

STOP

Services ♦ Training
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Newsletter

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Stalking and Technology

What is Stalking?

By Kathy Morrison, Staff Attorney, PCADV

Generally, stalking involves repeated acts, referred to as a course of conduct, directed at a specific person that would cause a reasonable person to feel fear. Stalking in conjunction with domestic violence can be particularly lethal; 89% of female homicide victims who had been physically abused were also stalked in the 12 months before the murder.¹ This is particularly significant for STOP Grant teams because most stalking occurs in the context of domestic violence. The prevalence of stalking is high in domestic violence cases; sixty percent of the stalking reported occurs in intimate partner relationships.²

In Pennsylvania, a person commits a crime of stalking when the individual engages in a course of conduct or repeatedly commits an act toward another person, including following another person without proper authority under circumstances which demonstrate either (1) an intent to place the person in reasonable fear of bodily injury; or (2) an intent to cause substantial emotional distress to the person.³

A "course of conduct" is a pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. Course of conduct includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, communicated either in person or anonymously. Course of conduct is established when the second of two related, but separate events occurs; when this happens, each event constitutes a separate count of stalking, including the first act and all subsequent acts. In other words, each act constituting a course of conduct leading to arrest and trial is not merely cumulative evidence of stalking, but is stalking in and of itself. The stalker can be charged, convicted, and sentenced for each act.

Harassment and stalking are related offenses. Harassment was once a lesser-included offense of stalking; it is now a separate offense. A person

commits the crime of harassment when, with the intent to harass, annoy or alarm another, the person: (1) strikes, shoves, kicks or otherwise subjects the other person to physical contact, or attempts or threatens to do the same; (2) follows the other person in or about a public place(s); (3) engages in a course of conduct or repeatedly commits acts which serve no legitimate purpose; (4) communicates to or about such other person any lewd, lascivious, threatening or obscene words, language, drawings or caricatures; (5) communicates repeatedly in an anonymous manner; (6) communicates repeatedly at extremely inconvenient hours; or (7) communicates repeatedly in another manner.⁴

While both statutes address stalking-related behavior, they differ in the amount of activity required and the intent necessary. A single incident of following can constitute harassment, whereas stalking requires a course of conduct. Stalking requires the intent to cause reasonable fear or emotional distress, while the harassment requires a different type of intent. Stalking also carries higher penalties than harassment.

In domestic violence situations, stalking indicates a purposeful decision on the part of the abuser to intensify the threat of violence, increase risk-taking and to carry domestic violence into the public arena. Stalking is dangerous, potentially lethal conduct; for this reason it is important that the criminal justice system hold stalkers accountable.

¹ "Stalking Fact Sheet," Stalking Resource Center, The National Center For Victims of Crime, www.ncvc.org/src

² Id.

³ 18 Pa.C.S.A. 2709.1(a)

⁴ 18 Pa. C.S.A. 2709(a)

Stalking and Technology

By Lois D. Fasnacht, Criminal Justice Trainer/Legal Advocate, PCADV

Technology has given us amazing things in the past 20 years: the internet, email, instant messenger, Global Positioning Monitoring (GPS) and cell phones that can take pictures and have internet capability. Technology also gives stalkers technology to harass, stalk and terrify victims even from another state or country.

There are many ways stalkers may use technology to stalk, harass or annoy a victim. "Stalkers using the internet may post comments intended to cause distress to the victim, or make them the subject of harassment by others. They may send a constant stream of emails and instant messages to their victims or a victim's co-workers, friends, or family. They may pose as the victim and post offensive comments or send offensive messages in their name. They may send hateful or provocative communications to the victim's boss, family, or significant other (in their own name or posing as the victim). Often the victim's computer is hacked or their email accounts are broken-into by the stalker or harasser and taken over entirely, or the password is changed and the victim locked out of their own accounts. The victim may be signed up for spam, porn sites, and questionable offers."¹

Other technology that can be used by a stalker includes putting GPS on the victim's car to track the victim's whereabouts or using their cell phone as a hidden microphone to eavesdrop on the victim's private conversations. These actions may constitute harassment or stalking under Pennsylvania law.

STOP grant teams should consider seeking out special training on high tech stalking behavior to increase the safety of stalking victims. WiredSafety.org's law-enforcement division, CyberLawEnforcement.org, National Network to End Domestic Violence (www.nnedv.org) and the National Center for Victims of Crime, Stalking Resource Center (www.ncvc.org) can assist law enforcement in technology and stalking. Local resources would include the Pennsylvania State Police or the Office of the Attorney General's Office. If your agency would like an offline stalking training, please contact PCADV at 1-888-235-3425, Ext. 168.

¹ Information Week, Business Innovation Powered by Technology. "Understanding the Cyberharassment Problem."

www.informationweek.com/story/ShowArticle.html?articleID=29116706

This immigration status is available to victims of designated criminal activity and their families who are not citizens. It was created to strengthen the ability of law enforcement agencies to detect, investigate and prosecute cases of domestic violence, sexual assault, trafficking of persons and other criminal activity.



UVisas for Immigrant Crime Victims

By Kathy Morrison, Staff Attorney, PCADV

In October 2000, Congress passed the Victims of Trafficking and Violence Prevention Act. This Act created the U nonimmigrant status (UVisa), a new nonimmigrant classification. This immigration status is available to victims of designated criminal activity and their families who are not citizens. It was created to strengthen the ability of law enforcement agencies to detect, investigate and prosecute cases of domestic violence, sexual assault, trafficking of persons and other criminal activity. The UVisa provides a temporary basis immigration mechanism for cooperating victims.

The Department of Homeland Security (DHS) has provided interim guidance for persons interested in UVisas until final regulations implementing the Act are promulgated.

In order for an applicant to be eligible for a UVisa, the applicant must first meet the following conditions:

- (1) The applicant must have suffered physical or mental abuse as a result of having been a victim of the designated criminal activity;
- (2) The applicant must possess information concerning the criminal activity;
- (3) The applicant must be helpful, have been helpful, or likely to be helpful to a federal state or local investigation of the criminal activity;
- (4) The applicant must submit certification that is no more than six months old from a law enforcement officer, prosecutor, judge, INS official, child abuse worker;
- (5) The criminal activity described violated the laws of the U.S. or occurred in the U.S. or its territories.

Designated criminal activity includes: domestic violence, sexual assault, rape, torture, trafficking, incest, abusive sexual contact, prostitution, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, or any similar violation of federal, state, or local criminal law. A parent of a UVisa applicant under the age 16 may also receive UVisa status in some circumstances.

Currently no certification form has been issued by DHS; accordingly, law enforcement or other officials who are asked to certify on behalf of a cooperating immigrant need merely write a letter identifying the immigrant, that the immigrant was the victim of one of the listed crimes, and that the victim has been, is likely to be, or is currently being helpful in an investigation or prosecution of the designated criminal activity.

For the certification, there is no requirement that the criminal activity occurred recently, nor is there a designated requisite level of harm. DHS will review each case on an individual basis.

Information about the UVisa process, a sample certification form, and DHS guidance may be found at: www.nationalimmigrationproject.org.

Sexual Exploitation and the Internet

By Lynn Carson, Judicial Project Specialist, PCAR

The Internet provides us with many tools to facilitate communication including personalized web sites, chat rooms, and live video. Unfortunately, the sex industry has incorporated this technology in its continuing exploitation of women and children.

According to Donna Hughes of the University of Rhode Island, web sites are the most popular venue for the distribution of pornography online.¹ While legal sites bring in millions of dollars per year through subscription fees, free access websites also abound. Although these sites operate within the letter of the law, their presence has changed the pornography industry in immeasurable ways. Three areas of concern include the increasingly violent nature of pornography, the accidental exposure to pornography of the general internet user, and the ability for individuals to produce and distribute pornography within their own home.

Today, online pornography is available to anyone with computer access. Before the Internet, an individual would need to find a less convenient or accessible venue to obtain pornography. The more "hardcore," the more difficult it was to access. Today, an individual can log onto a web site that offers the desired porn simply by typing in key words such as "violent rape," etc. While violent and degrading pornography has always existed, the Internet has allowed it to become more mainstream. An individual can anonymously send violent pornography to a recipient who is equally anonymous.

An adult or child may receive pornography through accidental access. According to Ms. Hughes, "page jacking" and "mouse trapping" are two new techniques used by the sex industry to pull in unintentional users.² It only takes one mistaken mouse click to trap a user in a pornographic web site. In "page jacking," as the person

tries to leave the site, page after page of pornography opens up. In "mouse trapping," the unsuspecting victim attempts to click the "back" or "escape" keys only to find these commands disabled.

Children are equally at risk for viewing unwanted pornography. Among all youth aged 15-17, 70% say they have accidentally stumbled across pornography online.³

While violent and degrading pornography has always existed, the Internet has allowed it to become more mainstream.

The Internet has provided a method for anyone with a camcorder and access to the Internet to produce their own pornography. One current trend is for teens to place videocams in their bedrooms to record all activities including showering, sleeping, etc. Subscribers pay a fee to view these activities and payment is handled in a totally anonymous manner through an independent company such as *Paypal*.

Modern technology makes the production and consumption of pornography easier. Although some web-based pornography is considered "legal," many sites/materials are not. A consumer tapping into the world-wide-web in the privacy of his/her own home has no way of knowing whether the pornographic images on the screen have been obtained with or without consent and/or harm. Pornography has also grown increasingly violent. This violence, coupled with the ever-changing and expanding world of technology, has caused many in the law enforcement and advocacy field to grow increasingly concerned about the rights and safety of potential victims.

¹ Hughes, Donna M. (2001). The Impact of the Use of New Communications and Information Technologies on Trafficking in Human Beings for Sexual Exploitation. Committee for Equality between Women and Men (CDEG) (p.23).

² Hughes, Donna M. (2001). The Impact of the Use of New Communications and Information Technologies on Trafficking in Human Beings for Sexual Exploitation. Committee for Equality between Women and Men (CDEG) (p. 12).

³ "Generation Rx.com: How Young People Use the Internet for Health Information," December 2001. The Henry J. Kaiser Family Foundation.