



Department of Justice

STATEMENT OF

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**BEFORE THE
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON PRIVACY, TECHNOLOGY AND THE LAW
UNITED STATES SENATE**

AT A HEARING ENTITLED

“THE LOCATION PRIVACY PROTECTION ACT OF 2014”

**PRESENTED
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**Testimony of Bea Hanson, Principal Deputy Director
Office on Violence Against Women**

**Subcommittee on Privacy, Technology and the Law
Committee on the Judiciary
United States Senate**

**“The Location Privacy Protection Act of 2014”
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Introduction

Good afternoon, Chairman Franken, Ranking Member Grassley, and Members of the Committee. Thank you for this opportunity to testify on behalf of the Department of Justice regarding stalking, mobile devices, and location privacy.

My name is Bea Hanson, and I am the Principal Deputy Director of the United States Department of Justice Office on Violence Against Women (OVW). The Department of Justice has focused on strengthening the criminal justice response to stalking through its implementation of the Violence Against Women Act (VAWA). Since the passage of VAWA in 1994, we have made significant strides in enhancing the criminal justice system’s response to stalking. Today, stalking is a crime under the Uniform Code of Military Justice, the laws of the District of Columbia, all 50 states, and under federal law, which extends to the U.S. territories and Indian country. In 2005, the federal interstate stalking statute was broadened to protect victims of cyberstalking and enhance penalties for repeat stalking offenders. In addition, the recent reauthorization of VAWA amended the Jeanne Clery Act to mandate that colleges report crime statistics on incidents of stalking.

Stalking is a complex crime that is often missed, misunderstood, and underestimated. . Stalking is a course of conduct directed at a specific person that causes the targeted individual to fear for their safety or the safety of their family members. Victims feel isolated, vulnerable, and frightened, tend to suffer from anxiety, depression, and insomnia, and lose time from work as a result. Many victims have no choice but to move or change jobs due to their victimization.

Incidents of stalking behavior, when considered separately, may seem relatively innocuous. Stalking tends to escalate over time, and is often paired with or followed by sexual assault, physical abuse, or homicide

Results of the 2010 National Intimate Partner and Sexual Violence Survey (NISVS), released by the Centers for Disease Control (CDC) in late 2011, demonstrate the degree to which stalking threatens the well-being and safety of individuals across the

United States. Using a conservative definition of stalking, which required respondents to report stalking in which they felt very fearful or believed that they or someone close to them would be killed or harmed, the survey found that 6.6 million people were stalked in a 12-month period and that 1 in 6 women and 1 in 19 men were stalked at some point in their lifetime.¹

The report noted that, although anyone can be a victim of stalking, females were more than three times more likely to be stalked than males,² and that young adults had the highest rates of stalking victimization. More than one-half of female victims and one-third of male victims were stalked before the age of 25. In addition, about 1 in 5 female victims and 1 in 14 male victims experienced stalking between the ages of 11 and 17.³

The NISVS also revealed the too frequent nexus between stalking and intimate partner abuse. For the overwhelming majority of victims, the stalker is someone known to them – an acquaintance, a family member, or, most often, a current or former intimate partner. Sixty-six percent of female victims and 41 percent of male victims were stalked by a current or former intimate partner.⁴ Statistics provided to the Office on Violence Against Women by our own grantees tell a similar story: in one recent reporting period, our discretionary grantees reported that 70 percent of the stalking victims that they served had been victimized by a current or former spouse or intimate partner or dating partner; subgrantees of our STOP Violence Against Women Formula Program reported the same for 61 percent of the stalking victims they served.⁵

And, the NISVS report confirmed what law enforcement, prosecutors, victim service providers, and other professionals have been hearing from victims for years—that most stalking cases involve some form of technology. More than three-quarters of victims reported having received unwanted phone calls, voice and text messages; and roughly one-third of victims were watched, followed, or tracked with a listening or other device.⁶ Indeed, the NISVS authors noted that their findings show a higher percentage of stalking than previous national studies and hypothesized that this higher rate could be due to the growth of new technologies that did not exist as stalking modalities when some earlier studies were conducted. As the NISVS authors recognized, the recent tremendous

¹ Black, M.C., Basile, K.C., Breiding, M.J., Smith, S.G., Walters, M.L., Merrick, M.T., Chen, J., & Stevens, M.R. (2011). The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, p 29-31. NISVS also reported stalking prevalence using a less conservative definition of stalking, which considers any amount of fear (i.e., a little fearful, somewhat fearful, or very fearful). Using that definition, the study found that 1 in 4 women and 1 in 13 men reported being a victim of stalking in their lifetime, with 6.5% and 2.0% of women and men, respectively, reporting stalking in the 12 months prior to taking the survey. *Id.* at 29.

² *Id.* at 30.

³ *Id.* at 34.

⁴ *Id.* at 32.

⁵ Data on file with Office on Violence Against Women.

⁶ NISVS Summary Report at 31.

growth in cellphone ownership and wireless technology may have increased the ease with which offenders engage in stalking behaviors.⁷

These findings underscore how critical it is that professionals who respond to and work with stalking victims understand the dynamics of stalking, particularly how stalkers use technology. At OVW, we know that stalking is often a precursor to other forms of violence, including rape, sexual assault, physical assault, and homicide. Because stalking can be challenging to recognize, OVW grant programs support specialized training for law enforcement, prosecutors, parole and probation officers, and victim service providers to recognize stalking, to aggressively investigate and prosecute cases, and to ensure that comprehensive, holistic services are available for victims.

Cyberstalking

The spread of cellular phones in recent years has created a new market in malicious software that, when installed on mobile devices, allows perpetrators to intercept victims' communications without their knowledge or consent. Through the use of this software, perpetrators can read victims' email and text messages, listen to victims' telephone calls, trace victims' movements, and turn on the microphone in victims' phone to record conversations occurring in the area nearby. All of this can be done remotely and surreptitiously. This conduct has far-reaching security implications. This spyware can be used by competitors to commit corporate espionage, by abusers to stalk their former partners, and even as part of an effort to spy on law enforcement and national security personnel. One important consequence of the proliferation of spyware that collects communications and location information is the risk that stalkers, abusers, and others intent on victimizing the user could use information collected on their mobile devices.

Technology is often a tool of abuse in teen relationships.⁸ Research shows that young women ages 18-24 experience the highest rate of stalking⁹ and that over a quarter of stalking victims report being stalked through the internet or electronic monitoring.¹⁰ Stalkers will sometimes make hundreds of unwanted phone calls, while also sending text messages, instant messages, or emails to the victim. This harassing contact is common in teen dating violence.¹¹ One in four teens in a relationship has been called names, harassed, or put down by their partner through cell phones and texting.¹²

⁷ *Id.* at 84.

⁸ Fraser, C., Olsen, E., Lee, K., Southworth, C., & Tucker, S. (2010). The new age of stalking: Technological implications for stalking. *Juvenile and Family Court Journal*, 61(4), 39-55.

⁹ Baum, K., Catalano, S., Rand, M., & Rose, K. (2009). *Stalking victimization in the United States*. Bureau of Justice Statistics Special Report (No. NCJRS 224527). Washington, DC: U.S. Department of Justice. Catalano, S. (2012) *Stalking victims in the United States – revised*. Bureau of Justice Statistics Special Report. Washington, DC: U.S. Department of Justice.

¹⁰ Baum, Catalano, Rand, & Rose, 2009

¹¹ Fraser, Olsen, Lee, Southworth, & Tucker, 2010.

¹² Lenhart, A., Ling, R., Campbell, S., And Purcell, K. (2010). *Teens and Mobile Phones*. Pew Internet and American Life Project.

OVW funds a number of projects that target the intersection of technology and the crimes of stalking, sexual assault, domestic violence, and dating violence. We recognize that stalkers are increasingly abusing a variety of telephone, surveillance, and computer technologies to harass, terrify, intimidate, and monitor their victims, including former and current intimate partners. For young victims in particular, new technologies bring the risk of digital abuses such as unwanted and repeated texts, breaking into personal email accounts, and pressure for private pictures. Three OVW-funded projects, in particular, focus on “high-tech” stalking and the dangers that new technologies pose for victims.

First, for over thirteen years, OVW has funded the Stalking Resource Center, a program of the National Center for Victims of Crime, to provide training and technical assistance to our grantees and others on developing an effective response to the crime of stalking. The Stalking Resource Center has trained and provided technical assistance to over 100,000 multi-disciplinary professionals nationwide, with an emphasis on the use of technology to stalk. Among other projects, the Resource Center has co-hosted eleven national conferences that specifically focused on the use of technology in intimate partner stalking cases. In addition, with funding from the Department’s Office for Victims of Crime, the Stalking Resource Center developed two training tools focused specifically on the use of technology to stalk. The first is a 15-minute training DVD and discussion guide designed to help law enforcement officers, victim advocates, and allied professionals understand the most common forms of technology used by stalkers. The second is a self-paced, interactive online training course that explores many of the technologies used by stalkers and discusses how to document and obtain evidence related to these technologies as well as considerations for victim safety.

Second, since 2004, the National Network to End Domestic Violence’s (NNEDV) Safety Net project has been funded by OVW to provide unique technical assistance and training to a wide range of grantees to address how technology issues impact the safety, privacy and accessibility rights of victims of domestic violence, dating violence, sexual assault and stalking. The project also educates grantees on ways to use technology strategically to help victims find safety and increase program efficiency, and trains law enforcement officers and justice system officials, social services providers, coordinated community response teams, and others about how to hold perpetrators accountable for misusing technology against victims of abuse and stalking. As an OVW technical assistance provider on technology safety, NNEDV trained – in just the past two years – more than 3,000 advocates, attorneys, court personnel, service providers and other professionals. In that same time period, NNEDV responded to 783 requests for in-depth and nuanced technical assistance, often spending days researching and assisting just one grantee. To serve survivors of violence and abuse, OVW partnered with NNEDV to develop the Technology and Confidentiality Online Toolkit (<http://tools.nnedv.org>), a website that provides updated information and resources for agencies, co-located partnerships (serving victims of domestic violence and sexual assault), and coordinated community response teams receive the coordinated services they need while maintaining the victims’ privacy, confidentiality and ownership over their personal identifying information.

Third, OVW funds the Family Violence Prevention Fund's "That's Not Cool" campaign to assist teens in understanding, recognizing and responding to teen dating violence. A critical part of this project addresses cyberstalking by helping teens define their "digital line" as it relates to relationship and dating abuse. The website www.thatsnotcool.com was launched in January 2009 to help teens identify digital dating abuse and to encourage them to define for themselves what is and is not appropriate. So far the campaign has produced strong results in raising awareness of the issue and available resources, including over 3 million website visits and 77,000 Facebook fans.

VAWA-funded Support for State Prosecutions

VAWA grant programs promote effective strategies to address stalking cases which present many challenges for law enforcement and prosecutors. VAWA funding supports the development of investigative and prosecution policies and procedures for stalking cases, training on stalking, increased staffing, establishment or expansion of specialized stalking units, upgrades to databases and technical assistance on complex cases. A state prosecutor with funding from the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program reports that:

I have been working with a victim since July of 2012 on a stalking case. The suspect was arrested in 2011 for burglary and assault, and a no contact order was put in place. The victim came to me directly as she didn't feel anyone else would believe her. The suspect is a doctor in town, and he had manipulated her for years. She showed me a box of evidence which contained emails and texts from this anonymous person, who had been harassing her for months. The texts were extremely personal and derogatory. Some of the texts recommended the victim get back together with the suspect. When I read the texts, I felt strongly that it was the same suspect who had assaulted her. I started sending out subpoenas to gain Internet Provider address information on these contacts. I was able to confirm it was indeed the same suspect who assaulted her back in 2011. [The suspect] was arrested . . . and [s]ince that time, I confirmed that 3 different types of contact (hundreds of texts and emails) all come back to that same suspect, making this a very strong case.

Federal Prosecutions

Although most stalking offenses are best handled by state and local police departments and prosecutors, the Department has also responded to the cyberstalking challenge through the prosecution of violations of the federal cyberstalking prohibition, 18 U.S.C. § 2261A(2). This statute allows for the prosecution of individuals who stalk using "the mail, any interactive computer service or electronic communication service or electronic communication system of interstate commerce...." This prohibition encompasses the use of the Internet through computers, smart phones, and other mobile devices.

In one case, for example, a Maine man hacked into a female victim's email account, found sexually explicit photographs of the victim there, and downloaded them to his phone. He then attempted to extort her into sending him even more sexually explicit images by threatening to publish explicit images on the internet – and distribute them to the victim's neighbors and work and social acquaintances. The offender pled guilty to violating section 2261A and was sentenced to serve 33 months in prison.

Until Congress passed the Violence Against Women Reauthorization Act of 2013, the federal prohibition on cyberstalking was limited by the statutory requirement that the stalker and the victim be in different states. In VAWA 2013, Congress revised the statute to bring it in line with other threatening statutes and permit federal prosecutors to pursue cyberstalking cases involving use of any electronic system of interstate commerce, regardless of where the victim and offender reside.

Closing

I appreciate the opportunity to share information with you about some of the challenges that the Department sees as society's use – and misuse-- of technology, including smart phones, tablets and laptops, continues to grow, and how the Department works to protect victims when those devices become another tool in the arsenal of stalkers. I look forward to continuing to work with the Congress as it considers these important issues.