

TESTIMONY OF

The Pennsylvania Coalition Against Domestic Violence

HOUSE BILL 2346 - ANTI-STALKING LEGISLATION

**House Judiciary Committee Hearing
April 21, 1992
Harrisburg, Pennsylvania**

Offered by:

**Jane Stuehling
Legal Advocacy Coordinator**

and

**Barbara J. Hart, Esq.
Staff Counsel
PCADV
524 McKnight Street
Reading, PA 19601
215/373-5697**

Good morning, Chairman Caltagirone, members of the House Judiciary Committee and staff. We urge your support of House Bill 2346 with amendments to upgrade penalties for subsequent stalking offenses, to expand the scope and enforcement of victim/witness protective orders, to create post-conviction anti-stalking orders, and to mandate training on this law for all relevant actors in the criminal justice system.

Stalkers, according to an editorial in *USA Today* of 2/26/92, are "obsessed ex-boyfriends, ex-husbands or fans who persistently menace the objects of their desire." Data from around the country reveal that stalking behavior often begins with the stalker conspicuously following the victim and all too often ends with homicide.

The 1992 Pulitzer Prize-winning editorial of Maria Henson in the *Lexington Herald-Leader* more specifically identifies the ultimate dangers attendant upon stalking. "Betty Jean Ashby's life was in danger. She knew it. Her family knew it. Her neighbors knew it...In fear Betty Ashby turned to the law. She went through all the steps. She appeared in the court, signed sworn statements, told her story to police. But nothing, it seemed, could keep Carl away.

When Carl showed up at her apartment on February 10, 1989, the only protection she had was a sofa propped against the door and a pot of scalding-hot water on the stove. Betty climbed out a window, clad only in a shirt, and ran for her life. Carl, wielding an orange crowbar, pursued her across the street. He cornered her in the bedroom of a neighbor's apartment. The neighbor...could only hug her four-year-old daughter and cry 'Lord Jesus!

Lord Jesus!' as Carl hit Betty in the head again and again until she sank to the floor, dead at age 22." (Lexington Herald-Leader, 12/2/90)

Myrtle Whitaker was stalked by her husband for almost a year after she left him because he had beaten and sexually abused their three children. He followed her everywhere. On December 15, 1990 when Mr. Whitaker came to her apartment to pick up the youngest child for an overnight visit, he shot and killed their two sons, shot at their daughter, shot Myrtle Whitaker and then killed himself. Mrs. Whitaker is paralyzed from the neck down and lives in a neck and head brace that is attached to her skull. She believes her husband tried to kill them all because "he thought we'd all be together then." (Lexington Herald-Leader, 3/27/91)

Sharon Wiggs was killed and her husband was wounded in February of 1992. The killer was an ex-boyfriend who had stalked Mrs. Wiggs for eight years, repeatedly threatening her and vandalizing her car.

These and other stories were the impetus for anti-stalking legislation in California, Kentucky, Virginia, Florida, West Virginia, Ohio, Wisconsin and Maryland. Legislators and prosecutors in these states have concluded that anti-stalking laws will change the consciousness of the community about the danger posed by stalkers and will authorize police to intervene early in the stalking pattern -- before the obsessive following and terrorizing becomes kidnapping, violent assaults, or lethal attacks. (USA Today, 2/24/92)

Most stalking occurs in the context of domestic violence. Many, perhaps most, people believe that victims of domestic violence will be safe once they

have separated from the batterer. They also believe that women are free to leave abusers at any time. However, leaving does not usually put an end to the violence. Batterers may, in fact, escalate their violence to coerce a battered woman into reconciliation or to retaliate for her "abandonment" of the batterer. The evidence of the gravity of post-separation violence is overwhelming. As many as 3/4 of domestic assaults reported to law enforcement agencies are inflicted after separation of the couples. (U.S. Department of Justice, 1983) Research reveals that almost 3/4 of the women seeking emergency medical services related to domestic violence were injured after leaving the batterer. (Stark et al, 1981) One study of homicide in Philadelphia suggested that 1/4 of the men who killed their female partners were separated or divorced from the women they killed and another 1/4 killed women who were attempting to end relationships. (Casanave & Zahn, 1986) Women are most likely to be murdered when attempting to report abuse or to leave an abusive relationship. (Sonkin et al, 1985; Browne, 1987) Stalking almost invariably precedes post-separation violence.

Why do men stalk women? Stalking is a method of coercive control by which a person, usually a man, attempts to establish or re-establish control over a person, usually an intimate partner or spouse, but sometimes a person who has been chosen as a love object but who has never reciprocated. Men who batter believe that they are entitled to relationships with the women they batter. They believe themselves to be the "owners" of their intimate partners. They conclude that their partners have no right to autonomy, independence, separation or self-determination. They experience the partner's termination of the violent relationship as profound abandonment. This abandonment precipitates great despair and rage. The batterer who is

firmly committed to his claim of ownership believes that any tactic is justified in reclaiming what belongs to him. Stalking is a tactic that is intended to recapture the lost intimate. Stalking serves to let the victim know that she cannot escape or hide from the stalker; she is ultimately vulnerable to him. Stalking reminds her of his claim of irrevocable ownership. Stalking serves to frighten others away from her, so that once isolated she is more receptive to reconciliation to protect herself from certain, impending escalation of violence. If stalking fails, i.e. if the victim is not recaptured, then the stalker often turns to lethal violence.

Without interruption of the stalker's attempts at coercive control, his obsession with the victim insidiously grows. Eventually the stalker deprives himself of basic necessities and becomes totally focused on pursuit. He directs all of his resources and energies toward regaining control over the victim and either enforcing his ownership upon her or committing the final act of ownership -- homicide.

Newspaper clippings of the major Pennsylvania newspapers for 1990 and 1991 reveal that many of the homicides of women by their partners occurred after a pattern of stalking and terrorism that was uninterrupted by law enforcement or the criminal justice system. Police officers commenting on these domestic homicides report that the absence of any statutory authority to intervene before stalking becomes homicide renders them helpless to safeguard victims and restrain stalkers. H.B. 2346 might very well offer law enforcement the tools necessary to prevent homicides.

On the other hand, national data reveals that law enforcement routinely classifies domestic assault as marginal crime; misdemeanors, even though the criminal conduct involved actually includes bodily injuries serious or more serious than 90% of all rapes, robberies and aggravated assaults. (Langen & Innes, 1986) It is not surprising that law enforcement has not responded to domestic violence as serious criminal behavior since the culture has historically condoned or tolerated violence within the family, particularly toward partners. We are not naive. We understand that H.B. 2346 will not prevent domestic homicide unless it is vigorously utilized by law enforcement. Therefore, the training piece of this legislation is essential. Only when the police, prosecutors and courts understand the predatory and escalating nature of stalking and view it as serious crime instead of nuisance behavior will the safeguards promised by this legislation become reality.

Anti-stalking legislation is a vehicle for interrupting this obsessive, desperate, escalating conduct before it erupts into lethal violence. Certainly, stalkers must thereafter engage in a psychological process of divestiture. They must give up their claim to ownership of the victim; they must begin to move out of the despair of their loss into hope for future relationships. If they are not interrupted, they will too often commit themselves to lethal assaults as a means to bring closure to the intolerable separation from the victim. Often the homicidal stalker then takes his own life. Data from around the country reveal that about 1/3 of the men who kill their intimate partners or ex-partners then kill themselves.

These homicides are not inevitable. They can be prevented. Early intervention against escalating criminal conduct, however, is critical. Anti-

stalking legislation permits that early intervention, which if followed by incapacitation and rehabilitation can avert the disaster of domestic homicide. We must stop the domestic assailant before he is irreversibly committed to domestic homicide. H.B. 2346 offers an invaluable tool both for harnessing the violence of batterers and safeguarding battered women and children.

Not only will H.B. 2346 permit the obsessed, stalking person to confront the criminal nature of his conduct before serious escalation, it will safeguard victims and witnesses who are intimidated by the stalker or his agents by authorizing the police to arrest for violation of the pre-trial restraints issued against defendants. About 30% of domestic violence perpetrators inflict further assaults in the pre-trial phase of the criminal process. Thus, instead of hiding at undisclosed, protected locations, victims and witnesses will be able to conduct their lives free of the disruptions of intimidation and coercion if attendants fail to comply with § 4954 protective orders.

Beyond this, the registry provision in the amendments will give law enforcement swift and reliable information about the enforceability of § 4954 protective orders (as well as civil protection orders and post-conviction anti-stalking orders); thus empowering police to take decisive action when they conclude a protective injunction has been violated.

And since many domestic violence perpetrators do not desist even after incarceration, post-conviction anti-stalking orders are critical to permit decisive police intervention upon recidivism by the 60% of domestic violence perpetrators who will assault again even after conviction or incarceration and often years after the prior criminal conduct.

A story of one of our own colleagues reminds us that absent this legislation, battered women and children will have to flee for their lives. Flight is not possible, or even successful, for all. An employee of PCADV was stalked for one and a half years after she left her batterer. He appeared at her place of work routinely. He called her parents' home daily, seeking reconciliation. He followed her to restaurants, movie theaters, church and political activities, quietly threatening her and her friends and insisting that she reconcile. One evening while she and her parents were away from their home, he broke into their house in a secured complex and removed all her possessions. He called the next day to inquire about her wellbeing and to assure her that her possessions would be restored if she reconciled with him. Recognizing that the batterer was exposing himself to sharply escalated risk of criminal justice involvement and concluding that his desperation had intensified thus portending the possibility of sharply heightened violence, the battered woman went into hiding halfway across the country. The batterer followed friends and family for about two months; thereafter, he stopped, apparently concluding that he would not locate the battered woman. Should this be the only recourse for women stalked by men who claim ownership over them? Clearly not. Most women cannot relocate. Even if they have the resources to do so, the law compels women to stay in contact with the fathers of their children even if this contact imperils their lives. Most women would find it very difficult to leave family, friends, church, employment, and home to flee to a place where they may be found and where the community may be less committed to their protection.

Anti-stalking legislation can fill the gap in statutory law, permitting early intervention in the progression of stalking conduct so as to impede the dangerous and criminal action of the stalker and to safeguard the victim against life-imperiling escalation of stalker violence. It can no longer be the public policy of this Commonwealth that people who fantasize or assert ownership over others are allowed to terrorize them with impunity as long as they refrain from assault or homicide. These statutory provisions articulate the commitment of this legislature to the premise that the citizenry of Pennsylvania, particularly victims of violent crime, must be free of intrusive, terrorizing stalking and that those who persist in this heinous conduct will be firmly incapacitated therefrom.

Thank you for this opportunity to enumerate our support for H.B. 2346 and the amendments offered by Representative McGeehan.

REFERENCES

Browne, A. 1987. **When Battered Women Kill**. New York: The Free Press.

Casanave, N. & Zahn, M. 1986. "Women, Murder and Male Domination: Police Reports of Domestic Homicide in Chicago and Philadelphia." Paper presented at the Annual Meeting of the American Society of Criminology, Atlanta, October 31, 1986.

Langen, P. A. & Innes, C. A. 1986. "Preventing Domestic Violence Against Women: Discussion Paper." *Bureau of Justice Statistics Special Reports*. Washington, D.C.: Bureau of Justice Statistics.

Sonkin, D., Martin, D., & Walker, L. E. A. 1985. **The Male Batterer: A Treatment Approach**. New York: Springer.

Stark, E., Flitcraft, A., Zuckerman, D., Grey, A., Robison, J., & Frazier, W. 1981. **Wife Abuse in the Medical Setting: An Introduction for Health Personnel**. Rockville, MD: National Clearinghouse on Domestic Violence, Domestic Violence Monograph Series, No. 7, April, 1981.

U.S. Dept. of Justice. 1983. **Report to the Nation on Crime and Justice: The Data**. Washington, D.C.: Govt. Printing Office.