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S. HRG. 102-1073

ANTISTALKING LEGISLATION



HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

ONE HUNDRED SECOND CONGRESS

SECOND SESSION

ON

S. 2922

A BILL TO ASSIST THE STATES IN THE ENACTMENT OF LEGISLATION
TO ADDRESS THE CRIMINAL ACT OF STALKING OTHER PERSONS

SEPTEMBER 29, 1992

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ANTISTALKING LEGISLATION

TUESDAY, SEPTEMBER 29, 1992

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The committee met, pursuant to notice, at 10:49 a.m., in room SD-106, Dirksen Senate Office Building, Hon. Joseph R. Biden, Jr. (chairman of the committee) presiding.

Present: Senators Biden, Thurmond, Simpson, and Grassley.

OPENING STATEMENT OF CHAIRMAN BIDEN

The CHAIRMAN. The hearing will please come to order. I apologize to our distinguished colleague from Maine, and the chief cosponsor of this legislation, for keeping him waiting, but it is so seldom we get the chance, we couldn't pass it up. I am only kidding, Bill. Welcome.

Senator COHEN. Democrats may have more fun, Mr. Chairman, but Republicans tend to be on time.

The CHAIRMAN. That is true. As long as we control the time, it doesn't matter. [Laughter.]

But that could change. It has changed before and I like it much better this way. Let me invite you in advance, Senator, that if you have time after you testify, we would like very much for you to join us and participate in this hearing, if you will.

Today, I am very pleased that the Judiciary Committee is holding a hearing on S. 2922, a bill to address the insidious crime of stalking. This crime terrorizes an estimated 200,000 people in this country, and I am glad the Senate has taken some action through the leadership of Senator Cohen. Joining us today is Senator Cohen, the chief sponsor, chiefly responsible for development and passage of S. 2922. I would like to commend you again, Bill, for your work.

I would also like to take this opportunity to welcome our witnesses and thank them for taking the time to share their insights and experiences with the committee. I notice that Congresswoman Pelosi is here, and we will move to you next, Congresswoman. I know you are as busy as we are. I look forward to hearing everyone's testimony.

Specifically, S. 2922 charged the National Institute of Justice to study the issue of stalking and develop model legislation which the States could use to enact as legislation or amend their current laws. I am happy to say that this bill passed the Senate as an amendment to the supplemental appropriations bill, again thanks to the efforts of Senator Cohen.

This study that we call for proves, in my view, more necessary now than ever before. During 1992, there have been a flood of antistalking laws hitting the books in States all across this country. In fact, 28 States have enacted these laws within the last year, and done an extraordinary job, given the lack of time and resources that many of these States are confronted with. But many of these States lack the adequate resources to very closely study all of the issues involved and surrounding stalking legislation, and this is where the Federal Government can help. It seems to me this is where we are uniquely qualified.

One of the purposes of the National Institute of Justice is to serve as a clearinghouse. We are able to, as a consequence of it being a Federal operation, attract from all over the country from all different States leading experts. We have the time to study the issue, and one of our purposes should be, and one of the intended purposes of the Institute is to provide model legislation the States then can or cannot, depending on their inclination, adopt.

Stalking is not a new phenomenon, as we all know. It is a crime that has plagued unsuspecting victims for years. However, several high-profile stalking cases have burst onto the front pages of the Nation's newspapers, drawing attention to the urgent need to help the countless numbers of victims, celebrities and ordinary citizens alike.

Today, we start the process of studying the problem and begin developing model legislation. However, there are several thorny issues that must be addressed if we are to develop a comprehensive, tough, and constitutional model law.

First, it is clear that there is not one type of stalker. Stalkers approach their prey in different ways and for different reasons. To develop an effective model law, we must look into whether or not the law can cover all the variations of stalkers that people face in this country.

Second, a model antistalking law should give law enforcement the necessary latitude to pursue stalkers before it is too late and families and loved ones are left with nothing but a tragedy as the inheritance for the effort.

Third, a model law must also ensure that constitutional rights are protected and that the freedom of speech and other constitutionally protected activities are not run over rough-shod in a zealous attempt to stop behavior that is construed as stalking, as harassing, as threatening. This is a very fine line we are going to have to draw as we attempt to draw model legislation, but if we don't attempt to do it, far too many people will suffer the agonizing consequences of stalking.

The Federal Government has the ability to thoroughly examine the confusing and complicated issue of stalking and develop good, strong, and fair laws. The Federal Government can cooperate with the States' efforts to cope with this serious problem by providing the necessary resources to help the States study and address the problem.

I look forward to hearing the testimony of witnesses, and I am anxious to start the process of developing model legislation to successfully attack the nightmare that plagues so many Americans.

I might point out, as we will hear from our witnesses today, before I yield to my friend from South Carolina, the ranking member, Senator Thurmond, what we are talking about here is not just the physical scars and consequences of a stalker. Quite frankly, the emotional scars, the trauma that it presents to individuals, the impact on their lives, their ability to lead lives, and their extended families, are absolutely catastrophic in some cases, and it seems to be on the increase, not on the decrease.

I would ask unanimous consent at this point to enter in the record some of the statistics. About 5 percent of the women in the general population will be victims of stalking at some time in their lives. No such figure exists for men. Fifty-one percent of stalking victims are ordinary citizens, and of that figure 13 percent are former employers of the stalkers. There are a number of other things we do know, but we also know that it is on the increase.

So I ask unanimous consent that these and other statistics be entered into the record as part of my statement.

[The information referred to follows:]

mounts a campaign of harassment to make the target aware of the stalker's existence.

** 47% have a Simple Obsession, where the stalker, usually a male, knows the target as an ex-spouse, ex-lover or former boss, and begins a campaign of harassment.

Witnesses

Senator William S. Cohen

Panel 1 - Victims

1. Jane McAllister -- Richmond, Virginia

Jane McAllister has been stalked for 11 years by a complete stranger who was in the audience at one of her public speaking engagements. He pursued her romantically at first, and when she politely declined his advances, his phone calls and appearances in public places she frequented increased, and she became fearful. Her story has been a joke among her friends, and she had trouble finding a lawyer who took her seriously. Jane lobbied for the enactment of Virginia's stalking law, which was passed on April 15, 1992. Interestingly, she has not heard from her stalker since the law was enacted, and she believes that he understands that the law applies to him. She started a stalking victims' support group in Richmond as a form of "therapy" for herself and others.

2. Sandra J. Poland, West Paris, Maine

Sandra Poland is a schoolteacher at Oxford Hills High School in West Paris. Her daughter, Kimberly, has been stalked by a man she barely knows for over 6 years. Because of the emotional distress her daughter has suffered, she preferred that Kimberly not attend the hearing. Mrs. Poland, her husband, and the Oxford County police officer who handled their case have also become objects of Kim's stalker's obsession. Sandra Poland testified before the Maine State Legislature on this case, and since then Maine has toughened its law to make a third offense of harassment a felony.

Panel 2 - Legal Issues

1. Lt. John Lane, LAPD Threat Management Division

John Lane is considered an expert in "threat management," and in the relatively new crime of stalking. Since the enactment of the California statute in January, 1991, his division has made only 7 arrests for stalking out of 150 cases involving varying degrees of harassment. (All 7 have been successfully prosecuted -- 2 of the 7 were women). Lt. Lane believes the "credible threat" provision in California's definition of stalking is difficult to prove. He points to situations where unwanted advances are not necessarily

they punish offenders. To date, 28 states have enacted anti-stalking laws. Many of these laws have been criticized as being too narrow to be effective or enforceable, or so broad as to be subject to constitutional challenge.

3. Federal assistance and direction by way of the NIJ's study and model legislation is highly appropriate, given the divergence of the states' approaches, and is welcomed by victims, law enforcement officials, state legislatures, and constitutional scholars alike. Victims and law enforcement officials want anti-stalking laws to be effective. State legislators lack the staff and the resources to conduct the extensive research that this issue requires. Constitutional scholars want to ensure that the rights of the accused are protected, and that constitutionally protected activity like investigative reporting and political protesting are not arbitrarily encompassed in the crime's definition.

The hearing will examine the problem of stalking and develop a record of testimony on the issue to provide direction to the National Institute of Justice (NIJ) as they begin the study of existing state statutes and development of model anti-stalking legislation, as required by Senator Cohen's legislation. The Department of Justice will submit testimony for the record indicating their support of the legislation.

Interesting Statistics

STALKING VICTIMS:

** About 5 percent of women in the general population will be victims of stalking at some time in their lives (no similar statistic is available for men).

** 51% of stalking victims are ordinary citizens. Of this figure, 13% are former employers of the stalkers.

** 17% are highly recognizable celebrities.

** 32% are lesser known entertainment figures.

THE STALKERS:

** There are approximately 200,000 people in this country who are currently stalking someone.

** 90% of stalkers suffer from at least one kind of mental disorder.

** 9.5% suffer from Erotomania, where the stalker falsely believes that the target, usually someone famous or rich, is in love with the stalker.

** 43% have a Love Obsession with their victim. In this case, the stalker is a stranger to the target but is is obsessed and

The CHAIRMAN. In order not to further delay the hearing, I would yield to my distinguished colleague from South Carolina.

Senator THURMOND. Thank you, Mr. Chairman. Mr. Chairman, today the committee is considering an issue of major importance to women across the Nation. The problem of stalking, where women are pursued and harassed repeatedly by menacing individuals, does appear to be growing. Stalking caught our Nation's attention when a young television star, Rebecca Schaeffer, was brutally murdered by a deranged stalker who had been following and harassing her for weeks.

Yet, stalking is not an isolated problem which only victimizes celebrities. Every day, women and men are being stalked across this Nation. In an effort to address this problem, States are quickly enacting laws which vary greatly in how they define stalking and how they punish offenders. Some of these 28 State laws have been criticized as either too narrow or too broad.

In response to the current disparity of statutes, Senator Cohen introduced S. 2922, which charges the National Institute of Justice with creating a constitutional and enforceable model antistalking law that can be used by the States. I have cosponsored this bill, and I joined Senator Cohen in offering it as an amendment to an appropriations bill earlier this month.

This hearing will examine the problem of stalking and Senator Cohen's bill. We will hear testimony from legal experts who will discuss the constitutional issues raised by this unique crime. In addition, the committee will also hear from victims. All of these witnesses should provide testimony which will assist the committee in determining how Congress can best assist the States in their effort to address this problem.

Mr. Chairman, I want to say that this is not an effort to pass a bill here at the Federal level. It is a bill to ask the National Institute of Justice to prepare a model bill that can be used by the States. We have done that on many occasions in the past. For instance, the negotiable instruments law and many other things have been handled that way. So it is not intended to make this a Federal crime. It is to prepare a model law that the States can use on this subject of stalking which is now a very important subject before the American people.

Thank you, Mr. Chairman. I commend Senator Cohen for what he has done, too.

The CHAIRMAN. Senator Simpson, do you have any comments you would like to make?

Senator SIMPSON. Mr. Chairman, I thank you and Senator Thurmond for your remarks. It is a very serious issue. I want to commend our colleague, Bill Cohen, Senator Cohen, who came here to this Chamber when I did. We were sworn in in 1979. He is a man who has my deepest respect and admiration, a very dogged and determined, bright, persistent, practical man.

He presented this to me many weeks ago and I said I would be very glad to help in that. I was a former city attorney and I watched these kinds of things take place. I practiced a great deal of domestic relations law, hundreds of divorces, child abuse, child molestation, incest, all sorts of hideous things that go with the practice of law whether you are in a big city or a little town.

I think the thing that is important for us is to get to a balance here where we don't impinge upon the citizens who may have a little bit different lifestyle than we note, especially in a small town. I can remember how the police would target certain people. They would say, well, he has been around the city park for 3 days and we don't know where he is from and we don't know who he is and he sleeps out there.

You have that to weigh versus the real pain of many a client I remember who said, but what are you going to do about this person, and then they would go to the police and they would say, we can't do anything until, quote, "something," unquote, happens. That word something is used in the powerful testimony of these two women, and I have read the testimony of Ms. McAllister and Ms. Poland. I read it last night. It is emotionally draining for you, I am sure. I want to thank you for this personal sacrifice and for your candor, and you deserve a great deal of credit and are to be congratulated for your courage.

So this is what we are up to. I would hope that all of the various groups in America will help us as we guide ourselves toward a model piece of legislation which strikes the balance, but does indeed—and if we are going to have a piece of legislation, it must, in my mind—recognize the victim more than the perpetrator. That is not exactly called a balance, but it is a necessary emphasis which the model legislation must have.

I look forward to working with Senator Cohen and with the committee. I think this is an excellent piece of legislation to get us started on an appropriate remedy for a very tragic situation.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Cohen.

STATEMENT OF HON. WILLIAM S. COHEN, A U.S. SENATOR FROM THE STATE OF MAINE

Senator COHEN. Thank you very much, Mr. Chairman. First, let me thank you and your staff for accommodating me this morning, and also for agreeing to hold this hearing. In spite of the fact that some action has been taken with respect to appropriations bills, it is important that this issue be raised to the very highest levels of national attention, and I appreciate your support, Senator Thurmond's, and Senator Simpson's.

As you have indicated, Mr. Chairman, the crime of stalking is insidious. It is frightening, and unfortunately it is on the rise. Our first two witnesses today are going to recount their personal experiences with their stalkers. Sandra Poland, from my home State of Maine, will point out the extent to which this crime can affect not only the intended victim, but the entire family. Jane McAllister, who has been stalked for 11 years, founded a support group of stalking victims in Richmond as a way to provide help for other victims.

While most incidents of stalking occur in relative obscurity, their tragic conclusions sometimes can make front-page headline news. Earlier this summer, the patrons of a sandwich shop in suburban

Boston watched in horror as 21-year-old Kristin Lardner was shot to death by her ex-boyfriend in the street outside.

Kristin, a budding young artist and daughter of veteran Washington Post reporter George Lardner, had tried to keep Michael Cartier away from her. Just 6 weeks prior to the time that he murdered her, Cartier had left her unconscious in a Boston street after he had repeatedly kicked her in the head and legs. After that particular incident, Kristin sought the protection of the courts. A 1-year restraining order was issued in May of this year ordering Cartier to stay away from Kristin's home and job and stop abusing her. Cartier had bragged to her it would be of no use whatsoever.

This young lady was an extraordinary individual who died in what is becoming a disturbingly ordinary way. Today, the leading cause of injury among American women is being beaten by a man. Nationally, an estimated 4 million men either violently attack or kill women they live with or date. Furthermore, about 5 percent of all women in the general population will be victims of stalking at some time during their lives.

Stalking of celebrities like Rebecca Schaeffer, as was mentioned by Senator Thurmond, and David Letterman are a regular part of the Hollywood news perhaps, but highly recognizable celebrities make up only 17 percent of stalking victims nationwide. The majority of stalking victims are ordinary citizens.

The profile of the stalker varies as well. It is estimated that 90 percent of stalkers suffer from at least one kind of mental disorder, which can include different forms of obsession and delusion. Women who seek protection from this abuse often face a judicial system that has traditionally viewed violence as domestic disputes, and even when the protection is sought, there is no guarantee the abuse is going to stop. There are studies in Detroit and Kansas City that reveal that some 90 percent of all those who are murdered by their intimate partners called the police at least once, and more than half have called five times or more.

In another Maine case, Karen, who prefers not to be identified, reports that her ex-husband has held her and her children captive, threatened her with a baseball bat, and chased her on highways at dangerously high speeds. Despite numerous protection orders filed against him, Karen's ex-husband's probation ends this week and she fears her ordeal is going to begin again. As she put it, "After Thursday, he could knock on my door." This, I think, goes directly to your point, Mr. Chairman, about the emotional stalking and the terror that is lodged in the heart of everyone who has been a victim.

I might point out, as Senator Thurmond has, that men can be victims of stalkers as well. In June, in my hometown of Bangor, ME, novelist Stephen King was the target of a California man who believed, after decoding several secret messages in news magazines, that Stephen King and not Mark David Chapman had killed John Lennon.

THE CHAIRMAN. We all have those nice fellows.

Senator COHEN. I know the chairman can speak from some experience with the kinds of letters he has received in the past as well, but I think this bizarre incident reveals how the bubble of personal privacy, even for a public figure, can be so easily broken.

As you pointed out, Mr. Chairman, in recent years the States have begun to enact legislation that gives law enforcement officials the power to act against stalkers before they reach their prey, and to date some 28 States have antistalking statutes and similar legislation under consideration. They passed it in most instances. In others—as in my own State of Maine, they are still working on one.

I believe, as you and the members of this committee do, that responsibility for enforcing antistalking legislation should remain in the hands of the States. But, unfortunately, these statutes are so broad, they may not pass constitutional muster, or they may be so narrow, as Senator Thurmond has pointed out, that they may be totally ineffective.

So the legislation that we are introducing and considering here today hopefully will draw the proper kind of attention to the problem and hopefully take some steps in the form of a model piece of legislation that other States can follow.

I would like to note that the legislation has the strong support of the Department of Justice. The representatives of the Department are here in the audience today. I received a letter indicating the Department's support for the legislation which I would like to include in the record.

The Department has also submitted testimony, and I appreciate their complete cooperation in this matter.

Justice Louis Brandeis identified the right to be left alone as the most comprehensive of rights and the right most valued by civilized men, and, I would add, women. Kristin Lardner only wanted to be left alone, and indeed no American should feel that they have no place to turn when they are the prey of stalkers. This legislation is but a small, and I hope a significant step in ensuring that our most, quote, "comprehensive right" is protected.

The CHAIRMAN. Senator, I thank you very much. I want to ask you just a few questions, if I may. We always focus—and I know from our private conversations we share a similar view on this, but we tend to focus on the tragic conclusions. However, I am of the view that the mere fact that stalking exists—in and of itself is a tragic conclusion.

Someone who is followed, someone who is stalked, man or woman, who constantly has to wonder about whether or not it is someone they know, constantly has to wonder about what may be the aberrant behavior of the person who—every time they open their car door, every time they press the little button on their garage door—is standing on the sidewalk. Every time they walk out of their apartment, every time their child is dropped off at school, every time they go by to park their car to get on the train—that in and of itself has such an incredibly disruptive impact on that individual and their entire family structure that it seems to me that even if there were no, quote, "tragic conclusions," even if there were no physical consequences from any stalkers, we should be attempting to come up with model legislation to, to use your phrase quoting Brandeis, figure out constitutionally how we can come up with a law that allows people that most basic right, the right to be let alone.

Do you share the view that whether or not there was aberrant behavior that resulted from the stalking, it still is a violation of a person's right of privacy in the broadest sense and should be dealt with?

Senator COHEN. Well, I share the view that just the mere presence day after day of an individual outside a person's home or office, someone watching one's children—that in itself produces the kind of emotional trauma—the expectation that serious bodily harm is going to come to either the individual or to one's children—that ought to raise the level of our concern and perhaps force us to deal with it.

The difficulty is, of course, that historically, especially in criminal law, it requires some act of aggression, some, to quote the California statute, "credible threat," which poses such serious problems for law enforcement officers.

So you may have a situation—we have members of the media here and we are delighted that they are covering this issue in such numbers, but you might have a case where a reporter is, quote, "stalking" an individual, a paparazzi trying to get a photograph of Jacqueline Kennedy.

The CHAIRMAN. We should lock him up, too.

Senator COHEN. Well, that raises the issue as to whether or not—

The CHAIRMAN. By the way, I am not sure that is constitutional. I am just expressing my emotion, not my intellectual inclination.

Senator COHEN. I agree with the chairman on that issue, but the fact is that the Constitution has been there to protect that individual's right to move wherever he or she may desire to move. So we have got a balancing act to perform, but I tend to agree with what Senator Simpson has said. We have to balance it in favor of, as best we can, of the victim rather than of the perpetrator. Just the mere presence of a stranger who watches a person's home, who just stands under a street light and watches night after night—that issue has to be addressed.

The CHAIRMAN. Senator, I would suggest that the way in which we dealt with stalking 10 years ago and 20 years ago is not necessarily relevant today because the world has changed so drastically. You are, to my great gratitude, a cosponsor of my violence against women legislation, which, in my view, for me, at least, is the—we almost had it worked out to get it brought up this week, and Senator Dole was being very helpful and cooperative. He feels strongly about it as well. We thought we had it worked out and one member, as any one member can in the waning days of the session, concluded that we should not move forward, but it is the single highest priority that I have for next year.

I know you know this, but I think it is important that stalking be placed in context. We are not talking about stalking when the murder rate was 8,000 people a year instead of 24,000 people a year. We are not talking about stalking in a land where there were not 21,000 domestic crimes against women reported by the police each and every week, where one-fourth of all aggravated assaults reported to the police are aggravated assaults in the home.

These figures reveal there are 1,100,000 aggravated assaults, murders, and rapes against women committed in the home and by

people who know them reported in the year 1991, and it is estimated from these hearings we have had by the experts that the figure is somewhere between three and five times greater than that.

We are not talking about an environment in which a woman should reasonably presume that someone following her was just doing that. Anyone in today's society has to assume that someone who follows them, in fact, if past is prolog, if the way in which crime has gone unabated in society—that they are in jeopardy.

I was saying this yesterday. I commute every day. On occasions when we are going to be very late, like this week, instead of taking the train to Wilmington, DE, because the last train is not a last train that I can take my staff has encouraged me, just for the 20 years that I have been here, when I drive back out of town heading to I-95 late at night, I now, driving myself, do not stop the car at street lights. I anticipate the light, so I slow up so that I never come to a full stop because if I stop at the light, there is a prospect someone is going to stick a gun in the window and hijack my car.

I went to leave here the other day. When I stay very late, I go down to the bottom of Capitol Hill here and stay at one of the two major hotels here because I don't have a dwelling here. I started out to walk down the stairs. The Capitol Hill Police stopped me and the Sergeant at Arms persons stopped me and said they were going to drive me.

Now, you and I have never been very big on perks, and that is not something I have looked for, anyone to drive me anywhere. I said, no, I can walk, it is only three blocks. They said, no, you can't. I said, why can't I? They said, well, a Congressman was just stabbed right outside the Hyatt not too many days ago, and two people were shot here in this park. This is on Capitol Hill.

I am a grown man thinking I am fully capable of taking care of myself. What in the hell do we think happens when a woman or a man, but particularly a woman with her child, every place she goes is followed by someone? Why, in this day and age, should she reasonably assume that it is a friendly gesture, that it means nothing other than a sense of adoration or affection? Why is it not reasonable for her to assume what society seems to dictate based on its actions that is the likely consequence? How can it be good?

As you know, Senator—and I will stop—usually when I run for office, my opposition always talks about Biden being too much of a civil libertarian. I have not been one, in my 20-year record here, who has been inclined in any way to cut corners in terms of constitutional protections. It has usually been, arguably, the opposite; I give too much leeway to constitutional protections.

But I feel so strongly about this, particularly in the context of what is happening in society, that I think we have got to assume that people are in jeopardy when they are stalked rather than assume that it is the constitutional right of someone to do it. I realize that is heresy coming from me.

I apologize for what turned out to be a little diatribe rather than a question, but if you want to comment on any of that, please feel free.

Senator COHEN. Would you like to repeat the question for me? [Laughter.]

The CHAIRMAN. Do you agree?

Senator COHEN. Well, I do agree that the circumstances under which a woman may find someone following her on a repeated basis should, in fact, reasonably presume that that individual intends some harm toward her. The difficulty is she doesn't know exactly when it is coming. It might come initially in the form of simply an amorous proposal; I like you, I am in love with you, can we have a date. And it may sound inoffensive at that point, but then if it is rejected, suddenly the amorous nature of the approach turns hostile and violent and phone calls start to come; if I can't have you, no one can have you. Then it takes on an insidious tone.

So I think the presumption should be that there is a potential threat there. The danger that we have to deal with is in defining what is a repeated following, a repeated stalking. If you have just one time, a man waits outside to catch the eye of a woman, is that going to be sufficient to charge that individual with a crime? I suspect not. If it is a second or third time, must she say stop or else? Must she call the police in order to start this process in motion? I think those are issues that we are going to call upon the National Institute of Justice to define for us, and refine.

The CHAIRMAN. Well, thank you, Senator.

I will yield to my colleague from South Carolina.

Senator THURMOND. I have no questions.

Senator SIMPSON. No, Mr. Chairman. Thank you.

Senator GRASSLEY. I don't have any questions, but I do want to announce that I am a cosponsor, and thank you for your leadership in this area and I am glad to be cooperating with you.

The CHAIRMAN. Thank you. Thank you, Bill, for your help on the violence against women as well.

[The prepared statement of Senator Cohen and the aforementioned letter and statement of the Department of Justice follow:]

Statement of Senator William S. Cohen**Senate Judiciary Committee****September 29, 1992**

Thank you, Mr. Chairman. I want to thank the Chairman of the Committee, as well as his staff, for holding this hearing to address the growing problem of stalking in this country. Senator Biden, Senator Thurmond, and several other members of this committee have cosponsored my legislation on this issue, and I am very grateful for their support through this process.

From the point of view of victims, law enforcement officials, state legislators, and scholars alike, it is no mystery why this issue is so difficult to address. "Stalking" is an old problem that we are only beginning to understand and define. The crime that we now know as stalking is insidious,

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frightening, and unfortunately, on the rise. Our first two witnesses today will recount their personal experiences with their stalkers. Sandra Poland, from my home state of Maine, will point out the extent to which this crime can affect not only the intended victim, but entire families. Jane McAllister, who has been stalked for eleven years, founded a support group for stalking victims in Richmond as a way to provide help to other victims.

While most instances of stalking occur in relative obscurity, their tragic conclusions sometimes make front page headlines. Earlier this summer, the patrons of a sandwich shop in suburban Boston watched in horror as twenty-one year old Kristin Lardner was shot to death by her ex-boyfriend in the street outside.

Kristin, a budding young artist and the daughter of veteran Washington Post reporter George Lardner, had tried to keep

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Michael Cartier away from her. Just six weeks before he murdered Kristin, Cartier had left her unconscious in a Boston street after he kicked her repeatedly in the head and legs.

After this incident, Kristin sought protection from the courts. A one-year restraining order was issued in mid-May, ordering Cartier to stay away from Kristin's home and job, and to stop abusing her. Cartier had bragged to Kristin that restraining orders would do no good. On May 30, Michael Cartier proved to the world that he was right.

Kristin Lardner was an extraordinary young woman who died in what is becoming a disturbingly ordinary way. Today, the leading cause of injury among American women is being beaten by a man. Nationally, an estimated 4 million men kill or violently attack women they live with or date. Furthermore, about 5 percent of women in the general population will be victims of stalking at some time in their lives.

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Stalking of celebrities like Rebecca Schaeffer and David Letterman are a regular part of Hollywood's news, but highly recognizable celebrities make up only 17 percent of stalking victims nationwide. The majority of stalking victims are ordinary citizens.

The profile of the stalker varies as well. It is estimated that 90 percent of stalkers suffer from at least one kind of mental disorder, which can include different forms of obsession and delusion.

Women who seek protection from this abuse often face a judicial system that has traditionally viewed such violence as "domestic disputes." Even when protection is sought, there is no guarantee that the abuse will stop. Studies in Detroit and Kansas City reveal that 90 percent of all those murdered by their intimate partners called police at least once; more than half had called five times or more.

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In another case in Maine, Karen, who prefers not to be identified, reports that her ex-husband has held her and her children captive, threatened her with a baseball bat, and chased her on the highway at dangerously high speeds. Despite numerous protection orders filed against him, Karen's husband's probation ends this week, and she fears her ordeal will begin again. As she put it, "After...Thursday, he could knock on my door."

The difficulty that our legal system has in protecting individuals from former intimates also extends to cases in which abuse comes from a complete stranger.

Ten years ago in Vermont, Rosealyce Thayer's 11-year-old daughter, Caty, was stalked by a man for 19 months and the police did nothing. One day Mrs. Thayer found Caty organizing her dolls. When her mother asked her what she was doing, the little girl said she was deciding which dolls would go to various friends after the man killed her.

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Despite Rosealycce Thayer's efforts to protect her daughter when the police would not, little Caty was kidnapped and later found dead. She had been raped repeatedly and stabbed.

Men can be victims of stalkers as well. In June, in my hometown of Bangor, Maine, novelist Stephen King was the target of a California man who believed, after decoding secret messages in news magazines, that King, not Mark David Chapman, had killed John Lennon. This bizarre incident indicates how the bubble of personal privacy, even for a public figure, can so easily be broken.

Only recently have the States begun to enact legislation that gives law enforcement officials the power to act against stalkers before they reach their prey. The nation's first anti-stalking law was enacted in California in 1990 after actress Rebecca Schaeffer was shot and killed by a deranged fan. To

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date, twenty-eight states have anti-stalking statutes and similar legislation is under consideration in many others.

I believe that responsibility for enacting and enforcing anti-stalking legislation should remain in the hands of the States. Unfortunately, many of these statutes are so broad that they may not pass constitutional muster. For instance, many observers have been critical of a Florida anti-stalking statute that allows police to make an arrest without obtaining a warrant or catching the suspect in the act of stalking. Others have called for modifications to the California statute to broaden its scope in order to provide more effective protection.

The legislation that Senator Biden and I have introduced will ensure that these difficult issues receive proper attention and action at the national level. Our bill instructs the National Institute of Justice, which is the Federal Government's

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principal criminal justice research and development agency, to do four things:

- (1) Evaluate anti-stalking legislation and proposed anti-stalking legislation in the States;
- (2) Develop model anti-stalking legislation that is constitutional and enforceable;
- (3) Share its findings with State authorities;
- (4) Within year of enactment, report to the Congress its findings and the need or appropriateness of further action by the Federal Government.

It is my hope that enactment of this legislation will help us to focus national attention on a very serious problem and ensure that our citizens are protected by enforceable anti-stalking statutes, no matter where they reside.

I would note that our legislation has the strong support of the Department of Justice, and that representatives of the

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Department are in the audience. I received a letter indicating the Department's support for the legislation which I would like to include in the record. The Department has also submitted testimony, and I appreciate their participation in this process.

Justice Louis Brandeis identified the "right to be left alone (as) the most comprehensive of rights and the right most valued by civilized men." Kristin Lardner only wanted to be left alone. Indeed, no American should feel that they have no place to turn when they are the prey of stalkers. This legislation represents a small but significant step in ensuring that our most "comprehensive of rights" is protected.

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

September 17, 1992

The Honorable William S. Cohen
United States Senate
Washington, D. C. 20510

Dear Senator Cohen:

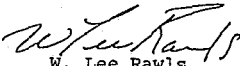
The Department of Justice has been reviewing the important issues raised by your bill (S.2922) that would assist the states in the enactment of legislation to address the criminal act of stalking other persons.

In this regard, we would like to mention that we understand that there will be a hearing in late September on this issue before the Senate Judiciary Committee. We consider this a positive development and we certainly would want to be of assistance to you and the Committee in the development of legislation on this increasingly significant criminal justice problem.

In addition, the Department of Justice welcomes the recent adoption of your stalking amendment by the Senate in its supplemental appropriations bill. This is a significant step forward and it is certainly our hope that this language will be retained in the underlying legislation.

Finally, if we can be of any assistance to you, please do not hesitate to contact me. We appreciate very much your efforts on behalf of stalking victims.

Sincerely,



W. Lee Rawls
Assistant Attorney General



Department of Justice

STATEMENT

OF

CHARLES B. DEWITT
DIRECTOR
NATIONAL INSTITUTE OF JUSTICE

BEFORE

THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

CONCERNING

STALKING

ON

SEPTEMBER 29, 1992

I would like to thank the Senators for affording me the opportunity to present these remarks. The Department of Justice, and the agency I am privileged to lead, the National Institute of Justice, fully appreciate the leadership role taken by Senators Cohen, Biden, McCain, Rudman, and Reid in bringing this legislation before the Congress.

While the criminal act of stalking another person is a critical problem with nationwide implications, it is only within the past year that it has begun to receive the attention it merits. At the beginning of this year, only one state -- California -- had an anti-stalking law on its books. Now, 27 States have anti-stalking laws; anti-stalking measures are pending in Michigan, New Jersey, and Pennsylvania; Texas and Indiana are among the States preparing anti-stalking legislation to be introduced next year.

Legislative action is well underway here in the Washington area. Both Virginia and Delaware have enacted anti-stalking legislation this year; the State of Maryland is considering legislation to toughen laws on domestic abuse and how it relates to stalking.

The National Institute of Justice has been involved in research addressing this problem for some years. In 1989, the results of an NIJ study were presented in an Institute report "Mentally Disordered Offenders in Pursuit of Celebrities and Politicians". This project studied mentally disordered persons who pursue

public figures, and an article adapted from the NIJ report was published in the *Journal of Forensic Science*. Copies of the NIJ report were provided to the U.S. Secret Service and the U.S. Capitol Police, and are available through the Institute's information clearinghouse, the National Criminal Justice Reference Service.

This study was significant in that it told us that those persons most at risk from the subject are not necessarily public figures or their protectors, but the family members and neighbors of the individual.

The findings of this first study are, of course, preliminary and not conclusive. We are obviously just beginning to examine this topic. However, there were some surprises.

- For subjects pursuing entertainment figures, threatening statements on average have no relationship to the risk.
- For subjects pursuing *political* figures, threats -- on average -- were actually associated with a reduced level of risk.

There were significant differences between those who approach their targets and those who do not.

- Subjects who expressed a desire for face-to-face contact

were more likely to approach.

- Subjects who telephoned in addition to writing were more likely to approach.
- Subjects who sent "hate mail" were less likely to approach.
- Subjects who sent obscene letters were less likely to approach.

Returning to prior Institute research, NIJ's *Issues and Practices* publication "Civil Protection Orders", issued in 1990, resulted from a nationwide Institute study and explains how local judges can use civil protection orders in an attempt to protect victims of domestic violence -- an area where stalking may result in injury and death.

The Institute is currently working with the U.S. Secret Service and the U.S. Bureau of Prisons on an unprecedented study of those who threaten, stalk, approach, and/or attack public figures. This study represents a partnership between the Secret Service and the Justice Department which will contribute to the understanding of threats and assassinations. It is our expectation that it will greatly increase knowledge about the types of persons who engage in violent behavior toward public officials at the Federal, State, or local level. The study should also shed light on mental illness exhibited by those men

who have stalked women other than public figures and celebrities.

It is NIJ's mission to develop programs that will assist State and local governments and criminal justice agencies to prevent and reduce crime. Perhaps the most important of our goals is finding out just *what* programs work, what approaches to crime prevention are effective, and communicating that information across the Nation.

NIJ is eager to work with this Committee in evaluating State anti-stalking legislation and helping to develop laws that will be constitutional, enforceable, and effective in combating this serious problem.

The CHAIRMAN. Our next witness is the very distinguished Congresswoman from the San Francisco area, Congresswoman Nancy Pelosi, and we are pleased to have her here. We know her schedule is extremely busy. We, at first, only had her written testimony. We are delighted, though, that she is here in person to testify.

Congresswoman, please proceed in any way that is most comfortable for you.

**STATEMENT OF HON. NANCY PELOSI, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Ms. PELOSI. Thank you very much, Mr. Chairman, and the manner that is most comfortable will be most brief. I come here to commend the committee—you, Mr. Chairman, the ranking member, and the members of the committee—for holding this important hearing, and to really express my praise for Senator Cohen for taking such strong leadership on this issue. Without him, I think that this issue would not have received in the Congress of the United States the attention it deserves and the success that it is receiving.

I was very pleased to be invited by Senator Cohen to introduce a companion bill in the House of Representatives. As you know, his bill in the Senate has 38 cosponsors. Our bill, H.R. 5876, in the House has 31. That is not just seven more. In the Senate, that is pretty remarkable, considering that is 38 out of 100—clearly, a recognition of his fine leadership on this issue.

You know what the legislation does; you have all been through it. There are currently 21 States which have adopted antistalking laws. However, as has been pointed out, sometimes these have been found to be too broad or deemed unconstitutional, or too narrow, as Senator Thurmond pointed out, to be effective. If these laws are to be successfully challenged, previously convicted stalkers may be allowed back on the streets. Statutes that are too broad may preclude legal activity, such as a reporter investigating a public official for a story.

Senator Cohen mentioned, and we were all appalled by the case in Brookline, MA, so I won't go into Kristin Lardner's case, except to say that I hope it will serve to prevent that from ever happening again to anyone else to that extent. Other victims who are harassed by a former intimate often have their cases dismissed, as you mentioned, as domestic disputes.

This problem is so urgent that I have worked to include language requesting the NIJ establish a model antistalking law in the 1993 Commerce, State, Justice, and Judiciary appropriations bill the subcommittee on which I serve, which we had in conference on Friday. But Senator Cohen was still ahead with his language in the supplemental. The bill will come to the floor and will not, I don't believe, have any problem, since this committee doesn't appear to call a point of order of the legislation and the suggestion in the appropriations bill.

I am encouraged that this hearing will focus attention, and I know we have very impressive witnesses that we are all eager to hear from to build the record for the necessity for this. I am

pleased that Senator Cohen said the Justice Department is supportive.

I just wanted to add one thing, that since Senator Cohen invited me to introduce this legislation in the House, I have shared this introduction with my constituents, I was frankly—and I am not amazed too frequently, amazed to see the number of people who have come forward. Whether it is in a woman's health meeting or a political meeting of men, women, whenever this legislation has been brought up, there has been an immediate response, very positive, from the audience, but more especially individuals who have approached me afterward to talk about their own particular case.

So while I thought it was necessary to begin with—and Senator Cohen has made that very clear in his leadership—I have found out just how necessary it is, but you will find that out with the impressive witnesses that are here. I am proud that we will have a representative from California, Lt. John Lane, and he will tell you more about our situation in California.

I know you want to get on with it, so I thank you again for the opportunity to testify today.

The CHAIRMAN. Well, thank you, Congresswoman. The point is that we know that there are about 200,000 stalkers, at least, out there—200,000 Americans.

I would just like to ask you one question. The stalking legislation hopefully will impact upon people being, in my view, held hostage in their homes and their cars and their workplaces by individuals who never approach them sometimes, never touch them, never speak to them, but nonetheless have an absolutely crippling impact on how they are able to function.

But there is another problem we have that is similar and I would like your consideration of it, not necessarily now, unless you would like to speak to it, and that is that you are fully aware of what a stay-away order is. Many times, a court will issue in family disputes or disputes between lovers, former lovers, a stay-away order. But one of the unfortunate things about stay-away orders—and there are more women killed as a consequence of stay-away orders not being observed than are killed as a consequence of stalking.

One of the problems is they are not enforceable across State lines. So in my circumstance, in the State of Pennsylvania, after a woman goes through an extensive legal round to get a court to enjoin someone to stay away from her, not come within so many feet, usually because she has been physically brutalized or beaten or victimized by that individual—if she crosses the State line to go shopping at the mall in Delaware or business takes her to the duPont Co. office or she visits her mother who lives in New Castle County, that individual can come across the line and not in any way be held accountable for his actions.

So I would like you to consider—again, in the violence against women legislation, part of that is—as pointed out by my friend from South Carolina, we are not attempting to federalize stalking orders, but I know of no way to deal with stay-away orders, for them to have any consequence, unless they are able to have interstate applicability. Otherwise, you put a woman, especially a business woman who has family in an extended State area, in a situation where she literally would have to seek—and it is an expensive

proposition—stay-away orders—and it is time consuming—in multiple States in order just to have the right to have a prospect of her safety being enhanced, but not guaranteed.

I wonder whether you have any ideas on that now, and if so I would be happy to hear them for the record.

Ms. PELOSI. Well, I would like to make two very brief comments. One is that I appreciate the worth of your legislation on violence against women. I am a cosponsor in the House of Congresswoman Boxer's—soon to be your colleague here, perhaps on this committee—

The CHAIRMAN. There is no way out for her if she wins.

Ms. PELOSI [continuing]. Her companion legislation in the House of Representatives, and certainly see the need for it. In closing, I would like to say I am impressed by the understanding that the committee has for the need for this legislation, and I am pleased to have heard it first hand here today. Thank you again.

The CHAIRMAN. Senator Thurmond.

Senator THURMOND. Thank you for your presence. I have no questions.

Ms. PELOSI. Thank you, Senator Thurmond.

The CHAIRMAN. Senator Simpson.

Senator SIMPSON. Congresswoman Pelosi, I have come to respect and regard you highly. We have worked together on some things, and apart on other things, but always with cordiality, and I do regard you very highly. I can see your great interest here, just as when you express an interest in other things that are very important to you, whether it is MFN status for China or whatever it is. You involve yourself fully.

Let me just ask you a question. It seems to me—and I ask you if you find the same thing as a fellow legislator—that we have these laws in the 28 States. Some of them just look like they were kind of slapped together. They are challenged by both sides. They are too vague, too specific. What do you find there? How do we guide ourselves in this fine line between the unrequited love person who says, I cherish this person, I want them forever, and then the mentally ill, the criminally-inclined, or in the one case we will hear today the drug-induced type, at least enhanced, obsession?

So what is your thought there? Do you think it is going to be up to us to kind of let that cool down and see where we are with all that?

Ms. PELOSI. Well, it has been mentioned by a constitutional standpoint and from an effectiveness standpoint, some of the laws are too broad, some are too narrow. But I think that if you are the victim of a stalker, whether it is an unrequited lover or a person who is mentally deranged, the effect on you is fairly similar.

I know we will hear from Ms. McAllister today, who has her own story to tell, and she is very courageous to do so, and Lieutenant Lane, who will tell you about our particular law and what the credible threat problem—proving that as far as our own California law is concerned. I met the Chair of the judiciary committee from Michigan and I know he will have some expert testimony.

But I don't think you can make a distinction. If you are a victim, regardless of the stalker, whether it is an unrequited lover or a deranged person, you are still a victim. As Senator Biden pointed out

so clearly, the act of stalking is a terror even if no physical violence comes of it.

Senator SIMPSON. I indeed concur that our emphasis here is the victim. I do concur. You do concur with that?

Ms. PELOSI. I concur.

Senator SIMPSON. I surely do, indeed. Thank you very much.

Ms. PELOSI. Thank you, Mr. Simpson.

The CHAIRMAN. Senator Grassley.

Senator GRASSLEY. Mr. Chairman, I have no questions of this witness.

The CHAIRMAN. Senator Cohen.

Senator COHEN. No questions, Mr. Chairman. I just want to commend our witness today. It is pretty clear from the way in which she presented this testimony the reason why I called upon her to be the major sponsor of the legislation in the House. She is a singularly effective legislator and I know that she is going to help move this and Senator Biden's legislation through.

Ms. PELOSI. Thank you, Senator Cohen.

The CHAIRMAN. Effective and unrelenting. Nice to have you, Nancy. Thank you for coming over.

Ms. PELOSI. Thank you, Senator.

[The prepared statement of Ms. Pelosi follows:]

CONGRESSWOMAN NANCY PELOSI
TESTIMONY BEFORE SENATE JUDICIARY
COMMITTEE ON ANTI-STALKING LEGISLATION
September 29, 1992

Mr. Chairman and the Senate Judiciary Committee, thank you for holding today's hearing on the problems confronting victims of stalking. I appreciate the opportunity to present testimony. I would also like to commend Senator Cohen for requesting this important hearing and his leadership on this issue. Stalking is a frightening and tragic problem. I am pleased to add my support for legislation addressing the legal steps that can be taken to protect them. These unfortunate people are harassed and often killed by their perpetrators and they have few ways to protect themselves.

I would like to further commend Senator Cohen for his leadership in introducing S. 2922, which has 38 cosponsors. I have introduced H.R. 5876, its companion bill in the House of Representatives, which currently has 31 cosponsors. This legislation would direct the National Institutes of Justice (NIJ) to create a constitutional and enforceable model anti-stalking law for adoption by states. It would also require the Attorney General to report to Congress on the need for further action within one year.

There are currently twenty-one states which have adopted anti-stalking laws. However, many of these laws have been found to be too broad and deemed unconstitutional or too narrow and are found to be ineffective. If these laws are successfully challenged, previously convicted stalkers may be allowed back on the street. Statutes that are too broad may preclude legal activities, such as a reporter investigating a public official

for a story.

We were all appalled by a recent case in Brookline, Massachusetts, which highlighted the problem of stalking and the inadequate legal protection for victims. As you may know, Kristin Lardner, a twenty-one year old art student, was stalked by an ex-boyfriend who after a few weeks shot her to death. Kristin had gone to the police and was granted a one year judicial restraining order against him but it was not enough to protect her. Many victims seek legal protection but are frequently told that nothing can be done until they are physically harmed. Other victims who are harassed by a former intimate often have their cases dismissed as a domestic dispute.

This problem is so urgent that I have worked to include language requesting that the NIJ establish a model anti-stalking law in the 1993 Commerce, State, Justice and Judiciary Appropriations bill. Victims of stalking should be provided with basic protections from their perpetrators. I am encouraged that this hearing will focus attention and efforts to examine and address the problem of the lack of legal protection for victims.

Again, I would like to thank Chairman Biden, the Senate Judiciary Committee and Senator Cohen for bringing attention to this tragic problem and show the importance of this significant legislation to help provide adequate legal protection for the people who are terrorized by stalking.

The CHAIRMAN. As we call our next panel, I would just like to posit the following notion with my friends. When some have criticized us for focusing—and there has been some private criticism of my moving this hearing so rapidly, and it generally comes from men. I wonder how many men would feel secure if every time they walked out of their house there was a 6 feet 7 inches, 290-pound guy just watching every move they made. It increases the sense of vulnerability.

In most of the cases where women are being stalked, there usually is not a physical equality that allows a woman to even be able to kid herself that, short of some external instrument to protect herself, she is likely, if it goes as badly as it may, to be able to fend for herself. I mean, it is incredible how we just sort of brush this off.

At any rate, our first panel is made up of two very important people. Ms. Sandra Poland is the mother of a stalking victim, and currently she and her family are the targets of her daughter's stalker. Would you please come forward, please?

Since 1984, Ms. Poland and her family have been coping with this harrowing ordeal and she has had extensive experience with the legal system surrounding the stalking issue. She has testified before the Maine State Legislature as an advocate for a stalking law.

Also, I would like to invite Ms. Jane McAllister, if she would please come forward. Since 1981, she has been the victim of a stalker. Ms. McAllister was stalked immediately following her original meeting with her stalker, but after confronting him he stopped, until 1990 when he once again began to haunt her.

Since the passage of the Virginia stalking statute in 1992, Ms. McAllister has not heard from her assailant, and pray God she won't again. She has started a support group for stalking victims in the Richmond, VA, area and has played a key role in helping enact stalking legislation in Virginia.

We welcome you both, and I want to make it clear to you both that this is—although there are a lot of lights and it is a big room and we are sitting up here and you are down there at that table, this is not anything other than, hopefully, the ability to have you converse with us. We want you to feel comfortable, as comfortable as anybody could feel coming down from Maine or up from Richmond to sit in this room.

Fortunately, neither of you are being nominated for the Supreme Court. Every time anybody thinks of this committee, I think that is what they think. But, truly, go at any pace you want. Anything you want to say, we are here to learn from you and it is not formal, notwithstanding the surroundings.

Please, Ms.—it is pronounced Poland, correct?

Ms. POLAND. Yes, it is. Thank you.

The CHAIRMAN. Ms. Poland, would you please tell us about your experiences and the experiences of your family?

**STATEMENTS OF A PANEL CONSISTING OF SANDRA POLAND,
WEST PARIS, ME; AND JANE McALLISTER, RICHMOND, VA**

Ms. POLAND. I would be glad to. Thank you. Chairman Biden, Senator Cohen, members of the committee, I am here to speak in

support of S. 2922, which addresses the criminal act of stalking. Although I will try to be brief, it is difficult to condense 8 years of ongoing harassment. On the advice of my attorney, I will refer to our aggressor as John Doe, but please keep in mind, although the name is fictitious, the events are terrifyingly true. As I recount them, please try to imagine them happening to your daughter or your son.

In the fall of 1984, our daughter Kimberly's picture appeared in a local newspaper as the winner of the Miss Oxford County Fair Pageant. The day after the picture was published, Mr. Doe began to contact Kimberly by constant telephone calls and letters which he often left in our mailbox or on our doorstep.

From the beginning, Kimberly told him she was not interested in becoming an acquaintance of his, and asked that he stop calling and writing letters to her. Ignoring her requests, he continued to call and drop by our house with letters. At one point, he even left his old Army fatigue uniform, saying he wanted Kimberly to have it for her Christmas present.

At that time, my husband, Kenneth, intervened, telling Doe that Kimberly was not interested in talking to him, and asked him to stop trying to contact her. In response, Doe began to stop by the store where Kimberly worked. He did not speak to her there and she did not even recognize him at that point, but he would call later and tell her that he had seen her at work, and even describe what she had been wearing. It was at this time that we became very alarmed by this unusual behavior.

In 1986, Doe visited Kimberly at Stephens Memorial Hospital, where she was recovering from surgery. She had to call a nurse to evict him when he refused to leave. Soon after, his letters became more and more frightening, taking on a threatening aspect. In one, he spoke of finding out where she went to college and kidnaping her. In another, he included a drawing of arrows with blood dripping from them. The next morning, we found an arrow lodged in a tree at the end of our driveway.

Concerned for Kimberly's safety, we went to the sheriff's department, where we obtained protection from harassment papers. Doe paid no more attention, however, to these papers than he had to Kenneth's and Kimberly's requests, continuing to call and write. In September 1987, he wrote, and I quote, "If you say you won't, I will try my best to plain outright kidnap you for a night," end of quote. He wrote that he had gone to the Norway Library, dug out the 1984 Advertiser Democrat, and looked up the article reporting the beauty pageant. Quote, "I seen that shine in your eyes, and all that I assumed was true came back to me in my memory," end of quote. He also talked of giving up drugs if Kimberly would begin talking to him.

In March 1988, Doe was arrested in Massachusetts after tracking down Kimberly at college and making threatening phone calls to her. At the time of his arrest, he was carrying a briefcase full of letters to Kimberly and wearing around his neck a set of wedding rings that he had bought for her.

At that time, he was sent to Bridgewater State Hospital for the Criminally Insane, Bridgewater, MA, where he was evaluated and incarcerated for approximately 17 months. Then in August 1989,

Doe was transferred to Augusta Mental Health Institute, Augusta, ME, under the pretense that he wanted to be nearer to his family. Within a month, he was released from Augusta Mental Health Institute, but voluntarily remained there until November.

Shortly after his release, Detective Jim Miclon of the Oxford County Sheriff's Department asked Doe why he didn't get a job and forget about our family. His reply: "This is my job," and apparently it was. He continued to contact Kimberly's friends trying to locate her. We received more letters from him, and in January 1990 two separate collect calls from Doe enabled us to get the area code from the operator, placing him back in Massachusetts again tracking down Kimberly.

At this point, we were told by our attorney that there was no legal solution to this problem. Everything that the law allowed had already been tried. He told us that the only way Kimberly could be safe was to change her identity, move to a—

The CHAIRMAN. Take your time, take your time.

Ms. POLAND [continuing]. Move to another part of the country and sever all ties with everyone, including her own parents, never again making contact with any of the people she loves.

On February 23, Doe was arrested for contempt of court for violating the protection from harassment papers. He was transported to St. Mary's Hospital and then sent to Augusta Mental Health Institute. He was released from Augusta Mental Health Institute on March 14, only 3 weeks later. Two days after his release, Doe appeared at Lewiston High School, acting strangely enough for guidance personnel there to summon the principal, Richard Sykes.

Sykes reported later in a letter to me that Doe, quote, "pulled a large manila envelope from his shirt and withdrew a newspaper clipping of a picture of girls in a beauty contest. He pointed to one girl whose name in the picture was Kim Poland and stated that this was the girl he loved and was going to marry," end of quote. Sykes was so alarmed by Doe's behavior that he called the principal of the school from which Doe had graduated.

Meanwhile, Doe continued to track down Kimberly's whereabouts. Two weeks later, on March 30, 1990, I received word that Doe had entered Kimberly's dormitory and asked for her. The Boston police were summoned and Doe was escorted from the campus and told that he would be arrested if he returned.

He left a note for Kimberly with the girl on duty in the lobby. He ended this letter saying, quote, "Remember I told you that my name was Mark Andrews. Well, I've discovered a lot about my heritage. Look at encyclopedia Britanica Vol. 10 p 1. The reason I was a twin on St. Patrick's Day is because of a Nazi genetic experiment and my sister Paula is really my twin, because the birth record shows she was born 9 months later. What woman has twins and a baby in 9 months?" end of quote.

We never know where he will be next. In June 1990, after we had been seated for our son Shane's high school graduation, Doe suddenly appeared. He stood at the side of our section of chairs, staring directly at us. Terrified, Kimberly wanted to go home immediately. Only after we made the police aware of the situation did we feel that we could remain to see our son graduate. Fortunately

for us, Senator George Mitchell was the commencement speaker that evening and security was tighter than usual.

Since then, Doe has continued to harass us. A tap on our phone line revealed it was Doe who called several times throughout the day and throughout the night, only to listen and hang up when we answered. He was finally arrested and taken to jail. That night, he called us collect from the Oxford County Jail, where he had been taken to serve time for harassing us.

The impact of this ordeal on Kimberly has been profound. She suffers from severe nightmares about being caught and killed. She has had to move five times within the past 4 years, leaving no forwarding address. She has had to come home from school, missing classes, when Doe was in Massachusetts because she did not dare to remain there. In her last semester, Kimberly missed her finals because of stress-related illness. She later talked to her professors, trying to schedule a makeup exam and explaining that she had been under inordinate stress. One professor asked her to elaborate and when she told him the whole story he said, quote, "You're lying; no one could have all that happen to them," end of quote.

She is one course away from having a college degree because of the things he has done and because they are too bizarre to be believable. Despite having no degree, through hard work and perseverance, Kimberly began a promising career in music promotion, the field for which she has been trained and educated. She has had to give up this career, however, because she cannot advertise or even list her name in the phone book, for fear that Doe will find her.

There is no way to describe to you the fear that our family has of this individual, no way to describe what it is like to live a life of constantly being on guard. Kimberly, her dad, and I all suffer from stress-related symptoms, including headaches, backaches, nervousness, restlessness, as well as fright. We have installed new locks on our doors and keep them locked at all times. We have all obtained concealed weapons permits. We go to bed with a gun under our pillow. I have had to hide all my kitchen knives.

We do not dare to leave our adult children by themselves in our home. We do not discuss Kimberly's whereabouts with any of our closest friends or relatives. We can't even tell Detective Miclon where she is because, by law, he would have to disclose that information to Doe's attorney. We worry constantly about what will happen next. We who are hard-working, law-abiding, tax-paying citizens are the ones who have become imprisoned by Doe's obsession.

There is no doubt that this man is criminally insane. We have been told that many times over the past 8 years by personnel at Augusta Mental Health Institute and at Bridgewater State Hospital for the Criminally Insane by doctors, lawyers, and even by Doe's own mother. He has threatened not only Kimberly and my husband, Kenneth, but also Detective Miclon and the officer who arrested him in Massachusetts.

For 8 years, we have tried to resolve this problem through the existing legal system. We have filed protection from harassment papers four times. Doe ignores them. He has been arrested, convicted, and sentenced four times. His brief periods of incarceration do

nothing to convince him that he must leave us alone. Each time he is released, he begins again to harass my family and to try to track down Kimberly. Nor has he received sufficient help from either Bridgewater State Hospital for the Criminally Insane or Augusta Mental Health Institute to get over his obsession with Kimberly. In fact, as we trace the deterioration of his mental stability through the contents of his letters, we realize he has become more and more dangerous and less and less grounded in reality.

Despite the threats Doe has made against our lives, despite his repeated violations of restraining orders, despite the professional assessment of him as dangerous, both the district attorney and our attorney have said that nothing can be done until Doe has done something. What is the "something" that they must wait for him to do—kidnap Kimberly, rape Kimberly, or kill her? Would you be willing to sit back and wait for that to happen to your son or your daughter?

We have done everything possible to protect ourselves, and yet we are still victimized. Existing laws are not sufficient to protect us. Even Doe realizes this. In 1990, he wrote to our attorney that, quote, "It's just that my actions in the future will hurt them far more than in past and will be perfectly legal by United States law, I assure you," end of quote.

The laws are not just ineffective, they actually work against us. Last spring, Doe was charged with assault on an officer, terrorizing, and criminal mischief—all three felonies—and violation of protection from harassment. He was brought to court, where he was judged to be incompetent. Because he was deemed incompetent, the charges were dismissed and Doe was released. Where is the logic that says a person who is not sane enough to stand trial is sane enough to walk the streets, to renew his obsession, to continue to harass, to assault, to threaten?

Bill S. 2922 will put an end to this and make it possible for us and others who remain victims of psychotic harassment to live normal lives. It would mean that we wouldn't have to wait for the inevitable phone call from the police saying Doe has finally done something. Please help us by passing this law before it is too late for Kimberly.

Thank you

[The prepared statement of Ms. Poland follows:]

I am here to speak in support of Bill S.2922, which addresses the criminal act of stalking. Although I will try to be brief, it is difficult to condense eight years of on-going harassment. On the advice of our attorney, I will refer to our aggressor as John Doe. But please keep in mind: although the name is fictitious, the events are terrifyingly true. As I recount them, try to picture them happening to your daughter or your son.

In the fall of 1984, our daughter Kimberly's picture appeared in a local newspaper as the winner of the Miss Oxford County Fair Pageant. The day after the picture was published, Mr. Doe began to contact Kimberly by constant telephone calls and letters which he often left in our mailbox or on our doorstep. From the beginning, Kimberly told him that she was not interested in becoming an acquaintance of his and asked that he stop calling her and writing letters to her. Ignoring her requests, he continued to call and drop by our house with letters. At one point he even left his old Army fatigue uniform which he said he wanted Kimberly to have as a Christmas present.

At that time, my husband Kenneth intervened, telling Doe that Kimberly was not interested in talking to him and asking him to stop trying to contact her. In response, Doe began to drop by the store where Kimberly worked. He did not speak to her there, and at that time she did not even recognize him, but he would call later and tell her that he had seen her at work the night before, even describing what she had been wearing. It was at this time that we became very alarmed by this unusual behavior.

In 1986, Doe visited Kimberly at Stephens Memorial Hospital where she was recovering from surgery. She had to call a nurse to evict him when he refused to leave. Soon after, his letters became more and more frightening, taking on a threatening aspect. In one, he spoke of finding out where she went to college and kidnapping her. In another, he included a drawing of arrows with blood dripping from them. The next morning we found an arrow lodged in a tree at the end of our driveway.

Concerned for Kimberly's safety, we went to the Sheriff's Department, where we obtained protection from harassment papers. Doe paid no more attention, however, to these papers than he had to Kenneth's and Kimberly's requests, continuing to call and write. In September, 1987, he wrote, "if you say you won't I will try my best to plain outright kidnap

you for a night." He wrote that he had gone to the Norway library, dug out the 1984 *Advertiser Democrat* and looked up the article reporting the beauty pageant. "I seen that shine in your eyes, and all that I assumed was true came back to me in my memory." He also talked of giving up drugs if Kimberly would start talking to him.

In March of 1988 Doe was arrested in Massachusetts after tracking down Kimberly at college and making threatening phone calls to her. At the time of his arrest, he was carrying a briefcase full of letters to Kimberly and was wearing around his neck a set of wedding rings that he had bought for her.

At that time he was sent to Bridgewater State Hospital for the Criminally Insane, in Bridgewater, Mass., where he was evaluated and incarcerated for approximately 17 months. Then, in August of 1989, Doe was transferred to Augusta Mental Health Institute under the pretense that he wanted to be nearer to his family. Within a month he was released from AMHI but voluntarily remained there until November. Shortly after his release, Detective Jim Miclon of the Oxford County Sheriff's Department asked Doe why he didn't get a job and forget about us. His reply: "This is my job."

And apparently it was. He continued to contact Kimberly's friends, trying to locate her. We received more letters from him, and in January, 1990, two separate collect calls from Doe enabled us to get the area code from the operator, placing him back in Massachusetts once again tracking down Kimberly.

At this point we were told by our attorney that there was no legal solution to the problem. Everything that the law allowed had already been tried. He told us that the only way Kimberly could be safe was to change her identity, move to another part of the country, and sever all ties with everyone -- including her own parents -- never again making contact with any of the people she loves.

On February 23, Doe was arrested for contempt of court for violating the protection from harassment papers. He was transported to St. Mary's Hospital and then sent to AMHI. He was released from AMHI on March 14, only three weeks later.

Two days after his release, Doe appeared at Lewiston High School, acting strangely enough for guidance personnel there to summon the principal, Richard Sykes. Sykes reported later in a letter to me that Doe "pulled a large manilla envelope from his shirt and withdrew a newspaper clipping of a picture of girls in a beauty contest.... He pointed to one girl whose name in the picture was Kim Poland and stated that this was the girl he loved and was going to marry." Sykes was so alarmed by Doe's behavior that he called the principal of the school from which Doe had graduated.

Meanwhile, Doe continued to track down Kimberly's whereabouts. Two weeks later on March 30, 1990, I received word that Doe had entered Kimberly's dormitory and asked for her. The Boston police were summoned and Doe was escorted from the campus and told that he would be arrested if he returned. He left a note for Kimberly with the girl on duty in the lobby. He ended this letter saying, "Remember I told you that my name was Mark Andrews. Well I've discovered alot about my heritage. Look at encyclopedia Britanica Vol. 10 p 1. The reason I was a twin on St. Patrick's Day is because of a Nazi Genetic experiment and my sister Paula is really my twin, because the birth record shows she was born 9 months later. What woman has twins and a baby in 9 months?"

We never know when he will show up next. In June of 1990, after we had been seated for our son Shane's high school graduation, Doe suddenly appeared. He stood at the side of our section of chairs, staring directly at us. Terrified, Kimberly wanted to go home immediately. Only after we made the police aware of the situation did we feel that we could remain to see our son graduate. Fortunately for us, Senator George Mitchell was the commencement speaker that evening and security was tighter than usual.

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The impact of this eight-year ordeal on Kimberly has been profound. She suffers from severe nightmares about being caught and killed. She has had to move 5 times within the past 4 years, leaving no forwarding

address. She has had to come home from school -- missing classes -- when Doe was in Mass. because she did not dare to remain there. In her last semester, Kimberly missed her finals because of stress-related illness. She later talked to her professors, trying to schedule a make-up exam and explaining that she had been under inordinate stress. One professor asked her to elaborate and when she told him the whole story, he said, "You're lying; no one could have all that happen to them." She is one course away from having a college degree because of Doe and because the things he has done are too bizarre to be believable.

Despite having no degree, through hard work and perseverance, Kimberly began a promising career in music promotion, the field for which she had been trained and educated. She has had to give up this career, however, because she cannot advertise or even list her name in the phone book for fear Doe will find her.

There is no way to describe to you the fear that our family has of this individual. No way to describe what it is like to live a life of constantly being "on guard." Kimberly, her dad, and I all suffer from stress-related symptoms including tension headaches, backaches, nervousness, restlessness, as well as fright. We have installed new locks on our doors and keep them locked at all times. We have all obtained concealed weapons permits. We go to bed with a gun under our pillow. I have had to hide all my kitchen knives. We do not dare to leave our adult children by themselves in our home. We do not discuss Kimberly's whereabouts with even our closest friends or relatives. We can't even tell Detective Miclon where she is because by law he would have to disclose that information to Doe's attorney. We worry constantly about what will happen next. We, who are hard-working, law-abiding, tax-paying citizens, are the ones who have become "imprisoned" by Doe's obsession.

There is no doubt that this man is criminally insane. We have been told that many times over the past eight years, by personnel at AMHI and at Bridgewater State Hospital for the Criminally Insane, by doctors, lawyers, and even by Doe's own mother. He has threatened not only Kimberly and my husband Kenneth, but also Jim Miclon and the officer who arrested him in Massachusetts.

For eight years we have tried to resolve this problem through the existing legal system. We have filed protection from harassment papers

four times; Doe ignores them. He has been arrested, convicted, and sentenced four times. His brief periods of incarceration do nothing to convince him that he must leave us alone. Each time he is released, he begins again to harass my family and to try to track down Kimberly.

Nor has he received sufficient help from either Bridgewater State Hospital for the Criminally Insane or AMHI to get over his obsession with Kimberly. In fact, as we trace the deterioration of his mental stability through the contents of his letters, we realize he has become more and more dangerous and less and less grounded in reality.

Despite the threats Doe has made against our lives, despite his repeated violations of restraining orders, despite the professional assessment of him as dangerous, both the District Attorney and our own attorney have said that nothing can be done until Doe has "done something." What is the "something" they must wait for him to do? Kidnap Kimberly? Rape her? Kill her? Would you be willing to sit back and wait for this to happen to your daughter or your son?

We have done everything possible to protect ourselves and yet we are still being victimized. Existing laws are not sufficient to protect us. Even Doe himself realizes this. In 1990 he wrote to our attorney that, "It's just that my actions in the Future will hurt them far more than in past and will be perfectly legal by United States law I assure you."

The laws are not just ineffective; they actually work against us. Last spring, Doe was charged with assault on an officer, terrorizing, criminal mischief (all felonies) and violation of protection from harassment. He was brought to court where he was judged to be incompetent. Because he was deemed incompetent, the charges were dismissed and Doe was released. Where is the logic that says a person who is not sane enough to stand trial is sane enough to walk the streets -- to renew his obsession, to continue to harass, to threaten, to assault.

Bill S.2922 would put an end to this and make it possible for us and others who remain victims of psychotic harassment to live normal lives. It would mean we wouldn't have to wait for the inevitable phone call from the police saying that Doe has finally "done something"

Please help us

A BRIEF HISTORY OF THE PROBLEM

1984, October:

First letter from "Doe arrives" from Ft. Benning, Georgia. Doe describes how he had told his mother that Kimberly would win the pageant.

1985:

Letters and phone calls continue. Many times letters are dropped off in our mailbox or on our doorstep instead of being sent through the mail. Doe follows Kimberly when she is driving the car, even going to the place where she works. My husband Kenneth and I remind him that she does not wish to have any contact with him and ask that he leave her alone.

1986:

Doe continues to try to make contact through letters, phone calls and visits, even though we continue to try to discourage this contact unsuccessfully.

February:

Doe goes to see Kimberly at Stephens Memorial Hospital where she has had surgery.. She is forced to get a nurse to evict Doe from her room because he will not leave.

December:

Doe leaves a Christmas present for Kimberly in a box on the doorstep -- his camouflage army fatigue suit. We return it to him personally on his next trip to our house. On this visit my husband tries to make it very clear to Doe that Kimberly wants to have no contact with him.

1987, June 15:

Letter to Kimberly from John arrives. It contains a tracing of a knife.

July 31: Doe chases Kimberly on his motorcycle, trying to force her truck off the road.

August:

We awoke one morning to find an arrow embedded in the tree across from our driveway. The next day a letter is left in our mailbox. It contains a tracing of the arrow and a picture of blood dripping from it. In the same letter, Doe threatens to run Kimberly over, "purposely ruining her Daddy's truck at 60."

September:

Threatening letters continue. In one, Doe says "if you say you won't I will try my best to plain outright kidnapp you for a night." He writes that he has gone to the Norway Library, dug out the 1984 Democrat, and looked up the article reporting the beauty pageant. "I seen that shine in your eyes," he writes, "and all that I assumed was true came back to me in my memory." He also talks of giving up drugs if she will start talking to him.

September 22:

Kimberly and Kenneth testify in court against Doe. He is sentenced to 60 days in jail, with all but 10 days suspended, and placed on probation. The judge tells him once again that he is not to make any contact with our family or to be anywhere near our property.

Doe calls Detective Jim Miclon at the sheriff's office. He tells the dispatcher that he is mad at Miclon for interfering between him and Kimberly and threatens to kill both Miclon and my husband.

1988, January:

We again feel the need to have restraining orders placed on John Doe.

March:

Doe is arrested in Massachusetts after tracking down Kimberly at college and making threatening phone calls to her. At the time of his arrest, he is carrying a brief case full of letters to Kimberly and is wearing around his neck a set of wedding rings that he has bought for her. He threatens the arresting officer: "I will get you if it is the last thing I do."

April:

Doe is sent to Bridgewater State Hospital, Bridgewater, Mass., where he is evaluated and is incarcerated for the next 17 months.

1989, August:

Doe is transferred from Bridgewater to Augusta Mental Health Institute because he has asked to be nearer to his family.

September:

Doe is released from AMHI; however, he voluntarily remains there until November.

November 19:

Shortly after leaving AMHI, Doe calls at 1:05 a.m., collect.

November:

Jim Miclon, detective with the Oxford County Sheriff's Department, tells us that he has asked Doe why he doesn't forget about us and get a job. Doe's reply: "This is my job."

December:

Doe begins calling Janet McKeen, a 17-year-old neighbor, trying to get information about Kimberly's whereabouts. After Janet's parents call the Sheriff's office, Doe is ordered to refrain from any contact with the McKeen family. During these calls he tries to get information about Kimberly's best friend, Lisa, who is Janet's older sister. Lisa is married with a month old baby.

1990, January 8:

Doe writes to Kimberly at our home address. "I wish I could have a concrete conscience like you and your family have" Doe writes. "I honestly love you" he adds.

January 19:

Another letter arrives from Doe.

January 22:

A collect phone call "from John" enables us to get the area code from the operator; 508 places him back in Massachusetts where Kimberly is.

January 23:

Another collect phone call "from John." This time the operator says he is in Lowell, Mass.

WHO ELSE THINKS THERE IS A PROBLEM?

Lest you think that I am overreacting to idle threats, I refer you to the following people:

1) Jim Miclon, detective with the Oxford County Sheriff's Office. 26 Western Avenue, South Paris, Maine 04281 (207-743-8282) Jim will tell you that the department has spent countless hours dealing with the Does. He will tell you how many times John's own mother has summoned the deputies to her home because of the disturbances that John has caused. He will also tell you that she refuses to sign a statement about these many disturbances because she fears he will make good on his threat to kill her and burn down their house if she does sign. He will also tell you that personnel at the Androscoggin Home Health Services are afraid to go to the Doe residence to tend elderly patients who live there because they are afraid of John, whom they saw when they were there.

2) John Doe's mother (address and phone number available)

Mrs. Doe called me about four years ago to tell me that she "can't understand how such a nice boy could suddenly go so wrong. He used to be so nice," she said, "before he got into drugs, that is." When I told her we were tired of all the letters John was sending Kimberly, she replied that I hadn't seen anything; John's room was full of other letters that had not been delivered. She spoke of a room filled with stacks and stacks of letters all written to Kimberly, piled eight feet high, all sitting there in his room.

In another phone call, she told me that John talked about wanting to kill my husband Kenneth. After he was incarcerated at Bridgewater, she called me again and said that he now felt that I was the one who was trying to prevent him from seeing Kimberly and that he now wanted to kill me.

3) Dr. Albert Pike, forensic psychiatrist at Bridgewater State Hospital, 20 Administrative Road, Bridgewater, Mass. 02324 (617-727-1120)

In a recent telephone conversation with Dr. Pike he described Bridgewater as the state's only maximum security for the criminally ill. He told me that "because Doe was there for a long period of time he is to be considered ill and dangerous." Dr. Pike said that Doe suffers from a delusional disorder and has false beliefs regarding Kimberly.

4) Harold Glueck, LMSW, social worker at Augusta Mental Health Institute, P.O. Box 724, Augusta, Maine 04330. (207-289-7476)

When I spoke with Mr. Glueck recently he said that in his meetings with Doe, "Doe constantly told me he wanted and had the right to talk to you and was determined that he would do that."

WHAT HAVE BEEN THE EFFECTS OF THIS ORDEAL ON OUR FAMILY?

For five years we have tried to resolve this problem through the legal system. We have contacted the Sheriff's Office, we have brought charges against Doe, we have testified in court, we have consulted with our attorney and with the district attorney, we have been awarded restraining papers and protection from harassment papers. And still Doe continues to harass and threaten us. We, who are hard-working, law-abiding, tax-paying citizens, are the ones who have become "imprisoned" by his obsession with Kimberly.

We fear for our daughter's life and for our own lives every moment of every day.

We are unable to leave adult children alone in our home.

Our doors are locked at all times.

Kimberly is considering dropping out of college, where she does not feel safe.

Her classwork suffers because she knows that any moment this obsessed man may turn up to carry out his threats.

She sees a counselor because of her nightmares.

Despite the threats Doe has made against our lives, despite his repeated violations of restraining orders, despite the professional assessment of Doe as dangerous, Assistant District Attorney Pat Mador, has said that there is nothing they can do until he has "done something." What is the "something" they must wait for him to do? Kidnap Kimberly? Rape her? Kill her? Would you be willing to sit back and wait for this to happen to YOUR child?

WHAT ARE OUR ALTERNATIVES?

1) Our family, whose ancestors have lived in this community for hundreds of years, can sell our home and our business, take on a new identity, and move to another part of the United States, with no guarantee that Doe will not find us there.

2) Kimberly can follow the advice of our attorney and go underground, severing all ties with everyone including her own parents, never again making contact with any of the people she loves.

3) Or we can continue to live in terror, waiting for the inevitable phone call from the police saying that Doe has finally "done something."

None of these alternatives is acceptable to us.

WHAT DO WE WANT FROM YOU?

We want nothing more than the protection of our own rights to life, liberty, and the pursuit of happiness. As long as John Doe is at large, he threatens all three.

The courts in the State of Massachusetts committed Doe to Bridgewater State Hospital and intended to keep him there because they understood how dangerous he is. But because he was transferred to a mental hospital in Maine, he can no longer be held involuntarily.

If the laws of the State of Maine do not provide for the involuntary incarceration of people who are an obvious and continuous threat to society, then the laws need to be changed. Please help us change these laws before it is too late for Kimberly.


STATE OF MAINE
 OXFORD, SS

ELEVENTH DISTRICT COURT
 DIV. 6. OXFORD
 89 PH 378

KENNETH POLAND,
 Plaintiff,

v.

ORDER


 Defendant

In this bizarre case the Polands seek extension of the Protection from Harassment order I entered December 8, 1989. At a hearing today the Defendant stated, among other things, "I love them and care for them a lot." It appears therefore that his obsession with the Polands continues unabated, and that even the substantial jail sentence he is now serving has failed to parry his peculiar, compulsive attitude toward the Plaintiffs. Therefore, I order that the Protection from Harassment order entered December 8, 1989, shall be extended for two years from this date, to expire December 21, 1992.

This order shall be served on the Defendant in hand.

The clerk may incorporate this order in the docket by reference.

Dated: 12/21/90

Macdonald

Judge, District Court

The CHAIRMAN. Senator Thurmond has to go to another hearing and would like to say something.

Senator THURMOND. I have another appointment. I have got to leave. I just want to commend all these witnesses who are here today—Ms. McAllister and Ms. Poland, Lieutenant Lane, and Perry Bullard. We appreciate your coming. I am sorry I have got to leave, but I have got to go. But I want you to know I am vitally interested in what you have had to say, Ms. Poland.

Ms. POLAND. Thank you.

Senator THURMOND. I will read the testimony of the rest of you. I think it is more important than ever, after hearing such testimony, that action be taken concerning this bill that has been introduced by Senator Cohen.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Ms. Poland, before Ms. McAllister speaks—and then we will let her speak before we ask questions of each of you—I want to thank you and Ms. McAllister. I don't think people understand how hard it is for you to come here. The notion of having been stalked 8 to 11 years in each of your individual circumstances is not promoted by your showing up in public under the lights.

So everyone should understand, it seems to me, what you are doing for other people here today, how important it is for others. This is not, obviously, beneficial to you. It is obviously not useful for you to be on television, under the lights, with each of the stalkers in question home watching television, watching you speak about this. It is the antithesis of going underground.

The tragedy of what you have spoken of, Ms. Poland, is the requirement that your entire social intercourse, your entire familial relationships, your entire life have to be rearranged in order for you to have some mild solace that maybe you have improved the circumstances of your daughter. It is outrageous that you are put in that position. But, again, I want to personally thank you for being willing to come here today. Again, I know it is not an easy thing to do.

Ms. McAllister, would you please give us your statement, and then we will have some questions?

STATEMENT OF JANE McALLISTER

Ms. McALLISTER. Certainly. Thank you, Senator. In 1981, I had a chance encounter with a man named Gordon Harding. Immediately, he began to pursue me. I told him to leave me alone and the attention stopped, or so I thought. In 1990, 9 years later, I encountered Harding again in a store. For the next 18 months, Harding followed me, phoned me, offered money, a place to live, often told me that he loved me. He wrote bizarre notes and came to my home looking for me. He told me that he could not stop thinking about me and that he wanted to marry me.

I realized that he was apparently delusional, and so began to consult with professionals. I learned that he had a police record and a long psychiatric history, including some involuntary commitments to mental institutions. Though he promised to leave me alone, his behavior escalated. He began a relentless and hostile pursuit. He

continued to follow me. He drove by my home throughout the day and late into the night. He posed as a friend to my neighbors. He signed up for flying lessons where I earned my private pilot's license. He joined the same health club. He swerved his car at me while I walked with a male companion. He followed me in his truck while I was on foot, shouting obscenities as he passed by.

He made many verbal threats and eventually defied all limits set by my attorney. On one occasion, he told me that he would buy the house next door to me, which was for sale, and there was nothing I could do to stop him. It was true; I couldn't have stopped him. He told me that he would wait for me to die if he had to and then dig me up so he could have me. Those are just samples of some of the kinds of threats that I received. I could go on with many other examples, but I think these are enough to give you the gist.

In May 1991, I consulted the police and I was told to call 911 when Harding followed me or came by my home. A few mornings later when he appeared in my next door neighbor's yard, I called 911. The dispatcher refused to send a patrol car because Harding was in the neighbor's yard, not mine. On several other occasions, I called the police when Harding was near my home. I was told by police that unless I had witnesses for each incident, nothing could be done.

In June, I consulted an attorney to get a restraining order. He advised me against this because he feared it would further anger Harding, who might become even more vicious. He felt that my best bet was to continue to call 911. I appealed to the security director of a hospital where I spent one evening a week and where Harding often waited for me in the parking lot and followed me and threatened me. They refused to bar him from the property because I was neither an employee nor a patient in their hospital.

When Harding joined the YMCA to which I belonged, I appealed to the leadership to withdraw his membership because of his threats. They refused, since he had not harmed me on their property. In short, every effort I made to place distance between myself and Harding was thwarted by what I believe to be misplaced concern for his rights. Only the FAA took decisive action by removing Harding's flight medical certificate. Aside from that, he was permitted to continue his pattern of malicious harassment.

For many months, I lived in fear of physical violence. The police were not insensitive, but they were stymied. Harding had violated almost every area of my life, but had broken no law. The police worked with me to prevent an assault, but, in the final analysis, said there was nothing they could do until an assault occurred.

The impact to my life was immeasurable. I changed my routine. I lived in constant fear of an attack. I found that the stress of the ordeal had colored other relationships. I suffered symptoms of post-traumatic stress, including insomnia, depression, anxiety, rage, fearfulness, and a sense of futility. It was clear that this man, who was apparently crazy, was not going to let up and that the authorities were powerless to stop him. Though he was free to move about, I was living in a state of siege. I began to seriously question how much longer I could bear it.

I then decided to take the offensive by starting a support group to create awareness not only to the stalking problem, but to the

seeming impotence of law enforcement. We met with the chief deputy to the attorney general. We worked with the press. We accompanied each other to court, contacted Court Watch, networked with domestic violence groups, targeted local representatives demanding help, and traded techniques on how to protect ourselves.

I am happy to report that of the original five members of the group, all have gotten some relief. One stalker committed suicide in May. One was incarcerated for crimes unrelated to stalking, and the remaining three have backed off in recent weeks due, we believe, to the stalking law passed in Virginia last April.

Though our group may be out of the woods, I continue to advocate for stalking victims. Laws are lacking or of questionable effectiveness and constitutionality, and all too often law enforcement adopts the view that the victim has somehow brought this on herself.

I believe that solutions to the problem lie in four areas: No. 1, effective laws and stiff penalties for stalkers; No. 2, monitoring of arrests and convictions at the State level—much to my dismay, this is not being done in Virginia at the present time; No. 3, increased training and awareness for law enforcement; and, No. 4, increased awareness on the part of the public as to what constitutes stalking.

In conclusion, I want to say that I believe passionately in the Constitution and the rights of citizens to come and go freely, but when the menacing behavior of one person tramples the freedom, security, and rights of another, I feel that society must intervene. All too often, stalking results in assault and even murder. In such cases, those acquainted with the victim saw it coming, but were powerless to stop it. This must change.

Thank you.

[The prepared statement of Ms. McAllister follows:]

September 29, 1992

Testimony to the Senate Judiciary Committee

Submitted by M. Jane McAllister
707 Maybeury Drive
Richmond, VA 23229

In 1981, I had a chance encounter with a man named Gordon Harding. Immediately he began to pursue me. I told him to leave me alone and his attention stopped, or so I thought.

In 1990, 9 years later, I encountered Harding again, in a store. For the next eighteen months Harding followed me, phoned me, offered money, a place to live, often told me that he loved me. He wrote bizarre notes and came to my home looking for me. He told me that he could not stop thinking about me and that he wanted to marry me. I realized that he was apparently delusional so began to consult with professionals.

I learned that he had a police record and a long psychiatric history including some involuntary commitments to mental institutions.

Though he promised to leave me alone, his behavior escalated. He began a relentless and hostile pursuit. He continued to follow me. He drove by my home throughout the day and late into the night. He posed as a friend to my neighbors. He signed up for flying lessons where I earned my private pilot's license. He joined the same health club. He swerved his car at me while I walked with a male friend. He followed me in his truck while I was on foot, shouting obscenities as he passed by. He made many verbal threats and eventually defied all limits set by my attorney.

I could go on with many other examples but I think these are enough to give you the gist.

In May, 1991 I consulted the police. I was told to call 911 when Harding followed me or came to my home. A few mornings later when he appeared in my neighbor's yard I called 911. The dispatcher refused to send a patrol car because Harding was in the neighbor's yard, not mine. On several other occasions I called the police when Harding was near my home. I was told by police that unless I had witnesses for each incident, nothing could be done.

In June I consulted an attorney to get a restraining order. He advised against that because he feared it would further anger Harding who might become more vicious. He felt that my best bet was to continue calling 911.

I appealed to the Security Director of a hospital where I spent one evening a week and where Harding often waited for me in the

parking lot and followed and threatened me. They refused to bar him from the property because I was neither an employee nor a patient.

When Harding joined the YMCA to which I belonged, I appealed to the leadership to withdraw his membership because of his threats. They refused since he had not harmed me on their property.

In short, every effort I made to place distance between myself and Harding was thwarted by what I believe to be a misplaced concern for his rights. Only the FAA took decisive action by removing Harding's flight medical certificate. Aside from that he was permitted to continue his pattern of malicious harassment.

For many months I lived in fear of physical violence. The police were not insensitive but they were stymied. Harding had violated almost every area of my life, but had broken no law. The police worked with me to prevent an assault, but, in the final analysis said that there was nothing they could do until an assault occurred.

The impact to my life was immeasurable. I changed my routine. I lived in constant fear of an attack. I found that the stress of the ordeal had colored other relationships. I suffered symptoms of post traumatic stress including insomnia, depression, anxiety, rage, fearfulness, and a sense of futility. It was clear that this man, who is apparently crazy, was not going to let up, and that the authorities were powerless to stop him. Though he was free to move about, I was living in a state of siege. I began to seriously question how much longer I could bear it.

I then decided to take the offensive by starting a support group to create awareness, not only to the stalking problem, but the seeming impotence of law enforcement. We met with the Chief Deputy to the Attorney General, worked with the press, accompanied each other to court, contacted "court watch", networked with Domestic Violence groups, targeted local representatives demanding help, and traded techniques on how to protect ourselves.

I am happy to report that of the original five members of the group all have gotten some relief. One stalker committed suicide in May, one was incarcerated for other crimes, and the remaining three have backed off in recent weeks due, we believe, to the stalking law passed in Virginia last April.

Though our group may be out of the woods, I continue to advocate for stalking victims. Laws are lacking or of questionable effectiveness and constitutionality, and all too often law enforcement adopts the view that the victim has somehow brought this on herself.

I believe that solutions to this problem lie in 4 areas:

1. Effective laws and stiff penalties for stalkers
2. Monitoring of arrests and convictions at the state level.
(Presently no one is collecting this data in Virginia)
3. Increased training and awareness for law enforcement
4. Increased awareness on the part of the public as to what constitutes stalking

In conclusion I want to say that I believe passionately in the Constitution and the rights of citizens to come and go freely. But when the menacing behavior of one person tramples the rights, freedom and security of another I feel that society must intervene. All too often stalking results in assault and even murder. In such cases, those acquainted with the victim "saw it coming" but were powerless to stop it.

This must change.

The CHAIRMAN. Thank you very much, Ms. McAllister. Let me begin with you, if I may. When you petitioned the Virginia Legislature—I guess that is essentially what you did—did you go to an individual legislator or did you go to the Governor or the attorney general you said you had worked with? I mean, how did you—

Ms. McALLISTER. I worked with the legal end collectively; started in April, and the law in Virginia was this close to being passed at that time. So the net result of our work with the attorney general's office was to establish kind of a foundation and some contact and support, but I don't think it had a direct bearing on the law.

The CHAIRMAN. What is your impression, in your view—are you a lawyer?

Ms. McALLISTER. No.

The CHAIRMAN. What is your view as to what the antistalking law in Virginia does?

Ms. McALLISTER. At present, we have no proof that it does anything because nobody—

The CHAIRMAN. I mean, what does it say?

Ms. McALLISTER. It is very broadly worded and it says, in effect, that a person convicted of intentionally causing emotional distress to another shall be guilty of a class 1 misdemeanor, I think is the wording. That is scary to me because I think it is very broad and it is very subjective, and many of us question how really valuable this is going to be and how it is going to be interpreted in the courts.

The CHAIRMAN. So one of the concerns you have is that it may be viewed as being too vague—

Ms. McALLISTER. Too vague.

The CHAIRMAN [continuing]. And, therefore, unconstitutional?

Ms. McALLISTER. That is correct.

The CHAIRMAN. Now, Ms. Poland, how old was your daughter when this stalking began in 1984? Was it 1984 that it began?

Ms. Poland. Yes. I believe she was 16.

The CHAIRMAN. Sixteen years old?

Ms. Poland. Yes.

The CHAIRMAN. And this individual actually, at that point, would physically come to your residence?

Ms. Poland. To our home, yes.

The CHAIRMAN. Actually knock on the door?

Ms. Poland. Yes.

The CHAIRMAN. And your daughter would actually see this person and know he was there?

Ms. Poland. Yes.

The CHAIRMAN. Did she confront him?

Ms. Poland. In the beginning, it was mostly letters and phone calls, but then it began that he came to the house, to our residence.

The CHAIRMAN. How old was he at the time?

Ms. Poland. I believe he is 4 years older than she is.

The CHAIRMAN. Four?

Ms. Poland. Yes.

The CHAIRMAN. So he was roughly 20 years old and she was 16 years old when this ordeal began?

Ms. Poland. Yes.

The CHAIRMAN. Now, you indicated that—is your attorney here today?

Ms. POLAND. No.

The CHAIRMAN. But there is someone from—

Senator COHEN. The sheriff's department.

Ms. POLAND. I am here with Detective Jim Miclon of the Oxford County Sheriff's Department. He has been the officer who has been involved with this since the beginning.

The CHAIRMAN. Detective, would you mind coming up and having a seat with us up here, if you don't mind? We don't expect you to testify as to the details here, but if you know the answer to this question—and it is understandable you may not—the last time that John Doe, referred to here, was arrested, taken into court and, according to Ms. Poland, was deemed to be incompetent—I assume incompetent to stand trial?

Mr. MICLON. Yes, sir, he was.

The CHAIRMAN. And she indicated he was released. Do you know whether or not the law in Maine—in most States, if you are deemed incompetent to stand trial, you are remitted to the State mental institution if you had a record and had been there before. Was John Doe, as we are referring to him, just allowed—in effect, the charges were dropped and he was allowed to go free?

Mr. MICLON. Yes, sir. He was finishing up a sentence on the prior convictions of harassing the Polands. Within days—the hearing was on March 12 of this year; he was due to be released on March 16. On March 15, I asked the local mental health people to evaluate him. They came up to the jail and found that there were no new incidences and said that they would not proceed for an involuntary committal.

The CHAIRMAN. So they did not believe that what is alleged to have happened—that latest incident for which he was being held on March 12 or whatever it was—

Mr. MICLON. Correct.

The CHAIRMAN. They concluded that notwithstanding the fact that the Polands had indicated that these things had happened causing him to be arrested—they concluded that they did not happen. They made an independent judgment?

Mr. MICLON. They weren't so much basing their evaluation on the incident as the questions that they were asking him for his mental state at the time. He is very good at dealing with mental health people and he was able to convince them, as he had many times that we had taken him in, that he was OK.

The CHAIRMAN. That he was OK. So the court, on the one hand, concluded that he was not OK to stand trial because he was mentally incompetent, not sufficiently capable of understanding the charges being brought against him, therefore not able under our law to stand trial, and the law of the State of Maine. And yet the mental health people concluded that he was normal, or, if not normal, he was not of such a state or nature that he would require any further psychiatric evaluation or care.

Mr. MICLON. They did not feel that he fit the criteria to have him transferred to our State hospital.

The CHAIRMAN. I see.

Mr. MICLON. And he left our facility on March 16 a free man.

The CHAIRMAN. Unfortunately, from my experience, that is not so much an exception. It is not the rule either, but that happens not infrequently.

Now, Ms. McAllister, you indicated that you have not heard from this gentleman who has—or is it true that of late you have not heard or been stalked by, confronted by, this particular gentleman?

Ms. McALLISTER. Right. To my knowledge, he has not been in my neighborhood since April 27, my last drive-by.

The CHAIRMAN. Now, tell me a little bit about—I think it is important for the record that we understand some of the practical consequences of being stalked by a person. In your case, has he actually threatened you, used obscenity, indicated that he was going to have you even if he had to dig you up after you were dead? What are some of the practical consequences? In addition to changing your routine, did you have to spend additional dollars for locks or protection or automobiles or dogs? I mean, what practical consequences beyond the obviously practical consequence of your life being disrupted have occurred?

Ms. McALLISTER. I am out of pocket about \$3,000 at this point. One of the other women in the support group that I have has spent \$10,000 in her case. A lot of that is legal fees. Some of it is home security and other modes of protection, and so forth—classes in self-defense and the kinds of things that we could do proactively to protect ourselves. So, that has been a big practical impact to me and to all of us.

I think it is difficult to explain on a day-to-day basis the practical impact that it has, but it really impacts everything I do. Even now, even though I have had no direct contact with the person since April, I still look for him every time a car goes by. I am extremely vigilant when I am in the street or I am very aware of people that are around me and I think that will continue perhaps for my lifetime. I am not saying that is necessarily bad. You know, as you mentioned, in the society we are in that may be a good thing.

The CHAIRMAN. Well, I am certain it is not good. It may be practically necessary, but I am certain that it is not good.

Ms. McALLISTER. Right.

The CHAIRMAN. Let me ask you again, for purposes of establishing a record here—in my experience, your experience and that of Ms. Poland and her daughter and her family is not an exception in the sense that when stalking occurs, it has the kinds of consequences it has had for both of you.

Now, you indicated that this has had, in your view, some effect on your extra-familial relationships. I assume that means in terms of those men whom you would date or see. A, is that correct, and, B, in what sense has it had an effect?

Ms. McALLISTER. It has had an effect in terms of how I evaluate anyone I don't know. That is one category. In other words, I am much more guarded and I am much more careful than I used to be. I exude a lot less warmth than I used to.

In terms of the people who are already in my intimate circle before the ordeal occurred, it has created in some cases some real tension in the relationships because of denial on the part of others and whatever their issues and their agenda are. People are very threatened by this, and I haven't had a chance to talk with Ms.

Poland about it, but I am fairly safe in assuming that she has had people who have backed away, who have created distance because of their discomfort. This has been true for all of the women in the support group as well.

So it has many intangible and difficult to measure consequences for us; apparently, no consequences for the stalker. There have been no consequences whatsoever for Mr. Harding, for example.

The CHAIRMAN. Unfortunately, the preliminary statistics that we have indicate that a relatively high proportion of stalkers suffer from at least one kind of mental disorder—the estimates we have are as high as 90 percent—and that it creates the added dilemma of dealing with a system that, on the one hand, we as a society have concluded we are going to try to deal with the mental disorders of individuals who act in ways that are beyond their control, at least allegedly beyond their control, arguably beyond their control, which further complicates the dilemma.

But let me ask about it in terms of the practical consequences of that. Knowing, Ms. Poland and Ms. McAllister, that the stalker in each of your lives has been under psychiatric care and evaluation on more than one occasion, does that give you comfort or does that increase your anxiety?

Ms. POLAND. I guess it hasn't given me any comfort because each time he has been incarcerated at the mental institute in the State of Maine, he was released very soon thereafter. When he was incarcerated in Bridgewater, MA, he was there for a much longer period of time and I do feel as if during that period of time they were taking it a lot more seriously than the people in the State of Maine at the Augusta Mental Health Institute there.

The CHAIRMAN. Ms. McAllister?

Ms. McALLISTER. It certainly gives me no comfort that the person has a mental illness. That is one of the anomalies of this problem, as you pointed out, that the mental health people won't lock him up because they deem him OK enough to be out on the street, and yet clearly if he were—one of the cautions that I received is if he were indeed arrested and charged, he would probably get off because of a too crazy to be guilty situation.

The CHAIRMAN. Well, the assumption that we often make—and I will now yield to my friend from Maine, but the assumption that we usually make is that the threat of a penalty will impact on behavior. That is one of the notions underlying our penal system; that is, if, in fact, you know if you steal the money or steal the automobile, the consequence you will suffer, if caught, is that you will have your freedom impaired in some way. Part of the rationale is not merely to punish, but to prevent, to keep people from doing it.

The reason I asked the question is it seems to me, in circumstances that I have been familiar with personally, knowledge that the person is, in fact, mentally incompetent or deficient in some way—mentally ill, in all probability—increases the anxiety because usually people who are mentally ill are not impacted upon by the same social disapprobation that impacts on other people; that is, if you are “nuts,” to use the vernacular, then the likelihood of going to jail or suffering consequences is not something that you either calculate, comprehend, or fit into the equation. Whereas, if you are

clearly totally cold, rational and sane, you at least have the prospect that that person will calculate, if I do this, then I will suffer that.

So I would think that knowing that your stalker has been, at least at one point in his life in each of your cases, viewed by mental health authorities as needing help, that probably gives you less comfort because you know the person, again, to use the vernacular out there, is crazy. Crazy people do crazy things. That is the point I am trying to get to. How do we deal with that?

Ms. McALLISTER. It has been a real ingredient, a big ingredient in my situation because of the unpredictability of the person. In his brushes with the law in the past there has been violence, so that is really the horns of the dilemma, is that no one is able to gauge how lethal he really is. The police have always cautioned me that they view him as potentially dangerous, and so I try to err on the side of caution.

But I also wanted to interject, Senator, if I may, that in my experience there seem to be two categories of people that do this, and there are probably lots of subgroups, too. One group is the kind that Ms. Poland and I are dealing with, people that have a mental illness and some sort of twisted perception, whatever that is. And then I think there is another group. I don't think everybody that does this is crazy. I think there is another group that does this because it has something to do with men's privilege and they think it is OK to do this to women, and while I wouldn't call them well-balanced people, I wouldn't call them crazy.

The CHAIRMAN. I am certain you are correct about that. That is why I was making the distinction here. We are going to have additional hearings on this and at the next hearing we are going to have some of the leading psychiatrists and psychologists who will come in and testify about this type of behavior.

What we have done in the area dealing with the violence against women legislation, which touches on the kinds of things that exist here—they overlap; they are not the same. We have found from the testimony we have had from criminologists as well as from psychologists and psychiatrists that the latter element does prevail in many circumstances.

If I am a man and you are a woman, as long as I don't touch you, anything else goes, whether it is sexual harassment in the workplace or verbally or whether it is harassment that is unrelated to the workplace, and something has to be done about it.

I was startled—excuse the personal reference. I have an 11-year-old daughter. She is a gregarious, happy little person, like my sons were. I was getting in the automobile being picked up at the train station by my wife and my daughter, and the train was a little early and I came into the car in mid-conversation. My very astute and very bright wife, extremely well-educated wife, was telling my daughter, teaching her not to make eye contact; make sure you don't make eye contact with any men when you walk down the street or in the train station.

This is a little girl who, when she sees you, the first thing she does is say, hi, how are you, and smile at you. And here now that she is age 11 and growing into a little woman, she is being probably rightfully cautioned by my wife, when in a public place, if

someone smiles at you and says hello to you or you are walking down a street, be careful not to make eye contact with that person, just sort of walk on. What a hell of a note.

Ms. McALLISTER. It is true.

The CHAIRMAN. I yield to my friend from Maine.

Senator COHEN. Thank you, Mr. Chairman. I think you have covered most of the issues that I wanted to talk about, and I also think that Ms. McAllister correctly pointed out there are different degrees of mental instability. Many of these individuals are quite clever. They are ingenious. They are capable of dissembling, they are capable of complying with the exact letter of the instruction from the court—do not go anywhere near Ms. McAllister's place of business or home—and they may wait outside a movie theater or restaurant.

So certain individuals will, in fact, be either deterred or intimidated by the threat of a serious penalty as opposed to a slap on the wrist, which brings me to the point, Ms. Poland, that the irony of all of this is that you have been in prison longer than this man has been incarcerated.

Ms. POLAND. That is true, that is true.

Senator COHEN. For 8 years, you have lived essentially in a prison.

Ms. POLAND. One-third of my daughter's life.

Senator COHEN. One-third of her life, and this man has been out on the street most of that 8-year period. In addition to that, you have been forced to surrender your daughter to a terrorist. She has had to give up her connection with you, her name, her life, her friends, her community, and essentially act as if she is under some kind of protective custody under one of our FBI programs, and this man is still walking around the streets.

You should be concerned about the safety of your daughter. There was a case 10 years ago in Vermont. Rosealyce Thayer had a 10-year-old daughter named Katy. She was being stalked by a man for 19 months and the police could do nothing about it. One day, her mother found little Katy organizing her dolls and she asked her why was she doing this. She said, I am preparing to give them away to my friends because the man is going to kill me, which is precisely what happened. He raped her and stabbed her to death. That is the kind of threat that you live under and thousands of other people are confronted with.

Senator Biden raised the issue of, well, what do we do with people who are truly imbalanced. What do we do? Well, we have got to put them away if they are engaging in this type of behavior that makes you a prisoner in the land of the free. It may not serve as a deterrent, but if we have repeated instances like we do in your case, the penalty has to be increased. It can't be a misdemeanor. It has got to be raised to the level of a felony, with long-term incarceration. If it is not a deterrent, at least it will take them off the street to give you some peace of mind.

But the notion that you or Ms. McAllister or the thousands of other people have to go to the equivalent of Quantico to get boot camp training in terms of how you fend off a stalker, what maneuvers you can take, what disguises you can wear, what security devices you may carry on your person or in your home, or spend

\$3,000 or \$10,000 so you can sleep at night and then not very well—it is absurd. What is going to happen is, unless we do something legally, then people like yourselves are going to take action on your own.

If I were faced with a similar circumstance and it were my son or my daughter, I am not sure I would wait for the law if I saw someone who was mentally unstable who might be armed waiting, waiting, threatening, sending arrows that were blood-dripping. If I were satisfied the law was not going to deal with this situation in a fair and firm fashion, then the law starts to break down.

The CHAIRMAN. Exactly right.

Senator COHEN. And that is one of the reasons why we have the law—so citizens won't take it into their own hands. Yours is not unique. It is a very, very compelling, poignant statement, but I want to call my colleagues' attention to a story that appeared in Glamour magazine about another young lady who, for 8 years, like your situation, was stalked day after day. Similar things happened to her. Finally, this man got into her house. He put handcuffs on her, had her at knife point, and put her in a car.

The police had been alerted. They grabbed him after 8 years of going through this. They charged him with kidnaping, burglary, false imprisonment, attempted auto theft, contempt of court, et cetera. Then at a hearing, his attorneys argued, well, you had better charge him with attempted kidnaping rather than kidnaping because he didn't go the requisite number of feet.

They went out and measured it. He only went 242 feet, not quite enough to qualify for kidnaping, but only attempted kidnaping. So the sentence, of course, was reduced, and this young lady lives—and she says, still after 8 years of being stalked, I turn, I see him standing behind me every day; it is like part of me is dead, a part I can never get back. That is what we are dealing with here with this issue, and that is why it is so terribly important.

I thank both of you for coming. Detective, thank you for helping Ms. Poland and her family.

The CHAIRMAN. I thank you, also. The last point that Senator Cohen made is the point that he and I have discussed on more than one occasion. You indicated, Ms. Poland, that you and your family are now legally able to carry a concealed weapon. I predict to you that unless this Nation responds more thoughtfully and forcefully to the victimized women and men and children in this country, you will find there will be an awful lot of vigilantes out there.

I wish I could say I was better than this, but I expect it would not be unreasonable to assume that someone in a similar circumstance might conclude that it was better to find a rationale to use that weapon you are able to possess than it was to continue to go through the torment. It is easier if you are the victim, as strange as that sounds, than it is if your child is the victim.

Ms. POLAND. It is.

The CHAIRMAN. The notion that someone would be able to stand by and watch his or her son or daughter, husband or wife, brother or sister, have their entire life ruined, with the prospect, not an unreasonable prospect, that they would appear as a statistic—we had better act or people are going to start to act. The one thing we have prided ourselves on in this civilized society is we have gone to

great lengths to assure that vigilantism is not something that becomes anywhere approaching a norm, even an aberration, in our society. These poor guys and women in law enforcement have their hands full enough now.

I would also like to point out for the record the point that you made, Ms. McAllister, and obviously the point you have made by the presence of this law enforcement officer, Ms. Poland. It is not that law enforcement is unsympathetic. These poor people are absolutely besieged with little or no help either in terms of resources, finances, and/or other types of support, including legislation giving them a wider, yet constitutional, berth.

So I thank all three of you for being here, and would just emphasize again the urgency for action on this matter increases every day, and we are going to be reading newspaper stories about the father or brother who couldn't take any more and decided to blow the head off of the stalker. That is going to happen, mark my words, and we have got to stop that from happening.

I thank you very, very much for your presence, and please be assured that we are not going to let this drop.

Ms. POLAND. Thank you.

Ms. McALLISTER. Thank you, Senator.

Mr. MICLON. Thank you.

The CHAIRMAN. Now, our next witness is a fellow who has wrestled with this problem—two individuals who have wrestled with this problem, one from the standpoint of a legislator doing and attempting to do what we are just now getting around to attempting to do federally, and the other is a man who faces the dilemma that I spoke to earlier of having to respond to victims and, in a sense, having his hands tied.

Lieutenant John Lane is officer in charge of the Los Angeles Police Department's Threat Management Division. It is interesting that they have a whole division that is called the threat management division. That is an indication of the scope of the problem. This division is a one-of-a-kind organization set up to investigate stalking crimes. Lieutenant Lane is recognized as a national law enforcement expert on this issue, and California was the first State to enact an antistalking law in 1990. Lieutenant Lane has been working at catching these criminals since the inception of the law. Would you come forward, Lieutenant Lane, and please sit over there on your right, my left?

Representative Perry Bullard is chairman of the House Judiciary Committee in the Michigan State Legislature. He has been instrumental in drafting Michigan's antistalking legislation, which is a comprehensive four-bill package. This legislation is still pending in the legislature. Representative Bullard is also a member of the National Conference of Commissioners of Uniform State Laws, an organization that monitors model legislation. It is a pleasure to have you with us, Mr. Chairman, if you would please come forward.

Let us begin with you, Mr. Chairman, if you would, and tell us about your experiences in the State of Michigan in an attempt to deal with this, what got you to feel the necessity to move.

STATEMENTS OF A PANEL CONSISTING OF HON. PERRY BULLARD, CHAIRMAN, HOUSE JUDICIARY COMMITTEE, MICHIGAN STATE LEGISLATURE, LANSING, MI; AND JOHN LANE, OFFICER IN CHARGE, THREAT MANAGEMENT UNIT, LOS ANGELES POLICE DEPARTMENT, LOS ANGELES, CA

Mr. BULLARD. Thank you, Mr. Chairman and Senators. The compelling testimony from victims of stalking which the committee has heard this morning mirrors what the Michigan House Judiciary Committee was told as we were drafting our stalking legislation. Dozens of women and men told us about terrifying encounters with stalkers. They testified they had been followed around at home and at work. We heard about lost jobs and broken lives and complete terrorization.

The State legislatures need to provide effective protections to their citizens. Stalking always invades citizens' privacy and terrorizes the target, and it seems to lead all too often to physical assault and injury, although at this time no statistical evidence is in existence that I am aware of.

During this legislative process, we grappled with two vital questions: Would our stalking law be constitutional and would it be enforceable. We believe what we have done, and which is poised for enactment in the next month, is constitutional. Our bills say that the offense of stalking does not apply to constitutionally-protected activity or conduct that serves a legitimate purpose.

We also believe our new laws will be enforceable. We have provided a detailed set of definitions which focus on the harm to the victim rather than specific mental intent of the stalker. We have also allowed a victim to sue a stalker directly for damages and an antistalking injunction because we cannot be certain that all police departments and prosecuting attorneys will aggressively pursue stalking cases.

Michigan and its sister States are creating a new crime. We are defining it, essentially, one unknown to the common law. We are making conduct illegal which has been legal up until now, and we are using the most serious proscription our society can devise, the deprivation of liberty, through a felony penalty. This is experimental legislation.

In drafting our package, we did not have the benefit of any academic expertise, for little exists. We did not have the advice of experienced constitutional scholars because the legal problems we are confronting here are new and, frankly, no money is available in our legislature to contract with law professors for detailed studies. We relied on the testimony of victims and the advice of domestic violence groups who have been very active and helpful in this area.

Since the first antistalking law was passed in California a little more than 2 years ago, more than half the States have apparently acted with new criminal laws aimed at prohibiting intrusive harassment and stalking behavior. Most State legislatures are short of resources to carefully study all the aspects of proposed criminal laws, and this is no exception to that general rule.

The States need and can benefit from help from the U.S. Government to make our various experiments and efforts succeed. If help is not forthcoming and our laws are found to be defective, we will

be worse off as a society than if we had done nothing at all. We will have raised hopes only to destroy them.

I serve on the National Conference of Commissioners on Uniform State Laws, as the chairman mentioned. This group drafts, and has for nearly 100 years, legislation to solve complex problems which benefit from uniform treatment by the States. I recognize and appreciate the importance of legislation which can be used as a model by the States because of the lack of resources in most States to draft sophisticated legislation to solve new problems.

The bill before this committee is needed because it authorizes the drafting of model legislation on this matter of very serious public concern. This model will be most useful to us if the National Institute of Justice monitors the track records of our new laws. State governments do not have the resources to determine systematically and scientifically how their own laws are being implemented, much less how different laws on the same topic are being implemented in neighboring States. The U.S. Government does.

The National Institute of Justice could collect and fund academic studies on stalking. It could also collect reported decisions from trial courts and appellate courts on the interpretation and validity of State stalking statutes. The NIJ could also select certain areas within particular States for more intensive study of the processing of stalking cases by the criminal and civil justice systems. It could answer questions like these: How many stalking complaints are filed per year; how many prosecutions result; how many acquittals, dismissals, and convictions result; what are the sentencing patterns; in civil cases, what is the success rate and what are the problems and what is the pattern of the verdicts.

It would also be extremely helpful to see how other industrial countries have addressed this problem in practice and in law. I cast covetous eyes on the compilation of statutes passed to date which your very capable staff has put together and has promised to make available to me, but what are other civilized industrial countries doing about this problem and how is it working in these countries? We can't figure it out, but the Institute of Justice, with the benefit of your direction, can very well provide that information for all of our States and improve overall legislation.

State legislatures are responding with lightning speed to try to put effective protections for their citizens in place. Michigan's package should become law next month, joining those of the 28 other States who have already acted. The National Institute of Justice can provide us with the objective and verifiable materials we need to make improvements when and if they become necessary.

Thank you.

[The prepared statement of Mr. Bullard follows:]

Testimony on Stalking By Michigan State Representative
Perry Bullard Before the US Senate Judiciary Committee

Tuesday, September 29, 1992

The compelling testimony from victims of stalking which the Committee has heard this morning mirrors what the Michigan Legislature was told as we were drafting our stalking legislation. Dozens of women and men told us about their terrifying encounters with stalkers. They testified that they had been followed around, at home and at work. We heard about lost jobs and broken lives.

The state legislatures need to provide effective protections to their citizens. Stalking often leads to assaults as well as invasion of privacy.

During this process, we grappled with two vital questions: Would our stalking proposal be constitutional? And would it be enforceable?

We believe what we have done is constitutional. Our bills say that the offense of "stalking" does not apply to "constitutionally protected activity or conduct that serves a legitimate purpose."

We also believe our new laws will be enforceable. We have provided a detailed set of definitions which focus on the harm to the victim rather than the specific mental intent of the stalker. We have also allowed a victim to sue a stalker directly for damages and an anti-stalking injunction, because we cannot be certain that all police departments and prosecuting attorneys will aggressively pursue stalking cases.

Michigan and its sister states are creating a new crime—one unknown to the common law. We are making conduct illegal which has been legal until now. We are writing experimental legislation.

In drafting our package we did not have the benefit of any academic expertise, for little exists. We did not have the advice of experienced constitutional scholars, because the legal problems we confronted were new. We relied on the testimony of victims and the advice of domestic violence groups.

The states need help from the United States government to make our various experiments succeed. If help is not forthcoming, and our laws are found to be defective, we will be worse off than if we had done nothing at all. We will have raised hopes, only to destroy them.

I serve on the National Conference of Commissioners on Uniform State Laws. This group drafts legislation to solve complex problems which require uniform treatment by the states. I recognize and appreciate the importance of legislation which can be used as a model by the states. The bill before this committee is needed because it authorizes the drafting of model legislation on a matter of serious public concern.

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The NIJ could also select certain areas within particular states for more intensive study of the processing of stalking cases by the criminal and civil justice systems. It could answer questions like these:

- How many stalking complaints are filed with the police per year?
- Of the complaints that are filed, how many prosecutions result?
- How many acquittals, dismissals, and convictions are there?
- What are the sentencing patterns?
- In civil cases (where the statutes authorize them) what is the success rate? What

is the pattern of the verdicts?

It would also be helpful to see how other industrial countries have addressed this problem in practice and in law. The state legislatures are responding with lightning speed to put effective protection for their citizens in place. Michigan's package should become law next month, joining those of 28 other states. The National Institute for Justice can provide us with the objective and verified materials we need to make mid-course corrections if they become necessary.

The CHAIRMAN. Thank you very much, Mr. Chairman.

Lieutenant—it is Lieutenant, isn't it?

Mr. LANE. It is, yes, sir.

The CHAIRMAN. Lieutenant, please, at your leisure.

STATEMENT OF JOHN LANE

Mr. LANE. Thank you, Senator Biden. What I would like to do maybe as a change of pace, as opposed to a strictly formal statement, is give an overview of some facts and a little bit about the history of what we have attempted to do on the west coast in the Los Angeles Police Department—

The CHAIRMAN. That would be very helpful.

Mr. LANE [continuing]. And some of the things that we have seen. I would agree with everybody that has already previously testified about the universal problem that exists and the importance of these hearings. I recognize, as these other witnesses have testified, the victims, that there is a lot of serious frustration within society as it relates to law enforcement's perceived and actual lack of response to these types of cases.

We realized in the Los Angeles Police Department several years ago that there was a void that existed in the traditional police services, and one of the things that we did in response to that was develop the threat management unit. I wish I could call it a division, but it is not quite that large. It sounds larger than it really is, but it is a Threat Management Unit, and what we do is we are designed to investigate abnormal, long-term threat and harassment cases.

Normally, this is the type of activity that is captured under this generic term of stalking. It encompasses a lot of different activities. Traditionally, a lot of these victims, when they are the object of some type of bizarre behavior that doesn't rise to a criminal act, will come to their local law enforcement station in fear and they will talk about their problem, ask for some help, only to be turned away saying, well, I sympathize with you, but call us when something happens, when that suspect does something that is criminal. So they go away very frustrated.

We in our unit are much more sympathetic and aware of the underlying problems that exist, and we take a lot of cases and attempt to manage them even before they ever become criminal acts. As the name of our unit would imply, we are a management unit. We handle these cases on a long-term basis, not just one particular act or crime.

We are now in existence and have experience encompassing about 2½ years. To date, we have handled 164 cases in our unit, and that is the basis of a lot of our case study. It has been our experience that there is actually—we have broken it down to five different types of victim categories. They start out at one end of the spectrum with the highly recognizable celebrities that we read about in most of the periodicals and newspapers. A second group is lesser known people within the entertainment community and peripheral people in that profession.

Third, we have a category of executive/professional type people that become victims, and this could be psychotherapists who have

patients that go sideways on them and start threatening them. We have a category of workplace threat, which is usually the terminated employee, the suspended employee that focused his or her anger on the immediate supervisor, or oftentimes the company. Then lastly, but certainly by no means least is the ordinary citizen category.

They break down, to date, of our 164 cases very evenly; 44 percent of our caseload to date has been entertainment-related, and then, on balance, 43 percent have been ordinary citizen type cases, to give some perspective of what we are seeing.

The CHAIRMAN. Lieutenant, may I interrupt at that point?

Mr. LANE. Sure.

The CHAIRMAN. Are all these cases distinguishable from, or are they in the same category as stay-away orders and domestic disputes; that is, the woman goes to court and gets an order from the court saying that the former husband or lover cannot come within one block or 1 mile or 100 feet, et cetera, of the individual? I know you have such orders in the State of California. Do they fall in this category? Is a stalker always someone who is unknown—to get into your management unit, do they have to be unknown to the victim? I mean, is there any demarkation you make?

Mr. LANE. I was going to cover that next and I will be glad to address it right now.

The CHAIRMAN. I am sorry. Do it in the order you were going to do it. I apologize.

Mr. LANE. It is certainly topical, and to answer your question and be responsive to that, we have done a cooperative with those within the psychiatric community and evaluated our cases, at least our first 164 cases to date, and we basically break down our cases into three different types of stalking cases. Number one is what we call the erotomantic cases.

The CHAIRMAN. The what cases?

Mr. LANE. Erotomantic. It sounds a lot more enticing than it really is.

The CHAIRMAN. Explain what that means for the record, if you would.

Mr. LANE. Erotomantic cases—erotomania is a diagnosed mental disorder wherein an individual, a suspect, actually believes that another person loves them. For instance, if I suffered with that disease, I might believe that Madonna was truly in love with me and was making every attempt to seek me out to establish that union. It is a diagnosed mental disorder. It makes up, to date, approximately 9, 9.5 percent of our cases, even though that is a statistically small proportion of mental-disordered.

The second category is what we call the love obsessional type cases. These are situations where the victim and the suspect have no prior knowledge of each other. This can be the obsessed fan that writes the correspondence to a given celebrity. This can be the neighbor in a large apartment complex that begins a pattern of harassing behaviors that had no previous knowledge. That is what we call the love obsessional.

Then lastly is what we call the simple obsessional grouping, and these are cases where the suspect and the victim have some prior knowledge of each other. This can be everything from an ex-hus-

band or wife, an ex-boyfriend or girlfriend, somebody within the workplace, et cetera. They have some prior knowledge. Again, the two victims that we have spoken of today would fit into that love obsessional where there really was no prior knowledge before that victim profile.

I would comment, also, that—and it has been discussed—it has been our experience that I would say safely 60 to 70 percent of our suspects are mentally disordered. They not only suffer from that statistically small population of erotomanics, but again they suffer from schizophrenia, and then the other large grouping would be the manic depressives. They seem to be the three categories that we see most often as far as the mentally disordered suspects.

Again, we have handled, to date, 164 cases. It is very impacting even though that may or may not sound like a large number because many of our cases we have had to manage now for well over a year. I might add that as I listened to some of the witnesses' testimony, I made a few notes. In the love obsessional and erotomaniac type suspects, their delusions, at least from our case study, have been held by them for sometimes 12, 13 years, and they have manifested some type of inappropriate behavior toward a victim for an average of well over 9 to 10 months.

In contrast, the more simple obsessional, the ex-boyfriend or the ex-husband, at least to date would appear to be more short-term in its focus on the victim, more like 5 or 6 months, but there is a much stronger potential that that victim will meet with some harm.

Now, California was the first State to enact a stalking law. It became effective January 1, 1991, and I might add, even though it is not a focus of this hearing, we also had a companion piece of legislation that was enacted at that same time which was a felony trespass section, which also addressed this phenomenon of stalking and made it a felony in certain cases to trespass after making a threat to do one of our victims harm.

The CHAIRMAN. Trespass in that they were on the victim's property, or trespass in that they, quote, "entered their space?" I mean, what did trespass mean?

Mr. LANE. This section would make it a felony when a suspect has made a credible threat to do great bodily injury or death to a victim and then within 14 days of that reported threat either comes on the real property, the home, of the victim or to the workplace with the intent of seeking that victim out. It is a felony trespass section, and again it is another positive piece of legislation that was enacted.

The stalker law as it exists in California, I think, was certainly a good step forward. It gives us a tool to work with in law enforcement so that when people do come to us in need of help, we do have more leverage to address this problem. It is not an end-all. It is not something that is going to totally resolve the problems of our victims by any means, and certainly my experience would corroborate that.

The CHAIRMAN. Assuming that whatever you would like added were constitutional, what is the most significant tool that you as a law enforcement officer could be given in California that you do

not now have to be able to assist, protect, give comfort to, help the cease and desisting of the activity of stalking?

Mr. LANE. I don't think that we are going to come up with any type of one act or law that is going to do the trick. We use a variety of different interventions. Some have already been mentioned—the court injunctions, the temporary restraining orders, physical arrest for a variety of different laws. I think that we need to continue to work with the stalker law. We in California are trying to hammer out an amended stalking law in Sacramento as we speak, and I would like to speak to that in just a moment, if I may.

The existing law in California is either a misdemeanor or a felony. The one hurdle that we have trouble with in meeting the standards of our stalking law is the credible threat issue. The first element is simply to establish a pattern of willful, malicious conduct wherein a suspect follows and annoys and basically establishes a pattern of fear. But it also has to rise to a standard of where that suspect makes a credible threat, an overt threat, a communication to do them great bodily injury or death.

It has been our experience to date that many of our suspects don't do that. They do everything but, and they scare the heck out of our victims.

The CHAIRMAN. Everything but threaten?

Mr. LANE. But they don't come right out and—I mean, it is implied by many of their acts and behaviors, but they don't actually communicate that direct threat. As we continue to become more sophisticated on how we are going to prosecute this law successfully, it is one of the things that is very difficult to get hammered out.

So it becomes a hurdle for us, and oftentimes we end up having to avail ourselves of a variety of other lesser charges as we try to intervene with these types of suspects and control their behavior, and that would include, and it has already been discussed, the mental health laws in the variety of States. Our main objective is to try to manage the problem and if the intervention of mental health can help do that job, then that is the avenue that would take either in concert with other prosecution or as an alternative.

The problem arises within the mental health laws in the State of California that they, too, have to meet a credible threat when we are trying to retain a person on a long-term mental commitment as a danger to others, and we are trying to change the language of our mental health laws to try to work around that problem, also.

In our attempts to modify the language of our stalking law, we had suggested and written language which would eliminate that credible threat standard and make it a reasonable fear threshold or standard, so that when this type of behavior creates a reasonable fear in a reasonable person that their life is in danger or they are subject to some type of great bodily injury, then it would be a—

The CHAIRMAN. Why does it have to be great bodily injury? I mean, we keep talking about the only circumstance under which you can establish that there is a legitimacy of the concern overcoming what is an implied constitutional impediment is if there is great bodily injury. So what if it is a little bodily injury, any bodily injury?

In your working in this area—and I ask either of you this question—is there evidence that you have or any caution that you each

have been given in trying to come up with workable legislation that suggests that it must be great bodily injury? What is the legal rationale, if there is one, between great and—

Mr. BULLARD. I don't think so, Senator. We have no bodily injury or threat of bodily injury requirement in our draft legislation. We have simply a carefully defined definition of stalking, harassment, course of conduct, and emotional distress, and basically any course of conduct which is prohibited is willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed or molested.

It is a reasonable person standard that we are reaching for in this definition. Harassment is defined as conduct directed toward a victim that includes but is not limited to repeated or continued unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress, and then constitutionally-protected activity or conduct that serves a legitimate purpose is excluded from harassment. So there is no question of a fear of bodily injury or serious bodily injury in the conduct which we are seeking to prohibit.

The CHAIRMAN. In your hearings, listening to some of the constitutional experts you have spoken to, you feel fairly secure that that is a constitutional approach?

Mr. BULLARD. I am optimistic that it is. As I mentioned, we are short of clear testimony from constitutional experts and we can't afford Covington and Burling and Hogan and Hartson, and all.

The CHAIRMAN. Well, we will see if we can provide some for you.

I interrupted you, Lieutenant Lane. Please continue and finish.

Mr. LANE. Well, I would comment also that I think there is a balance there. If we are going to make this an effective law, we have to, I think, tighten it up enough to meet a certain standard. I am not a legal authority. I like the language of the Michigan law. I think we need to lower that standard to some type of a more reasonable standard for our victims. As far as the injury, I wasn't involved in the drafting of the language and have had no—

The CHAIRMAN. I wasn't suggesting you were, but I know you are deeply involved in it and I wondered what you have heard. As I said, this is just the beginning of our hearing process and the National Institute of Justice, we expect, and they will, I am sure, take seriously our direction for them to get deeply involved in attempting to come with model legislation.

Let me ask you a few questions, Lieutenant Lane. What has been your experience—and I have had the great pleasure over the last 20 years, and prior to that in private practice, working very closely with police agencies and police officers, and I know that you all know that certain cases you bring before the court, you know there is a predisposition on the part of the court not to want to spend a lot of time dealing with them. Either they are viewed as less important or they are a nuisance.

It works the other way. Police agencies also—there are certain things they would like not to have to deal with. The enforcement of support orders is something you guys don't like. People are being

killed on the street, and you say when there is a backlog of—not you personally, but police agencies understandably say, look, you want me to go issue a *capias* to produce the body of someone who is \$1,800 behind in support payments; that takes two people to track that down and do it and I should be doing something else. So we all know there are certain built-in practical prejudices, not prejudice based on animus, but practical prejudices that make the system work more easily or in a more difficult way.

With that brief bit of background, can you tell me what kind of reception within the Los Angeles court system and the California court system, in your experience, this new legislation has gotten? Do you find judges generally extremely sympathetic to victims or do they view them in less than sympathetic terms? I realize this is anecdotal, and I am not looking for any specific cases, but you are a man of considerable experience in this area. What has your experience been in how you are greeted in the courts with these cases?

Mr. LANE. I think that it has been a matter of education for everybody involved. I think that initially, especially at the district attorney level, there was a lot of reservation about having to deal with what otherwise is a very complicated, sophisticated, unknown area. So there was a lot of hesitancy to get involved with them and take those before a jury.

Thanks to the hard work of our detectives, they have sat down and spent a lot of time with our prosecutors in going over the phenomenon that exists and the underlying importance of what we are trying to do, and the real great potential for our victims to meet with some harm.

I know one case that we prosecuted of a stalker, a female, just as a point of—

The CHAIRMAN. A female victim or a female stalker?

Mr. LANE. A female stalker whom we were prosecuting for some other related felonies, even though she was truly a stalker. The judge was vacillating at sentence time as to how to proceed until we came forward with some further testimony that not only had this female suspect very recently threatened to kill her own father, who had bailed her out previously, but had also made threats to do him harm.

The CHAIRMAN. That got his attention?

Mr. LANE. That got his attention.

The CHAIRMAN. That does focus things.

Mr. LANE. I struck it home to him and he realized as he looked out at that very well-dressed young lady that she was serious and had a serious problem, and he gave her a maximum sentence allowable and we were very pleased.

The CHAIRMAN. Mr. Chairman, let me ask you, in your hearings that you have held—one of the things I have found, and it is anecdotal—I have no body of evidence to sustain what I am about to suggest, but I have found that on some of the stalking, particularly stalking that has come from—well, I shouldn't say particularly. Some of the stalking cases that have been brought to my attention—and again I want to emphasize this is a very small pool of cases and they are purely anecdotal, but I wondered whether at your hearings you have uncovered any patterns. As well, I would like you, Lieutenant, to comment on this.

The case where a female will stalk a male and it is in the category of the love obsessive—or a male stalking a female in the love obsessive category that you used or erotomania category that you mentioned, which is a smaller category, or a simple obsession where the victim not only is the person being stalked, but the spouse of the person being stalked—that is, in the love obsessive case of a man stalking a woman who may be married or may have a permanent relationship of some kind with another man, where the man in that relationship begins to receive threats because the love obsessive or the person suffering from erotomania views that person as an impediment to their bringing to fruition their desires and interests—do you have any evidence of cases like that? Is that a natural by-product or is that an exception? Can either of you speak to that from your legislative and/or enforcement perspective?

Mr. BULLARD. Mr. Chairman, no specific cases of that nature were testified to outside of the first-run theaters.

Mr. LANE. I can say that even as we speak we are handling cases in that vein. We have handled several victims, like females, in particular, that have become the new girlfriends in a relationship and the ex-girlfriends have focused on that new partner and began a stalking type pattern. It is not rare at all, and again the other peripheral by-product of this behavior is that family members become objects of this type of activity and they are also placed in danger by this type of activity.

We, in our amended language of our stalker law, have introduced just that issue and will include the immediate family as part of that body that is threatened, not just the particular person.

The CHAIRMAN. In my experience, that does happen where the family member, the child, the spouse, of the person who is the object of the attention of the stalker is viewed as an impediment to the stalker and thereby is threatened in the same way that the stalked person is being threatened.

Mr. BULLARD. I think that is true, Mr. Chairman, that the extension is often to other family members, regardless of the underlying basis of the—

The CHAIRMAN. Mr. Chairman, I know that you have a plane that you must catch very shortly. Let me ask you one last question and then not trespass on your time any longer, and that is one of the potential remedies that is available to those of us who are legislators is to provide a civil remedy that would allow a victim who is being stalked to be able to sue for damages—for example, the \$10,000 or \$3,000 costs incurred, or just the mental pain and suffering that is a consequence of the stalking.

Have you explored that as a potential remedy, an additional remedy, and if so, could you tell us a little bit about it?

Mr. BULLARD. Yes, we have, Mr. Chairman. Thank you. Our Senate bill 1095, as substituted in the House, is aimed at allowing civil lawsuits for damages, as well as obtaining antistalking orders, and it would provide for actual damages, exemplary damages or punitive damages, and actual attorney's fees and costs. So that is definitely along that line because, of course, in every State there are vastly differing approaches county by county and police force by police force to the seriousness of particular allegations, and

there are also many cases, frankly, of fairly well off stalkers, surprisingly enough.

The CHAIRMAN. Yes. The reason I raised that is although we are so accustomed to the circumstance where the only reasonable remedy available is a criminal remedy because the stalking person is someone who is not of any means at all—there is nothing to go against in terms of civil damages—what I have found in the extensive hearings and investigation I have personally done on matters of rape, and one of the reasons why I want to create a civil cause of action in violence against women, is that there are doctors, lawyers, and men and women of prominence and financial standing and means who are also the perpetrators of these violent crimes against women, as well as stalking against women and men.

I would imagine that in California, in Los Angeles, in Hollywood some of the prominent people who have been stalked that you have had to deal with—I imagine they have had lawyers who have at least considered that prospect of a civil action. Can you tell us of any extra-legal proceedings that you are aware of, not names of cases, where there is an attempt to move against—thank you, Mr. Chairman.

Mr. BULLARD. Thank you very much.

The CHAIRMAN. If you don't mind, we will continue to call on your expertise and we will share whatever we have with you and the legislature.

Mr. BULLARD. Thank you. I welcome your assistance for all of the States. Thank you.

The CHAIRMAN. Thank you.

Can you tell us a little bit about some of the things being done beyond the criminal, dealing with it from a management side that the victims are employing that you might be aware of? I realize this is beyond your expertise.

Mr. LANE. I am really not—I can't recall any cases, and we have handled many, like you suggest, with victims of means, and there are several of our suspects that are not necessarily gainfully employed, but have inheritances or come from families of means.

The CHAIRMAN. Right.

Mr. LANE. But I know of no cases where we have attempted to seek appropriate remedy through civil recourse. I would add that, again, any intervention of any type has a down side and you are going to continue to aggravate a problem, no matter what you try to do at any level.

The CHAIRMAN. Well, that is the hardest decision that initially has to be made by someone who is stalked. By calling attention to it, making the stalker aware that you are aware that they are, in effect, getting to you, do you aggravate it, do you enhance it, do you increase it? Now, obviously, in the case of our two witnesses today it doesn't take much to convince them after 2 years, 10 years, 8 years, 11 years, at any point along the way, that this is a risk worth taking.

But, again, from inquiries we get into my office as a U.S. Senator in my home State, there are numerous occasions where they call us because they are afraid to call the police, not because the police won't cooperate, but because if the police are involved, they are worried that that may anger, that may aggravate, that may precip-

itate an action on the part of someone they already don't believe is stable that would not otherwise occur.

The same reason you find when you show up—you, in an editorial sense, show up at a domestic dispute even in cases—we have overwhelming statistics where women literally are bleeding from some orifice and they do not press charges against the man standing there who has just physically beaten them. In large part, it is because, as we have found from testimony and psychiatrists who have testified, they say, wait a minute, I called to get it stopped, but I am afraid now to bring charges because next beating, they may get even more angry with me. It always surprises me when men don't quite understand that.

I remind every man of what they probably went through, with notable exceptions, when they were 10 years old in the schoolyard and the bully was picking on them and they had a clear shot to hit the bully right square in the nose or the mouth. Why didn't they punch? Almost instantly, every man who listens within the sound of my voice or hears that—I bet you I know what they say. They say, I was afraid to make him more angry. What in the hell do they think women—the spot women are put in? I hear often that women—well, if they really were serious, why the heck wouldn't they file the complaint? Why wouldn't they sign the warrant?

It is just such a perplexing problem that I am so frustrated by, and I know you are because you are on the street every day dealing with it. I know, though, that something has to be done, if nothing more than raise the national and social consciousness to the extent of the problem so that, at a minimum, the victims don't get further victimized by friends and acquaintances and teachers and professors, et cetera, who just refuse to believe that this kind of thing can happen, and it happens so often. What a quiet misery people are placed in.

This is my last question to you, Lieutenant. What is your experience with—what is the impact, based on your experience, of the victim becoming knowledgeable of the fact that there is now police intervention? Does that have the impact, once they are aware that the police are involved, of having a certain percentage automatically back off because now they know the police are involved, or does it have any impact in terms of the knowledge?

I realize this is a subjective judgment you have to make, but I would ask you to be willing to give us that, knowing it is just that. What is the impact, in your experience, of the cases that get to you of a victim—how does a suspect react when they are aware that the victim has involved the police in the process?

Mr. LANE. Well, let me start out by commenting that I think nationwide the dilemma for victims is just that. You know, if I go to the police and they take an affirmative act to arrest this person, what are the down sides that I may experience?

When we handle a case in my unit, again, keeping in mind that we are unique and we have certain abilities and resources that are not common to most police departments, but we are sympathetic to that dilemma. We manage the total case and when we start working with the victim and develop that rapport with them, we fully educate them as to what to expect or what, in our best guess, they

can expect from any type of activity that we might take on their part.

It is a cooperative thing. The victim has to be part of our team and they have to make certain decisions themselves. It is their life and they are the ones who are going to have to make a lot of very hard decisions on how to shield themselves and tolerate a problem because we are not, as a sole agency, going to resolve that problem for them.

Getting to your more direct question as to how do suspects react to interventions, at the lowest level our first steps would oftentimes be where we may just make a face-to-face contact with our suspect. We have already checked this person and we have got a feel for what kind of person we are dealing with.

Oftentimes, my detectives will go and they will talk with this individual. If they are not disordered, if there are some social constraints that we can employ and they have something to lose and they understand that, then there is a chance that they will back off. But keeping in mind that 60 or 70 percent, conservatively, of the people that we deal with are mentally disordered, you can't go to a schizophrenic and have a very mature conversation with that individual, and even if you do, that person is not hearing what we are saying.

So the likelihood of a police intervention in the form of either a discussion or an arrest is not going to dissuade that individual from ultimately coming right back and focusing on that victim, and oftentimes in a much more severe fashion.

The CHAIRMAN. That is an important point, and that is what I think victims instinctively know, that it could be a much more severe fashion. One of the things that we need to gather—and this is why the National Institute of Justice has been asked to get involved in this—we need to gather more hard data over the next year on the makeup of this population of persons who are victimizing, by stalking, individuals.

I realize that we have figures that have been submitted by you from your activities in your area and through your unit, and I would not be surprised if they essentially held up nationally because, as I suspect you would agree, the prescription for dealing with the quintessential male chauvinist harassing pig is a very different prescription than dealing with the psychopath or the sociopath or the schizophrenic who is suffering from a genuine mental disorder in terms of what intervention would be of any value. Is that an accurate assessment not of how it breaks down, but that there are different prescriptions for intervening based upon the mental condition and the motivation of the stalker?

Mr. LANE. Yes, Mr. Chairman. In fact, it is a very complicated mix when it comes to a prescription on how we are going to deal with a particular case. How we handle a delusional person who is writing letters to a celebrity is completely different than how we handle the ex-boyfriend who is making some threats that, you know, if I can't have you, nobody will. So, yes, it is a very complicated mixture of predictive factors and enforcement techniques, and I think therein lies a lot of the study that we are a part of right now. We are sensitive to that and we are trying to educate ourselves as we go.

The CHAIRMAN. Well, I would like to be able to, with your permission, continue to call on you and the experience of your unit because, as you can probably tell, I feel very strongly about this issue. I don't pretend to have the answer and I do not want to move precipitously. My concern is, though, that as this phenomenon increases, if it does, as it is concluded, if it is concluded, that our legal system is not capable of dealing within the law with this circumstance, it is going to be not very much longer before people—and I am sure you have seen some examples of it already, where at least if you have not been able to prove, you suspect that someone may have used extra-legal measures to deal with this dilemma.

In one instance, a person who approached me with this problem—and I told them the limitations of the law—indicated, well, if that was the case, then he knew how to handle this matter and it wouldn't take but \$25 to go down to certain parts of my town to find an individual who would literally go break the leg of the individual who was doing the stalking.

Have you had any experience with that; that is, having to worry about someone involved with, related to, or concerned about the victim taking the law into their own hands?

Mr. LANE. We speak to that frustration daily as we try to coordinate and manage cases with victims, especially early on when they really don't know how competent we are, if we are at all, and they have been so frustrated as they come to us, probably thinking that we are not even going to listen to them anyway.

The CHAIRMAN. Yes.

Mr. LANE. Certainly, one of the overriding issues is, well, if they can't help me, you know, there are ways that I can help myself, and you have to certainly empathize with that.

The CHAIRMAN. The one individual with whom I spoke indicated that he concluded—and this person didn't do anything. It all worked out, to the best of my knowledge. He made the comment that he wondered whether there was a jury in the State that would hold him accountable for taking action that was punitive, not determinative, but punitive, and I wonder that, too. We must respond within the law and we are not, in my view, equipped to do that fully now.

Again, I thank you for your willingness to cooperate and for a little more than a Sunday drive to get here to testify. We appreciate it very much, and thank your colleague from Maine as well for coming down. We are at your disposal. Any information you have as you move forward would be truly appreciated by the committee or any input you have and your unit has on how to deal in a more rational way with this serious problem facing an estimated 200,000 Americans.

Mr. LANE. Well, thank you, Mr. Chairman. I know that on behalf of our department we are doing everything we can do on a national level to help coordinate this. We stand ready to work with the National Institute of Justice in any type of follow-up study. We have a certain network of experts that I think are also prepared to do that, and we would be more than willing to cooperate in any way we can.

The CHAIRMAN. You already have. We appreciate your continued offer, and I thank everyone for being here today. This is only the

beginning of this process. I know a year is a lifetime for someone being stalked, literally, not figuratively, but hopefully before this next 12 months elapses we will have been able to make some contribution to ease the pain and the suffering and the fear and the danger that people being stalked are placed in every minute, not just every day.

Again, I thank you all. This hearing is adjourned.

[Whereupon, at 1:22 p.m., the committee was adjourned.]

Sheriff Frank Polceno, Jr.
President
Beavert, Pennsylvania

Charles B. Meeks
Executive Director
Alexandria, Virginia

APPENDIX



1992 SEP 15 9 11 AM '92
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NSA General Counsel
Washington, D.C.

September 15, 1992

The Honorable William Cohen
United States Senate
322 Hart Building
Washington, D.C. 20510-1901

Dear Senator Cohen:

After reviewing the contents of S.2922, I, as Executive Director of the National Sheriffs' Association, would like to inform you that the sheriffs of this nation support Anti-Stalking legislation.

Several sheriffs indicated that this bill would help close any loopholes in current statutes and eventually produce enforceable anti-stalking laws.

Law enforcement stands ready to support legislation that protects citizens from this increasingly dangerous practice. I would be most grateful if you would keep me informed.

Respectfully,

Charles B. Meeks
Charles "Bud" Meeks
Executive Director

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United States Senator
Board Member: 1988-1991

September 24, 1992

Honorable Joseph R. Biden, Jr.
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senator Biden,

I am enclosing a statement which I hope will be considered for inclusion in the record of your upcoming hearing on S. 2922 to develop model "stalking" legislation.

In behalf of the Board of Directors of the National Organization for Victim Assistance and for the millions of crime victims they serve, I extend our deep appreciation to Senator Cohen, to you, and to the other co-sponsors for swiftly and responsibly addressing a frightening, even murderous, pattern of crime which was only recently "discovered," although, for all we know, it has been a social menace for generations.

Please be assured that we warmly support your efforts to have the S. 2922 enacted in this Congress. There is no reason to wait, and every reason to get the study group working immediately on crafting a model bill.

Sincerely,

Marlene A. Young, Ph.D., J.D.
Executive Director

cc: Honorable Bill Cohen



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Statement of
Marlene A. Young, Ph.D., J.D.
Executive Director
National Organization for Victim Assistance
Washington, D.C.

Submitted to the hearing of
The Committee on the Judiciary
United States Senate

Regarding S. 2922, to develop model "stalking" legislation
Senators Bill Cohen and Joseph R. Biden, Jr., principal co-sponsors

September 29, 1992

Chairman Biden and members of the committee, I am Marlene Young, Executive Director of the National Organization for Victim Assistance. Founded in 1975, NOVA is the oldest of the many national victim rights groups now spread around the world. In behalf of NOVA's Board of Directors, I am pleased to submit the following comments on S. 2922.

Just as remarkable as the emergence of a worldwide victims' movement in less than two decades is the fact that over half the states have adopted some form of "anti-stalking" legislation in less than two years. The fact that a frightening, even murderous, pattern of criminality was only recently "discovered"—though surely it has been a social menace for generations—is not very surprising to activists in the victims' field. We know, for example that physical child abuse was "discovered" in the 1960s, and that a decade or more elapsed before we appreciated how pervasive is the incidence of child sexual abuse.

Several factors are at play in society's reluctance to see the obvious. Foremost is an ancient social tolerance of abuse inflicted by dominant members of a family group on dependent spouses and children. Second is the natural instinct to deny evidence of repellant human behavior. And third, we sometimes need a name, a label, to be attached to a social problem before we can see that it describes a pattern of harm that deserves focused, remedial attention.

That is certainly the case with the long-observed pattern of terroristic conduct we now call stalking. It is a measure of how responsive Congress and state legislatures have become to victim issues that this hearing is being held at all, and that its focus of concern is the haste in which so many anti-stalking statutes have been enacted.

We share that concern. When the NOVA Board addressed the issue last March, it felt competent to endorse such legislation only in principle, so varied and complex are the provisions that have been placed in the state laws. Had the Board been given the policy option of a study leading to a "model" stalking bill, it seems safe to say that the Board would have enthusiastically endorsed that approach.

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Oklahoma City, OK

Hon. John Hartz
United States Senator
Board Member 1988-1991

Thus, I confidently and warmly support S. 2922 and encourage its speedy enactment. Indeed, looking beyond its passage, I would like to raise several issues that I hope the model bill will address (and which argue for drafting such a model). To preface these concerns, I should note that each of them was raised in our Board discussions, though none was put to a vote.

First, a concern was expressed that the defendant in such cases be put on notice that his or her conduct may be criminally actionable—especially if the conduct, taken out of context, would not rise beyond some form of silent menacing or ambiguous threats. To many observers, one natural place to provide that notice is with the issuance of a protective order in domestic violence cases—to explain, in effect, that certain conduct may subject the abuser to the penalties for violating the order, but that other kinds of threatening conduct may subject the abuser to more severe criminal penalties.

Second, the related idea was raised that a stalking law should be fully integrated into a comprehensive scheme of domestic violence laws and programs. Thus, states should fund batterers' treatment programs and mandate that first-time batterers use them—and thus lay a solid case for sanctioning those who, despite the treatment efforts, persist in following, calling, assaulting, or in other ways terrorizing their past victims. Similarly, there should be specialized training programs for law enforcement officers so that they can quickly sort out stalkers from other abusers, and provide specialized, appropriate services for every kind of victim.

Third, a concern was expressed that, short of proving that the defendant *intended* to strike great fear in his or her victim, that the victim's complaint sets out facts and circumstances that would cause any reasonable person to fear for his or her safety. There are not only due process problems with weaker standards of proof, there is also the foreseeable difficulty of getting juries to convict defendants under such laws, thereby causing resentment against the new laws.

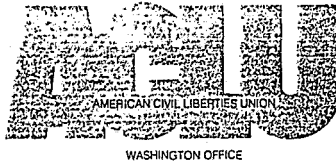
Fourth, having met such due-process tests, a number of people have expressed the belief that the sanctions for stalking should be quite stiff, starting with some jail time and escalating steeply in subsequent offenses. They cite the crippling assault on Tracy Thurman and the murder of Lisa Blanca as reminders of how obsessive some assailants can be even after they had been criminally sanctioned for past assaults on their victims—evidence that incapacitation is the only appropriate penal goal in at least some of these cases.

And fifth, special provision should be made to address the cases which are not a subset of domestic violence cases. Many of the previous thoughts do not apply in cases where there is no previous relationship between victim and terrorist (where the victim is typically a celebrity), or the relationship is tangential (such as a landlord who harasses a tenant), or where there is an indirect domestic relationship (the ex-spouse targeting the new spouse, for example). In some such cases, we have worked with victims who were truly and reasonably in fear for their lives, and so deserve all the legal protections we are discussing. In others, the harassment was not life-threatening but was awful, producing scores of unpleasant telephone calls daily for weeks on end, causing the victims to lose their jobs or homes, and in general inflicting wanton destruction on their lives.

I raise this last form of related, obsessive victimization as a way to encourage the study and model bill to cover such misconduct with appropriate civil and penal sanctions—because, in our experience, there are now inadequate remedies in law to help such victims.

Again, we at NOVA appreciate the opportunity to comment on S. 2922, and commend its sponsors for helping to improve the justice system's response to stalking.

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DIRECTOR

National Headquarters
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Nadine Strossen
PRESIDENT

Ira Glasser
EXECUTIVE DIRECTOR

September 28, 1992

Dear Senate Judiciary Committee Member:

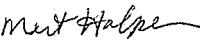
At this time the American Civil Liberties Union neither supports nor opposes anti-stalking legislation enacted by the states. We do, however, support S.2922, a bill introduced by Senator Cohen which will assist the states in the enactment of anti-stalking legislation which is constitutional.

Within the last two years, legislation banning stalking has mushroomed in an attempt by states to offer protection to victims where temporary restraining orders and other laws have been ineffectual or where police insensitivity has led to inaction. In 1990 California became the first state to pass an anti-stalking statute, followed by 20 other states and numerous proposals awaiting action in other legislatures. Although most state's definitions of stalking are comparable to California's, which, on its face, appears constitutionally acceptable -- "following or disturbing the peace of another with the intent to place that person in reasonable fear of death or great bodily injury" -- there are significant deviations. Our most important concern is that dangerously broad and vague definitions of stalking, threats and harassment may make activities that have traditionally been regarded as constitutionally protected speech and movement subject to unwarranted prosecution. As such, we are monitoring state laws to make sure that their application is not overly broad.

Senator Cohen's bill instructs the National Institute of Justice to conduct a one year examination of anti-stalking legislation enacted and proposed by the states, develop a constitutionally enforceable model for states to use as a guide in the development of their legislation, and report back to Congress on the need and appropriateness of further federal action.

We commend Senator Cohen's desire to achieve an appropriate balance between civil liberties, due process and protection of stalking victims and hope that passage of this legislation will ensure that state anti-stalking laws are carefully crafted as opposed to constitutionally questionable knee-jerk responses in the states' rush to placate public concerns.

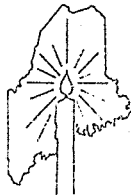
Sincerely,


Morton H. Halperin
Director


Nkechi Taiifa
Legislative Counsel

Maine Coalition Against Rape

P.O. Box 5326, Augusta, ME 04332



October 6, 1992

Senator William Cohen
322 Hart Building
Washington, D.C. 20510-1901

Dear Senator Cohen:

On behalf of the Maine Coalition Against Rape, I am writing this letter in support of S. 2922 "A Bill to assist the States in the enactment of legislation to address the criminal act of stalking other persons."

Through our work with victims of sexual violence, we are well aware that "anti-stalking" legislation is desperately needed. People need tougher, more enforceable laws to protect them when they are in danger and to possibly prevent an act of violence from occurring. Current mechanisms (such as legal restraining orders) and harassment laws have proven largely ineffective in providing that protection.

While many states have attempted to address this need through legislation, it appears that these laws may be ultimately ineffective. They are either too narrowly defined to provide any real protection or are so widely encompassing that they border on infringement of our constitutional rights.

We applaud and support your efforts to create a model anti-stalking law which would be both constitutional and enforceable. Such a model could be easily adopted by the states and would offer a real mechanism for protection.

I am pleased that this legislation is moving forward and that the National Institute of Justice will be researching and developing an appropriate model for legislation. I urge that this be done in a timely manner, so that it can be of real use to the states as they seek to adopt legislation and protect victims from stalking. This is important and must not wait.

Thank you, Senator Cohen, for addressing this issue, and for your work on behalf of victims of crime.

Sincerely,

Marty McIntyre
Marty McIntyre
Executive Chair

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TESTIMONY OF GAVIN de BECKER BEFORE SENATE JUDICIARY
COMMITTEE HEARINGS ON UNWANTED PURSUIT - OCTOBER 12, 1992

Gentlemen, in the last 14 years I have assisted many victims of unwanted pursuit. I have consulted and testified in cases which involved stalking, lying in wait, and trespass. In each case, the pursuer had the goal of succeeding at some inappropriate encounter with a terrified victim. Any observer can see the impact of these crimes; any observer can see the fear and anxiety and disruption and hazard and danger that is inherent in these crimes. The mentally-ill man who sent my client a drawing of a heart with a knife going through it and wrote a letter that said "I will come to your house and serenade you to Kingdom Come" stalked his victim for three years. Again, any observer can understand the fear and anxiety that results from these crimes. But ironically, what no observer can understand is that the conduct I've described is not a crime in most states.

When most people think of stalking behavior, they think of those many news stories about media figures victimized by obsessed fans: Michael J. Fox and the woman who sent him six thousand death threat letters, Justine Bateman followed from city to city by an armed man who was finally subdued by a SWAT team, Johnny Carson stalked by an armed threatener arrested at his TV show, David Letterman faced with a mentally ill woman who broke into his home repeatedly. These cases are well-documented. Cases involving people who are not well known are not documented at all, because they usually are not criminal. Still, there are far more victims among people who are not well-known than there are in Hollywood. And pursuers who stalk others exist everywhere.

It should be criminal to repeatedly follow and harass a victim, particularly when you combine this conduct with statements and actions that make it clear you might do them harm. When you put your victim in fear for their life, regardless of whether you speak the threat or just make the threats clear by your actions, it should be a crime.

Page Two

I recall the case where a man undertook unwanted pursuit of his young female victim for five years. Often, he was outside of her work as she walked to her car. He left unwanted love letters at her home. He pursued unwanted meetings with her parents. He said in one letter, "You remind me of Jodie Foster -- do I remind you of John Hinckley?" He sent clippings of gun advertisements taken from sporting magazines. He sent the victim photographs he had taken without her knowledge as she was shopping one afternoon. But he never spoke a threat; thus, he never broke the law. To hear her story of fear and anxiety and sleeplessness, to see the degree to which his conduct eroded the quality of her life, for years, is to understand the need for new laws. Anyone would say of this conduct, "That ought to be a crime," and yet it was not a crime.

Her perpetrator was too clever to break the law in his terror campaign. He knew enough not to mail her threats that might be actionable, but his conduct was threatening to her nonetheless. Over the last 14 years, my office has assessed just under 10,000 people who demonstrated that they might pose a hazard to the safety or well-being or privacy of one or more of my clients. Thousands of these made clear through their conduct and communications that they intended to have some type of relationship with their victims -- even though the victims made clear they wanted no such relationship.

Of the 10,000 cases we have assessed, 1,421 have shown up uninvited at the home, work place or some other location where they expected the victim to be. The vast majority of these cases offered law enforcement no way to effectively manage the situation. New laws can provide tools that can be used in those cases where people are victimized -- first by the criminal -- and then by a system that offers them no recourse.

Page Three

Many cases have included multiple trespass arrests, violations of restraining orders, and harassment, and those are bad enough. But we must also look at the cases that ended more violently. The case of Laura Black, stalked and pursued for years by a co-worker she refused to date. After society could provide no effective intervention, after restraining orders only provoked further pursuit, her stalker broke into her company and shot her, and several of her co-workers. Or the case of actress Rebecca Schaeffer, who was stalked for two and a half years by the man who eventually shot her to death. Or actress Theresa Saldana, who was stalked by a man who traveled through 14 states trying to buy a handgun to kill her with. He finally settled on a knife, stabbing her 11 times with it, stabbing her nearly to death. Her assailant has continued to threaten her from prison. He has expressed only one regret about the crime -- that he could not get a gun, which he says would have been more effective. In her testimony, Saldana spoke about the quality of being victimized by an unwanted pursuer: "It is a nightmare that does not end in the morning."

With more appropriate laws, judges could consider a course of conduct which victimizes innocent people. Without such laws, police, prosecutors, and judges must look at a trespass today or a misdemeanor violation of a court order tomorrow, or a harassing phone call, or unwanted following as if each were an isolated incident.

The System should look at this conduct for what it is: a terror campaign that might otherwise go on for years.

When I proposed California's Threat/Trespass law, the ACLU was there to answer my testimony. "What if a person who sent a death threat letter to his victim, was only trespassing in order to apologize for his threats?" they asked.

Well, it seemed to be that if you could threaten by letter, then you could apologize by letter. And, as with all threats, if they are not alarming and they cause the victim no anxiety, then there is nobody likely to try to press charges.

Page Four

A viable law will take into account that the perception of the victim is a key element of threats and unwanted pursuit. The CONTEXT is an important part of the victim's perception. If I say to you in this testimony, "I will shoot you tomorrow as you walk to your car," not one of you is alarmed. Because in this context, it is not a threat. On the other hand, if a person your daughter dated once three years ago shows up in the parking lot near her car and stares at her ominously, if he follows her on campus, if he sends her dead flowers, leaves bizarre messages on her answering machine, shows up at a family event and points his finger at her with a trigger-pulling gesture, well that is threatening conduct -- even though he may never have spoken a threatening word.

Through your efforts, victims of this type of pursuit may someday be able to do something about it.

Thank you --



MAD PRAIRIE DOG INC**TESTIMONY OF JUSTINE BATEMAN BEFORE SENATE JUDICIARY
COMMITTEE HEARINGS REGARDING SB 2922 (OCTOBER 12, 1992)**

Newspapers often report on cases involving media figures and unwanted pursuers, but one case of stalking has been most frightening to me:

I have been pursued for the last five years by a man who I do not know. He is an unwanted pursuer who began by traveling from his home in Houston, Texas to the Los Angeles set of "Family Ties". He deviously gained entrance to the set and actually spoke to me under the ruse that he wanted to warn me about a dangerous person pursuing me. He appeared "normal" at the time but later after other efforts to encounter me, he purchased a handgun, traveled to a theater in Berkeley where I was performing, brandished the weapon, and demanded to see me. It took a SWAT team four hours to get him out.

The only crime he could be charged with was a weapons charge. He was put on probation and ordered not to make any contact with me, but to this day he still maintains the delusion that we will meet and have a romantic relationship.

I feel that this man has violated me, and there is nothing I can do about it. I can't help but be concerned when I think of my future and what security measures must be taken to protect my future husband and children to ensure their safety. Why must I live in constant terror of this man's return?

Another unwanted pursuer has written me almost 100 letters. He has said numerous times that he wants to travel to see me. He has proposed marriage countless times, he writes obscene and violent things, but there is nothing that can be done to protect me because he has not made a threat.

I have had to engage the services of a consulting firm that specializes in protecting me and other media figures from these types of people. But what if I could not?

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JUSTINE T. BATEMAN

I am continually amazed when I learn of people who are pursued and are not media figures. They are ordinary citizens -- like the unsuspecting woman who picks up her newspaper from the sidewalk at the same time that the next-door neighbor walks by. He later says, "Something just attracted me to her" and becomes obsessed with her, stalking her for a year. Or the employer who fires a disgruntled employee only to later have his business disrupted by ominous visits, unusual messages, unwanted visits at the homes of the employees. Or the woman whose ex-husband or ex-boyfriend now sits across the street and yells obscenities at her as she walks to her car.

These people do not have the advantages that media figures and government officials have to help them deal with this type of problem. They cannot hire bodyguards or have police protect them. They cannot afford, emotionally or financially, to keep going to the people who are supposed to "protect" them from harm, their local police, and be continually told that without a threat (or even more alarming, physical harm) nothing can be done. Your efforts can lead to laws that prohibit conduct that has no legitimate purpose, conduct which destroys the quality of life for so many victims, and conduct that, in most states, is not illegal.

You have the opportunity now to help many victims and others who need never become victims at all.

102D CONGRESS
2D SESSION

S. 2922

To assist the States in the enactment of legislation to address the criminal act of stalking other persons.

IN THE SENATE OF THE UNITED STATES

JULY 1 (legislative day, JUNE 16), 1992

Mr. COHEN (for himself, Mr. BIDEN, Mr. MCCAIN, Mr. RUDMAN, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To assist the States in the enactment of legislation to address the criminal act of stalking other persons.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. ANTI-STALKING LEGISLATION.**

4 (a) FINDINGS AND DECLARATIONS.—The Congress
5 finds and declares that—

6 (1) the criminal act of stalking other persons is
7 a problem of deep concern;

8 (2) previously available legal recourse against
9 stalking, such as restraining orders, have proven
10 largely ineffective;

1 (3) anti-stalking legislation has been enacted or
2 proposed by several of the States;

3 (4) the constitutionality of several of the States'
4 anti-stalking statutes may be in question; and

5 (5) the Congress has an interest in assisting the
6 States in enacting anti-stalking legislation that is
7 constitutional and enforceable.

8 (b) **EVALUATION.**—The Attorney General, acting
9 through the Director of the National Institute of Justice,
10 shall—

11 (1) evaluate anti-stalking legislation and pro-
12 posed anti-stalking legislation in the States;

13 (2) develop model anti-stalking legislation that
14 is constitutional and enforceable;

15 (3) prepare and disseminate to State authorities
16 the findings made as a result of the evaluation; and

17 (4) not later than 1 year after the date of en-
18 actment of this Act, report to the Congress the find-
19 ings and the need or appropriateness of further ac-
20 tion by the Federal Government.

21 (c) **EXPENSES.**—Expenses incurred in conducting the
22 evaluation and developing model legislation under sub-
23 section (b) shall be paid out of funds that are available
24 to the National Institute of Justice and not specifically
25 appropriated for other purposes, to the extent that such

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1 funds can be made available without increasing the
2 amount of appropriations for the National Institute of
3 Justice for any fiscal year over the amount appropriated
4 for fiscal year 1992.

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