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# **A Statewide Study of Stalking and Its Criminal Justice Response**

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## **I. Introduction**

Stalking between intimate partners is widespread and often associated with lethal abuse. Despite the enactment of anti-stalking laws in every state, relatively few stalkers are cited or arrested by law enforcement; even fewer are prosecuted. Consequently, it is unclear whom law enforcement identifies as stalkers, for what activities, and how the criminal justice system responds to those identified. More important, it is unknown if the under-identification and charging of stalking make any difference, specifically whether or not they compromise victim safety and/or offender accountability.

### **A. Purpose, Goal, and Objectives**

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Using a multi-methods approach including secondary data analyses of statewide datasets and qualitative methods, researchers examined the impact of identifying the crime of stalking of female intimates and family members across an entire state over multiple years. The research was designed to answer the following questions:

1. Are police fully identifying stalking cases from among reported domestic violence cases?
2. Do stalking cases differ from general domestic violence cases reported to police?
3. Does it make any difference if police identify a domestic violence case as stalking as opposed to any other domestic violence charges, such as assault or violation of a protective order?

Our hypothesis is that law enforcement's charging of stalking matters, if for no other reason than that stalking constitutes a felony in our study site, Rhode Island, whereas most domestic violence charges filed against abusers in Rhode Island and across the country are misdemeanors (Klein, 2004, 12-13). As a result, the identification of stalking by police increases the likelihood that abusers will ultimately be held more accountable, more effectively deterring future domestic violence arrests.

To address these questions, the research met the following objectives.

**Objective 1:** Identify all police domestic violence incident reports filed between 2001 and 2005, inclusive, where police identified the crime as stalking against a female victim.<sup>1</sup> (This population is referred to as “police identified” stalking.) Also identify, over the same period, a representative sample of incidents that constitute stalking, but where police cited other domestic violence crimes. (This sample is referred to as “researcher identified” stalking.)

**Objective 2:** Compare the police and researcher identified stalking cases, including suspect, victim, and incident characteristics, to determine if these characteristics were associated with police identification of a case as stalking.

**Objective 3:** Compare both police and researcher identified stalking cases with a large sample of non-stalking domestic violence cases also involving female victims reported to police during the study period to determine how or if suspect stalkers, their victims, and the nature of their abuse differed from non-stalking domestic violence cases reported to police.

**Objective 4:** Compare the criminal justice response for police and researcher identified stalkers from initial police report through any court process that followed to determine any differences in the criminal justice response in terms of likelihood of arrest, prosecution, conviction, and court disposition of reported cases.

**Objective 5:** Compare differences in new arrests of police and researcher identified stalker suspects for domestic violence through July 16, 2008.

**Objective 6:** Analyze the impact of police identification of stalking in terms of both short term criminal justice response, including arrest, prosecution, and sentencing of suspects, and longer term impact of new arrests for new domestic violence, controlling for suspect, victim, and incident characteristics.

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<sup>1</sup> Including current or former intimate, cohabitant, date, or family member of female victims.

**Objective 7:** Discuss findings with Rhode Island criminal justice officials and advocates involved in stalking cases to better understand and interpret quantitative findings.

## **B. Literature Review: Stalking and the Criminal Justice System**

A major disconnect exists between the intent of stalking laws and their actual effect. Since 1990, when the first stalking law was enacted in California, every state has enacted a version of a statute against stalking. The intent of stalking laws is to protect victims from a constellation of behaviors that are not necessarily criminal in and of themselves, but collectively add up to criminal abuse. These include, for example, repeated following of victims or repeated harassing contacts with victims that may not contain explicit threats to do harm, but place victims in fear or would place a reasonable person in fear. Notwithstanding their popularity among legislators, in terms of their actual effect, stalking statutes are rarely utilized. As summarized in its *Third Annual Report to Congress*, the Violence Against Women Grants Office concluded: “the [stalking] laws do not appear to have made a significant impact on law enforcement’s response to these crimes (Kang, 1998, 2).”

### **Prevalence of Stalking**

Although estimates of stalking prevalence vary based on how stalking is defined and methodology employed to identify it, several national surveys and at least one state survey suggest it is widespread. The National Violence Against Women Survey (NVAWS), conducted between 1995 and 1996, found that 8% of women and 2% of men reported being stalked where they experienced a “high level of fear” at some point in their lives, and 12% and 4%, respectively, where they experienced a lesser level of fear. Over one million women and 371,000 men were stalked in the year prior to the study. Based on the US population of persons aged 18 years and older, that came to 10 per 1,000 women and 4 per 1,000 men (Tjaden & Thoennes, 1998).

The second Injury Control and Risk Survey, a national cross-sectional random-digit-dial telephone survey of adults 18 years and older conducted between July 2001 and February 2003, found slightly lower rates. 6.94% of women and 1.99% of men reported they had been stalked in their lifetime in a way they perceived to be “dangerous or threatening” (Basile et al., 2006).

The most recent national survey, the Supplemental Victimization Survey (SVS) conducted in 2006, found the highest number of stalking victims: 3.4 million victims over a year period, or 20 per 1,000 women and 7.4 per 1,000 men who were 18 years and older (Baum et al., 2009). The SVS also found that intimates were the most likely to be stalked, with the highest rate (34 per 1,000) for divorced or separated victims. The SVS identified cases as stalking where the victim reported feeling fear or experienced conduct that would cause a “reasonable person to feel fear.”

A survey of violence victimization in New Mexico conducted in 2005 found 17,177 stalking victims, about 12 per 1,000 persons 18 years or over across that state (Caperona, 2007).

Studies of specific population subgroups have documented even high rates of stalking. For example, studies on college campuses have found higher rates than that reported among the general population (Fischer, Cullen, & Turner, 2000; Mustaine & Tewksbury, 1999).

## **Criminal Justice Response to Stalking**

Whether the increase in stalking as reported in the more recent SVS is real or an artifact of different survey methodologies and definitions of stalking, it does not appear that the criminal justice response has dramatically altered since the pessimistic report made to Congress a decade ago. While there has been only limited research on the criminal justice response to stalking since that assessment (Brewster, 2003, 3.1 -3.16; Logan et al., 2006, 235-285), the few studies that have been conducted, coupled with data from the few states that collect stalking statistics, suggest that stalking is still under-assessed on the streets and in the courts.

A small, earlier study of stalkers reported that victims overall felt the criminal justice

response to their victimization was “insensitive and inappropriate (Hall, 1997, 3-21).” As a result of her research, Hall concluded that the criminal justice system’s “lackluster response [to stalking] only encourages the stalker to become bolder in the future (3-21).” In her review more than half a decade later, Brewster (2003) continued to find the effectiveness of filing charges and prosecuting stalking cases “not well established (3-9).” Similarly, after surveying state stalking laws and practices, Miller and Nugent (2002) concluded: “Implementation of the new stalking laws is still limited. Most law enforcement and prosecution agencies lack policies for responding to stalking complaints and do not have personnel with expertise in stalking cases (6).”

Whatever the precise stalking rate, it is clear that it is dramatically higher than the number of persons identified by law enforcement for stalking. Exhibit # 1 compares stalking incident reports filed by law enforcement over a year (across the few states that report such data) compared to what NVAWS and SVS estimate occurred that year, based on victim survey reports.

**Exhibit #1: NVAWS and SVS Annual Stalking Estimates and Police Stalking Filings by States**

	<b>Population: Females and Males, 18 and over</b>	<b>NVAWS Estimate Stalked Annually</b>	<b>SVS Estimate Stalked Annually</b>	<b>Stalking Incident Reports Filed</b>
Ohio (2004) <sup>2</sup>	8,611,807	69,092	119,284	1,390
Rhode Island (2005) <sup>3</sup>	830,818	5,900	11,560	40
Florida (2005) <sup>4</sup>	6,840,738	94,698	185,454	1,094
Tennessee (2005) <sup>5</sup>	2,348,315	32,472	63,596	854
Kentucky <sup>6</sup> (2000)	3,046,951	21,685	42,493	390

<sup>2</sup> *Stalking in Ohio, 2004*, Ohio Office of Criminal Justice Services (www.ocjs.ohio.gov).

<sup>3</sup> Reported by Domestic Violence Training and Monitoring Unit ([http://www.courts.state.ri.us/domesticnew/dvsa/reports\\_downloads.htm](http://www.courts.state.ri.us/domesticnew/dvsa/reports_downloads.htm)).

<sup>4</sup> Reported by Florida Department of Law Enforcement ([www.fdle.state.fl.us/FSAC/Crime\\_Trends/domestic\\_violence.asp](http://www.fdle.state.fl.us/FSAC/Crime_Trends/domestic_violence.asp)).

<sup>5</sup> Reported by Tennessee Bureau of Investigation Crime Statistics Unit ([http://www.tbi.state.tn.us/Info%20Systems%20Div/TIBRS\\_unit/Publications/2005%20Domestic%20Violence%20Research%20Brief%20-%20complete.pdf](http://www.tbi.state.tn.us/Info%20Systems%20Div/TIBRS_unit/Publications/2005%20Domestic%20Violence%20Research%20Brief%20-%20complete.pdf)).

<sup>6</sup> Jordan et al. (2003).

As Miller and Nugent (2002) also concluded from an earlier review of unspecified state databases, “extrapolating from even the highest of these official data sources that do exist does not come close to the victimization survey estimates (6).”

Similarly, the New Mexico study found that while 17,177 victims were stalked in 2005, local and state law enforcement identified only 116 stalking victims in 2006 (Caperona, 2007).

The rarity of police incident reports for stalking is perhaps explained by seminal research conducted by Tjaden and Thoennes (2001) in Colorado Springs, Colorado. They found that only 1 suspect out of 1,785 domestic violence incidents reported by the Colorado Springs Police Domestic Violence Unit was charged with stalking. Not convinced this represented the true number of stalking cases, the researchers reviewed 1,731 of the police incident reports, all that included a police or victim narrative or both (i.e. Domestic Violence Summons and Complaint forms). They found that in 16.5% of the reports, either the victim or police officer described that the suspect had stalked the victim or had engaged in stalking behaviors. Nonetheless, the suspects were generally charged with lesser misdemeanor offenses of harassment or violation of a restraining order, but not stalking, a felony in Colorado (8). In other words, it appears that the relatively few stalking incident reports filed by police reflect police failure to identify stalking, not lack of stalking reported to police.

### **Stalking Arrests**

Given the low number of stalking incidents identified by police, it is not surprising that stalking arrests are relatively few, constituting only a tiny fraction of all domestic violence arrests. For example, in 2005, at the same time Ohio police filed 1,390 stalking incident reports, they filed more than 101,000 domestic violence reports. Similarly, at the same time Florida

police filed 1,094 stalking reports, they filed over 120,000 domestic violence reports.<sup>7</sup> As a result, even if arrest rates are higher for intimate stalking than other domestic violence offenses, the absolute number would remain tiny.

It also appears that the arrest rate for stalking may be lower than general domestic violence cases in many states. Although arrest rates vary from jurisdiction to jurisdiction, in the few states that provide both general domestic violence and stalking arrests rates, the former are generally higher than the latter. For example, in New Jersey in 2003 the arrest rate for domestic violence in general was reported to be 32%, but only 23% for stalking. Similarly, in Florida in 2005 it was 53% for domestic violence in general, but only 35% for stalking. Only Rhode Island reported a higher arrest rate for stalking, 85%, than for domestic violence in general, 70%, although Tennessee that year reported the same arrest rate for domestic violence and stalking, 40%.<sup>8</sup>

A statewide Kentucky study documented a 37% arrest rate for all cases where women reported stalking (Jordan et al., 2003). However, the two victim surveys that looked at stalking, SVS and NVAWS, found victim reporting rates of only 41% to 51.9%, respectively. While persons other than victims may report stalking, surveys agree that the vast majority of reports are made by victims themselves. The SVS survey reported, for example, that 83% of reports to police were made by victims.

According to both NVAWS and SVS surveys, the primary police response to reported stalking was to write up reports, not to arrest suspects. Intimate victims in the NVAWS reported that the police responded by writing up reports in 67.4% of cases involving female victims and 64.7% of male intimates victims (Tjaden & Thoennes, 2000). Similarly, victims reported in the

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<sup>7</sup> *Stalking in Ohio, 2004*, Ohio Office of Criminal Justice Services ([www.ocjs.ohio.gov](http://www.ocjs.ohio.gov)) and Reported by Florida Department of Law Enforcement ([www.fdle.state.fl.us/FSAC/Crime\\_Trends/domestic\\_violence.asp](http://www.fdle.state.fl.us/FSAC/Crime_Trends/domestic_violence.asp)).

<sup>8</sup> Arrests rates are provided through state Uniform Crime Reports, except for Rhode Island, which are provided by the Court Domestic Violence Training and Monitoring Unit.

SVS survey that police responded by taking reports in 55.3% of cases (Baum et al. 2009).

Arrests rates were 28% in cases involving female intimates in NVAWS and 7.7% for all stalking cases in SVS. Victims in both NVAWS and SVS report that police did “nothing” between 18.5% and 18.8% of the time.

## **Prosecution of Stalking**

There are few studies on prosecution of stalking cases. The two national surveys reveal few details about prosecution response to stalking. NVAWS found a prosecution rate of 14.6% for intimates who stalked female victims. This increased to 25.4% of those cases reported to police by victims. According to the victims, only 40% of their prosecuted stalkers were convicted. According to victims in the later SVS survey, a fifth filed charges against their stalkers.<sup>9</sup> Most of the SVS reported court outcomes resulted in issuance of “restraining, protection, stay away order” (33.3%), and/or stalkers “jailed or imprisoned” (28.5%). Victims, however, may not have been fully aware of all prosecutions, misunderstood dispositional outcomes, and confused civil (protective order) and criminal court outcomes.

One of the only detailed, specific studies conducted of stalking prosecution confirms what the national surveys suggest: once arrested, few stalking cases are prosecuted in court. A study of the 346 male stalkers arrested across Kentucky in fiscal year 1999 found that among those cases disposed of, the majority was dismissed (56.6%) or amended (19.4%). The majority of the amended charges were also subsequently dismissed. Ultimately, only 19.9% of the arrested stalkers were actually convicted of stalking (Jordan et al., 2003). By comparison, Garner and Maxwell (2008) found an average conviction rate of domestic violence arrests to be 63.8% after aggregating data from 26 domestic violence prosecution studies (18).

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<sup>9</sup> Whether this excludes additional cases filed by prosecutors is not reported.

All in all, according to the SVS survey, once victims reach out to or become involved in the criminal justice system, they are as likely to be unhappy as happy with the results. While 45.7% of stalking victims reported satisfaction with the criminal justice response, 49% were not (and 5.2% were unsure). Asked about their perceptions of the various criminal justice actors, they were also almost evenly split in finding them helpful or not. Reflecting lack of stalking prosecutions, while 85% of female intimate victims expressed opinions about police, fewer than 15% had opinions about prosecutors or judges.

### **Stalkers: Intimates and Non-Intimates**

The first stalking law, enacted in California in 1990 (Cal. Penal Code §646.9), was specifically targeted to protect Hollywood celebrities from delusional fans. Subsequent studies, however, reveal that stalking of strangers, whether a public or private figure, is less common than stalking of known persons. The SVS found only 9.7% of stalking was by strangers (Baum et al., 2009). The largest group of stalkers (39.3%) were current or former intimates or family members, and the remaining 36.1%, acquaintances (4). Further, the survey suggests that intimate victims were more likely to experience fear or actions that would cause a reasonable person to feel fear than non-intimate or stranger victims subject to the same conduct.<sup>10</sup> The earlier NVAWS study similarly found that approximately half the stalking incidents involved current or former intimates (Tjaden & Thoennes, 2000).<sup>11</sup>

There appears to be a simple reason why the same stalking behavior causes a different level of fear in intimate victims as opposed to strangers or acquaintances. Studies generally concur that intimate stalkers are the most dangerous of all stalkers (Schwartz-Watts & Morgan, 1998;

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<sup>10</sup> For this reason, SVS found more intimate victims to be subject to stalking as opposed to harassment, while more stranger victims were subject to harassment than stalking. Among acquaintances, the proportions were almost equal.

<sup>11</sup> While the Injury Control and Risk Survey did not break down its victimization rates by relationship, it found the highest rate for couples who were separated, widowed, or divorced (Basile et al., 2003, 173).

Zona, Sharma, & Lane, 1993; Harmon et al., 1998; Meloy, 1998, 8). In fact, some suggest that former intimates are the **most** likely to commit violence and stranger stalkers are the **least** likely (Mullen et al., 2000).

A study of slightly more than 1,000 stalkers drawn from police, prosecutor, and Hollywood security files divided stalkers into two groups: those that stalked people they knew and those that did not. In turn, both groups were subdivided. The first included those that stalked current or former intimates and those that stalked acquaintances; the second included those that stalked public figures and those that stalked “private” strangers. The first group (those that stalked people they knew) was the more likely to reoffend (90% compared to 46%) and it did so more quickly. Compared to all three of the non-intimate subgroups, the intimate stalkers were the most likely to reoffend (92% vs. 56%). They were also the most likely to be male (94% vs. 77%), have violent criminal histories (50% vs. 17%), and least likely to be psychotic at the time of the offense (11% vs 25%) (Mohandie, et al., 2006, 151). The researchers concluded that intimate stalkers were “by far the most malignant” of all stalkers studied (153).

Other researchers have found intimate partner stalkers to be “startlingly” violent, with individual studies reporting violence frequencies from 59% to 89% (Harmon et. al., 1998; Palarea et al., 1999; Meloy et al., 2001, 2002; Mullen et al., 1999). The only group found to be more violent was “predator” stalkers, rapists who stalked their victims in order to rape them (Mullen et al., 2000). Intimate stalkers may also be the least deterred by criminal justice intervention (Mohandie et al., 2006; Rosenfeld, 2003).

Further, research suggests a close association between stalking and femicide. McFarlane, Campbell, Wilt, Sachs, Ulrich, and Xu (1999) documented in their national domestic violence homicide review that three-quarters (76%) of intimate partner femicide victims had been stalked

by their intimate partners; more than half of the victims, 54%, had reported stalking to police prior to their murders by their stalkers.

After reviewing the literature, Logan and Walker (2009) suggest that there are at least five main dimensions to intimate stalking that make the experience distinct from non-intimate stalking. First, intimate stalking includes “a relationship history or context.” The NVAWS, for example, reports that the majority of women stalked by husbands or ex-husbands report prior physical abuse, with almost a third reporting sexual assaults (Tjaden & Thoennes, 1998). As a result of this prior abuse, intimate stalking victims may experience more fear of their stalkers.

Second, intimate stalking includes “a wide array and more frequent stalking tactics.” Intimate stalkers are more apt to know their victims’ fears and vulnerabilities, as well as how best to access them, their children, and other family members. For example, if victims have children with their stalkers, stalkers can threaten to deprive their victims of custody, threaten the children’s lives, or use the court or reports to child protective services to harass the victim over the children (Logan et al., 2006). Intimate stalkers may be more likely to employ proxy stalkers to assist them (Mullen et al., 2000; Logan et al., 2006) as well as engage in more frequent stalking (Mohandie et al., 2006; Nicastro, Cousins, & Spitzberg, 2000).

Third, intimate stalking includes “increased risk of threats and violence.” Not only have studies found that intimate stalkers are more likely to threaten harm to their victims (James & Farnham, 2003; Mohandie et al., 2006; Palarea et al., 1999; Rosenfeld, 2003; Sheridan & Davies, 2001), but some suggest that stalkers who make threats are more likely to carry out violence than those that do not make threats (Brewster, 2000; Roberts, 2005). In terms of increased risk of violence, a study of protective orders found that stalking was a risk factor for every kind of violence after the order was issued, notwithstanding other variables including minor children,

prior abuse, and length of relationship. Women who were stalked after the orders were issued were 4 times more likely to experience physical abuse, 4.8 times more likely to experience severe physical violence, 9.3 times more likely to experience sexual assault, and 4.7 times more likely to be injured (Logan et al., 2008).

Fourth, intimate stalking includes “a different timing of the beginning of stalking.” Research suggests that between 25% and 80% of women are stalked by their partners before separating from them (Brewster, 2003; Logan et al., 2006; Tjaden & Thoennes, 1998; Logan & Walker, 2009; Eastel 1994). Jacobson and Gottman (1998) conclude that the prime reason victims of intimate stalkers (labeled “pit bulls”) were more likely than even victims of hyperviolent partners (labeled “cobras”) to separate from their partners was *because* they were incessantly stalked.

Fifth, and perhaps most important, intimate stalking includes “greater psychological distress among its victims.” A study of stalking victims, almost all stalked by intimates, found that 78% had symptom levels that indicated at least one psychiatric disorder. The victims, in fact, had the same mean scale scores for somatic symptoms, anxiety, social dysfunction, and severe depression as psychiatric outpatient populations (Blaauw, Winkel, Arensman, Sheridan, & Freeve, 2002). The overlap between domestic violence in general and stalking makes it difficult to attribute the effects of stalking alone. However, it has been suggested that stalking may contribute uniquely to psychological distress (Logan & Walker, 2009, 13). If the victim was physically abused by the stalker in their prior relationship, anxiety symptoms have been found to triple over those cases where the stalking was not preceded by physical abuse (Nicastro et al., 2000).

## Stalking Victims' Responses to Stalking

The challenge facing the criminal justice system may be greater than assumed because the research suggests that, by the time victims report stalking to police, the stalking behavior has been well established and it is likely that victim-initiated countermeasures have failed to stop the stalker.

Victims take many actions to protect themselves from their stalkers before contacting police. Brewster (1998, 2001) found that most victims try to deal with stalkers on their own, first by trying to reason with them and then by ignoring them. The victims in the SVS survey, for example, reported taking a number of countermeasures, including asking friends for assistance (42.6%), changing their day-to-day activities (21.6%), installing caller ID/call blocking (18.1%), getting pepper spray (6.3%), or getting a gun (2.9%). Only 39.7% reported not changing their behavior.

Stalking victims also secure civil protective or restraining order petitions, as well as, in the 25 states that have them, stalking protective orders.<sup>12</sup> A little more than a third of female intimates (36.6%) and 17% of male intimates reported obtaining a protective order in the NVAWS survey. A little over fifteen percent (15.6%) of all stalking victims reported having obtained a protective order in the SVS survey.

Notwithstanding victim initiated countermeasures, stalking often continues, as indicated in the national surveys. The NVAWS survey found, for example, that more than two-thirds of the orders obtained by female intimate stalking victims and 90% of orders obtained by male intimate stalking victims were violated. These violation rates were substantially higher than the 50% violation rate reported for the victims of physical assaults who had secured orders. These

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<sup>12</sup> According to the National Center for Victims of Crime, Stalking Resource Center, these states include AK, CA, CO, FL, GA, HI, KS, MD, MO, MT, NE, NV, NH, NC, OH, OK, SC, TN, UT, VT, VA, WI, and WY. Additionally, 38 states have harassment protective orders, including AK, AL, AZ, CA, CO, DE, DC, FL, GA, HI, IN, KS, LA, MD, MO, MT, NE, NM, NV, NH, NY, NC, OH, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, and WY.

findings follow Hall's earlier studies (1997, 1998) where half of stalking victims secured orders and 81% of these were violated.

## **Stalker Risk**

The prior research, as mentioned, suggests that the intimate victims are not only the "most malignant" stalkers, but are the most likely to continue to stalk and abuse their victims. Although limited studies have been completed regarding stalker risk for reabuse, there is general consensus that, apart from length of prior criminal history, the most common risk factor is prior relationship between victim and stalker, with those with prior intimate relationships being higher risk (Meloy, 2001; Mullen, 2000; Logan & Walker, 2009). As concluded by Logan and Walker (2009), in their review of the literature, "[s]tudies examining recidivism after court intervention underscores the persistence of partner stalkers (10)." Other studies have concurred, finding intimate stalkers more likely to recidivate than non-intimate stalkers (Rosenfeld, 2003).

## **Stalking Activities**

Stalking may be discounted by observers because it generally does not include physical assaults against victims. The NVAWS survey estimated that only 22.1% of female and 7.4% of male intimates were physically assaulted by their stalkers. The SVS survey found only 21% of all stalking victims reported attacks and 15% against third parties or pets. In Mohandie's opportunistic sample (2006), the violence rate was 30% against the stalking victim, with an additional 16% against third parties.

However, the threat of violence and harm are integral to stalking. Both the SVS survey and Mohandie (2006) report widespread threats made by stalkers against their victims. The former reported a threat rate of 43.2% among all stalkers. The latter broke threats down by category of stalker, finding the highest rate (83%) involved intimate stalkers, followed by 66% by acquaintance stalkers, 50% by private stranger stalkers, and 19% by public figure stalkers. The

SVS survey also found that a little over a quarter of stalkers (26.1%) specifically engaged in cyberstalking or electronic monitoring of their victims and a little under a quarter (24.4%) damaged the victim's property or that of someone in the victim's household.

In terms of unwanted contact, Mohandie found that the most frequent was the stalker approaching the victim in person (63%), followed by telephone contact (52%) and then letters, cards, or faxes (30%). A little more than a quarter of victims were contacted between once a day and once every two to three days, 36% weekly, and 21% monthly. Among intimates, the stalking began anywhere from immediately after breakup to four and a half months after, not including the 12% of cases where it began during the relationship.<sup>13</sup> The SVS survey reported that in addition to receiving unwanted letters, emails, or other correspondence, stalking victims experienced high levels of three unwanted behaviors "most commonly associated with stalking:" following or spying on the victim, showing up in places without legitimate reason, or waiting outside (or inside) places for the victim. About half of the victims (46%) experienced at least one unwanted contact per week.

As pointed out by Logan and Walker (2009), while the literature focuses on the various behaviors involved in stalking, it "may be better characterized by other factors such as duration, intensity, intrusiveness, timing, and implicit and explicit threats (17)." In other words, a focus on the content of stalking may not accurately reveal its seriousness or its impact on the victim.

## **Do Stalking Laws Protect Victims of Domestic Violence?**

There is little evidence to evaluate whether application of stalking statutes adds value to

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<sup>13</sup> The wide discrepancy in various findings concerning stalking while intimates are together can be attributed to differing interpretations of what constitutes stalking, compounded by the fact that victims of stalking are not apt to identify their abuse as stalking (see, e.g., Tjaden & Thoennes, 2001; Baum et al., 2009).

efforts to protect victims. Generally, stalking is a serious misdemeanor or felony,<sup>14</sup> whereas the majority of other domestic violence charges are lesser misdemeanors or ordinance violations (petty misdemeanors) (Klein, 2004, 14). However, if those identified and charged as stalkers reabuse at the same rates as those charged with other, lesser domestic violence offenses, then the under-identification of stalkers is of little consequence. If, on the other hand, the correct identification of stalkers makes a difference in arrests, prosecution, and likelihood of reabuse, then the undercharging of stalking may significantly compromise both offender accountability and victim and community safety.

Ironically, the same Report to Congress that found stalking laws little used also noted that where used, in nearly half of the cases, the perpetrator was convicted and two-thirds of these convictions resulted in a jail or prison term (Kang, 1998, 2). This represents a much higher conviction and imprisonment rate than that evidenced by most domestic violence prosecutions (Klein, 2004; Garner & Maxwell, 2008). This suggests that underutilization of stalking charges may indeed seriously compromise offender accountability and victim safety.

The study results that follow provide the first empirical evidence of the impact of police identification of stalking. While our study was limited to stalking cases involving current or former female intimates, family members, cohabitants, or dating partners, as described, the research suggests that this covers both the most numerous and the most serious portion of stalking cases.

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<sup>14</sup> 14 states classify stalking as a felony, while 35 classify it as a felony upon a second offense and/or when the crime involves aggravating factors such as weapon use; violation of a protective order or condition of probation, parole, or release; or if the victim is under 16. Only Maryland classifies stalking as only a misdemeanor.

## **II. Research Design and Methods**

The following study, conducted during 2007-2008, used a mixed methods design. For the quantitative component, researchers compared all stalking incidents identified by Rhode Island law enforcement between 2001 and 2005 inclusive (“police identified” stalking) with a sample of domestic violence cases over the same years brought to police attention that constituted stalking but were cited by police for other domestic violence offenses (“researcher identified” stalking). Both short and long term outcomes were compared for the two sets of cases, including: 1) arrest and successful prosecution of the study incident and 2) suspected stalkers’ re-arrests for domestic violence from two years to seven years after the study incident through July 16, 2008.

The quantitative research was complemented by an exploratory qualitative component. Its purpose was to deepen our understanding of the quantitative findings and explore their implications from the perspective of those responding to stalking in Rhode Island: law enforcement officers, prosecutors, defense lawyers, and court advocates. The goal was to provide a more complete understanding of the factors influencing the criminal justice response to stalking. In addition, a random sample of police narratives was analyzed to determine any differences between police and researcher identified stalking cases not revealed in the quantitative data of victim, offender, incident, and police characteristics reported in the DV/SA forms. Methods used for the qualitative components are discussed in Chapter IV below.

### **Why Rhode Island?**

For a number of reasons, Rhode Island offered researchers a unique opportunity to contribute significantly to the understanding of stalking laws, their utilization by multiple police departments across an entire state, their short term effect in terms of arrest and prosecution outcomes, and their longer term effect (two to seven years) on new arrests for domestic violence. First, Rhode Island mandates law enforcement to file all domestic violence incidents, including

stalking, with one agency. The definition of domestic violence in Rhode Island is broad, including any offense, violent or not, that involves eligible parties. These, in turn, include current or former spouses, intimate partners, or dating partners, as well as couples with a child in common, family, and household members (cohabitants). This dataset is particularly useful because Rhode Island has one of the highest domestic violence incident reporting rates in the country. Also, the required reports are the most detailed and extensive in the country. Second, Rhode Island also has a public automated court case file revealing prior criminal histories and subsequent arrests. Third, since Rhode Island's stalking statute is based on the model stalking code, it is also typical of most state stalking statutes.

## **A. Study Data**

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The data used for this study came from the Rhode Island Supreme Court Domestic Violence Training and Monitoring Unit (DVU), a statewide database of domestic violence incidents reported to Rhode Island law enforcement. It also comes from CourtConnect, an automated court file that contains records of all criminal cases for the past several decades.

Data on all incidents of domestic violence, arrests and non-arrests, are submitted to the DVU by Rhode Island law enforcement agencies using two forms: 1) the legislatively mandated Domestic Violence and Sexual Assault/Child Molestation Police Reporting Form (DV/SA form) and 2) incident reports of domestic abuse and/or sexual assault/child molestation, including police narratives. A copy of the DV/SA form is in Appendix E.

While the DVU monitors reporting compliance by law enforcement, prior research involving checking their records against court arraignments for domestic violence indicates that some police departments may not submit all required incidents to the DVU. In a prior study (Klein et al., 2005), researchers found, however, that only 3% to 5% of incident reports were not filed with the DVU.

The police narrative reports included all police reports, incident narratives, arrest reports where the defendant was arrested, dispatch reports, witness statements, and narratives provided by victim/witnesses, responding officers, and investigating detectives, if there was follow up investigation.

Data entered into CourtConnect provides complete court histories from arraignment through case termination, including probation revocations, for all criminal cases brought in Rhode Island. The automated records contain all felony court cases entered from 1979 and misdemeanors from the mid-1980s onward. As a result, prior court records of defendants who reached their 18<sup>th</sup> birthday before 1979 may not be complete for all prior felonies and those who reached their 18<sup>th</sup> birthday before 1985 may not be complete for all misdemeanors. The file includes only offenses charged in court in Rhode Island. Offenses that may have been committed across the border in Massachusetts or Connecticut are not included.

With only four criminal courts and one centralized registry of court cases in Rhode Island, CourtConnect data are consistently coded and appear to be complete. In no case did we find a police reported arrest that did not result in a CourtConnect record.

## **B. Study Sample**

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### **Police Identified Stalking Cases (n=108)**

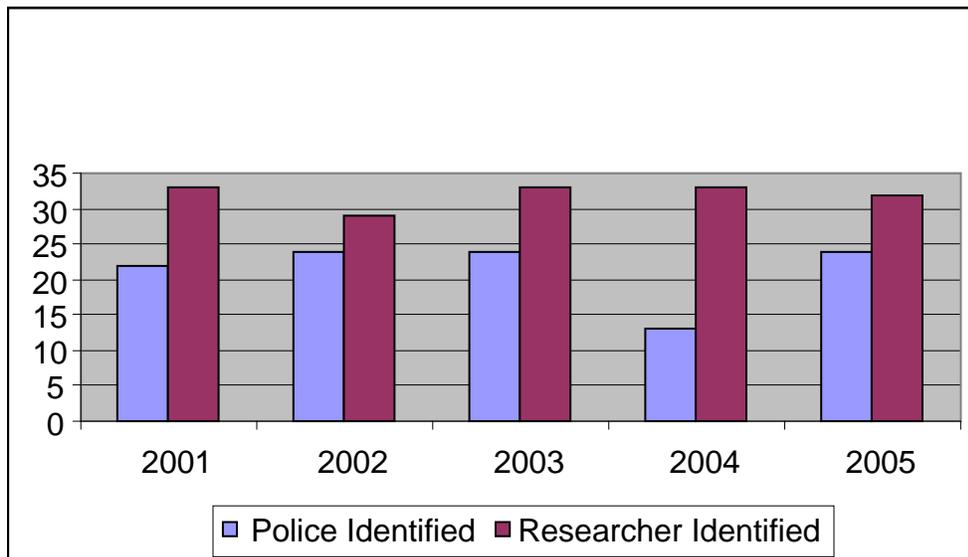
Between 2001 and 2005, inclusive, police cited 108 cases as stalking with a current of former intimate, family member, dating, or cohabitant female victim. If the same reported stalker was identified as a stalker in more than one incident during this period, the case that represented the first time that person was identified as a stalker was used as the study stalking case.

### **Researcher Identified Stalking Cases (n=160)**

To identify stalking cases from among the domestic violence cases reported to police that were not identified as stalking by police, we completed a content analysis of police domestic

violence incident narrative reports not identified by police as stalking, involving female victims from each year. The exercise was similar to that performed by Tjaden and Thoennes (2001) in the previously cited Colorado Springs study. For obvious reasons, we were unable to review the approximately 33,000 non-stalking domestic violence incident reports filed during the study period. To identify 35 incidents per year that constituted stalking but were not so identified by police, we began to review all eligible cases filed during the study years. For 2001, 2002, and 2004 we began our search with cases filed January 1. For 2003 and 2005 we began with cases filed on April 1. As illustrated in Exhibit #2, the proportion of cases identified by researchers by year was similar to those identified each year by police except for 2004, which had substantially fewer police identified stalking cases than research identified cases.

**Exhibit # 2: Number of Police and Researcher Identified Study Stalking Cases by Year**



As a result of this process, a greater proportion of researcher identified incidents were included that were reported in the months of January, February, and December, and a greater proportion of police identified cases were reported in the months of April, August, September, October, and November. The variance in the months in which the two sets of incidents were reported represents a research design limitation, although prior research has not indicated a

seasonal difference in stalking cases. Further, while the specific incident that was identified as stalking either by police or researchers may have been reported in a specific month, the antecedent activities required for a case to constitute stalking may have taken place over many other months and time periods.

Incidents were cited as stalking if the report contained sufficient information indicating the incident met the legal criteria of prohibited stalking (Rhode Island General Laws §11-59-2), namely, the person: 1) harasses another person or 2) willfully, maliciously, and repeatedly follows another person with the intent to place the person in reasonable fear of bodily injury. “Harasses” is defined as a “knowing and willful course of conduct directed at a specific person with the intent to seriously alarm, annoy, or bother the person, and which serves no legitimate purpose.” The course of conduct must cause “a reasonable person to suffer substantial emotional distress, or be in fear of bodily injury (11-59-1(2)).” A “course of conduct” is defined as “a series of acts over a period of time, evidencing a continuity of purpose.” Constitutionally protected activity is not included within this meaning (11-59-1(1)).<sup>15</sup> In regard to “following,” the activity must be repeated.

We examined a total of 2,582 domestic violence incidents for the years 2001 through 2005, inclusive, and identified 175 as meeting the criteria for the crime of stalking, 35 for each study year. The actual number of stalkers used in the study was less. In 12 cases, the same stalker was identified in more than one year and in three other cases the uncharged stalker had been charged as a stalker in a prior study year and was therefore already included as a police identified stalker.

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<sup>15</sup> The Rhode Island Supreme Court found that the statute met the constitutional test by giving adequate warning to potential offenders of the prohibited conduct. Unlike a Massachusetts High Court ruling that found that state’s statute unconstitutional, it ruled: “It indeed defies logic to conclude that a defendant would have to commit more than one series of harassing acts in order to be found guilty of stalking.” *State v. Fonseca*, 670 A.2d 1237 (R.I. 1996).

In making the determination that a case constituted stalking, the researchers reviewed the police narrative reports, as described above. Appendix C contains the classification template used to analyze cases to determine if they constituted stalking. We included only cases where each element was clearly evident and supported by the data reviewed. Cases were often excluded, for example, where incident reports were not complete or were not detailed enough to reveal distinct repeated acts of qualifying abuse, or if a victim's emotional distress or fear was not clearly evident. In determining whether or not the behavior was repeated, we looked to see if the police narrative included statements such as "the victim contacted police about a similar assault twice in the past month," "the defendant has violated this restraining order several times with this victim," or statements that made it clear that the suspect continued to engage in a pattern of harassing behavior. Almost universally, the repeated activities noted in the police narratives occurred within months of the incident included in the study. This was true both for police and researcher identified stalking cases.

To ensure the reliability and validity of the selection of researcher identified stalking cases, a random sample of 25 narratives was reviewed by two other researchers. The sample included cases both identified as stalking and those not identified by the initial reviewer. In only one case did a second reviewer disagree with the assessment of her peers, identifying a case as stalking that had been rejected by her peers. While the strict standards we adopted may have excluded eligible stalking cases, the resulting sample constituted clear examples of stalking incidents, notwithstanding the fact that they were not identified as such by local law enforcement.

To confirm the validity of the selection of researcher identified stalking cases, we also compared the specific suspect, victim, and incident characteristics contained in the DV/SA reports filed by police on all cases to reveal any significant differences between the police and

researcher identified cases and determine if any of these differences related to the determination of a case as stalking. We also compared both police and researcher identified stalking suspect, victim, and incident characteristics with a large sample of non-stalking domestic violence reported case characteristics (N=13,216) involving current or former intimate, family member, dating, or cohabitant female victims in 2002 and 2004 to determine how any differences found between police and researcher identified stalkers compared to differences between both police and researcher identified stalkers and non-stalking general domestic violence cases.

## **C. Study Measures**

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### **Prior Criminal Histories**

In determining suspect prior criminal histories, we relied on records of all court cases entered into the automated Rhode Island court file, CourtConnect, through the last record check on July 16, 2008. The prior court cases are broken down by category: those involving domestic violence; those involving crimes against persons that were not considered domestic violence (the relationship of victim and offender was not current or former intimates, household or family members); substance abuse cases where the offenses involved alcohol, such as drunk driving, or substance abuse, generally possession of an illicit substance; and “other,” mostly major motor vehicle offenses. Additionally, prior court dispositions are broken down, including any case that resulted in the court placing the defendant under probation supervision or in prison. The underlying sentences for the former include “guilty probation, guilty suspended sentence, or guilty filed.” Domestic violence cases that are “filed” in court include the same mandatory conditions as those placed on probation, including completion of a batterer program, although the defendant is supervised by an agency other than the state probation and parole department. Prior prison sentences include any case, misdemeanor or felony, where the defendant was sentenced to prison for all or part of the total sentence (there is only one prison facility in the

state; it holds both misdemeanants and felons) or if the defendant's probationary sentence was revoked and the defendant was subsequently incarcerated before the study incident. If a probationary sentence was revoked and the defendant was incarcerated after the study incident, the prior case is coded as a probationary sentence because the defendant did not serve any time in prison before the study incident.

### **Domestic Violence Recidivism**

Domestic violence recidivism is measured by a domestic violence arrest that occurred after the study offense that was entered on the court's automated record keeping system on or before July 16, 2008. The new domestic violence arrest may involve the same or different victim than the study victim. By measuring re-arrests for domestic violence, the study cannot reveal actual suspect reabuse rates, just new domestic violence that resulted in an arrest that was recorded in the court files.<sup>16</sup>

Re-victimization rates would have been inevitably higher if actual study victims were interviewed or police incident reports were reviewed through July 16, 2008. By tracking reabuse through July 16, 2008, the minimal follow up for study stalkers after their study incident was two and one half years. The maximum time was seven and one half years. According to the NVAWS, the average stalking case lasts 1.8 years (Tjaden & Thoennes, 1998, 425). According to the SVS, more than half of stalking cases lasted a year or less. If these surveys are accurate, even the shortest study period should capture most arrests where the offender was arrested for reabusing the study victim. We also determined reabuse for any new domestic violence arrest occurring 2.5 years after each study incident to ensure that all study suspects had the same time frame to reabuse.

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<sup>16</sup> In other words, the defendant was arrested and scheduled for a court arraignment on domestic violence charges regardless of whether he showed up in court for the arraignment. The rearrests do not include cases where police issued warrants for a suspect's arrest and the warrant was not served through July 16, 2008.

## **D. Quantitative Analysis Methods**

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To address the main study questions quantitatively, we conducted three sets of analyses in sequence. First, we examined the data for differences in background characteristics (suspect characteristics, victim characteristics, and incident characteristics) between the police identified and researcher identified stalkers to determine the comparability of the groups. Because our data includes all the cases cited by police for stalking in Rhode Island between 2001 and 2005, we treated the group of police identified stalkers as the full population of interest, and compared the sample of researcher identified stalkers to the fixed population values from the police identified group for these measures, using t-tests and one sample test of proportions.

We also compared both police and researcher identified stalkers with non-stalking domestic violence incidents reported by police in 2002 and 2004 involving female victims across Rhode Island to see how either set of cases compared to general domestic violence cases. The non-stalking domestic violence cases were not exactly equivalent, covering only two of the study years, and included multiple cases involving the same suspects, unlike the police or researcher identified cases, which have only unduplicated suspects. As a result, the comparisons can only suggest substantial differences among these cases.

Second, we examined across both groups whether background factors were predictive of the short term (arrest, prosecution, charge disposition) and long term (reabuse) outcomes of interest using t-tests and chi square tests. These analyses revealed, as we expected, few factors predictive of reabuse. The literature indicates that younger age and a history of prior offenses are the only factors consistently associated with recidivism.<sup>17</sup> In this study, we found these associations

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<sup>17</sup> Klein, A. (2008). Practical Implications of Domestic Violence Research: Part II Prosecutors. Washington D.C., U.S. Department of Justice, National Institute of Justice, p.30, <http://www.ncjrs.gov/pdffiles1/nij/grants/222319.pdf>. Offender gender is also a powerful predictor but in this study all of the stalkers are male eliminating gender as a factor.

( $p=.07$  for age,  $p<.001$  for prior offenses) and only one other association (victim was noted by the police officer to be shaking) that was statistically significant at the 5% level. This last variable, however, applied to only 54 of the victims, 28 police identified and 27 researcher identified victims.

At the outset of this project, we had anticipated needing to use propensity scores to control for background differences between the police identified and researcher identified groups. However, since we did not find a pattern of important pre-existing differences between the researcher identified and police identified stalkers, and the one difference we did find works to make the test of our hypothesis more conservative, we decided to conduct a more parsimonious analysis and proceed without adjustment via propensity scores. To control for the effects of prior criminal histories, we compared police and researcher identified stalkers for those with no prior criminal histories and again for those with no prior domestic violence histories.

For the third set of analyses examining the primary study hypotheses, we related group membership to the short and long term outcomes (arrest, prosecution, dispositions, and reabuse) using standard bivariate statistical tests, as above. Because we had specific directional hypotheses for these analyses, we used one-tailed tests.

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### III: Findings

#### A. Are police fully identifying stalking cases from among reported domestic violence cases?

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No. For every incident identified by police as stalking during the study period, they did not identify almost 21 other cases of stalking. There were a little more than 33,000 police domestic violence incident reports with female victims filed during the study period. The 108 police identified stalking cases came to 0.33% of the total cases reported. Based on the research identification of stalking cases from a sample of cases during the same study period, another 6.8% of the cases also constituted stalking, but were not so identified by police.

Exhibit # 3 illustrates the number of cases of police and researcher identified stalkers in the study for each year, as well as the number of cases reviewed to identify the latter.

**Exhibit # 3: Cases by Year: Police and Researcher Identified Stalkers**

Year	Police Identified (unduplicated) Stalkers (total population)	Other Domestic Violence Cases Reviewed by Researchers	Researcher Identified Stalkers (before duplicates removed)	Stalking Cases Found by Researchers from Domestic Violence Cases
2001	22	529	35	6.6%
2002	24	564	35	6.2%
2003	24	692	35	5.1%
2004	13	286	35	12.2%
2005	25	521	35	6.7%
<b>Total</b>	108	2,582	175	6.8%

Although researchers identified 160 unduplicated abusers as stalkers from the 175 identified stalking cases reported in the sample, police cited them for a variety of other domestic violence charges, as illustrated in Exhibit # 4. The total number of cited charges for researcher identified stalkers exceeds the number of defendants because some researcher identified stalkers were cited by police for multiple domestic violence charges. The most common multiple charges cited by

police were violation of protective/no contact orders<sup>18</sup> and threatening phone calls.<sup>19</sup> The total number of stalking cases listed in Exhibit # 4 also includes multiple incidents involving the same stalker within the same year. In the study, stalking incidents are limited to the first such case for each defendant. A second charge of stalking in the same year would be counted as abuse recidivism (a new domestic violence arrest).

**Exhibit # 4: Charges Cited by Police for Researcher Identified Stalking Sample Charges\***

<b>Police Charge</b>	<b>Charges Reviewed</b>	<b>Number Associated w/ Researcher Identified Stalker</b>	<b>Percent Associated with Researcher Identified Stalker</b>
Assault	1,288	12	1%
Other charges or no charges cited	670	41	6.1%
Violation of protective or no contact order	417	76	18.2%
Disorderly conduct	414	17	4.1%
Malicious property damage (vandalism)	290	9	3.1%
Fail to relinquish phone	170	1	0.6%
Threatening phone call	95	44	6.3%
Breaking and entering	28	4	14.3%
<b>Total</b>	<b>3,372</b>	<b>204</b>	<b>6.05%</b>

\*More than one charge may have been lodged against each suspect.

As illustrated in Exhibit # 4, breaking and entering and violation of protective (civil) or no contact (criminal) order charges cited by police had the greatest likelihood of constituting stalking. Assault and failure to relinquish phone charges were the least likely.

<sup>18</sup> Protective orders are civil orders obtained by victims. Violation of such an order is a misdemeanor. No contact orders are automatically issued after a domestic violence arrest and remain until removed by a judge, or when the case is dismissed. Violation of a no contact order is also a misdemeanor. For the purpose of this study, violations of either type of order are combined into one category as a domestic violence offense.

<sup>19</sup> Officially, threatening phone calls come under the general offense R.I. Gen. Laws § 11-35-17(a), “crank/obscene phone call,” but include “telephon[ing] any person for the purpose of using any threatening, vulgar, indecent, obscene, or immoral language over the telephone.”

## **Police Narrative Analysis**

Exhibit # 5 provides an example of two police narratives examined. The first was cited by police as stalking, the other for another domestic violence offense. Based on our analysis, we determined the second also constituted stalking, possessing all of the equivalent necessary legal ingredients as the first.

### **Exhibit # 5: Police Compared to Researcher Identified Stalking Narrative**

#### **1<sup>st</sup> Stalking Narrative**

The victim reported numerous harassing phone calls from her ex-husband of four months. The calls, in excess of 30, also violated a no contact order. The calls included, she told police, “general statements that she had robbed [suspect] of everything, that she had tried to put [suspect] in jail and that there were consequences to be paid.” Police officers listened to two of the messages on the victim’s answering service and noted that the suspect seemed “extremely distraught, he cried” and “at times could not talk.” The officers added, however, that they “did not hear nor did [victim] indicate that any specific threat had been made.” Officers confirmed that a no contact order was on record and active until the following year. Police cited the suspect for stalking.

#### **2<sup>nd</sup> Stalking Narrative**

The victim reported approximately 15 threatening phone calls from her husband from whom she was seeking a divorce. The victim indicated that the suspect had assaulted her in the past and that “she fears he may hurt her.” The series of phone calls began, the victim reported, with the suspect cancelling visitation with the daughter. However, during the call he began discussing the impending divorce, stating he “was angry because he was told by the court that he had to have her vehicle registration reinstated and also had to have her insurance reinstated.” The suspect added that “he would make her life miserable if he had to do those things.” At that point, the victim stated that she hung up the phone. The suspect then placed several more calls that the victim did not answer, but after the calls continued, she answered one of them. The suspect told her “I’m going to make your life hell,” “if I see you, I will kick you in the face” and “if I catch you with another guy, I’ll kill you.” She hung up and the calls continued. She reported that she picked up and hung up further calls without speaking with the suspect, but traced each call by dialing \*57. Fearful, the victim went to her neighbor’s across the street. While at the neighbor’s home, her neighbor answered one of the telephone calls from the suspect and reported to police that the suspect threatened him, stating he was “going to cut his head off.” Police also determined that the suspect had called the victim’s mother’s home “approximately 10 times in the past hour” looking for the victim. Officers also noted that the suspect “called the house four times” when they were present and that they observed the victim telling the suspect that “she did not want to talk to him and told him to stop calling.” The victim had a protective order against the suspect previously but it was not active at the time. Police cited the suspect for threatening phone calls.

In the first narrative, the suspect made repeated harassing calls to the victim that obviously seriously annoyed or bothered her. Further, the calls served no legitimate purpose. The first victim had a protective order against her ex-husband. To have obtained a protective order, the court had to find that the respondent, the ex-husband, had attempted to cause or caused physical harm to his victim and/or placed her in fear of imminent serious physical harm or sexually assaulted or stalked her (R.I. Gen. Laws§15-15-1). In the second narrative, the suspect also made repeated harassing and threatening calls to the victim. Although the second victim had secured a protective order against her estranged husband in the past, it was no longer active. However, she told police that she still feared being hurt by him, stating also that he had threatened to kill her. Further, there is evidence that the victim was tracking the victim, calling her when she retreated to a neighbor's house after having called the victim's mother repeatedly to find her.

On the whole, researchers could not find substantial differences between the two sets of police narratives. Almost 40% were interchangeable in terms of the nature and severity of the stalking activity and where the stalking occurred. In another third of police and researcher identified stalking cases, we found them interchangeable in terms of the nature and severity of the stalking activity, but the police identified stalking narratives described events that occurred in public and/or with multiple witnesses able to substantiate the charges.

Exhibit # 6 provides an example of two narratives illustrating these cases. In both, the stalking activity is evident, but in the first, where police identified the case as stalking, the case was reported by a third party and a third party was able to verify the reported stalking. The stalking took place in a University dormitory. By contrast, in the second research identified stalking case, there were no collaborative witnesses. The victim reported the stalking herself. The stalking took place within her own home where she was alone.

## **Exhibit # 6: Police and Researcher Identified Stalking Narratives: With and Without Witnesses**

### **Police identified stalker with witnesses in public place**

Police were dispatched to the security office at \_\_\_ University. Upon arrival, officers met with a campus security officer and the victim, a student at the university. The victim's roommate made the initial call to campus security because, according to the victim, "she feels uncomfortable when [suspect]" shows up at their room. The victim reported that "she was being harassed by her ex-boyfriend, a summer resident of the dormitory who was working for food services at the college. They had dated for approximately one year and ended the relationship four months earlier. According to the victim, the suspect "shows up at her room from time to time despite the fact she has repeatedly told him to leave her alone." The victim stated to police that the suspect has never hit her, but he does make her and her roommate "very nervous." The suspect had "taken all the courses she has signed up for, sends her emails on her computer, and has called her at various times." The victim's roommate confirmed the victim's report. In a written witness statement, the victim wrote "though I don't feel [suspect] is capable of physically harming me, he is becoming a disruption in my roommate's and my life." After taking the report, campus security officers accompanied police to the suspect's dormitory room, told the suspect to stay away and not contact the victim again. Officers also informed him that a detective would contact him in the next few days. The detective did and arrested him for stalking.

### **Researcher identified case with no witnesses in private**

The victim came to the police station to report that "her ex-boyfriend...had broken into her house...and pushed her." The two had been involved in a relationship that was ended by the victim two months earlier when she asked the suspect to move out of the home. She reported that "since that time [the suspect] has continuously harassed her by following her to her friends' and family members' houses and not leaving when repeatedly asked." On the date of this incident, she reported that the suspect had called her at home and that, during that call, she told him "not to come to her home and not to call her anymore." She reported that "a short time later, she was on the telephone with a friend when the line went dead" and, within minutes, the suspect entered her home. She argued with the suspect and told him to leave. The suspect responded by pushing her, refusing to leave, and stating that he "wished to speak to her about working things out" and then "stayed in the house for several hours." The victim could not call the police because the phone line had gone dead prior to the suspect entering her home.

According to the victim, the suspect admitted to "breaking the phone line" from the exterior of the house, but agreed to "fix it before leaving." The suspect also reportedly "broke the locks" of the kitchen window and pushed on the window in order to gain entry. When officers returned with the victim to her home they wrote that the phone line "appeared to have been broken and taped back together," and "the window...had been broken." The officers ran a criminal check and found that the suspect had "an extensive criminal record including charges in Massachusetts of attempted murder, discharging a firearm, assault to kill, assault and battery/dangerous weapon and breaking and entering" and had a Rhode Island warrant for "an assault charge." The responding police officers cited the suspect for Breaking and Entering, Simple Domestic Assault (misdemeanor), and Failure to Relinquish the Telephone, but not stalking.

Another 14% of the police narratives were similar in terms of nature and severity of the reported stalking, but the victims in the police identified stalking reports appeared to be more persistent than victims in the researcher identified stalking cases. One, for example, was a U.S. postal employee who was stalked while on the job. The postal employee made multiple calls to police and police finally “caught” the suspect in the act. Four of the police identified stalking victims also specifically used the term “stalking” when they called police. None of the researcher identified victims was reported to have used the specific term of “stalking.”<sup>20</sup>

Additional narratives summaries illustrating the similarity between police and researcher identified are contained in Appendix A.

A review of the police narratives also suggests that police under-identification of stalking cases may be aggravated by their failure to note cyberstalking, or victims’ failure to inform police of cyberstalking. Although Rhode Island specifically enacted an anti-cyberstalking law (R.I. Gen. Laws § 11-52-4.2) in 2001,<sup>21</sup> only one of the stalking cases identified by police was cited as cyberstalking; it is described in Exhibit # 7. Researchers noted use of emails and other electronic means of communication described in some researcher identified cases, but did not separate them out from non-cyberstalking cases.

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<sup>20</sup> In the Colorado study, researchers found victims did not use the term stalking and in the SVS survey almost half of the interviewed stalking victims did not use the term stalking in describing their victimization.

<sup>21</sup> The law states: “(a) Whoever transmits any communication by computer to any person or causes any person to be contacted for the sole purpose of harassing that person or his or her family is guilty of a misdemeanor, and shall be punished by a fine of not more than five hundred dollars (\$500), by imprisonment for not more than one year, or both. For the purpose of this section, ‘harasses’ means following a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or bothers the person, and which serves no legitimate purpose. The course of conduct must be of a kind that would cause a reasonable person to suffer substantial emotional distress, or be in fear of bodily injury. ‘Course of conduct’ means a pattern of conduct composed of a series of acts over a period of time, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct.

(b) A second or subsequent conviction under subsection (a) of this section shall be deemed a felony punishable by imprisonment for not more than two (2) years, by a fine of not more than six thousand dollars (\$6,000), or both.”

#### **Exhibit # 7: Cyberstalking Narrative**

The victim called police in October 2003. The court had issued a mutual protective order against the victim and her former live-in boyfriend (46) of six years a week earlier. Almost immediately, the victim told police she began receiving harassing and threatening emails from, she believed, her ex-boyfriend although the emails came under three different addresses, "shallowman, neilnbobnomore, and afoollikeu." She received 15 in all. According to the police, the emails were "sexually degrading" and "threatening." They also indicated that the sender was observing the victim, identifying what she was wearing the day an email was sent, for example.

The police detective verified that the protective order existed and that the ex-boyfriend had been arrested by another police department a few days earlier for crank/obscene phone calls/domestic and violation of the protective order. At his arraignment, the ex-boyfriend had been ordered to have no contact with the victim.

The detective analyzed the header information of the emails in question and identified the originating Internet Protocol Number. He then referenced the American Registry for Internet Numbers and determined that the number was subscribed to XXX Communications (name changed). Within the week, the detective obtained a court search warrant and obtained from XXX Communication confirmation that the IP address was assigned to the ex-boyfriend.

The ex-boyfriend was then arraigned for cyberstalking. Bail was set at \$1,000 cash with the stipulation of no contact with victim. In addition, the defendant was held, as it was determined that he had violated the bail release of the pending violation of protective order charge and crank/obscene phone call.

The detective then secured a formal Witness Statement from the victim. The victim indicated that in addition to the emails, the defendant had left messages on her voice mail. She told police the emails made her afraid, fearing for her safety, causing her to get rides to and from work, as well as sleeping in different locations each night. She also said she received hang up calls at work. Her boss had observed the defendant in front of the building where she worked and received calls from the defendant the day the victim received the hang up calls.

Police interviewed the boss who told police that the defendant had worked for him prior to the victim. He verified he had received calls from the defendant. When shown the emails sent to the victim, he said the phrases were similar to that used by the defendant, including statements about oral sex. He also stated he observed the defendant in front of his business. He states his conversations with the defendant centered on an alleged embezzlement by the defendant of company funds. The defendant asked that the company fire the victim as part of his conversation about the allegedly embezzled funds.

The victim subsequently told police that the defendant had told her he had acquired a .357 handgun. The boss indicated that he owned such a gun but the gun was missing from his office soon after the defendant had left his employment. The detective secured a search warrant for the defendant's home in order to gather evidence related to cyberstalking as well as the handgun.

The search turned up a computer, which was seized as well as a note with handwriting that listed the three names used in the emails. The defendant's brother who was at the house at the time of the search said the handwriting was that of his father. The father was questioned and told police he had minimal use of the computer and had no part in sending emails to the victim or any involvement in the Hotmail account.

Police determined that, in 1991, the defendant had been arrested for a domestic assault and two violations of protective orders in a case not involving the study victim. Both sets of cases were eventually dismissed. Immediately before the defendant was charged with cyberstalking, he was arraigned for a threatening phone call for which he was later sentenced to 30 days in jail, 11 months suspended with probation, and ordered to complete a batterer program and have no contact with the victim. Before he received this disposition, he was arraigned for the cyberstalking described above. He was sentenced to one year suspended in November 2003, concurrent with the prior phone threats case.

On that same day, he was also charged and arraigned with violating the protective order then outstanding. He was also sentenced on that case and given another one year suspended sentence.

A little more than a month later, he was arraigned for violation of a no contact order issued when he was sentenced to prison. He was given another one year suspended sentence and ordered to complete a batterer program and have no contact with the victim.

Two months later, in January 2004, he was arraigned again for violating the protective order. The following May, he was sentenced to 45 days home confinement, 320 days suspended and probation for one year. He was ordered to complete the batterer program again and have no contact with the victim.

## **Differences between police and researcher identified stalking case characteristics**

The comparison of police identified stalking cases and researcher identified stalking cases reveal few statistically significant differences in terms of suspect, victim, and incident characteristics. However, among the few significant differences found are specific incident variables that support the researcher narrative content analysis described above.

Exhibit # 8 contains a comparison of the two groups of cases, including which differences are significant.

**Exhibit # 8: Differences Between Police and Researcher Identified Cases**

<b>Variable</b>	<b>Police Identified Stalking Cases n=108 (population)</b>	<b>Researcher Identified Stalking Cases n=160 (sample)</b>	<b>p Value</b>
<b>Suspect Characteristics</b>			
Age (average)	35 years	34.1 years	0.18
Gender: male	94.4%	98.1%	.037*
Ethnicity/Race: white (missing=7)	76.0%	75.2%	0.37
Prior criminal history	74.1%	72.5%	0.65
Prior DV	59.3%	50.0%	.019*
Prior drug/alcohol	26.9%	24.4%	0.53
Prior probation	61.1%	59.4%	0.69
Prior imprisonment	20.4%	24.4%	0.24
<b>Victim Characteristics</b>			
Current relationship (missing= 9)	23.4%	.30.3%	.055
Married	16.2%	15.0%	
Divorced	9.1%	10.0%	
Intimate partner (IP)	4.0%	8.1%	
Ex-intimate (Ex-IP)	63.6%	56.25%	
Relative	5.05%	5.0%	
Dating	2.0%	5.0%	
Cohabitant	0	0.6%	
Ethnicity/race: white (missing=9)	74.5%	82.2%	.086
Live together	7.5%	5.6%	0.45
Child at home	40.7%	55.0%	>.001***
Dwell –victim’s name (missing=49)	58.5%	58.4%	1
Protective order	54.6%	58.8%	0.3
Active order	47.2%	45.6%	0.75
Unserved order	7.4%	5.0%	0.29
Prior assault	44.4%	60.0%	> .001***
Prior police response	56.5%	46.9%	0.017*
Victim demeanor-afraid	54.6%	49.4%	0.20
Victim uncooperative	2.8%	6.9%	.0057***
<b>Incident Characteristics</b>			
Physical assault	10.2%	11.9	0.51
Visible injury	5.6%	3.75%	0.39
Weapon	9.3%	4.4%	.029*
Threat to victim	44.4%	56.2%	0.0031**
Threat to other	14.8%	10.6%	0.15
Property damage	11.1%	13.8%	0.31
Property stolen	7.4%	3.1%	.034*
Location: indoors/dwelling	50.5%	82.1%	>.001***
Incident reporter – victim/other (missing=5)	79.4%	93.5%	>.001***
Witness	49.1%	37.5%	0.0034*
Suspect left scene	31.5%	31.2%	1

\* p>.05, \*\*p>.01, \*\*\*p>.001

## **Suspect Characteristics**

While the researcher identified stalkers were significantly more likely to be males, the overwhelming majority of both sets of stalkers were male. The police identified stalkers were significantly more likely to have criminal histories for domestic violence, although in all other respects their criminal histories were not significantly different. The vast majority of both researcher and police identified stalkers possessed prior criminal histories. The majority of both groups of suspects had been sentenced to probation at least once in the past.

## **Victim Characteristics**

The police identified victims were significantly less likely to have children in the homes. The researcher identified victims were significantly more likely to report prior assaults by their suspect stalkers, but the police noted they were significantly more likely to have responded in the past to police identified stalking couples. Although researcher identified victims were significantly more likely to refuse to cooperate with police, indicated by their refusal to sign a statement or fill out the DV/SA body map of injuries, the percent that refused was small.

## **Incident Characteristics**

While police identified stalking incidents were significantly more likely to involve a weapon and feature stolen property, the percentage of incidents with these characteristics was relatively small. The major significant difference was a greater likelihood of threats being made against the research identified victims. Other than that, the physical location of the incident (being outdoors, not a dwelling), who reported the incident (being someone other than the victim), and presence of witnesses were all significantly more likely in the police identified stalking incidents.

## **Comparison with General Abuse Cases**

The comparison of both police and researcher identified case characteristics with non-stalking domestic violence cases reported in 2002 and 2004 will be discussed in more detail

subsequently. However, in brief, the comparison revealed that notwithstanding the few significant differences found between police and researcher identified cases, the differences paled compared to the differences between police and researcher identified cases and general abuse cases in most respects. In regard to the few variables where the general abuse cases more closely resembled the research identified cases, the similarities validate the researcher identification of stalking cases (see Exhibit # 10 below).

## **Discussion**

Our finding that police grossly under-identify stalking cases from among reported domestic violence cases confirms the earlier study conducted in Colorado Springs, Colorado by Tjaden and Thoennes (2001). They reviewed 1,731 police incident reports and found that either the victim or police officer described that the suspect had stalked the victim or had engaged in stalking behaviors in 16.5% of the reports (8). Notwithstanding this, defendants were generally charged with harassment or violation of a restraining order. Police cited only one for stalking (8).

The higher rate of unidentified stalking cases found by Tjaden and Thoennes can be explained by differences in both the methodology utilized to identify stalking cases and the contexts of each study. First, our research excluded cases involving male victims. Males constituted 23% of Colorado's study sample.<sup>22</sup> Our research included stalkers who were non-spousal family members (4.5%), excluded in the Colorado study.

Second, the criteria utilized for determining stalking cases differed. In our review, we did not assume all victims experienced the requisite fear or emotional distress to qualify for stalking as did the Colorado researchers (Tjaden & Thoennes, 2001, 6). We excluded cases where neither victim nor police indicated victim fear of bodily injury or death, where the victim did not suffer

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<sup>22</sup> While male victims constituted 23% of the cases studied, they were much less likely to be identified as victims of stalking than females, 10.5% compared to 18.3% of cases with female victims.

substantial emotional distress, or where a reasonable person would not have experienced such fear or distress. Also, we reviewed every report filed until we reached 35 each year, regardless of whether the reports were complete, whether they contained victim and police narratives, whether police arrested the suspect, or whether they determined probable cause. The Colorado researchers excluded 3% of the cases where victim and/or police narrative reports were missing (18).

Third, our research was conducted from three to eight years later than that in Colorado, and in a different state. Both Rhode Island police and victims had more time to become familiar with their state's stalking statute. Both Colorado and Rhode Island enacted their stalking statutes in 1992. The Colorado statute was not upheld by its Supreme Court until 1999, *after* the study period (*Colorado vs. Baer*, 973 P.2d 1225). Rhode Island's statute was upheld in 1996, five years *before* the beginning of the study period (*State vs. Fonseca*, 670 A.2d 1237).

Fourth, although training, policies, and supervision undoubtedly vary among Rhode Island's 39 state and local police departments, most or all may differ from those present in Colorado Springs. Also, unlike Colorado, Rhode Island does not have a general harassment statute. This may have left police with a less obvious alternative domestic violence charge than what was readily available to Colorado Springs police.<sup>23</sup>

Fifth, the demographics of the two states differ. In the Colorado study, only 55.1% of the suspects were white. In Rhode Island, with a lower minority population, three-quarters were white. On the other hand, the Colorado study found no relationship between stalking prevalence

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<sup>23</sup> Rhode Island Gen. laws § 16-76.1-1 limits harassment to the following circumstances: When a student has presented to an institution of higher education an internal complaint alleging harassment on the basis of race or color, religion, sex, disability, age, sexual orientation, gender identity or expression, or country of ancestral origin, the institution shall be required to disclose in a timely manner in writing to that student the disposition of the complaint, including a description of any action taken in resolution of the complaint; provided, however, no other personnel information shall be disclosed to the complainant.

and either the victim or suspect's race or ethnicity (22), although other studies find lower stalking rates among blacks (Baum et al. 2009).

Finally, the actual (and unknown) base rates for stalking may be substantially different between the two states.

Otherwise the two studies were similar. In both studies, very few victims used the term "stalking" in describing their abusers' actions. In both studies, "stalking-like" behavior included "repeated following" and repeated (more than once) unwanted communications by phone, letter, face-to-face confrontations, and email, although we found few instances of repeated following.

The comparison of police and researcher identified stalking cases suggests that extra-legal variables influenced police identification of stalking cases. These non-legal variables include prior police contact with the parties involved, as well as police belief of whether or not the case would be successfully prosecuted as stalking. Police were more likely to cite a suspect for stalking if they had responded to the individuals involved before and had arrested the suspect previously for domestic violence, notwithstanding the fact that researcher identified stalking victims reported more prior assaults by their suspects and the study incidents were more likely to include explicit threats made against the victims. Further, it appears that police were more likely to cite a suspect for stalking if the incident occurred where witnesses other than the victim were present, including cases where someone other than the victim reported the abuse to police. These latter findings were mirrored in both the review of police narrative reports and case characteristics contained in the DV/SA forms.

Both of these extra-legal considerations may indicate that police do not find stalking victims credible or do not believe prosecutors, potential juries, or judges will find them credible. Police may also discount prior domestic violence offenses that did not specifically involve their

department. Exhibit # 9 provides an example of such a case where police ignored conduct that occurred outside their jurisdiction, even conduct identified as domestic violence by other police departments.

**Exhibit # 9: Multiple Charges in Multiple Jurisdictions May Discourage Stalking Cites**

The 17-year-old victim went to the police department where she worked to report two phone calls she had received that morning on her cell phone from a 19-year-old man she had been dating for the past year. In one phone call, he left a voice mail that said, “Pick up your f\_\_\_\_\_ phone you stupid bitch, if you don’t pick it up I’ll call your home phone and tell your parents. This is your last dance, I’ll go crazy.” The victim explained that she had received this phone call while she was working at a restaurant located in that city. She added that she “has been harassed by [the suspect] for several months” at her residence in another city and on her cell phone in various locations. The police advised her to contact the police in the town of her residence in regard to the ongoing harassment and phone calls that occurred while at home.

The police noted in their report that this victim had been assaulted by this suspect four months earlier and that there was an active warrant out for his arrest following that incident in another town. After reviewing this case with the Lieutenant, the officer indicated that the suspect would be charged with making annoying phone calls under the domestic statute.

The local officers traced the phone number from which the victim received the call and contacted the Rhode Island State Police to advise them of the complaint and the active arrest warrant for the suspect outside the local police department’s city. State police responded to the address and found the suspect. He attempted unsuccessfully to leave the scene by jumping out of a window. When caught, he was placed under arrest. The suspect was transported to district court and charged with the annoying phone calls filed in the city where the victim worked. He was also arraigned on the charges from the court warrant from another jurisdiction and held without bail.

Neither the state police nor the local police department cited the defendant for stalking, nor was he eventually prosecuted in court for stalking.

While the quantitative comparison also reveals that researcher identified stalking victims were significantly more likely to have children in the household, whether this also influenced police behavior remains open. Neither the review of police narratives nor discussions with police officers suggest the presence of children influenced police decision-making in regard to identification of a case as stalking.<sup>24</sup> The relevance of children in the household to stalking identification requires further research.

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<sup>24</sup> This finding stands in contrast to a study of uncited stalking cases in Colorado where researchers found that stalking was less likely if children are in the home (Tjaden & Thoennes, 2001).

## B. Do stalking cases differ from general domestic violence cases reported to police?

As mentioned, notwithstanding even the few significant differences between the police and researcher identified stalking cases, both sets of stalking cases consistently and substantially differed from general non-stalking domestic violence cases reported in 2002 and 2004. Exhibit # 10 lists the suspect, victim, and incident characteristic comparisons for police identified stalkers, researcher identified stalkers, and general abusers from 2002 and 2004.

**Exhibit # 10: Comparison of Study and General Abuse Cases**

Variable	Police Identified Stalking Cases n=108	Researcher Identified Stalking Cases n=160	General Abuse Cases n=13,216
<b>Suspect Characteristics</b>			
Male	84.4%	98.1%	94.1%
Age (average)	35%	34.1%	33.7%
Race (white)	76%	75.2%	67.4%
<b>Victim Characteristics</b>			
Current intimates	23.4%	30.3%	66.4%
Living together	7.5%	5.6%	49%
Children in household	40.7%	55%	50.9%
Dwelling (victim/joint)	58.5%	58.4%	59%
Protective order	54.6%	58.8%	26.4% <sup>5</sup>
Active order	47.2%	45.6%	16.9%
Prior police response	56.5%	46%	30.1%
Prior assaults	44.4%	60%	42.2%
<b>Incident Characteristics</b>			
Victim called police	79.4%	93.5%	66.8%
Incident dwelling/indoors	50%	82%	82.7%
Witnesses	49.1%	37.5%	35.6%
Assault	10.2%	11.9%	49.8%
Victim injuries	5.6%	3.75%	27.25%
Weapon	9.3%	4.4%	7.7%
Victim threatened	44.4%	56.2%	28.5%
Others threatened	14.8%	10.6%	6.4%
Property damage	11.1%	13.8%	21.4%
Property stolen	7.4%	3.1%	3.9%
Suspect left scene	31.5%	31.2%	22.6%
Victim reported to be afraid	54.6%	49.4%	13.3%
Victim uncooperative	2.8%	6.9%	16.7%

The comparisons are not exact, as the police and researcher identified cases are for unduplicated cases while the 2002 and 2004 general abuse cases may include multiple cases involving the same suspects in the two years. However, the comparisons clearly suggest that despite differences between the police and researcher identified stalkers, they both differ substantially from general abusers reported to police in most major respects. Specifically, the general abusers were slightly younger and less likely to be white. Although we did not access their prior criminal histories, the general abusers generated fewer calls to police for prior domestic violence than the study stalkers. General abusers were far less likely to have had protective orders taken out against them by their victims in the past or have active orders at the time of the reported abuse incident. This suggests the general abusers were either less abusive in the past, their victims were more tolerant of that abuse, or both.

The victims of the general abusers were much more likely to be current intimates, living with their victims. Stalking victims were more likely to have called police than the general victims. Police were much more likely to record that stalking victims were “afraid,” notwithstanding the fact that they were less likely to have been physically attacked during the study incident than general abuse victims. Stalking victims were also much more likely to cooperate with police in signing and completing reports and statements.

The general abuse incidents were much more likely to involve physical assaults and result in victim injuries. General abusers were less likely to have threatened their victims or others, but more likely to have damaged property. General abusers were also more likely to have remained on the scene when police arrived. While researcher identified stalkers were significantly more likely to have threatened their victims (56.2% vs. 44.4%), the general abusers were much less likely to threaten their victims (28.5%) than even the police identified stalkers.

In a few instances, the general abuse case characteristics more closely resembled the researcher identified cases than the police identified cases. These include cases where both the researcher identified stalking and general abuse incidents occurred in a dwelling and/or indoors and where there were less likely to be witnesses than in police identified stalking cases. These similarities between general and researcher identified stalkers do not suggest that the researcher identified stalking suspect, victim, or incident characteristics differ from police identified stalking suspects, victim, and incident characteristics, but support our earlier discussion of why police may not have categorized researcher identified cases as stalking.

## **Discussion**

The comparison of both police and researcher identified stalking cases with general domestic violence cases provides insights into how stalking cases differ from general abuse cases in regard to stalker relationships to their victims, prior stalker violence and abuse, reporting of stalking to police, and nature of stalking incidents.

### **Stalker Relation to Victim**

While stalkers may begin stalking their partners while they are still living with them (see literature review), it is evident in this study that most victims do not report stalking to police until after the relationship is over and the parties are physically separated. This finding is similar to that found in a Colorado study that concluded that the variable most likely to predict that a police domestic violence incident report contained the elements required to be defined as stalking was whether the suspect was a former, rather than a current, partner (Tjaden & Thoennes, 2001).

### **Prior Stalker Violence and Abuse**

While stalking incidents were unlikely to involve physical assaults, in contrast to general abuse cases where assaults occur as often as not, the majority of stalking victims reported prior assaults by their study stalkers. Police were also more likely to have previously responded to

stalkers' households than in general abuse cases. This, combined with the much higher level of past protective orders obtained by stalking victims, all suggest that stalkers are as or more chronic and violent than general abusers.

These findings are confirmed, in part, in the research. The Colorado stalking study documented that stalking victims were significantly more likely to have protective orders against their abusers than non-stalking abuse victims (Tjaden & Thoennes, 2001). As described in the literature review, others have also found that women reported more violence during their prior relationships with their stalkers than while they were being stalked (Brewster, 2003a, 214). Therefore, while stalking may not be violent *per se*, the same cannot be said of stalkers themselves.

### **Calling Police**

Stalking victims may be more likely to call police because they feel more threatened or disturbed by their abusers than general abuse victims. Alternatively, the nature of stalking may be less noticeable to third parties who might otherwise call police. The Colorado stalking study also found that stalking victims were significantly more likely to call police than non-stalking abuse victims (Tjaden & Thoennes, 2001). It may also be that stalking victims, unlike general abuse victims, are at the "end of their ropes," having made the decision to end their relationship with their abusers.

### **Nature of Stalking Incident**

The threatening but non-violent nature of stalking incidents found in our research resembles that found in the Supplemental Victimization Survey (Baum et al., 2009). Only a minority of stalking activities reported in the SVS included physical attacks or property damage, while a much higher percent (43.2%) involved threats. This also accords with Tjaden and Thoennes' (2001) findings in Colorado.

Our study and others suggest that stalking victims have good reason to take threats from their stalkers seriously. More than half of the police and researcher identified stalkers had been arrested for prior domestic violence. Half of the stalking victims reported prior physical attacks. And almost half of the suspect stalkers continued to stalk their victims in defiance of a court no contact or protective order. General abusers were explicitly and implicitly less threatening in almost all of these respects, although we did not access their prior criminal histories. However, two other studies of arrested abusers in Rhode Island suggest that their prior criminal histories for domestic violence are lower than those of the police and researcher identified stalkers (Klein et al., 1999; Klein et al., 2008).

### **C. Does it make any difference if police identify a domestic violence case as stalking as opposed to any other domestic violence charges, such as assault or violation of a protective order?**

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Yes, it makes a difference in both the short and long term. In the short term, police were significantly more likely to arrest abusers they cited for stalking than the researcher identified stalkers cited by police for other domestic violence offenses. Prosecutors were more likely to charge them in court and successfully prosecute them. Courts were more likely to sentence them. And in the longer run, police identified stalkers were less likely to be arrested for new domestic violence offenses.

#### **Police Response to Police and Researcher Identified Stalkers**

Although a small number of researcher identified stalking victims (6.9%, see Exhibit # 8) were less likely (than police identified stalking victims) to cooperate with police by signing and completing forms, otherwise the evidence obtained, suspects interviewed, and written statements given by victims were almost identical for both police and researcher identified victims. Yet, police were significantly more likely to arrest or issue warrants against police identified stalkers

than against researcher identified stalkers. The lower arrest/warrant rate for researcher identified stalkers was closer to that of the arrest and warrant rate for general abusers in 2002 and 2004, which was 73%.

Exhibit # 12 contains a breakdown of the police responses to the study incident. In addition to likelihood of arrest, police were significantly more likely to also cite police identified stalkers for assault and researcher identified stalkers for phone threats.

**Exhibit # 12: Police Responses to Police and Researcher Identified Stalkers**

Variables	Proportion of Police Identified Stalkers n=108 (population)	Proportion of Researcher Identified Stalkers n=160 (sample)	p Value
Physical evidence obtained	16.7%	16.3%	1
Suspect interviewed	13.0%	13.8%	0.73
Witness interviewed	28.7%	26.9%	0.66
Victim written statement	66.7%	64.4%	0.56
Suspect arrested	63.0%	53.0%	0.017**
Warrant issued	23.1%	21.9%	0.78
Suspect arrested/warranted	86.1%	75.6%	>.001
Police cited assault	14.8%	8.75%	0.034*
Police cited phone threat	21.3%	30.6%	0.007**
Police cited order violation	33.3%	40.6%	.054
Police cite disorderly	11.2%	11.9%	0.8

\* p>.05, \*\*p>.01, \*\*\*p>.001

The fact that police identified stalkers were significantly more likely to be arrested than researcher identified stalkers is noteworthy because Rhode Island law mandates the arrest of domestic violence suspects in cases where victims sustain injuries (R.I. Gen. Laws § 12-29-3b (ii)), there is a felonious assault (i), “physical action” was taken “intending to cause fear of imminent serious bodily injury or death (ii),” or there was a violation of a civil protective order (iv) or a criminal no contact order (v). Rhode Island does not require the arrest of stalkers *per se*.

## Charges Cited by Police

While most of the researcher identified stalkers were cited by police for a single offense, three-quarters of the police identified stalkers were cited by police for stalking and another domestic violence offense. Most of the 2002 and 2004 general abusers, like researcher identified stalkers, were also cited for only one domestic violence offense (see Exhibit # 13).

**Exhibit # 13: Charges Cited By Police for Police and Researcher Identified Stalkers**

Charges	Cited Against Police Identified Stalkers n=108	Cited Against Researcher Identified Stalkers n=160	Cited for Non- Stalking General Abusers 2002 & 2004, n=13,216
Stalking	108	0	0
Violation of protective or no contact order	36	65	1,756
Threatening phone call	23	49	488
Assault	16	14	6,099
Disorderly conduct	12	19	1,834
Malicious property damage	7	10	1,397
Refusal to relinquish phone	3	3	868
Breaking & entering	4	5	259
Sexual assault	1	0	296
Other	0	4	632
<b>Total Charges Cited by Police</b>	210	170	13,629

In addition to stalking, the greatest number of police and researcher identified stalkers were cited for violation of orders (26.6%), followed by threatening phone calls (18.9%).<sup>25</sup> By contrast, only 13.3% of the 2002 and 2004 abuse charges were for violating orders and only 3.7% for threatening phone calls.

<sup>25</sup> Rhode Island Gen. Laws § 11-35-17, Crank or obscene telephone calls: (a) Whoever shall telephone any person repeatedly or cause any person to be telephoned repeatedly for the sole purpose of harassing, annoying, or molesting the other person or his or her family, whether or not conversation ensues; or shall telephone any person for the purpose of using any threatening, vulgar, indecent, obscene, or immoral language over the telephone, shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500), or by imprisonment for not more than one year, or both.

## Prosecutor Response

Prosecutors were significantly more likely to file charges against police identified stalkers.

Prosecutors charged 69 police identified stalkers in court, 45 for stalking. Prosecutors charged 81 researcher identified stalkers in court, 1 for stalking. The only researcher identified stalker charged by prosecutors with stalking had been cited by police for breaking and entering into a dwelling. He was arraigned in District Court for this and trespassing. However, after review by the Assistant Attorney General, he was charged in Superior Court with stalking.

Exhibit # 14 lists prosecutor responses to both police and researcher identified stalking cases.

### Exhibit # 14: Prosecutor Responses to Police and Researcher Identified Cases

Prosecutor Response Characteristics	Police Identified Stalking Cases	Researcher Identified Stalking Cases	p Value
Charged in court	63.9%	50.6%	>.001***
Charged stalking	41.7%	0.6%	>.001***
Charged assault	13.0%	7.5%	0.02*
Conviction obtained	41.7%	33.1%	0.017*

\* p>.05, \*\*p>.01, \*\*\*p>.001

The process for prosecuting those charged with stalking was different than for those charged with almost all other domestic violence offenses because stalking is a felony, whereas most other domestic violence charges cited by police were misdemeanors. Felony charges are prosecuted by different prosecutors than misdemeanor charges. Prosecution of misdemeanors in Rhode Island is conducted by city and town solicitors in District Court; prosecution of felonies is conducted by Assistant Attorneys General in Superior Court. To bring non-capital felony charges in Superior Court, a screening panel of Assistant Attorney Generals must review the cases after the defendants are arraigned in District Court and determine if they should be prosecuted for felonies in the Superior Court. Only capital felony charges have to be brought before a Grand Jury.

Exhibit # 15 lists the charges filed against police identified stalkers in court by prosecutors.

The total number of charges exceeds the number of stalkers because multiple charges may have been filed for the same stalker and multiple counts for each charge may have been filed.

**Exhibit # 15: Police and Researcher Identified Stalker Court Charges**

Charge	Police Identified Stalkers		Researcher Identified Stalkers	
	Charges	Counts	Charges	Counts
Stalking	45	46	1	1
Assault	14	15	12	12
Violation of protective or no contact order	21	36	40	52
Threatening phone call	12	17	27	27
Refusal to relinquish phone	2	2	2	2
Disorderly conduct	10	11	15	16
Property damage	5	5	5	5
Breaking & entering	4	4	3	3
Other	8	10	11	11
<b>Total</b>	121	146	115	129

**Court Outcomes**

Prosecutors were significantly more likely to obtain convictions against police identified stalkers, as previously illustrated in Exhibit # 14. Most of the convicted stalkers, police or researcher identified stalkers, were sentenced to probation. A little over 10% of the police identified stalkers and 8% of the researcher identified stalkers were sentenced to imprisonment. The average sentence for each was short of ten months.

Although, as a felony, stalking carries with it a maximum imprisonment of five years, the longest sentence imposed against a police identified stalker was two years. Only three of the police identified stalker sentences of imprisonment exceeded the maximum time available for misdemeanor domestic violence offenses (up to one year). Four of the researcher identified stalkers were sentenced for felonies, although only two were given sentences of imprisonment that exceeded the maximum sentences for misdemeanors.

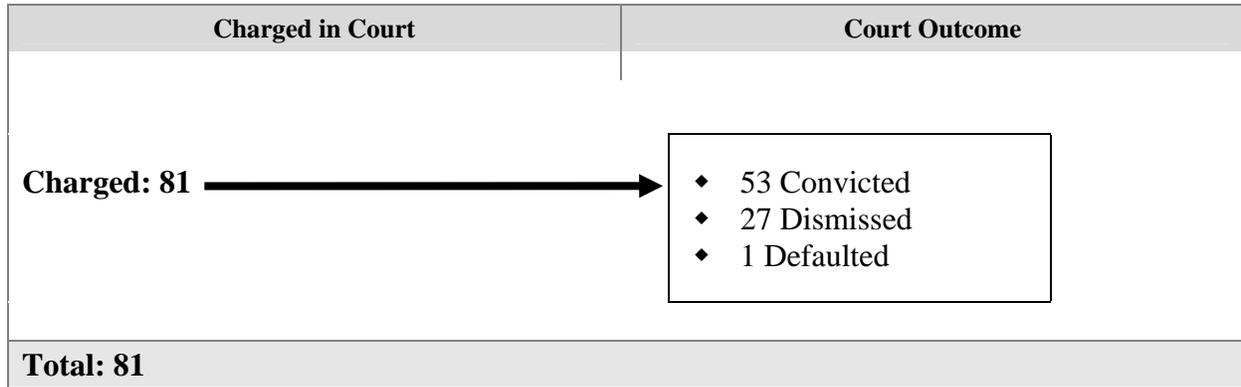
In other words, in terms of the enhanced sentences available to those convicted of felonies, there was little actual difference between police and researcher identified stalker sentences. Only three police identified stalkers received sentences specifically available only to convicted felons, compared to two of the researcher identified stalkers. On the other hand, although the actual sentences imposed were similar (there is no difference between felony and misdemeanor probationary sentences), while almost all of the researcher identified stalkers were convicted for misdemeanor offenses, a third of the police identified stalkers were convicted of a felony (stalking) which carries with it more severe collateral repercussions in terms of firearm possession disabilities, as well as possible employment restrictions.

Exhibits # 17 and 18 chart the disposition of the police and researcher identified cases, broken down by those initially charged as stalking and those charged with other domestic violence offenses. As illustrated, 12 of the police identified stalkers were initially charged for stalking and other domestic violence offenses. The stalking charges were dismissed but the other concurrent domestic violence offenses were prosecuted.

**Exhibit # 17: Court Outcomes for Police Identified Stalkers**

Charged	Court Outcome: Stalking	Court Outcome: Other DV
<p><b>Stalking: 45</b> →</p>	<ul style="list-style-type: none"> <li>◆ 18 Convicted</li> <li>◆ 13 Dismissed</li> <li>◆ 2 Died/defaulted</li> <li>◆ 12 Stalking charge was dismissed &amp; other DV prosecuted</li> </ul>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <ul style="list-style-type: none"> <li>◆ 10 Convicted</li> <li>◆ 1 Dismissed</li> <li>◆ 1 Defaulted</li> </ul> </div> <div style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> <li>◆ 14 Convicted</li> <li>◆ 9 Dismissed</li> <li>◆ 1 Defaulted</li> </ul> </div>
<p><b>Other DV: 24</b> →</p>		
<p><b>Total: 69</b></p>		

**Exhibit # 18: Court Outcomes for Researcher Identified Stalkers**



**Re-arrests for New Domestic Violence**

Police identified stalkers were less likely to be arrested for new domestic violence offenses than researcher identified stalking, but the difference only approached statistical significance as illustrated in Exhibit # 19. Similarly, there was no significant difference in domestic violence re-arrest rates for those study stalkers actually prosecuted for stalking and those prosecuted for other non-stalking domestic violence crimes. The re-arrest rate for the former was 48.6% and the latter 57.4% (p=.358).

However, if the comparison between police and researcher identified stalkers is limited to lower risk stalkers, those with no prior criminal charges or no prior domestic violence charges, the police identified stalkers were significantly less likely to be arrested for new domestic violence through July 16, 2008.

**Exhibit # 19: Researcher and Police Identified Stalking Reabuse Rates**

Re-Arrest of Suspect	Police Identified Stalkers	Researcher Identified Stalkers	p Value
New DV offense	47.2%	52.5%	0.10
New DV for suspects without priors (n=72)	25.0%	38.6%	.032*
New DV for suspects without prior DVs (n=124)	38.6%	48.75%	.041*

\* p>.05, \*\*p>.01, \*\*\*p>.001

To make sure the differences in arrest rates found between police and researcher identified stalkers were not a result of differences in lengths of follow up between the two groups, we also compared the average exposure each group had to be re-arrested. There was no significant difference between police and researcher identified stalkers in terms of follow up. The average length for the former was 1,892.4 days and for the latter was 1,896.6 days ( $p=.95$ ).

### **New Charges for Rearrested**

The new offenses charged against the study stalkers who were rearrested are listed in Exhibit # 20. The average study stalker who was arrested for new domestic violence offenses through July 16, 2008 was charged in court with three counts (2.9) of two new charges (1.9) each.

**Exhibit # 20: New Offenses Filed Against 140 Police and Researcher Identified Stalkers**

<b>Offense</b>	<b>New Domestic Violence Offenses Charged</b>	<b>Counts of New Offenses</b>
Stalking	17	22
Assault	61	90
Violation of protective or no contact order	91	180
Threatening phone call	37	43
Refusal to relinquish phone	13	15
Disorderly conduct	21	23
Vandalism	28	32
Breaking & entering	5	5
<b>Total</b>	<b>273</b>	<b>410</b>

The police identified stalkers were significantly more likely to be rearrested specifically for stalking than the researcher identified stalkers (13% compared to 1.9%) ( $p=.001$ ). The numbers are small and probably indicate that once an abuser has already been identified as a stalker by police, he is more likely to be recharged as a stalker because stalking, by definition, is a repeating enterprise or course of conduct.

## Variables Associated with Reabuse

To determine whether suspect, victim, or incident variables other than police identification of stalking were more powerfully associated with the likelihood of arrests for new domestic violence, we completed bivariate tests of each of the suspect, victim, and incident characteristics and domestic violence re-arrests. The tests reveal only limited differences between those stalkers who were rearrested for domestic violence and those not. No victim or incident variables significantly differed between those arrested for new domestic violence and those not. Significant differences were limited to the prior criminal histories of the stalkers as illustrated in the Exhibit # 21.<sup>26</sup>

**Exhibit # 21: Variables Associated with Stalker Reabuse**

Variable	New DV Arrest n=140	No New DV arrest n=128	p Value
Prior offenses	82.9%	62.5%	p<.001
Prior DV	60%	46.9%	p=.042
Prior alcohol/drug	32.1%	18.0%	p=.012
Prior probation	70.7%	48.4%	p<.001
Prior prison	30.0%	14.8%	P=.005

Therefore, by eliminating prior criminal history in the comparison of police and researcher identified cases, the research suggests that the police identification of the case as stalking is associated with the lower reabuse rate, controlling for the many suspect, victim, incident, and police response variables considered.

## Discussion

Our hypothesis that police identification of stalking cases matters appears to be correct, but our rationale that it matters “if for no other reason than that stalking is a felony in Rhode Island”

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<sup>26</sup> Two other variables approached statistical significance. Younger stalkers were more likely to be rearrested than older (p=.077). The mean age of those rearrested was 33 years and non-arrestees was 35.4 years. Additionally, stalkers who left the scene before police arrived were more likely to be rearrested. A third of stalkers (36.4%) who left the scene were arrested compared to only a quarter (25.8%) who did not leave the scene (p=.08).

proved less certain. Ultimately, the vast majority of both police and researcher identified stalkers who were convicted were sentenced to probation with the same mandatory terms: completion of a batterer program mandated by statute. Only three of the police identified stalkers received terms of imprisonment longer than what the researcher identified stalkers who were imprisoned as misdemeanors received but two of the researcher identified stalkers were also sentenced as felons to longer terms than those available to misdemeanants.

Nonetheless, despite the fact that the dispositions of police identified stalkers were not substantially more severe than those imposed against the researcher identified stalkers in general, it appears that the increased likelihood of being arrested, charged, and convicted in court were sufficient to deter at least lower risk stalkers, those without prior criminal histories or criminal histories for domestic violence. To the extent that police were encouraged to arrest and prosecutors to prosecute stalkers because the crime was a felony, our hypothesis is supported. However, the research does not support what is implicit in our hypothesis: that the increased sanctions felony charges carry with them would either incapacitate or, more likely, deter stalkers than the sanctions available to stalkers not so identified by police. Further, as will be described below in our qualitative findings, police may have been deterred from citing stalking because it is a felony.

Other research suggests that arrest and/or prosecution alone may deter abusers with lesser criminal histories (see, e.g., Maxwell et al., 2001; Murphy et al., 1998; Garner & Maxwell, 2008). Similarly, a prior evaluation of Rhode Island's specialized probation supervision program for domestic violence offenders found that the specialized probation supervision program was significantly associated with reduced re-arrests for domestic violence over one year, but only for lower risk offenders (Klein et al., 1999). The reason for the lack of impact for higher risk

abusers, according to researchers, was that those abusers who reabused did so quickly, a large proportion *before* their first scheduled visit with their probation officer. The same may hold true for the criminal justice response to stalking. The median time for police identified stalkers to reabuse was 117 days. The median time for their study case to be resolved was longer, 144 days, almost a month later. In other words, the potential deterrent effect of the sentence for stalking came into play too late to prevent domestic violence re-arrests for at least half of the recidivist stalkers. If the defendants had been held pending trial and sentencing, there may have been significantly fewer re-arrests for domestic violence, or such arrests may have simply been delayed.

If Rhode Island prosecutors and courts had sentenced the police identified stalkers with the enhanced sanctions available for felons, the deterrent, and certainly incapacitation, effects might have extended to those stalkers with prior criminal histories. Several studies suggest that the intrusiveness of the sentence matters (Ventura & Davis, 2004; Thistlewaite et al., 1998; Harrell et al., 2009; Garner & Maxwell, 2009).

## IV. Qualitative Methods

After completing content analysis of police narratives and the quantitative study, researchers held a series of interviews with homogeneous groups of key informants in the fall of 2008. The purpose of this small, exploratory component of the study was to deepen our understanding of quantitative findings and their implications for policy and practice through collecting the varying perspectives of individuals involved in the day-to-day work of responding to stalking cases in Rhode Island. A total of 17 individuals participated in the meetings, representing a variety of perspectives, including personnel from four of the larger police departments in Rhode Island (Providence, Pawtucket, Warwick, and Cranston; n=7); the Office of the Attorney General and its special Domestic Violence Unit (n=3); a former public defender involved in the representation of stalking defendants (n=1); and a selection of domestic violence advocates involved in providing direct services in the courts, training police departments, supervising counseling staff, and advocating for statewide policy change (n=6). Sampling for these meetings was opportunistic and based on identification of departments and individuals who had experience with stalking cases and the criminal justice system response to them.

An experienced qualitative researcher and assistant attended each meeting, which lasted approximately one to two hours. The meetings were structured using an open-ended protocol with questions organized by type of respondent (see Appendix B for a copy of the protocol). Questions were framed largely around quantitative results, asking respondents to help researchers explore the reasons behind key findings. Respondents were asked to review and sign an informed consent document to participate, which reviewed the purpose of the research, the voluntary nature of participation, as well as confidentiality procedures. Respondents were asked to protect the confidentiality of participants and to keep the perspectives expressed during the

meeting confidential. While these procedures do not ensure that participants feel free to talk, we found vigorous discussion and full participation in all three group meetings.

Meeting notes were transcribed and analyzed for themes, including areas where researchers found consensus as well as unique perspectives expressed by individuals and groups. The first level of analysis was to code the transcripts for themes arising from the data themselves, an approach that helps to open researchers to ideas outside the original study conceptualization or at odds with quantitative findings. The second level of analysis was to group themes by issue areas of interest to the study.

The qualitative portion of the study is limited by the small sample of respondents and the opportunistic sampling design. Findings generated here are not intended to be generalizable, but rather help to provide insight into the meaning of the quantitative findings. Researchers, however, found that the qualitative findings were internally consistent with the quantitative findings, as elaborated below.

## **A. Themes from Qualitative Interviews**

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Confirming quantitative study findings, respondents generally agreed that charging under the stalking statute is rare in Rhode Island, and prosecution for stalking even rarer. Ironically, respondents were actually surprised to learn that police had collectively charged 108 abusers with stalking during the study period. While respondents provided a range of reasons for the limited use of the stalking statute, we found underlying agreement that identifying and building stalking cases have unique challenges. These challenges are outlined below. Chapter VI incorporates a final group of recommendations from the respondents for increased utilization of the state stalking statute.

- **Building a case based on a pattern of behavior can be far more difficult than building a case for one illegal act.** We found considerable consensus on this point. Respondents highlighted that building a stalking case is extremely time-consuming for both the police and the victim. These are very complex and intensive cases; in one department, for example, an officer reported spending the entire summer working on two stalking cases. Victims need considerable instruction to adequately document the crime as well as lots of “hand holding” to get through the process. Officers need time to build strong documentation. According to one officer, in most domestic cases, an arrest is made on the spot. In stalking cases, the behavior is non-criminal in nature and the perpetrator is clever enough to evade detection. In general, we found agreement that, as one respondent stated, “these cases are a nightmare.”
- **Unique circumstances in Rhode Island make the challenge of documenting a pattern of behavior even more difficult.** According to one police detective, the small size of the state makes it more likely that repeated behaviors may occur in different, non-overlapping police jurisdictions. A woman may shop in one jurisdiction, go to a health club in a second, and frequent a restaurant in a third—with a repeated stalking incident happening at each location. Since, reportedly, there is limited systematic sharing of information across jurisdictions, documenting this pattern of behavior is viewed as quite difficult. The case study highlighted in Exhibit # 9 above illustrates this point. In addition, we heard from multiple respondents that police and advocates in Rhode Island are reluctant to use a prior conviction as part of the documentation of repeated behaviors, since they assert that some judges consider its use to constitute impermissible “double jeopardy.”
- **Attitudes about the victim — their level of fear and reliability — can have a negative impact on police identifying a case as stalking.** Some respondents found the stalking

statute itself ambiguous on the level of fear it requires. One police officer pointed out that different people have different reactions to the types of acts likely to be part of the pattern of conduct defined as stalking. Further, he stated that it was easier to “sympathize” with victims of more clear-cut “fear-raising” crimes, like armed robbery. Another officer commented that the way a victim presents herself, especially the degree to which she appears fearful rather than simply annoyed, can impact the use of the charge. In addition, respondents confirmed the quantitative study finding that police are more likely to charge stalking when there is a witness. They contend that the apparent need for a witness suggests that some police may not only fail to sympathize with victims but do not trust their reliability either.

- **Proving stalking within the context of domestic violence can be particularly challenging.**

Requirements to document, for example, that the perpetrator’s pattern of behavior is not based on some legitimate purpose (i.e., to see the children, share the car, etc.) but is explicitly stalking, are often difficult to meet — especially given that perpetrators are reportedly “very clever” about where and how they interact with the victim. Furthermore, respondents claim that judges are reluctant to consider behavior as stalking if there appears to be a legitimate reason for the contact, even if it generates fear in the victim.

- **The limited use of the stalking statute is an unintended consequence of the State**

**Legislature’s elevation of stalking to a felony offense.** We found considerable consensus that making stalking a felony negatively impacts its use for a variety of reasons. A repeated concern was that stalking cases had to go through review by the Attorney General’s felony screening panel. Respondents reported that stalking cases were more likely than not to be rejected for prosecution by the panel.<sup>27</sup> One police officer who had attempted to bring

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<sup>27</sup> Respondents were correct; only 46% of the arrested police identified stalkers brought to the panel were charged in court for stalking.

forward a number of stalking charges said that she became discouraged after the panel repeatedly “kicked back” her cases, so she turned to other remedies that were quicker and easier. Another respondent reported the need to figure out how to work around the panel, going directly to a special Assistant Attorney General in that Office’s Domestic Violence Unit to get a case heard. Respondents noted that the difficulty in getting through the panel was related to a number of issues, including a mismatch between the needed rigor of building a felony case for stalking and a police officer’s limited time, resources, and capacity to do so. In addition, respondents pointed out that the “gatekeeper” role of the panel, limiting the numbers of cases that are accepted for prosecution, as well as the need for training on stalking for the felony panel members and police contribute to the problem. The extended time it takes for a felony to go through the courts, and the impact of having a defense attorney more likely to demand a trial, were also noted as related reasons for not using the charge.

- **The intensive nature of these cases, and the difficulty in “making them stick,” means that police are more likely to use other remedies — especially protective order violation charges — which they claim produce results more easily.** Stalking cases take considerable time to build, even for departments with dedicated domestic violence units and advocates on site. For departments without these resources, the difficulty and time-consuming nature of these cases reportedly make officers less likely to cite stalking. Consequently, if there is a violation of a protective or no contact order, for example, police will more likely go with that rather than pursue the stalking charge. We found uniform consensus by police respondents that it is easier to get immediate results from a restraining order violation charge than by moving forward with a stalking charge. According to one, if you arrest for violating a

restraining order up front, you may actually stop the repetitive behavior in the future. In addition, a number of respondents indicated that Rhode Island's enhancement statute that makes the third domestic violence offense a felony is easier to use than the stalking charge.<sup>28</sup>

- **Respondents confirmed that the vast majority of stalking incidents in Rhode Island happen within the context of domestic violence; nevertheless, stranger stalking is taken more seriously.**<sup>29</sup> While research suggests that the group of stalkers most likely to be violent are intimate partner stalkers (see Literature Review), respondents reported a general perception that stranger stalking is more irrational, and, for that reason, is taken more seriously by judges and others, including the media. Attitudes about victims and relationships impact perceptions about the seriousness of stalking. Some respondents reported that police and judges may reframe intimate partner stalking as the perpetrator having difficulty letting go of the relationship—without the recognition of his history of controlling and dangerous behavior and the fear it generates in the victim. In the case of stranger stalking, on the other hand, it is difficult to conceive of any rational reason for stalking and the potential for violence seems more apparent.
- **Stalkers were viewed as qualitatively different than other domestic abusers.** On the other hand, respondents generally agreed that stalkers, the relatively few stalkers that were identified, were viewed as potentially quite dangerous. They were described as more calculating and less reactive than the typical domestic abuse perpetrator. Respondents characterized them as compulsive and not willing to give up, and in some instance as seriously mentally ill.

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<sup>28</sup> However, we in fact found very few stalkers with two prior domestic violence convictions actually charged as a third offender pursuant to the state's enhancement statute.

<sup>29</sup> It appears Rhode Island respondents may reflect transcontinental perceptions. Sheridan and Davies (2001) find that stranger stalkers are more likely to be convicted of stalking offenses than intimate stalkers in a study conducted in the United Kingdom.

- **Stalking victims differ in their understanding about the crime of stalking and the remedy offered by the statute.** Advocates report that some victims do not recognize their abusive situation as stalking. This may relate to a victim’s limited awareness about the crime of stalking, as well as the impact that prolonged abuse may have on her understanding of her own victimization. For those aware of the stalking statute, many victims are also concerned about the time it takes to prosecute a stalking case and want a “quicker fix” and more immediate safety. On the other hand, we also heard that victims who decide to move forward with a stalking case are often at “the end of their rope” and have given up on other approaches to stop the stalking. With support and instruction, stalking victims can be key allies in compiling the evidence necessary to document a pattern of behavior. Analysis of the police incident reports confirms that only a small minority of victims, however, appear to fit the latter category. Most do not recognize their abuse as stalking or, at least, do not use that term in identifying their abuse to police.
- **While researchers found significant agreement on why the stalking statute was rarely used, respondents reported a range of characteristics for those cases where they would be more likely to charge stalking.** These included having a witness to the pattern of behavior, being able to gather significant levels of documentation (other than the complaint of the victim alone), having no other crime involved, having an articulate victim, and listening carefully to the victim’s level of fear — moving forward in cases where it is extreme. According to one respondent, “we want to see repeated bad behavior. The best cases for us are the worst cases for the victims.” These observations are born out by our analysis of the police narratives described earlier.

## VI. Conclusions and Implications

Based on the specific findings elucidated earlier, we conclude that unlike the more pessimistic assessments made by Hall (1997) or Brewster (2003) of the criminal justice response to stalking, in Rhode Island, at least, police identification of stalking significantly increases the likelihood that these chronic and dangerous abusers will be held more accountable and a significant percent of victims will be protected from their further abuser. Police identification of stalkers was significantly associated with increased likelihood of arrest and court prosecution, compared to equivalent stalkers identified by police for non-stalking domestic violence offenses. Further, police identified stalkers without prior criminal histories or criminal abuse histories were significantly less likely to be charged with new domestic violence up to six years after police intervention.

The criminal justice response to stalking, however, is compromised by under identification by law enforcement, compounded by charge reduction and case dismissals by prosecutors. Both the quantitative and qualitative findings suggest that police, prosecutors, and judges fail to appreciate the true nature of intimate stalkers, falsely believing, for example, that they are less dangerous than stranger stalkers or those abusers arrested for physical assaults. Further, discounting of victim self reports of prior assaults and current stalking, or fear that victims will not be believed without corroborating witnesses, appear to discourage police from citing stalking even if the reported activities are identical to cases where they do cite stalking in other circumstances.

If police decided stalking charges based solely on incident differences, one would expect the researcher identified stalkers to be **more** likely charged as stalkers than the police identified stalkers. Researcher identified stalking victims were more likely to report threats, as well as prior

assaults. Based on these significant differences alone, it would appear that these cases more readily meet the legal standards of stalking which requires victims to be in fear or a reasonable person to be in fear.

Instead, as the police respondents suggested, they are more comfortable in defining a case as stalking if the disparate incidents were all connected by an underlying behavioral obsession or irrational conduct more clearly perceived in stranger stalking than intimate and family stalking cases. The problem with intimate stalking, they suggested, was that the stalking behavior could be explained rationally — the need to see the children, retrieve the car, or deal with other family matters — even if the conduct was in violation of a protective or no contact order at the time. They also pointed out that the stalkers were often very smart and manipulative, complicating efforts to hold them accountable for their behavior.

The Rhode Island legislature's amendment in 2001 making stalking a felony may have had the unintended consequence of discouraging its use. Although we have no data on utilization of the stalking statute when it was a misdemeanor, respondents suggested that, being a felony, stalking cases need more proof than misdemeanor cases. While legally this is not true (the standard of evidence is the same), one of the consequences of making stalking a felony is the involvement of mandatory screening by a panel of Assistant Attorney General prosecutors. These prosecutors may not have the same training and appreciation of domestic violence as the specially trained Assistant Attorneys General who actually prosecute the stalking cases once they get by the screening panel.

The under-identification of stalking appears to compromise the safety of victims, subjecting many of them to an increased likelihood of reabuse. Further, as opposed to the perceptions of police and others that intimate stalkers are non-violent abusers, this study suggests them to be

violent, chronic abusers. Although the course of conduct that made up the stalking reported to Rhode Island rarely involved physical abuse, victims reported substantial prior physical abuse by stalkers and those stalkers who were rearrested for domestic violence after the study stalking incident engaged in substantial physical abuse. Almost half (43.6%) of the reabuse offenses committed by the study stalkers through July 2006 were arrested for assaults. Two-thirds (65%) were arrested for violations of protective orders, indicating the persistence of these stalkers and limitations of victim counter measures, including obtaining protective orders against their stalkers.

The current study suggests that the failure to identify, arrest, and prosecute stalkers as stalkers disarms the criminal justice system when it needs as many weapons in its arsenal as possible to confront some of the most chronic, threatening, violent, criminal, and persistent abusers.

The implications of our research are unambiguous. Police should receive the training, supervision, and resources necessary to accurately identify stalking cases and to gather the evidence necessary for their prosecution. Prosecutors should encourage police efforts by prosecuting identified stalkers for stalking, if possible. Upon conviction, courts should sentence those stalkers with prior criminal histories more severely than they do typical misdemeanor domestic violence offenders or stalkers with no prior criminal history or criminal history for domestic violence. Even before conviction, stalkers with prior criminal histories or criminal histories for domestic violence should be tightly supervised or incarcerated. Exhibit # 22, although an extreme case featuring a police identified stalker who had the most (8) subsequent domestic violence charges, illustrates how the courts have difficulty keeping up with the most

chronic stalkers. It also suggests why stalking victims may be cumulatively traumatized by what may appear, in isolation, to be trivial, individual violations.

**Exhibit # 22: Subsequent Domestic Violence Charges: Case History**

The defendant was a white 29-year-old male; the victim, an ex-intimate partner, no longer living with the defendant. She was also white. There were no children. She had never taken out a protective order against him, and reported that he had not assaulted her in the past, although police had responded to a prior domestic call involving the parties. She called police for the study incident; he was not at the scene when police arrived, although they arrested him that same day for stalking. She provided police with a written report of the incident and was noted by police to be upset.

**Study offense:** On October 5, 2001, the defendant was charged in court with his first offense, domestic disorderly, although police had initially cited him for stalking. The month after his case was filed in court, he did not contest the charges, and a guilty finding was entered with an order of attendance at a batterer intervention program monitored by a court contracted agency.

**1<sup>st</sup> subsequent offense:** On June 24, 2002, seven months later, the defendant was charged with violating a civil protection order. The next month, on July 18, 2002, he was sentenced to one year suspended sentence and ordered to complete the batterer program again. Before that disposition, however, he was re-arrested.

**2<sup>nd</sup> subsequent offense:** On July 10, two weeks later than the first subsequent re-arrest, he was charged with two counts of violation of a no contact order imposed after his previous June arrest. This case was disposed of the same day as the prior 1<sup>st</sup> subsequent offense case, July 18, 2002. He was given a ten month suspended sentence and sixty days deferred sentence.

**3<sup>rd</sup> and 4<sup>th</sup> subsequent offenses:** Two months after his concurrent sentences for his two prior cases, he was charged with felony stalking and violation of a no contact order on September 19, 2002, in a case brought to prosecutors by state police. At the same time, he was charged with felony stalking, refusing to relinquish the phone, and violation of a no contact order brought by local police.

As a result of these new sets of charges, the defendant's prior two sentences, 1<sup>st</sup> and 2<sup>nd</sup> subsequent offenses, were revoked and he was sentenced on a probation violation to 60 days in prison concurrent.

As for the new cases, the case that was investigated by the state police was resolved first. On November 1, 2002, the Office of the Attorney General, which handles all felony cases, indicted the defendant, and charged him in Superior Court. The case investigated by local police was not charged by the Office of the Attorney General until January 24, 2003. However, both sets of charges were disposed of on June 18, 2003 in Superior Court. All of the state police originated cases were dismissed. In addition, the stalking charge brought by local police was dismissed. On the violation of no contact order, he was sentenced to one year suspended and on the refusal to relinquish the phone he was sentenced to 90 days suspended.

**5<sup>th</sup> subsequent offense:** On June 18, 2004, a year later, the defendant was charged with violation of a no contact order. That charge was dismissed by prosecutors on June 25, 2004, but on the same day, the defendant was charged with a new offense.

**6<sup>th</sup> subsequent offense:** On June 25, 2004, the defendant was charged with violation of a protective order. The case was charged as a felony by the Office of the Attorney General on August 16, 2004. Almost a year later, on May 27, 2005, the defendant was sentenced to five years, two years in prison and three years suspended. He was ordered into the batterer program again and ordered to have mental health counseling.

**7<sup>th</sup> subsequent offense:** While the 6<sup>th</sup> case was pending, the defendant was charged on July 13, 2004 with violation of a protection order, committing an offense while on release, and threatening phone calls. He was indicted on these charges at the same time the Office of the Attorney General indicted him on the prior charge, August 16, 2004. These charges were resolved at the same time as the 6<sup>th</sup> set of subsequent charges, May 27, 2005. On the violation of a protection order, he was given five years, a two committed and balanced suspended concurrent with the prior sentence. He was given a year suspended on the threatening phone calls and the offense committed while on release was dismissed by prosecutors.

**8<sup>th</sup> subsequent offense:** While the 6<sup>th</sup> and 7<sup>th</sup> sets of cases were pending, the defendant was charged on May 2, 2005 with stalking, threatening phone calls, and committing an offense while on release. He waived indictment and was sentenced two days later along with the 6<sup>th</sup> and 7<sup>th</sup> sets of cases on May 27, 2005. The threatening phone calls and committing an offense while on release were both dismissed by prosecutors. On the stalking case, he was given a five year term, two committed and balance suspended concurrent was the 6<sup>th</sup> and 7<sup>th</sup> sentenced. Under state law, he must serve 1/3<sup>rd</sup> of his sentence before he can be paroled.

Both police and prosecutors need to be disabused of the notion that stalking is a less serious crime than other domestic violence crimes, including assaults. Based on this research, it appears that stalkers reported to police are, in fact, chronic, violent abusers.

## **A. Recommendations of Respondents**

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Qualitative study respondents offered the following approaches to improving the utilization of the stalking statute in Rhode Island.

- **Training and/or technical assistance is needed with multiple audiences, at greater frequency, in order to overcome barriers to using the statute.** We found uniform agreement that training specific to stalking happens infrequently, with most police respondents reporting that they had not participated in trainings on the topic for many years,

if at all. We also heard that when trainings have included sections on stalking, they were considered to “gloss” over the topic and not provide sufficient depth to impact practice. Trainings that do exist are also not targeted to a sufficiently broad representation of officers. Stalking cases are considered very complex and sophisticated. Training and/or technical assistance are needed to: improve the level of “homework” police now do, improve strategies for information gathering — including asking the right questions to victims, and develop strategies to overcome jurisdictional issues. Educating Assistant Attorneys General, who make up the felony screening panel, and judges was also seen as key to increasing understanding and use of the statute.

- **Police would benefit from a problem solving approach with the Attorney General’s office to build more adequate stalking cases.** The current system does not provide for consultation when cases are “kicked back” from the panel. Some respondents thought that increased communication, and potentially cross training between the panel and the investigating officer, would improve the strength of the case and the overall understanding of what each system needs.
- **Police respondents were uniformly unaware of any departmental policies and procedures specific to stalking.** This lack of awareness, and potentially lack of policies themselves, contribute to an unsystematic approach to working with these cases. Specific officers, especially in specialized domestic violence units, have developed their own approaches to interviewing victims and gathering documentation. However, this appeared to be the exception rather than the rule.
- **The interpretation of what constitutes double jeopardy in stalking cases needs clarification.** Advocates and others say the place to start is by understanding how other

states are interpreting double jeopardy in relationship to stalking. Specifically, it would be important for Rhode Island judges, advocates, and investigators to understand whether other states consider past convictions as inadmissible in stalking cases and, if so, how they are building the case for a pattern of repeated behaviors.

- **Better interdepartmental communication and information sharing, through statewide integrated computer systems or databases, would help in documenting patterns of behavior across jurisdictions.** A first step would be to improve access within departments to the statewide Domestic Violence/Sexual Abuse report form database. These forms provide critical information on all domestic crimes, including stalking. If police were able to access these data, they would have considerable preliminary information on a perpetrator's stalking history and a ready "red flag" that a domestic case may include stalking. Respondents also agreed that building an integrated statewide information system accessible to all departments would be an important longer term solution.
- **The "one size fits all" batterer intervention programs do not work for stalkers.** The system needs to develop a more tailored intervention for stalkers. Advocates reported a disconnect between the current system of standard 26 week batterer intervention programs and the characteristics of people who stalk. This is especially problematic in addressing mental health and substance abuse issues.
- **Police departments need dedicated investigators to handle stalking cases.** Because of the time and complexity of stalking cases, they are likely to "fly under the radar" unless there is dedicated staff to handle them.

Advocates suggested an array of other reforms. They recommended making three violations of no contact orders an automatic stalking charge; creating a statewide domestic violence court,

with more experienced judges, prosecutors, and defenders, as well as larger numbers of advocates assigned; developing systems to “red flag” perpetrators across jurisdictions, including dedicated stalking logs; and assessing cases for danger and lethality that would help encourage the filing of stalking charges.

## **B. Study Limitations**

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First, it must be understood what this research is not. It is not a study of stalking in Rhode Island. It tells us nothing about prevalence of stalking across that state during the study period. It does describe stalking *reported* to police which police identify as stalking in some cases, and other cases identified by researchers as stalking. Second, it is not a study of stalker recidivism for new domestic violence. It does not tell us how likely stalkers are to continue their criminal abuse. It does describe arrests for domestic violence committed by police and researcher identified stalkers. Because the study is concerned about the impact of police identification of stalking, this limited measure of reabuse as arrests for domestic violence still allowed researchers to compare consistent outcomes between police and researcher identified stalkers, but it does not reveal the extent of reabuse that these stalkers may have perpetrated.

Study findings may be limited due to the single state focus of this research. Although there is no reason to believe that stalkers are substantially different based on geography, certainly the criminal justice response varies widely from state to state. In addition, because so few stalkers are cited by police in most states, as well as Rhode Island, a change in police behavior may produce dramatic changes in identified stalkers, their victims, stalking incidents, and how the state responds to identified stalking cases. As a result, the specific findings of this study may alter dramatically based on relatively minor changes in police or prosecutor behavior.

Further, this study is confined to stalking cases identified as domestic violence stalking, namely between intimates or family members, and where the victim is a female. According to

the Supplemental Victimization Survey (Baum et al., 2009), this precludes approximately 45% of stalking cases involving strangers (9.7%); acquaintances (19.7%); and friends, neighbors, and roommates (16.4%). In regard to the latter, however, “roommates” specifically would be included in the Rhode Island domestic violence data as “cohabitants.”

Although there are variations in state laws, Rhode Island’s stalking statute is fairly representative. A broader discussion of the variation in state stalking laws is contained in Appendix D. As a result, we suspect, given the similarity in state stalking statutes and similar low levels of stalking arrests across the nation, the findings of the current Rhode Island study, on the heels of the Colorado stalking (Tjaden & Thoennes, 2001), may have wider implications.

While the police identified stalkers represented the complete population of stalkers so identified by police between 2001 and 2005, inclusive, the researcher identified stalkers were a sample drawn from these years. Although this group should be representative of that population, it remains only a sample. Because cases were reviewed beginning chronologically January 1 or April 1, they do not match the month-to-month distribution of police identified stalking cases, although there is no evidence to suggest stalkers differ based on the month incidents are reported to police.

While the research does not suggest that stalkers vary by region or state, the criminal justice response to domestic violence does. The impact of police and prosecutor identification and prosecution of stalking in Rhode Island may not be representative of that in other states. However, the criminal justice response to stalking probably varies in terms of level of significance, not direction of significance.

The significance of police identification of stalking may have more to do with the fact that stalking is a felony in Rhode Island than with the difference between stalking cases and general

domestic violence offenses. The question remains: where states define stalking as a misdemeanor only, would its identification by police make any difference? More research is required in different jurisdictions to determine how applicable the Rhode Island findings are outside that state. However, the fact remains that stalking case characteristics, including suspect, victim, and incident characteristics, were very different from those found in general abuse cases.

While police identification of stalking was associated with increased arrests and prosecution, it was not associated with any difference in dispositional outcomes. Perhaps if Rhode Island judges had imposed more significant sentences for stalking, permissible under state law, the police identification of stalking would also have been associated with reduced re-arrests for all stalkers, not just those without prior criminal histories or criminal domestic violence offenses. However, until prosecutors and judges provide for more intrusive dispositional outcomes for stalkers, that will remain to be seen.

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## Appendix A

### Samples of Police and Researcher Identified Case Police Narratives and DV/SA reports

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Following are summaries of police narratives, supplemented by relative DV/SA data also submitted by police. At the end of each case description, what police cited the subject for is indicated, as well as prosecution actions, if any; dispositions, if successfully prosecuted; and whether or not the defendant was subsequently rearrested for another domestic violence offense.

**1. A.** This case involved three incidents. On May 26, officers responded to a report of a violation of a no contact order. The victim informed officers that her ex-boyfriend “called her from a bar near her house” in violation of an active restraining order. The victim had been out for the evening and, upon returning home checked her messages and noticed on her caller ID, the phone number of a local bar. When she played the messages she heard messages left by her seemingly intoxicated ex-boyfriend who was asking her “who she was out with the other night and that he would find out even if she did not tell him.” She reported that the message left her “very scared and nervous” because it had originated from a bar just a short distance from her home. Her fear was that the suspect had possibly been drinking alcohol and that “he is very unstable when he drinks.” She added that the suspect’s mother and sister had told her that he “often becomes violent when he is drinking” and that she contacted police because she was afraid he would come to her home from the bar.

Officers listened to the message and noted that the suspect, who identified himself by name, seemed “angry.” After taking the victim’s statement, officers noticed a taxi in front of her residence with the passenger fitting the suspect’s description. The suspect stated that he “did not want any trouble...he was just going to see his girl.” Officers confirmed with dispatch that the suspect had recently been served with the restraining order, which was still valid. The suspect was arrested and while being transported to the station, stated “several times that he loved [the victim] and that he was just going there to talk to her.”

Three days later, on May 29<sup>th</sup>, officers responded to a report made by the same victim for a 2<sup>nd</sup> violation of restraining order. She stated that the same suspect had been observed by a co-worker walking by and standing on the corner of a street across from her place of work. When police responded, the suspect was seated on the front steps of a church, identified himself as the ex-boyfriend of the victim and, as police began handcuffing him, stated, “Not again.” He claimed to have been walking to a bank on a neighboring street, stating that passing by the victim’s place of work was “the quickest way” to get there after he left his job that day and that he “had no intention of violating the restraining order.” After some investigation, police ascertained that the suspect had left work two hours earlier and that the route he claimed to be taking from work to the bank did not include passing by the victim’s place of work, but actually was “out of [his] way.”

The victim reported that she had observed him earlier walking slowly “by the front of the office” and “staring at her” then turning down a side street, completing a circle around her place of work. This observation was confirmed by the victim’s co-worker. Officers measured the suspect’s distance from the victim’s place of work as “20 feet away from her” and noted that the office was “entirely enclosed in glass” and was “in full view of everything in the office to parties walking outside.” According to the victim, the suspect was aware that she worked from 3:00 pm to midnight and is frequently alone in the office. She was grateful that her co-worker arrived when he did because she feared that the suspect “may have done something to her” had she been alone.

The victim explained to police that she and the suspect had been in a “serious relationship for approximately 4 months” that had ended about one month earlier. She obtained a restraining order after having alleged that he “threatened her and her friends and made remarks stating he would make a bomb and blow her up and he would be long gone when it happens.” Officers noticed that while making this report, the victim “was nervous, shaking and afraid.”

The victim’s statement provided additional information about previous threats made by the suspect. She included in her statement that he was “very possessive and jealous and told me several times that he would kill me.” After the relationship ended, he threatened her and her friend and he told her she “didn’t know who [she] was messing with and what he was capable of.” She stated that this last statement has “stuck in [her] mind” and cause her to be “afraid of what he will do next.”

After the suspect was in custody, police further discussed his questionable route to the bank from work and when asked by the officer why he had circled around the victim’s office, he stated, “I don’t know, I thought I was in love.”

**Police cited for violation of protective order, charges dismissed by prosecutor, subsequent arrest for violation of protective order.**

**1. B.** The victim arrived at the police station looking “for advice on how to deal with an ex-boyfriend.” The victim and suspect had been involved in a 12-year relationship with two children in common. Following their separation over a year ago, the suspect moved out of state—but had recently returned to Rhode Island. On the day of this incident, the suspect “showed up, uninvited” at the victim’s apartment, questioning her about her personal life and a possible new boyfriend.

The victim explained to police that the suspect “has a very bad temper” and that in the past she has “called police due to his temper.” She was aware that the suspect is currently unemployed and “has other problems” and that she is “afraid...she will be the target of his anger.”

After returning home from dropping off her child at the bus stop today, she observed the suspect standing in the hallway of her apartment building. She returned to her car and sat there for approximately 45 minutes until the suspect left the building. The victim stated that she was fearful that today’s incident “may be the beginning of continued harassment.”

Officers reported that while the victim was at the police station discussing the incident, the suspect called the victim on her cell phone, and could be heard “screaming and swearing” at her. They noticed that, “upon hearing his voice, [the victim] started to shake.”

The DVSA form noted that there had this suspect had not assaulted this victim in the past but there had not been a restraining order issued prior to this incident.

**Police cited for stalking, not prosecuted by prosecutors, subsequent arrest for domestic assault and disorderly.**

**2. A.** Police officers responded to a victim for a report of a domestic incident that had occurred the day before. The victim stated that her ex-boyfriend had been “outside her apartment yesterday harassing her.” She added that he entered her apartment and confronted her about having a new boyfriend. The victim stated that when she asked him to leave, he “raised a closed fist and said, ‘I should punch you.’” She explained to police that she “was afraid” of him when he gestured with his fist because he had “assaulted her in the past” and she was “concerned for her and her son’s safety.” The victim was afraid that the suspect would hurt her or destroy her property.

Shortly after police left, the suspect was reportedly driving around the victim’s home. When the victim left her home, she noticed his vehicle driving behind her. She also reported that she had also noticed he had parked his vehicle “down the street from her apartment” the previous week.

According to information recorded on the DVSA form, this suspect had assaulted the victim several times beginning five years earlier and there had been a restraining order in the past, but it was not currently active.

**Police cited for stalking, not prosecuted, subsequent arrests for violation of protective order.**

**2. B.** Police responded to a reported domestic. Upon arrival, police noted that the victim appeared “visibly upset...trembling and crying, her make-up appeared to be slightly smeared, and she was complaining of pain to her arms and chest/breast region.” The responding officer “immediately observed scratches to her right wrist and...a bruising to the back of her right arm...”

The victim reported that her ex-boyfriend had “been harassing her” recently “over their terminated relationship” and believes that he is responsible for the “multiple harassing/crank phone calls” she had been receiving over the several weeks prior. On the evening of this incident, the victim opened the door, allowing the suspect to enter her home. A verbal argument ensued at which point she asked the suspect to leave. The suspect then physically assaulted her, pulling her pajama top “over her head revealing her breast” and “forcibly pinned her against storm door window” exposing her “bare breast and stomach to the neighborhood.” After a struggle, the suspect “grabbed [the victim] by the breast and pinned her against the stairway...carried her

down the hallway to the master bedroom where he threw her on the bed...touching/grabbing her breast.” While police were on scene, the telephone “rang three times.” Officers answered each of the telephone calls; however, the caller hung up the first two calls after police identified themselves. The suspect identified himself when he called for the third time and advised police that he would “not respond to” police headquarters that night and that he would “respond in the morning, maybe.”

Information on the DVSA form indicate that the suspect made a threat—“I am glad I hurt you” and acknowledged that this suspect had assaulted this victim several months earlier, having thrown objects at her. The DVSA form indicated that there had previously been a restraining order against this suspect, but that it was not currently active.

**Police cited for assault, dismissed by prosecutors, subsequently arrested three times for stalking.**

**3. A.** The victim reported to police that over the course of just over a week, her ex-boyfriend had confronted her and her two sisters, and has been heard yelling, “I love you, I f---ing love you, I f---ing need you, I can’t live without you.” She explained that she and the suspect had been involved in a 9-month relationship that had recently ended. According to the police report, the suspect had, at one point, “grabbed” the victim and kept her from leaving.

Following the report of these incidents, officers advised her to “get a restraining order and contact the Domestic Violence Unit” of the police department.

Information on the DVSA form indicates that this suspect had assaulted the victim once, a month earlier but no protective orders had been issued against him previously.

**Police cited for stalking, prosecuted and sentenced to probation, no new domestic violence arrests.**

**3. B.** The victim and suspect had been involved in a one-year relationship that ended in September of 2000. The suspect had reportedly “harassed her” since she ended their relationship. The victim obtained a restraining order against him in January 2001 after he physically assaulted her the day after Christmas. Shortly before the victim ended their relationship, the suspect assaulted her—breaking her ribs.

While having dinner with a male friend in February 2001, the victim noticed the suspect walk into the restaurant. After entering the restaurant, the suspect proceeded to stand within “6 feet” of her table, looking at her, and ordered a drink. She and her friend paid their bill and left.

The following morning, while she was letting her dog out and collecting garbage cans at the end of the driveway, she noticed the suspect driving toward her. He “pulled into the driveway...put the window down” and told her that she’d “better not ever go” to that restaurant again. He continued to yell at her, saying “I told you not to go there” and stated that she was not allowed to “go anywhere that he frequents.” When he was through, he backed his car up and drove away.

At the time of this incident, the victim stated that she had been staying at the home of a friend who was away on business. According to the victim, no one was aware where she had been staying. She further explained that she was shocked that “he knew where I was or how to find me...I couldn’t even speak because I was so surprised.” She reported to police that the reason she was nervous was because she had “no idea how [the suspect] found out where [she] was staying.” She surmised that he had followed her to her friend’s house after having left the restaurant.

She said she was afraid of the suspect because “he can get very angry and physically abusive, which is the reason for the restraining order...I am literally trying to hide from him so that he does not bother me.” She noted that she has also observed his car “often and many times” when he parks in front of her salon.

The DVSA form indicates that this suspect had an active protective order.

**Police cited for violation of a no contact order, dismissed by prosecutors, subsequent arrest for violation of no contact order.**

**4. A.** The victim went to the police headquarters and wrote a statement that said earlier that evening, she had received a phone call from her ex-boyfriend which said, “You f---ing slut, I’m going to find you tonight, wait till I find you I’m going to f---ing murder you and whoever you’re with”—after which the victim hung up the phone. The suspect continued calling back—placing 15 phone calls over the next several hours. The victim stated that each time she answered the phone, she told him, “leave me alone” but he continued to call and saying, “Wait till I see you, where are you, I’ll f---ing murder you.” She added that at one point the suspect called and said, “You f--ing slut, I hate you, if you were in front of me right now I would stab you.” The phone calls reported continued throughout the morning, stopping at 4:20 am on the date of the police report.

She told police that there had “been a history of verbal and mental abuse in the past,” recounting an incident when she was three months pregnant during an argument when he “grasped her head with both hands and started shaking it violently.” She also told of another incident when he “repeatedly punched the wall, inches from her head because he was “unhappy with her.” When asked if she had reported these incidents, she said, “No...he acts so politely in front of...family and friends,” so she “didn’t think anyone would believe her.”

Police noted in their narrative that while writing her statement, the victim “stopped several times” and that they observed her hands shaking and eyes tearing up. The victim stated that she “feared for the safety of her daughter and herself” and feared “running into [the suspect] on the street...uncertain if he will harm her or not.”

The victim was accompanied by her mother, who reported she had listened to several of the telephone calls. The victim’s mother also provided a written statement indicating that during one of the calls the suspect stated, “I’m going to murder you, you f---ing slut, if you were in front of me right now I would stab you, you f---ing n----- lover, I’ll kill you.”

Before she left the interview room, the suspect called her cell phone three separate times saying, “I can’t believe what you did to me last night.” By the third call, she handed the phone to the officer who explained to him that he needed to “come in right away” to speak with him and that if he did not do so, a “warrant would be issued for his arrest.” Several hours passed and the officer noted that the suspect had not turned himself in. Officers contacted the police in the town where the suspect lived, who responded to his home, but was told he was not there.

Information provided on the DVSA form shows that the suspect had assaulted this victim once before, several months earlier and an arrest warrant had been issued for that incident, charging the suspect with threatening/harassing phone calls.

**Police cited for domestic disorderly conduct, charges dismissed by prosecutors, subsequently arrested for 3 domestic assaults, and two violations of protective orders.**

**4. B.** The victim reported to police that she and the suspect had dated for seven years and had two children in common. She stated that she was “in fear” for “her life” because of past violence perpetrated against her by the suspect. She reported that he had been harassing her and that he had recently “escalated the harassment by making several phone calls and driving to her house between the hours of 12:30 am and 1:30 am” beeping his car horn “for several minutes.” She told a detective in her statement that she had witnessed the suspect in his vehicle, driving through her driveway and in front of her house late at night and in the early morning hours.

The victim saved eleven messages on her cell phone dating back several weeks, in which the suspect sounded “increasingly angry and upset.” She believed that the suspect appeared to “be angry with her” because of how “she is raising their children” and because “she has a boyfriend.”

In the victim’s statement to police, she told them that she “is afraid of [the suspect] and is afraid that he might kill her.” She reported to police that she had an active restraining order on him at the time of this report, but neither police nor the victim could locate a copy of the restraining order. Officers told her that they would see if they could locate the order, and if found, they would review the order and issue a warrant for his arrest possible.”

Information provided on the DVSA form indicates that the suspect had assaulted this victim at least once before this incident.

**Police cited for stalking, but prosecutors did not charge him for any offense. There were no subsequent domestic arrests during the study period.**

**5. A.** Police responded to a report of a no-contact order violation. When they arrived, the victim informed officers that “her ex-boyfriend...approached her residence” in his vehicle, “proceeded to walk into the yard, attempted to open the door, rang the bell...knocked on the door...then left the residence without incident.” Officers spoke with the victim’s plumber, who stated he was in the victim’s residence when the suspect arrived.

The police noted in their narrative that the victim had also received “a check, certificate for massage, and greeting card” from the suspect. They also noted that while completing the DVSA form, the victim stated that in the past, she had seen the suspect in possession of what she believed was a firearm, with a “red laser type sighting device” attached.

Information on the DVSA form specified that the suspect had assaulted the victim before, with officers noting that there had been an arrest for the assault approximately one month prior to this incident. Additionally, the DVSA form indicates at the time of this report, there was an active protective order.

**Police cited for stalking. Prosecutors charged him with violation of a protective order but subsequently dismissed the charge in court. There were no subsequent domestic violence arrests during the study period.**

**5. B.** The victim filed a “harassing phone call complaint” to police. She stated that for three hours on the date of the report, she received “a total of thirteen harassing phone calls from” the father of her two-year-old son. According to the victim, she repeatedly told the suspect to “stop calling her” but the calls continued. The victim found the final phone call particularly upsetting when the suspect stated, “I will never leave you alone and this is never going to end.”

The victim further stated that she was “in fear of [the suspect] due to his past violent behavior...physical abuse toward her and her knowledge that at one time he was in possession of a firearm.” She added that, at times, she “has noticed [the suspect] on her property...looking in the windows” of her home.

The police narrative noted that the suspect had been earlier arrested for “felony assault with a dangerous weapon (firearm)” but that this current victim was not the target of that assault. Information provided on the DVSA form indicates that the suspect had assaulted this victim in the past and that there was no current no contact order in place.

**Police cited him for threatening phone call. He was prosecuted and placed on probation. He was arrested subsequently for domestic property damage.**

**6. A.** A 26-year-old victim went to the police station to provide a witness statement. The victim and suspect in this case had been involved in a two-year dating relationship. In her statement, the victim said the suspect had been “calling her repeatedly since they broke up” seven months earlier. The suspect calls her “between 5 and 20 times a day sporadically during the week” and had come to her home and place of work. According to the victim, she asked him to stop calling her and states that she is becoming “very annoyed and bothered with these phone calls and...feels threatened by [the suspect].” She added that she believes the suspect is responsible for damage recently done to her vehicle—which she had reported to police two days earlier.

The DVSA form reveals that the victim denied that this suspect had ever assaulted her before and that there was not an active protective order in place at the time of the incident.

**Police cited suspect for stalking. Prosecutors did not charge him. He was not arrested again for domestic violence during the study period.**

**6. B.** Police received a report of a violation of a restraining order on a weekday afternoon in 2002. When they arrived at the location, they were met by the victim, a 39-year-old woman. She explained that the suspect in this case was her ex-husband and father of her children. The couple had separated four years earlier, at which time the victim obtained a restraining order against her husband, and they divorced a year later. At the time of this incident, her ex-husband had a court order for visitation with his son on Saturdays.

The victim stated that her ex-husband “attempts to stop by the house any times he wants,” “calls the house at least once a week” asking her “for another chance” and saying that he “doesn’t want to see her with anyone else.” In response to his calls, the victim tells him that she “doesn’t want anything to do with him” and reminds him that he should not be calling her due to the restraining order. Despite her attempts to discourage his attempts to contact her, he has attempted to contact her at her place of work. On Christmas Day, while at the house to pick up the children for a visit, he brought her flowers. When she would not accept the flower, he left them at the house with a note saying he “wanted her back” and signed his name.

At times, both the victim and neighbors have noticed the suspect “sitting in his parked car in her neighborhood” and that “this sort of behavior” had been occurring for the past year, “but has progressively gotten worse.” The victim stated that she never reported his phone calls or harassing behavior before because she “didn’t want any problems with him and the children” but that she called police today because “she is in fear of her safety.” The officer witness statement noted that the suspect had been arrested previously for domestic assault and has a documented problem with alcohol. In the witness statement, the victim said that the suspect “has been physical with me before...while we were married and has been arrested for Domestic Assault in 1993. I also know that [the suspect] likes to drink a lot.” She added that she requested police assistance because she was “afraid of what [the suspect] might do and I want him to stop harassing me.”

The DVSA form indicates that the suspect assaulted this victim several times over the course of their marriage and that an active protective order was in place at the time of this report.

**Police cited him for violation of a protective order. Prosecutors dismissed the charge and he was subsequently arrested for violation of a protective order.**

## **Appendix B**

### **Qualitative Interview Protocol**

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#### **Note to Interviewer**

*The following “script” is meant as a suggested approach for interviewers to introduce the Stalking Study, the purpose of the qualitative interviews and informed consent. Please feel free to present these materials in any way that makes sense to you while touching on the points included below*

#### **Background on the Study**

Welcome and thank you for agreeing to participate in this interview. As you may know, the National Institute of Justice (the U.S. Department of Justice’s research arm), awarded Advocates for Human Potential (AHP) a grant to conduct research on stalking and the criminal justice response to it.

*[Introduce yourself and AHP, along with a brief summary of our work in this area and in Rhode Island— AHP staff have completed other research projects in Rhode Island including NIJ sponsored projects evaluating Rhode Island Department of Correction Probation and Parole’s Domestic Violence Supervision Program, and more recently a study of elder abuse in Rhode Island.]*

The purpose of the study is to increase understanding about stalking, and specifically the criminal justice response to it. While there has been much research on stalking and stalkers, there has been far more limited information available on the criminal justice response. One seminal study conducted in Colorado documents wide undercharging of stalking (generally charged and sentenced with harassment or violation of a restraining order versus stalking), but it remains unclear who law

enforcement identifies as stalkers and for what activities and how the criminal justice system responds to those identified as stalkers. Furthermore, there is little evidence to evaluate whether application of stalking statutes adds value to efforts to protect victims. The current research will focus on these questions.

Rhode Island was selected for the research due to the excellence of its record keeping system available on domestic violence incidents, including stalking. The state mandates all law enforcement agencies file these reports with one agency and they are the most detailed and extensive in the country. As a result of the quantitative data collected so far, researchers have been able to complete a comprehensive picture of stalking in Rhode Island. The purpose of these interviews is to better understand these findings, and explore their implications for those responding to stalking in this state and nationally. Study findings will be presented in a final report to NIJ. They will also be directed to interested parties in Rhode Island, including those participating in these interviews.

### **Confidentiality and Informed Consent**

I want to assure you that your responses will be completely confidential. No identifying information will be linked to your individual responses. Our final report will present responses by collective themes and if we use any direct quotes they will never be connected with any individual's name unless you specifically agree to be quoted. In these cases we will obtain your prior consent in writing for each quotation used.

[*For group meetings*] We also ask that the discussion we have here be kept confidential. What we mean by this is that you agree not to discuss individual

participant's viewpoints with other people outside this room. We ask you to maintain this confidentiality so that everyone here can feel safe about expressing his or her opinion.

Do you have any questions about the stalking study or this interview?

Before we proceed, you will need to complete the Participant Consent Form. Please read this form over carefully. I will give you one form to sign and one form that you can take home for your file.

*[After respondent has a chance to review the form]* Do you have any questions about informed consent?

## Law Enforcement

**Purpose of the Meeting:** To get more in-depth understanding of the police response to stalking. [*Interviewer: please probe for details under each of the general question categories*]

### I. Identification of Cases as stalking.

- Have you ever cited an abuser for stalking? If so, what led you to cite stalking as opposed to some other offense (i.e., violation of a no contact order)?
- Are there particular core elements to an incident that you looked for when citing an offense as stalking? What are they?
- What other factors make it more likely that an officer would cite an abuser for stalking? (i.e., third party witnesses? Prior police involvement? Victim asserting prior assaults where police not called? Occurrence of behavior in public space as opposed to a dwelling?)
- Do any of the following factors make a difference in deciding whether or not to cite stalking? If so, would they make you more or less apt to cite stalking: Presence of children? Nature of victim/abuser relationship? Prior police involvement? Abuse involving physical violence? Property damage? Violation of a no contact order? Violation of a civil protective order? Repeated emails? Phone calls? Letters? The abuser leaving the scene before police arrive? Prior criminal history?
- Under what circumstances may it be advisable to cite a charge other than stalking, even if there is evidence that stalking was occurring? (nature of the

evidence, ease of future prosecution, reluctance of victim to cooperate in the future, victim credibility in question?)

- What level of review is undertaken by command staff in regard to citing stalking?
- How would you rate stalkers compared to others cited for domestic violence offense? (Less or more dangerous than abusers who assault and injure their victims? Annoying but not particularly dangerous? Sick individuals who need help to get over the relationship?)

**Note to Interviewer:** If questions do not elicit enough information, you can read the following two cases and ask why or why not they think the person was cited for stalking:

**Police Stalking Narrative:**

The victim reported numerous harassing phone calls from her ex-husband of four months. The calls, in excess of 30, also violated a no contact order. The calls included, she told police, “general statements that she had robbed [suspect] of everything, that she had tried to put [suspect] in jail and that there were consequences to be paid.” Police officers listened to two of the messages on the victim’s answering service and noted that the suspect seemed “extremely distraught, he cried” and “at times could not talk.” The officers added, however, that they “did not hear nor did [victim] indicate that any specific threat had been made.” Officers confirmed that a no contact order was on record and active until the following year. Police cited the suspect for stalking.

**Researcher Stalking Narrative**

The victim reported approximately 15 threatening phone calls from her husband from whom she was seeking a divorce. The victim indicated that the suspect had assaulted her in the past and that “she fears he may hurt her.” The series of phone calls began, the victim reported, with the suspect cancelling visitation with the daughter. However, during the call he began discussing the impending divorce, stating he “was angry because he was told by the court that he had to have her vehicle registration reinstated and also had to have her insurance reinstated.” The suspect added that “he would make her life miserable if he had to do those things.” At that point the victim stated that she hung up the phone. The suspect then placed

several more calls that the victim did not answer, but after the calls continued, she answered one of them. The suspect told her “I’m going to make your life hell,” “if I see you, I will kick you in the face” and “if I catch you with another guy, I’ll kill you.” She hung up and the calls continued. She reported that she picked up and hung up further calls without speaking with the suspect, but traced each call by dialing \*57. Fearful, the victim went to her neighbor’s across the street. While at the neighbor’s home, her neighbor answered one of the telephone calls from the suspect and reported to police that the suspect threatened him, stating he was “going to cut his head off.” Police also determined that the suspect had called the victim’s mother’s home “approximately 10 times in the past hour” looking for the victim. Officers also noted that the suspect “called the house four times” when they were present and that they observed the victim telling the suspect that “she did not want to talk to him and told him to stop calling.” The victim had a protective order against the suspect previously but the report did not indicate whether or not it was active at the time. Police cited the suspect for threatening phone calls.

And/Or

**Police identified stalker with witnesses in public place:** Police were dispatched to the security office at Salve Regina University. Upon arrival, officers met with a campus security officer and the victim, a student at the university. The victim’s roommate made the initial call to campus security because, according to the victim, “she feels uncomfortable when [suspect]” shows up at their room. The victim reported that “she was being harassed by her ex-boyfriend, a summer resident of the dormitory who was working for food services at the college. They had dated for approximately one year and ended the relationship four months earlier. According to the victim, the suspect “shows up at her room from time to time despite the fact she has repeatedly told him to leave her alone.” The victim stated to police that the suspect “has never hit her, but he does make her and her roommate “very nervous.” The suspect had “taken all the courses she has signed up for, sends her emails on her computer, and has called her at various times.” The victim’s roommate confirmed the victim’s report. In a written witness statement, the victim wrote “though I don’t feel [suspect] is capable of physically harming me, he is becoming a disruption in my roommate’s and my life.” After taking the report, campus security officers accompanied police to the suspect’s dormitory room, told the suspect to stay away and not contact the victim again. Officers also informed him that a detective would contact him in the next few days. The detective did and arrested him for stalking.

**Researcher-identified case with no witnesses in private:** The victim came to the police station to report that “her ex-boyfriend...had broken into her house...and pushed her.” The two had been involved in a relationship that was ended by the

victim two months earlier when she asked the suspect to move out of the home. She reported that “since that time [the suspect] has continuously harassed her by following her to her friends’ and family members’ houses and not leaving when repeatedly asked.” On the date of this incident, she reported that the suspect had called her at home and that, during that call, she told him “not to come to her home and not to call her anymore.” She reported that “a short time later, she was on the telephone with a friend when the line went dead” and, within minutes, the suspect entered her home. She argued with the suspect and told him to leave. The suspect responded by pushing her, refusing to leave and stating that he “wished to speak to her about working things out” and then “stayed in the house for several hours.” The victim could not call the police because the phone line had gone dead prior to the suspect entering her home.

According to the victim, the suspect admitted to “breaking the phone line” from the exterior of the house, but he agreed to “fix it before leaving.” The suspect had also reportedly “broke the locks” of the kitchen window and pushing on the window in order to gain entry. When officers returned with the victim to her home they wrote that the phone line “appeared to have been broken and taped back together,” and “the window...had been broken.” The officers ran a criminal check and found that the suspect had “an extensive criminal record including charges in Massachusetts of attempted murder, discharging a firearm, assault to kill, assault and battery/dangerous weapon and breaking and entering” and had a Rhode Island warrant for “an assault charge.” The responding police officers cited the suspect for Breaking and Entering, Domestic Simple Assault and Failure to Relinquish the Telephone, but not stalking.

## **II. Advantages and disadvantages of citing stalking.**

- Are there particular advantages or disadvantages to citing stalking? What are these?

## **III. Training received on stalking statute, its investigation, and the citing of stalking charges.**

- Does the Department provide training on stalking law enforcement?
- What type of training have you received and by whom? Did you find it useful?

- Did it increase the likelihood you would cite someone for stalking as opposed to another DV offense?
- What type of follow-up supervision exists, if any, specific to stalking law enforcement?

## **II. Specific policies, procedures, and practices regarding stalking law enforcement.**

- Are there specific policies and procedures in place regarding the implementation of the stalking statute?
- Are there written guidelines (can we get a copy)?
- If not, are there “usual practices” regarding implementation? Specific approaches encouraged? Discouraged?
- Have you been told or is it your impression that prosecutors welcome stalking cases or would prefer single-incident DV cases (i.e., violation of no contact order rather than stalking?)
- Do you think the stalking arrests in your department are too many, too few, just about right?

## **V. Challenges and Accomplishments in Responding to stalking**

- What do you regard as the key challenges in responding to incidents involving stalking?
- What do you see as you or your Department’s major accomplishments in this area?
- If improvements are warranted, what do you see as necessary next steps to improve the police or prosecutors response to stalking in RI?

## Prosecutors

**Purpose of the Meeting:** To better understand the prosecution of stalking in Rhode Island [*Interviewer: please probe for details under each of the general question categories*].

### **I. Policies, procedures, practices regarding filing stalking charges.**

- Are there specific policies and procedures in place regarding the filing of stalking charges? Are these written policies and procedures (get copy)? If not, are there “usual practices” in regard to filing stalking charges? What are they? (get examples).
- If police cite someone for stalking in their report, does your office (AG) automatically get a copy to review before charges are filed in District Court? Or, is it up to the town or city solicitor or police prosecutor? How and when do you get stalking cases now?

### **II. Quality of evidence needed to pursue stalking charges**

- What level of evidence is required in order to pursue stalking charges (probe whether having witnesses available makes a difference)? How does this play into decisions to move forward with a stalking charge?
- How easy is it to prosecute a stalking case? Is it harder or easier than typical felony? What would make it easier?
- Because stalking is a felony, are indigent defendants provided with more aggressive or experienced counsel? Is the private bar more apt to contest stalking charges because they are felonies than violation of no contact orders? Are defense attorneys more likely to ask for jury trials if stalking charged?

- What elements are hardest to prove, convince a jury/judge of?
- Do police provide you adequate evidence to prosecute stalking cases when they cite the charge as stalking? When they don't, do you have access to supplemental investigation resources?

### **III. Availability of victims to pursue stalking charges**

- Is the availability of victims a challenge in pursuing stalking charges? How is this managed? What role do victim desires play? Do they want stalking charges brought or prefer easier to prove charges where they may not have to testify?
- In your experience, do victims generally convince juries that they are sufficiently afraid of injury to convict their abusers of stalking or do most juries think they are exaggerating?

### **IV. Advantages and disadvantages of going forward on stalking charges.**

- Are there major advantages and disadvantages to going forward on a stalking charge? What are these?
- What is the content of the mental health counseling programs many stalkers are sentenced to enter?

### **V. Challenges and Accomplishments in Prosecuting Stalking Cases**

- Do you think the level of arrest and prosecution for stalking across RI to be too high, too low, or about right?
- What do you regard as the major challenges in prosecuting stalking cases?
- What do you see as the major accomplishments around prosecution of stalking cases in Rhode Island.
- If improvements are necessary, what do you see as next steps to improve the police or prosecutors response to stalking in RI?

## **Advocates**

**Purpose of the Meeting:** To assess law enforcement and prosecutor's response to stalking from the Advocates perspective.

### **I. Describe role of Advocacy Organization in respect to stalking.**

- What is the role of RI's domestic violence advocates in regard to stalking? Is this role the same or different from other instances of domestic violence? Are there special challenges in this role?

### **II. Dimension and awareness of the problem.**

- What is the dimension of the problem of stalking in Rhode Island? Is the current arrest and prosecution level too low, too high, or about right?
- How much domestic violence involves stalking? How do you know this?
- Do victims under assess their stalking victimization? Know they are being stalked but don't think it is a crime? Don't take it as seriously as assault? Prefer other, easier to prove cases where they don't have to testify?

### **III. Satisfaction with police and prosecutor's response to stalking.**

- How would you rate the response of police to stalking? (get examples of positive or negative response)
- How would you rate the response of prosecutors to stalking? (get examples of positive or negative response). Too often screen them out or remand them to District Court?

- Are there certain cases more likely than others to be charged with stalking and prosecuted in Superior Court? Describe.
- Do victims care if stalkers are prosecuted for stalking as long as they are prosecuted for some DV crime? (If yes, why?)
- Are victims satisfied with police and prosecutor response to stalking? Explain why.

#### **IV. Pressing for stalking charges**

- Do advocates press for specific charges of stalking and in what instances? Give case examples (*note: no names should be mentioned*).
- Why are so few stalking charges cited by police?
- Why do prosecutors dismiss or reduce those cited by police?
- Do victims prefer reduction of stalking charges if they reduce their need to testify in court?
- Other challenges to pressing for stalking charges?

#### **V. Challenges and Accomplishments**

- What are the greatest challenges to improving the justice system response to stalking?
- Are there particular accomplishments, either in the advocacy community or otherwise, in working with victims of stalking? Please describe.
- What do you see as the next and necessary steps to improve the police or prosecutors response to stalking?

## **Defense Attorneys**

- Have you ever defended a client for stalking? How many?
- Is the arrest and prosecution of stalking in RI too high, too low, about right? Explain.
- Are there specific challenges in defending someone charged with stalking? What are they?
- Are you more apt to ask for a jury trial for stalking or less? Is it case specific? If so, what factors would call for a jury trial?
- Do you advise clients charged with stalking to plead to misdemeanor charges if you think there is a good chance of conviction, fair chance?
- In your experience, do the average stalking case you see warrant being prosecuted as a felony? Explain.
- How amenable are prosecutors in stalking cases to allowing for reduced charges?

# Appendix C

## Stalking Classification Template

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### 1. Pattern of Harassment Over Time

- List Specific Conduct directed at Victim, exclusive of following.
- Was the Conduct repeated?
- Was the Act knowing and willful by the suspect?
- Did the Act(s) cause distress or fear of injury by victim?

<b>Conduct</b>	<b>Repeated Yes/no</b>	<b>Knowing? Willful? Yes/no</b>	<b>Intent to seriously alarm, annoy, bother victim? Yes/No</b>	<b>Served No legitimate Purpose? Yes/No</b>	<b>Cause substantial emotional distress or fear of bodily injury? Yes/No</b>
A.					
B.					
C.					

### 2. Following

- List instances of following
- Was there more than one instance of following?
- Was the following willful and malicious?
- Did the following place victim in reasonable fear of bodily injury?

<b>Following</b>	<b>Repeated? Yes/no</b>	<b>Willful &amp; Malicious? Yes/No</b>	<b>Place victim in fear of injury? Yes/No</b>

**3. If stalking found, provide evidence for conclusions based on DV/SA, incident/arrest report, or victim statement.**

## **Appendix D**

### **Discussion of State Stalking Laws**

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Stalking laws are not uniform state to state, although Rhode Island's stalking law is not atypical in most respects. Generally, stalking is broadly defined as a willful or intentional commission of a series of acts that would cause a reasonable person to fear death or serious bodily injury that that, in fact, does place the victim in fear of death or serious bodily injury. Stalking is a crime in every state. Some states also have separate harassment statutes that overlap. Rhode Island does not.

However, there are variations among the state stalking statutes, relating primarily to the type of repeated behavior that is prohibited, whether a threat is required as part of the stalking, the reaction of the victim and the intent of the stalker (Kang, 2002). Most states have broad definitions of required behavior, including "harassment," "communicating" or "nonconsensual contact." Some, like Rhode Island also spell out specific activities such as "following." Only a handful of states restrict stalking to narrow, specific acts such as only following or keeping a person under surveillance (720 Ill. Comp. Stat. 5/12-7.3(2001)) or following and lying in wait (Conn. Gen. Stat. §§53a-181d, -181e (2001)).

Most states have amended their initial statutes that required a "credible threat" as an element of the offense. Most allow the threat to be implicit in the context of the case. Only two require an explicit threat be made (Ark. Stat. Ann. § 5-71-229(2001); Mass. Gen. Laws ch. 265, § 43 (2001)). Most states, like Rhode Island require conduct that would cause a reasonable person to fear bodily injury or suffer substantial emotional distress. As in Rhode Island, some states specifically refer to conduct that "alarms, annoys, torments, or terrorizes" the victim. Unlike Rhode Island, some state statutes require that the stalking must, in fact, cause the victim to, in fact, actually experience emotional distress or fear.

Most of states have also amended initial stalking statutes that required evidence that the stalker intended to cause the specified victim reaction. That, too, has been broadened to require only general intent, rather than requiring proof that the defendant intended to cause a specified reaction. Many states, like Rhode Island, simply require proof that the actions were intentional. Others, like the National Institute of Justice Anti Stalking Code require that the defendant know or reasonably should know that the acts would cause the victim to be placed on fear.

Most states have explicit exceptions for certain behaviors, commonly described as in Rhode Island as “constitutionally protected activity.” Also like Rhode Island, many states increase penalties for stalking in violation of a protective order (see, e.g., Ala. Code § 13A-6-91 (2001); N.M. Stat. Ann. § 30-3A-3.1 (2000); Kentucky Rev. Stat. §§ 508.140-150).

# Appendix E

## DV/SA Form

NO STAPLES PLEASE!

**DV/SA REPORTING FORM - 2005 revision**  
**DOMESTIC VIOLENCE & SEXUAL ASSAULT/CHILD MOLESTATION**

POLICE CASE #: \_\_\_\_\_

**A. INCIDENT INFORMATION**

LOCATION (street address): \_\_\_\_\_ CITY: \_\_\_\_\_  
ZIP: \_\_\_\_\_

PUBLIC PLACE/INDOORS  
 PUBLIC PLACE/OUTDOORS  
 HOUSE  VEHICLE  
 APARTMENT  
 OTHER (specify): \_\_\_\_\_

INCIDENT DATE:   
TIME (military): \_\_\_\_\_  
REPORT DATE: \_\_\_\_\_  
(if different from incident date)

**WHO CONTACTED POLICE?**  
 VICTIM  FAMILY MEMBER  FRIEND  NEIGHBOR  
 SUSPECT  HOSPITAL  911  ANON  CHILD  
 OTHER (specify type): \_\_\_\_\_

**ALCOHOL/DRUG USE:**  
• IN OFFICER'S OPINION,  
ALCOHOL INVOLVED?  SUSPECT  VICTIM  NEITHER  UNK  
DRUGS INVOLVED?  SUSPECT  VICTIM  NEITHER  UNK

**B. ARREST INFORMATION**

• DID PROBABLE CAUSE EXIST TO BELIEVE A DOMESTIC VIOLENCE (DV) CRIME OCCURRED? ...  YES  NO  
• DID PROBABLE CAUSE EXIST TO BELIEVE A SEXUAL ASSAULT (SA/CM) CRIME OCCURRED? ...  YES  NO  
• WERE PHOTO(S) TAKEN OF VICTIM? ...  YES  NO  
• WERE PHOTO(S) TAKEN OF CRIME SCENE? ...  YES  NO  
• WAS OTHER PHYSICAL EVIDENCE COLLECTED? ...  YES  NO

**C. ASSAULT INFORMATION**

• VICTIM PHYSICALLY ASSAULTED? ...  YES  NO  
• VICTIM SEXUALLY ASSAULTED? ...  YES  NO  
• VISIBLE VICTIM INJURIES DUE TO INCIDENT? ...  YES  NO  
• WEAPON / OBJECT USED TO HURT / INJURE?  YES  NO  
IF YES, WHAT?  HANDGUN  LONG GUN  KNIFE  
 OTHER (describe): \_\_\_\_\_

• WEAPON / OBJECT USED TO THREATEN?  YES  NO  
IF YES, WHAT?  HANDGUN  LONG GUN  KNIFE  
 OTHER (describe): \_\_\_\_\_

• INDICATE IF VERBAL THREATS WERE MADE BY SUSPECT TO:  
 VICTIM  CHILDREN  FAMILY  FRIEND(S)  
 PET(S)  OTHER (type): \_\_\_\_\_

IF THREAT WAS MADE, WHAT WAS SAID? \_\_\_\_\_

**MARK OVALS DESCRIBING NATURE OF ASSAULT / INCIDENT:**

VERBAL ARGUMENT  VERBAL ABUSE  
 VICTIM KEPT FROM LEAVING  VICTIM KEPT FROM USING PHONE  
 THREAT OF PHYSICAL VIOLENCE  CHOKING / STRANGLING  
 SPITTING AT  HAIR PULLING  GRABBING  SCRATCHING  
 KICKING  BITING  SLAPPING  HITTING W/FISTS  
 PUSHING / SHOVING VICTIM  BEATING  PET(S) HARMED  
 THROWING OBJECTS  BURNING  
 THROWING / SLAMMING VICTIM  ATTEMPTED SEXUAL ASSAULT  
 THREAT OF SEXUAL ASSAULT  SEXUAL PENETRATION  
 SEXUAL TOUCHING  OTHER (describe): \_\_\_\_\_

• VICTIM IN PAIN NOW? ...  YES  NO  
• VICTIM PREGNANT AT TIME OF INCIDENT? ...  YES  NO  
• VICTIM REQUIRED MEDICAL ATTENTION? ...  YES  NO  
IF YES, WHAT MEDICAL FACILITY? \_\_\_\_\_  
• ANYONE ELSE ASSAULTED BY SUSPECT? ...  YES  NO  
 CHILDREN  FRIEND  RELATIVE  
 OTHER (type): \_\_\_\_\_

• SUSPECT ASSAULTED VICTIM BEFORE? ...  YES  NO  
IF YES, WHEN? \_\_\_\_\_  
• HOW MANY TIMES?  1  2-5  
 MANY OVER TIME, BEGINNING WHEN? \_\_\_\_\_  
(approximately)

**D. SEXUAL ASSAULT / CHILD MOLESTATION INFO.**

IF AN ALLEGED SEXUAL ASSAULT OR CHILD MOLESTATION,  
DATE OF ALLEGED ASSAULT: \_\_\_\_\_  
• WAS A FORENSIC RAPE EXAM DONE? ...  YES  NO  
IF CHILD CASE, DCYF NOTIFIED? (800-742-4453) ...  YES  NO  
• ADULT REPORTING OWN ABUSE AS A CHILD? ...  YES  NO  
• WAS SEXUAL ABUSE ONGOING? ...  YES  NO  
IF YES, HOW LONG?  LESS THAN 1 YR  1 - 5 YRS  
 MANY YRS OVER TIME, BEGINNING WHEN? \_\_\_\_\_  
• HAS CASE BEEN REFERRED TO THE AG'S OFFICE?  YES  NO  
• NUMBER OF SUSPECTS:  
 1  2  3  MORE THAN 3 - HOW MANY? \_\_\_\_\_

**E. VICTIM INFORMATION**

NAME: \_\_\_\_\_ (Last) \_\_\_\_\_ (First) \_\_\_\_\_ (MI) DOB: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ GENDER:  F  M  O  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_  
HOME PH#: \_\_\_\_\_ CELL or WORK PH#: \_\_\_\_\_  
PH# OF CONTACT PERSON: \_\_\_\_\_

• VICTIM / SUSPECT LIVING TOGETHER AT TIME OF INCIDENT?  
 YES  NO

• IF VICTIM WAS 60 YRS OR OLDER, WAS DEA NOTIFIED?  
 YES  NO (401-462-0555 Abuse Unit)

**VICTIM ETHNIC / RACIAL BACKGROUND:**  
 WHITE  BLACK  WH HISPANIC  BL HISPANIC  
 ASIAN  NATIVE AMERICAN  OTHER (specify): \_\_\_\_\_

**VICTIM Demeanor (choose all that apply):**  
 TEARFUL/CRYING  HYSTERICAL  AFRAID  
 SHAKING/TREMBLING  ANGRY  NERVOUS  
 UPSET  WITHDRAWN/FLAT AFFECT  
 OTHER (describe): \_\_\_\_\_  
• DID VICTIM SAY ANYTHING? ...  YES  NO  
IF YES, WHAT WAS SAID? \_\_\_\_\_

**F. SUSPECT INFORMATION**

NAME: \_\_\_\_\_ (Last) \_\_\_\_\_ (First) \_\_\_\_\_ (MI) DOB: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ GENDER:  F  M  O  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

**RELATIONSHIP TO VICTIM / MARK RELEVANT OVAL.**  
 MARRIED or  FORMERLY MARRIED  
 INTIMATE PARTNER or  FORMER INTIMATE PARTNER  
 CHILD IN COMMON  COHABITANT (no relationship)  DATING  
 RELATIVE (specify type): \_\_\_\_\_

If relationship choices above are not appropriate for sexual assaults, use list below:  
 CO-WORKER  STRANGER  FRIEND  EMPLOYER  
 ACQUAINTANCE  CAREGIVER  DATE  EMPLOYEE  
 OTHER (describe): \_\_\_\_\_

**SUSPECT ETHNIC / RACIAL BACKGROUND:**  
 WHITE  BLACK  WH HISPANIC  BL HISPANIC  
 ASIAN  NATIVE AMERICAN  OTHER (describe): \_\_\_\_\_

• DOES SUSPECT POSSESS WEAPONS? ...  YES  NO  
IF YES,  HANDGUN  LONG GUN  KNIFE  
 OTHER (describe): \_\_\_\_\_

• WERE WEAPONS CONFISCATED? ...  YES  NO

**SUSPECT Demeanor (choose all that apply):**  
 APOLOGETIC  CALM  BELLIGERENT  ANGRY  
 THREATENING  NERVOUS  CONFUSED  
 SUSPECT NOT AT SCENE  SUSPECT DECEASED  
 OTHER (describe): \_\_\_\_\_

• VISIBLE SUSPECT INJURIES DUE TO INCIDENT? ...  YES  NO  
• WAS PHOTO TAKEN OF SUSPECT'S INJURIES? ...  YES  NO  
• DID SUSPECT SAY ANYTHING? ...  YES  NO  
IF YES, WHAT WAS SAID? \_\_\_\_\_

**G. PROTECTIVE ORDERS INFORMATION**

- PROTECTIVE ORDER ISSUED BEFORE THIS INCIDENT?  YES  NO
  - IF YES, IS ORDER STILL ACTIVE?  YES  NO
- IF YES, WHAT KIND? CRIMINAL NO CONTACT ORDER 
 RESTRaining ORDER 
 FOREIGN (out-of-state) RESTRaining ORDER 
 • IF FOREIGN, WHICH STATE? \_\_\_\_\_
- IF THERE IS AN ACTIVE ORDER, AND SERVICE HAS NOT BEEN MADE, DID OFFICER(S) GIVE NOTICE TO THE DEFENDANT?  YES  NO
- IF NO RESTRaining ORDER EXISTS, DID OFFICER(S) GIVE VICTIM TEMPORARY RESTRaining ORDER INFORMATION?  YES  NO
- DID OFFICER CHECK RONGO (BCI, 421-5268) FOR UPDATED INFORMATION ON RESTRaining ORDER / NO CONTACT ORDER?  YES  NO

**H. MINOR CHILDREN INFORMATION**

- DO MINOR CHILDREN LIVE IN THE HOME?  YES  NO
  - HOW MANY? ① ② ③ ④ ⑤ ⑥  more than 6
  - AGES: ① ② ③ ④ ⑤ ⑥ ⑦ ⑧ ⑨ ⑩ ⑪ ⑫ ⑬ ⑭ ⑮ ⑯  twins
- HOW MANY PRESENT DURING THE INCIDENT? ① ② ③ ④ ⑤ ⑥ ⑦
- HOW MANY SAW? ① ② ③ ④ ⑤ ⑥  more than 6
- HOW MANY HEARD? ① ② ③ ④ ⑤ ⑥  more than 6
- DID OFFICER INTERVIEW/QUESTION CHILDREN?  YES  NO
- HOW MANY? ① ② ③ ④ ⑤ ⑥  more than 6

**I. PROPERTY INFORMATION**

- DWELLING IN WHOSE NAME?  VICTIM  SUSPECT  OTHER
- WAS THERE PROPERTY DAMAGE?  YES  NO
  - IF YES, (describe): \_\_\_\_\_
- WAS THERE STOLEN PROPERTY?  YES  NO
  - IF YES, (list): \_\_\_\_\_

**J. WITNESS INFORMATION**

- WAS WITNESS PRESENT DURING THE INCIDENT?  YES  NO
  - IF YES, PLEASE SPECIFY TYPE OF WITNESS:  FRIEND  NEIGHBOR  RELATIVE  PASSERBY  BARTENDER  OTHER (specify type): \_\_\_\_\_
- DID OFFICER INTERVIEW/QUESTION WITNESS(ES)?  YES  NO

**K. POLICE RESPONSE INFORMATION**

OFFICER(S) RESPONDING \_\_\_\_\_ BADGE # (B) \_\_\_\_\_

PD CODE # \_\_\_\_\_ POST: \_\_\_\_\_

WHETHER OR NOT AN ARREST WAS MADE, WAS ALLEGED VICTIM:

- GIVEN A "VICTIM'S RIGHTS" PAMPHLET?  YES  NO
- GIVEN A "SAFETY PLAN" PAMPHLET?  YES  NO (FOR PAMPHLETS CALL DV UNIT 728-4480)

**L. POST ARREST INFORMATION**

- WAS ARREST MADE WITHIN 24 HRS?  YES  NO
- FOLLOW-UP PHOTO(S) OF VICTIM (2-4 DAYS LATER)?  YES  NO
- IS SUSPECT ON PROBATION?  YES  NO
- DV OFFENSES CHARGED AS:
  - SIMPLE ASSAULT  VIOL / PROTECTIVE ORDER  B&E
  - FELONY ASSAULT  THREATENING / HARASSING PHONE CALL
  - MAL/DAMAGE  FAILURE TO RELINQUISH PHONE
  - DISORDERLY  STALKING  HOMICIDE  SEXUAL ASSAULT
  - OTHER (describe): \_\_\_\_\_
- INVESTIGATION ESTABLISHED  PC  NO PC
- DID VICTIM GIVE WRITTEN STATEMENT?  YES  NO
- HAVE POLICE RESPONDED TO INVOLVED PARTIES BEFORE?  YES  NO
  - IF YES, HOW MANY TIMES? ① ② ③ ④ ⑤ ⑥  more than 6

**M. CASE CATEGORY AND CASE STATUS INFORMATION**

DV (domestic violence)  SA (sexual assault or child molestation)  BOTH (elements of DV & SA)

ARREST CASE; ARREST MADE  CASE UNDER INVESTIGATION  NON-ARREST CASE (NO PC)

ARREST CASE; WARRANT ISSUED  DUAL ARREST CASE (2 forms required)

PLEASE PAPER CLIP OFFICER'S NARRATIVE AND ARREST OR INCIDENT REPORT TO THIS ORIGINAL DV/SA FORM.  
 MAIL TO: DOMESTIC VIOLENCE TRAINING & MONITORING UNIT, 1 HILL ST. PAWTUCKET, RI 02860.

**N. TO BE COMPLETED BY VICTIM (if the victim is willing)**

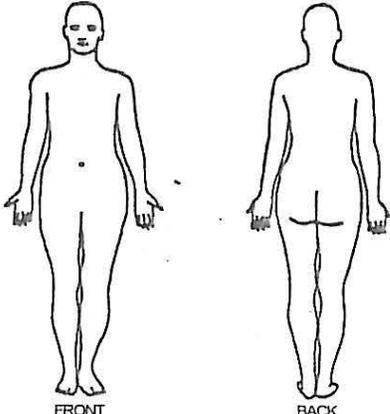
- I HAVE POINTED OUT TO THE POLICE THE PERSON(S) WHO HURT / THREATENED ME.  YES  NO
- I HAVE POINTED OUT TO THE POLICE THE OBJECT(S) USED TO HURT / THREATEN ME.  YES  NO
- I HAVE MARKED ON THE BODY DIAGRAM BELOW WHERE I WAS ASSAULTED.  YES  NO
- I UNDERSTAND ALL THE STATEMENTS I AM FILLING OUT.  YES  NO
- I HAVE MARKED MY OWN ANSWERS.  YES  NO
- LE HE ENSEÑADO A LA POLICIA LA PERSONA QUE ME GOLPEADÓ / AMENAZÓ.  SI  NO
- LE HE ENSEÑADO A LA POLICIA EL OBJETO QUE FUE UTILIZADO PARA GOLPEARME / AMENAZARME.  SI  NO
- HE INDICADO EN EL DIAGRAMA A DONDE FUI GOLPEADO / A.  SI  NO
- ENTIENDO TODAS LAS DECLARACIONES QUE ESTOY LLENANDO.  SI  NO
- HE VERTIFICADO TODAS MIS RESPUESTAS.  SI  NO

I affirm the information to be true and correct.  
 Afirmo que esta informacion es cierta y correcta.

VICTIM SIGNATURE/FIRMA DE LA VICTIMA \_\_\_\_\_ DATE/FECHA \_\_\_\_\_

PLEASE MARK WHERE YOU WERE ASSAULTED/INJURED  
 POR FAVOR INDIQUE DONDE FUE GOLPEADO/A

HGT. (Approx.) \_\_\_\_\_ WT. (Approx.) \_\_\_\_\_



TO ALL HEALTH CARE PROVIDERS:  
 I hereby consent to the release of my medical records for treatment related to this assault, case, or investigation to the police and the RI Dept. of Attorney General. I understand that my medical information may be used by police or the Attorney General for investigation or prosecution of this case. I understand that I can withdraw or revoke my consent, in writing, in the future.

Por este medio autorizo que mis expediente médicos relacionados a este asalto, caso o investigación se entreguen a los oficiales de la policía y al Procurador de R.I., mi informacion puede ser usada por la policía o el Procurador para el proceso de este caso. Yo entiendo que yo puedo retirar o revocar mi consentimiento por escrito el futuro.

SIGNATURE/FIRMA \_\_\_\_\_ DATE/FECHA \_\_\_\_\_

**O. TO BE COMPLETED BY RESPONDING OFFICER**

- VICTIM WAS UNWILLING TO GIVE SIGNATURE.  YES  NO
- VICTIM WAS UNWILLING TO MARK RESPONSES.  YES  NO
- OFF. MARKED VICTIM COULD / WOULD NOT.  YES  NO