

PROTECTIVE ORDER VIOLATIONS AS STALKING

Protective order violations are often treated as isolated incidents separate from the conduct that led to the protective order in the first place. However, because protective orders are issued after at least one instance of misconduct towards a particular victim, even a single violation — taken together with the misconduct that led to the protective order — may amount to a course of conduct that qualifies as stalking. Whether charged as stalking or a violation of a protective order, this behavior is an indicator of a potentially lethal stalking case.



Stalking frequently co-occurs with other crimes and is one of the top ten risk factors for intimate partner homicide, with a three-fold increase in risk when present.¹ Since stalkers are so dangerous, it is vital to victim safety to identify and charge the criminal act of stalking separate from and in addition to concurring criminal conduct.

Introduction

This resource amplifies best practices for handling violations of protective orders, including treating even a single violation as part of a course of conduct, and how to strategically handle such a violation (or violations, as is often the case) during an investigation and subsequent prosecution. It provides an overview of protection orders as well as a primer on enforcing them in cases of complicated jurisdiction, how prosecutors can charge the often co-occurring offense of stalking without running into issues of double jeopardy, and when prosecutors may want to use their discretion to do so.

Charging stalking often holds the offender accountable for more of the harm inflicted on the victim and may support important safety conditions for bail or probation, a lengthier prison sentence, and future prosecution if the offender later resumes stalking the same victim — or as often happens, another one. When stalking is overlooked and unaddressed, victim safety is compromised and offenders are not held accountable for the entirety of their behaviors. In addition, **stalking charges are strategic because proof of stalking requires evidence of the acts constituting the course of conduct, and so the charge permits admission of a wide range of evidence without the need to file a motion to admit evidence of “other bad acts” under Evid. R. 404(b)** (or its equivalent). Such evidence provides context for other charges, shedding light on the defendant’s purpose, motive, and intent and helping to explain the victim’s behavior. It provides the judge and jury with the fullest possible picture of the relationship between the parties and of the offender-victim dynamics that permeate that relationship, allowing better understanding of how and why the crimes were committed.

WHAT IS STALKING?

While legal definitions of stalking vary by jurisdiction, a general definition is:

a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.

Are there Stalking Protective Orders?

Some jurisdictions have specific protection orders for stalking, some specifically list stalking as a basis for a domestic violence protection order, and some have other protective orders that cover stalking behaviors. While many people associate protective orders with domestic violence cases, many jurisdictions issue protective orders for other crimes and for abuse in other relationships.ⁱⁱ

Relief for different types of orders are often different. Remember that **victims cannot violate their own protection orders because the orders regulate only the offender's behavior, not the victim's.**

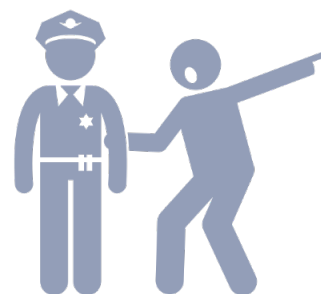
How Often Are Protective Orders Violated?

Multiple protective order studies found that the violation rate was roughly 40-50%; however, though some large-scale studies found significant decreases in revictimization after a protection order was granted, a large number of smaller-scale studies found that there was an **INCREASE** in physical or psychological abuse after an order was granted.ⁱⁱⁱ Stalking before a protective order is issued is correlated with an increase in protection order violations.^{iv}

Remember that violations can be otherwise noncriminal behavior like a phone call or text message, or criminal behavior like assault or property crimes. **Consider whether violations rise to the level of witness intimidation;** stalkers often threaten victims about reporting to and/or participating in the legal system, so this is a key consideration for victim safety. It may also be a possible additional charge.^v

Victims report significant relief after being issued a protective order, with an enhanced sense of safety and well-being; but victim fear of future harm increases after violations, and increases again after violations plus additional stalking behaviors.^{vi}

It is important to remember that many studies only track reported violations of protective orders. Victims may not report violations because they feel they are “minor,” or do not think there is a point to making a report. They may be frustrated by previously reporting violations when nothing came of them, or feel they do not have enough proof to report the violation to police.^{vii} One study with victim interviews found that six months after receiving a civil order, a significant portion of victims had experienced stalking but few actually had stalking charges filed on their behalf.^{viii} Another found that only half of violations were reported to police.^{ix}



Do All Jurisdictions Enforce All Protection Orders?

The federal Violence Against Women Act (VAWA) requires states, territories, and tribes within the United States to provide full faith and credit to protection orders issued by other jurisdictions, whether civil or criminal.^x **This means that jurisdictions must accept the validity of and enforce all protective orders, whether issued in their own jurisdiction or another** (just like U.S. jurisdictions must accept the validity of another U.S. jurisdiction's driver's license). Jurisdictions must follow the issuing jurisdiction's laws in determining whether a violation occurred but their own laws in enforcing the violation.^{xi}

For example, if a protective order was issued in State A and the respondent violates that order in State B, State B has the **responsibility and full enforcement power to pursue the violation** of the protective order (as



long as it maintains jurisdiction over the violation). With regards to a full protective order, especially one over which there was a hearing in court and the recipient of the order was present, this is straightforward. Emergency orders of protection are also enforceable across jurisdictional boundaries, as long as the defendant had notice that the order had been issued and notice of a future court date regarding the order.^{xii}

The first step in enforcing a violation is verifying the existence of the underlying protective order. Law enforcement officers can do this by searching for the order in digital record systems or contacting the issuing jurisdiction. Prosecutors can prove the validity of the underlying order by contacting the issuing jurisdiction for a copy and showing its authenticity, whether through a raised seal, statutory mechanism, or otherwise.

When one jurisdiction enforces another's protection orders, the enforcing jurisdiction determines whether a violation occurred according to the issuing jurisdiction's rules. Going back to the example above, State B must determine if a violation occurred according to State A's laws, not its own. Even if State B would not have considered the victim eligible for a protection order in State B (for example if State B only issues protective orders for domestic violence cases and the respondent and victim are strangers) or the order would have already expired if State B had issued it, State B must use State A's rules for determining if the protective order is valid. As long as an order is valid in the issuing jurisdiction, the enforcing jurisdiction must honor it. And as long as an order was violated according to the issuing jurisdiction's rules, the enforcing jurisdiction must enforce it.

In the enforcement of a violation, the enforcing jurisdiction enacts its own laws, meaning the enforcing jurisdiction should handle the violation the same way they would a violation of their own order. For example, if the enforcing jurisdiction provides that protective order violations be handled criminally or mandates arrest of the offender, then regardless of how the issuing jurisdiction would address the violation, the enforcing jurisdiction would pursue the violation criminally or arrest the offender. If the violation is a felony in the enforcing jurisdiction, then they can and should prosecute the violation as such, regardless of whether the issuing jurisdiction has the same provisions.

Do All Protective Order Violations Count as Stalking?

A violation of a civil protective order is civil contempt of court and is subject to penalties; it may also constitute a separate criminal offense.^{xiii} In many jurisdictions, the violation of a protection order — whether civil or criminal and of any type — may also be part of a criminal stalking charge.

Most jurisdictions' stalking statutes require that the offender's conduct be repeated, which generally means that they must commit two or more acts.^{xiv} (And many have built in aggravations for the existence of a protective order or a prior stalking conviction.^{xv}) This means that protective order violations will often meet the definition for stalking. Since a protective order is granted only after the offender has abused the



victim in some way — harassment, assault, coercive control, domestic violence, etc. — even a single violation may constitute another act in a course of conduct and may meet the jurisdiction’s definition of stalking. Indeed, many jurisdictions will grant a protective order on the basis that the defendant was stalking the victim already, and one or multiple violations may be a continuation of that course of conduct.

Fear and/or emotional distress are key components of stalking, but what is frightening to one person may not be frightening to another. Acts that may be harmless in a different context may become menacing due to their repetitiveness or intrusiveness, or because of the history of violence in the relationship between stalker and victim. **In the vast majority of cases, the stalker knows their victim and so may have intimate knowledge about the victim’s vulnerabilities and what would frighten them.** Legal acts — like sending someone flowers — become criminal behavior when they are part of a stalking course of conduct or violate a protective order.

One of the reasons that violations of a civil protective order, even if there are multiple, are typically not charged as criminal stalking is that such violations are seen as a civil issue, not a criminal one; most protective orders are civil judgments, handed down by judges sitting in a different capacity than criminal judges, in an entirely separate process. They do not depend on an existing criminal case moving forward or being withdrawn. When law enforcement officers enforce civil protection orders and have to decide to charge the violation as criminal stalking, they must understand the context of the situation to be able to connect the dots and establish a course of conduct. The criminal system, including law enforcement officers, generally responds as if each case is an individual incident instead of connecting the dots into a larger pattern of behavior. In addition, different officers often respond to the same victims on different occasions, making it more difficult for system actors to make connections between these offenses. Clear and detailed documentation is vital to identifying the pattern of an offender’s behavior out of, for example, a single call for service about a harassing phone call.

WHAT'S SCARY ABOUT THESE FLOWERS?



Receiving a surprise flower delivery is generally a welcome experience, but when a victim has quietly relocated to escape an abusive ex-partner, that flower delivery can be a terrifying and threatening message that the abuser has found them.

When Is Double Jeopardy a Concern?

It may not be strategically practical, but in some cases, prosecutors may want to consider charging every act for which a defendant violated the protective order. The court in *In re Richardson*, 273 A.3d 342 (D.C. 2022) held that the defendant could be held separately criminally responsible for each violation of his protective order, and the violations did not need to be grouped together and charged as a single act in a course of conduct (i.e., that double jeopardy did not stop them from separately convicting him of a count of violating the protective order his girlfriend took out against him for each text that he sent her in violation). In other words, specificity as to the act is also key. In doing so it relied on *Blockburger v. United States*, 284 U.S. 299, 302, 52 S.Ct. 180, 76 L.Ed. 306 (1932), holding that each in a series of successive drug sales to the same individual is “a distinct offense, however closely they may follow each other.”

Double jeopardy is a constitutional provision that "No person shall . . . be subject for the same offense to be twice put in jeopardy of life or limb . . ." ^{xvi} There are legitimate double jeopardy concerns for trying stalking and protection order violations together, which generally fall into one of three categories:

- Jurisdictions that enable civil protective orders to be processed by criminal courts
- Jurisdictions with statutes whose language for stalking and protective order violations is extraordinarily similar
- Individual cases where prosecutors are not clear in delineating what is an act for which they are seeking conviction as opposed to an alleged other bad act under 404(b)

For the first, states that enable criminal prosecutors to seek civil protection orders for victims in criminal court while simultaneously filing the criminal complaint may blur the lines between civil and criminal processes. ^{xvii} The second and third are discussed below.

Statutory Language

Another concern arises when stalking is charged concurrently with a protective order violation and the jurisdictional statutes have identical language with regards to the elements of both offenses. This is not an issue in every jurisdiction, but in some, it may be a bar to prosecuting both instead of one.

In *U.S. v. Dixon*, 509 U.S. 688 (1993) the Supreme Court held that the test for whether or not there is a violation of double jeopardy is whether each offense contains an element not present in the prior statute. In other words, a finding of double jeopardy may be highly dependent on how jurisdictions have drafted their stalking and protection order contempt statutes. In *Dixon*, the court held that convictions for violations of the protective order and assault violated double jeopardy because the assault itself was a violation of the protective order. Similarly, in *State v. Higginbotham*, 790 So.2d 648 (La. Ct. App. 2001), the court declined to uphold convictions for both stalking and making threatening phone calls; since the convictions for these offenses were based on the exact same evidence, conviction on both counts placed the defendant in double jeopardy. ^{xviii}

In *Edge v. Com.*, 883 N.E.2d 928 (Mass. 2008) the defendant was convicted of violating a protective order. The court held that subsequent conviction for stalking for the same acts after the initial conviction of violating a protective order was a violation of double jeopardy. But *Edge* was distinguished almost a decade later by *Com. v. Torres*, 10 N.E.3d 156 (Mass. 2014); the court in *Torres* held that violating a protective order is not a lesser-included offense of domestic abuse of a person with a protective order, and that there is no double jeopardy issue. The court distinguished *Edge* on the basis that the defendant had already been convicted of violating the protective order before being taken to trial for the stalking crime, and noted that domestic battery of a person with a protective order and violating a protective order each has elements that the other crime does not. The *Torres* court also relied on the fact that the presence of a protective order is statutorily an aggravating factor for the domestic battery offense for which the defendant was convicted. Arguably, the same analysis should apply to stalking: where the presence of a protective order is an aggravating factor that leads to sentencing/gradation enhancements, the legislature can be clearly said to have crafted a separate statute.

Prior Convictions



Often, double jeopardy concerns arise from a lack of clear organization in prosecutors' cases.

When prosecutors seek to convict a defendant on stalking offenses and also seek to introduce acts for which the defendant has already faced trial, they must be extremely clear about which acts they are seeking conviction for and which are other bad acts.

For example, in *Kinney v. State*, 477 SE.2d 843 (Ct. App. 1996) the court found that the defendant could not be found guilty for aggravated stalking when he had already been tried for violating the protection order in a prior trial and was not found guilty beyond a reasonable doubt for those acts (though he was convicted of a violation for some of the acts towards the victim). In *Tanks v. State*, 663 S.E.2d 812 (Ga. Ct. App. 2008) the court found that double jeopardy attached when the defendant was subject to a proceeding where he was held in contempt of court, and then subsequently tried by the state for aggravated stalking, again for acts for which he had already been convicted.

A Note on *Denezpi*

The recently decided Supreme Court case *Denezpi v. United States*, 142 S.Ct. 1838 (2022) may have wide-reaching implications for double jeopardy. In *Denezpi*, the Court held that one sovereign could prosecute a defendant under its own laws after separately prosecuting the defendant for the same exact conduct under the laws of another sovereign. This is because the double jeopardy clause prevents successive prosecutions



“for the same offense; it does not bar successive prosecutions by the same sovereign.”^{xix} In so holding, the Court emphasized the difference between dual prosecutions for the same underlying *conduct* — which is *not* prohibited under the Double Jeopardy Clause — and dual prosecution for the same *offense*, which only takes place when the law requires proof of the same exact elements and has the same sovereign source.^{xx} Because the offense of stalking often requires proof of at least two acts, and does not require that a prior civil protective order be issued, and violation of a civil protective order may involve a single act, and requires such an order, courts applying the principles of *Denezpi* and *Blockburger* could plausibly consider stalking and protective order violations as separate offenses.

Denezpi's holding may be helpful in distinguishing why a stalking pattern in aggregate falls outside double jeopardy conviction even if specific instances in that pattern resulted in prior convictions. *Denezpi*'s clarification that the double jeopardy protections prohibits prosecutions for the same offense, rather than the same conduct, can be used to argue that stalking prosecutions that utilize prior convictions, including protection order violations, as part of a pattern of stalking is a distinguishable offense and falls outside double jeopardy protections.

Denezpi's holding is an extension of the long-standing principle of dual sovereignty, which states that a person can be successively prosecuted for the same underlying conduct in two jurisdictions without violating double jeopardy. The dual sovereignty principle is based on the theory that an offense defined by one jurisdiction is necessarily different from an offense defined by another, even when the offenses have identical elements.

What are Implications for the Criminal and Civil Legal Systems?

Stalking is a serious crime and an indicator of lethality, so identifying stalking is a vital opportunity for homicide prevention. In one study, female victims in 85% of attempted and 76% completed intimate partner homicides had been stalked by the same offender during the previous year, and more than half of those killed had reported the stalking to the police before they were killed.^{xxi}

Whether charged as stalking or as a violation of a protective order, protective order violations are an indicator of a potentially lethal stalking case and another tool to hold offenders accountable.

Knowing that a single violation of a protective order is often only a small piece of a big picture, law enforcement officers, prosecutors, and judicial officers can utilize best practices to better protect stalking victims and better hold offenders accountable.

Civil Protection Order Hearings

Assessments for stalking should be done during initial hearings and violation hearings, particularly for emergency protection orders, domestic violence protection orders, and harassment protection orders. Judicial officers should make detailed findings about the behaviors for which the order is issued, including stalking behaviors, so that any violations and/or future violence from the respondent can be considered within the full context of the situation.

The effectiveness of courts orders is enhanced when stalking is accurately identified and distinguished from other forms of intimate partner violence, particularly in custody and divorce cases involving domestic violence or protection orders and the stalking is perpetrated by a current or former partner. Judicial officers can make specific findings of fact regarding stalking and issue detailed orders designed to stop stalking behaviors, hold offenders accountable, and prevent dangerous consequences.

In criminal domestic violence cases, evidence of stalking will be admissible at trial if relevant and allowable at the sentencing phase of the criminal proceeding.

Learn more with [SPARC's Judicial Officer Guide for Responding to Stalking](#).

Investigating Protection Order Violations

Officers responding to calls regarding violations of protective orders should take those violations seriously and arrest violators where appropriate. Officers should investigate these offenses as part of a course of conduct and not simply a single act, and consider whether it is part of a pattern of behavior that rises to the level of criminal stalking. It is also important to consider that in many jurisdictions, the existence of a protective order makes a stalking charge a felony against the same offender.

Officers should work with victims to help empower them to take steps to ensure their safety, avoid blaming them for the conduct of an offender, and remember they cannot waive or violate their own protective order.

Officers can also help protect victims by ensuring that when there is a valid protection order, whether it was issued in their jurisdiction or not, they enforce that order under the Full Faith and Credit clause.

Learn more about law enforcement response to stalking on [SPARC's website](#).

Charging and Trial Decisions

Charging prosecutors should be clear about what they want to charge and when, to avoid running into double jeopardy concerns. It is easier to decide to charge both stalking and a protective order violation and withdraw some charges later than it is to file amendments to indictments or attempt to open a new case. Prosecutors should consider what can be charged now to help with a future charge.

Prosecutors should ensure that they have information on any prior protection order violations, and the basis for which the order was entered, prior to trial. Prosecutors can amend the stalking charge to include those violations or file Other Bad Act motions under Rule 404(b) or its local equivalent in their jurisdiction if those prior protection order violations were not charged as part of the stalking course of conduct. They should request clear instructions from the judge on which acts they are seeking conviction upon and which acts are other bad acts, especially where they are seeking a stalking conviction for that course of conduct. If a prosecutor is seeking a jury conviction for both stalking and a protective order violation, they should consider seeking specific interrogatories regarding particular acts to ensure convictions arise from different acts.

A stalking charge can be of great strategic value. It enables the prosecutor to present evidence of the course of conduct without the need to file a motion to admit evidence of “other bad acts” under Evid. R. 404(b) (or its equivalent), at least as to those acts that constitute stalking. Because the course of conduct is, under the stalking statute, an element of the crime, evidence of the acts constituting that course of conduct is admissible at trial. Admitting evidence of the whole course of conduct allows the prosecutor to paint the most complete picture of the offender’s behavior, shedding light on the offender’s motive and plan, as well as helping to explain the reasons for the victim’s behavior (including failure to appear at trial, recantation, minimization, or testifying for the defense).

Learn more with [SPARC’s Prosecutor’s Guide to Stalking](#).

Judicial Findings

Judicial officers will encounter stalking behaviors in a wide range of court cases and should be able to identify and document the duration, intensity, and frequency of stalking. Stalking is not limited to protection order violations nor criminal court cases; stalking behaviors often appear in family court or other civil court cases, including divorce, custody, guardianship, child welfare, employment, housing, immigration, and other court actions, as well as administrative law proceedings. When stalking behaviors are present and overlooked or not taken seriously by the court, the orders that the court issues will not be effective in curbing stalking and other abusive behaviors, compromising victim safety. On the other hand, identifying the presence of stalking in a family court or juvenile court proceeding can help courts design better court orders that more effectively protect children and victims of domestic violence and stalking from ongoing harm. **By routinely identifying stalking behaviors, analyzing and documenting stalking tactics in court findings, and issuing court orders designed to interrupt stalking behavior and hold offenders accountable, judicial officers can help increase the safety of victims and their children.**

Learn more with [SPARC’s Judicial Officer Guide for Responding to Stalking](#).

Conclusion

Protective orders are only as effective as their enforcement. Multiple violations of protective orders *are* stalking. Protective orders give law enforcement the power to immediately arrest violators and help prosecutors build criminal stalking cases against violators because when there is a protective order, contact is clearly both undesired and unlawful. Law enforcement and prosecutors who understand this connection are better equipped to investigate the context of violations, assess the danger, and prevent serious harm to stalking victims who have sought protective orders.

For additional information on identifying and responding to stalking, visit SPARC's website at www.StalkingAwareness.org. Contact SPARC at tta@stalkingawareness.org with questions, concerns, or requests for technical assistance on supporting victims of stalking and holding offenders accountable. While SPARC resources can help criminal and civil legal system professionals, victims, and others learn more about stalking, SPARC does not provide direct services to victims of stalking.

ENDNOTES

- ⁱ Spencer, C.M. & Stith, S.M. (2018). Risk Factors for Male Perpetration and Female Victimization of Intimate Partner Homicide: A Meta-Analysis. *Trauma, Violence, & Abuse*, 21(3), 527-540.
- ⁱⁱ For example, Florida, Illinois, and Washington, among others, do not require that the recipient of a protection order be an intimate partner of the defendant. Illinois has statutory language expressly recognizing that many victims are stalked by someone who is not an intimate partner: See: 740 Ill. Comp. Stat. Ann. 21/85
- ⁱⁱⁱ Russell, B. L. (2012). Effectiveness, Victim Safety, Characteristics, and Enforcement of Protective Orders. *Partner Abuse*, 3(4), 5331-5552.
- ^{iv} Logan, TK., Walker, R., Hoyt, W., & Faragher, T. (2009). The Kentucky civil protection order study: a rural and urban multiple perspective study of protective order violation, consequences, responses, & costs. Bureau of Justice.
- ^v See <https://aequitasresource.org/resources/> for additional resources on witness intimidation.
- ^{vi} Logan, *supra* note iv.
- ^{vii} *Ibid.*
- ^{viii} *Ibid.*
- ^{ix} Hotaling, G. & Buzawa, E. (2003). Forgoing criminal justice assistance: The non-reporting of new incidents of abuse in a court sample of domestic violence victims. (NCJ Publication # 195667) U.S. Department of Justice. Washington, DC: U.S. Government Printing Office. <http://www.ncjrs.gov/pdffiles1/nij/grants/195667.pdf>.
- ^x 18 U.S.C. § 2265 (2006). The only exception to providing full faith and credit to protection orders issued by other jurisdictions is when a court issues a mutual / counter / cross protection order on its own motion (*sua sponte*). When a Judge issues mutual / counter / cross protection orders, both are entitled to full faith and credit and enforcement if each of the orders was initiated with a petition by each of the parties or a court made specific findings that a counter / cross petition that was filed was entitled to an order. For example, if Party X files a petition for a protection order against Party Y and at the hearing for that petition the Judge decides to grant that petition but also decides to enter a protection order against Party X, the order against Party X is not entitled to full faith and credit because it was not precipitated by a petition from Party Y.
- ^{xi} For more information, see *A Prosecutor's Guide to Full Faith and Credit for Protection Orders* at https://www.bwjp.org/assets/documents/pdfs/ffc_prosecutors_guide.pdf.
- ^{xii} 18 U.S.C. § 2265(b)(2)
- ^{xiii} For example, in Louisiana, LA. Stat. Ann. § 79; and in Maine, Me. Rev. Stat. Ann. tit. 19, § 4011.
- ^{xiv} See, e.g., *State v. Randall*, 669 So. 2d 223 (Ala. Crim. App. 1995); *Petersen v. State*, 930 P.2d 414 (Alaska. Ct. App. 1996) (the term “repeated” means more than once); ARK. CODE ANN. § 5-71-229(f)(1)(West 2021); ARIZ. REV. STAT. ANN. § 13-2923(D)(1)(West 2021); CAL. PENAL CODE § 646(f)(West 2021); COLO. REV. STAT. § 18-3-601(2)(d)(West 2021); CONN. GEN. STAT. ANN. § 53a-181d(a)(1)(West 2021); D.C. CODE ANN. § 22-3132(8)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1)(West 2021); IOWA CODE ANN. § 708.11(1)(d)(West 2021); KAN. STAT. ANN. § 21-5427(f)(1)(West 2021); KY. REV. STAT. ANN. § 508.130(b)(2)(West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A (2)(A) (West 2021); MICH. COMP. LAWS ANN. §§ 750.411H(a), 750.411i(a)(West 2021); MINN. STAT. ANN. § 609.749 (5)(b)(1)-(12)(West 2021); MISS. CODE ANN. § 97-3-107 (8)(a)(West 2021); MO. STAT. ANN. § 565.002(4)(West 2021); MONT. CODE ANN. § 45-5-220 (2)(a)(West 2021); NEV. REV. STAT. ANN. § 200.575 (11)(a)(West 2021); N.H. REV. STAT. ANN. § 633:3-a (II)(a)(West 2021); N.J. STAT. ANN. § 2C:12-10 (a)(1),(2)(West 2021); N.M. STAT. ANN. § 30-3A-3(B)(2)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(b)(1)(West 2021); N.D. CENT. CODE ANN. § 12.1-17-07.1 (1)(a)(West 2021); OHIO REV. CODE ANN. § 2903.211 (D)(1)(West 2021); OKLA. STAT. ANN. tit. 21, § 1173 (F)(2)(West 2021); OR. REV. STAT. ANN. § 163.730 (7)(West 2021); 18 PA. STAT. AND CONS. STAT. ANN. § 2709.1 (f)(West 2021); 11 R.I. GEN. LAWS ANN. § 11-59-1(1)(West 2021); S.C. CODE ANN. § 16-3-1700(D)(West 2021); TENN. CODE ANN. § 39-17-315(a)(1)(West 2021); TEX. PENAL CODE § 42.072(a)(West 2021); UTAH CODE ANN. § 76-5-106.5 (1)(a)(West 2021); VT. STAT. ANN. tit. 13, § 1061 (1)(A)(West 2021); W. VA. CODE ANN. § 61-2-9a(h)(2)(West 2021); WYO. STAT. ANN. § 6-2-506 (a)(i)(West 2021); 18 U.S.C.A. § 2266(2)(West 2021); AM. SAMOA CODE § 46.3501(c)(2021); 6 N. MAR. I. CODE § 1471(a)(2021); 33 P.R. LAWS ANN. tit. § 4013(a)(b)(2021); V.I. CODE ANN. tit. 14, § 2071(c)(2021).
- ^{xv} See <https://www.stalkingawareness.org/map/> for individual jurisdictions and an analysis across jurisdictions.
- ^{xvi} U.S. Const. Amend. 5.
- ^{xvii} Borchardt, E. (2021). Using a Civil Designation as A Sword And A Shield In Domestic Violence Order of Protection Hearings: Eviscerating The Constitutional Rights of Criminal Defendants Charged With Domestic Battery in the State of Illinois. 53 *UIC J. Marshall L. Rev.*, 705.
- ^{xviii} It should be noted that *State v. Plaisance*, 982 So.2d 179 (LA.App. 5 Cir.,2008) distinguished *Higginbotham* on the grounds that the stalking statute had been re-written (but did not touch the double jeopardy issue).
- ^{xix} *Denezpi v. United States*, 142 S.Ct. 1838 (2022).
- ^{xx} *Ibid.*
- ^{xxi} McFarlane, J., Campbell, J.C., Wilt, S., Ulrich, Y., & Xu, X. (1999). Stalking and Intimate Partner Femicide. *Homicide Studies*, 3(4), 300-316.