

STALKING

RHONDA SAUNDERS

www.Stalkingalert.com

Penal Code Section 646.9

- REPEATED CONDUCT: FOLLOWING OR HARASSMENT (2 or more times)
- CREDIBLE THREAT: DIRECT/IMPLIED
- FEAR

STALKER: INTENT TO PLACE VICTIM IN FEAR;

VICTIM: PLACED IN REASONABLE FEAR



FRAGILE

FRAGILE

FRAGILE

With Deepest Sympathy

NAME
ADDRESS
CITY
STATE
ZIP

90 00 00



“Watched you and your
children at the park
yesterday”

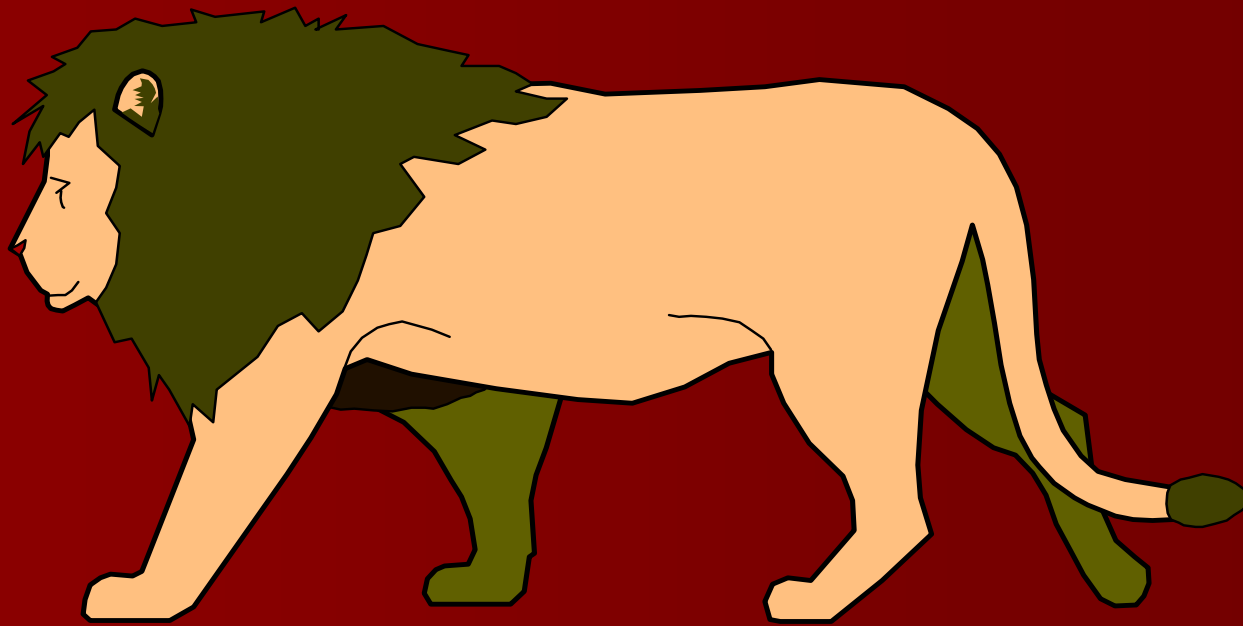
CRIMINAL THREAT

- Threat to Commit a Crime Which Will Result in Death or Great Bodily Injury
- Suspect Intended That Statement Be taken As a Threat
- Words Must Be Of An Immediately Threatening Nature and Convey An Immediate Prospect of Execution
- The Threat Caused the Victim To Be In Reasonably Sustained Fear

WHO IS A STALKER?

- Age
- Gender
- Race
- Nationality
- Socioeconomic
- Education
- Occupation
- Religion





STALKER TYPOLOGIES

RELATIONSHIP

STRANGER

FALSE VICTIMIZATION

RELATIONSHIP

- **Domestic violence**
- **Workplace**
- **Campus**
- **Dating**
- **Neighbor**

WORKPLACE VIOLENCE

- **Workplace Violence Is The Second Leading Cause Of Workplace Fatalities. (*Afl-cio Workplace Safety Study*)**
- **Murder Is The Leading Cause Of On The Job Deaths Of Women. (*National Institute For Occupational Safety And Health, November 1993*)**

- **About 40% Of Victims Of Nonfatal Violence In The Workplace Reported They Knew Their Attackers.**
- **Between 1992-1996, More Than 2 Million U.S. Residents Were Victims Of A Violent Crime While At Work Or On Duty.**

(Bjs - National Crime Victimization Survey)

WHY: DOMESTIC VIOLENCE IN THE WORKPLACE

- **The Victim's Job Represents Independence;**
- **The Victim Is No Longer Under His Immediate Control;**
- **Work Hours, Parking And Location Are Predictable;**
- **The Workplace Is The Easiest Place To Find Her.**

WORKPLACE VIOLENCE

- **Any Action That May Threaten The Safety Of An Employee, Impact The Employee's Physical And/or Psychological Well-being Or Cause Damage To Company Property.**

The Bureau of Labor
Statistics notes that almost
two-thirds (64%) of non-
fatal assaults occurred in
hospitals, nursing homes,
and residential care
facilities

FACTORS THAT CONTRIBUTE TO HOSPITAL VIOLENCE

- Increasingly violent society
- Low staffing levels
- Greater number of very sick or mentally ill patients
- Availability of money and drugs
- Nurses, doctors, working alone – late night, early morning hours
- Poorly lit facilities and parking lots
- Unsecured entrances and exits
- High crime areas

WRITTEN POLICY

- Identify what behavior is considered inappropriate and unacceptable in the workplace;
- Describe what to do when such incidents occur;
- Identify procedures and whom to contact: ensure all staff knows policies for handling and reporting workplace harassment/violence
- State consequences of committing prohibited conduct
- Assure no reprisals will be made against reporting employees
- Establish a zero tolerance for violence policy

“I appeared cheerful but inside it felt like there was a knot that kept tightening in my stomach. I felt emotionally bruised, shocked. I was working on auto pilot.”

WORKPLACE VIOLENCE

- **Work-Related Conflict**
- **Personal Conflict**
- **Revenge:**
 - Fired/Laid Off**
 - Passed Over For Raise Or Promotion**
- **Rejection Of Relationship**
- **Terrorism: Send A Message**

■ **“RED FLAGS”**

- **Poor Interaction With Co-Workers**
- **Overreaction to Criticism**
- **Radical Mood Swings**
- **Acts in Belligerent Manner**
- **Harasses Co-Workers**
- **Deterioration of Personal Grooming Habits**
- **Unsafe Work Habits (Carelessness or recklessness)**
- **Need To Blame Others (Anyone's Fault But Their Own)**

- **Long Term Depression or Withdrawal**
- **Personal Stress:** Divorce, Death of a Loved One, Custody Issues
- **Suicidal Comments**
- **Alcohol or Drug Abuse**
- **Erratic or Aggressive Behavior**
 - Threats
 - Vandalism
 - Physical Assaults
 - Emotional Outbursts

- **Fascination With Weapons**

- **Paranoid or Irrational Ideas**

 - Being Watched

 - People Plotting Against Them

 - End of the World

- **Suicidal**

WHAT SHOULD BE DONE



HINTS FOR EMPLOYERS

- **Employers Have A Legal And Moral Duty To Provide A Safe Work Environment (OSHA);**
- **Allow The Employee To Change His Or Her Work Schedule And/or Location;**
- **Do Not Penalize The Employee For Taking Time Off To Obtain A Restraining Order, Make A Police Report Or Go To Court;**

- **Cooperate With Law Enforcement:
Have A Plan In Place**
- **Screen Calls Or Have Someone
Other Than Victim Answer Phones**
- **Change The Victim's Parking
Location And Have Someone Walk
With Her To And From Her Car.**
- **Circulate Or Post A Photo Of The
Stalker**

- **Provide A Cellular Phone Or Other Communication Device To The Victim;**
- **Provide The Victim With Counseling Or Other Support Services.**
- **Do not give out personal information about employees**
- **Obtain Corporate Restraining Order**

QUESTIONS

- **Who Is The Suspect - What Is His/her Relationship To The Company Or The Employee Being Stalked**
- **Dates, Times, And Places Of Each Incident;**
- **Describe Each Incident, Including The Exact Words That Were Used.**
- **Was Anyone Else Present During These Incidents; Was It Reported Immediately**

- **History Leading Up To The Incident**
- **Are There Any Other Acts Of Violence In The Suspect's Background**
- **Does The Suspect Own A Gun Or Other Weapon; Has He Talked About Weapons, Violence Or Suicide With Other Employees.**
- **Does The Suspect Have Drug, Alcohol, Or Mental Problems;**

- **Is There A Valid Restraining or Protective Order In Effect, : Was it Served On Suspect; Temporary Or Permanent; When Does It Expire.**
- **When Was It Obtained.**
- **Why Was It Obtained**

■ **Is The Victim Afraid Of The Suspect. Are Others In The Workplace Afraid Of The Suspect.
Why**

■ **Does The Victim Believe The Suspect Will Carry Out The Threat.
Why**

■ **Does The Victim Have Any Physical Evidence - Letters, Audio Or Video Tapes, Photos, E-mail Etc.**

- **Was The Activity Captured By Surveillance Cameras**
- **Are There Prior Police Reports Filed By The Victim; When And Where;**
- **Has The Victim Made Prior Complaints About The Suspect Or Others In The Workplace.**

FEAR/EMOTIONAL DISTRESS

- **Compare a Day Before Stalking and a Day After**
- **Moved, Changed Phone Number, Name, Job, Children's School**
- **Requested Closer Parking Place, Change of Schedule, Escort to and From Car at Work, Absenteeism**
- **Purchased Weapon / Self Defense Classes/ Mace**
- **Nightmares / Can't Sleep**
- **Put in Alarm System, Bought a Dog**

RESTRAINING ORDERS

- 28% Female Victims Obtained R/o;
- 69% Said Stalker Violated The Order;

- 10% Male Victims Obtained R/o;
- 81% Said Stalker Violated The Order

TYPES OF RESTRAINING ORDERS

- PC 136.2 Protective Order
- PC 646.91 Emergency Protective Order
- CCP 527.6 Harassment
- CCP 527.8 Workplace Violence
- FC6200 Domestic Violence

CODE OF CIVIL PROCEDURE

No TRO shall be granted without notice to the opposing party unless:

- 1. It appears from the facts of the affidavit that great or irreparable injury will result before the matter can be heard on notice; and
- 2. There is certification from the applicant or attorney that:
 - a. Within a reasonable time prior to the application the applicant informed the opposing party or his attorney at what time and where the application would be made. (Verbal Notice)
 - b. There was a good faith effort to inform the opposing party of the hearing; or
 - c. That for specified reasons, the applicant should not be required to inform the opposing party

- TRO may be issued without notice if affidavit shows reasonable proof of harassment and that great or irreparable harm would result to the plaintiff if notice is given.
- Notice must be given at least 5 days prior to hearing for permanent order. Defendant shall be personally served with a copy of the petition, temporary restraining order and notice of the hearing .
- Hearing is within 15 days of issuance of TRO or, with good cause, 22 days
- Permanent order is valid for up to three years

1. Copy of the TRO and injunction must be filed with local law enforcement by close of the business day on which the order was issued.
2. Information regarding the TRO or injunction shall be transmitted to the DOJ.
3. Defendant who is subject to TRO or injunction may not own, possess, purchase or receive a firearm while the order is in effect. (PC 12021(g))
4. ***No fee for filing or for service of process for a petition that alleges stalking, infliction or threat of infliction of violence, or any other conduct that has placed the petitioner in reasonable fear of violence.***

CODE OF CIVIL PROCEDURE

SECTION 527.6

HARASSMENT

HARASSMENT DEFINED

- Unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys or harasses the person and that serves no lawful purpose; and
- The course of conduct must be such as to cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff

- Upon a showing of good cause, a TRO or injunction may include the names of other family or household members who reside with the applicant.
- This section does not preclude either party from representation by private counsel or from appearing on the party's own behalf
- Applicant does not have to personally appear if represented by attorney)
- Harassment must be ongoing at time the injunction is sought and a single incident of unlawful violence does not justify issuance of the r/o absent a court finding that future harm was highly probable

CODE OF CIVIL PROCEDURE

SECTION 527.8
WORKPLACE VIOLENCE

PURPOSE

To provide employers with the means
to obtain injunctive relief so as to
prevent acts of workplace violence

Any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace may seek a TRO and an injunction on behalf of the employee prohibiting further unlawful violence or threats of violence by that individual.

- TRO: Must show that the employee has suffered unlawful violence or a credible threat of violence by the defendant and that great or irreparable harm would result to an employee. Upon a showing of good cause, the TRO or injunction may include other named family or household member that reside with the employee.
- TRO remains in effect for 15 days.
- Defendant must be personally served with petition, TRO, and notice of hearing for injunction at least 5 days prior to the hearing.
- At hearing for permanent order, if the defendant is also employed by the employer filing the petition, the judge shall receive evidence concerning the employer's decision to retain, fire, or discipline the defendant.

- Either party may be represented by private counsel or may appear on their own behalf.
- Copy of TRO and injunction must be filed by close of business day with law enforcement.
- Punishable under 273.6
- Defendant cannot own, possess, use, etc. a firearm. Punishable under Penal Code Sections 273.6 and 12021(g).
- *No filing fee if employee was subjected to stalking, violence or threats of violence.*

2006 – NEW LAW

PENAL CODE SECTION 646.91a

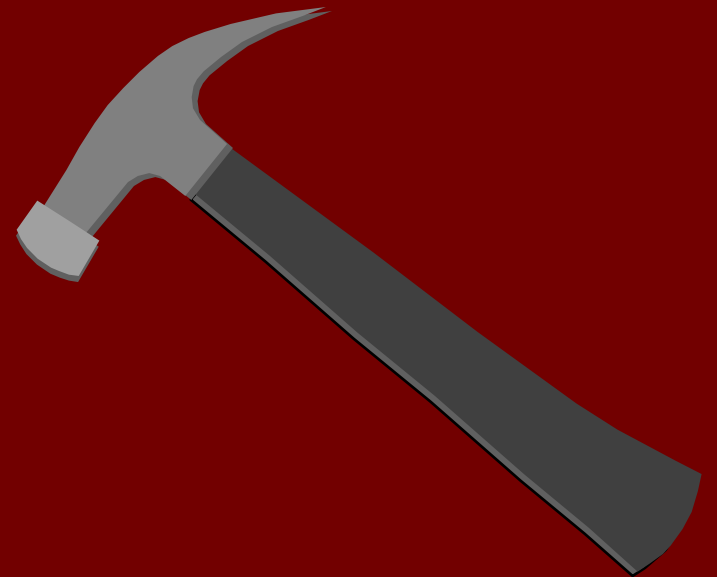
- IT IS UNLAWFUL FOR ANYONE WHO IS SUBJECT TO A R/O OR PROTECTIVE ORDER TO SEEK OUT INFORMATION ABOUT THE VICTIM SUCH AS HER RESIDENCE, PHONE NUMBER, ETC.

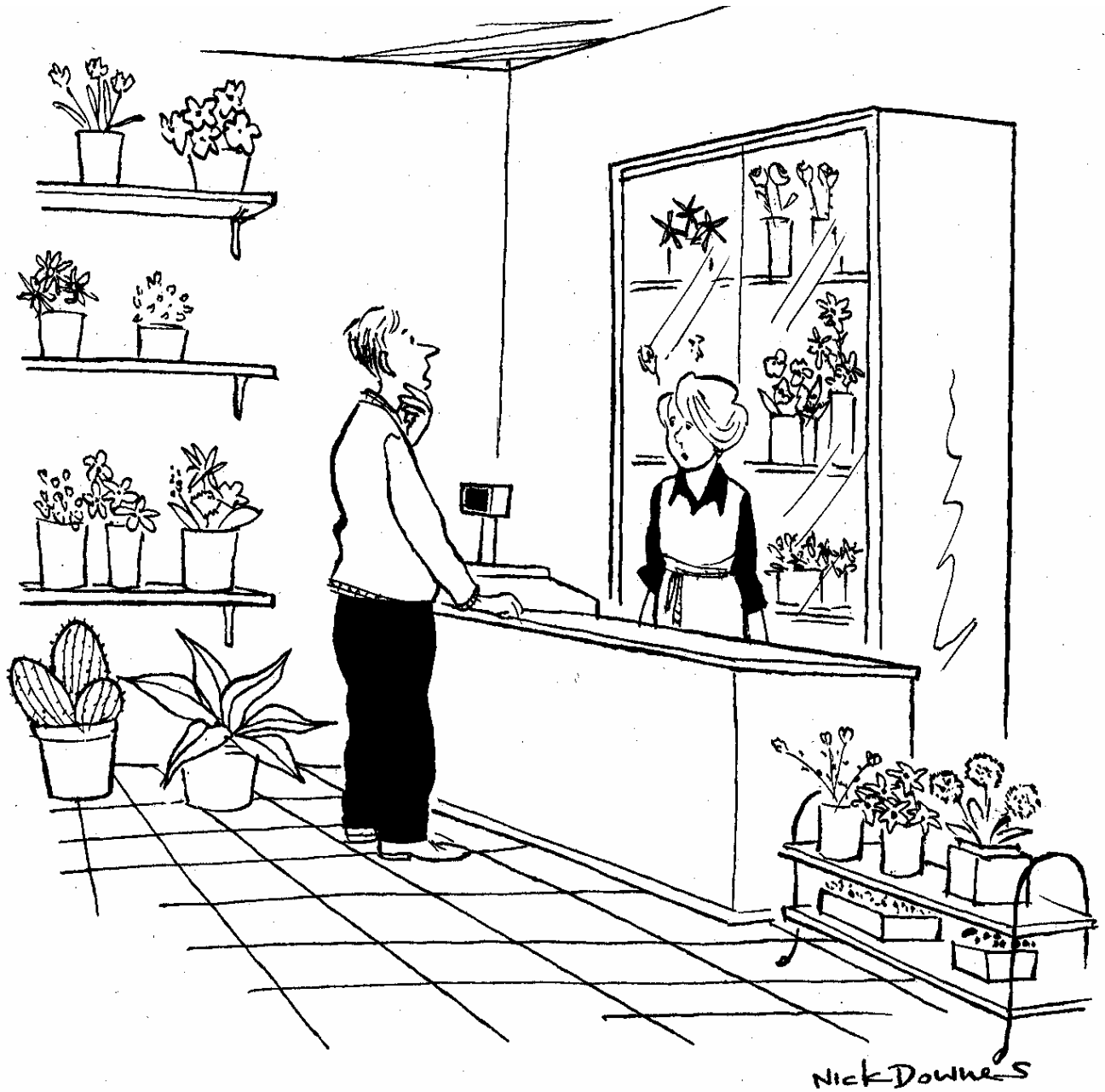
- Is A “Tool” For Law Enforcement And Prosecutors

- Not A Magic Wand

- Two-edged Sword

- Must Be Enforced





Nick Downes

"What sort of flowers say, 'I promise to obey the restraining order'?"