed the length of it at her and said, 'Look at what you're dealing with.'"

Brookline police sergeant Robert G. Simmons found Kristin "very intelligent, very articulate"—and scared. Simmons asked if she wanted to press charges, and she replied that she wanted to think about that. Simmons, afraid she might not come back, made out an "application for complaint" himself and got a judge on night duty to approve issuance of a one-day emergency restraining order over the phone. The next day, Kristin had to appear before Brookline District Judge Lawrence Shubow to ask for a temporary order—one that would last a week.

Other paperwork that Simmons sent over to the courthouse, right next door to the police station, called for a complaint charging Cartier with assault and battery, larceny, intimidation of a witness and violation of the domestic abuse law. It was signed by Lt. George Finnegan, the police liaison officer on duty at the courthouse that day, and turned over to clerk-magistrate John Connors for issuance of a summons.

The summons was never issued. Inexcusably, the application for it was still sitting on a desk in the clerk's office the day Kristin was killed, almost three weeks later.

Other officials I spoke with were amazed by the lapse. Connors shrugged it off. "We don't have the help," he said. "It was waiting to be typed."

Shubow was unaware of the criminal charges hanging over Cartier's head at the May 12 hearing. And Shubow didn't bother to ask about his criminal record. Restraining orders in Massachusetts, as in other states, have been treated for years by most judges as distasteful "civil matters." Until Kristin was killed, any crime in the commonwealth accused under the



Kristin Lardner with one of her sculptures

domestic abuse law of beating up his wife or girlfriend or ex-wife or ex-girlfriend could walk into court without much fear that his criminal record would catch up with him. Shubow later told *The Boston Globe*, "If there is one lesson I learned from this case, it was to ask myself whether this is a case where I should review his record. In a case that has an immediate level of danger, I could press for a warrant and immediate arrest."

Instead, Shubow treated Docket No. 92-RO-060 as a routine matter. He issued a temporary restraining order telling Cartier to stay away from Kristin's school, her apartment and her place of work for a week, until another hearing could be held by another judge on a permanent order, good for a year.

"The system failed her completely," Shubow told me after Kristin's death. "There is no such thing as a routine case. I don't live that, but I believe that. All bureaucrats should be reminded of that."

Downtown, in Boston Municipal Court, chief probation officer Tobin said that "if we had found out about the restraining order, we would have moved immediately." But Tobin's office made no effort to find out. Cartier's probation officer knew that the anonymous female caller lived in Brookline; a call to officials there would have made clear that Cartier had once again violated probation by beating up an ex-girlfriend. No such call was made.

Apparently, the probation officer didn't ask Cartier for the details either. According to a state official who asked not to be identified, Diane Moeller met with Cartier on May 14, just eight days after he completed her Alternatives to Violence course and three days after Kristin obtained her first restraining order. Moeller did nothing to get him off the streets.

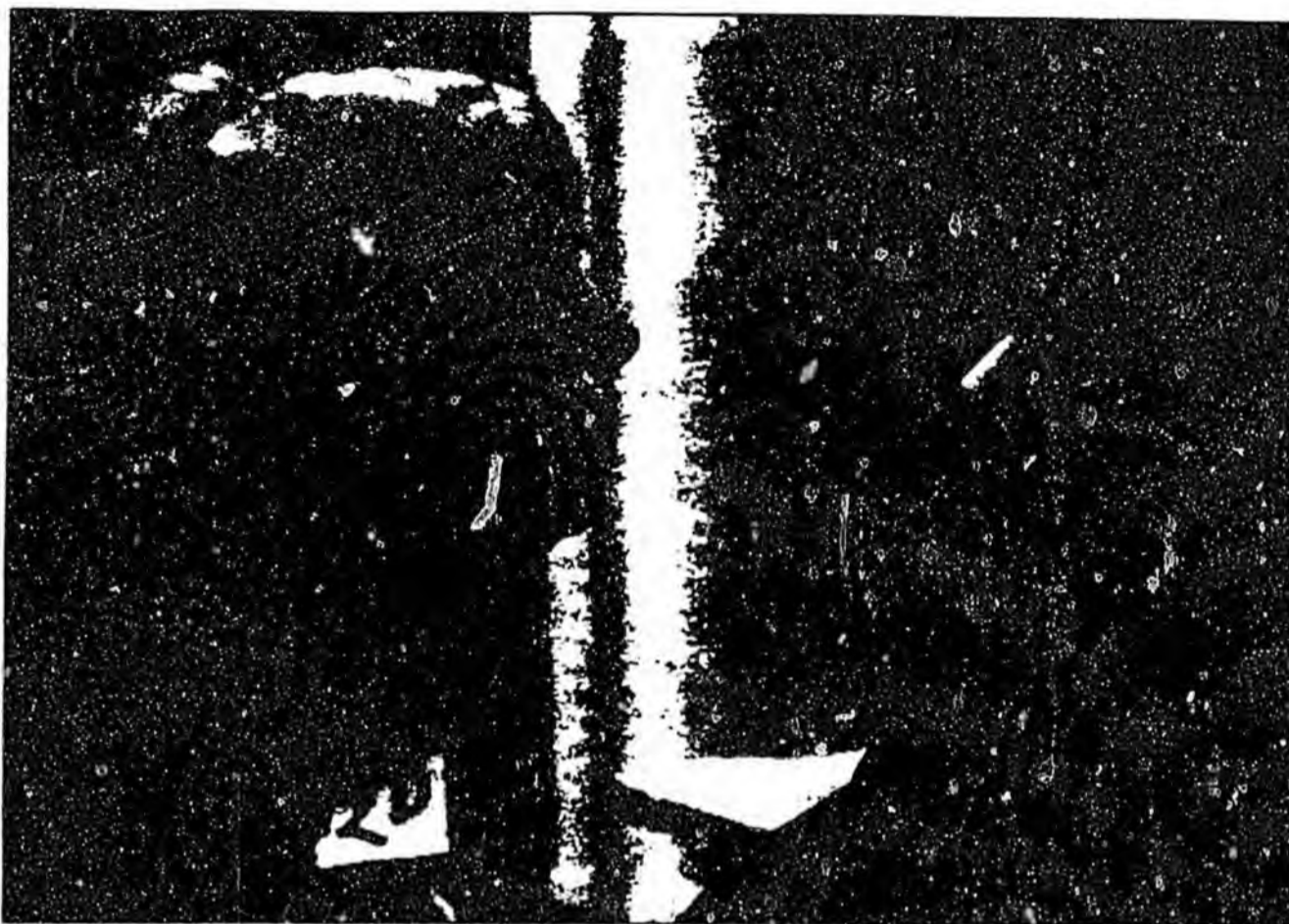
"She was concerned about getting additional assistance for this guy," the state official said of the May 14 meeting. "No charges were filed."

In Brookline, Lt. Finnegan said he sensed something was wrong. He walked up to Kristin outside the courthouse on May 12. "I had this gut feeling," he said. "I asked her, 'Are you really afraid of him?' She said, 'Yeah.' I asked her if he had a gun. She said, 'He may.'"

Finnegan told her to call the police if she saw Cartier hanging around.

THE PHONE RANG AT THE BROOKLINE POLICE STATION shortly after midnight on May 19. Kristin's request for a permanent restraining order was coming up for a hearing that morning. Now, in plain violation of the May 12 order, Cartier had called around midnight, got Kristin on the line and asked her not to go back to court. She called the cops.

Sgt. Simmons, on duty that night as shift commander:



Kristin Lardner with one of her sculptures

advised Kristin to file a complaint and sent officer Kevin Mealy to talk to her. Mealy arrived at her apartment at 1:10 a.m. "Ms. Lardner said that Mr. Cartier attempted to persuade her not to file for an extension of the order. Mealy wrote in his report, which he filed as soon as he got back to the station house. "A criminal complaint application has been made out against Mr. Cartier for violating the existing restraining order."

Sgt. Simmons says, "I told Kevin, 'They've got a hearing in the morning.' The documents went over there. But who reads them?"

Kristin arrived at the courthouse around 11:30 a.m. May 19, accompanied by Lauren Mace and Amber Lynch.

"He [Cartier] was out in front of the courthouse when we got there," Lynch said. "We all just walked in quickly. We waited a long time. He kept walking in and out of the courtroom. I think he was staring at her."

There was no one in the courtroom from the Norfolk County D.A.'s office to advise Kristin. Brookline probation officials didn't talk to her either. They had no idea Cartier was on probation for beating up another woman.

Neither did District Judge Paul McGill, a visiting magistrate from Roxbury. Like Shubow, he didn't check Cartier's criminal record. Unlike Shubow, it didn't trouble him. To him, it was a routine hearing. Kristin was looking for protection. She was processed like a slice of cheese.

"She thought he was going to be arrested," Lauren said. Brian Fazekas said, "It was her understanding that as soon as he got the permanent restraining order, he was going to be surrendered" for violating probation.

"What he [Cartier] did on the 19th was a crime," David Lowy, legal adviser to Gov. William Weld and a former prosecutor, said of the midnight call. "He should have been placed under arrest right then and there."

The hearing lasted five minutes. It would have been shorter except for a typical bit of arrogance from Cartier, trying to stay in control in the face of his third restraining order in 18 months. He agreed not to contact Kristin for a year and to stay away from her apartment and school. But he said he had a problem staying away from Marty's Liquors, where Kristin had just started working as a cashier. "I happen to live right around the corner from there," Cartier complained, according to a tape of the hearing.

The judge told him to patronize some other liquor store but not before more argument from Cartier about how he would have to "walk further down the street" and about how close it was to Bunnatty's, only half a block away. McGill ended the hearing by ordering Cartier to avoid any contact with Kristin, to stay at least 200 yards away from her and not to talk to her if he had to come closer when entering his home or the nightclub.

And with that, Cartier walked out scot-free. Yet, Massachusetts law, enacted in 1990, provides for mandatory arrest of anyone a law enforcement officer has probable cause to believe violated a temporary or permanent restraining order. In addition, a state law making "stalking" a crime, especially in violation of a restraining order, had been signed by Gov. Weld just the day before, May 18, effective immediately.

McGill later said that if he'd known Cartier had violated his restraining order by calling Kristin that morning, he would have turned the hearing into a criminal session.

The application for a complaint charging Cartier with violating the order was moldering in clerk John Connors's offices. Like the earlier complaint accusing him of assault and battery, it was still there the day Kristin was killed.

"Kristin 'could have said something [in court], I suppose," Lauren said. "But she just figured that after that, he would be out of her life. She said, 'Let's go home.' She felt very relieved that she had this restraining order."

KRISTIN, WHO NOW HAD 11 DAYS TO LIVE, TALKED enthusiastically about going to Europe after graduation, only a year away. After that she was hoping to go to graduate school. She had lost interest in boys, wanting to concentrate on her art.

"I spoke to her the night before [she was killed]," Chris Dupre said. "She was like the most optimistic and happiest she'd been in months. She knew what she wanted to do with herself, with her art."

She even had a new kitten, named Stubby because its tail was broken in two places. She was working part-time in the liquor store and hoping for more hours as summer approached. But she liked to stay home and paint or just hang out with friends now that classes were over.

Cartier was still skulking about, even after issuance of the permanent restraining order. One afternoon, Kristin stepped out of the liquor store to take a break. She saw Cartier staring at her from the doorway of Bunnatty's.

On the afternoon of May 28, she and Robert Hyde, a friend who had just graduated from BU, decided to get something to eat after playing Scrabble (Kristin won) and chess (Robert won) at Kristin's flat. The two hopped on the back of his Yamaha and were off. First stop was the Bay Bank branch on Commonwealth Avenue, two doors from Marty's Liquors. As they turned a corner, Kristin saw Cartier looking in Marty's window. "Did you see that?" she asked Hyde moments later as they got off the bike. "Mike was peeking in the window. What a weirdo!"

Hyde didn't think that Cartier saw them, but later that night, after taking Kristin home, he went over to Bunnatty's to play pinball. Cartier was there, and he began an awkward conversation to find out where Hyde lived.

"I thought it was kind of weird, but I didn't think too much of it," Hyde said. He shuddered about it after the shooting.

Cartier had always been disturbingly jealous—and unpredictable. "He'd get under pressure, he'd start breathing heavy and start talking all wild," a longtime friend, Timothy McKernan, told the Lawrence Eagle-Tribune.

He couldn't handle rejection either. Cartier "told his friends that she broke up with him because she wanted to see other people," Bekky Elstad said. "That's not true. But that's why he killed her, I think. If he couldn't have her, no one else was going to."

If Kristin was bothered by the stalking incident that Thursday, she seemed to put it out of her mind. The usual stream of friends moved through the flat all day. She called me that afternoon in an upbeat mood. We talked about summer school, her Museum School evaluation and a half dozen other things, including the next month's check from home. I assured her it was in the mail. She had a big smile in her voice. All I knew about Cartier was that she had gotten rid of the creep. When I made some grumpy reference to boyfriends in general, she laughed and said, "That's because you're my dad."

Cartier called his father that day, too.

Gene Cartier knew about Kristin and about the restraining order. "I asked him what happened," the older Cartier said. "He said, 'Well, me and my girlfriend had a fight.' I figured they argued. . . . He loved animals, he loved children. He wouldn't hurt a fly."

A man with a persistent drinking problem, Gene Cartier at times seemed to confuse Kristin with other girlfriends his son had, but his son's last call about her stuck firmly in his mind. "He said, 'She's busting my balls again,'" Cartier recalled. "I think she was seeing another guy—in front of Michael—to get him jealous. . . . He was obsessed with her."

Kristin went to bed that night with a smile. It had been Lauren's last day at Marty's and some of the students who worked there stopped by the flat. "We were having a really, really good time," Lauren Mace said. "I remember, I said, 'Good night, Kristin.' I gave her a hug. The next morning, I saw her taking her bike down the street, on the way to work. I did not see her again."

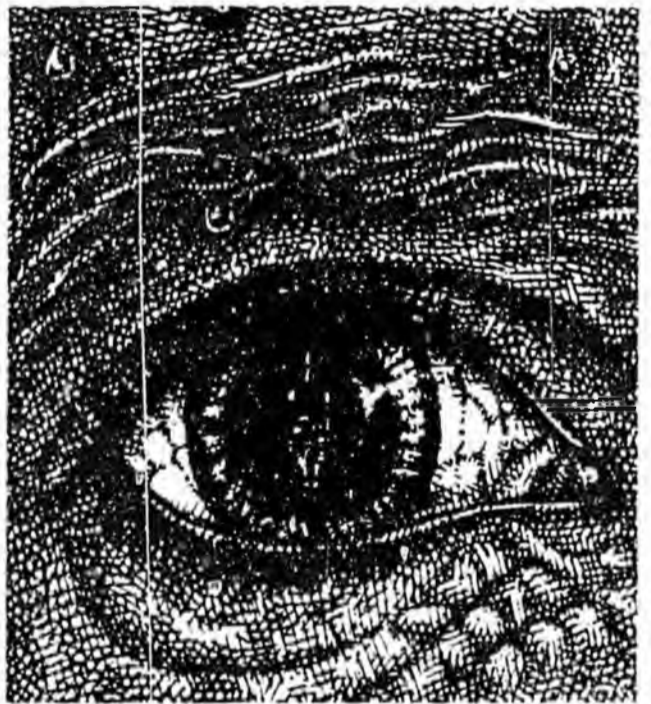
Saturday, May 30, was a beautiful spring day in Boston, a light breeze rustling the trees on Winchester Street below the flat. Kristin was looking forward to a full day's work; Lauren was supposed to meet her at 6, when she was done at Marty's. Lauren had just graduated from BU; they were going to buy a keg for a big going-away party at the flat on Sunday.

One of the managers at the liquor store, David Bergman, was having lunch across the street at the Inbound Pizza when Kristin walked in. He waved her over to his table. She had a slice of Sicilian pizza and then, as he remembers, two more. "We talked for half an hour," Bergman said. "She was going to travel to Europe with her friend, Lauren. She had all these plans laid out."

After lunch, the day turned sour. Lealie North walked into Marty's with another girl. So, clerks say, did a man in his thirties with rotting teeth and thinning hair—North's boyfriend. He got in Kristin's checkout line and started cursing at her.

Not long after North and her friend left Marty's, J.D. Crump, the manager at Bunnatty's, walked in for a sandwich from the deli counter. He'd known Kristin since she had dated Jason. "She said she was having a tough day," he told the Globe. "The customers were being mean. I told her it would get better."

When Crump spoke with Kristin on May 30, it was about 4:30. Cartier, meanwhile, was at a noisy show at the Rathskellar on Kenmore Square. Friends told the Lawrence Eagle-Tribune that he was acting strangely, greeting people with long hugs instead of the usual punch in the arm or a handshake.



BY HOLSTI FOR THE DALLAS MORNING NEWS

"He wasn't the hugging type," Timothy McKernan told the Eagle-Tribune. "I think he knew what he was going to do." Cartier left suddenly, running out the door.

Kristin was scheduled to work until 6, but at 5 p.m., she was told, to her chagrin, to leave early, losing an hour's pay. "We had other cashiers coming in," the manager explained. Instead of hanging around to wait for Lauren, Kristin decided to go to Bekky Elstad's apartment and return at 6. It was a decision that seems to have cost her her life.

Lauren had come by around 5:40 p.m., and left when told Kristin had already gone. Kristin was still at Bekky's, keeping her eye on the clock and by now recounting how this "disgusting . . . slimy person" had been cursing at her at the cash register.

"She was laughing about how gross he was and then his being with these two girls—friends of Michael's—who were so gross," Bekky Elstad said. "She seemed pretty much in a good mood."

It was getting close to 6. By now, Cartier was back in the neighborhood, looking for a crowbar. He first asked for one at the Reading Room, a smoke shop about a block away. "maybe

20 minutes before it happened," said the proprietor. "I asked him why he wanted a crowbar. He said he had to go hurt somebody." Then he went over to Bunratty's, in a fruitless search for the same thing.

At one minute to 6, Kristin was heading down Commonwealth Avenue toward Marty's. Cartier, approaching from the other direction, stopped at a Store 24 convenience shop on the other side of Harvard Avenue. J.D. Crump was in there, buying a pack of cigarettes. According to the police report: "Crump stated that while in Store 24 . . . he saw Mike and asked him [whether] he was going to work that night. Mike said that he was but had [to] shoot someone first. Crump stated that he did not take him seriously and walked away from him."



THE SHOTS RANG OUT SECONDS LATER. MIKE DILLON, a clerk at Marty's who clocked out at 6, had just stepped onto the sidewalk when he heard the first shattering noise.

"It was very loud," he said. "I looked up immediately. I saw Kristin fall."

Dressed all in black, she dropped instantly to the pavement outside the Soap-A-Rama, a combination laundromat, tanning salon and video rental store four doors from Marty's.

"She was lying on her right side, curled up in kind of a fetal position," Mike Dillon said. "I kind of froze dead in my tracks."

Cartier must have seen her and hid in a doorway or alley until she passed by him. Witnesses said he came at her from behind and shot into the rear of her head from a distance of 15 or 20 feet. Then he ran into a nearby alley.

Al Silva, a restaurant worker, started to walk towards Kristin to see if he could help when Cartier darted back out of the alley, rushed past Silva, and leaned down over her.

"He shot her twice more in the left side of the head," Mike Dillon said. "Then I saw him run down the alley again. . . . I was still in shock. I didn't know what to do. I took one of her hands for a second or so, I don't know why. Then I ran back to call the police, but I saw a woman in the flower shop. She was already on the phone."

Chris Toher, the proprietor at Soap-A-Rama, heard the first shot from the back of his store and hurried up to the doorway. "I saw him fire the final shots," Toher said. "It happened so fast she never had a chance. She was completely unconscious at the point he ran up to her. Her eyes were shut."

A brave young woman was dead.

The killer fled down the alley, which took him to Glenville Avenue where he lived in a red brick apartment building. Back on Commonwealth Avenue, police and an ambulance arrived within minutes. But the ambulance was no longer necessary.

Police questioned Crump at the Soap-A-Rama and learned where Cartier lived. Brooke Mezo, a clerk from Marty's who witnessed the interrogation, heard Crump say "that Michael had spoken to him in the past couple of weeks and said he couldn't live without her, that he was going to kill her. And he talked about where to get a gun."

That made at least two people who knew Cartier had or wanted a gun and was talking about killing Kristin. How many others should have known she was in grave danger?

Police quickly sealed off the area around Cartier's apartment. "He had apparently made statements to several people that he hated policemen and had no reservations about shooting a cop," homicide detective Billy Dwyer said in his report. "He stated that he would never go to prison again."

A police operations team entered Cartier's apartment at 8:30 p.m. He was dead, lying on his bed with the gun he used to kill Kristin in his right hand. He had put it to his head and fired once. Police recovered the spent bullet from the bedroom wall. They found three other shell casings in the area where he murdered Kristin.

Later that night, Leslie North walked into Bunratty's, looking for Cartier. "I said, 'He shot Kristin,'" said J.D. Crump. "She didn't look surprised. I said, 'Then he went and shot himself.' At that point, she lost it. She started screaming, 'What a waste! What a waste! He's dead!'"

Crump later said, "I've had to live the past couple of weeks feeling I could have stopped him. I should have called his probation officer."

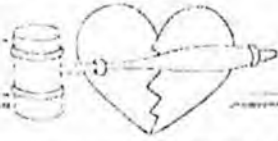
It's doubtful that would have done any good. The system is so mindless that when the dead Cartier failed to show up in Boston Municipal Court as scheduled on June 19, a warrant was issued for his arrest.

It is still outstanding. ■

Victims for Justice

Volume 1 Issue 1

February 1993



COMING EVENTS

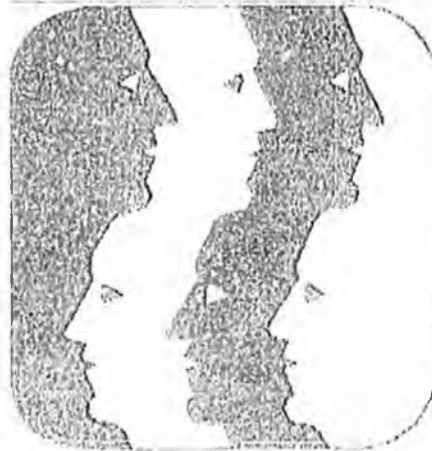
Rally 'Round the Flag for Victims Rights

The theme of this year's national Crime Victim's Rights Week is "Rally 'Round the Flag for Victim's Rights". The colors, red, white and blue, symbolize dedication and commitment to the ideals of the victims movement and a tribute to those who have died and those who have survived the crisis of crime, respectively. Together, the red, white and blue will mark the road to victim justice in 1993.

Kicking off this events is the Tree Ceremony which will be held April 26th at noon at the Victim's Tree, 9th and G. in honor of those who have been affected by violent crime. Colored ribbons symbolic of different types of crimes will decorate the tree. Awards will be given at this time for the Essay Contest winners.

The Seventh Annual Memorial Observance will be held at the Loussac Library on May 2nd, at 3 p.m. This year's keynote speaker will be announced. After the keynote address, family members will then have an opportunity to say something special about their murdered loved one. The ceremonies will be concluded with the lighting of a candle in honor of each of the murdered victims.

If you wish to attend, have a murdered loved one remembered, or would like more information please contact the VJ office at 278-0977 before April 30.



STUDENT ESSAY CONTEST IN HONOR OF VICTIMS RIGHTS WEEK

As a part of Victims Rights Week we are offering an Essay Contest to the Junior and Senior High School students with cash prizes awarded by the Alaska Peace Officers Association and sponsored by the Coalition for Victims of Crime. This gives young people a chance to offer their insights into the growing problems of crime and the possible solutions.

Winners of this year's Essay Contest will be announced at the Victims Rights Week ceremonies. There will also be a coloring contest for grade school students with the theme of "Rally 'Round the Flag for Victims Justice" which will be a picture of a flag pole with the symbolic ribbons.

Judges for this year's contest are D.A. Ed McNally, Julie Hasquet from Channel 2 News and a representative from the Anchorage Daily News. Cash prizes of \$100, \$75, and \$50 will be awarded for first, second, and third places respectively. Lets include those of all ages in recognizing the needs of victims of crime.

LEGISLATIVE NEWS

LEGISLATORS LOOK AT ANTI-STALKING LAW FOR ALASKA

"Stalking" is the violent, threatening and harassing behavior that is not a new phenomena to victims of domestic violence and sexual abuse. Although protective injunctions and stay-away orders do exist, the police can not react until such orders have been violated.

Twenty six states now have anti-stalking laws on the books. In most states, stalking is defined as the "willful, malicious and repeated following or harassment of another person." Penalties vary but most carry the maximum penalty of one year in jail and/or a \$1000 fine.

California has led the way in legislating an anti-stalking law in 1990, primarily because of the high profile "celebrity" cases that have occurred in recent years. As a result, Senator Bill Cohen of Maine has introduced legislation which charges the National Institute of Justice with developing a model stalking law to raise this to the Federal level and set a national precedent that would pass constitutional muster.

It is not just celebrities that experience this "stalking" behavior. The issue was brought to the forefront January 1, 1993 when the Daily News reported on a current case and on a 1989 case that resulted in the murder of a local girl.

In that article, Janice Lemhart, our director, commented on the importance of legislating this as a crime. There are currently four bills dealing with this issue in the House, all of which are backed by both VJ and the CDVSA. All interested persons are encouraged to contact their legislators

at

561-7007

VICTIMS RIGHTS AMENDMENT PROPOSED FOR ALASKA'S

Loren Lehman and Dave Donley, a long time champion of victims rights are co-sponsoring a resolution to amend Alaska's Constitution which would provide constitutional guarantees to victims of crime. The resolution (SJR-2) includes the following rights, as provided by law:

- (1) The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process;
- (2) The right to timely disposition of the case following arrest of the accused;
- (3) The right to be reasonably protected from the accused throughout the criminal justice process;
- 4) The right to notification of court

proceedings:

- (5) The right to attend trials and all other court proceedings that the accused has the right to attend;
- (6) The right to confer with the prosecution;
- (7) The right to make a statement to the court at sentencing;
- (9) The right to information about the conviction, sentence, imprisonment, and release of the accused.

VFJ asks that you contact your legislators through the Legislative Information Office at 561-7007 and encourage them to support this important resolution.

NEW PROGRAMS OFFERED BY VFJ

Two new programs are offered through Victims for Justice. The first began in November 1992 and is an *Assault Victims Support Group* for those who have been the victims of a felony assault. A felony assault is a stabbing, beating, attempted murder or kidnapping. It is not sexual assault or domestic violence. Anchorage is fortunate to have organizations to effectively handle those crimes such as: STAR, AWAIK, and the Women's Resource Center. There are currently no programs for those traumatized by a felony assault and Victims for Justice is attempting to fill the void by providing services for those victims.

The other program to begin soon is a 12 week *Grief Group Support Program* patterned after Lou Redmond's highly praised program of surviving when someone you loved is murdered. This is a very structured, and effective healing program. It is recommended that it be taken six months following the death. This is a separate program from our twice monthly peer support group for homicide survivors.

The Grief Group Support Program offers therapy by a trained professional and helps to resolve the conflicts created by the murder of a loved one.

Its purpose is to teach survivors how to handle life in the absence and void left by a homicide. It requires a 12 week commitment. The Counsel on Domestic Violence and Sexual Assault is providing the funds to pay the therapist. There is a maximum limit of six victims per session. If you are interested, please call VFJ at 278-0977.

Foxhole Humor for the Survivor
The following is a poem by Dorothy Parker. We have all been there.

Razors pain you,
Rivers are damp,
Acids stain you,
And drugs cause cramp.

Guns are unlawful,
Nooses give,
Gas smells awful,
You might as well live.

*There is no greater grief
than to remember days of
joy when misery is at hand.*
-Dante

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Board Meetings

VFJ Board meetings are held at 5:30 p.m. on the third Wednesday of each month at our office at 619 E. Fifth Avenue.

NOTE

VFJ is now eligible to receive funding through the Combined Federal Campaign. Those of you who contribute through your employer, you can now designate Victims for Justice as your charity of choice.

Please send us change of addresses when you move. Either call at 278-0977 or drop us a card at 619 E. 5th Avenue, Anchorage AK 99501. We want to stay in touch!

Supreme Court Upholds Use of Victim Impact

In a move hailed by the victims rights movement as a significant victory, the U.S. Supreme Court ruled that juries deciding a death penalty may consider evidence relating to the victim's personal characteristics as well as the emotional impact of the murder on the victim's family.

In the case of Payne v. Tennessee, two previous rulings that had prohibited juries considering victim impact evidence were overruled, adopting the argument that victim impact evidence is a method of informing the jury of the harm caused by the crime and that the extent of such harm is indeed a factor in determining what is an appropriate sentence.

The Court also noted that a defendant can present to the jury virtually unlimited mitigating evidence in arguing against the death penalty and therefore, it is reasonable to permit the victim's survivors to counteract that evidence by letting the jury know the full extent of the harm caused by the crime.

In a letter to Ms. Ruhe, the director of Parents of Murdered Children, Dick Thornburgh, the Attorney General of the United States, stated that "The Payne case represented an opportunity for the highest Court in the nation to restore the balance of justice for victims and to reaffirm that justice, though due to the accused, is due to the accuser."

VJF DOES ITS PART

VJF continues its effort in saving the environment, and your assistance is requested. You may drop off your recyclables at the Anchorage Recycling Center and have the proceeds put on the Victims For Justice account.

Newspapers, cardboard, and aluminium cans all help to clean up the environment and also give us badly needed funds. Last year we received a check for \$90.26 which translates to three rolls of stamps! EVERY LITTLE BIT HELPS!!

VJF NOW REPRESENTS PARENTS OF MURDERED CHILDREN

Victims for Justice has been chosen by the national organization, Parents of Murdered Children to be their contact in Alaska.

Charlotte Robert Hullinger started the first group of Parents of Murdered Children in her kitchen after the murder of her daughter Lisa in 1978. The group has now gained recognition both nationally and internationally and we are honored to be recognized by this important organization.

Parents of Murdered Children is a self help support group which is made up of persons whose loved ones have been murdered. They provide information to victims on the grieving process, the criminal justice system and attempt to increase society's awareness of these problems.

Sharon Nahorny attended training at the Portland Oregon meeting in August of 1992 and we are hoping to be able to conduct a seminar for homicide survivors sometime this fall.

FUR RONDY EVENTS

COOKBOOKS:

Victims for Justice will have a booth at the Sullivan Arena Trade Fair to help in the never ending quest for funding. We will be selling cookbooks and giving out wonderful samples. Follow you nose to the "Poulet Al 'Ail" (garlic chicken) and our booth. Support Victims for Justice and enjoy "French Cuisine Under Pressure".

QUILT RAFFLE:

A wonderful and unique quilt was donated to Victims for Justice by Norma Van Horn. Norma makes beautiful "recycled jean" bed quilts and this one is for a double bed and even has pockets! Norma's son Kurt Gilruth was murdered in 1986 and she made this quilt to help VJF and to honor her son. Proceeds will be used to help those whose lives have been devastated by crime. Tickets are 3 for \$5.00.

WHY JOIN VICTIMS FOR JUSTICE?

It takes more than interest to keep Victims for Justice alive and well. Frankly, it takes money which in these times is getting harder and harder to find. Your \$25.00 membership fee helps us to help others. And as an extra inducement, we are offering a copy of "French Cuisine Under Pressure" cookbook to those who donate \$50 or more to VJF. Your support is needed and appreciated!

- YES I am interested in improving the justice system. Enclosed is my \$25 membership fee.
- YES I wish to make a \$50 donation to Victims for Justice which entitles me to a free copy of "French Cuisine Under Pressure".
- YES I am interested in volunteering. Please call me between the hours of _____

NAME _____ PHONE _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

Please make checks payable to Victims for Justice and include this form when mailing to: Victims for Justice, 613 East 5th Avenue, Anchorage, AK 99501.

According to IRS Code, Section 501 (c) 3, donations are deductible, memberships

In Loving Memory

DONATIONS



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his son
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CURTIS SHANE
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Sharon Nahorney and
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John & Jane Sedor
in loving memory of
DAVID KERR
Eagle River, AK

AVOIDING THE CLICHES OF GRIEF

So often we have calls from the friends of a homicide survivor asking what to do or say to help. We are bringing as a regular feature helpful hints that we hope will benefit all those whose lives or whose friends lives are touched by tragedy. The following quote is from Erin Lynn's book I Know Just How You Feel... Avoiding the Cliches of Grief.

So often it seems as if there is a blinding determination to make sure that "life goes on" no matter what happens. It is as if we are all actors in the play of life and the "show must go on." But when a loved one dies, bereaved people want the whole world to stop and take notice. Something tragic has happened. The truth is, to most of the world, a loved one's death will go unnoticed. The sun will continue to rise and set and people will go on about their lives. But the bereaved person now feels that they have been set apart from life in general. To deal specifically with the bereaved person's life, you could say, "Life has dealt you a terrible blow. I know it will be hard for you in the months to come to live with this pain." As a consoler, you need to give credence to the seriousness of their tragic loss. Trite statements like, "Life goes on," or "That's life," offer casual, almost flippant, solutions to difficult and devastating problems. "

VOLUNTEERS CORNER

A non-profit organization cannot operate without the time and energy of its many volunteers and we would like take this opportunity to recognize those who have given so much to our cause.

Tracey Lee Hallman, UAA Justice Major is doing her student practicum at our office. Her help is invaluable.

Pat Gallagher works in the office and has the added responsibility of being the Court Watch Assistant Director. Her contributions are greatly appreciated by all.

Kathy Needles had done data entry for us and helped take some of the load off Janice and Sharon.

In honor of all those who have taken the time and effort to give so much, we will be having our Volunteer Luncheon in mid March and will be giving out a "Volunteer of the Year Award" sometime in the near future. Again to all of you:

HEART FELT THANKS

from all of us at VJ

BOMBING TRIAL MOVED TO L.A.

Most of us at VJ have been closely following the progress of the Cheely, Gustafson and Barnett trials that are now taking place in L.A. The victims in the case are both Jeffery Cain, who was murdered in a highway shooting and David Kerr who was killed by a mail bomb attempt directed at his son who was a witness to the Cain shooting. The handling of this case by Judge Fitzgerald has some disturbing implications for the victims families. Once again, the justice system seems to be more concerned with the rights of the accused criminal than with those of the victims.

When a trial is moved so far away from a victim's home town, not only does the family have to carry the often prohibitively expensive cost of staying far from home, but they also do not have their emotional support network available to help them deal with the trauma of reliving the events and circumstances surrounding the death of their loved one.

This issue needs to be addressed and one of the first steps in insuring victims full access to the criminal proceedings that concern them is the ratification of a Victim's Rights Amendment to all state constitutions.

Fortunately, there are other Victim's Rights organizations in L.A. to help the Cain and Kerr families by accompanying them to court, but because they are not as intimate with the details of the crime and not personally known to the families, they are not able to offer the kind of support that friends and other family members could give.

Their dilemma should give all of us the impetus to continue to push for the passage of SJR-2, Alaska's bill to endorse a constitutional amendment outlining Victim's Rights in criminal cases.

Meanwhile, our hearts and our prayers are with both families.

CRIME AND PUNISHMENT



USED BY PERMISSION OF THE COLORADO SPRINGS GAZETTE TELEGRAPH.



Director's Comments by Janice Lienhart

INTRODUCTION by Sharon Nahorny
Janice Lienhart, founding mother of VFJ has been elected as Executive Director once again. Her goals are to keep the heart felt vision of this grass-roots organization in tact and to expand our services to include all those victimized by crime in our community. We welcome Janice back to the front lines of this important battle.

Dear VFJ Supporters,
The Board of Directors has once again appointed me Executive Director of VFJ. I am excited about the job but also a bit overwhelmed by the daunting task ahead. There are many internal issues that must be addressed if we are to be able to survive and grow.
Victims for Justice receives a small grant from the Council on Domestic Violence and to meet those grant requirements, we must expand our services and upgrade our organizational procedures. This entails expanding our database to better track statistic on those we serve, reviewing our policies and procedures manual and getting VFJ in a position to apply for federal, corporate and foundation grants. In order to improve VFJ, and to be able to fully serve our current clients as well as expand

our client base, we MUST have more funding. As a result, I am taking a grant writing class in hopes of relieving some of the financial pressure so that we can concentrate on helping those who so badly need our support.

As always, anyone who can donate time to our restructuring efforts will be welcomed with open arms! We need people with computers at home who can produce flyers, people with ideas for fundraisers, and most of all, people who can come in the office and help man the fort when Sharon and I are either in court or out taking care of the many needs of our clients.

FAREWELLS
Maxine Coppe has left VFJ to complete her Master's Degree. She will be sorely missed and we thank her for her many new ideas and the long hours she has contributed.

Pam Minsch has been our board president for the past year and has served above and beyond the call of duty, helping with the Newsletters and taking on many of the duties of Executive Director. She resigned as of January 1st to complete her Criminal Justice Degree at the University. We thank you Pam, and we will miss you. Good luck in all you do!

VICTIMS FOR JUSTICE
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