

STATE OF NEW HAMPSHIRE



GOVERNOR'S COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE AND OFFICE OF THE ATTORNEY GENERAL

STALKING PROTOCOL: A MODEL FOR LAW ENFORCEMENT 2009

<http://doj.nh.gov/victim/domesticprotocols.html>

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GOVERNOR'S COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE

The Governor's Commission on Domestic Violence (Commission) was created in 1993 and in 1998 was expanded to include the issue of sexual violence. The Commission represents all branches of government and those agencies and individuals who work with victims and perpetrators of domestic and sexual violence.

The mission of the Governor's Commission is to develop and implement programs to reduce the level and seriousness of domestic and sexual violence in New Hampshire, and to increase awareness among the public, governmental and private agencies and the Legislative, Executive and Judicial branches of government, of the causes, effects and magnitude of domestic and sexual violence. The Commission is a volunteer effort of individuals committed to working collaboratively on a statewide level to eliminate domestic and sexual violence in New Hampshire.

The Commission has developed multidisciplinary protocols on standardizing the response to domestic and sexual violence cases among all the disciplines that work with these issues. Eighteen protocols have been developed, including one for prosecution, law enforcement, medical, mental health, probation and parole, the courts, Emergency Medical Services, home health care providers, elder abuse, victim services and employee assistance programs. Each Protocol is designed to enhance and improve systemic responses to these issues. All of the protocols are available on the Attorney General's Office website at <http://doj.nh.gov/victim/domesticprotocols.html>. This is the first edition of the *Stalking Protocol: A Model for Law Enforcement* and it outlines appropriate responses to help victims by offering safety and support for victims and accountability for their stalkers.

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PURPOSE

The purpose of this protocol is to provide uniform law enforcement guidelines and procedures for responding to, recording, investigating and handling stalking incidents to ensure that harassing or threatening behavior is properly identified and prosecuted to the fullest extent of the law. The overall goal is the prevention of stalking violence through early identification of stalking behaviors and early intervention, in collaboration with the community, in order to hold the offender accountable and to enhance the safety of stalking victims.

POLICY

Stalking cases present a unique and ongoing threat to the victim, the seriousness of which is difficult to predict and may involve ongoing behavior by a suspect that could span just a few days or for many years. Due to the difficult and dangerous nature of this conduct, it is important for law enforcement to act quickly to investigate all harassment, threatening behavior, and stalking reports in a manner that will protect the victim and facilitate the arrest of the stalker.

Law enforcement officers who respond to stalking complaints should keep in mind that a significant percentage of homicides committed in the United States involve the perpetrator stalking the victim prior to committing the actual homicide. Further, responding officers should treat all stalking complaints as having the potential of being a serious crime and officers need to take steps to insure their own safety when responding to a call as well as the victim's safety. Additionally, officers should consider that it is possible that the perpetrator who is stalking the victim may have the victim and therefore the officer, under surveillance when the officer makes contact with the victim.

All acts of stalking should be treated as criminal conduct. Law enforcement may arrest, without a warrant, any person that the officer has probable cause to believe has violated the provisions of the stalking statute ([RSA 633:3-a](#)) when the offense occurred within 12 hours, regardless of whether the crime has occurred in the presence of the officer. A law enforcement officer shall arrest a person when he has probable cause to believe a violation of the stalking statute had occurred within the last 12 hours when the offense involved a violation of a protective order issued pursuant to RSA 173-B, RSA 458:16, or paragraph III-a of RSA 633:3-a.

Law enforcement should ensure that victims are informed of their rights and of available services within the department and the community.

Consistent compliance with the procedures set forth in this protocol will greatly increase the effectiveness of law enforcement response to stalking. It will also ensure that victims of stalking are afforded the maximum protection under the law.

OVERVIEW OF STALKING

STALKING BEHAVIORS

Stalking creates a psychological prison that deprives its victims of basic liberty of movement and security in their homes. Stalking is not, by definition, a one-time criminal act but a series of repeat acts of victimization, a pattern of behavior, and/or a course of conduct. It may involve a mix of patently criminal acts and behavior that, in another context, would be considered benign and non-criminal. A stalker can commit any type of crime - from vandalism, to kidnapping, to homicide. Stalking laws also criminalize ostensibly innocent acts that would normally be considered benign and non criminal- such as sending letters, delivering unwanted gifts, or making phone calls to the victim, if they form part of a course of conduct or that, implicitly or explicitly, threatens the victim and instills fear. Generally, stalking is an escalating series of actions and incidents.

Common stalking behaviors include, **BUT ARE NOT LIMITED TO:**

- Violations of any protective order by visits to the victim's home or any other location frequented by the victim
- Telephone calls to the victim (harassing, threatening, obscene or otherwise)
- Mail, cards, letters or gifts to the victim
- Trespassing
- Burglary of the victim's home (often there is no forced entry because the stalker may have a key.)
- Following the victim on foot or in a vehicle
- Showing up at the victim's place of employment or other frequented establishments
- Spying or monitoring of the victim's activities
- Making slanderous statements or false reports concerning the victim
- Delivery of objects to the victim intended to cause fear to that victim (these objects, taken out of context, may seem innocuous to outsiders.)
- Threats made to the victim (either direct, veiled, or conditional)
- Vandalism or theft of the victim's property, home, vehicle, workplace, or vandalism to the property, etc. of any friend or family member who helps the victim
- Vandalism affecting the security of the victim's home, such as unscrewing outside lights or disabling the alarm system
- Disabling the victim's vehicle
- Transferring the victim's phone line to another line in order to monitor messages or disabling or planting listening devices in the victim's home
- Filing "change of address" forms at the post office under the victim's name in order to intercept the victim's mail
- Harassing or threatening the victim by use of computers, Internet, and other technologies. (Example: Spyware, "Spoofcard", Global Positioning Systems (GPS))
- Harm to pets or animals belonging to the victim

CLASSIFICATIONS OF STALKERS

It is important for law enforcement officers to remember that there is no one profile or type of a stalker. Stalkers come from different backgrounds and have different personalities. They may abuse drugs and alcohol, or avoid these substances altogether. They may or may not have prior criminal records. Their victims may be current or past intimate partners, acquaintances, or strangers. They may be driven by fantasy or delusion or by anger, revenge, jealousy, and a desire for power and control over a current or former intimate partner. Many have dependant and controlling personalities (as is true of many domestic violence stalkers) and some may have a mental illness or condition that needs treatment.

Researchers have developed a widely accepted "typology" that divides stalkers into four main categories and indicates which types are more and less common. While helpful in some respects, the typology has to be applied with caution to real-life stalking cases, even by those who have received proper training. Individual perpetrators may not precisely fit any single stalker category or can exhibit characteristics associated with more than one category.

The generally accepted typology of stalkers includes the following categories (Meloy, (1998) "The Psychology of Stalking," AP):

Simple Obsessional

This type of stalker is the most common. This category represents 70-80% of all stalking cases. It is usually a male who knows the victim as ex-spouse, ex-lover, or former boss and who begins a campaign of harassment against the victim. The stalking behavior begins either after the relationship has gone bad, or has ended, or there is a perception of mistreatment.

Love Obsessional

This stalker is a stranger to the victim, but is obsessed and thus begins a campaign of harassment to make the victim aware of the stalker's existence. This type of person often stalks a celebrity or public figure, but can also become obsessed with the bank teller or grocery store clerk. This category represents 20-25% of stalking cases.

Erotomania

This stalker is often female and falsely believes that the victim is in love with her and, but for some external influence, they would be together. The victim may be someone rich or famous or in a position of power such as an employer, movie star, or political figure. In this situation those who are close to the victim (i.e., a spouse or lover who is perceived as "being in the way") may be the most at risk.

False Victimization Syndrome

This is an extremely rare occurrence that involves someone who consciously or subconsciously desires to be placed in the role of a victim. They therefore establish a complex tale of being stalked, which is in fact false. Sometimes this individual is the actual perpetrator, and the stalker they identify may well be their own target.

UNIQUE ASPECTS OF STALKING CASES

Stalking cases are unique and sometimes difficult cases for law enforcement for several reasons, including, but not limited to, the following:

1. Stalking cases often appear insignificant to the law enforcement officer in the beginning. This is because they manifest as violations of protective orders or harassing phone calls which can be viewed as low priority. Quite often nothing physically has happened to the victim *yet*. Unless the officer questions the victim thoroughly, a potential or present stalking case can be completely missed. Often, the victim will not be aware that s/he is being stalked. S/he is aware only that there is a problem in her/his life.
2. For the majority of stalking victims, the fear that something will happen is overwhelming, and they may *never* feel safe. To further complicate stalking cases, many people believe stalking victims are merely paranoid and not in any real danger. Some even think stalking is a form of flattery. Others blame the victim, wondering what s/he has done to encourage the stalker. Because of these perceptions, the stalking victim may feel very isolated and because nothing may have *happened to* her/him yet, no one may help. The victim is further isolated from support systems if s/he has moved or changed jobs as a protective measure. The victim may also feel guilty about putting family or friends in possible danger if the stalker has made threats against them. Acknowledging the legitimacy of the victim's fear and recognizing that stalking behavior can indeed be the precursor of significant violence is a critical first step in any stalking investigation.
3. Stalkers may commit criminal acts in multiple jurisdictions. The victim may live in one city or town, work in another, attend school in a third location and may also flee to a relative's or friend's home because of the harassment. Consequently, there will be different locations and sometimes different victims' names on crime reports especially when the friends' or relatives' property is vandalized which all relate to acts committed by the same stalker, but not being investigated by the same officer or even the same department. Different agencies must communicate on these incidents or the complete pattern of the stalking case gets lost, or is never recognized.
4. Stalking cases can last for one day or many years with varying periods of inactivity or increased activity.

Arrest and prosecution of stalkers, and/or victims obtaining a protective order, are not guarantees that the stalker will cease and desist; in fact, these actions may aggravate the situation. This does not mean that these remedies should not be used, but only in conjunction with safety planning for and with the victim. It is also critical that appropriate bail, conditions of release, and ultimate penalties are leveled against the stalker.

DEFINITION OF STALKING

It is imperative that law enforcement not only be familiar with the laws pertaining to stalking and protective orders, but also other state statutes that can be applied to stalking behaviors and situations, in order to effectively respond to incidents and provide safety for the victim.

Please note that some of the domestic violence statutes are referred to regularly in this protocol. As noted in 633:3-a (III-a) the types of relief that may be granted, the procedures and burdens of proof to be applied in such proceedings, the methods of notice, service, and enforcement of such orders, and the penalties for violation thereof shall be the same as those set forth in RSA 173-B.

NEW HAMPSHIRE STALKING STATUTES - RSA 633:3-a

New Hampshire RSA 633:3-a provides the definitions of stalking. As of the date of this protocol (2009), the following definitions are current. The reader of this protocol is encouraged to check updates to the statutes as may be appropriate.

RSA 633:3-a DEFINITIONS

I. A person commits the offense of stalking if such person:

(a) Purposely, knowingly, or recklessly engages in a course of conduct targeted at a specific person which would cause a reasonable person to fear for his or her personal safety or the safety of a member of that person's immediate family, and the person is actually placed in such fear;

(b) Purposely or knowingly engages in a course of conduct targeted at a specific individual, which the actor knows will place that individual in fear for his or her personal safety or the safety of a member of that individual's immediate family; or

(c) After being served with, or otherwise provided notice of, a protective order pursuant to RSA 173-B, RSA 458:16, or paragraph III-a of this section, or an order pursuant to RSA 597:2 that prohibits contact with a specific individual, purposely, knowingly, or recklessly engages in a single act of conduct that both violates the provisions of the order and is listed in paragraph II(a).

II. As used in this section:

(a) "Course of conduct" means two or more acts over a period of time, however short, which evidences a continuity of purpose. A course of conduct shall not include constitutionally protected activity, nor shall it include conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct may include, but not be limited to, any of the following acts or a combination thereof:

- (1) Threatening the safety of the targeted person or an immediate family member.
- (2) Following, approaching, or confronting that person, or a member of that person's immediate family.
- (3) Appearing in close proximity to, or entering the person's residence, place of employment, school, or other place where the person can be found, or the residence, place of employment or school of a member of that person's immediate family.
- (4) Causing damage to the person's residence or property or that of a member of the person's immediate family.
- (5) Placing an object on the person's property, either directly or through a third person, or that of an immediate family member.
- (6) Causing injury to that person's pet, or to a pet belonging to a member of that person's immediate family.
- (7) Any act of communication, as defined in RSA 644:4, II.

(b) "Immediate family" means father, mother, stepparent, child, stepchild, sibling, spouse, or grandparent of the targeted person, any person residing in the household of the targeted person, or any person involved in an intimate relationship with the targeted person.

III. [Repealed 2000]

III-a. A person who has been the victim of stalking as defined in this section may seek relief by filing a civil petition in the district court or the superior court in the county or district where the plaintiff or defendant resides. Upon a showing of stalking by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of stalking. The types of relief that may be granted, the procedures and burdens of proof to be applied in such proceedings, the methods of notice, service, and enforcement of such orders, and the penalties for violation thereof shall be the same as those set forth in RSA 173-B.

III-b. The minority of a plaintiff or defendant shall not preclude the court from issuing protective orders under this section.

III-c. Any order under this section shall be for a fixed period of time not to exceed one year, but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with notice to the defendant, for one year after the expiration of the first order and thereafter each extension may be for up to 5 years, upon the request of the plaintiff and at the discretion of the court. The court shall review the order, and each renewal thereof and shall grant such relief as may be necessary to provide for the safety and well being of the plaintiff. A defendant shall have the right to a hearing on the extension of any order under this

paragraph to be held within 30 days of the extension. The court shall state in writing, at the respondent's request, its reason or reasons for granting the extension. The court shall retain jurisdiction to enforce and collect the financial support obligation, which accrued prior to the expiration of the protective order.

III-d. (a) A protective order issued pursuant to this section, RSA 173-B:4, or RSA 173-B:5 shall not be construed to prohibit an attorney, or any person acting on the attorney's behalf, who is representing the defendant in an action brought under this chapter, or in any criminal proceeding concerning the abuse alleged under this chapter, from contacting the plaintiff for a legitimate purpose within the scope of the civil or criminal proceeding; provided, that the attorney or person acting on behalf of the attorney: identifies himself or herself as a representative of the defendant; acknowledges the existence of the protective order and informs the plaintiff that he or she has no obligation to speak; terminates contact with the plaintiff if the plaintiff expresses an unwillingness to talk; and ensures that any personal contact with the plaintiff occurs outside of the defendant's presence, unless the court has modified the protective order to permit such contact.

(b) A no-contact provision in a protective order issued pursuant to this section shall not be construed to:

- (1) Prevent contact between counsel for represented parties; or
- (2) Prevent a party from appearing at a scheduled court or administrative hearing; or
- (3) Prevent a defendant or defendant's counsel from sending the plaintiff copies of any legal pleadings filed in court relating to the domestic violence petition or related civil or criminal matters.

(c) A violation of this paragraph may result in a finding of contempt of court.

IV. In any complaint, information, or indictment brought for the enforcement of any provision of this statute, it shall not be necessary to negate any exception, excuse, proviso, or exemption contained herein and the burden of proof of any exception, excuse, proviso, or exemption shall be upon the defendant.

V. Any law enforcement officer may arrest, without a warrant, any person that the officer has probable cause to believe has violated the provisions of this section when the offense occurred within 12 hours, regardless of whether the crime occurred in the presence of the officer. A law enforcement officer shall arrest a person when he has probable cause to believe a violation of the provisions of this section has occurred within the last 12 hours when the offense involves a violation of a protective order issued pursuant to RSA 173-B, RSA 458:16, or paragraph III-a of this section.

VI. (a) Any person convicted of a violation of this section and who has one or more prior stalking convictions in this state or another state when the second or subsequent offense occurs within 7 years following the date of the first or prior offense shall be guilty of a class B felony.

(b) In all other cases, any person who is convicted of a violation of this section shall be guilty of a class A misdemeanor.

VII. If any provision or application of this section or the application thereof to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provisions or applications, and to this end the provisions of this section are severable.

Other applicable state statutes may include:

- Domestic Violence [RSA 173-B](#)
- Assault [RSA 631](#)
- Sexual Assault [RSA 632-A](#)
- Criminal Threatening [RSA 631:4](#)
- Criminal Mischief [RSA 634:2](#)
- Theft [RSA 637:3](#)
- Attempted Murder [RSA 629](#)
- Kidnapping [RSA 633:1](#)
- Hate Crimes [RSA 651:6](#)
- Identity Theft [RSA 638:26](#)
- Wiretapping [RSA 570-A](#)
- Computer Crimes [RSA 638:17](#)
- Terrorism or Terrorist/Criminal Threats

If the stalking behavior is targeted against a family or household member or an intimate partner see the Attorney General's Protocol entitled *Law Enforcement: A Model Protocol for Police Response to Domestic Violence Cases, Second Edition, 2004*.

http://doj.nh.gov/victim/docs/law_enforcement_2002.pdf

If the stalking is related to sexual assault see the Attorney General's Protocol entitled *Sexual Assault: A Protocol for Law Enforcement Response and Investigation of Adult Sexual Assault Cases, Second Edition, 2004*.

http://doj.nh.gov/victim/docs/law_enforcemen_adult.pdf

FEDERAL STATUTES

Law enforcement should be aware that some federal statutes might be pertinent to their investigations and subsequent prosecution. However, federal violations MUST be investigated by and acted on by federal authorities. Nothing precludes local law enforcement from gathering investigative information and forwarding it to federal authorities. The US Attorney's Office for the District of New Hampshire has jurisdiction and SHOULD be contacted at (603) 225-1552.

Some of the federal statutes that may apply include:

- The *Full Faith and Credit Act*, 18 U.S.C. § 2265 (1994, 2000) mandates all law enforcement authorities to recognize and enforce valid orders of protection issued by all courts throughout the United States and its territories, including injunctions against harassment and stalking in state, tribal and territorial courts.
- The *Interstate Travel to Commit Domestic Violence Act*, 18 U.S.C. § 2261(a)(1) (1996, 2000) makes it a federal crime to travel across state, tribal or international borders with the intent to kill, injure, harass, or intimidate a spouse, intimate partner, or dating partner and to commit, or attempt to commit, a crime of violence against that spouse or intimate partner.
- The *Interstate Stalking Punishment and Prevention Act*, 18 U.S.C. § 2261A (1) (1996, 2000) makes it a federal crime to travel across state, tribal or international borders to stalk another person. Section 2261A (2) makes it a federal crime to stalk (see § 2261A(1) for definition of stalking) another person across state, tribal, international lines, using regular mail or the Internet.
- The *Interstate Violation of a Protective Order Act*, 18 U.S.C. § 2262(a)(1) (1994, 2000) makes it a federal crime to travel across state, tribal or international lines with the intent to violate a protective order and to subsequently engage in conduct that violates that order.
- The *Federal Domestic Violence Firearms Prohibition Act*, 18 U.S.C. § 922(g)(8) (1994, 1996) makes it a federal crime to possess any firearm(s) or ammunition if subject to a “qualifying” protective order issued on behalf of a spouse or intimate partner. 18 U.S.C. 922(g)(9) makes it illegal to possess a gun if the person has been convicted in any court of a misdemeanor crime of violence.
- The *Interstate Communications Act*, 18, U.S.C. § 875(c) makes it a federal crime to transmit in interstate or foreign communications any threat to kidnap or injure another person.

INTERVENTION STRATEGIES

Whenever a stalking case is identified by a law enforcement agency, the intervention process should start immediately. It can be as simple as a telephone call to the relevant parties; however, sometimes the process may be more complicated. The essence of all interventions is to enhance everyone's safety and to enforce any violation of law. The aggressiveness of the intervention may be influenced if one of the parties has been arrested for stalking, harassment, violation of any court orders, or perpetrated an act of violence or threats towards others.

Law enforcement should recognize that in some cases victims might be the best judge of the potential threat to their safety. Victims' knowledge and concerns should be carefully considered when developing intervention and investigation strategies.

Examples of intervention strategies are:

- Discuss with victims all available options and safety planning (*See [Appendix E](#) for Safety Plan*)
- All victims should be encouraged to contact their local crisis center (*See [Appendix A](#) for Crisis Center List*)
- Arrest of the stalker
- Both verbal and written warnings issued to stalker when the behavior does not constitute a violation of law
- Issuance of Protective Orders (either civil or criminal)
- Strict enforcement of Protective Orders
- Mental health referrals
- Arrest and detention for other criminal conduct
- In extreme cases, victim relocation (contact local crisis center for options)
- Surveillance
- Assessing the threat
- Weapons seizures: Often law enforcement only consider firearms, but dangerous weapons can include such things as compound bows, swords, large hunting knives, or martial arts weapons. Seizures can be accomplished by:
 - o Consent of the individual;
 - o By court order, whether as a condition of bail or through a protective order;
 - o Plain View Doctrine; and
 - o Search Warrant.

IMPACT OF STALKING ON VICTIMS

The impact of stalking on victims will vary according to each individual and her/his circumstances. Many victims will experience a range of emotions and feelings including frustration, anger, fear, confusion, anxiety, vulnerability, and stress. Some victims may also experience hyper-vigilance, depression, exhaustion, and difficulties eating and sleeping.

It is important to remember that victims' responses to stalking are usually normal reactions to abnormal circumstances.

Obstacles preventing victims from seeking assistance may include:

- Fear of not being believed or of being scrutinized by others, including law enforcement
- Fears about how the stalker will respond
- Belief that no one can or will help
- Implicit or explicit threats made by the stalker
- Limited resources or unfamiliarity with resources
- Cultural/language barriers and/or immigration status

VICTIM SAFETY AND SAFETY PLANNING

Victim safety is of the utmost importance. While law enforcement can never guarantee the safety of stalking victims, they can help empower them and decrease risk through assistance with safety planning.

Victims often have the best insight on their feelings and circumstances; therefore, victims must always be involved in their own safety planning. Victims should be referred to their **local crisis center** for assistance with safety planning (See [Appendix A](#) for Crisis Center List and [Appendix E](#) for Safety Plan).

Encourage the victim to work with law enforcement, crisis center advocates, and/or prosecutors to develop specific, personalized, and detailed safety plans and provide written information ([Appendix G](#) for Victim Notification Form) about who can assist with safety planning. Explain:

- Safety plans must be continually assessed and adjusted in light of developments in the investigation and prosecution of the case.
- It is essential to plan for safety in the home and at locations away from home.
- All available strategies and technologies to promote safety.

OPTIONS FOR ASSISTING STALKING VICTIMS

A response to a victim of stalking should include whatever steps are reasonably necessary to protect the victim, including:

- Advising the victim about availability of criminal and civil orders of protection that prohibit the stalker from contacting the victim.
- Providing the victim in writing with the responding officer's name, badge number, the incident report number, and a telephone number that the victim can call for information about the case.
- Advising the victim about procedures for initiating criminal proceedings and the collection and preservation of evidence for law enforcement and prosecutors.
- Providing the victim with a brochure or pamphlet that explains their rights as crime victims, available services and compensation and how to access such services, etc.
- Providing written information about safety planning and advocates who can assist with safety strategies.
- Helping the victim leave her/his residence, for safety reasons by accessing resources in the community such as crisis centers, family, friends, community shelters and/or actually transporting the victim to a secure location.

THE ROLE OF CRISIS CENTER ADVOCATES

There are fourteen crisis center programs throughout the state that provide services and support to victims of stalking, sexual assault, domestic violence, and sexual harassment (*See [Appendix A](#) for Crisis Center List*). Their services are free and are available to everyone regardless of gender, age, health status (including HIV-positive), physical, mental or emotional ability, sexual orientation, gender identity/expressions, socio-economic status, race, national origin, immigration status or religious or political affiliation.

Crisis center advocates, whose communication with the victim is **privileged** under RSA 173-C:2, can help address the victim's emotional needs while maintaining her/his confidentiality. (See Crisis Center Advocate Confidentiality below) Crisis center advocates are specially trained to provide victims with non-judgmental, emotional support and resources and to help victims understand the process and options that are available to them.

The services provided include:

- Support and information, available in person or through a 24-hour toll free hotline
- Accompaniment, support and advocacy at local hospitals, courts, and police departments
- Assistance with protective orders and referrals to legal services
- Peer support groups
- Access to emergency shelter
- Information and referrals to community programs
- Community and professional outreach and education

CRISIS CENTER ADVOCATE CONFIDENTIALITY

Victims have privileged communication with crisis center advocates under RSA 173-C (See [Appendix B](#)). Any communication between the victim and an advocate, without a third party present, is privileged and must remain confidential. The privilege rests with the victim, not the advocate, and may only be waived by consent of the victim. When working with crisis center advocates, it is important for law enforcement to understand that it is not the choice of an advocate whether or not to share information regarding a victim, including whether or not there has even been contact. Only a crisis center release, signed by the victim, allows an advocate to divulge any information regarding a victim. This includes whether or not the victim is residing at a crisis center shelter. The inability of advocates to disclose that information must be respected. In communities where a confidential shelter is located, law enforcement should develop a protocol with the local crisis center regarding contacting victims believed to be residing at the shelter.

ADDRESS CONFIDENTIALITY PROGRAM

Frequently, victims attempting to escape from violent situations often must move and establish new addresses in order to prevent their abuser or assailant from locating them. Unfortunately, victims can be tracked by their stalker as a result of their address being part of a public record. The New Hampshire Address Confidentiality Program (ACP), located in the Attorney General's Office, was designed to assist victims of domestic violence, sexual assault or stalking to maintain the secrecy of their home, work or school address.

The ACP allows victims who have permanently moved and are seeking to have their location remain confidential, to receive a substitute address designated by the Attorney General. This address is used as if it were the victim's actual address when accessing state and local services. State and local agencies are mandated under the statute to accept the ACP address for a victim, therefore keeping their actual address from appearing in government and other public documents. The ACP address has no relation to the victim's actual physical address. Private companies, business and federal agencies do not have to accept the ACP address for a participant.

Victims in the ACP designate the Attorney General as their agent for service of process and receipt of mail. Therefore any first class mail addressed to the victim through the ACP is accepted by the Attorney General and then forwarded to the victim. This allows the victim to continue to have mail service while maintaining the confidentiality of their actual residential address. Victims interested in applying for the ACP need to be referred to their local crisis center (See [Appendix A for Crisis Center List](#)). Advocates will help victims in determining if the program may be of value to their individual situation and assist them with the application process.

VICTIM'S COMPENSATION PROGRAM

The New Hampshire Victim Assistance Commission was created in 1990, to financially assist innocent victims of violent crime by providing compensation to them and to immediate

family members for losses incurred due to personal injury or death of the victim. Those eligible to apply for compensation include individuals who sustain personal injury, including mental trauma, as a result of a felony or misdemeanor; those injured as a result of a person driving under the influence of alcohol or controlled substances; child victims of sexual abuse; and immediate family members of homicide victims.

Examples of eligible expenses include: medical, dental and psychiatric services, funeral and other miscellaneous expenses, including but not limited to prescriptions, property taken as evidence, lost wages, travel expenses to licensed providers, physical assistance equipment and crime scene clean-up. Property loss and pain and suffering are not compensable through this program.

The Commission will also provide funds for relocation assistance, if a victim is forced to flee from the offender for their safety. This benefit allows victims to have their security deposit, two months rent, and moving and storage expenses paid. The Commission may also cover travel expenses, such as airfare, bus tickets or other transportation.

Victims interested in applying for compensation, including relocation expenses, should be referred to their local crisis center for assistance and information (*See [Appendix A](#) for Crisis Center List*).

STALKING IN DIVERSE POPULATIONS

While anyone can be a victim of stalking, there are specific groups of people that may face additional barriers in accessing and receiving assistance. Stalking victims come from diverse backgrounds and bring with them their own experiences, beliefs, and values. While it may be difficult to know how to respond to all victims, understanding culturally competent practices may be helpful. Acknowledging and understanding how a victim self-identifies is important to building a relationship that is based on trust and respect. Some diverse populations are difficult to reach in the community, in part, due to oppression and racism in our society.

Some things to consider include:

- Stalking can occur between strangers and in both heterosexual and gay and lesbian relationships. It is important to not force someone to disclose her/his sexual orientation or gender identity and to keep that information confidential when disclosed by the victim. Remember that regardless of the size and the gender of the victim or the stalker, stalking can still cause the victim concern and fear.
- If someone is an immigrant or refugee, learning more about her/his culture and identity may be helpful in responding to the what s/he is experiencing. Victims in the immigrant and refugee community may have limited to no English proficiency. If possible, use a certified or confidential interpreter to communicate with the victim. Try to avoid using family, friends, and members of their community to interpret, as it may not be safe for the victim. Immigrants may not understand what stalking is or how it is defined here in New Hampshire, or may be fearful of deportation and arrest.
- Victims with disabilities may face complex challenges. Stalkers may target these victims because of their disabilities or exploit their disabilities in committing crimes. People with disabilities are particularly vulnerable to stalking because they are sometimes perceived to be easier to control than other victims. These controlling behaviors, as part of an overall pattern of conduct, produce substantial emotional distress and are likely to cause fear in the victim.

The Bureau of Emergency Communications (911) provides services to public safety agencies, as well as to the public. Public Safety officials should call (603) 271-8000, a non-emergency line to the Duty Supervisor accessible twenty-four hours a day. Services include: Emergency Interpreter Referral System which provides interpreters for deaf, hearing impaired, and speech impaired individuals involved in emergency situations. The Bureau also subscribes to AT&T Language Line, which is a language interpretation service that has the ability to translate over 140 languages and dialects.

CIVIL PROTECTIVE ORDERS

Victims of stalking should be encouraged to apply for protective order relief. There are enforcement advantages and safety enhancements for the victim.

According to RSA 633:3-a, III-a, "A person who has been a victim of stalking may seek relief by filing a civil petition in the district or the superior court in the county or district where the plaintiff or defendant resides." **Note: Stalking protective orders cannot be obtained in family court.**

A petition for a stalking protective order must set out facts that demonstrate to the court by a preponderance of the evidence that the victim is being stalked. The order has the same force and effect as a protective order issued under the domestic violence statute.

Unlike with a domestic violence protective order, a **stalking victim is not required to prove a prior relationship existed in order to petition for a protective order under RSA 633:3-a.** However, if the victim and the stalker are members of the same family or household, or are intimate partners, the victim should be encouraged to seek a domestic violence protective order. (See the Attorney General's Protocol entitled *Law Enforcement: A Model Protocol for Police Response to Domestic Violence Cases, Second Edition, 2004.* http://doj.nh.gov/victim/docs/law_enforcement_2002.pdf).

Violation of the stalking civil protective order will result in a **mandatory** arrest for a single act, permitting quick intervention.

TEMPORARY STALKING CIVIL PROTECTIVE ORDERS

When temporary stalking civil protective orders are obtained, a final hearing on the order must be held within 30 days of the filing or within 10 days of service on the defendant, whichever occurs first.

SERVICE OF ORDERS

Temporary stalking civil protective orders **SHALL BE PROMPTLY SERVED** on the defendant. The responsibility for service of civil protective orders will fall upon law enforcement. The first page of the civil protective order should be carefully reviewed for victim and officer safety purposes. This information will allow the officer to better assess the potential for violence at the time of service.

All attempts to serve should be recorded in a journal report initiated for said civil protective order. Officers should include any information obtained in the attempt to serve, including updated defendant information. A copy of the journal should be attached to the order after each attempted service. If the officer is unable to make service, the report should

indicate why (i.e. defendant has moved; no response at door, etc.) All returns of service must be immediately forwarded to the issuing court either in hand or by fax.

When serving the order:

- **Verify** the defendant's date of birth and social security number (driver's license, birth certificate, passport or other verifiable form of identification). **Verbal verification is unacceptable.**
- Thoroughly explain the civil protective order's content and its penalties to the defendant;
- Confirm that the defendant understands the civil protective order;
- Ensure that the defendant is aware of the hearing date listed at the bottom of the order;
- Notify the defendant that s/he may request, in writing to the clerk of court where the order was issued, that a hearing be held no less than 3 business days and no more than 5 business days from the clerk's office receipt of the request;
- **Ensure that the victim's address or the location of any domestic violence shelter is not divulged to the defendant;**
- Observe and document the defendant's response to service including statements made, body language, sobriety, etc.; and
- Deliver return of service form to the court of issuance immediately.

FINAL ORDERS

At the final hearing the victim must establish by a preponderance of evidence that the defendant stalked the victim within the meaning of RSA 633:3-a. If the final order is granted it will be made effective for one year.

ENFORCEMENT OF ORDERS

Temporary, final, and foreign civil stalking protective orders are enforceable statewide, as are the protective provisions of divorce decrees. **The violation of a civil protective order is a misdemeanor for which arrest and detention is statutorily mandated by RSA 173-B:9.** Mutual protective orders, often issued in marital cases, are only enforceable if they meet certain requirements (see RSA 173-B,V).

<p>If an officer is confronted with conflicting protective orders, the officer should contact the court from which the most recent order was issued, for clarification.</p>
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Once served, the Administrative Office of the Courts enters information regarding the civil protective orders into the state database which is available to law enforcement personnel statewide.

All protective orders, the related original petition for a protective order, and a data sheet are imaged and stored on a fax server at the Administrative Office of the Courts. This system is indexed by Protective Order Number (PNO) and is programmed to send copies of protective orders to New Hampshire law enforcement agencies that have registered their fax numbers with the New Hampshire judicial branch. This feature provides law enforcement with access to protective orders 24/7 and ensures that unauthorized personnel do not have access to sensitive information.

Law enforcement agencies from other states can determine if a civil protective order exists through the National Crime Information Center (NCIC). The NCIC Protective Order File (POF) contains miscellaneous comments that refer law enforcement officials inside and outside of New Hampshire to the State Police should they need a copy of the civil protective order, petition or data sheet.

FAXBACK SYSTEM

For law enforcement to get a copy of a protective order call: **(603) 271-8488**.

NOTE: The use of this number requires pre-registration of the department fax line. To pre-register a law enforcement agency fax machine, fax department letterhead and a brief written request to **(603) 271-8485**. For questions please call **(603) 271-2520**.

CIVIL STANDBYS

Civil standbys for the purpose of retrieving personal property by both the defendant and the victim are required and outlined by statute.

NOTE: Remember that the provisions of the civil protective order remain in effect while the civil standby is taking place.

Defendant

RSA 173-B:5 I.(a)(2) – restrains the defendant from entering the premises and curtilage where the plaintiff resides, except when the defendant is “accompanied by a peace officer and is allowed entry by the plaintiff for the sole purpose of retrieving personal property specified by the court”.

The defendant must make arrangements through the local law enforcement agency to retrieve any property specified by the court. The law enforcement agency should contact the plaintiff and arrange for a convenient time for the defendant and law enforcement officer to proceed to the residence to retrieve the items designated. Should the plaintiff deny access to the items specified by the court, the law enforcement officer should notify the court of the refusal. Disputed property needs to be addressed by the court and should be left at the residence until so ordered. **UNDER NO CIRCUMSTANCES SHOULD THE**

DEFENDANT BE ALLOWED ACCESS TO THE RESIDENCE WITHOUT THE SPECIFIC CONSENT OF THE PLAINTIFF AND THE PHYSICAL PRESENCE OF AN OFFICER.

For the personal safety of the officer and the victim, the officer should physically remain in the presence of the defendant while s/he is retrieving the items specified by the court.

Victim

RSA 173-B:10 I. (d) – requires a law enforcement officer to “assist the victim in removing toiletries, medication, clothing, business equipment and any other items determined by the court”.

If the victim has left the residence, this statute neither requires notification or permission from the defendant to remove the items specified, nor does it require that the defendant be present. Upon arrival at the residence with the victim, the law enforcement officer should remain in the presence of the victim while s/he removes the specified property. If the defendant is present, it is recommended that two officers be present and that one officer stay with the victim and the other with the defendant. If it is not possible to have two officers present, the officer should request the defendant to remain in a specific location (e.g. sit on the couch) and the officer should have visual contact with the defendant at all times.

If there is a court order allowing a large amount of personal property, such as furniture, to be removed from the residence and it is apparent that it will take several hours, it is recommended that the law enforcement agency seek guidance from the court relative to cost reimbursement or any other alternative plan the court may recommend or dictate.

EQUITY ORDER OF PROTECTION

Other types of restraining orders (e.g., neighbors, roommates, etc.) are available only through the Superior Courts.

INVESTIGATING STALKING CASES

Early and swift recognition of potential stalking cases is critical to aid in the victim's safety. Behavior that appears to be legal activity may actually be stalking. Law enforcement should carefully evaluate a person's seemingly innocent behavior to determine if it is alarming, annoying or threatening towards the victim and/or members of her/his immediate family.

The four basic questions law enforcement must answer while conducting a stalking investigation are:

- Who is the suspect?
- What threat or risk of violence does the suspect pose to the victim?
- How will intervention strategies be implemented?
- How does the investigator manage the suspect and the dangers posed to the victim?

NOTE: Law enforcement should be aware that in some cases interviewing the suspect may serve to intensify his/her interest in the victim and escalate the stalking behavior. Whenever a suspect interview is conducted, precautions should be taken to increase the safety of the victim.

THREAT ASSESSMENT

In stalking cases, law enforcement officers have a unique opportunity to respond in a proactive way and potentially prevent future harm to a victim and/or members of her/his immediate family. Assessing the potential threat posed by a stalking suspect is an important step towards that goal. (See [Appendix I for Risk Assessment Checklist](#))

The primary objective of a threat assessment investigation is to gather as much information as possible on both the victim and the suspect. This assessment should be active and ongoing throughout every step of the investigation, prosecution, and post-disposition of each case.

The investigator must collect as much information as possible about the victim, the suspect, and the potential for violence. This is achieved through:

- Intervention Strategies
- Victim Interview
- Suspect Interview
- Surveillance
- Evidence Collection
- Case Management

(See *Victim Safety And Safety Planning* section on page 12.)

VICTIM INTERVIEW

Law enforcement should start by determining the suspect's perceived intentions, plans, and/or actions, beginning with a complete and thorough interview with the victim.

The victim may be able to provide information about the suspect such as:

- Name, home address, place of employment or known hangouts
- Phone numbers and email addresses
- Any vehicle information
- Relationship with suspect, if any
- Weapon possession or access to weapons
- Whether the suspect ever threatened or actually harmed the victim, victim's friends, family, property or pets, etc.
- Whether the suspect had ever attempted or threatened suicide
- Whether the suspect has a history of substance use or abuse
- Habits and routine
- Access to computers and use, including known screen names
- Chronology and location of all events
- Any history of protection orders and/or violations

(See [Appendix H](#) for a Sample Investigatory Checklist)

Through the interview, law enforcement should determine the level of the victim's fear, identify any safety concerns, and discuss possible protective measures with the victim, including:

- Issuing of a "stalking warning letter" if the suspect is known
- Encouraging the victim to screen and document all telephone calls, e-mail, and facsimiles, etc.
- Obtaining and carrying a cell phone to immediately report emergencies.
- Obtaining a protective order
- Encouraging the victim to vary routines and patterns and share protective orders or safety measures with family, employer, and trusted friends to help with security and reporting violations
- Immediately reporting suspicious notes, letters or unwanted gifts to police.
- Encouraging the victim to maintain a log or diary of daily events (See [Appendix F](#) for *Sample Stalking Journal*)
 - Record the impact of stalker's behavior – include any feelings caused by the behavior, including anxiety, fear, and helplessness
 - Articulate any and all changes that had to be made to any existing routines

- Itemize all costs associated with the stalker's behavior, such as counseling, repairing or changing locks, relocation fees, etc.

(See *Victim Safety And Safety Planning* section on page 12)

SUSPECT INTERVIEW

Law enforcement should research the suspect's background and gather as much information as possible about the suspect's intentions, behavior patterns, and activities regarding the victim. The suspect should be encouraged to cease the stalking behavior.

- Conduct database checks in state and national databases, motor vehicle records, and law enforcement contact records maintained where the suspect and victim have lived.

Law enforcement should have a strategy prior to contacting the suspect. It is **recommended** that officers:

- Interview in pairs, if possible
- Be aware of officer safety
- Remember to obtain as many details as possible and document the interview extensively
- Provide the suspect a chance to view his/her actions as misunderstood by the victim and how others could have misunderstood his/her intentions
- Be aware that suspects often attempt to deny or rationalize their behavior
- Remember to question the suspect about other potential victims or crimes

The objectives of the suspect's interview are to:

- Determine criminal activity
- Determine the suspect's intentions
- Assess the threat posed by the suspect
- Learn if the suspect has other victims in mind
- Advise the suspect that the behavior is unwanted, deemed as stalking, and must stop immediately
- Encourage the suspect to change his/her behavior
- Reinforce with the suspect all bail and/or protective orders
- Make it clear to the suspect that all violations of orders or laws will result in arrest and possible incarceration

Law enforcement should then:

- Examine the content, context, and implied meaning of all communications and behavior
- Determine if follow-up interviews are necessary with victim and/or other sources

- Assess if a threat exists
- Determine if there is probable cause for an arrest

If the interview is being conducted post-arrest, the interview should be video- or audio-taped, whenever possible. Being able to hear and/or see the suspect's body language, gestures, voice tone, and eye contact can be important for others, including jurors, to evaluate the suspect's credibility.

Consultation with a mental health or behavioral sciences expert may be valuable to law enforcement when it appears the suspect may suffer from some sort of mental health issue or where the suspect's behavior is extreme.

OTHER INTERVIEWS

Conduct additional interviews that may provide relevant information about the suspect with:

- Family
- Friends
- Employer(s), both prior and current
- School officials
- Child welfare investigators
- Potential witnesses, including children

NOTE: If children are present, they should be interviewed about the stalking in a careful, gentle manner appropriate to the child's age and emotional state. Law enforcement should be observant of any excited utterances from children when interviewing adults and children. Communities with Child Advocacy Centers (CACs) may want to consider having the child interviewed at the CAC.

EVIDENCE COLLECTION

EVIDENCE COLLECTION FROM THE VICTIM

The gathering of physical evidence is needed to enhance or establish a prosecution. In a stalking-related case, the victim will likely be the source of most of the physical evidence. It is imperative that victims fully understand the need for evidence collection and that they not take it upon themselves to decide what is important evidence and what is not.

Law enforcement should be sure to collect any tangible items of evidence from the victim that corroborates the stalking behavior. Things to be seized may include:

- Any letters, notes, and/or electronic correspondence written by the suspect to the victim. Keep latent print and DNA possibilities in mind when handling these items.
- Any objects sent to the victim or left for the victim including, "gifts" or flowers.
- Any answering machine tapes, voice mail, or other forms of taped phone messages. Document time and date. Make a tape recording of these messages to submit as evidence. This documents not only content but also tone of communication.
- Any telephone call trace, caller ID, phone tap information, or other available information from local telephone companies for any phones to which the victim has access.
- Any evidence of phone tapping by the suspect.
- Any log/journal/diary of suspect contacts that the victim may have been keeping which shows any dates, times, and locations of suspect encounters (*See [Appendix F](#) for Sample Stalking Journal*).

LAW ENFORCEMENT GENERATED EVIDENCE COLLECTION

A search of a suspect's residence, vehicle and/or workplace may yield important evidence to support a charge of stalking or pertinent information about the stalker. Law enforcement officers should consider obtaining a warrant to conduct such a search, provided there is probable cause to support such a request. Otherwise, officers may consider seeking the suspect's consent to search. Items to be alert for when conducting a search include:

- Any photographs of the victim. Many times these will have comments or drawings on them.
- Photographs, diagrams, or drawings of the victim's home or workplace.
- Writings, journals, logs or diaries kept by the suspect that describe stalking activities or thoughts/fantasies about the victim or other victims.
- Personal items belonging to the victim.
- Video or audio recordings that might have information concerning the stalking, such as surveillance footage.

- Books describing stalking techniques or having a subject matter dealing with stalking, harassment, or violence.
- Any keys that fit the house or vehicle of the victim.
- Any equipment that appears to have been used to stalk the victim, such as cameras, binoculars, computers, video recorders, fax machines, etc.
- See Cyberstalking on page 27 for more specific information on how to proceed with this type of evidence.

Other types of evidence that law enforcement should consider collecting include:

- All related 911 communications.
- Any videotape surveillance or still photography of the stalker generated by law enforcement officers.
- Any security video (from grocery stores, banks, parking lot/workplace security cameras) that contains evidence of the suspect stalking the victim.
- Telephone records of the suspect. Consider seizing the suspect's/ defendant's cellular phone, if there is probable cause to do so.
- Certified copies of law enforcement reports from other jurisdictions, convictions, prior protective orders, etc.
- Photographs of any items vandalized, damaged, written on, etc.
- Check for latent fingerprint impressions, items with potential DNA, and trace evidence (i.e., items may include cigarette butts, glass/cup used by suspect, blood left at scene, hair and fibers, etc.).

CYBERSTALKING

Stalking is the malicious, unsolicited intrusion on another's personal space, and cyberstalking extends this to cyberspace via Internet technology and other wired and wireless technology. Cyberstalking works in much the same way as stalking in the physical world. In fact, many offenders combine their online activities with more traditional forms of stalking and harassment such as telephoning the victim and going to the victim's home. Some cyberstalkers locate or target their victims over the Internet and others put personal information about their victims online, encouraging others to contact the victim, or even harm them.

The anonymity and reach of the Internet, and the difficulties in capturing, recording, and verifying digital evidence combine to create new challenges to law enforcement agencies trying to prevent and detect the crime and apprehend the criminals. In particular, the "expectation of privacy" afforded to all participants of live-wire communication makes it difficult to bind the actual perpetrator with her/his online action.

To successfully investigate cyberstalking cases, law enforcement must understand how offenders use the Internet to stalk their victims.

DEFINITION

A basic definition of cyberstalking is the repeated use of the Internet, e-mail, or related digital electronic communication devices to annoy, alarm, or threaten a specific individual or group of individuals.

Cyberstalking is covered under RSA 633:3-a, II(a)(7), which includes stalking by "any act of communication, as defined in RSA 644:4, II," the harassment statute. RSA 644:4, II, defines communication as imparting "a message by any method of transmission. ... *including electronic transmissions generated or communicated via a computer.*"

INVESTIGATIVE METHODS

Stalkers have employed various methods of Internet communication to harass their victims. Below are the more common methods of electronic communications that law enforcement need to recognize and document in their investigations:

1. **E-mail:** A method of communication that allows an individual to transfer text, picture, video, and audio files to another person's electronic mailbox.
2. **Newsgroups:** A method of communication that amounts to an ongoing discussion about a particular topic. Internet users contribute to the ongoing discussion by posting their opinions, comments, or related experiences about a particular subject.

3. **Message boards/guest books:** A method of communication similar to a newsgroup in that its contents amount to comments about a particular topic. Internet sites often have guest books where visitors can enter their names and make comments about the site.
4. **Internet sites:** A method of communication that involves posting information to a unique uniform resource locator (URL). Internet users later can retrieve this information by directing their Web browser to the corresponding URL. An Internet site becomes the method of harassment when a cyberstalker posts information or images on a Web page about an individual that causes them to become alarmed or frightened.
5. **Chat rooms:** A method of communication that enables real-time text, audio and video-based group interaction. Chat rooms, or chat channels, usually are organized around specific topics of conversation.
6. **Third-party instant messengers:** A method of communication that enables real-time text, audio, and video based interaction between two individuals over the Internet or a computer network. Users program their instant messenger software to notify them when designated individuals log on to the network.

EVIDENCE COLLECTION

Evidence collection in cyberstalking cases is similar to evidence collection in traditional-type stalking cases.

Computers and cell phones are the primary sources of evidence in cyberstalking cases. Once law enforcement identifies the method by which cyberstalking is taking place, they can (with a search warrant as applicable) seize the computer or other electronic device used in the crime for forensic inspection.

Before seizing a computer and collecting evidence from a computer or other electronic device, it is important to have an understanding of how forensic science is applied to computers or other devices. Investigators should collect, document, and preserve digital evidence in a way that will facilitate the reconstruction and prosecution processes. Also investigators should become intimately familiar with all available digital evidence, in order to be able to know what to look for in stalking cases. **The New Hampshire State Police Forensic Laboratory (271- 3573) should be contacted for assistance if there are specific questions about cyber evidence collection.** (*See Appendices [J](#), [K](#), [L](#), [M](#) for more information on evidence collection*).

CHARGING DECISIONS

CHARGING

The decision on whether to file charges and which crimes to charge is the responsibility of the prosecutor and/or arresting officer. In many New Hampshire communities, law enforcement officers are responsible for the prosecution of district court cases.

The prosecutor should review all the facts in the case and carefully consider the following:

- The elements of the offense;
- The extent and seriousness of threats, harassment and/or injuries;
- The use or threatened use of a deadly weapon;
- The defendant's criminal history;
- The defendant's use of alcohol or other drugs;
- The defendant's current mental status and history of psychiatric illnesses including depression; and
- The victim's cooperation or reluctance to cooperate.

In situations where a person is out on bail for domestic violence related charges and that person violates the bail order, they can be charged with stalking. Depending on the local jurisdiction it is also possible to charge both stalking and a violation of the order.

PRIOR CONVICTIONS AND THE IMPACT ON CHARGING

An officer should conduct a search of NCIC and/or Triple I records prior to making a charging decision. Under New Hampshire law, prior stalking convictions are grounds for enhancing the charge.

Generally, stalking is a class A misdemeanor offense. However, if a person committed an offense after having been previously convicted of stalking in New Hampshire or another state, and the second or subsequent offense occurs within seven years following the date of the first or prior offense, then the second or subsequent offense can be charged as a class B felony under RSA 633:3a, VI(a). The complaint must allege that the defendant was previously convicted and should include the date and jurisdiction of the conviction.

WHEN NO CHARGES ARE FILED

If the officer determines that there are insufficient facts to file charges, then the officer should document the reasons no charges were filed, and:

- Explain clearly to the victim why filing criminal charges is not appropriate at this time;
- Inform the victim of alternative options, such as civil protective orders; and
- Refer the victim to the local crisis center.

ARREST DECISIONS

The purpose of the investigation is to determine if there is “probable cause” to believe that the crime of stalking or violation of a protective order has occurred and that a specific individual committed the offense.

Civil protective orders are designed to protect the plaintiff (victim) from the defendant. The prohibited actions on an order only apply to the defendant and **NOT** to the plaintiff (victim). Therefore, it is not possible for the victim to be in violation of the civil protective order and **under no circumstances should an officer threaten to or arrest the victim for violating a civil protective order.**

MANDATORY ARREST

RSA 633:3-a (V) mandates that a law enforcement officer **shall arrest** a person when there is probable cause to believe that the person has committed an offense of stalking by violating a no-contact provision of a protective order **issued** pursuant to RSA 173-B, RSA 458:16, or RSA 633:3-a, III-a.

DISCRETIONARY ARREST

In all other circumstances where an officer has probable cause to believe that a crime of stalking has been committed, the officer should arrest the offender unless there are compelling reasons for not doing so. If an arrest is not made, the reasons for that decision should be documented in a report.

The officer should not refrain from making an arrest solely because the victim is opposed to an arrest. The officer should emphasize to the victim and to the suspect as well, that the criminal action is being initiated by the State, not the victim.

ARREST WITHOUT A WARRANT

Officers may arrest without a warrant whenever the officer has probable cause to believe that the person to be arrested has, within the last 12 hours:

- Violated the stalking statutes under RSA 633:3-a (V).
- Violated a civil stalking protective order.

The violation of the statute or civil stalking protective order does not have to occur in the presence of the officer.

ARREST WITH A WARRANT

When the **12-hour** time frame has expired, an officer is required to obtain an arrest warrant for either a violation of the stalking statutes (RSA 633:3-a) or a violation of a protective order.

- The **12-hour** time frame begins at the time of the incident, not when law enforcement is notified.
- When a warrant is necessary the officer should obtain and execute the warrant as soon as feasible.

WHEN AN ARREST IS NOT POSSIBLE

When arrest is not possible, law enforcement should advise the stalking victim of her/his rights under RSA 173-B:10, and should always discuss safety options. It is highly recommended that law enforcement also encourage the victim to call the local crisis center for support and information **1-866-644-3574** (See [Appendix A](#) for *Crisis Center List*).

The victim's perception of the willingness of law enforcement to provide assistance and protection is often the determining factor in the victim's decision to seek further assistance from the criminal justice system.

CRIMINAL PROTECTIVE ORDERS/BAIL CONDITIONS

BAIL PENDING ARRAIGNMENT AND TRIAL

In any case brought before a bail commissioner in which a defendant is alleged to have violated a stalking protective order, the defendant **must be detained until arraignment**, pursuant to RSA 173-B: 9, I (a). The law enforcement agency should contact the court to schedule the arraignment, at which time the court may take up the issue of bail.

With the exception of the situation discussed above, a person is entitled to pretrial release pending arraignment and trial. The conditions of release will depend on the court's assessment of whether the defendant poses a risk of flight or a danger to himself/herself or another.

When a defendant has been charged with an offense of stalking or violation of a stalking protective order, the bail statute requires the court to conduct an in-depth analysis of whether the defendant poses a danger. RSA 597:2 lists seven examples of conduct to be considered by the court as evidence that the defendant poses a danger. They are:

- Threats of suicide;
- Acute depression;
- History of violating protective orders;
- Possessing or attempting to possess a deadly weapon in violation of an order;
- Death threats or threats of possessiveness toward another;
- Stalking; and
- Cruelty to or violence directed towards pets.

Research has shown that each of these listed factors may be a strong indicator of future violence or lethality.

Other risk factors identified by the Domestic Violence Fatality Review Committee of the Governor's Commission on Domestic and Sexual Violence that the court or bail commissioner may want to consider are:

- Escalation of physical violence;
- Sexual abuse of the victim;
- Recent acquisition or change in use of weapons;
- Suicidal ideation, threats or attempts;
- Homicidal ideation, threats or attempts;
- Change in alcohol or other drug use/abuse;
- Centrality of the victim to the perpetrator ("he/she's all I have");
- Jealousy/obsessiveness about, or preoccupation with, the victim;
- Mental health concerns connected with violent behavior;

- Other criminal behavior or injunctions (e.g., resisting arrest);
- Increase in personal risk taking (e.g., violation of restraining orders);
- Symbolic violence including destruction of the victim’s property or harming pets;
- Recent termination from employment.

If a court concludes that there is clear and convincing evidence that the defendant poses a danger to another, it may order that the defendant be detained pending trial. As an alternative to preventive detention, the court may issue a Domestic Violence/Stalking Criminal Order of Protection form, including Orders and Conditions of Bail (CBPO) (see discussion below) with restrictive conditions including, but not limited to, electronic monitoring and supervision. Electronic monitoring is not available in all sections of the state. It is generally coordinated by the Department of Corrections, Probation and Parole, at a cost to the defendant.

The law enforcement agency should be prepared to provide the court with as much information as possible concerning the defendant, to enable the court to thoroughly assess the defendant’s dangerousness and risk of flight. It should give the court a copy of, or verbal summary of, the defendant's criminal record including: a New Hampshire criminal record check; license check; motor vehicle history; domestic violence restraining order history, if known; Triple I check (interstate); and FBI criminal check. It should be prepared to present evidence regarding the risk of flight by outlining the defendant’s attachment to the community and residential history.

In the event that the defendant was arrested without a warrant and detained, the law enforcement officer must also provide the court an affidavit establishing probable cause for the arrest. The affidavit is commonly referred to as a Gerstein affidavit. (Gerstein v. Pugh, 420 U.S. 103 (1975)).

ASSESSMENT OF WHETHER A CRIMINAL PROTECTIVE ORDER IS AN APPROPRIATE CONDITION OF BAIL

If a defendant is released on bail, the conditions will be set out in a bail order. The court may use a standard bail form or, in appropriate criminal domestic violence and stalking cases, a new form called the Domestic Violence/Stalking Criminal Order of Protection form including Orders and Conditions of Bail (CBPO, NHJB-2422)

In addition to the standard bail conditions, the CBPO form explicitly addresses restrictions on personal contact, possession of firearms, and use of alcohol and drugs. Unlike a standard bail form, the court will enter a CBPO into the state protective order registry and, in most cases, NCIC. Thus, the information about the protective order will be available to law enforcement nationwide. The first page of the form is based on a national model so that the order will be recognizable and enforceable across the country.

A CBPO may be appropriate in either a class A or class B misdemeanor. Whether a CBPO should be requested with bail in a stalking case will be dependent upon the specific facts of the case. The charging agency should consider such factors as the method of stalking and the potential dangers it presents, the frequency and duration of the defendant's stalking behavior, and the relationship between the victim and the defendant. Conditions of bail are extremely important in those cases in which the defendant is entitled to pre-trial release.

All bail and Criminal Orders of Protection issued by bail commissions should be filed with the court, either in hand or by fax, before the end of the next business day.

The law enforcement officer should present evidence regarding the risk of flight by outlining the defendant's attachment to the community and residential history. In the event a hard copy of the criminal record is not available for the court, the officer should make an oral presentation of the defendant's criminal record. In the event that the defendant was arrested without a warrant and detained the offer of proof should be accompanied by an affidavit (known as a Gerstein affidavit (Gerstein v. Pugh, 420 U.S. 103 (1975))."

FIREARMS

In a stalking related criminal case, the court should routinely issue an order requiring that the defendant relinquish weapons as a condition of bail. The CBPO should also include, as a condition of bail, a prohibition against purchasing, possessing or obtaining firearms or ammunition.

BAIL PENDING APPEAL

When a person has been found guilty of a misdemeanor in the district court and is either awaiting imposition of the sentence or has filed a de novo appeal, the court must reconsider bail in accordance with RSA 597:1, IV. In cases in which a CBPO was previously issued, the prosecutor should urge the court to continue the order with the same protections.

VICTIM NOTIFICATION OF BAIL ORDERS

It is important that victims of stalking be made aware of all outstanding orders for protection, including bail orders. Since the court system is often not aware of the victim's location, the prosecuting agency should take responsibility for ensuring that the victim is notified.

FULL FAITH AND CREDIT/FOREIGN PROTECTIVE ORDERS

Federal law requires that all valid protective orders granted by a court of any jurisdiction must be enforced to protect victims wherever a violation of any court order occurs, regardless of where the order was issued. "**Full Faith and Credit**" refers to Section 2265 of the Violence Against Women Act (18 U.S.C. Section 2265).

Since 1994, the Violence Against Women Act has required every jurisdiction in the United States to recognize and enforce valid protective orders. The jurisdictions include all states and political subdivisions, tribal governments, the District of Columbia, and commonwealths, territories and possessions (e.g., Puerto Rico, Guam). New Hampshire adopted its Full Faith and Credit section, RSA 173-B:13, Orders Enforceable, in 1993.

The purpose of the Full Faith and Credit section is to enable a victim to travel safely (whether for work, pleasure or out of fear for safety), without having to establish jurisdiction in each new location, and without having to secure a new order in each location. Doing so, of course, would require notification to a defendant which full faith and credit is intended to preclude. The victim need apply once for a protective order, which can then be enforced throughout the country without informing the defendant of the victim's whereabouts. The purpose of Section 2265 would be undermined if the defendant were apprised of the victim's new location. Under NH RSA 173-B:13 it is not necessary for the victim to register an out of state order with either the local law enforcement agency or the court system in order for it to be enforceable.

A responding law enforcement officer must enforce the terms of the order as written by the issuing jurisdiction. The laws of the *issuing jurisdiction* govern the following: the persons who are eligible for a protective order, the length of time the order will be in effect, and the relief that may be granted. The *enforcing jurisdiction* only determines how a violation will be enforced.

When law enforcement responds to an incident where there is an out of state protective order, the responding officer should:

- Respond just as they would to any other domestic violence call;
- Establish safety for themselves, the victim, and any other parties (e.g. children) at the scene;
- Interview the parties separately and ask whether there is a protective order in effect. If so, ask to review a paper copy of the order and
- Consider what other state, tribal or federal laws the abuser may have violated.

If presented with a protective order, law enforcement should review it to determine:

- The parties' names;
- The protective order's issuance date;

- The protective order's expiration date;
- The name of the issuing court;
- That it is signed by or on behalf of judicial officer; and
- That it specifies terms and conditions against respondent.

If there is no copy of the order, law enforcement should use alternative means for verifying protection orders such as:

- Interview the parties;
- Check the national registry "NCIC POF" (FBI's National Crime Information Center Protection Order File);
- Check state, or tribal, or local protection order registries in the issuing jurisdiction;
- Check with the issuing court; and
- Check with law enforcement in the issuing jurisdiction.

If a New Hampshire order contains a requirement that the defendant cannot possess a firearm it is enforceable in all fifty states as it was ordered in New Hampshire. The responding officer is not required to know the law of the issuing jurisdiction to enforce the protective order. They only need to establish that it is a valid order.

USE OF NCIC IN STALKING CASES

The Protective Order File in NCIC was established as a tool to help enforce qualifying protective orders by providing law enforcement nationwide with information about protective orders. New Hampshire stalking orders are entered into NCIC by the Administrative Office of the Courts. Under the terms of New Hampshire state law all final stalking orders should require the relinquishment of firearms and ammunition.

The Brady indicator field of NCIC allows the entering agency to indicate whether the protective order disqualifies the subject from purchasing a firearm under federal law. This information will be available in the National Instant Criminal Background Check system (NICS). In order to receive a Brady “yes” the order must meet three conditions:

- The protective order must have been issued after a hearing of which the defendant had actual notice and the opportunity to participate.
- The protective order must restrain the subject from harassing, stalking, or threatening an intimate partner or child of an intimate partner or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.
- The protective order must meet at least one of the following conditions:
 - Include a finding that the subject represents a credible threat to the physical safety of the intimate partner or child;
 - Explicitly prohibits, by its terms, the attempted use or threatened use of physical force against the intimate partner or child.

NOTE: When the relationship does not qualify the stalking protective order will not meet the criteria for a Brady “yes”. However the order is still valid and enforceable as issued.

FIREARMS ISSUES

DEFINITIONS

Firearms

“Firearm” is defined in RSA 173-B:1, XI as “any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by force of gunpowder”. Note that this is the only place in the New Hampshire criminal code that defines “firearm.”

Deadly Weapons

The term “deadly weapon” is defined as any “firearm, knife or other substance or thing which, in the manner it is used, intended to be used, or threatened to be used, is known to be capable of producing death or serious bodily injury” (See RSA 625:11, V).

RELINQUISHMENT REQUIREMENTS UNDER STATE LAW

It should be noted that although a firearm is a deadly weapon, for the purpose of enforcement of protective orders, firearms and deadly weapons are defined separately. Relinquishment requirements are separate protective stipulations on the orders.

Temporary Protective Orders

When issuing a temporary stalking protective order during non-business hours, the court has the discretion to order relinquishment of firearms, ammunition and other deadly weapons. The law enforcement officer assisting the victim to obtain the order should provide the court, either verbally or in writing, any available information on the risks posed by the defendant.

Final Protective Orders

As part of a final protective order, a court is required to order the defendant to surrender any and all firearms and ammunition in the defendant's control, ownership or possession. The court should also order that the defendant surrender any firearm or ammunition that is being held by another person on behalf of the defendant. The court also may order the defendant to relinquish any other deadly weapons that the defendant used or threatened to use and that are identified in the petition for a protective order.

In all circumstances, relinquishment, if ordered, shall be to a law enforcement agency.

Enforcing an Order of Relinquishment

A protective order provision requiring a defendant to relinquish any firearms, ammunition or deadly weapons does not give law enforcement officers the authority to enter and search the defendant’s home to seize those items. It only imposes an obligation on the defendant. If a law enforcement officer has probable cause to believe that a defendant has not complied with that obligation and that firearms, ammunition or other

deadly weapons in his/her possession, ownership or control can be found in a particular location, the officer should apply to the court for a search warrant. For search warrant purposes, keep in mind that the firearms and ammunition may be stored elsewhere by a friend, family member or someone known to the defendant but still under the control of the defendant.

NOTE: RSA 159-D:3 makes the application for purchase of a firearm illegal if the person is subject to a protective order.

VIOLATIONS OF PROTECTIVE ORDERS

Subsequent to an arrest for violation of any protective order (whether emergency telephonic, temporary, final, stalking or foreign), a law enforcement officer **shall seize** any firearms and ammunition in the control, ownership or possession of the defendant and any other deadly weapons, which have been used or were threatened to be used, during the violation of the protective order. Unless there are exigent circumstances, this rule of mandatory seizure does not authorize a law enforcement officer to enter the person's home for the purpose of seizing the weapons. A search warrant must be obtained unless the officer is given consent to enter.

INVENTORY

Firearms seized pursuant to a stalking incident should be documented and inventoried consistent with departmental policy.

STORAGE

Although the statute calls for a relinquishment of firearms to a law enforcement officer, a defendant may make alternative arrangements with a federally licensed firearms dealer for the storage of firearms, at the defendant's expense. Any such alternative arrangements must be approved, in writing, by the court. The defendant must relinquish the firearms to the appropriate law enforcement agency, which will, in turn, transfer them to the federally licensed storage facility.

NOTE: The statute permits alternative arrangements for storage of firearms and ammunition, but is silent on the issue of alternative storage for other deadly weapons.

Any request for alternative arrangements must be presented to the court in the form of an oral or written motion. All parties shall be given the opportunity to be heard.

NOTE: Friends, relatives or other third parties are not permitted to store firearms and ammunition during the term of the protective order.

Law enforcement agencies or other approved storage facilities are permitted to charge a reasonable fee for storage of firearms, ammunition and other specified deadly weapons. The

fee charged by a law enforcement agency may not exceed the actual cost of storage. Law enforcement agencies shall not be held liable for alleged damage or deterioration due to storage or transportation, so long as due care is used.

No law enforcement agency or federally licensed firearms dealer may release any firearm, ammunition or other deadly weapons without a written court order. A defendant is not permitted to retrieve firearms being held in storage by a federally licensed firearm dealer directly through the dealer. Retrieval of the firearms shall be completed through the law enforcement agency that turned the firearms over to the storage facility and that agency will, in turn, release the firearms, ammunition or other deadly weapons upon court order.

RETURN OF FIREARMS AND AMMUNITION

Firearms seized in a criminal domestic violence case where no civil order exists, should only be returned upon receipt of a written court order to do so.

NOTE: For further information regarding enforcement of New Hampshire laws on firearms, ammunition and other deadly weapons possession, sale, purchase or transfer, see *State of New Hampshire: Law Enforcement Memorandum on New Hampshire Laws Outlawing the Purchase or Attempted Purchase of Weapons by Prohibited Persons*, issued by the Attorney General on October 30, 2000 (call 271-3671 for a copy).

Federal Law Control Laws

Law enforcement should be aware that some federal statutes may be pertinent to their investigations and subsequent prosecution. However, federal violations MUST be investigated by and acted on by federal authorities. Nothing precludes local law enforcement from gathering investigative information and forwarding it to federal authorities. The US Attorney's Office for the District of New Hampshire has jurisdiction and SHOULD be contacted at (603) 225-1552.

Restrictions to possession of a firearm under federal law:

1. Under the Federal Crime Control Law Enforcement Act of 1994, 18 USC 922 (g)(8) it is unlawful for an individual subject to a qualifying (final) protective order involving an "intimate partner" to receive, ship, transport or possess guns including handguns, rifles and shotguns. The term "intimate partner" includes the defendant's current or former spouse, a person who has had a child with the defendant, or a person who has cohabitated with the defendant.

NOTE: The prohibition under this section does not apply to the official use of firearms by law enforcement or military personnel. While subject to a protective order, an officer can only use a service weapon while on duty or may possess a service weapon if official duties require the possession of that weapon. The possession of personal firearms is still prohibited

under this section. **The law enforcement exception to the federal firearms laws will NOT apply for New Hampshire law enforcement officers. New Hampshire final orders require MANDATORY relinquishment of firearms and ammunition. These federal statutes DO NOT supercede New Hampshire law.**

2. Under 18 USC 922 (g)(9) it is unlawful for any person convicted of certain misdemeanor crimes involving domestic violence to ship, transport, possess, sell or otherwise dispose of weapons and firearms.

NOTE: There is no exception for law enforcement or military personnel under this section if the conviction is for a qualifying misdemeanor.

3. Under 18 USC 922 (g)(1) “Felon in Possession of a Firearm” it is unlawful for any person who has been convicted in any court of a crime punishable by more than a year, to ship, transport or possess firearms.

CONCLUSION

This protocol sets forth model procedures for law enforcement response to crimes of stalking. It was developed with the recognition that an individual department's ability to adhere to the procedures will depend, to some degree, on the size and financial resources of the department. For that reason, the procedures are not mandatory. They are not intended to define a minimum standard of practice, nor are they intended to create substantive rights for individuals. Rather, their purpose is to define a standard to which all law enforcement agencies should strive.

APPENDIX A

NH SEXUAL ASSAULT, DOMESTIC VIOLENCE AND STALKING SUPPORT SERVICES

NH Statewide Domestic Violence Hotline: 1-866-644-3574

NH Statewide Sexual Assault Hotline: 1-800-277-5570

NH Coalition Against Domestic and Sexual Violence

PO Box 353, Concord, NH 03302-0353

603-224-8893 (Office)

General Web Site: www.nhcadsv.org and Teen Web Site: www.reachoutnh.com

The NH Coalition is comprised of 14 member programs throughout the state that provide services to survivors of sexual assault, domestic violence, stalking and sexual harassment. You do not need to be in crisis to call. Services are free, confidential, and available to everyone regardless of gender, age, health status (including HIV-positive), physical, mental or emotional ability, sexual orientation, gender identity/expression, socio-economic status, race, national origin, immigration status or religious or political affiliation. The services include:

- Support and information, available in person and through a 24-hour hotline
- Accompaniment, support, and advocacy at local hospitals, courts, and police departments
- Assistance with protective/restraining orders
- Referrals to legal services
- Peer Support Groups
- Access to emergency shelter
- Information and referrals to community programs
- Community and professional outreach and education

RESPONSE to Sexual & Domestic Violence

54 Willow Street,

Berlin, NH 03570

1-866-644-3574 (DV crisis line)

1-800-277-5570 (SA crisis line)

603-752-5679 (Berlin office)

603-237-8746 (Colebrook office)

603-788-2562 (Lancaster office)

Turning Points Network

11 School Street

Claremont, NH 03743

1-800-639-3130 (crisis line)

603-543-0155 (Claremont office)

603-863-4053 (Newport office)

www.free-to-soar.org

Rape and Domestic Violence Crisis Center

PO Box 1344

Concord, NH 03302-1344

1-866-644-3574 (DV crisis line)

1-800-277-5570 (SA crisis line)

603-225-7376 (office)

www.rdvcc.org

Starting Point: Services for Victims of Domestic & Sexual Violence

PO Box 1972

Conway, NH 03818

1-800-336-3795 (crisis line)

603-356-7993 (Conway office)

603-539-5506 (Ossipee office)

www.startingpointnh.org

Sexual Harassment and Rape Prevention Program (SHARPP)

University of New Hampshire

Verrette House

6 Garrison Avenue

Durham, NH 03824

1-888-271-SAFE (7233) (crisis line)

603-862-3494 (office)

www.unh.edu/sharpp

Monadnock Center for Violence Prevention

12 Court Street

Keene, NH 03431-3402

1-888-511-6287 (crisis line)

603-352-3782 (crisis line)

603-532-6288 (Jaffrey office)

603-352-3782 (Keene office)

603-209-4015 (Peterborough office)

www.mcvprevention.org

New Beginnings Women's Crisis Center

PO Box 622

Laconia, NH 03246

1-866-644-3574 (DV crisis line)

1-800-277-5570 (SA crisis line)

603-528-6511 (office)

www.newbeginningsnh.org

WISE

79 Hanover Street, Suite 1

Lebanon, NH 03766

1-866-348-WISE (crisis line)

603-448-5525 (local crisis line)

603-448-5922 (office)

The Support Center at Burch House

PO Box 965

Littleton, NH 03561

1-800-774-0544 (crisis line)

603-444-0624 (Littleton office)

www.tccap.org/supportcenter.htm

YWCA Crisis Service

72 Concord Street

Manchester, NH 03101

603-668-2299 (crisis line)

603-625-5785 (Manchester office)

603-432-2687 (Derry office)

Bridges: Domestic and Sexual Violence Support

PO Box 217

Nashua, NH 03061-0217

603-883-3044 (crisis line)

603-889-0858 (Nashua office)

603-672-9833 (Milford office)

www.bridgesnh.org

Voices Against Violence

PO Box 53

Plymouth, NH 03264

603-536-1659 (crisis line)

603-536-3423 (shelter office)

603-536-5999 (public office)

www.voicesagainstviolence.org

A Safe Place

6 Greenleaf Woods, Suite 101

Portsmouth, NH 03801

1-800-854-3552 (crisis line)

603-436-7924 (Portsmouth crisis line)

603-436-4619 (Portsmouth office)

603-330-0214 (Rochester crisis line)

603-890-6392 (Salem crisis line)

Sexual Assault Support Services

7 Junkins Avenue

Portsmouth, NH 03801

1-888-747-7070 (crisis line)

603-436-4107 (Portsmouth office)

603-332-0775 (Rochester office)

www.sassnh.org

APPENDIX B

NEW HAMPSHIRE RSA 173-C CONFIDENTIAL COMMUNICATIONS BETWEEN VICTIMS AND COUNSELORS

173-C:1 Definitions. – In this chapter:

I. "Confidential communication" means information transmitted between a victim, as defined in paragraph VI, of an alleged sexual assault, alleged domestic abuse, alleged sexual harassment, or alleged stalking, and a sexual assault or domestic violence counselor in the course of that relationship and in confidence by means which, so far as the victim is aware, does not disclose the information to a third person. The presence of an interpreter for the hearing impaired, a foreign language interpreter, or any other interpreter necessary for that communication to take place shall not affect the confidentiality of the communication nor shall it be deemed a waiver of the privilege. The term includes all information received by the sexual assault or domestic violence counselor in the course of that relationship.

II. "Domestic violence center" means any organization or agency which would qualify as a direct service grantee under RSA 173-B:21.

III. "Domestic violence counselor" means any person who is employed or appointed or who volunteers in a domestic violence center who renders support, counseling, or assistance to victims of domestic abuse or attempted domestic abuse, who has satisfactorily completed 30 hours of training in a bona fide program which has been developed by a center as defined in RSA 173-C:1, II.

IV. "Rape crisis center" means any public or private agency, office, or center that primarily offers assistance to victims of sexual assault and their families and provides all the following services:

- (a) Crisis intervention to victims of sexual assault 24 hours per day.
- (b) Support services to victims of sexual assault by trained volunteers during the hospital examination, police investigation, and court proceedings.
- (c) Referral of victims of sexual assault to public and private agencies offering needed services.
- (d) The establishment of peer counseling services for the victims of sexual assault.
- (e) The development of training programs and the standardization of procedures for law enforcement, hospital, legal and social service personnel to enable them to respond appropriately to the needs of victims.
- (f) The coordination of services which are being provided by existing agencies.
- (g) Education of the public about the nature and scope of sexual assault and the services which are available.
- (h) Development of services to meet the needs of special populations, for example, children, the elderly, and minorities.
- (i) Court advocacy through the criminal justice system.

V. "Sexual assault counselor" means any person who is employed or appointed or who volunteers in a rape crisis center who renders support, counseling, or assistance to victims of sexual assault or attempted sexual assault, who has satisfactorily completed 30 hours of training in a bona fide program which has been developed by a rape crisis center as defined in RSA 173-C:1, IV.

VI. "Victim" means any person alleging sexual assault under RSA 632-A, domestic abuse as defined in RSA 173-B:1, stalking under RSA 633:3-a, or sexual harassment as defined under state or federal law, who consults a sexual assault counselor or a domestic violence counselor for the purpose of securing support, counseling or assistance concerning a mental, physical, emotional, legal, housing, medical, or financial problem caused by an alleged act of sexual assault or domestic abuse, stalking, or sexual harassment, or an alleged attempted sexual assault or domestic abuse.

Source. 1985, 98:1. 1990, 241:7. 1998, 345:1, 2. 1999, 240:4, eff. Jan. 1, 2000.

173-C:2 Privilege. –

I. A victim has the privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made by the victim to a sexual assault counselor or a domestic violence counselor, including any record made in the course of support, counseling, or assistance of the victim. Any confidential communication or record may be disclosed only with the prior written consent of the victim. This privilege terminates upon the death of the victim.

I-a. The privilege and confidentiality under paragraph I shall extend to:

- (a) A third person present to assist communication with the victim.
- (b) A third person present to assist a victim who is physically challenged.
- (c) Co-participants in support group counseling of the victim.

II. Persons prevented from disclosing a confidential communication or record pursuant to paragraph I shall be exempt from the provisions of RSA 631:6.

Source. 1985, 98:1. 1990, 241:8. 1994, 259:10, eff. June 2, 1994.

173-C:3 Assertion or Waiver of Privilege. – The privilege may be claimed or waived in all civil, administrative, and criminal legal proceedings, including discovery proceedings, by the following persons:

I. The victim or an attorney on the victim's behalf.

II. The guardian of the victim, if the victim has been found incompetent by a court of competent jurisdiction.

III. A minor victim who is emancipated, married, or over the age of 15, unless, in the opinion of the court, the minor is incapable of knowingly waiving the privilege. A guardian ad litem shall be appointed in all cases in which there is a potential conflict of interest between a victim under the age of 18 and his parent or guardian.

Source. 1985, 98:1, eff. May 10, 1985.

APPENDIX C
NEW HAMPSHIRE VICTIM/WITNESS ASSISTANCE PROGRAMS

Office of Victim/Witness Assistance

Attorney General's Office

33 Capitol Street
Concord, NH 03301-6397
(603) 271-3671

Belknap County Victim/Witness Program

64 Court Street
Laconia, NH 03246
(603) 527-5440

Carroll County Victim/Witness Program

PO Box 218
Ossipee, NH 03864
(603) 539-7476

Cheshire County Victim/Witness Program

PO Box 612
Keene, NH 03431
(603) 352-0056

Coos County Victim/Witness Program

55 School St., Suite 102
Lancaster, NH 03584
(603) 788-3812

Grafton County Victim/Witness Program

3785 Dartmouth College Highway, Box 7
North Haverhill, NH 03774
(603) 787-2040

**Hillsborough County North
Victim/Witness Program**

300 Chestnut Street
Manchester, NH 03101
(603) 627-5605

**Hillsborough County South
Victim/Witness Program**

19 Temple Street
Nashua, NH 03060
(603) 594-3256

Merrimack County Victim/Witness Program

4 Court Street
Concord, NH 03301
(603) 228-0529

Rockingham County Victim/Witness Program

PO Box 1209
Kingston, NH 03848
(603) 642-4249

Strafford County Victim/Witness Program

PO Box 799
Dover, NH 03821-0799
(603) 749-4215

Sullivan County Victim/Witness Program

14 Main Street
Newport, NH 03773
(603) 863-8345

**Victim's Assistance Commission
NH Attorney General's Office**

33 Capitol Street
Concord, NH 03301
(603) 271-1284
1-800-300-4500

United States Attorney's Office

District of New Hampshire
James C. Cleveland Federal Bldg.
55 Pleasant St., Suite 312
Concord, NH 03301
(603) 225-1552

**NH Department of Corrections
Victim Services**

PO Box 1806
Concord, NH 03302-1806
(603) 271-1937

APPENDIX D
NEW HAMPSHIRE COUNTY ATTORNEY OFFICES

Belknap County Attorney

64 Court Street
Laconia, New Hampshire 03246
(603) 527-5440

Carroll County Attorney

PO Box 218
Ossipee, New Hampshire 03864
(603) 539-7769

Cheshire County Attorney

PO Box 612
Keene, New Hampshire 03431
(603) 352-0056

Coos County Attorney

55 School Street
Lancaster, New Hampshire 03584
(603) 788-3812

Grafton County Attorney

RR 1, Box 65E
North Haverhill, New Hampshire 03774
(603) 787-6968

Hillsborough County Attorney

Northern District
300 Chestnut Street
Manchester, New Hampshire 03101
(603) 627-5605

Hillsborough County Attorney

Southern District
19 Temple Street
Nashua, New Hampshire 03060
(603) 594-3250

Merrimack County Attorney

4 Court Street
Concord, New Hampshire 03301
(603) 228-0529

Rockingham County Attorney

PO Box 1209
Kingston, New Hampshire 03848
(603) 642-4249

Strafford County Attorney

PO Box 799
Dover, New Hampshire 03821-0799
(603) 749-4215

Sullivan County Attorney

14 Main Street
Newport, New Hampshire 03773
(603) 863-8345

APPENDIX E

SAFETY PLAN FOR STALKING VICTIMS

SAFETY SUGGESTIONS

If you suspect you are being followed or if you are being threatened, harassed, or intimidated by someone, you may want to consider the following:

- Utilize the law enforcement community and courts.
- Speak with your local crisis center about obtaining a Protective Order
- Develop a safety plan with your local crisis center.
- Change the locks of your home and/or car.
- Avoid walking alone. Always be aware of your surroundings.
- Alternate daily driving routes and keep car doors locked at all times, even when in use.
- Park in well-lit areas, obtain a locking gas cap, and always visually check the front and rear passenger areas and under the car before entering your vehicle.
- In case you are being followed know the locations of both the police and fire stations. Find out if that department is open 24 hours a day.
- Keep an emergency bag packed with clothing, money, emergency telephone numbers etc.
- Report all threats sent by mail to the local police or the FBI.
- Alert neighbors and your landlord about what is happening, and have a prearranged code or signal in case the stalker is near or at your home.
- Post a “No Trespassing” sign on the edge of your property where it is clearly visible.
- Be aware of places a stalker could hide, install outdoor lighting, and check to be sure existing lighting works.
- Be protective of your social security number, it is the key to all your information. Only give it if your are required to do so.
- If you move do not leave a “paper trail”. Don’t have anything forwarded (mail, newspapers, and magazine subscriptions, telephone numbers etc.). Take all medical immunization records (especially for children) with you.
- Contact the three credit bureaus: TRW, Equifax and Trans Union. Let them know your situation and ask them to flag your record.
- If you receive threatening calls report it to your phone company.
- Always carry a cell phone. If you are being followed call 9-1-1 and go to a busy place.

TECHNOLOGY TIPS

- Get an additional unlisted phone line and keep the information confidential.
- Keep your old phone number with your answering machine/voice mail connected. Save messages or caller ID numbers for evidence.

- If you cannot afford an additional phone line, ask your phone company about getting a second ring tone that distinguishes your new phone number from your old phone number.
- Avoid calling 800 or 900 phone numbers. If you need to call one of these services, use a payphone.
- Don't leave your cell phone unattended.
- Set the GPS in your cell phone so it is only accessible by 9-1-1. Contact your wireless provider for more information.
- Notify your Internet service provider if you receive harassing messages via the web.
- Consider safety when using computers. Go to locations like a public library where the computer can't be monitored or hacked into.
- Filtering capabilities of your email program can block email from certain addresses.

**APPENDIX F
SAMPLE STALKING JOURNAL**

Date and Time	Location	Description	Response	Witnesses	Reported to Police
9/30/98 @ 9:50 pm	Home	J. Doe left a message on my answering machine stating "If you don't talk to me, you'll regret it"	Removed cassette tape and save it in a dated envelope.	None	No
10/4/98 at 11:00 am	Work	Through my window, I observed J. Doe drive by our office 16 times between 11 am and 1 pm.	Called the company's security guard, who documented the last six times.	Ana Smith Carl Joseph Melinda Garcia	Yes
10/5/98 at 5:30 pm	Parking lot at work	As I was walking to my car, J. Doe approached me and demanded that I stop to talk.	I continued to walk towards my car, but J. grabbed my arm and yanked me back. I broke free and ran back into the building and called security.	None –when security arrived, J. had already left the premises.	Yes
10/5/98 at 10:00 pm	Home	J. Doe came to my house and started banging and kicking the door, demanding to be let inside.	I called 911 and waited five minutes until the police came. J. started to run away when they pulled onto my street. But officer Johns and Officer Brown was able to catch J. A report was filed at the Jackson city PD under #9807654.	Officer Johns Officer Brown Marianna Dole (neighbor at 1121 W. 4 th St.)	Yes

Date and Time	Location	Description	Response	Witnesses	Reported to Police

APPENDIX G
STALKING VICTIM NOTIFICATION FORM

_____ POLICE DEPARTMENT

Officer _____, ID# _____

Has informed _____ of your rights as a victim of stalking.

If a law enforcement officer believes that a crime has been committed they **must** take the appropriate action necessary in accordance with the law.

According to NH RSA 633:3-a, III A person who has been the victim of stalking as defined in this section may seek relief by filing a civil petition in the district court or the superior court in the county or district where the plaintiff or defendant resides. Upon a showing of stalking by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of stalking. The types of relief that may be granted, the procedures and burdens of proof to be applied in such proceedings, the methods of notice, service, and enforcement of such orders, and the penalties for violation thereof shall be the same as those set forth in RSA 173-B.

The local crisis center provides 24-hour support and direct services to victims of stalking. The services are free, confidential and include a 24-hour crisis line, emergency shelter and transportation, court advocacy, hospital and court accompaniment, support groups and resource information.

NH Statewide Domestic Violence Hotline: 1-866-644-3574
1-800-RELAY NH (1-800-735-2964 – TDD/Voice)
NH Statewide Sexual Assault Hotline: 1-800-277-5570
NH Coalition Against Domestic and Sexual Violence

PO Box 353, Concord, NH 03302-0353
603-224-8893 (Office)

General Web Site: www.nhcadsv.org and Teen Web Site: www.reachouth.com

The New Hampshire Coalition is comprised of 14 member programs throughout the state that provide services to survivors of sexual assault, domestic violence, stalking and sexual harassment. You do not need to be in crisis to call. Services are free, confidential, and available to everyone regardless of gender, age, health status (including HIV-positive), physical, mental or emotional ability, sexual orientation, gender identity/expression, socio-economic status, race, national origin, immigration status or religious or political affiliation. The services include:

- * Support and information, available in person and through a 24-hour hotline
- * Accompaniment, support, and advocacy at local hospitals, courts, and police departments
- * Assistance with protective/restraining orders
- * Referrals to legal services Peer Support Groups Access to emergency shelter Information and referrals to community programs
- * Community and professional outreach and education

CRIME VICTIMS' COMPENSATION PROGRAM

If you are a victim of a violent crime, or the family member or dependent of a deceased victim, you may be eligible for compensation for hospital/medical expenses, lost wages, funeral expenses and/or mental health therapy expenses, not otherwise covered by insurance. Property crimes are not covered. Call 1-800-300-4500 for more information. If calling out of state call 1-603-271-1284

APPENDIX H
STALKING INVESTIGATION CASE CHECKLIST

POLICE DEPARTMENT

I. VICTIM

- Recorded victim's name, dob, address, home and work phone numbers.
- Noted time dispatched, time arrived.
- Recorded any spontaneous statements made by the victim.
- Described the victim's emotional condition.
- Noted victim's relationship with suspect.
- Noted any protective/court orders.
- Noted previous threats or acts of violence. (*please describe*)
- Documented evidence of alcohol and/or other drugs consumed by victim during incident.
- Asked victim about the presence, location, type of firearms and ammunition.
- Asked victim about the presence of other deadly weapons.
- Gave victim written notice of rights and services on safety pamphlet.
- Received written or recorded statement from the victim.
- Obtain medical release of information form, if applicable.

II. SUSPECT

- Described the suspect's location upon arrival.
- Recorded suspect's name, dob, address, home and work phone numbers.
- Recorded any spontaneous statements made by the suspect.
- Described the suspect's emotional condition.
- Documented evidence of alcohol and/or other drugs consumed by suspect during incident.
- Asked suspect about the presence, location, type of firearms and ammunition.
- Asked suspect about the presence of other deadly weapons.
- If arrested, advised Miranda rights, asked suspect if s/he wanted to make a statement, knew of protective order, and/or understood order.
- If arrested, request criminal protective order as a condition of bail.
- Received written or recorded statement from suspect.
- Obtained criminal record check.

III. WITNESSES

- Interviewed the reporting party, if other than the victim.
- Identified all other witnesses and interviewed them separately.
- Recorded all witnesses' addresses, phone numbers and relationship to the suspect and/or victim.
- Identified and interviewed emergency personnel. (Regarding their observations, spontaneous statements, evidence of a struggle etc. Avoid questions regarding medical treatment or aid rendered.)
- Identified treating physician and hospital.
- Received written statements.

IV. EVIDENCE

- Recorded the "911" number and incident number.
- Obtain recording of "911" call. (Both Concord and local dispatch portions)
- Photographed victim's injuries, if appropriate.
- Photograph/videotape crime scene(s).
- Collected other pertinent physical evidence.
- Attached related reports, photos and evidence tags.

**APPENDIX I
RISK ASSESSMENT CHECKLIST**

This document is for law enforcement purposes only.

Defendant Name: _____ DOB: _____ Date of Arrest: _____

Repeat Offender (if known. Check if applicable) _____

Please check all that apply:

1. _____ Escalation or threat of physical violence and intimidation
2. _____ Escalation of other forms of abuse, including symbolic violence(e.g., destruction of property/harming pets, etc.)
3. _____ Sexual abuse of the victim
4. _____ Use of non-fatal strangulation (commonly referred to as “choking”)
5. _____ Recent acquisition or change in use of weapons
6. _____ Depression or recent lifting of mood
7. _____ Mental health concerns connected with violent behavior or command hallucinations (e.g., hearing voices directing the defendant to harm someone)
8. _____ Homicidal or suicidal ideation, threats, or attempts or increase in personal risk taking (e.g., being violent or abusive in public view, not just within the privacy of one’s home, thereby increasing risk of detection)
9. _____ Changes in alcohol or other drug use/abuse
10. _____ Stalking, predatory behavior or surveillance/monitoring behavior
11. _____ Centrality of the victim to the defendant (e.g., “s/he’s all I have”) and/or jealousy/obsessiveness or preoccupation with the victim
12. _____ Other criminal behavior or injunctions (e.g., resisting arrest, violation of protective order)
13. _____ Interference with victim’s help-seeking attempts (e.g., pulling phone jack out of wall, imprisonment of victim in her/his house)
14. _____ The victim has or is attempting to flee the defendant or to terminate the relationship
15. _____ The defendant has access to the victim or her or his family
16. _____ Other suspected risk factor(s) (e.g., recent loss of job, homelessness, etc.)

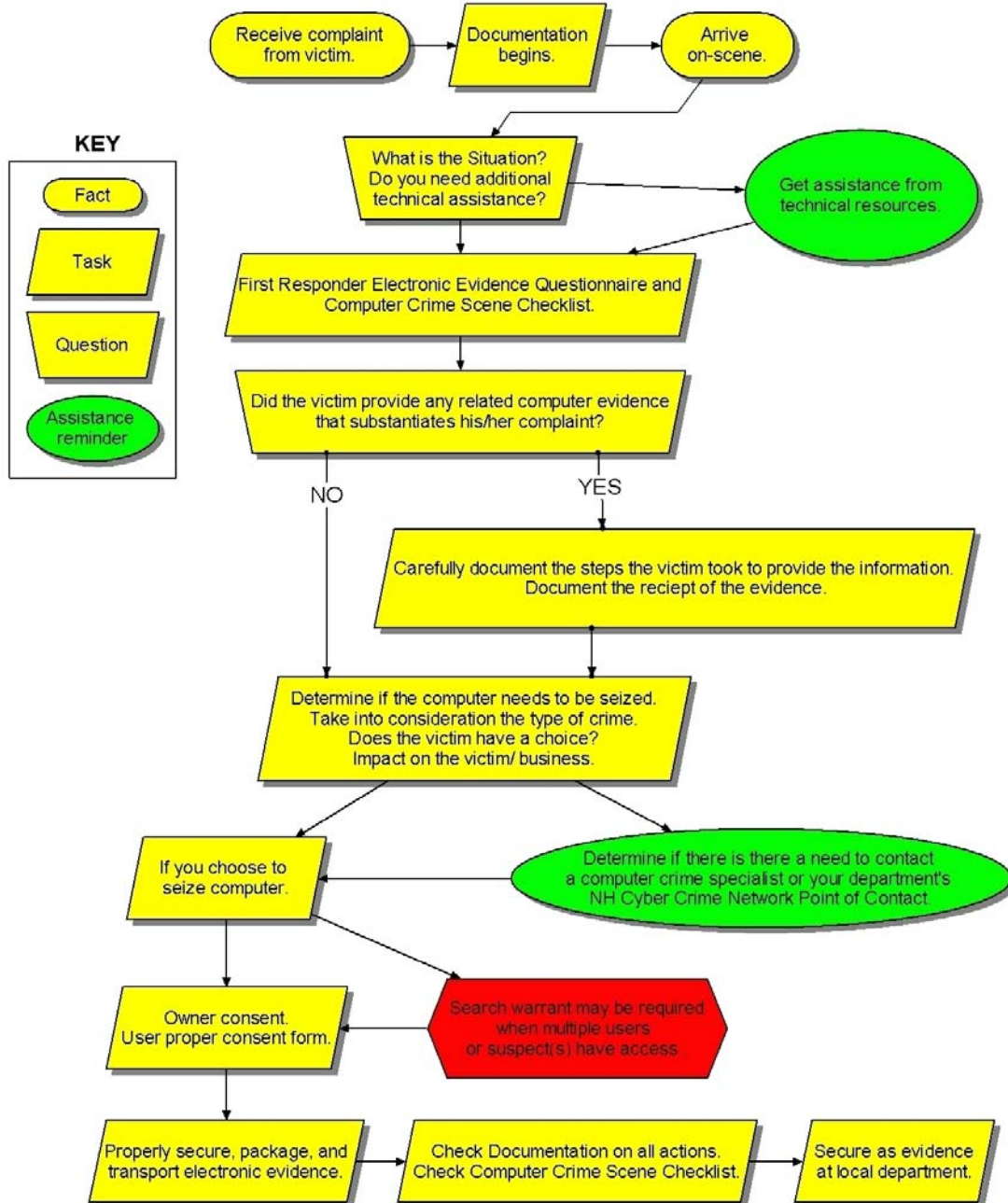
No one factor alone suggests that severe violence/lethality will happen. Generally speaking however, the more indicators present, the higher the risk of serious violence. Also, a change in factors is more important than the mere presence of those facts (e.g., merely owning a weapon is not as relevant as recently purchasing that weapon) Safety planning with the victim is important in any case with elevated risk. Increased monitoring with the defendant may also be indicated. Please be aware that a blank space could mean that the factor did not apply or that there was no information about that factor.

**APPENDIX J
CYBERCRIME RESPONSE**

The *Response to Victims of Cyber Crime Protocol* is available as an online training module on the NH Police Standards and Training Council's in-service training portal, available at inservice.pstc.nh.gov/moodle.

Steps for Response to Victim NH Cyber Crime Initiative

Ver 0.90 - May 9, 2005

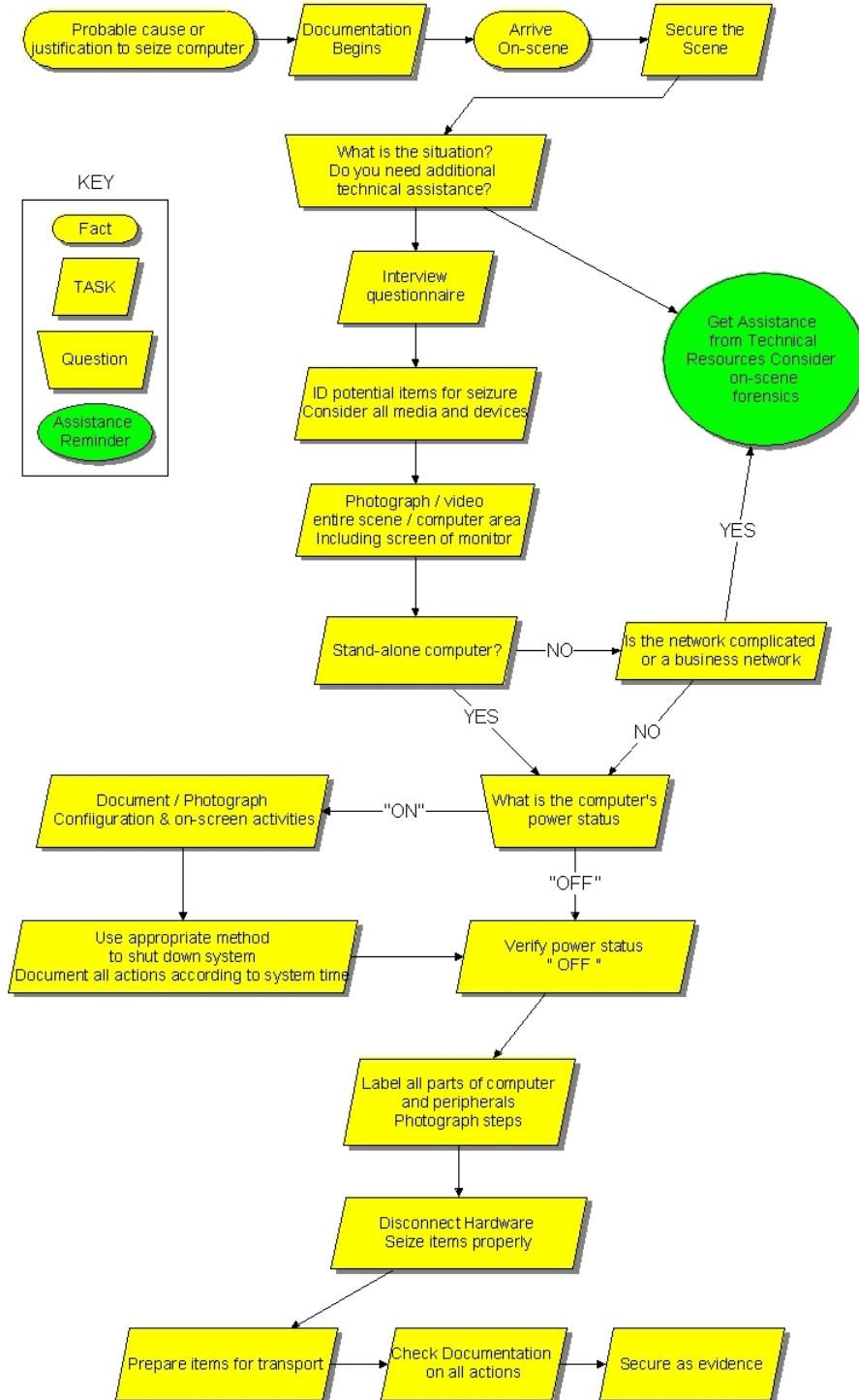


Steps for Computer Seizure

Steps for Computer Seizure

NEW HAMPSHIRE CYBER CRIME NETWORK

Ver 1.0 -- 4/05



APPENDIX K

COMPUTER CRIME SCENE CHECKLIST

DATE:	TIME:	CASE NUMBER:
PREPARED BY:		SW: <input type="checkbox"/> Consent : <input type="checkbox"/>
LOCATION:		AGENCY:
TYPE OF CRIME:		DATE & TIME OF CRIME:
COMPUTER OWNER:		ADDRESS: Phone:
DOB:	SEX:	RACE:
SUSPECT/VICTIM:		ADDRESS: Phone:
DOB:	SEX:	RACE:
NETWORK ADMINISTRATOR (if applicable)		ADDRESS: Phone:
SCENE		
COMPUTER BRAND NAME	MODEL NUMBER	SERIAL NUMBER
Photographed/Videotaped Scene Yes: <input type="checkbox"/> No: <input type="checkbox"/> If No:		
Location of System Within Scene:		
If suspect at computer describe his/her actions/communication:		
REMINDER: Wear Gloves/Use Alternate Light Source/Consider Other Evidence!!		

COMPUTER CRIME SCENE CHECKLIST

SYSTEM CONFIGURATION
Operating System, if known:
Computer System Status: On: <input type="checkbox"/> Off: <input type="checkbox"/> Asleep: <input type="checkbox"/> Unknown: <input type="checkbox"/>
Computer is: Stand Alone: <input type="checkbox"/> Networked: <input type="checkbox"/> Laptop: <input type="checkbox"/> Other: <input type="checkbox"/>
Monitor is: On: <input type="checkbox"/> Off: <input type="checkbox"/> N/A: <input type="checkbox"/>
Photograph Screen Display (if on): Yes <input type="checkbox"/> No: <input type="checkbox"/>
Describe Screen Display:
Illustrate Computer Connection Configuration

COMPUTER CRIME SCENE CHECKLIST

PERIPHERALS ATTACHED TO COMPUTER: <i>(label both ends and back of computer, photograph)</i>			
Keyboard	Mouse	Monitor	Printer
Webcam	Microphone	External Storage	CD/DVD
Wireless Devices (list below)	Telephone/DS Line	Cable Modem	Security Keys
USB Port	External Power Supply	Cradle	TV
Speakers	Other 1	Other 2	Other 3
Describe Other:			
Software: Collect manuals/papers – Look for passwords:			
Shut down method: Hard: <input type="checkbox"/> Soft: <input type="checkbox"/> Pulled Plug: <input type="checkbox"/> Unknown: <input type="checkbox"/>			
System Take Down Notes:			
Time and Date:		Powered Down by:	

COMPUTER CRIME SCENE CHECKLIST

NETWORK DIAGRAM	
Prepared by:	System Admin:
Number of Servers:	Server OS:
Offsite Backup Location:	
Admin Users:	Admin Password:
Type of Network: LAN: <input type="checkbox"/> WAN: <input type="checkbox"/> Wireless: <input type="checkbox"/> Both: <input type="checkbox"/>	
Illustrate Network Diagram	

APPENDIX L
SUGGESTED CYBERSTALKING SUSPECT QUESTIONS

- Is the computer on?
- Are there any obvious booby traps?
- Who owns the computer?
- How long have you had the computer?
- Where did you get it?
- How was it paid for?
- Do you have documents to prove purchase or ownership?
- Where are the documents?
- Do you own any other computers, or are there any other computers in the house?
- Do you use a computer at work, or at any other location (library, friend's house, etc)?
- If this is a business, does the business utilize a network?
- Is the network administrator available?
- Is the administrator a suspect?
- What personnel have administrative capabilities?
- What is your level of computer knowledge?
- Is the computer stand-alone or part of a network? [If networked, have the subject diagram the network. Provide the diagram to whoever is seizing the computers.]
STAND ALONE___ NETWORKED___
- Are you the only user of the computer?
- Do you login to the computer as the owner/administrator or as a user?
- Do you use a password?
- Have you shared your password with anyone?
- Who are the other users? [obtain names, relationships]
- Do they have their own accounts? If yes, do their accounts require a separate login/password?
- When do you routinely use this computer? [use this information to establish timeframes and/or exclude other users]
- When do the other users use it?
- Is the computer connected to the Internet?
- How does the computer connect to the Internet (dial-up, DSL, cable, satellite, wireless, etc.)?

- If so, is the computer online now?
- Do you ever connect from any other locations?
- Which Internet Service Provider (ISP) do you use?
- Who pays for the ISP account?
- What operating system(s) does the computer have and version if known (i.e., MAC, Windows XP, Windows ME, Linux, etc...)?
- What do you use this computer for? (email, business, personal, chatting, blogging, downloading, publishing, etc.)
- Have you had any problems with your computer?
- Has the computer been serviced or repaired recently?
- What were the symptoms?
- Has the hard drive ever been replaced?
- Are there any service or repair records concerning the computer, or reports of problems to any company?
- Does the computer have any software programs (wiping, secure erase, window cleaner, etc) that permanently delete data? Which one?
- Do you use it?
- Does it run on a schedule?
- What do you use it for?
- When is the last time it ran?
- When does it run next?
- What does it wipe?
- Do you use an encryption or steganography program? Which one?
- What are the passwords/pass phrases?
- What do you use it for?
- Do you encrypt your communications?
- What email accounts do you have? Do you have a Yahoo, Gmail, hotmail etc.?
- How do you access your email?
- Do you access your email via a website?
- Do you access it via client software such as Outlook, Outlook Express, Eudora, etc.?
- Do you save/log your email messages? If so, where?
- What chat or instant messaging programs do you use? (AIM, Yahoo, Mirc, MSN, etc...)

- What do you chat with (i.e. AIM, AOL, Yahoo, Mirc, MSN, etc...)?
- What screen names and passwords do you use?
- Which one(s) do you use in chatrooms?
- Who is on your buddy list? Tell me about them.
- Do you have your own website or homepage (i.e. a MySpace, Facebook, Xanga, or other social networking account)
- What web sites do you visit?
- Which web sites do you routinely visit? When?
- Do you subscribe to any bulletin boards, list servers or news services?
- What sites do you have bookmarked?
- What other electronic devices do you own or have access to?
- Do you own or use a laptop?
- Do you own or utilize a hand-held personal electronic devices like a Palm Pilot, Trio, Blackberry etc.?
- Where else do you store data and where are these devices? (ex., floppy disk, CD, tape, thumb drive, cell phone, off-site storage at a website, or someone else's server)

APPENDIX N
LAW ENFORCEMENT MEMORANDUM

To: All Law Enforcement Agencies

From: Kelly A. Ayotte, Attorney General

Re: New Bail Forms for Use in Domestic Violence and Stalking Cases

Date: January 31, 2008

As of February 1, 2008, district court judges and bail commissioners will have the option of using a new bail form called “Criminal Order of Protection Including Orders and Conditions of Bail,” a copy of which is attached. It is an amended version of the bail form that is currently in use. In addition to the standard bail conditions, the new form contains conditions similar to those available under a domestic violence protective order, such as restricting personal contact, possession of firearms and weapons, and use of drugs and alcohol.

The amended form has been adopted to enhance the protection available to victims of domestic violence. Unlike the current bail form, the new form meets the criteria necessary for entry into NCIC, thus ensuring that the bail conditions can be enforced across state lines. The first page of the order is formatted in accordance with a national model, so that it will be recognized and enforceable across the country. In addition, provided the order is issued by a judge, the order will show up as part of a Brady gun check if the person against whom the order is issued attempts to buy a gun.

Law enforcement officers should request that the new bail form be used in any case involving domestic violence or stalking, where the victim is the spouse or former spouse of the defendant, cohabitates with or formerly cohabitated with the defendant, or is the parent of the defendant’s child. Officers should be prepared to provide the judge or bail commissioner with information demonstrating that such a relationship between the victim and the defendant exists.

Whenever the new bail form is used, the law enforcement officer should file a copy of the bail order along with the criminal complaint in the district court. This will ensure that the court can match the order to the appropriate criminal complaints.

Because these orders are issued as bail orders, they should not be considered as a substitute for a domestic violence protective order issued under RSA 173-B. For instance, the new orders do not contain conditions for child support, visitation, or possession of the family home. Domestic violence victims may also chose to request a civil protective order under 173-B in addition to the protections afforded under the bail order.

In addition, the bail orders must be enforced as bail orders, not domestic violence protective orders. If a person violates a condition of the bail order, officers should seek modification or revocation of the bail order.

Any questions pertaining to the use of these new forms should be directed to Associate Attorney General Ann Rice at 271-3671.