

and relatives began receiving strange letters from the stalker. Soon thereafter, the stalker broke into the house while the victim was showering. Police were called, but she had already left. The newly formed LAPD Threat Management Unit was called in and obtained a warrant for burglary against the defendant. Following her arrest, she was released on bail and, obtaining a gun from her father's house, went to the victim's home. The victim fled the house along with two dinner guests. The police were called and the SWAT team responded. At one point the defendant pointed a weapon at a SWAT team officer, but neither person fired any shots. After the defendant surrendered to the police, security specialists were called to install an alarm system. They discovered that the defendant had been living under the house in the crawl space. There was evidence that she had been able to tap the house telephones from this vantage point, enabling her to track the victim's movements to malls and the like. Despite the long history of stalking, the defendant was convicted only of assault on an officer; no stalking charge was even brought due to weaknesses in the law. The defendant was sentenced to nearly eight years in prison and has twice been released from prison, violating probation both times by renewing the stalking behavior. She is scheduled to be released in 2000, after serving all of her sentence.

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In 1992, as a result of this prosecution experience and the defects in the stalking law that it exposed, the Los Angeles prosecutor's office sought amendments to the stalking law. The new law sponsored by the Office increased the punishment for ordinary stalking to a potential felony offense and made stalking a less difficult crime to prosecute. Over time, Ms. Saunders continued to periodically handle stalking cases, although assigned to other types of cases. Her work and that of other prosecutors in the office handling stalking cases encouraged the District Attorney to set up a specialized stalking unit, based, in part, on the correlation between stalking and domestic violence homicides. This led to the recognition that stalking prosecution needed increased resources and specialized expertise. Additional support for a special unit came from the entertainment industry, which had concerns that could not be met by police responses to stalking complaints.

A specialized stalking unit (the STAT) was established in July 1997 with two attorneys, Rhonda Saunders and Scott Gordon, who had considerable experience with domestic violence issues. A STOP grant was obtained from the state agency responsible for allocating STOP funds

to support one attorney and an investigator. In addition, a victim-witness advocate was assigned to the STAT from the state-funded advocate unit in the District Attorney's Office.

Most recently, the STAT was awarded a new STOP grant from the state to expand its operations with two new lawyers. Under this grant the STAT activities have been expanded to include a special focus on stalking and threats in the university environment. This will include a public awareness campaign and the efforts of one prosecutor on university-based cases. In addition, the Los Angeles Commission on Assaults Against Women will provide on-campus victim services and advocacy.

In its first 18 months of operation, the STAT prosecutors filed 58 stalking and terroristic threat cases. This included 44 cases filed in the period supported by the STOP grant and 14 cases filed before grant support of the Unit began.

## **STAT Staffing/Caseloads/Responsibilities**

### **Unit Personnel**

The Los Angeles District Attorney's STAT attorneys are both experienced prosecutors. Rhonda Saunders has prosecuted stalking cases since 1992 and was a principal stalking specialist in the District Attorney's Office before the STAT was established. The other attorney is Scott Gordon, the STAT project director for the STOP grant, who has a total of 20 years experience as a prosecutor and law enforcement officer. He previously served as special assistant to the Director of the Bureau of Special Operations. Mr. Gordon is also the District Attorney's representative to the Los Angeles Domestic Violence Council, which he has chaired since 1994.

The STAT investigator is Edward Messinger, who has 24 years of law enforcement experience. The investigator is assigned to the Special Crimes Office in the Special Operations Division of the Bureau of Investigation within the District Attorney's Office. Mr. Messinger replaces former STAT investigator Brian Hale, who is now a supervisor with the Family Support Unit. Celeste Musick, who is the STAT victim advocate, has two years experience as a victim advocate.

Jeffrey Jonas, head of the Target Crimes Division in the Bureau of Special Operations, supervises the STAT. Other units in the Bureau include those with responsibility for crimes

against police officers, the career criminal unit, the extradition unit, and the Task Force on auto theft prevention.

### **Caseload**

Scott Gordon, the STAT project director, estimates that the unit receives about 400 referrals yearly. Of these, approximately 125-150 cases are retained for monitoring or filing. A few additional cases may be retained for nontraditional "intervention" by the unit investigator. This typically involves notifying the suspect that his or her actions may be scaring the victim and violating the stalking law, with a warning that such continued behavior will have consequences. No formal prosecution is brought in cases where the stalking behavior then ends. Where the stalking continues, however, a formal investigation may be undertaken and charges filed; the intervention itself provides evidence that the defendant's actions were purposeful with full awareness of the impact upon the victim.

**Attorney Caseloads.** Each STAT deputy district attorney typically has an active caseload of 12-14 cases. In addition, the attorneys may be monitoring closed cases where the defendant is serving a probation sentence and is still at risk for renewed stalking activity.

There are several reasons for the low caseload of the STAT prosecutors. Stalking cases require more intensive work than most other crimes because stalking is by definition an on-going series of events. These events continue after the case is accepted for investigation and prosecution. Indeed, because physical evidence of past stalking behavior is often absent, proof of stalking requires extensive documentation of the stalking behavior occurring after case acceptance. This requirement extends the amount of time required before cases can be prosecuted. Thus although the yearly caseload for non-stalking cases is usually calculated by doubling the daily caseload (most cases take an average of about 6 months to go to trial), this is not true with stalking cases.

The wide geographic area served also affects STAT caseloads. Cases are referred to STAT from all over Los Angeles County. In a typical week, the prosecutors might be in as many as five local courts, sometimes for multiple appearances. Because so much time is spent traveling to and from these courts, less time is available for case preparation and management.

**Investigator Caseload.** The STAT investigator is responsible for assisting the prosecutors in identifying stalking cases and preparing them for prosecution. Investigator duties include meeting with walk-in or telephone complainants to assess their stories. As noted earlier, the investigator will intervene in some cases to approach the suspected stalker and warn that individual that he/she is close to the line where criminal behavior occurs. This is done in cases where such intervention may be expected to prevent escalation. Usually, the investigator has a police officer accompany him on intervention calls. In Los Angeles, the officer will be from the LAPD Threat Management Unit.

Investigating stalking cases is paper intensive. As noted above, stalking cases require building a paper record of stalking. Hence, the job requires interviewing and report-writing skills.

Investigative services are a high priority with the STAT. The normal ratio of investigators to attorneys in the District Attorney's Office is one to three; however, STAT has one investigator for its two attorneys. The STAT investigator normally handles between 8 and 12 cases at any one time. Of these, usually 4 to 6 cases are "hot" (that is, cases scheduled for trial). In comparison, auto insurance fraud case investigators have active caseloads of 9 to 12 cases at any one time, all of which would be hot. In addition, because stalking cases require proactive investigation, they may often involve emergency situations. In the course of the STAT's first year of operation, the investigator handled 34 cases.

**Victim Advocate Caseload.** The STAT victim-witness advocate position is funded as part of a state grant to the District Attorney's Office for a victim-witness assistance unit. The STAT advocate's duties include identifying possible stalking cases from a review of all felony crime reports referred to her by other advocates, including those in the District Attorney's branch offices; by LAPD's Threat Management Unit; and by other prosecutors. Typically, referrals are based on the most serious charge involved; that is, the STAT advocate would not be referred cases where charges more serious than stalking were involved. A final source of referrals to the advocate is the STAT telephone answering machine, which provides up to 15 calls per month.

The advocate calls victims to offer her services for help and to gather more information about the case facts. If she cannot reach the victim by telephone (60 percent are reached by

phone), she will send them a letter asking them to call her and describing the services offered; about 50 percent of these respond. The advocate is thus able to reach about of 80 percent of the victims referred to her.

The advocate receives about 80 case referrals per month. Of these, perhaps as many as 50 cases could be stalking related. Cases most frequently rejected involve telephone harassment complaints where there is no indication of any pattern of calls or there is no former relationship that could have sparked the calls. The advocate reviews the case referrals, prioritizes them for immediate threat issues, and presents this information to the STAT prosecutors. Overall, the screening results in about 5 cases per month being marked for the STAT attorneys' attention. Of these, about 2 cases are accepted for prosecution.

At any one time, the advocate has an active caseload of 40 open cases. The advocate tries to talk to each victim once or twice each week. Other duties include supporting victims during interviews with the prosecutors and accompanying victims to court. The advocate may also be asked to handle some stalking related cases (e.g., domestic violence victim cases where the District Attorney's Family Violence unit received from the police a stalking case involving ex-spouses). In victim "walk-in" cases where no police complaint has been filed, the advocate requires that the victim file a complaint, so that she can process the victim's claims for compensation under the state's victim compensation law.

The STAT victim-witness advocate served 221 victims and 114 witnesses in her first year with the unit. The most frequent service provided was crisis intervention, followed by emergency assistance and referral to resources. Assistance was also provided to victims in filling out claims for compensation and assisting victims with preparing a victim impact statement for the sentencing hearing.

### **Case Monitoring**

Not all complaints of stalking constitute stalking under state law. The state Penal Code specifies that stalking occurs only where the victim has a reasonable fear for his/her safety or that of the victim's family. Not all stalking meets this threshold requirement. In cases where the seriousness of the stalking behavior has been escalating but is not yet stalking under the statutory definition, the STAT may monitor the case. This monitoring involves periodic checks with the

victim to determine if the threat level has significantly increased. It may also involve an investigator "intervention" as discussed above. At any one time, the STAT may have as many as five cases being monitored for future investigation and prosecution.

### **Case Closures**

Because stalking prosecution is such an extensive process, the STAT closed slightly less than half of its active caseload, 27 cases, in its first year of operation. As discussed above, this is because stalking cases may take longer than other cases to be tried in court. Sentences imposed in the closed cases included 9 defendants sentenced to prison (average sentence 4 to 5 years) and 17 sentenced to jail. Most of these latter cases involved one-year jail terms as a condition of a five-year probation term. One other case resulted in a dismissal where defense counsel was able to present exculpatory information.

### **Illustrative Stalking Prosecution Cases**

Because Los Angeles is the home of the U.S. movie industry, cases involving movie stars and directors are part of the STAT caseload. More common examples of their cases include those that follow.

- **Case 1.** After Mrs. Y was divorced, her ex-husband began to threaten and stalk Mrs. Y and her mother, including the sending of written death threats to both. He also sent threats and defamatory mail to the victim's place of employment. This resulted in her transfer from a job as a nurse to a clerical position. Complaints to local police were not acted upon because there was no physical harm to her and because the threats came from out of state. The victim sought help from a local rape treatment center. Because a relationship between the center and STAT had already been established, the complaint was referred to the STAT victim advocate. The STAT investigator followed up and a warrant for felony stalking was issued against the ex-husband. The case was also referred to the U.S. Attorney's Office, which filed a federal criminal complaint for interstate stalking. As of this writing, the suspect is still a fugitive from justice.
- **Case 2.** The defendant had become fixated upon the victim, who refused to engage in a romantic relationship with him. After several years, the defendant began to pose as the victim on the Internet. He placed several sexually graphic "want ads" on Internet bulletin boards and in this way began to correspond with men while posing as the victim. He then solicited the men to rape the victim, by claiming that he/she enjoyed rough sex and rape fantasies. As part of the solicitation, he provided the men with the victim's address, phone number, and other personal information.

When the victim learned of these events from one of the men so solicited, she went to local police and was told there was nothing they could do. Eventually, the Federal Bureau of Investigation (FBI) referred her to STAT. After extensive investigation by STAT and the FBI, a felony stalking complaint was issued. The defendant eventually pled guilty and received a six-year sentence to state prison.

- **Case 3.** Ms. X, an American-Asian woman attending college, broke up with her boyfriend, also a student, who then proceeded to stalk her. The ex-boyfriend was able to hack into her computer so that whenever her new boyfriend sent her an e-mail message, the ex-boyfriend would call her and talk about the e-mail. He also sent e-mail messages that threatened her, her new boyfriend, and the new boyfriend's mother. Pressure was exerted upon her from the Asian immigrant community not to press charges. The district attorney prosecuted the ex-boyfriend for stalking the new boyfriend, and she testified to this part of the case. The defendant pled guilty and at the time of this writing is undergoing psychiatric evaluation pending a sentencing hearing.
- **Case 4.** Mrs. Z separated from her husband after he became jealous of her adopted daughter and became physically violent. He was also using drugs. He then began to stalk the victim. He carjacked the wife and daughter, threatening to drive to Mexico and leave the adopted daughter there. He was arrested and pled to a misdemeanor charge. She then obtained a protective order against him. But after release from jail, he asked her to give him a temporary home, which she did despite her daughter's being terrified of him. He became abusive again. She kicked him out again, but he hid in the storage shed in the garage. When she went in the garage, he jumped out with a knife, demanding his clothes. A neighbor heard her screams and called police. The defendant pled *nolo contendere* and was sentenced to a three-year prison term with a recommendation that he be sent to a psychiatric facility. The court also issued a 10-year protective order.
- **Case 5.** Ms. B, a student, was sexually harassed by her supervisor at a telephone marketing company. When she left her employment because of the harassment, he began stalking her and her boyfriend. Before she left her job, the supervisor had gone through her Rolodex at work to obtain her telephone number and that of her boyfriend. He also hired a co-worker to follow her and report on what she did (part of the compensation paid the co-worker was to stop threatening him). Using the information provided by the co-worker, he left telephone messages on her answering machine for several months. These messages included threats to bash in her face with a baseball bat. The defendant pled *nolo contendere* and was sentenced to 16 months in prison with a recommendation for psychiatric treatment. A 10-year protective order was also issued by the court.

- **Case 6.** The victim, an 18-year-old female, sings in the church choir. She was seen performing with the choir by a total stranger who began to stalk her. Among other things, he sent pornographic pictures and videos to her home. With the pornography, he would add a message saying "this is you and this is me." He also called her at home, making threats and playing the soundtrack from a pornographic movie. When he was arrested, he explained his actions as motivated by his being a "student of human nature." He said he simply wanted to see how she would react to his presents, and he would sit in the back of the church to see how she was holding up to his actions. The defendant was convicted of stalking and sentenced to 16 months in prison. The case was also referred to the U.S. Attorney's Office, which did not, however, prosecute for sending pornography through the mail because of the difficulty of proving a violation of community standards.

## **Stalking Case Handling**

### **Case Management Procedures**

Once a stalking case is accepted for prosecution by STAT, all cases are vertically prosecuted by the deputy district attorney assigned the case. The same prosecutor appears in all case proceedings and the victim has a single person to call about case status or new stalking incidents. An exception to vertical prosecution occurs where a suspect has already been arrested for stalking. In those cases, another prosecution unit will have already handled the case preliminaries (e.g., bail hearing) before the STAT takes over. But where no arrest has yet been made, the STAT prosecutor handles all case preliminaries up to and including trial. Even in cases where the case is not prosecuted, instead being the subject of investigator "intervention" or monitoring, the prosecutor to whom the case is assigned for monitoring will also be responsible for case prosecution should that be needed.

Not all cases referred to the unit are accepted for either prosecution or monitoring. Probably as many as half the cases reviewed by the STAT are rejected because of lack of evidence, the absence of the needed element of victim fear for own or family safety, or simply because the simple facts of the case do not require the STAT's expertise for prosecution (other Office prosecutors will then handle these cases). Cases not accepted may be referred to:

- Another deputy district attorney in the District Attorney's Office
- Another county's prosecutor's office
- Law enforcement for investigation

- Victim services
- City Attorney
- Family violence prosecution unit.

When cases are accepted by the STAT, the deputy district attorney assigned to the case meets with the victim to explain what the unit will be doing and what the victim must do to help with the case investigation and prosecution. The latter includes creating a paper trail of stalking incidents through such means as keeping a written log.

### **Case Intake**

Cases are referred to STAT by the District Attorney screening units at the Downtown office and the 26 branch offices, from victim service agencies, employer security directors, and through walk-ins or call-ins. The highest number of case referrals, however, comes from the Los Angeles Police Department's Threat Management Unit (TMU). Other case referrals come from LAPD branch detectives and other law enforcement agencies, including federal and state agencies.

Cases are prosecuted countywide. Although the STAT deputies used to be able to transfer cases to the Downtown court, the presiding judge no longer permits this. The STAT attorneys are now required to attend hearings all over the county. While this results in more travel time per case, it does allow the STAT attorneys to spend more time with the branch office attorneys and local police agencies.

#### **Case acceptance criteria include:**

- Firearm or other deadly weapon is used
- Victim or family member is killed or seriously injured
- Second or third strike cases in which the new charges include stalking (California has a "Three Strike" law that significantly increases the penalties for serious recidivistic crimes as defined by the law, i.e., "strikes")
- Defendant has a prior conviction for stalking or terroristic threats
- Complex, serious or long-term stalking cases involving multiple offenses, witnesses, victims, locations and/or law enforcement agencies, or cases of widespread public interest
- Victim is an elected or appointed government official

- Any other case involving special preparation and/or investigation where there is a serious threat to the victim's safety, including cases involving multiple violations of prior restraining orders.

Deputies in the District Attorney's other units are encouraged to call the STAT attorneys for technical assistance, information, or victim service referrals on cases not meeting these criteria. STAT prosecutors try to review all stalking cases filed by the branch offices as a separate check on whether they should be involved or take over the prosecution of cases being handled by Branch office deputies.

Stalking charges may also be filed in more serious cases such as homicide, when there is evidence that stalking preceded the crime. This use of the stalking law takes advantage of the "actual fear" requirement for proving stalking, thus permitting evidence of victim impact to be heard by the jury where evidence law would not otherwise allow its introduction because of its potential to be prejudicial or not germane.

### **Threat Assessment**

Threat assessment is done on a case-by-case basis. The use of threat assessment instruments is largely limited to training exercises to help illustrate the factors associated with risk. It also gets the trainees to think about risk potential. Furthermore, using the assessment instruments drives the novice to collect information relevant to risk that might not otherwise be collected. This includes information about the exact language used to threaten or the type of weapon displayed or possessed. As needed, the STAT prosecutors are able to call upon the assistance of other professionals in assessing the degree of threat against the victim. This includes the membership of the Stalking Task Force (discussed below).

### **Psychological Review**

The STAT deputies will not make plea offers until the defendant has been psychologically assessed. Most judges are reported to agree with this policy. In cases where the defendant is not able to form *mens re* (i.e., intent to commit a crime), the STAT prosecutors will work with the District Attorney's mental health unit to seek civil commitment.

### **Case Prosecution**

While most cases are resolved by a plea agreement, in cases that do go to trial, the STAT attorneys will use an expert witness to explain how the victim's behavior coping with the stalking threat is consistent with his or her claim of fear. *Voir dire* examination of potential jurors before the jury is selected will include questions about the juror's experience with either stalking or with civil restraining orders.

### **Sentencing Recommendations**

The STAT unit does not have a unified policy on sentencing recommendations. Nonetheless, both prosecutors have similar approaches to sentencing. Thus, both prosecutors will seek prison time in some cases and a "split sentence" of jail plus probation in others. The latter sentence reflects the fact that in California split sentences are authorized, so that a condition of probation in a typical stalking case can be one year in jail. Probation supervision will ordinarily be for 5 years. Any probation sentence must include a treatment plan, including batterer intervention in domestic violence stalking cases. The judge is asked to include a no-contact provision in any probation supervision order issued. This order includes a provision that bars the use of a third party to contact the victim. If the probation conditions are violated, the defendant can be sent to prison for up to 3 years. In contrast, most stalking sentences to prison are for 12 to 16 months, followed by parole supervision lasting 12 months. In all cases, the deputy will also seek a 10-year protection order to be issued by the court and a requirement that the defendant obtain mental health treatment. The most significant factor favoring one type of sentence over the other is the seriousness and immediacy of the threat to the victim and/or her family.

### **Post-Conviction Duties**

When a stalker is convicted and put on probation, the victim is given the pager number of the investigator to report any recurrence of the stalking. In addition, victims can call the District Attorney's 24-hour command post to report new stalking incidents. The STAT deputy district attorney will also make periodic calls to the victim and to the probation or parole officer supervising the stalker. The deputy will also assist the victim in asking the Parole Board to put restrictions on the defendant's terms of release from prison, as authorized by California Penal

Code § 646.9.2. The Parole Board is reported to have been very cooperative with victim requests under this law.

### **Related Responsibilities**

**Training.** The STAT is specifically encouraged to provide training to prosecutors, law enforcement, the judiciary, and community-based victims' rights organizations. About 20 to 25 percent of the attorneys' time is spent on training, meetings with victim service providers (e.g., shelters), and presentations at community forums. Many of the training and public information tasks are done on weekends or evenings. As one deputy put it, "Training is a priority."

Training duties include regular training of prosecutors assigned to the Office's 26 local branches. Stalking is now included in training for prosecutors handling domestic violence cases. The Office also had stalking training presented at the monthly Saturday seminars for all personnel, who attend on a voluntary basis. This is expected to be repeated in the near future. Law enforcement are invited to attend these sessions. They also do exclusively law enforcement training with the County Sheriff's office and the Regional Community Policing Institute funded by the U.S.D.O.J. for domestic violence training (3 sessions). Law enforcement training also includes squad-level roll call training, as the attorneys are available. Other training has been provided to attendees at programs offered by the California District Attorneys Association and the Association of Threat Assessment Professionals. STAT staff are presently providing training on stalking to both probation and parole staff. One result of the training has been improved presentence reports to the court.

The STAT has also produced a training manual, which includes copies of all relevant civil and criminal laws, a review of stalking and terroristic threat case law, jury instructions, related materials such as sample motions for expert testimony admission, and security recommendations.

The STAT investigator is also involved in training. Outside training requires about 10 to 15 percent of the investigator's time. However, most requests for training and other presentations cannot be met because of casework requirements.

**Other Duties.** One of the STAT deputies also monitors legislative proposals. Her review comments are then passed on to the District Attorney's legislative deputy for forwarding

to the appropriate officials. The STAT deputy may also assist victims with civil law suits filed by their stalkers. Apparently, such suits are now being filed to obtain discovery of information about the victim.

## **Related Organizations**

Related organizations include the Stalking Task Force for Los Angeles County, the Domestic Violence Council, the City Attorney's Office, and the LAPD Threat Management Unit.

### **Stalking Task Force**

The STAT unit hosts a monthly meeting of the county Stalking Task Force. Attending the Task Force meetings are representatives of STAT, City Attorney, FBI, U.S. Attorney's Office, Secret Service, District Attorney's Mental Health unit, and law enforcement agencies, including the LAPD, County Sheriff, California Highway Patrol, U.S. Marshal's Office, and campus police. The purpose of these meetings is to (1) review problematic cases and suggest new approaches, (2) provide an opportunity for training of attendees, and (3) improve communication and cooperation among local, state, and federal agencies in Los Angeles County. Examples of meeting discussions include a demonstration by the Secret Service of its FISH methodology for assessing the common source of threatening letters through computerized content analysis. Since many suspects write threats to multiple officials at all levels of government, this will allow sharing of information about suspects rather than cases. Other examples include a discussion led by the stalking specialist at the Parole Board and a presentation by an expert on electronic monitoring.

The idea for a Stalking Task Force grew out of the office experience with the District Attorney's Organized Crime Unit. The work of that unit was a combined federal, state, and local initiative. Stalking presents the same need for coordination of effort. From this idea, the first meeting of the Task Force was held in the summer of 1998.

On average, about 12 Task Force members attend each meeting. However, no branch office deputy district attorneys attend these meetings. Meeting minutes are kept by the secretary of one of the STAT prosecutors.

### **Domestic Violence Council**

The Domestic Violence Council is an umbrella organization that brings together 40 different agencies in Los Angeles County. The Council was created by the County Board of Supervisors in 1979 to advise the Board on domestic violence matters; it is said to be the oldest such organization in the country. The duties of the Council include liaison with over 100 organizations providing services to domestic violence victims. Presently the Council has two special projects: (1) examining the feasibility and utility of a domestic violence court, and (2) working with the Department of Human Relations on a domestic violence employee policy. The Council meets once a month but conducts most of its business through its committees. Mr. Gordon of the STAT appoints committee chairs. The Council is housed under the Department of Community Services, which funds local shelters. The importance of the Council lies in its ability to publicize the STAT and thereby increase referrals to STAT from service providers.

### **City Attorney Prosecutors**

The Domestic Violence Prosecution Unit in the Los Angeles City Attorney's Office handles all misdemeanor stalking cases in the city, about two or three per month. This unit was established four years ago with funding from the City Council. The attorneys in this unit prosecute all domestic violence and stalking cases vertically, including refilings involving a defendant who had previously been charged with domestic violence. Stalking cases that are referred to the central unit by the Branch offices are prosecuted in the area of the City where the case arose. In the Branch offices, the City Attorney's Office may receive "wobbler" stalking cases (stalking may be prosecuted as either a misdemeanor or a felony at the discretion of the District Attorney) that are rejected by the District Attorney's prosecutors.

A few of the smaller cities in the county (e.g., Pasadena, Santa Monica) also have City Attorney offices that prosecute misdemeanors, but these are generally too small to have specialists such as Los Angeles does.

### **Office Management Issues**

A key STAT management question is whether to centrally prosecute all stalking cases or to have a mix of centralization and branch offices handling these cases. For now, the latter alternative has been selected as the least disruptive of the existing Office structure.

Staff overtime is a significant managerial issue. In addition to the community and training activities that can occur on weekends, stalking cases are prone to major developments occurring at odd hours of the day or on weekends. Case pressures may also require staff to work in the evenings on case preparation. The STAT investigator reports from 3 to 5 hours overtime per week is required to respond to victim calls, report writing demands, etc. The two STAT deputies indicate varying overtime is needed, but agree that it is substantial.

## Summary

The Los Angeles District Attorney's Stalking and Threat Assessment Team is distinguished by its specialized staff who are committed to prosecuting stalking cases and protecting the victims of stalking. A significant part of their work is outreach to train law enforcement and to educate the public and agencies serving stalking victims. This work builds increased recognition of stalking when it occurs.

Effectiveness of STAT is, however, limited by forces beyond its control. The Los Angeles District Attorney's Office is the largest prosecutor's office in the country, with over 1,000 attorneys and 250 investigators. The large geographic area covered by the office, the difficulties of coordinating multiple branch office activities, and the constant need to train other criminal justice professionals as well as the public, at large place great demands on the time of the STAT prosecutors. Geographic problems are especially a drain on resources because the Los Angeles Superior Court does not allow the STAT to centralize its case handling by permitting transfers from outlying areas of the county to the downtown courts.

It is unclear where STAT will go in the future. The number of stalking cases filed by the District Attorney's Office has been steadily rising about 10 percent each year since 1994. As a result, increased pressures to improve the work of the branch offices in their stalking cases can be anticipated. This in turn may require that the specialized STAT prosecutors spend more time on training and even monitoring branch office performance. It may be that the District Attorney's branch offices will be required to appoint stalking case specialists to prosecute and manage stalking cases that do not go to STAT. Expansion of STAT to handle all the cases now handled by the branch offices is probably not likely; geographic considerations limit the advantages of possible centralization of stalking prosecution. Some limited expansion of STAT is warranted,

however, both to increase the number of cases the unit can handle and to better meet the demand for training and public education.

# San Diego District Attorney: Stalking Prosecution Unit

## California Stalking Law

California Penal Code § 646.9 was adopted in 1990 and was the first law in the United States to provide criminal penalties for stalking. The key elements of the law are:

- A course of conduct involving harassing or threatening behavior
- A credible threat, implicit or explicit, against the victim or the victim's family with apparent ability to carry out the threat
- Intent to place victim in fear for his or her own safety or that of immediate family
- Actual substantial emotional distress by the victim from the reasonable fear created by the course of conduct and threat.

Simple stalking as defined above constitutes what in state practice is called a "wobbler" offense. That is, stalking may be treated at the discretion of the district attorney as either a felony or a one-year misdemeanor. Stalking in violation of a court restraining order is always a felony, with a maximum sentence of up to four years.

Because stalking laws are so new in California and elsewhere, a number of prosecutor offices have established special prosecution units to respond to stalking complaints. One of the best of these new units is that established by the San Diego District Attorney.

## The Stalking Prosecution Unit

The Stalking Prosecution Unit of the San Diego County District Attorney's Office is responsible for the prosecution of felony stalking cases in San Diego County. In addition, the Unit prosecutes misdemeanor stalking cases outside the City of San Diego. Office policy, however, is that stalking cases that can be prosecuted as either a felony or misdemeanor should in most cases be prosecuted as felonies.

Both stranger and domestic violence-related stalking are prosecuted by the Unit. However, most stranger stalking cases that arise outside the City of San Diego are prosecuted by attorneys in the District Attorney's branch offices. Office protocol requires, however, that the

Unit be notified whenever a branch office Deputy District Attorney receives a stranger stalking case. This policy permits the Unit to take over the case when appropriate and to provide technical assistance in those cases not taken by the Unit.

### **Unit History and Rationale**

The Unit was started in 1996 with one attorney and one investigator handling non- The Stalking Prosecution Unit grew out of a review of domestic violence homicide cases in 1996 which showed that a factor common to most, if not all, of these cases was stalking of the victim. This suggested that these homicides might have been prevented by aggressively attacking the stalking precursor. Ms. Wells, the then Chief of the Family Protection Division which handles domestic violence cases, took these findings to the District Attorney, and he agreed to set up a special stalking unit with her as its head. The District Attorney was especially receptive to the idea of a special unit because he was aware at that time of several friends of his wife who had been stalked. He also was of the view that only the District Attorney's Office is in a position to deal with the problem of multi-jurisdictional stalking; otherwise cases would fall through the cracks. As the Unit has continued and provided him with feedback from its cases, his support for it has grown, especially his view that stalking specialization is required for prosecutors to understand the dynamics of stalking. One example he cited of the unique challenges posed by stalking cases is the difficulty in identifying the occasional false victimization reports received. These cases typically involve defendants seeking attention from their family, friends, or even law enforcement.<sup>9</sup>

At its inception, the new Unit did not, however, prosecute domestic violence related stalking; it only prosecuted stranger stalking cases. The Family Protection Division handled domestic violence related stalking. But in 1998, a STOP grant was gained for expanding the Unit to handle the domestic violence cases. The grant pays for the domestic violence stalking prosecutor and one investigator. A victim-witness advocate was also added to assist with stalking victims. Prior to this grant, domestic violence stalking was handled by the Office's Family Protection Division.

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<sup>9</sup> The Stalking Prosecution Unit estimates that they receive two or three false victimization reports a year, usually in cases involving claimed stranger stalking.

The rationale for distinguishing between domestic violence related stalking and stranger stalking; the dynamics of these two types of stalking are very different. Stranger stalking often involves some form of mental illness on the part of the stalker, who may be easier to control when on medication. Further, the love obsessional stalker found in many domestic violence stalking cases may put the victim at risk more than do other stalkers. This is because the stalkers know the victim well and know her vulnerabilities. Another problem for prosecutors in domestic violence stalking is that there is always the possibility of victim recantation in these cases, a possibility that is much less likely in stranger stalking. Even where there no recantation, stalking victims may continue to stay in contact with the stalker as a coping response. Expert testimony may then be needed to explain the reasons why victims act this way and why it is not inconsistent with the statutory credible threat and real fear requirements. Similar problems of explaining victim coping behavior may also be seen in stranger stalking cases. Another difference between the two types of cases is that many domestic violence stalking cases involve short periods of time during which the stalking occurred (1 to 3 days). Stranger stalking generally occurs over a long period of time before credible threat can be shown.

### **Organizational Placement and Unit Staffing**

The District Attorney's Office in San Diego has 280 deputies, 110 investigators, victim advocates, and paralegals or interns. The Office is divided into a downtown office and branches. Special prosecution units are located at the downtown office, although most specialized units such as Family Protection Division have attorneys in the branch offices.

The Stalking Prosecution Unit has two attorneys, two investigators, a victim advocate, and one full time support staff. The Unit is headed by Kerry Wells, who has 19 years of experience as a prosecutor and years in prosecuting domestic violence cases. Fiona Khalil is the second deputy district attorney in the Unit, and she has 10 years of experience as a prosecutor, including the 3 previous years with the Family Protection Division. Wayne Maxey with 15 years in law enforcement and Greg Peters with over 20 years in law enforcement are the investigators who work fulltime with the two attorneys. Wayne Maxey has been with the Unit since its inception. Greg Peters joined the Unit under the STOP grant. Jacqueline Young, the victim advocate, also joined the Unit in 1998 under a separate Victim/Witness grant. She has been with

the Victim Witness Assistance Program for 4 years, although this is her first experience as an advocate.

The Stalking Prosecution Unit is part of the Special Operations Division of the District Attorney's Office. This Division is also responsible for investigation and prosecution of public corruption, political crimes, organized crime, and other sensitive matters. The two Unit investigators are part of the Special Investigations Division of the Bureau of Investigation within the District Attorney's Office, the counterpart of Special Operations Division. Jacqueline Young is part of the Office's Victim Witness Assistance unit that is funded under a grant from the state.

### **Unit Performance**

Case statistics are not necessarily the most appropriate indicator of unit performance, for reasons discussed below. With this important caveat, stalking case referral is probably the best indicator of Unit activity and performance. In the first year of the grant, the domestic violence stalking prosecution deputy received 74 cases for review. Of these, 33 cases resulted in criminal charges being filed. Twenty-four cases are being monitored for future prosecution, and 17 cases were rejected or referred to another agency. In the prior year when domestic violence stalking was handled by the Family Protection Division, 38 cases were received for review; and 16 of these cases were filed. Statistics for the stranger stalking cases during the same year include: 51 cases presented for review; 15 felony cases were issued, 7 were rejected, and 29 were placed on monitor status.

### **Related Organizations**

Two other agencies/organizations play key roles in how the Unit operates. These are the Stalking Case Assessment Team and the San Diego City Attorney's Office.

**Stalking Case Assessment Team (SCAT):** The San Diego SCAT (Stalking Case Assessment Team) meets monthly to review and discuss problematic cases and provide case management advice to the attorneys and investigators responsible for the case. The meetings are chaired by the senior Stalking Prosecution Unit investigator, who also maintains all meeting records. Issues considered by SCAT include assessing seriousness of threat, victim safety, new investigative approaches. Members of SCAT include the DA's stalking unit, representatives of most law enforcement agencies in San Diego County (including federal agencies), probation,

court security, law enforcement forensic specialists, victim service providers, and private treatment specialists.

The SCAT is an outgrowth from the San Diego Task Force on stalking, established in 1994. The Task Force, like the SCAT, contains representatives from all major public and private agencies concerned with stalking and its victims. With the advent of SCAT, the Task Force has only a few remaining responsibilities. The Task Force has sponsored several local conferences on stalking through its training committee and conference committee. These include one-day conferences in 1996 and 1997, and three smaller training sessions in 1998 that were directed at "first responders."

**City Attorney Prosecutors:** The San Diego City Attorney handles misdemeanor stalking cases. These include lesser stalking cases and violations of court orders of protection, especially where there is still an absence of credible threat with the violation. One Deputy City Attorney is assigned all stalking cases referred to this office. This attorney estimates that she receives about 2 stalking referrals per month and has about 10 cases open at any one time (2 are stranger stalking cases at present). She also handles regular domestic violence cases and about 50 percent of her work involves these cases. The stalking deputy prosecutor estimates that stalking cases require 3 to 5 times as much work as a non-stalking domestic violence case.

Where a case does not rise to the level of stalking, the Office will work with the victim to gather evidence; once stalking can be shown, they will refer the case to the District Attorney. The Office may also call upon the SCAT to provide suggestions for case building; however, the last two cases where SCAT use was considered were taken over by the Stalking Prosecution Unit before presentation to SCAT. This Deputy may also call upon the services of the investigator or victim advocate assigned to the Criminal Division of the Office. The stalking Deputy City Attorney reports to the Head Deputy of the Child Abuse/Domestic Violence Unit, who is also a member of SCAT.

## **Illustrative Stalking Prosecution Cases**

- **Case 1.** Ms. X was involved in a dating relationship with Godoy Hale, a fellow student at a university in San Diego. After three months together, Ms. X felt that Hale was trying to isolate her from her friends and family, and seemed controlling and demanding. Soon after Ms. X told Hale their relationship was over, she found her car tires slashed, and a

brick thrown through the windshield. The vandalism was followed by threatening phone calls, and messages on her pager (citing the California penal code section for murder – “187”). Ms. X went into hiding from Hale. A couple of months later, she was asleep in bed with her daughter, when she was awakened by a loud popping noise – Hale striking her in the mouth with a ball peen hammer. Hale fled the scene, but was arrested days later. Prosecution of the cases was assigned to the Stalking Unit. While awaiting trial, Hale approached a cell mate to hire a “hit man” to kill Ms. X. Upon being informed of this by an informant, the Stalking Unit investigators staged a “murder”. A make-up artist was hired to prepare Ms. X to appear as if she had been shot in the head. Polaroid photos were then taken of the “assassinated” Ms. X. An undercover investigator then went to the jail and visited Hale, who after seeing the photo, acknowledged that the murder is what he wanted. Charges were filed by the prosecutors and Hale was convicted of stalking, burglary, assault with a deadly weapon, torture, and soliciting for murder. He received a prison sentence of thirteen years to life.

- **Case 2.** The defendant became fixated on her treating psychologist. After months of harassing behavior, the defendant locked herself and the psychologist into the office and pulled a handgun, announcing that she is going to shoot herself. She then put the gun into her mouth and shoots herself, but was not killed. After recovery from her wounds, she went to Arizona and purchased another gun and began to stalk the psychologist. The assistance of the stalking unit deputy district attorney and investigator is requested by the police's Psychological Emergency Response Team (PERT), which is comprised of law enforcement officers and mental health professionals. The defendant was then observed by the victim's security guard following her car. Police responded to the call for help and upon arrival at the psychologist's clinic there was another standoff with the defendant threatening to again shoot herself with the gun bought in Arizona. The standoff was resolved and the defendant arrested and prosecuted. The defendant spent time in county jail, and special arrangements were made for probationary supervision when she was released. While on probation, the defendant approached someone to purchase another firearm. The Stalking Prosecution Unit investigated and the defendant was taken into custody for probation violation. The defendant is currently in state prison. The victim, however, has been unable to date to continue in her clinical practice and has moved out of the county.
- **Case 3.** Four female students at a university in San Diego received threatening e-mail messages from an unknown stalker. San Diego Police detective came to the Stalking Prosecution Unit and a coordinated investigation, including use of surveillance cameras at the university computer laboratory, revealed the identity of the stalker. Numerous search warrants were then executed on Internet service providers, and additional evidence obtained linking the messages and the suspect. The investigation showed that in addition to over 100 threatening e-mails, the suspect used the Internet to obtain personal information about the victims and their families (which made the e-mails more threatening and believable). The suspect also posted one of the victim's phone numbers on the Internet urging people to call for phone sex. The suspect, a student at the university, tampered with the victim's lab experiments and tests causing them to receive failing grades. The suspect was arrested, and a search warrant was issued for his home.

His computer was seized and analyzed for evidence. The suspect pled guilty to five counts of stalking and was given probation. The Stalking Unit continues to monitor the suspect by conducting probationary searches and spot checks of his computer.

- **Case 4.** The suspect in this case was a mentally disordered person prone to abuse alcohol and not take her medications. She would run naked into the streets, confront neighbors, jump on the hood of the cars as they drove from the cul-de-sac where she lived, and engage in other bizarre behavior. The Stalking Unit personnel met with local law enforcement officers, including the PERT, and the victims. Suggestions to the victims were made for them to videotape or photograph the incidents for evidence. Law enforcement agreed that the next time she committed a crime, she would be arrested and prosecuted. Within a week or two, the suspect came to the next-door neighbor, and with a hoe in her hand, started to assault the victim. The victim had a disposable 35mm camera, with which he took pictures as the suspect approached. Law enforcement responded and the suspect was taken into custody. An interesting by-product was when the suspect's picture was taken; she stopped the assault momentarily, which allowed the victim to get into his house. The suspect pled guilty, and served jail time and was moved from the neighborhood by her family, as part of her probationary conditions. Additionally, mandatory psychiatric treatment was ordered and she has to report her progress to the court every 60 days.
- **Case 5.** The victim and suspect had a lesbian relationship until the victim terminated it. This was followed by several acts of vandalism, threatening calls, and an assault upon the victim. The defendant was convicted of stalking and sentenced to one year in county jail as a condition of probation. The defendant continues to be in custody as of this writing. However, information from the suspect's letters and communications to others indicate that she is still obsessed with the victim and intends to kill her when released from jail. To respond to this on-going threat, the Stalking Case Assessment Team (S.C.A.T.) continues to review her case and brainstorm to plan interventions and the suspect's release. In addition, the victim was provided with relocation and other assistance such as safety planning. Finally, coordination plans are developed between jail staff; probation, and the District Attorney's Office Stalking Unit to conduct close probation supervision and surveillance of the suspect when she is released.
- **Case 6.** The defendant was employed at a local company as a travelling salesman. After first tendering his resignation, he then decided within the two week notice period that he did not wish to resign. However, the company human resources personnel refused to accept his change of mind, informing him that a replacement has already been hired. He then telephoned various executives of the company, threatening to kill his former immediate supervisor. The company's security consultant then came to the Stalking Unit for help. The immediate problem was in locating the defendant so that he could be arrested. The Stalking Unit investigators were able to identify the defendant's former girlfriend at the company (who had been keeping him informed of the company's actions) and learned the area of the state where he was located. Telephone traps were used to locate his exact location. The company security informed local police in the area that an arrest warrant had been issued and the Stalking Unit investigator called the local police to

get a detective assigned to the case. The defendant was arrested and convicted of making terroristic threats. A sentence of six months in jail as a condition of probation was imposed.

## **Stalking Case Handling**

### **Case Management Procedures**

The District Attorney's protocol for stalking cases sets out the formal procedures for handling these cases. The protocol includes an intake form that records the relevant facts, such as victim relationship to defendant; whether a TRO was issued and date of issuance; factual synopsis. The intake form also records the status of the case, including whether case is simply being monitored for future developments or a case has been filed. A case disposition sheet is also part of the protocol. This contains information about the progress of cases that have been filed from charges and date of filing through case outcome and sentence.

A key element of decisions whether to file or not is the threat assessment of the danger to the victim or to other persons close to the victim. This protocol document includes extensive personal information about the suspect and his/her criminal history. It includes information about the suspect's psychiatric history and history of suicide threats or attempts. It asks about the suspect's access to weapons and alcohol or drug use. Finally, it reviews the specific nature of the stalking itself from how the suspect obtained knowledge of the victim and her whereabouts to describing the nature of the stalking behavior.

A final protocol form is the Victim Data Sheet that contains personal history information about the victim. This information includes both psychiatric history and criminal history reports. It also asks whether the victim has ever been stalked before. Finally it asks about victim actions taken for protection against the stalker.

The most significant case management requirement set forth by the protocol is for vertical prosecution of these cases. The Deputy receiving these cases is responsible for all elements of the case from victim interviewing through trial and post-conviction follow-ups with the victim. This is true for both cases handled by the Stalking Unit and for those handled in the branch offices.

One important consideration unique to stalking cases is the attention paid to efforts to minimize the threat to victims. This consideration affects every prosecutorial action from filing, to seeking a protective order, to ordering arrest. The concern is that official action may set off the stalker and violence will result. Hence case filing may be delayed in some instances in order to gain sufficient evidence to justify a request for very high or no bail.

### **Case Intake**

Cases may be referred to the Stalking Prosecution Unit from police patrol, from domestic violence detectives, from shelters and other victim service agencies, walk-ins or call-ins to the county victim hotline by the victims, and from the City Attorneys' Domestic Violence Unit. Another occasional source of case identification comes from the victim witness screening unit, which receives daily crime reports from the entire county.

One of the biggest problems the Unit has is that many stalking cases, especially domestic violence stalking, do not follow traditional "following" paths. Instead, the stalking consists of lesser behaviors such as vandalism, burglary, or order violations. As a result, cases referred to the Unit from the City Attorney's Office are often cases not identified by the police as stalking cases. In that office, the Assistant City Attorney may note a pattern of behavior among multiple misdemeanor charges that together constitute stalking. Or the stalking specialist may focus on building a case based upon multiple order violations plus encouraging the victim to keep a written log of incidents.

### **Threat Assessment**

Uniform or formalized procedures for threat assessment do not exist. Instead, each case is assessed separately. The assumption is that they are all serious cases; this is confirmed by threat assessment instruments that cannot provide further stratification of seriousness. The task is to develop a safety plan to reduce the threat. One function of the SCAT is to provide a group assessment of threat seriousness and suggest appropriate countermeasures. The City Attorney uses MOSAIC to impress upon victims the seriousness of the stalking potential and also at sentencing hearings.

### **Psychological/Psychiatric Review**

Psychological/psychiatric evaluations may be done on stalking suspects either to determine their competency to stand trial or as part of the sentencing process. These evaluations may be ordered by the court; a special court evaluation unit handles 2 to 3 such referrals a month from the court. More commonly, an evaluation may be required as a condition of any plea offer from the District Attorney or the City Attorney's Office. Even where the defendant has been convicted at trial, defense counsel may ask for an examination as part of their preparation for presenting a sentencing recommendation to the court.

Most psychological/psychiatric evaluations are done by private practitioners from an approved list of qualified experts/examiners; defense counsel may also request the court evaluation unit to do these reviews. In a few instances, probation may also ask the court evaluation unit to undertake an assessment for purposes of a pre-sentence report to the court.

### **Post-Conviction Duties**

Because stalkers do not cease their stalking after conviction, even during incarceration, stalking prosecutors continue the victim's case. As with monitored cases, the prosecutor or investigator assigned to the case will telephone the victim periodically (at least once a month) to determine if there has been any recent contact from the stalker. If there has been, the case will be reactivated. Where the stalker received an intensive probation sentence, follow-up contact will be even more frequent (as often as once a week).

Most stalkers receive intensive probation sentences (family violence and sex offender supervision). This requires the Unit to maintain strong ties with the treatment providers to whom the stalkers are reporting.

### **Related Responsibilities**

Because stalking is a new crime, it is not well recognized by law enforcement, by victims, or by those aiding victims. Thus, among the Unit staff duties, community awareness speaking and training of criminal justice personnel is a high priority. Staff estimate that they spend up to 25 percent of their time on these tasks. Kerry Wells reports that she has provided training to branch office attorneys handling stalking, including Family Protective Division staff prosecuting misdemeanor stalking. One category of deputies that has not been trained are the intake screening attorneys who review cases that may include unrecognized stranger stalking

complaints. In part, this is because these positions are filled on a rotating basis. Other training targets are victim groups, especially those represented on the SCAT and its predecessor Task Force. Since June 1998, all four Unit professionals also have provided a 4-hour regular weekly training for 40 law enforcement officers at the Regional Law Enforcement Training Center. For this purpose, a training manual has been developed, a copy of which is provided trainees. Other training includes two one-day courses on stalking for first responders for 120 officers. Non-regular recent training included that to the Ventura County Domestic Violence Council, California Women Police Officers Association, and several trainings offered by the California District Attorneys' Association, the Association of Threat Assessment Professionals, and shelter groups.

Training is also done on a one-to-one basis when the office investigator works with a city officer or sheriff's deputy on a stalking investigation. For example, in cases that are accepted but need further investigation, the investigators will call the detective and offer to share any additional work that is needed to be done. In other cases where a detective may refer a case to the Unit but there is not sufficient evidence to file, the case will be returned to the detective with an explanation of what further information is needed. In both instances, keeping good relations with law enforcement officers is considered critical to future referrals. In the same vein, Wayne Maxey reports that he will send letters of thanks and appreciation to patrol officers who identify and refer stalking cases to the Unit.

Attending public meetings is another related task. At present, Ms. Wells no longer attends meetings of the Domestic Violence Council. She no longer has the time to do this. Instead, she relies on Pat McGrath from the City Attorney's Office and SCAT member to keep her informed. In the future, the domestic violence stalking prosecutor may attend these meetings, as time permits.

### **Support Staff Duties**

The primary support staff for the Unit are the two investigators assigned to the Unit and the victim advocate.

### **Investigative Staff**

The primary investigator duties are those relating to preparing cases for trial: identifying and interviewing new witnesses; and acting as liaison between victim and law enforcement. An important additional responsibility is to review cases that come in as walk-ins, without any police referral. In these cases, the investigators will check law enforcement files for prior complaints (e.g., vandalism, missing mail), and then work with other law enforcement officers on investigation follow-ups of prior complaints. Once a case is verified as involving stalking issues, the case is then brought to the appropriate Unit attorney for review and a decision on how the case is to be handled.

Other duties include testifying in court, training, responding to victim calls (investigators provide their pager numbers to victims), and checking on offender status, especially release dates if incarcerated.

### **Victim Advocate Duties**

The victim advocate duties include reviewing crime reports that are distributed to her from the Victim Witness Unit screening staff located at the San Diego Police Department assigned to screen all crime reports to the specialized unit. These referrals from the screening unit include both potential stalking and harassment complaints. The victim advocate will then telephone the victims to obtain more information and provide needed help in identifying service needs and providers. Where telephone calls are not possible or unsuccessful, a letter is sent to the victim offering the advocate's services. Once the victim is contacted, the advocate will verify the facts of the case, tell victims about safety issues, notify employers (as needed), and provide information on restraining orders.

Cases identified as involving stalking after this callback are referred to an investigator for further action. The advocate may also receive complaints of stalking or harassment behavior from a "warn line" and from calls to the unit from victims. About one-quarter of the calls that she receives may be actual stalking cases. The advocate also uses the monthly meeting of all the advocates to remind the screening unit to send her possible stalking cases. Advocates assigned to the Domestic Violence Prosecution Unit also refer cases to her; the elder abuse unit advocates may be expected in the future to be another source of referrals.

Other duties include explaining the court process and providing support at court hearings, including preliminary hearing. This serves to prevent witness intimidation. The time can also be used for additional fact-finding. Yet other duties can include helping with logistics of moving, contacting parole agent, explaining to relatives the reality of danger, assisting in getting property back that was used as evidence, helping with gaining restitution, assisting in preparation of victim impact statements, creditor or employer intervention, assisting with application for victim compensation

Overall, the advocate estimates that while the volume of cases handled in the unit is low compared to other units, the amount of work done per case is much higher (up to 10 times greater). This is because stalking is a crime in progress, not merely a response to crime report or arrest. Even after conviction, victims call in to check on jail status.

## **Other Agencies**

### **Relationship with Law Enforcement**

Liaison with law enforcement is a major staff effort. The Stalking Prosecution Unit meets regularly with representatives of police and the sheriff through the SCAT. Staff provide in-service training to law enforcement on a weekly basis and through special training conferences. One-to-one training occurs with the District Attorney's investigators working closely on stalking cases with the detective assigned to the case before it was referred for prosecution. The City Attorney's Office also provides training and recently had a one-day retreat with the San Diego Police Department domestic violence detectives to explain stalking behavior.

Special stalking efforts on the part of law enforcement include assignment of two detectives with the San Diego Police Department to provide training on how to handle stalking cases. When the city detectives identify a stalking case they will usually call the Stalking Prosecution Unit to detail the case facts and be instructed as to which office will handle the case, the prosecutor or the City Attorney. The Sheriff's Department has a special domestic violence detective unit that also handles stalking cases; similar referral procedures are used by this agency.

The City Attorney's office has developed a form for use by first response officers in DV cases that helps in identifying stalking cases. The form is intended to elicit information about

possible stalking, beyond the victim's "When are you guys going to do something about..." signal.

The San Diego Police Department uses what they term the Key Case concept. The key case refers to the case number assigned to each case investigated by the police. When a detective is assigned a stalking case or a series of related case incidents, one case is selected as the key case. That number will be used to refer any additional cases written involving the activities of the suspect to the original case for tracking. The stalking victim is given the key case number and told that where there are new complaints in the future and the police called, the victim should inform the new investigative officer about the key case number and to inform the officer who the key case investigator is. All subsequent case reports will also refer in the report narrative to the key case number. Copies of these reports are to be sent to the Domestic Violence Unit for forwarding to the key case investigator.

### **Relationship with Probation**

Because of the often serious psychological problems associated with stalking, probation probably needs to have stalking cases assigned to a specialist, especially in preparing sentencing recommendations to the court. In the northern end of the County, one probation officer, Anna Guzman, is assigned to supervise most stalking cases (caseloads permitting); two other officers also have stalking cases on their caseloads. Most of her stalking cases were prosecuted by attorneys in one of the District Attorney's branch offices.

Ms. Guzman is part of an intensive supervision team of 10 officers, most of whom handle domestic violence cases. She generally has a caseload of between 50 to 60 cases. Included in this caseload are 5 or 6 stalking cases at any one time. The Probation Unit for the central city courts has a comparable intensive supervision unit, but that office does not have a stalking specialist.

Intensive supervision calls for a minimum of two visits per month by the supervising officer. This can be at home or at work. The officer also keeps in contact with the victim. Ms. Guzman provides the victim with her telephone number; she also urges them to call law enforcement if there is any repeat stalking. She has access to all law enforcement crime reports.

Most probation stalking cases have a requirement that the defendant attend a treatment program. In San Diego this is called the Stalking Treatment Option Program (STOP) and is provided by Dr. Bart Jarvis. The STOP program has no set length of treatment.

The court is reported to revoke probation in only 40 to 60 percent of the cases where revocation is recommended by probation. Ms. Guzman reports that she had 9 revocations in stalking cases last year.

### **Hot Line**

In San Diego there are several hotlines. These include those for shelters. In addition, the Stalking Strike Task Force has a message machine. The Unit advocate monitors this machine daily.

### **Office Management Issues**

The most important managerial issue with a stalking unit is the need for flexible time management. Stalking cases demand much more intensive work than do most other cases. Wayne Maxey estimates that the time he spends on a stalking case is two to three times greater than it would be if he were with a law enforcement agency. Even in relation to other District Attorney investigators, he spends about 50 percent more time per case than they do. This can lead to "burnout" over an extended period of time. In an effort to reduce burnout and provide better coverage, the Unit investigators work a 7 to 5 schedule, with every other Friday off. This requires, of course, that the Unit have at least two investigators to provide coverage on the alternate Fridays.

Attorneys and investigators must also be available outside of normal working hours to conduct interviews and reassure victims. Most commonly, interviews outside of normal work hours are of witnesses who cannot be interviewed at their work sites. Occasionally where there is a serious and new threat to the victim, more proactive work is required to insure her safety. Surveillance of the victim or the suspect may need to be done on weekends. One Unit investigator estimates that 10-15 percent of his time is overtime. These overtime demands may be said to make expansion of the Unit an imperative for the Unit to reach a minimum critical mass that allows for new case coverage when other staff are on vacation or ill.

Evaluation of Unit attorneys also differs from normal procedures because the Unit accepts cases that are not necessarily prosecutable. Instead of filing charges and trying cases, the attorneys and investigators may instead work with victims to defuse the situation so that it does not escalate. They will work with victims on safety planning, obtaining social services. Most importantly for the victims, they provide reassurance and validation that their case is important. The District Attorney suggested that one proxy measure of the Unit's success is the reduction of domestic violence homicides that involved stalking behavior.

The District Attorney finds that the stalking prosecution position is not a hard one to fill. The cases draw prosecutorial interest. The need for flex-time management can often match a prosecutor's interest in this option.

In setting up a stalking unit, prosecutors must remember that stalking is a new and not well understood crime. One of the most important functions of the unit is to "sell" the unit's services to law enforcement and victims. As law enforcement, community groups, and victims become aware of the new stalking laws, caseloads will increase and increasing demands will be put upon Unit staff.

A final management issue is the need to have the specialized Unit staff provide training to other prosecutors and law enforcement personnel, as well as educating the community. The obvious rationale for this function is the lack of familiarity among all parties of the relatively new stalking law (first adopted in 1990). Without an emphasis on training and community outreach, many stalking complaints would either not be made by victims or recognized by law enforcement or prosecutors. A further reason for encouraging these efforts is that training law enforcement can also provide political benefits from the appreciation shown by agency leadership for the free training. (Similarly, the availability of stalking investigators can relieve local law enforcement administrators of a potential staff allocation problem when his investigators take over a case.) Thus, despite the resources training requires, these efforts are an integral part of the Unit mission.

## Summary

The San Diego Stalking Prosecution Unit is distinguished by four characteristics.

- It has developed staff with expertise in investigating, managing, and prosecuting stalking cases.

- The Unit is victim focused, placing high priority on ensuring victim safety, even before prosecution
- The Unit staff demonstrate a high level of teamwork and individual initiative
- Unit members spend a significant proportion of their time on out-reach efforts, training criminal justice and community members on the prevalence and identifiers of stalking.

*Expertise in handling stalking cases* is extremely important. Stalking cases often involve on-going crimes which require specialized abilities to investigate and build a case. Analogies to stalking prosecution might be found in the handling of gang or organized crime cases, where there are also both criminal and civil remedies available and the potential for homicide can be high. Further, in all these cases, prosecution and conviction may not end the criminal behavior. Hence, all of these cases require individualized, rather than "cookie cutter" management and application of informed discretion on how to best proceed. Stalking cases may differ from these other cases, however, in that successful case resolution may not require prosecution: in some stalking cases, forceful intervention may succeed, while in others, premature prosecution can increase the danger to the victim.

*Victim safety and service* is clearly the overriding concern of the District Attorney and the Stalking Prosecution Unit. Case management procedures are geared to this objective. Unit members make special efforts to keep in contact with the victims, even after conviction, to monitor what is occurring. These efforts begin with the initial victim advocate phone call and continue past conviction and incarceration of the defendant.

*Teamwork and individual initiative* are the distinguishing hall marks of the Unit's operations. Significant responsibility is placed upon the Unit investigators and victim advocate to respond to victim complaints, even before any decision is made whether to formally file criminal charges or even accept the case for review.

*Training and community outreach efforts* are needed because stalking is still a new crime. In no other area of the criminal law is there a need for enforcement staff to "sell" their services. But most victims and many criminal justice agency personnel are either not aware of the stalking law or do not understand the extent of its full scope.

The leadership of the Stalking Prosecution Unit, especially in the person of Kerry Wells, has resulted in a broad community-wide effort to identify, investigate, and prosecute stalking cases. This broader effort begins with the Stalking Strike Task Force and its facilitating cross-agency communications and extends into virtually every criminal justice agency in the County. Thus, the City Attorney's Office has a specialized stalking staff, as does Probation. The several law enforcement agencies in the County also have specialists on stalking among their domestic violence units, although caseloads do not yet permit further specialization.

In sum, stalking is considered to be a serious crime in San Diego County. The Stalking Prosecution Unit in the District Attorney's Office is largely responsible for this occurring.

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