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Stalking: Watching a Crime Evolve

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Stalking: Watching a Crime Evolve

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INTRODUCTION

Stalking is a crime that has existed for centuries, leaving victims alone and terrified without mitigation until recently. Stalking has emerged as a new criminal activity socially and legally, meaning more work is required by law enforcement agencies, scholars, and legal theorists in order to make sure victims are protected from their perpetrators adequately and without bias or devaluation of their case’s priority and severity. Law enforcement agencies must pursue these cases without preconceived notions of hegemonic practices in order to better address the issue and assist persons in their needs surrounding cases, which reflect gender and structural inequalities. The technology boom has enabled stalkers by creating new mediums for use in harassing victims. The freedom of speech and its protection under the First Amendment has caused backfire in courts of law. Therein, perpetrators have been provided with a morsel of legislative justification for comments, written statements, and posts about victims, which has let defendants off the hook while law enforcement’s ability to act has been challenged. Therefore, it is essential that every state amend existing legislation or pass new laws that protect victims from harassment by means of electronic communications and the Internet. Stalking is a serious crime and should be treated as such. However, research proves that law enforcement agencies do not always respond as expediently or professionally (in terms of intersectional bias and standards based on equity) when assisting plaintiffs in their cases, which may result in an institutionalized revictimization of already, traumatized individuals. Law enforcement fails to respond to marginalized populations in a manner that is conducive to bettering their circumstances. The failure to respond adequately is the fault of policy making that overlooks intersectional difference, believing every person’s struggle is the same, when in actuality, it differs based on the individual’s circumstances and identity politics. Both social stereotypes and discursive
media, including television shows like MTV’s The Hook Up or Fox’s Glee, work to jade society’s understandings of stalking, turning the issue into a farce and colloquial joke. Proper education and reevaluation of existing statutes and programs will help limit the prolific numbers of these cases nationally. Changing social perceptions of stalking and how it is understood would make people reconsider the benefits and potential limits of understanding domestic violence and rape culture through the lens of male dominance. In doing so, we will better be able to understand and make sufficient rulings in cases that may involve women stalking men and same-sex encounters of stalking violence.

Even though stalking is pervasive and affects the lives of 6.6 million Americans each year, with 75% of victims being women and less than 25% being male, the crime is often overlooked and trivialized. When in actuality, it is a very serious offense, which often results in physical violence, psychological trauma, and even murder (Stalking Resource Center 2012). By conducting a general survey of anti-stalking laws and the application of gendered and intersectional dimensions, I will make sense of how stalking is perceived by the American public and courts of law. In order to do this, evolving mediums and methods to stalk will by analyzed as they inform outcomes of legal cases in states I consider progressive, moderate, or negligent. States considered progressive have continued to amend their existing legislation to evolve as technology does, reformulating language and forensic methods to encapsulate new forms of stalking using electronic means. States that are moderate vacillate between being helpful or letting others cases fall through the cracks. Lastly, those that are considered negligent, or the least helpful, in stalking cases reported to law enforcement agencies involve those that have not changed existing legislation that will allow them to prosecute offenders on stalking charges. I will be looking at how judges interpret existing legislation in the states represented in this study,
while finding out how these laws work, or do not work, in protecting victims and serving penalties to perpetrators. The evidence analyzed in this study will acknowledge how stalking is interpreted by authorities and in courts of law dependent on existing legislation and its implementation—positive or negative. Remedies will be offered in response to my findings.

**Chapter I: Stalker Typologies and the Gendered Dimensions of Stalking Violence**

**Stalker Typologies**

Stalking is not a one-dimensional crime with a single set of scripted actions. It is multiplicitous, deceitful, and wears a variety of masks. The act occurs in multiple forms and each form uses a variety of tactics to harass its victims. The different typologies of stalkers include three main types. These three types are expanded into more thorough categorizations of stalking behavior, but have been compared to a homicide investigator’s two subgroups of stalking: the psychopathic personality stalker and the psychotic personality stalker. The psychopathic personality stalker is often a male who does not have a mental disorder and pursues familiar victims. The harassment can be accomplished anonymously and can stem from a preceding stressful situation evoking stalking behavior and criminal activity. The second generalized classification of stalking includes the psychotic personality stalker. This stalker can be either males or females suffering from delusions, which propagate obsessive fixations on their victims. The psychotic type will pursue strangers, attempt to contact them, and typically have not been provoked in any way to resort to using stalking as a method of violence and harassment (Geberth, 1996: pp. 6-9). Zona, Pallarea, and Lane build on this with a more comprehensive look at the interpersonal relationships between stalkers and victims (1993). Zona et al. worked with the Los Angeles Police Department (LAPD) when stalking legislation was initially being drafted and their research has become foundational to understanding stalking from a criminal
psychology standpoint. The first type includes *erotomania*, or "*erotomaniacs,*" who believe that their victim is in love with them (Beagle, 2011: p. 3). Celebrity stalking is most often associated with this stalker profile. Perpetrators involved in this form of stalking use less confrontational methods in their approach; these criminal persons are the least likely to become violent and are more likely to be female. The erotomaniac stalker creates an imaginary relationship with their victim that is erotically inclined. The gendered dimension of this finding sheds light on the increased likelihood that men will enact violent behavior in stalking crimes, more so than women. With statistics stating that *erotomaniac stalkers* only comprise 10% of all stalkers, this means that female erotomaniacs may be interpreted as less dangerous or worthy of police investigation (Beagle, 2011: p. 3). The second kind of stalking includes the *love obsessional stalker*. The love obsessional stalker typically has no relationship with the victim and is often a well-educated professional with a steady financial backing. The personal life of the stalker could revolve around their stalking the victim as prey, while using mediums like the telephone and letters to contact the victims. The perpetrators have been found to exhibit personality disorders such as schizophrenia and multiple personality disorder. Lastly, Beagle discusses the *simple obsessional stalker*. This person traditionally has made contact with the person before the stalking incident took place. Typically, a specific event will trigger the stalking behavior, making perpetrators feel as though they must attempt to seek retribution and regain control in the relationship. The preceding behavior to these cases can be domestic violence or similar abusive incidents with friends, strangers, or family. Perpetrators may present an outwardly normal appearance, but change under private circumstances with their intimate partner or acquaintance. They are most likely to confront their victim in person, possibly involving damage to property, battery, sexual assault, or murder. These stalkers are seeking retribution for something they have
previously experienced with their victims (e.g. divorce, break-up, rejection), causing them to be the most prone to use violence. Plaintiffs in these cases are the least protected, even though this is the most dangerous type of stalker (2011: p. 3). The reason simple-obsessional victims are the least protected is due to their previous histories with their assailants. The victim(s) might excuse their assailant’s behavior in order to protect their exes or not create more controversy until harm is actually done. Dr. Michael Zona and his colleagues added a fourth typology later after research developed, except it deals directly with “victims.” The false victimization syndrome involves individuals who make accusations towards others, real or fictitious, in an effort to gain support from others in their family or group of friends and social networks. The men or women who fall into this category tend to suffer from histrionic personality disorder, generating an inner need for attention that is concocted as a grandiose story, often lacking detail, as others are manipulated into believing their lies. These persons should not be confused with stalkers who claim that they are being stalked, or actual victims themselves. Sometimes stalkers will make claims that they are being stalked by the “true victim,” making it seem as though the victim is the one that is actually expressing hostility and rage. Zona et al. (1998) calls this process of deflection “stalking the stalker.” People who report cases of false victimization jeopardize law enforcement’s ability to pursue actual stalking cases, wasting valuable resources, time, and energy. All the while, false victimization and reporting adds to police skepticism in stalking cases, which can make prosecution harder for actual victims.

Stalkers use various methods to harass their people-turned-prey. Victims experience psychological trauma that persists for years after the harm has been done. High levels of depression and post-traumatic stress are caused by the decimation of a victim’s privacy during the stalking stint, which leads victims to feel fearful for their lives and well-being as they are
constantly paranoid and devoid of sleep. The methods used by perpetrators to maintain control victims’ feelings include either more active repetitive behaviors, or passive stalking strategies. A stalker that is bolder will begin following their victims, waiting outside of workplaces or private residences, and threatening harm. More passive behaviors entail continually calling someone's phone, emailing them, sending offensive media or images, or harassing messages. The worst-case stalking behavior includes rape, assault, and murder. Because 36% of victims experience assault or battery, while 2% are killed, stalking laws exist on the books in every state (U.S. Department of Justice, 2001: p. 1).

**Role Relationships**

Situations in which stalking arise depend on the role relationships of both perpetrator and victim. Perpetrators have been found to have prior histories of violence in their own lives. This includes abuse, neglect, battery, and other offenses. Their predisposition to violence can prompt stalking behavior in a cycle of “intergenerational transmission of violence,” indicating hostile behavior as a learned quality. For victims, some may be “predisposed to stalking [as they] are either limited or encouraged by various role-specific norms, values, and expectations” (Morewitz, 2003: p. 9). Stalker’s relationship to their victim creates different objectives for their harassment. In a failed intimate relationship a stalker seeks to reclaim control over their ex-partner, whereas, a divorcee will use stalking as a tactic to monitor behavior in child custody battles. Stalking is complicated when the two involved have previously been married, making it harder to recognize the crime for what it is because of the history shared between ex-spouses. Stephen J. Morewitz analyzes different forms of stalking, dividing them into different categorizations. The first includes stranger and acquaintance stalking. Stranger stalking incidents involve a victim who does not know their stalker and has never interacted with them before. An
example of this includes celebrity stalking. Rebecca Schaeffer’s case helped define the crime of stalking, as we know it, after she was shot and killed by a deranged fan. High-profile cases like Schaeffer’s, John Lennon’s, or Madonna’s shed light on stranger stalking. Two out of the three celebrity cases mentioned proved fatal. Stranger stalking frequently involves perpetrators who suffer from mental illness, or psychopathology.

Different from stranger stalking, acquaintance stalking involves subtle interaction between the victim and perpetrator. Acquaintance relationships can develop into more serious forms of violence as the increasing amount both victim and perpetrator see one another can allow for disputes and heightened conflict. Morewitz (2006) acknowledges, “the NVAW report also found that 90% of the offenders who engaged in stranger and acquaintance stalking are male… there is evidence that homosexual men are more likely than heterosexual men to be stalked by male strangers and acquaintances (National Institute of Justice, 1998). The reason homosexual men have a higher likelihood of being stalked by strangers and acquaintances is due in part to role relationships (Morewitz, 2006: p. 30). One man in the relationship attempts to dominate and maintain control over the other less aggressive or proactive male. Similar ideas of gender that are present in heterosexual arrangements present themselves in homosexual relationship arrangements as the dominant male seeks to hierarchically position himself as the empowered individual in control of the feminized submissive. These ideas will be explored later in this chapter when analyzing the gay panic defense.

In date stalking, the perpetrator and victim also know one another, but the violence is incited by reasons of revenge and vindictiveness because romantic feelings are not shared. Date stalking occurs as the result of a failed connection following a date or series of interactions.

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1 Homophobia can also be a factor here, as gay men become the prey in hate crimes and bias-motivated incidents. (NIJ, 1998, p. 12)
between the stalker and the victim. The perpetrators who date stalk may have attachment issues, making a failed attempt with someone they may have liked all the more reason to continue to pursue them and attempt to get what they want. Similar behavior is represented in the films *Single White Female* and *Fatal Attraction*, which will be discussed in depth in Chapter III. When obtaining emotional connection and attachment does not work, offenders will turn to abusive strategies as a means to resurrect their defamed sense of selves (Morewitz, 2006: pp. 4-5).

Having a criminal history or past drug abuse could influence this kind of behavior amongst perpetrators. If violence has previously been experienced, either firsthand or secondarily within familial structures, those with these backgrounds are more likely to become date stalkers. An intergenerational transmission of trauma occurs, allowing perpetrators to resort to stalking violence because they are less likely to find fault in their actions due to their previous experiences of violence themselves (Morewitz, 2006: pp. 4-5). Violence is dealt to those that are perceived to hurt the perpetrators first in an act of retribution and paying it forward—a morbid reversal of the concept.

In cases of spousal stalking partners may choose to stalk their partners after getting a divorce. Spouses may also pursue one another in an effort to gain a better understanding about what the other individual is doing behind the other’s back. Outside behavior might include cheating or moving on and engaging in other intimate affairs others outside of marriage. A parent looking to provide courts with a body of evidence as to why they should be regarded as the primary caregivers or legal guardians may push a spouse to follow the other in order to catch them in an act that would make them be perceived as unfit to raise children (Morewitz, 2006: pp. 6-7). In intimate-partner stalking a partner could choose to stalk to reconcile the failed
relationship, exerting a sense of control as they attempt to remedy the relationship forcibly. Stalking is used to monitor, control, and retaliate.

The least frequent role relationship stalking occurs in happens between family members. After a dispute in a given household, a relative may be kicked out of their home residence, seeking reentry. Also, a family member might also stalk others in the family as a means to see where they are going and when they leave the residence to get in and steal possessions, or once again gain access to what they have been closed out from. Familial stalking shifts existing ideas of the crime because sex is decentered here and happens because of disagreements between family members over mistrust, not following household rules, and unacceptable behavior, leading members to use stalking as a strategy for monitoring or readmission. An overbearing parent could use stalking to check-up on children. Oppositely, a dependent could use stalking for personal gain.

Stalking can occur because of the different roles in relationships people establish, leading perpetrators to possess diverse objectives in pursuit of their victims. Our current social environment promotes a virulent sense of masculinity in men and young boys maturing into adulthood, urging them to take a proactive role in obtaining what they want. Women’s social roles have been scripted in order to fit a subservient and docile role within heterosexual interactions. Men are taught to be go-getters and to dominate in everything they attempt to do. Therefore, when men and women adhere to these rigid norms, it promotes gendered violence as people enact behaviors they understand to be caricature of who and what society expects of them (Kimmel, Poteat, & Wilchins, 2011: pp. 434-436). In Latino communities, the concepts of machismo/marianismo emphasize cultural adherence to gender codes. Machismo men exude masculine pride while denigrating anything that is understood as feminine. The man is expected
to earn a living and provide for his family, while also protecting them, whereas, marianismo expects women to practice traditional femininity that adheres to values of purity, moral strength, and a focus on family obligations within a domestic sphere (Morewitz, 2006: p. 9). These values illuminate a similar notion of the proactive male model. Efforts to control and create subordination can prompt stalking behavior. Stalking is “more likely to occur in role relationships that are more intimate and long-term than stranger and acquaintance interactions” (Morewitz, 2006: p. 9). Traditional, dichotomous roles may actually be harmful to people’s interactions following controversy and can lead to detrimental violence. If a woman decides she needs to leave her intimate partner or spouse it shows a proactive effort to better her circumstances, contrary to the roles expected of her as a woman. Suddenly, her disturbance of the “natural” hierarchy and order of things become skewed, pushing the man to exact revenge and return everyone back to their original positions (Langhinrichsen-Rohling, 2011: pp. 419-421).

**Characteristics of Stalking Victims**

With various typologies, behavioral characteristics, and rationale described in regard to perpetrators, there are also traits that outline a victim’s role within this crime. People involved in stalking cases may feel as though they are being discriminated against based on how they identify. Jennifer Langhinrichsen-Rohling (2011) discusses how law enforcement and courts script victims’ experiences with preconceived notions of their backgrounds and expected normative behaviors. Stalking outcomes in court are determined by perceptions of gender in society. These determinations highlight scripts of feminine passivity and masculine dominance, which is enriched with a sense of pride making male victims less likely to perceive stalking as such and to even report it to law enforcement agencies(Langhinrichsen-Rohling, 2011;
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Thompson, Dennison, & Stewart, 2010; Morewitz, 2006). Gender intersects with race and class pointing out structural inequalities allowing some groups better access to resources and government funded programs and initiatives.

Resource distribution disproportionately affects immigrant communities. Immigrants will have a more difficult time navigating legal services than non-immigrants and different racial groups will feel less comfortable reporting these crimes. The reason for this is due to profiling and underlying biases exhibited by police officers in response to these populations depending on the neighborhood, levels of crime, and socio-economic backgrounds (Crenshaw, 1991: p. 161). Kimberlé Crenshaw articulates how immigrant women are cheated in receiving adequate care from crisis shelters due to inadequate language proficiency in English. An immigrant woman who called a hotline for victims of domestic violence and rape was consistently turned away due to the counselor’s inability to understand her despite her dire need. The policy of the organization asks that callers be able to communicate their need audibly and comprehensively based on a linguistic expectation. If one is unable to do so, they must turn elsewhere—even in the climax of a violent situation. When reluctantly choosing to return the victim’s calls and try to help her, there was no answer. The victim’s status was unknown, revealing a huge discrepancy in the organization’s mission to help women in need. Crenshaw quotes Diana Campos who states, “‘It is unfair to impose more stress on victims by placing them in the position of having to demonstrate proficiency in English in order to receive services that are readily available to other battered women’” (Crenshaw, 1991: p. 167). Violence exhibited by men is viewed as more severe, altering understandings of violence exhibited by female perpetrators who become less punished in courts of law.
In consideration of immigrant communities and communities of color, institutional factors work to limit people’s access to resources and justice for gender related violence. Communities of color can be resistant towards obtaining help in situations like stalking because they feel that it will worsen their circumstances, or that law enforcement will not be able to help them. Such cases inevitably go unreported causing stalking violence to persist as victims are stuck in helpless positions. All the while, perpetrators remain on the streets free to harass more people. Building upon Crenshaw’s ideas surrounding women of color and their further marginalization by agencies designed to help them, different circumstances in which the system can reaffirm stereotypes and structural inequalities as the result of antiracist politics are explained. Agencies are meant to serve communities and provide resources, but instead shelters have frequently turned their backs on women of color based on language barriers and funding. The social stratification apparent here allows communities of color to be helped so long as white communities are also receiving the same benefits. White communities choosing to assist communities of color while implementing narrow policies seem self-fulfilling and unable to truly help people from other identity backgrounds, while operating under the belief that everyone is being helped. Within the Black community, people have silenced narratives of intracommunity violence in order to suppress “some of these issues in the name of antiracism,” which can be detrimental in advocating for policy to protect those that experience gendered violence (Crenshaw, 1991: p. 164). Domestic violence becomes a pacified subject because less people are aware of its prevalence for being made invisible in hopes to change social understandings of prolific violence affecting the lives of Black women by Black men. Another example Crenshaw gives of resistance within minority communities discusses how cultural practices and adherence to already accustomed values can potentially hinder women’s ability to be helped. In Asian
communities family honor is respected, making any potential transgression (such as getting help or leaving an abusive relationship) appear next to impossible. Crenshaw reflects, “Unfortunately, this priority tends to be interpreted as obliging women not to scream rather than obliging men not to hit,” proving how Asian American women have to carry the weight of their burden as men get off scotch-free (Crenshaw, 1991: p. 164). A lack of support and appropriate response by law enforcement for non-white communities demonstrates preferential treatment towards ideal victims, while operating using an assimilationist paradigm.

Violence in communities of color works very differently than it does in white communities, so using the same outreach strategies will be ineffective and unable to provide justice for all based on cultural understandings of violence and practiced identity norms. The violence leveraged against women of color is a consequence of racism and sexism experienced simultaneously. The cross to bear for the women affected involves blatant victim blaming as the men of color take out their aggression over lack of privilege and social standing towards those a notch lower in the oppression pyramid scheme. Women of color are also less likely to call the police in cases of domestic violence due to a common understanding of the police department operating from outside of their community with hostile force. Getting help becomes an uncertainty that can cause more anxiety and pressure within already traumatizing incidents (Boston University Public Interest Law Journal, 1997: para. 5). When the issue becomes politicized, domestic violence is framed in a way that makes it sound as though it affects communities of all backgrounds equally in an effort to take presumptuous pressure off of those considered the “other.” Legislators and advocacy groups need to pay closer attention to marginalized communities and their intersectionality in order to better serve the nation as a whole, rather than those who express the need and them only. Reasons for silences amongst
these groups are due to tensions towards marginalized groups by those in positions of privilege and authority. When drafting policy, those that have privileged positions of power must not overlook underlying intersections of identity in order to speak for women as a whole. These differences should be included in policy formation because “in the context of violence, it is sometimes a deadly serious matter of who will survive—and who will not” (Crenshaw, 1991: p. 169). Limiting factors that inhibit immigrants and people of color from pursuing legal assistance shed light on how stalking cases may go unreported, leading violence to persist and stalkers to remain on the streets continuing to perpetrate violence.

Similar to Crenshaw’s work, Jennifer Dunn articulates the process of victimization in stalking cases, finding that there is the firsthand experience of victimization felt through the trauma of being stalked, then a resulting secondary victimization. Secondary victimization occurs within the legal process and its demands on women to take responsibility for themselves in order to compile a body of evidence before their cases can be heard and sufficiently tried. It is difficult to convince law enforcement of a case's legitimacy due to individual’s difficulties in separating themselves from their aggressors because of the ways that stalking behaviors usually persist even after the authorities are involved. Also, the victims are expected to serve as witnesses to help prosecute intimate partners they have spent years with. Their ability to suddenly use the legal process against someone they have cared about can make this a trying experience, as well as one filled with anxiety and uncertainty. In order to leverage a case against a stalker, women are expected to document all instances of exhibited stalking behavior before the authorities can legally get involved in serving the perpetrator a subpoena, arrest warrant, or form of restraining order. Stalking cases turn out to be a process of victimization as victims are forced to identify stalking behaviors and incidents themselves with little to no police intervention until
their cases are deemed worthy of intervention (Dunn, 2002: pp. 82-83). The he said, she said situation of many stalking cases makes it hard for law enforcement to get involved. Therefore, a greater threat of violence must occur before victims can seek help without police questioning the authenticity of their complaint. Dunn’s work strengthens the argument that stalking cases are often informed by discriminatory practices, which can result in the further victimization of persons affected in these crimes. Female stalking victims are expected to present themselves as worthy victims. In order to do this, the woman must present a need for help and an air of innocence “and therefore blameless[ness]” in the case (Dunn, 2002: p.83). Social constructions of gender and preconceived ideas concerning victimhood play into law enforcement, and court, willingness to pursue cases further. “Willing victims” are more at risk for stalking recidivism because they allow perpetrators back into their lives; they complicate law enforcement’s ability to help because they put themselves into risky situations where they engage their stalkers, inviting further violence (Zona, personal communication, March 24, 2014). Investigators expect victims to be compliant and deferential to the law after ceasing contact with the perpetrator, yet this is not always so easy. Some stalking victims have previous histories with their assailants, or are put into a circumstance in which they cannot shut the perpetrator out. The double trauma women face in mitigating their stalking scenarios is an effect of having to deal with the stalker firsthand, secondarily having to maintain credibility in the eye of the courts, and compiling evidence themselves of the reoccurring violence committed against them.

The Gendered Dimensions of Stalking

The gendered dimensions of stalking involve the differing ways violence is perceived when carried out by men and women. Male violence is perceived as more dangerous, resulting in a devaluation of crimes committed by women, while also discrediting forms of violence enacted
between same-sex persons. In a study done in Australia, researchers found that women have a higher rate of relational stalking and moderate violence, contrary to popular belief regarding stalking. Male perpetrators have justified violence against women as a means to acquire control and dominance within relationships. Violence enacted against women is socially frowned upon and is referred to in this study as the “chivalry norm” (Thompson, Dennison, & Stewart, 2012: p. 354). However, because of sociocultural beliefs designating male violence as more severe and socially unacceptable, this could potentially lead more women to act violently towards men because their violence has been labeled less severe and threatening (2012: p. 354). More reported cases of severe stalking by women are needed in order for law enforcement to recognize it as such, but with underreported crimes against men this change will take time. Underreporting and gender dependent behavior mediates men’s responses to violence and feeling like they can, or should, report violence perpetrated by women because the power of female aggression is perceived as lesser than what they can exert themselves. By asking college students survey questions relating to their previous relationship histories, the data proves that more college aged adults are likely to excuse female aggression over men’s aggression. Gendered dimensions of stalking can cloud law enforcement’s judgments in determining which cases are worth pursuing and which ones are not. Without an equal distribution of resources to women, men, and gender-variant individuals, law enforcement overlooks cases that can be as serious as heterosexual ones. Essentializing specific kinds of stalking violence obscures the potential for non-traditional forms of stalking violence. Therein, reinforcing scripts of masculinity and femininity that place men in proactive roles with attributed characteristics of dominance and strength, while women are kept in a subordinate role as the weaker and passive social vessel. I am not arguing that more women need to be charged with criminal offenses, but I am arguing that law enforcement agencies and
courts of law need to resist using the lens of male dominance when interpreting stalking violence to be sure that victims of all genders and sexual identities are receiving assistance in their cases if need is expressed.

In a different vein, gender was used in a stalking case based on how men and women experience fear differently in a society that privileges men both socially and physically. Stalking situations may spawn different forms of gender-motivated violence, which as Forell and Hess argue, putting women at a disadvantage when having to defend their selves. *A Law of Her Own*\(^2\) explains how men and women are not similarly situated in society and expresses how gender should be considered in stalking cases as a way to determine the reasonableness of a victim’s supposed alarm (Forell & Hess, 2006: para. 5). In order to make this claim, however, attorneys have to describe the new standard in a way that is inclusive of both men and women so that the courts do not dismiss it for being too radical. Gender needs to be taken into account, rather than one’s femininity alone, so that courts do not dismiss arguments for being biased. Forell and Hess include,

> I decided to limit my presentation to making the much less controversial argument for factoring in gender as part of the victim's situation. In criminal contexts this is a well-accepted way to allow consideration of gender and other personal attributes. (Forell, Hess 2006: para. 10)

Here, the authors demonstrate how law is structured in a way that is meant to be non-biased or explicit in identity-based definitions involving gender or race, which has complicated my research and findings in this study—particularly the cases described in Chapter IV. Legislation is fashioned in a way that is meant to be inclusive for all citizens causing factors like identity to be invisible to our understandings of stalking cases. Gender neutrality can be harmful for victims

\(^2\) *A Law of Her Own* is a proposed radical change of law to add “a reasonable woman” standard to fit the measure of a man. The goal is to restructure gender imbalances in law that maintains women’s marginalization in courts of law.
because of how it maintains reasonable person standards that are not commonly shared for men and women alike. Masculine norms go unquestioned, inadvertently affecting women who experience feelings of fear and danger in society for reasons that presenting males wouldn’t have to experience (e.g. cat calls, sexual advances, self-defense).

Stalking is a gendered crime, but existing legal professionals have been dismissive of particular cases that trouble understandings of stalking as a man’s crime. Gender can be difficult to argue in courts of law due to the need for neutrality in the construction of a criminal case and its supporting legislation. However, this element of identity can be crucial in our understandings of particular kinds of violence and their prevalence in society based on the sociocultural beliefs that reaffirm their significance and frequency. When we are identity-neutral we obscure important reasons that indicate why and how stalking crimes are so prolific. Underlying biases are important indicators of why stalkers choose to stalk their victims in the first place. A person’s gender, race, or sexuality can lead a stalker to target them as they assert their authority and ability to dominate. Radical change made in existing legal structures is practically impossible. Therefore, if plaintiff attorneys work within legal frameworks to build their cases, as Forell did, then there is a better chance that identity politics can prove as sufficient arguments in cases and court rulings. Forell was able to achieve a successful argument in court using gender as a factor in her client’s case because she worked with existing legislative definitions to insert gender as a part of the victim’s situation and her reasonableness of alarm. In existing documentation of “emotional disturbance defenses by battered women, gender is, of course, considered” (Forell & Hess, 2006: sec. VII). The authors believe that if a man had been placed in the plaintiff’s position, the case would have favored the stalker due to different social privileges that grant men less social insecurity as the result of gawking and sexual objectification. A liberal feminist
framework is the only way to affect change in the gendered dimensions of stalking and creation of new legislation. Courts are supposed to be gender blind, yet when crimes are highly gendered some standards pertain to men and women differently like the reasonable person standard\(^3\). Stalking cases brought before the court appear to be blinded by normative heterosexual violence.

**The Gay Panic Defense**

To better understand issues of same-sex stalking we must look to cases that use the gay panic defense\(^4\). These cases provide insight toward implicit biases used in courts of law as a mechanism to justify one’s violent behavior toward a homosexual individual. The gay panic defense flips the script by arguing that the assailant is in fact the victim for unknowingly engaging with someone who prefers same-sex intimacies. It operates using a framework of fear towards homosexuality, which turns into panic followed by supposedly self-defensive violence. By expressing a murderous rage, the assailants reaffirm their hegemonic role in society in a way they considered acceptable at the time of the event based on stereotypically masculine traits of aggression and violence (Lee, 2008: p.473). Murder crimes that use this defense often involve assailants who discover another’s sexual identity before killing the victim. Cases like Matthew Shepard’s shed light on similar behaviors that are involved in stalking cases, such as seemingly innocuous interactions with the victim before the interaction escalates. Aaron McKinney and Russell Henderson, the defendants, agreed to give Shepard a ride home from the lounge they were hanging out at, but instead, they drove Matthew to a remote location where they robbed, pistol-whipped, and beat him, while leaving him bound to a fence and left for dead. In court, the

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3 A tool used to explain the law to juries in courts of law. The reasonable person standard is a community-based judgment of how a person *should* behave in a situation where the threat of harm is present.

4 A legal defense usually used in crimes of assault or murder. The defendants using the defense claim to have experienced temporary insanity, as the result of finding out another individual is a homosexual.
two argued that Matthew made an unwanted sexual advance, which led them to carry out their assault. However, in a later interview with the defendants’ girlfriends, they mentioned that the plot to rob a gay man was constructed as a means to uphold their homophobic beliefs and teach him a lesson for his oppositional lifestyle. The defendants were also aware of Matthew’s home address before interacting with him. A secondary robbery had also been planned (Lee, 2008: p. 479).

The gay panic defense works to minimize criminal repercussions for heinous crimes by lessening sentences on account of psychiatric stability. The defense becomes an institutionally recognized (if used successfully, which is rare) form of discrimination (Lee, 2008: p. 491). Using gay panic rhetoric points out hegemonic masculinity by highlighting how men are supposed to be attracted to other women, not men. Secondly, men are conditioned to be the pursuers, rather than the pursued, so when another man hits on them it can be emasculating. When a man’s agency is brought into question, brute force becomes a reasonable response as a way to remedy lost manhood (Lee, 2008: p. 475). Dominance is crucial in proving one’s masculinity. A man who presents archetypal masculinity does not want to associated with anything feminine, just like he does not want to associated with anything queer. Socially, male violence is accepted as normative, causing violent responses to homosexuality to appear reasonable. Cynthia Lee points out,

The woman who is the target of male attention is supposed to be flattered. Even if the woman is just as offended by a non-violent heterosexual advance as a heterosexual male might be by a non-violent homosexual advance, she is unlikely to convince the average juror that a violent response is reasonable because women just are not expected to be violent. (Lee, 2008: p. 475)

This quote illuminates circulating discourses surrounding violence. Women “are not expected to be violent,” undermining women’s violent potential, while also potentially discrediting the
seriousness of cases that involve female assailants. Women are less able than men to use the gay panic defense, revealing its weaknesses in courts because of its gendered and sexualized presumptions. Also, the defense uses the claim of temporary insanity. Insanity defenses require people to have been suffering from the mental disease at the time the crime was committed, which makes it difficult to prove that a homosexual advance is what made them insane. Proving insanity is difficult presumably because of its bias motivated nature and the lack of recognition of gay panic as a mental condition by the American Psychiatric Association (Lee, 2008: p. 491). Assumptions made about gender limit potential for justice because they maintain stereotypes of identity categorizations. The gay panic defense is an injustice that reinforces dominant culture and further marginalizes the queer community. Lee argues that the defense should not be abolished, however, and that “[t]he best way to engage in this battle is to allow defendants to raise such arguments, make sure prosecutors expose the flaws in such arguments, and encourage jurors to deliberate consciously on these arguments and their underlying assumptions” (Lee, 2008: p. 521). By raising gay panic claims in courts, those participating in the hearing can form their own understandings as they deliberate and choose the best course of action. Conversations surrounding identity politics can be valuable in the courtroom because of how they help to deconstruct social norms and call attention to blatant discrimination. The gay panic defense is problematic for rearticulating hegemonic practices and separating forms of violence enacted amongst heterosexuals and those involving homosexuals.

The gay panic defense relates to stalking violence in the sense of how masculinity and femininity is widely understood by the public, as well as how the aggressors often know their victims before committing the crime. Assailants exert a need for control by performing dominant, proactive masculinity. In courts, the defense is used as a justification for violence.
This relates to how the reasonable person standard might work against women because of the way it overlooks identity differences, while maintaining masculine norms. The violence present in gay panic crimes is used to overpower the inferior male, as the heterosexual male attempts to prove his true masculinity by feminizing the other with brunt force. Discovery of one’s sexual identity evokes repercussive action. Stalking becomes a hunting tactic employed by homophobic individuals in gay panic cases wishing to smother those living opposite from social norms.

**Conclusion**

Gender and sexual norms help to uncover underlying court biases when choosing which cases are worthy of pursuit and further investigation. By incorporating gender and sexual orientation as factors of criminal prosecution we can expand understandings of violence through a more comprehensive approach. An overt incorporation of gender and sexual orientation would allow identity politics to be argued as salient issues involved in stalking crime, versus current frameworks that rely on unarticulated presumptions. For example, “pretending that race is irrelevant allows unconscious racism to operate without any constraints” (Lee, 2008: p. 477). Bringing issues of identity forward allow courts to acknowledge socio-cultural beliefs that script people’s behavior, while possibly leading to more progressive legislation and reformation of dominant ideologies. While men most frequently commit stalking crimes statistically, there are still a number of cases that involve women or victims and perpetrators of the same sex. Discursive framings of gendered violence limit our scope for potential violence, while empowering notions of aggressive masculinity. When solely focusing on heterosexual men as assailants, courts nullify other cases and show preferential treatment as constructions of the ideal perpetrator and victim are upheld. Male victims will interpret this as an institutional message to individualize responsibility for stalking events resulting in lower reporting rates. Same-sex
persons will receive the message that their situations are less important in the eyes of a heteronormative society, which makes exceptions for violence committed against queer persons. Also, same-sex stalking cases may be dismissed on account of being perceived as a disagreement between two people that can be worked out on its own. A same-sex dispute could be problematically understood as a brotherly or sisterly misunderstanding, even though the concept of domestic violence and abuse works the same way in these relationships. More research needs to be done around gender and sexuality within stalking cases because it can offer better understandings of the crime, allowing more victims to find justice for their perpetrators and improved legislation to subsequently follow.

Chapter II: Stalking and Cyberstalking—An Evolving Crime Causing New Challenges

Cyberstalking demonstrates how stalking as a crime has evolved within society, becoming more virulent in nature as less can be done by law enforcement agencies to protect persons based on the individual liberties granted to United States citizens outlined in the First Amendment (Report to Congress on Stalking and Domestic Violence, 2001: p. 11). The Internet is considered public domain that people can access freely and post lewd comments or obscenities without repercussion. This excludes materials that feature non-consenting individuals in pornographic images like children. Stalking is a crime that is often undermined by a state's understanding of what is considered public versus private property. Law enforcement agencies are restricted in protecting stalked individuals in public venues such as supermarkets, public streets, parks, and other spaces. Law enforcement is limited in this respect due to the inability to prosecute individuals for inhabiting common areas used by all citizens, unless a protection order is in place to cease all potential contact. Some civil protection orders will grant the victims a designated area of protection measured in square feet, however, this is complicated by a
perpetrator's ability to work around this "safe zone," such as not stepping foot off of a public street on to a private residence, while still gaining access to those who have fallen prey to their psychotic obsessions. The Internet can be accessed in private quarters. However, it is a very public domain that is readily available to anyone in the world who has access. Anything that is posted can easily be read by an unknown person, causing otherwise private personal information to be compromised and used against a victim as it gives an alleged perpetrator valuable information in the event that they choose to track their victim(s) down.

**Blurring Boundaries Between Public and Private Spaces**

Critical legal schools highlight how the law constructs and defines definitions of private and public limiting it to “the confines of [people’s] homes and their own private lives,” while not encroaching on their intimate affairs kept behind closed doors because of their entitlement to dignity as free persons (Ruskola, 2005: pp.238-239). This historical perspective is useful in considering stalking because it reinforces the notion that unless a perpetrator breaches the stalked individual's private boundaries, then there is not much that can be done to help the victim except if a threat of physical harm or murder is made. This idea is complicated in consideration of celebrities and public figures. As public figures, celebrities enjoy fewer privacy protections than ordinary citizens⁵. This leads to private boundaries being crossed as the paparazzi or deranged fans attempt to gain access to these individuals outside of public events and venues. Sometimes paparazzi and fans will lurk outside of celebrity homes or intimate gatherings meant to be

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⁵ “Celebrities have consistently been afforded a lower degree of privacy protection than non-celebrities. This is understandable since, by injecting themselves into the public spotlight, celebrities necessarily have invited public scrutiny of their lives and have relinquished part of their right to privacy. (Eastwood v. Superior Court, supra, 149 Cal.App.3d at p. 423.) An ordinary citizen, not having done so, retains his full right to privacy. “

conducted outside of the public eye. Building from Ruskola, the Internet further conflates divisions between the public and private as it is meant to be a source for free trade and openly accessible to anyone able to use it, therefore, eroding the private domain. In the case of cyberstalking, individuals may find a lot of their personal information in circulation—more than they might like to be exposed to the world. There has been a push for federal legislation to further protect Internet users, so that they are not vulnerable to potential online harassment, fraud, or other provocation of crime. Existing legislation includes the Interstate Stalking Law 18 U.S.C. § 875(c), which covers any communication transmitted in interstate and foreign commerce that threatens injury of another person. Also, 47 U.S.C. § 223 protects individuals from obscene or harassing telephone calls within interstate or foreign communications. The pitfalls of these laws are that they are unable to reach alleged offenders whose threat is muddled by a series of conduct that makes apparent threat seem unclear. Secondly, these laws do not incorporate instances of third party stalking where a cyberstalker invites others to join in on harassing a victim. Lastly, most cyberstalking cases fall into the hands of state law enforcement agencies that might not have the ability to prosecute Internet crimes because of outdated stalking definitions that do not incorporate electronic mediums.

The US Department of Justice (2001) details how the availability of anonymity offered to potential stalkers through Internet resources may create an influx in the numbers of stalking cases. It is easier for an individual to hide behind a computer screen in order to harass another individual than it is to approach them physically, therefore, inhibiting the ability to prosecute because the intrusion is via cybertechniques. However, abusing the Internet for this purpose could potentially lead to physical confrontation and other forms of harassment. The findings collected in this document articulate the varying levels of Internet predators—those with more
experience and those with less. The more experienced cyberstalkers may use remailing devices
to cloak their identities with a falsified sending address, or ISP number, mailed out to many
different users, making any sort of bread-crumb trail impossible to navigate (U.S. Department of
Justice, 2001: p. 1). Also, with the advent of new technology and computer science comes the
ability to learn how to become an Internet phantom through system hacking. Hacking may allow
individuals to shield themselves by using another’s ISP address, as well as multiple levels of
security protections in order to conduct illegal behaviors online that remain unseen. Classes are
offered in universities in computer science programs called “Ethical Hacking.” Although there
may be some politically productive uses for hacking, this seemingly oxymoronic skill can
become detrimental to victims around the world if used in an abusive manner. Possessing
hacking knowledge can be dangerous if used in an abusive manner because it erodes boundaries
created by industries to protect their users’ privacy and the safety of their online forums or
marketplaces. Organizations online need these regulatory institutions for protection from
perceived threats like abusive hackers, so ethical hackers aid in security support. An abusive
Internet user with this skill set that decides to go rogue can be detrimental to systems meant for
protection. Furthermore, interstate support in stalking cases among law enforcement agencies in
different locations need to be more willing to assist one another in solving stalking crimes. Law
enforcement agencies in one state might have their hands tied in other matters, stalling the
progress of another state in helping a victim of cyberstalking. Different jurisdictions have passed
responsibility off on to different departments, while resisting getting involved with Internet-
related violence they see as time intensive and difficult to successfully solve. With a lack of

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6 Classes that offer professional certification to attempt to gain access to computer systems and networks. The same
methods hackers use are employed for the purpose of fixing security glitches. The University of Colorado at Boulder
offers CSCI 4830/7000 Ethical Hacking Seminar taught by Professor John Black.
physical contact, cyberstalking can be misperceived as benign in contrast to cases not involving electronic communication.

Prosecuting stalkers using electronic means has been complicated by existing legislation. For example, the Cable Communications Policy Act of 1984 has created new challenges in cyberstalking cases due to how it only allows Internet service providers to see customer identification information, while not being able to release it without notifying the customer first with a written subpoena. In practice, this act is meant to protect Internet uses. However, user information is not always protected. For example, the Patriot Act and the National Security Agency leaks revealed that customer information is frequently released without their knowledge, but this was only supposed to occur when a person is perceived as foreign and their information is “relevant to a counter-terror investigation” (Sensenbrenner, personal communication, August 8, 2013). The Cable Communications process has the potential to jeopardize a stalking case entirely by notifying the alleged perpetrator before the police even know who it is. The perpetrator can then fight it or find an alternate way out of the proposed charges. Social networking websites such as Facebook have undergone security changes in order to release user information to companies wishing to better market materials to specific audiences, while making people’s pictures, posts, interests, and “liked” materials easily available to others whom monitor newsfeeds (Goel, 2013: para. 11). A person’s safety is compromised in this case because it readily equips a potential stalker with a basic understanding of a person’s interests, group of friends, family members, location, phone numbers, and links to other sites or email addresses. Cyberstalking is understood as a broader symptom of how changing technologies are shifting public understandings of what is private and public, which poses new questions for Internet users about safety, intimacy, and a reasonable sense of privacy.
In a technological age, cybercrime is advancing at warp speed creating conflict for law enforcement agencies due to vague legislation defining crime in a way that creates difficulty in prosecuting offenders. Cyberstalking has become a pervasive problem. All that is needed to perpetrate the crime is a computer desktop and modem. The Internet offers a certain “veil of anonymity” that makes it easier for people to seek out personal information about others that they demonstrate a particular interest in. Some cyberstalkers may never face litigation because what they do online is not explicitly defined as illegal, therefore, escaping prosecution because of legal semantics not specifically stating cyberstalking as a crime through the use of electronic mediums (U.S. Department of Justice, 2001: p. 10). If there is a law citing electronic means as a mechanism to harass another individual, sometimes this only covers telephone communication (Beagle, 2011: pp. 3-4). Some federal measures have been taken by the U.S. Department of Justice to combat cyberstalking and other electronic crimes, but there is still much more work to be done at the statutory level. Some states have no legislation that expands the definition of physical stalking to include active pursuit of an individual through use of the Internet. Without comprehensive legislation, little can be done to support victims experiencing Internet harassment. Sometimes repetitive contact, if there is contact to the victim directly or indirectly, is more acute and warrants less police intervention because threats made are not explicit. Prosecution is trickier because police cannot pursue those who are manipulated into further harassment of a victim by the cyberstalker. Third-party individuals are enticed by cyberstalkers to help harass victims for whatever reason the cyberstalker constructs. These outside individuals may be in closer proximity to the victim than the cyberstalker and could potentially pursue the victimized individual based on falsified claims advertising explicit behaviors for those interested in receiving them. An example of this includes a 28-year old woman who was cyberstalked by a
former employer who solicited her rape online. Men began showing up at the woman’s door
telling her that they were there to rape her (U.S. Department of Justice, 2001: p.4). How courts of
law handle cases of cyberstalking is paramount in order to counteract the increasing rates of
electronic resources and technologies used to cloak criminal behavior. If stalking is becoming
easier to do electronically, laws must prevent against problematic Internet behavior before it
becomes as common an act as illegal downloading and copyright infringement.

**Differences Between Cyberstalking and Offline Stalking & State Approaches**

Naomi Goodno (2007: sec. 1) discusses how cyberstalking “differs from offline stalking
in five important ways. These five differences are crucial because they are the reasons why
traditional stalking statutes may fall short in addressing cyberstalking”. These differences
illustrate how they separate Internet forms of stalking violence, making it a distinct crime in and
of itself that requires amended legislation and specialized crime units to prosecute offenders
efficiently. Cyberstalkers are able to use the Internet as a way to disseminate hateful or
threatening messages about their victim in a high volume allowing many users to read or see
something at once. This can be done by sending email blasts or creation of personalized websites
in honor of the victim. Secondly, cyberstalkers can be anywhere in relation to their victims,
whereas, in physical stalking a stalker tends to be within the same vicinity as the person they
choose to harass and follow. The Internet provides cyberstalkers with a “veil of anonymity” that
allows perpetrators to remain discrete and be much harder to track down. Anonymity can
heighten psychological terror in the victim for this reason because faceless threats can be
directed from anybody. In cyberstalking cases, the perpetrator can take on the persona of the
victim themselves to invite “innocent” Internet users to partake in the harassment itself or
offering invitations for sexual assault while providing the victim’s physical address (Goodno, 2007: sec. I).

Legal statutes that deal with physical stalking have also been used to deal with cyberstalking. This is not the best course of action because the measures outlined in physical stalking differ from those evident within an electronic realm (Goodno, 2007: sec. I). Goodno sheds light on the kinds of behavior that are deemed criminal and how underdeveloped legislation could sway a stalking case in an unfavorable direction for victimized individuals. What courts look at are the objective elements of stalking crimes which involve standards that include mens rea and actus reas. Mens rea is a person’s criminal intent in committing a given crime and actus reas is a person’s “guilty mind” for a punishable act. The two terms are used in tandem to convict offenders.

Offline stalking, otherwise called physical stalking, generally involves three modes of conduct. These modes of conduct include visible proximity between the victim and the perpetrator, threats that are either written, verbal, or suggested by outward behavior, and behavior that would cause a “reasonable person” to fear for their personal safety causing distress, fear, and psychological turmoil. When considering cyber stalking, physical proximity is a useless standard because of the possibility of a cyberstalker living outside of the same state, or country, than their victim(s). Also, a “credible threat” may not be apparent in cyberstalking crimes due to the elusive nature of the crime. Cyberstalkers may go around the victim in order to harass them by involving other “innocent” parties. For example, Amy Boyer was murdered by a cyberstalker who never contacted her directly, but was monitoring her for two years prior to her death. Both Boyer and her family were unaware that she was being stalked until after she was dead and a police investigation was launched. Threats were never made to her directly and were compiled
on a webpage. Posts on the recreated website include comments like “I wish I could have killed her in High School, so easy,” (Youens, 2001, netcrimes.net). The comment from Boyer’s family on her memorial site reads, “If just one person, in the whole wide internet would have told us about this page, we would have had a very, merry Christmas” (Boyer family, 2001, netcrimes.net). This case was never litigated, however, “it would likely have been difficult for Boyer to establish that there was a credible threat because a threat was never sent directly to her” (Goodno, 2007: p. 16). Boyer’s case is reminiscent of Dylan Clebold and Eric Harris’s home videos posted online before shooting up Columbine High School on April 20th, 1999 because both web postings highlight suspicious intent and outward hatred towards innocent individuals, yet neither were monitored and brought under scrutiny until after atrocities were committed. The counter argument concerning over-monitoring of websites discuss personal freedom and violation of constitutional rights, which include either the First or Fourth amendments. Internet technology is changing every day, causing a shifting relationship of public and private domains and monitoring thereof. Legislators are grappling with constitutional barriers that impact formation and passing of new laws to protect individuals. Instead, the government has recommended safe practices, while urging industry members to work with law enforcement when needed (U.S. Department of Justice, 2001: pp. 12-13). Recommendations from the Department of Justice include not sharing personal information online in a public way, using usernames that are age and gender neutral, being cautious about meeting people from the Internet in person, making sure companies have policies prohibiting cyberharassment, and logging off or surfing elsewhere if situations online become hostile. Cyberstalking cases can be muddled by the

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7 Also said by Liam Youens on his website: “I planned to go to NHS for the mass murder but I found that I started crying and screaming. Should I wait until Christmas Eve to kill her instead of NHS?” and “The last dream I had Amy was pregnant, so I stab[b]ed the fetus through her, then cut her throat down to the bone, and broke her neck with my hand.”
“credible threat” standard because perpetrators may live abroad or outside of the victim’s home state. The burden of proof would make it next to impossible for the victim to build their case based on the fact that generally speaking, cyberstalking victims do not know the physical identities of potential offenders. Not to forget, most cyberstalking happens from afar—distances that make a perpetrator’s “apparent ability” to carry out a threat questionable.

Goodno suggests that the best way to litigate in cyberstalking cases is by using the reasonable person standard because it involves no physical proximity requirement. The Internet is boundless and separates both victim and perpetrator, transferring the relationship from the physical realm to a virtual one. Statutes that have a physical proximity requirement, or need a credible threat for prosecution are unrealistic for handling cyberstalkers. The best way to handle these cases is to transfer focus from what the perpetrator is doing to how the victim is being affected (Goodno, 2007: sec. II). Using this standard, a victim does not have to attempt to prove whether or not a perpetrator’s messages are a credible threat or whether or not they have the ability to execute given plans. Instead, these cases are based on an individual’s perception of their own safety and whether or not they are reasonable in fearing for their own livelihood. However, if “course of conduct” follows the aforementioned material it can prove cumbersome as it infers similar notions as those described in “credible threat” and ability standards. These standards mirror all other anti-stalking statutes without acknowledging the alternative courses stalking can take online rather than in person. The coercing of third party individuals to engage in Internet harassment is something entirely unique to cyberstalking in comparison to physical, or offline, stalking.

When third party individuals are conned into engaging in behavior they believe to be just based on falsified claims or situations in which the perpetrator takes on the persona of the victim
them selves, then their behavior is deemed “innocent” in most states. When Goodno’s article was originally published in 2007, only Ohio had incorporated laws preventing third-party Internet harassment, but since then, more states have added comprehensive cyberbullying statutes that can penalize third-party participants in online harassment (National Conference on State Legislatures Staff, 2010). Several categories are outlined regarding state laws in order to illuminate the gaps in legislation when it comes to cyberstalking as a criminal offense. The first category includes states that do not define stalking as a possibility with the use of electronic mediums, therefore, they cannot handle cyberstalking due to the necessity of physical pursuit in order to classify someone’s behavior as stalking. These states are the least equipped to handle the evolving nature of stalking in the modern era. Secondly, other states have simply inserted “electronic communications” into their definitions in order to handle cyberstalking. Some states have attempted to specifically outline different forms of electronic communications to encapsulate the different methods to stalk, which electronic devices offer. The language used may point out that messages must be sent to the victim personally, leaving out cases like Boyer’s in which no direct threat was ever made. Broader harassment standards might be able to handle circumstances with third parties, but few cases like this have been litigated and even if they were the offense arraignment would be for a misdemeanor instead of a felony offense (Goodno, 2007: sec. II). Those states that have drafted and implemented new statutes dealing directly with cyberstalking demonstrate the need to define this crime as a separate offense because it occurs in distinct ways that separate it from its relative: physical stalking. New categories of stalking offenses that deal directly with cyberstalking prove that legislation surrounding physical (in-person) stalking laws are unsatisfactory when dealing with online offenses. A lack of consensus amongst the fifty states in attempt to define and criminalize stalking behavior should be critiqued
and revised at the federal level, mandating implementation of more inclusive and far-reaching stalking laws that address new forms of the crime as technology, too, rapidly changes. If one state criminalizes the act of cyberstalking and another one does not, then prosecution could prove time intensive, while potentially falling apart without an adequate resolution.

**Federal Cyberstalking Intervention**

At the Federal level, three different laws have been implemented that help deal with cyberstalking crimes. The first includes the Interstate Communications Act, 18 U.S.C. § 875(c), which makes it illegal for any person to transmit offensive messages across state lines about another individual that threatens or harasses them, while implying suggestions of potential injury to another. This involves the use of beepers, the Internet, or email messages. Without a direct contact between the offender and victim this law would not be applicable. The Federal Telephone Harassment Statute, 47 U.S.C. § 223, makes it illegal for a person to contact another using telecommunication devices in order to “to annoy, abuse, threaten, or harass.” The law was expanded in 2006 in the Violence Against Women Act so that it could deal with other telecommunication devices and not basic telephones solely. The section in VAWA is called “Preventing Cyberstalking.” The statute can only work if the victim is contacted directly. Unfortunately, the sentencing is only two years if convicted, which doesn’t appropriately serve those affected by severe cases that should warrant up to five years or even life terms. Lastly, the Federal Interstate Stalking Punishment and Prevention Act, 18 U.S.C. § 2261A, requires punishment by law for any individual that travels across state lines in order to pursue a victim that they have contacted using any form of interstate commerce to place a person in a state of reasonable fear of death or personal injury. This Act was the first federally recognized law to

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8 Punitive and alternative responses to stalking will be discussed in Chapter V.
deal with the crime of stalking and was signed into law in 1996. Originally the law only dealt with physical stalking, but has been amended to include telecommunication devices. Goodno finds, “The statute does not squarely deal with situations where the cyberstalker pretends to be the victim and encourages third parties to innocently harass the victim, such as posting sexual invitations on a message board in the name of the victim to dupe third parties to respond” (Goodno, 2007: sec. IV). It is apparent that our work is not finished and that there are many loopholes in existing anti-stalking legislation that make cyberstalking crimes impervious to criminal prosecution.

Routinization/Normaliation of Cyberstalking in the Blogosphere

Disproportionate rates of threatened violence against women on the Internet suggest that the Internet is less safe for female-identified folk than it is for men. It seems that women who make a public comment about something men endorse, then they subject themselves to vile slander promoting assault as a way to “put them in their place” (Hess, 2014: para. 8). Granted, men are less likely than women to report online abuse. Men’s reticence in reporting is due to social discourses, which condition men to perform a certain type of masculinity that is capable to fend for its self in terms of aggression. Reporting becomes associated with the passive, or feminine, script—negating any perceived sense of manhood by resorting to external help from online moderators or law enforcement officials. Hess indicates “[that women] are more likely to report being stalked and harassed on the Internet—of the 3,787 people who reported harassing incidents from 2000 to 2012 to the volunteer organization Working to Halt Online Abuse, 72.5 percent were female” (Hess, 2014: para. 8). The statistic sheds light on how women’s harassment surpasses men’s by a substantial margin, while calling attention to the way the Internet has become a widely accepted medium for people to say abusive things to female strangers that
would not be acceptable in person. Using the statistic Hess provides above, women are most frequently the ones being harassed online according to self-reported incidents. This does not mean that only women are being harassed, but small margins of men choose to report their online incidents. However, how does hiding behind screen names somehow make spineless, suggestive threats okay? The short answer is that it doesn’t, but rights to freedom of speech protected by the First Amendment shield these virtual harassers from suffering any repercussions.

Based on findings by the U.S. Department of Justice (2001: pp. 2-3) women are twice as likely than men to be stalked in their lifetime, while men comprise 87% of stalkers reported by victims in the National Violence Against Women Survey. Non-traditional victims, including female stalkers and same-sex cyberstalking victims, have been reported far less than women being stalked by men. Refer back to Chapter I for information on social and institutional factors that cause lower reporting rates in these populations. A lack in statutory recognition of cybercrimes as serious should be required to change so that innocent persons can access the Internet and be freely able to claim a voice of their own. But like other spheres, masculine dominance is expected online, stratifying forms of public opinion where men’s voices are heard and women’s are undermined or shutdown, pushed into subservience and submission. Stemming from this, young women are more likely to experience cyberbullying than young boys, which is a byproduct of men’s control over women’s bodies and behavior (Hess, 2014: para. 8). A woman with an opinion is a perceived threat to masculine intellectual superiority. Men violently threaten women in order to keep them from speaking up, especially if a woman’s opinion undermines a male’s beliefs. Women also attack other women. Slut-shaming between women becomes a ploy of patriarchy in order to ensure the continuation of male/female hierarchies. When women focus
their energies on judging other women, they have less energy to channel into deconstructing the standing system and working together to claim an equal place beside men in what they can and cannot do (MacDonald, 2013: para. 5). An important distinction Hess makes is that Internet harassment does not only affect female bloggers and public figures such as columnists and reporters, but any woman young or old with an Internet connection.

When abusive behavior online is not prevented, then on an institutional level we are reaffirming oppressive conditions that further marginalize women as a class and prevent them from freely expressing themselves. Women are attempting to express themselves in ways that are not inappropriate or belittling, but valid and important, more valid than out-of-line violent threats aimed at silencing those who are not abusing the basic liberties of others. When women post on discussion boards they should not have to face rape threats and depictions of how their harassers would murder them. The University of Maryland conducted a study that created a number of fake accounts online that were then sent into chat rooms. The accounts with feminine sounding usernames obtained an average of 100 sexually suggestive or threatening messages per day, whereas, masculine usernames incurred about 3.7 messages of this nature (Hess, 2014: para. 8). The high volume of threats that women receive in contrast to men is telling of how women who attempt to claim a sense of authority in a given subject are harangued and publically chastised for taking on authoritative, outspoken, and powerful roles.

Unfortunately, when it comes to dealing with cases of cyberstalking that deal with sexism they are often dismissed because local law enforcement agencies do not want to spend their time and resources investigating cases that are deemed “less important” than physical matters within their own jurisdictions. The prolific amount of threats women receive have led commentators and law enforcement officials to deduce that the majority of these threats lack follow-through
and ability to execute the proposed crimes. Therefore, the abusive comments become “empty threats” worth shrugging off and moving on from. Others, as Hess includes, see these “toothless” statements as all bark and no bite, for the sake of keeping with the idiom. Instead, women writers have been recommended to “keep quiet or respond ‘gleefully’” (Hess, 2014: para. 11). Female victims choosing to bow out in order to counter Internet violence with “celebration,” knowing that these comments are directed at (some) women with an elevated social standing, is supposed to be a jab at the abrasive commenter who underestimates women and how far they have come. However, the approach of turning the other cheek does not combat the problem at all. Instead, women merely choose not to engage their Internet harassers or let them affect their emotional wellbeing. Not all women have achieved glorified positions as well-known bloggers. There is little to celebrate when threatened violence may seem very real and aimed at victims personally, rather than their achieved socio-economic or socio-cultural standings. Obtainment of privileged positions in society in terms of public opinion, such as well-known bloggers or social commentators, inherently evoke backlash, but this suggestion to ignore the comments overlooks those who have not achieved this same standing and are merely posting opinions online to voice their own thoughts in public forums. The violence can have a different effect on less established writers because they may not be used to dealing with hateful slurs attacking their postings. It is a classist and privileged assumption that everyone who receives threats like these have the ability to overlook them and carry on as though nothing happened. Hegemonic masculinity would want affected women to act in this manner in order to maintain its cycle of oppression. Male-dominated fields that are supposed to remedy these situations are not, perhaps because men are not the ones enduring the psychological harm that violent web-based comments can produce in their victims. In 2012 the Bureau of Labor Statistics reported 22.5 percent of women are
computer programmers and only 19.7 percent are software developers in the United States (Hess, 2014: para. 35). Those that are responsible for creating improved Internet conditions for women on websites are the men who create them. Men’s lack of experience in dealing with Internet harassment makes altering website rules and regulations less of a priority.

Cyberstalking resources put forth for public use can be interpreted as a form of victim blaming because of how they suggest individuals assume responsibility to keep themselves safe, rather than warning others from engaging in the behavior. Individual responsibility in ensuring one’s safety online calls upon similar campaigns for rape prevention, which necessitate self-defense as a means to ward off unwanted sexual advances by assailants (Marcus, 1992: p. 438). The reactionary method is not proactive in helping to reduce the prevalence of the crime. If offenders were penalized more frequently, then it would have a deterrent effect on the number of offenses. People would begin to recognize fault in posting offensive material online because there would be repercussions. Turning our backs on cyberstalking helps to condone it, despite its recognition as a psychologically harmful activity for those experiencing it and the detrimental effect it has on society for its perpetuation of rape culture and violence against women.

Organizations that allow this activity to take place within chat rooms and discussion boards need to take action so that all users feel safe and welcome to participate in them. Facebook, for example, has implemented new policies surrounding user privacy so that people’s personal information is not compromised and used against them by abusive users. User information is however fair game for law enforcement officers pursuing a case with a subpoena. With the implementation of new drop-down options that appear next to anything a user decides to post, users are given the option to decide who is able to view that particular comment, picture, piece of media, etc. Riva Richmond (2009) discusses how this change is significant for Internet
safety and young users who may have been naive regarding their options to protect their information from unknown viewers. A total of 1.3 billion regular monthly users means it is very easy for the world to gain access to information about an individual’s daily occurrences, addresses based on “check-ins,” cell-phone numbers, family members, photos, occupational history, academic history, and basic interests listed in the “about” sections of account pages. Unless, of course, privacy settings are active to limit who is able to view such information. The expansive age range that actively uses Facebook can create a predatory environment in which children become targets for users who abuse their Internet privileges. For younger generations who have become increasingly technologically savvy, it is paramount to educate them so they become aware of appropriate Internet etiquette surrounding what should and should not be posted online. Parents should monitor their children’s Internet activity if they are under the age of 18 because young people can be more vulnerable for not having as much experience outside of social networking sites and basic email. Privacy settings have made “one thing [seem] clear: Facebook’s message and cleaned up interface will probably lead many people who have heretofore thought little about privacy on Facebook — or on the Internet, for that matter — to make more active decisions about what they share and with whom” (Richmond, 2009: para. 2). In an updated article on Facebook security, Richmond (2011) discusses how Facebook overstates the degree to which these privacy measures function, looking at targeted advertising specifically and how the Facebook corporation collects user information based on their Internet activity outside of using Facebook. On a different note, Cameron Marlow (2009) analyzes user networks and points out that people’s perceived core networks of friends are actually much larger than they may think. Activity on Facebook can be far-reaching. When friends interact with friends via
their individual pages or comments, then other individuals can see this information passively by scrolling through their newsfeeds.

**Advertising or Cyberstalking?**

The Internet has undergone rapid changes in terms of targeted online advertising and the rise of new viruses like Spyware. These devices allow marketing teams for businesses and Internet hackers to follow user keystrokes to unveil Internet activity and make user information more available. Targeted online advertising, which tracks and monitors users’ online behavior has become a very lucrative mechanism of capitalism. Using simple search engines, companies buy advertising space marketed towards specific IP addresses who then broadcast products aimed towards the viewing party based on their Internet history (Gee, 2011: p.1). Wesley Gee (2011) points out how in the 2000s the Federal Trade Commission [FTC] began to alter its regulations with regard to unlimited dissemination of user information. Two approaches were used to do so. The policies of “Fair Information Practice Principles” require companies to notify users what information is being collected allowing them to opt in or out—giving users a sense of agency in this choice-based approach. However, the second method is referred to as the “Harm-based Approach,” which “targeted practices that caused or were likely to cause physical or economic harm, or ‘unwarranted intrusions in consumers’ daily lives’” (Gee, 2011: pp. 9-11). Reporting a study’s estimated loss of 2.8 billion dollars online due to user privacy concerns, the FTC has created a bipartisan caucus in Congress that is pushing bills for increased online privacy, which will hopefully ensure the continued growth of Internet commerce (FTC, 2000: p. 3). The commission was able to leverage cases against companies who distributed user information and made it available to hackers responsible for viruses like Spyware. Advocacy
groups have educated the public, creating social concern about who is able to view what is done online on individual desktops. Previous measures imposed by the FTC have been seen as inadequate because most email services provide SPAM filters for illegally sent mass emails. Other measures have been struck down out of fear of the harm they will do to the advertising industry. Commissioner J. Thomas Rosch has called proposed legislation flawed, stating that a majority of Internet users have no problem with their information being shared with advertisers. Two acts\(^9\) have been proposed that have not passed, which attempt to ensure user protection. Despite public concern, fierce debate concerning keeping the Internet free and consumerism thriving has stalled FTC efforts. The two proposed measures awaiting authorization would allow for opt-out mechanisms, but these tools would be difficult to develop. Advertisers would be forced to interrupt user Internet activity with ads, versus displaying relevant marketing materials toward the side of webpages able to be used for informed consumer-based purchase decisions (Gee, 2011: pp. 18-19). Gee mentions how “Copious amounts of personal data are constantly being bought and sold, usually with little consumer control or knowledge,” highlighting a need for transparency in case these public “services” go awry and information leaks into the wrong hands (Gee, 2011: p. 25). Targeted, behavioral based advertising and the Spyware virus have

\(^{9}\) See Do Not Track Me Online Act, H.R. 654, 112th Cong. (2011). Sen. John D. Rockefeller introduced a similar bill in May 2011. See Do-Not-Track Online Act of 2011, S. 913, 112th Cong. (2011). Owing to the fact that both bills instruct the FTC to develop requirements for a Do Not Track mechanism, and Sen. Rockefeller's bill is even less comprehensive than Rep. Speier's bill, only the latter is discussed in this comment. (Gee, 2011)

enabled an institutional form of stalking as user information is forfeited with effects that can be detrimental because of how they invite strangers into the virtual lives of unaware Americans. These forms of surveillance can be understood as variations of cyberstalking based on how they can threaten users’ wallets and persist for extended periods of time without being noticed, potentially adding a degree of normalcy to Internet harassment.

**Conclusion**

The Internet has complicated stalking in many ways by creating new challenges for law enforcement. Existing legislation in many states is vague and unable to prosecute offenders for cyberstalking crimes. Federal legislation has been passed in order to help set a precedent for states lagging behind in amending their legislation, while also acknowledging cyberstalking as a growing threat for current legal structures. However, the Interstate Stalking Law and Telephone Communication Act are unable to reach many cyberstalkers because of understandings of what constitutes a credible threat and whether or not a stalker has been explicit in their intent towards their victim. Therefore, states must be able to respond effectively, yet they do not have the means to do so, or do not want to because they find cybercrimes to be an exhaustive use of time and resources, which could be better put to use in the physical world. Suggested safety tips are problematic because they enforce victim-blaming standards, rather than going after the Internet criminals instead. Many tools provided through free services online allow users to shield their identities, complicating prosecution. Instead of being a freely accessible resource for all, women have been disproportionately targeted for harassment. With Congress thwarting efforts for increased user safety based on how it will effect the Internet marketplace, change will not occur as soon as is necessary. Social media feeds people’s desire to document the everyday minutiae of their lives, which feeds into cyberstalkers’ ability to obtain information and use it for the purpose
of harassing another. Law enforcement faces difficulty in prosecuting individuals because of the willingness of Internet users to broadcast otherwise personal information with little regard for the potential repercussions.

**Chapter III: Media Representations and Public Perceptions of Stalking**

The media is a powerful tool and has the capability to influence public perceptions surrounding pertinent social issues. In regards to stalking, different representations have been put forth for public consumption jading understandings of the crime. The crime is presented either as an impossible form of violence, a colloquial joke, or a more representative depiction including various accounts and outcomes in two reality series all about the topic. There is an emphasis on using “victim” terminology in the reality series discussed, rather than using “survivor” to describe the featured individuals. Only the featured persons refer to themselves as survivors. The narrator and specialists routinely refer to the stalked individuals as victims. Most literature on stalking uses “victim” instead of “survivor,” which is why I employ the use of this label. A lot of stigma is associated with being a victim because of its connotations, which reflect a person being trapped in a role ascribed to them because of circumstances out of their control. Survivor, then, becomes a more useful term because it illuminates an escape from victimhood as recovery from trauma allows an affected individual to begin to live again, leaving what has previously happened behind them. Michael Zona (personal communication, March 24, 2014) discusses how intervention in stalking cases teaches victims how to stop being victims. The term victim is used throughout as a means to refer to individuals who are being victimized in the period that it is occurring.
Stalking in Film

Classic media representations of stalking include the 1992 and 1987 films *Single White Female* and *Fatal Attraction*, which are done in a manner that evoke terror and a sense of disbelief in the possibility for these kinds of aggression. The female villains in both of these examples become femme fatales who stop at nothing to achieve a particular end—complete control over their victims. The femme fatale trope involves female characters that are villainous and use their seductive feminine charms to lure heroes away from making moral decisions to achieve a particular selfish end. In both movies, the violent obsessions performed by actresses Jennifer Jason Leigh and Glenn Close demonstrate highly sexualized and gendered murder, embodying how “hell hath no fury like a woman scorned.” The movies do a good job of demonstrating stalking behavioral characteristics, as well as shedding light on how this criminal activity is elusive in nature because of the forged relationships stalkers typically have with their victims before anything negative happens to them. However, these movies glorify violence instigated by women irrespective of statistical data showing that men are more frequently the assailants. Therein, the violence represented in these films work to shift public understandings of stalking as women become the feared individuals capable of violent, life-altering destruction. The female assailants’ use of violence becomes an effect of gender norms requiring women to be docile. A zero-sum, oppositional logic is depicted as the female stalkers represent aggressive and devouring characters that are not docile, traditional forms of femininity. This construction is negative because the stalker-women become emblematic of the femme fatale trope (Nicol, McNulty, Pulham, 2010: p. 6). The innocent heterosexual female roommate in *Single White Female* and the happily married father in *Fatal Attraction* become the targets of crazed women seeking to disrupt normative social order. During the 1980s, social backlash towards feminism
imbued scorn towards the independent woman straying from cultural norms to build a life for herself outside of the limited heteronormative frameworks created to bind women to roles within family homes (Gladstone, 2001: para. 37). Also, a moral panic surrounding HIV/AIDS and the potential for infection created uneasiness toward promiscuous sex outside of marriage and homosexuality (Nicol, 2006: p. 46). The obsessive roommate who becomes too involved in her roommate’s personal life chooses to kill the men who interfere in her female-on-female relationship, highlighting an underlying fear of homosexuality. Bridget Fonda’s character, Allison Jones, however, is innocent because she maintains a heterosexual relationship and is not coded as the queer, obsessed ‘other’ like Hedy Carlson. Jennifer Jason Leigh, who plays Hedy, becomes the catastrophic force that decimates the social order. Glenn Close, playing Alex Forrest in Fatal Attraction, is the evil other woman who stops at nothing to destroy the family and marriage of a man she has a one night stand, turned multiple sexual encounters, with as a means to reconcile her “if I can’t have you, no one can” complex (Nicol, 2006: pp.46-47). These two psychological thrillers are the most well known examples of stalking in film. The films were released during the period that stalking legislation was being drafted nationally. Other films have been based on Single White Female and Fatal Attraction a decade later (e.g. The Roommate, Obsession).

In Fatal Attraction, Alex Forrest, played by Glenn Close, pursues Dan Gallagher, played by Michael Douglas, because he is a well-to-do man who has built a successful life for him self and comes across as sexually attracted to his future stalker. When the “business lunch” turns into a weekend of pleasure while Dan’s wife is away, Alex Forrest becomes overly attached to the idea of being with Dan for the long haul. Even though Dan brings up that he is a happily married man, the two end up engaging intimately with one another. All the while, Dan’s character is
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painted as an innocent man acting on his naturally licentious inclinations without acknowledging the jeopardy he is putting his family in. A sexual double standard is evident here, seeing how Alex becomes the she-devil attempting to ruin things for Dan who becomes her prey. The behavioral characteristics Alex exhibits throughout the film revolve around psychological manipulation, threatening the well being of the child and family pet, as well as physical aggression with the intent to kill. Alex threatens the foundation of the idealized nuclear family bringing up social anxieties surrounding the independent, goal-oriented woman—even if those goals include criminal activities. As Alex Forrest weasels her way into Dan’s life his familial sanctity begins to dissolve. Nicol observes,

*Fatal Attraction* affirmed Everystalker as a single woman, one with a voracious appetite not only for professional success but for sexual pleasure... She was a danger to everyone: most obviously men, who had to be careful whom they allowed to seduce them, but also to women, for she was out to get their partners and shatter their domestic bliss. (Nicol 2006: p. 52)

Nicol acknowledges the sweeping generalization the film creates by including a deadly seductress out to take what she wants, stopping at nothing until she is successful in ruining a marriage and obtaining Dan as her own. A non-representative snapshot of stalking becomes an iconic film that viewers have internalized as a version of stalking violence. Much is wrong with this perception though because it is crucial that we as viewers deconstruct Alex Forrest’s character because of the ways in which she perpetuates stereotypes surrounding femininity. Suddenly, “Everystalker” becomes a deranged woman on a mission to tear apart normalized institutions like marriage and the patriarchal order of the “good wife” at home with the children. Dan Gallagher’s unfaithful behavior engages with this portrait by presenting viewers with a cautionary tale regarding the potential dangers of overly indulgent sexual behavior. Men are assumed to be more sexual than women (Kelly, Bazzini, 2001: pp.785-786), so Dan’s sexual
mishap does not paint him in a negative light because it is expected that men will stray from their wives when spontaneous arousal overcomes them. Women with voracious sexual appetites become sluts, or home-wreckers, whom are unable to embody respectable femininity. Nicol (2006) goes on to describe how Alex Forrest’s role as “bogeywoman” strays from statistical data proving this violence as the result of a failed relationship because of domestic violence\textsuperscript{10}.

*Single White Female* puts forward another form of violence enacted by a female character. Only this time, the violence occurs between two women who become roommates. What’s striking about this film is its reinforcement of heterosexist ideals as the stalker becomes coded as the queer villain plotting to undermine heterosexual intimacies by murdering the male figures that come in between her and her obsession—the roommate. Like *Fatal Attraction*, Hedra Carlson, otherwise referred to as Hedy and played by Jennifer Jason Leigh, represents a sort of femme fatale trope who prefers to exist outside of normative family structures and heterosexual arrangements. This is described by her precarious history in which she used to have a twin sister that mysteriously died. The film uses the twin sister to imply that lesbianism is pathological, rather than a repudiation of men. Hedy’s lost twin sister creates a void that she attempts to fill by copying her roommate’s outward appearance. Her desires can then be mirrored back in a pathologically similar form. In the absence of her former twin, Hedy is forced to construct a new one. Lesbianism is transformed into a form of narcissism, with underlying tones of incest, which are compiled into one evil character viewers can discern as corrupt and unacceptable in society. Also, there are various instances of Hedy blaming Allison Jones, played by Bridget Fonda, of coming home too late and not notifying her about where she has been as though she belonged to her intimately. Hedy reinforces and blurs gender stereotypes of femininity and masculinity by

\textsuperscript{10} See *Sleeping with the Enemy* for a better snapshot.
demonstrating jealousy and possessiveness. Women are stereotyped as being more jealous than men, but by taking on a possessive role, Hedy demonstrates how lesbian women blur gender norms by taking on masculine character traits. She laments Allison as the wayward partner and polices her behavior outside of the home.

All seems to be going well for Hedy and Allison’s relationship as long as a man is not a part of the equation. Turmoil between Allison and her boyfriend (soon-to-be fiancé) invites kinder behavior in Hedy toward Allison, creating hope that their relationship will now be able to grow. As soon as things pick back up again between Allison and Sam, actor Steven Weber, Hedy begins to lose it. The collateral damage: a puppy dropped off the balcony to its death, Allison’s neighbor from upstairs who is murdered because he knows too much about Hedy’s peculiar behavior, and Allison’s fiancé who is stabbed to death with Hedy’s stilleto after she rapes him in the guise of Allison—hairdo, clothing, and all. What this film highlights is the social anxiety surrounding otherness and a person’s ability to conceal their true identity by performing a role as somebody else. Hedra Carlson is an enigma, changing her performativite strategies to remain under the radar and not signal her existence as an outsider. Wearing a normative guise and presenting as a heterosexual woman taking care of her female roommate allows Hedra to have a relationship with a woman she would not be able to outside of living together. If Hedra met Allison under different circumstances in which she presented herself in a less feminine way, then Allison might not have taken her in. The search for a “single white female” becomes a tip for Hedra’s new, ever-changing identity. Gender is malleable and if a person can successfully present their self in order to pass, then their motives go unquestioned. Someone that may appear like an ordinary citizen could actually be a nightmare incognito. Hedra not only wants to be around Allison exclusively, but she actually wants to mirror her exactly in outward appearance
creating the twin she robbed herself of earlier in life. The relationship can be read as sexual due to Hedra’s keeping tabs on Allison’s whereabouts, the buying of a puppy as a gift, and the manipulation of internal affairs within the home—“wearing the pants,” if you will, and protecting her love object from male deceit. Allison’s character becomes a virginal or pure adaptation of womanhood for consistently involving herself with her boyfriend. Meanwhile, Hedy’s lack of authentic masculinity is viewed as a transgression of social norms, resulting in her demonization and rejection from the inner circle. Hedra symbolically represents social transgression for being a female who is a composite of masculine and feminine traits—unable to ever be truly feminine. In turn, Allison’s character becomes an idealized representation of femininity for resisting Hedra’s advances and fighting to save the men around her, therein, maintaining patriarchal scripts of femininity.

The aforementioned films incite misconceptions amongst the general public regarding stalking as a crime. Stalking becomes an obscure crime that occurs in the lives of those that willingly invite it in. The highly exaggerated criminal psychoses revealed in Alex Forrest and Hedra Carlson as female characters scorned by their objects of obsession reveal Hollywood’s need to market and further objectify women to appeal to a wider audience. Both of these characters become symbolic figures of what a woman shouldn’t be and those that do not coalesce with traditional femininity. The two are a threat to social constructions of “true” femininity and expand traditional notions of objectification that emphasize normative beauty models. The stalking violence becomes glorified in an abstract way that makes it appear impossible and entirely fictitious. Based on socio-cultural understandings of the threat of violence, women are understood as less dangerous and unable to cause as much harm as a man. People can walk away from having viewed these films expressing disbelief in the possibility of women’s damaging
potential. I, however, think that representing women in these roles rather than men can be positive for altering social conceptions of stalking and reimagining it in a non-traditional way.

**Stalking TV Docudramas**

A more accurate representation of stalking includes the series *Stalked: Someone’s Watching* on Investigation Discovery (2011-2013). This three season reality-TV series features an array of true stalking stories told by the victims themselves. What is most compelling about this series is that each of the stories not only features the victims’ perspectives, but also legal perspectives told by the arresting officers, as well as an outside perspective and narration done by criminal psychologist, Dr. Michelle Ward. The multiple vantage points create nuanced views into the crime of stalking and were the initial inspiration to create this research project. The show highlights cases from states all around the country and the varying statutory protections put in place as a means to help victims of this crime. The episodes called “Neighborhood Watch” and “Kiss of Death” bring up issues explored in Chapter I on the gendered dimensions of stalking. These episodes acknowledge discursive framings of stalking that inhibit appropriate legal response. Public understandings of violence are reflected looking at differences in the way violence is understood when perpetrated by men versus women.

In “Neighborhood Watch,” two neighborhood women who live next door to one another become wrapped up in a legal debacle that results in an unfair and skewed outcome. The perpetrator, Jane Rogers, becomes obsessed with her neighbor, Mary Walker, and begins to take on the same dress and physical persona of the defendant, mirroring her clothing, make-up, and hairstyle. Rogers’ behavior is reminiscent of how Hedra acts in *Single White Female* (1992). Jane Rogers begins to show up at all of the same public venues as Mary Walker and has started lurking around the Walker household. As the behavior becomes increasingly troublesome for
Mary, she goes to report the neighbor to the authorities who dismiss the issue as a problem between two neighborhood women who cannot seem to get along and are merely in a catfight with each other. Walker describes how she believes authorities viewed her case stating, “These are two bitchy neighborhood women in a suburb just trying to establish turf. That’s the way people are looking at this” (Investigation Discovery, 2011). No remedy comes from the authorities and judicial decision. Next, Rogers reports Walker to the authorities for neglecting her eight-year-old son. This rouses the suspicion of authorities as Rogers deflects accusations of stalking by turning the tables on Walker who originally pursued building a case against Rogers in the stalking scenario. Later, the women meet again in court after Rogers attempts to prosecute the victim for almost hitting her and her child while driving in her car. Rogers brainwashes her child to testify against Walker. In the end, Walker is found not guilty and is released. The stalking and framing crimes go unpunished and Walker and her family are forced to uproot and move to a different city to avoid future contact from Rogers. The legal mix-up here sheds light on the discrepancies of the existing criminal justice system, which can allow for false reporting as long as complaints appear as though they are being made by a reasonable person with evidence and/or witnesses. False complaints can function as a form of harassment that adds up to stalking, but depending on investigators’ attention to detail, the falsified information may not be acknowledged and charged accordingly. The two women involved are overlooked because their situation is deemed less severe and worthy of police attention and intervention. The dismissal of Rogers’ copying behavior as simple competition and imitation between two women reflects women’s pursuit of an idealized form of femininity. Susan Bordo (1993) argues that women’s pursuit of an ever-changing, homogenizing, elusive ideal of femininity—a pursuit without a terminus, requiring that women constantly attend to minute and often whimsical changes in fashion—female bodies become docile bodies—bodies whose
forces and energies are habituated to external regulation, subjection, transformation, “improvement.” (pp. 460-461)

Changing appearance regularly is a common practice for women, which explains why male police officers do not recognize Rogers’ behavior as strange. Trends circulate on a regular basis, leading women to keep up with other women around them. Bordo explains how “female bodies become docile bodies” because of external, manipulative forces, which govern the ways women are expected to present themselves. Men are not held to these same beauty standards. Therefore, Rogers copying Walker doesn’t seem abnormal. It is merely two neighborhood women trying to outdo one another as they maintain their femininity and roles as suburban housewives.

In the “Kiss of Death” episode from the Stalked docudrama series (2012) a male limousine driver in Las Vegas, Nevada named Lee Redmond meets a stripper, named Nicole Thornton while working. Thornton becomes obsessed with the married man after he offers her a ride home from work. The obsession grows worse as Thornton begins to claim she is in love with Redmond. She begins calling him incessantly and leaving letters and strange gifts outside of his home. Trouble occurs between Redmond and his wife as his marriage is tested and Thornton gets closer to obtaining him as her prize. When Redmond pursues a protection order from law enforcement, he is laughed out of the office and dismissed for not being man enough to handle his own problems, especially because they involve a scuffle between him and another woman. Gender norms suggest that men should be able to protect themselves and be the ones in positions of power (Kimmel, 2008: p. 218). When stalking behaviors escalate, Redmond takes it upon himself to go over to Thornton’s house to negotiate with her and get her to leave him and his family alone. Redmond confronts Thornton on two occasions. The first time she threatens him with a gun but doesn’t use it. Shortly after, Redmond’s limousine he drives for work is vandalized, leading him to confront her a second time because he has lost faith in the police
helping him solve his problem. Their interaction ends more dramatically this go around. When entering the perpetrator's home the second time she pulls the trigger. Redmond dies in the driveway. Later, the police arrive after a frightened neighbor calls the authorities. When the police locate the aggressor, she is face down in her apartment after turning the gun on herself.

Police intervention in stalking cases can be jaded by understandings of gendered norms and hegemonic practices. The police should have stepped in regardless of the gender of the victims and perpetrators. Instead, tragic endings occurred that could have been circumvented with appropriate early response. The two prior cases examined reflect more non traditional forms of stalking, but are presumed to be pervasive, because they do not entail stalking perpetrated by an intimate partner, which make up the bulk of reported stalking crimes in the country. However, the cases illuminate how law enforcement has failed victims in making them feel protected based on problematic framings of gender norms and dichotomous social expectations. The victims and perpetrators depicted in the two episodes analyzed do not fit the profiles of the ideal victim and perpetrator. Walker and Rogers appear to be two neighborhood women experiencing a minor misunderstanding. Redmond is a man dealing with threats from a woman, leading male police officers to suggest that he “man-up” and deal with the issue himself. The cases appear less threatening because they are non-traditional and do not involve a male assailant going after a female.

*Stalked: Someone’s Watching* offers the perfect combination of narrative, professional explanation, and dramatization in order to educate viewers of the multifaceted crime that is stalking. The cases range from average citizens to high-profile cases such as the Madonna stalker, revealing how stalking does not only affect celebrities, but people involved in failed relationships, acquaintances, and total strangers—some resulting in fatalities, but not all. The
various stories portray how difficult stalking cases can be to prosecute due to the ways in which the crime mirrors courtship and typically occurs between two parties who have had some sort of relationship prior to the incident. Victims and perpetrators usually have a history and have dated or interacted before. This complicates stalking cases because prosecutors urge victims to cease all contact, which is not so easy for some. Emotions can be easily manipulated as communications with stalkers can go between one extreme and the other, such as “I love you” to “I’m going to take you down.” Dunn explains how unwanted romantic attention so closely mimics the persistence associated with ‘normal’ male courtship, it is sometimes difficult for women to trust their own emotions when they are confused by a romantic ideology… It is also hard for women to set boundaries… when the source of coercion and confusion is someone they once loved—in part because women are taught to be the caretakers of the emotions of men. (Dunn, 2002: pp.143-144)

Recently, Stalked: Someone’s Watching has been replaced with a new series called Obsession: Dark Desires. The new series differs from the original series because it is more intense and scary, featuring more gruesome examples of the crime. The show explores some of the pathological dimensions that are prevalent in obsessive behavior, creating more of a spectacle. While obsession is a basic element to stalking, the Obsession TV series attempts to look more closely at individualized pathologies, displacing attention from how stalking has been constructed as a crime committed for purpose of power. I believe that the production choice to emphasize the inner workings of the criminal mind through dramatization solely was made in order to increase viewer ratings and lend itself more to cultural addiction to the horror and thriller genres. Spitzberg and Cadiz reflect on crimes selected for broadcast news reporting, explaining, “Given the entrepreneurial and competitive nature of news organizations, it is little surprise, therefore, that the media philosophy has come to be summarized pithily as: ‘If it bleeds, it leads’” (Spitzberg & Cadiz, 2002: para. 4). In this quote, the authors point out how news
stations tend to include stories that are more heinous in order to attract viewers and increase their numbers. By sensationalizing certain kinds of violence, news corporations believe they are contributing to public safety. This perceived increase in public safety is thought to be the byproduct of exposing communities to what is occurring around them—not too far from home. When in actuality, the threat of mass shootings, homicide, or other kinds of potentially fatal violence is relatively low in comparison to the bulk of crimes that actually occur on an everyday basis. News coverage of severe crimes can last for weeks, helping turn criminals into celebrities.

In the pilot episode of *Obsession: Dark Desires*, Sarah Pisan reveals the grim tale of being stalked by a serial killer on the run. Sarah moves to Las Vegas, Nevada with her three daughters in order to build a life for her family. Sarah finds a job at a gas station where she meets a co-worker and friend named Cheri. Cheri and Sarah hit it off and become really close. When chatting at work, Cheri mentions that she has been seeing a man named Andrew Ireland, whom she describes as a loner who doesn’t deal too well with people. At the end of her shift, Andrew picks up Cheri while Sarah sits at the counter and cash register inside of the convenient store. Andrew gets out of the car and spends an unusual amount of time standing outside of his car staring through the store window at Sarah, making her “feel like [she] was a piece of meat.” The next time Sarah sees Cheri at work she confesses that she is upset because her boyfriend told her that he is married, leading her to go and talk to him in order to break things off and move on. It is the last time the two see each other.

Police find Cheri’s car abandoned and her purse left behind, sparking suspicion regarding her whereabouts. Months go by and during this time Sarah begins to receive abnormal beeper messages. The dramatization depicts Sarah getting out of the shower to listen to a message when she hears “You look good in a towel.” The messages escalate daily as the faceless phantom
recites what he plans on doing to her as soon as he is able to get a hold of her, stating, “I’m gonna tie you up, then cut you up,” or “tie you, rape you, kill you.” All the while, the man is masturbating as he says these things. Sarah even hears the sounds of a woman screaming and crying. She does not alert authorities because during the early 1980s there was no anti-stalking legislation that existed nationally and was unsure what the authorities would be able to do in order to help her. At work, a man named Robert frequents the store just to talk to Sarah, consistently asking her out on dates. After many instances of turning Robert down, she succumbs to his pressure and agrees to go out with him. Eerily, he calls her within 15 minutes of leaving and tells her “[he] has been looking forward to this day for a very, very long time.” His stating this becomes a red flag and she decides to stand him up on their planned date. The police turn up and let Sarah know that she is in grave danger. The police officers show Sarah a mugshot book of a man known as Stephen Morin who murdered a total of 44 women and 7 men before being caught and lethally injected in Texas. As the pilot episode for this new series, the creators start things off with a bang, beginning with a case dealing with a serial murderer to get viewers hooked and interested in future episodes. An episode dealing with a more common stalking anecdote would not be as compelling.

One of the main differences about Obsession: Dark Desires is that there is only the victim’s perspective that narrates the show. No outside perspectives by a criminal psychologist or police officers working on the cases described are featured. Perhaps this omission is meant to make the stories appear more gritty, emotional, and real to create a heightened sense of paranoia and fear while watching. By leaving out critical legal perspectives from practicing professionals, the show empowers its emotional impact on viewers. Distancing viewers from the reality of law evokes suspense and increased feelings of fear toward the outside world, while also obscuring
resources that exist to help those involved in stalking situations. In comparison to the original series, *Obsession* is lacking critical components that shape viewer understandings in a productive way involving the different dimensions of stalking—not only analyzing the victims point-of-view, but the internal psychology of the stalker themselves, and the police officers who either made the initial arrest or assisted the victims in times of need. This approach drives ratings because it is less rooted in legal theory and is more filmic possessing increased Hollywood flair.

Stalking is individualized for the perpetrator, zooming in on the particular aspects of victims that fuel obsessive behavior. The “Paging Sarah” episode points out how the stalker seeks single, workingwomen that he can interact with on a regular basis by acting as a romantically-inclined customer. Approaching women at work makes being rude or uninviting practically impossible for the sake of maintaining customer service and preserving one’s means for subsistence.

**Stalking as a Colloquial Joke**

Stalking has become trivialized amongst younger generations in everyday speech with one another. To say one is “stalking” another turns stalking into a colloquial joke in order to describe instances of checking up on someone’s life online or coincidentally showing up at the same place at the same time. For example, teens will tell their friends that they were Facebook stalking an old friend or ex in order to see what they’ve been up to since the last time they have been together. With limited privacy online, electronic mediums make it much easier for people to learn personal information about other people—whether that includes good intentions or malicious ones. Social media has normalized behaviors that would trigger concern if they were enacted in face-to-face social circumstances. Popular use of stalking euphemisms makes stalking seem innocuous, removing malicious intent from how it is perceived by the public. Many TV
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series in popular culture script similar lines that reference stalking as a joke. These shows include Fox’s *Glee*, HBO’s original series *Girls*, and MTV’s *The Hook Up* just to name a few.

In season 4 of *Glee* (2013), Starchild, played by Adam Lambert, turns up at Kurt’s work in order to ask him about joining the cover band he has organized. Starchild states, “Hence my stalking you,” revealing that he has searched for Kurt in order to catch up with him even though he has no bad intentions and is not actually obsessed with him. Suddenly a single instance becomes defined as “stalking,” transforming the crime into an average interaction with no implications of wrongdoing.

In *Girls* (2013), Hannah dials 911 after her ex-boyfriend, Adam, lets himself into her apartment. When the police show up, Adam asks Hannah if she called to report a disturbance. Hannah begins to tell him that she didn’t make the call when the police read off the telephone number that belongs to her. At this, Adam and her begin to argue about filing potential restraining orders against one another. Personal protection orders become passive threats to keep one another away and to actually breakup since Adam is not taking Hannah’s request seriously.

Legal mechanisms can themselves facilitate the belittling of stalking, as is seen in the example of *Stalked: Someone’s Watching* where Rogers uses law enforcement as a mode of further harassment. The *Girls* episode reveals that neither of the characters is actually in harms way and that a PPO is completely unnecessary. The relationship is dysfunctional, but the two love one another as much as neither of them wants to admit it.

Another example includes an episode of MTV’s reality series *The Hook Up* (2013) where men pick prospective dates based on superficial attributes, interests, and activity on social media sites that are presented to the male after simple searches online tagging the female individuals in embarrassing footage or conversation with friends. In one episode, the host brings up stalking in
a joking manner, stating, “Stalker? Nothing wrong with that. Sometimes you girls need to know that we’re really into you and sometimes we do that by hiding out in a bush” (MTV 2013). Here, stalking becomes a normalized activity among men who take it upon themselves to follow women they like in order to show their affection better. Schulz’s joking tone in this comment belittles stalking effects. He implies a mocking disposition towards actually hiding out in a bush because it’s something he wouldn’t do, however, other behaviors like masculine persistence that might also be of concern are dismissed as being stalker-like. The obsessive quality of wanting to keep tabs on crush-worthy females makes stalking behavior appear acceptable as men claim ownership over women and make sure the females know they want them, even if it is harassing in nature. These examples shed light on how people’s perceptions of stalking become weakened through the use of serious topics as comedic relief, turning something very dangerous and serious into something that can be laughed at and used as a common verb to describe actions that are not actually representative of the actual crime.

When entering a simple search into the Google search engine on “How to stalk” a series of search results appear with Internet how-tos and video tutorials on how to stalk without getting caught. Asking the Internet questions is its own phenomenon that has spawned its own industry. What is used to access knowledge has produced new kinds of knowledge that are not productive for the betterment of society. It seems as though boredom and a growing online counter-culture has led Internet users to create illogical help pages for those aimless surfers looking for a laugh (Baer, 2010: p. 157). The creation of web tutorials and lists of step-by-step how-tos could potentially lead young people to engage in stalking behavior because it is broken down for them and suggested as a laughing matter that people do not take seriously. The tutorials are a terrifying find, proving social insensitivity around stalking as a crime. Instead, stalking becomes a pastime
in which “everybody” engages in at some point in their lives as the result of an overblown crush or fascination with someone other than themselves. YouTube star AwesomeAlanna answers video requests asking her to teach viewers how to stalk someone. In the video Alanna explains how the key to stalking is blending in. Remaining unseen is critical, otherwise it is important to “run for the hills,” so you do not get caught creeping on someone’s life. Another suggestion she offers is to use Google maps to look at somebody’s house and figure out where they live. She goes on to thank Google and praise the capabilities of the Internet. Tools like Google Maps and social media has allowed her, and anyone else attempting the same behavior, privileged access to another person’s personal life without ever being found out. In the comments section a young subscriber thanks Alanna, calling herself “a certified stalker and now [she] knows everything about him,” possibly indicating that she has gone out and followed a boy she is interested in electronically or physically. Other comments endorse her video calling her the funniest Youtuber and commenting with “LOL.” It is apparent that more people think stalking is a joke and should not be taken seriously. The video has a satirical tone. AwesomeAlanna even questions, “Why am I teaching this to you guys?” Alanna makes webcast videos on requested topics. Is there actually a demand for this kind of information? Turning serious social issues into jokes creates shock-value and increased shares, retweets, and overall views. Such jokes have the potential to demoralize viewers as they partake in the joke and condone it as a laughing matter, making something that was originally not funny into something that has comedic potential. Only one comment that I noticed in the list of about 30 comments stressed confusion and lack of interest in stalking someone, responding, “WTH. Why would I want to stalk someone?”

In a similar vein, Wikihow offers six easy steps to follow when stalking someone. These include: looking for cover behind objects, wearing camouflage to blend into the surrounding
environment, bringing a change of clothes in case you are found out, having food and water, wearing dark colors if stalking at night, and looking away from the stalked individual when they look in an aspiring stalker’s direction. Stalking becomes an easy process made into a stealthy, covert mission—both juvenile and non-reflective of the ramifications expressed in legislation. If at first you don’t succeed, change clothes and try again. The Wikihow page is unsophisticated and tailored toward a younger audience. Illustrations are included depicting a young boy enacting each of the suggested tips. Stalking is portrayed as an act between a young person and their friend. A friend is less likely to become obsessed enough to stalk another friend. One of the editors comments saying, “This is a joke article,” revealing belittlement of stalking as a crime as it is turned into a pastime. Simple spying games among friends endorse stalking-like strategies, possibly inviting young Internet users to read these steps, practice them, and turn it into learned behavior as they transcend into adulthood.

Another blog from Hubpages stresses that stalking someone is not the best idea and is a crime, redeeming the blog titled “How to stalk someone and get away with it” only slightly. The disclaimer used in the beginning of the blog article sheds light on the writer’s understanding that stalking is a punishable offense. Proceeding to describe an acceptable form of stalking, which is actually just a series of romantic games attempting to teach readers how to gain a person’s attention and make them interested. Stalking is altered here, becoming a dimension of “playing the game” in dating. The anonymous author explains how no one wants to be stalked because of how it is an invasion of privacy. However, because we are only human, we have a natural inclination to address our inner curiosities. The article ends up being more about finally getting close to a crush after being too shy to actually engage with that person without a legitimate

11 http://www.wikihow.com/Stalk-Someone-Stealthily-Outdoors
reason. Nevertheless, guides to stalk online make the act seem easy and worthwhile for individuals peaked by their desires, misinforming readers about what stalking truly entails. Guides to stalk aid in shifting people’s understandings of stalking as an individual crime toward understanding it as something shaped by structural forces. The artifacts compiled in this chapter cast light on how stalking is represented in an extreme or belittled way, erasing micro-forms of stalking, thereby, incentivizing them. The Internet has opened doors for people who wouldn’t engage in physical stalking to be able to track another online without them knowing. Web pages dedicated to stalking, in all its misinterpreted forms, normalize the behavior and invite others to try it.

Media representations of stalking are prolific and steadily increasing. “Stalking” language is becoming more colloquial in everyday dialogue, what we see on television, and can read online. People are less likely to take these offenses seriously showing that the public does not care to address stalking behavior as a crime. Public perceptions cast light on the devaluation of existing laws and programs put in place in order to protect citizens from perpetrators of this crime. If the public doesn’t care, then why should law enforcement and legislators? The answer is simple. Everyone should become increasingly aware of their language in order to not exacerbate stalking as a crime by making it appear like a farce when engaging with friends. Also, the media should refrain from inclusion of “stalking” in script writing because it holds more power over shaping public perception. Therefore, media outlets should be more careful if they are truly concerned about public safety, as we would hope they are.

-CHAPTER IV-
National Anti-Stalking Frameworks and a Statutory Review of States Considered Progressive, Moderate, and Negligent
While performing an overview of stalking cases from the three categories: progressive, moderate, and negligent, States considered progressive have continued to amend their legislation
evolves with new technology. States that are moderate shift between being helpful in some cases and sometimes not being able to assist victims due to counter arguments made concerning vagueness in legislation. Moderate states have taken steps to amend legislation, yet not as fully as progressive states have. Lastly, states considered negligent in stalking cases involve those that have not changed existing legislation that will allow them to prosecute offenders on stalking charges, as well as their privileging stalkers by not taking victim needs into account. I was stunned by the lack of cases dealing with issues of identity other than violence committed amongst heterosexual, or different sexed individuals. States deemed progressive demonstrate a higher likelihood in considering gender as an element in stalking crime. Also, these states exhibit necessary recognition of the prevalence of electronic mediums involved in these offenses. Colorado shows a moderate interpretation of the law in prosecuting stalking defendants. Although this state does not outline “cyberstalking” specifically in its legislation, Colorado has added electronic mediums to existing definitions to support prosecutors in their ability to charge individuals with related harassment crimes as long as the case can be argued in a manner that is not unconstitutionally vague. I found limited stalking cases dealing with cyberstalking explicitly in the negligent states because of restricting factors causing these cases to go unheard. In comparison to the progressive and moderate cases analyzed, Daniel B. Walker v. the STATE of Wyoming (2013) demonstrates an insufficiency of the Court due to the defendant’s ability to appeal based on the improper handling of information provided to the jury, causing a repeal of charges and inability to prosecute. The mishandling of juror information invited the defendant to make a successful appeal, despite evidence leaning toward a guilty ruling.
The Freedom of Speech Argument

In *United States v. Jovica Petrovic* (2012), the defendant is charged with four counts of interstate stalking, which involves the use of electronic mediums, specifically saved text messages, digital images, and various websites used in order to blackmail the victim. This federal case highlights how the Interstate Stalking Law is implemented. The Interstate Stalking Law makes crossing state lines to stalk someone a Federal offense. Petrovic, an angry ex-boyfriend, sought revenge on his former partner by using years of saved media of her as collateral to take him back. M.B. (victim) is depicted in the pictures performing sexual acts with the defendant and by herself. When threatened that she will be exposed unless reunited with Petrovic, M.B. decided to separate for good and cease all contact. However, this only fuels the fire for Petrovic, leading him to release his highly documented collection of amateur pornography to the public. Besides posting these explicit images online, Petrovic went so far as to mail postcards and enlarged posters of the images to M.B.’s boss, family, and friends with a caption reading “whore 4 sale.” Petrovic made the threat that he was going to ruin the victim’s life, causing her to feel overwhelmingly stressed and a fear for her life, which made her “want to die” and everything to be over. What is intriguing about this case is how the defendant was charged with four counts of Interstate stalking, as well as being charged with two counts of extortionate threats, yet attempted to dismiss the stalking counts because of a violation of First Amendment rights (*US v. Petrovic*, 2013). Here, the defendant makes the claim that the charges are unconstitutional, arguing that the First Amendment protected his right to freedom of speech. The Court’s dismissal of Petrovic’s counterclaim is based on the understanding that Petrovic’s actions fall outside of what is protected in the First Amendment because it possessed content concerning a private individual that was not a legitimate subject of public interest and was
offensive, making his charges fair and within Court capability. Petrovic’s argument is a reoccurring claim made in cyberstalking cases. Petrovic’s claim of lost freedom of speech was investigated using previous cases and Supreme Court decisions involving similar arguments. The content of the images that were made public were explicit and M.B. did not agree to them being shared. M.B.’s children, who are minors, also viewed the explicit images of their mother. The pictures reached a wider audience due to their installation on public Internet forums as well. When content is private in nature, First Amendment rules become less stringent “because restricting speech on purely private matters does not implicate the same constitutional concerns as limiting speech on matters of public interest” (Snyder v. Phelps 2010). Privacy matters because M.B.’s private affairs were forcibly made public by Petrovic to spark unnecessary controversy and wreak havoc on her public reputation. Sharing nude photos of a person without their consent has been called “revenge porn” and states are currently in the process of determining whether or not to make it illegal (Solomon, 2014: para. 1). Secondly, the government is able to monitor people’s public speech about private individuals when the content is highly offensive, untrue, and blatantly harassing in nature.

Petrovic’s case raises critical issues surrounding speech and captive audience. His exploitation of M.B. by sending pornographic images to her friends, family, and coworkers oversteps the legal parameters of the First Amendment because the captive audience was unable to avoid exposure. Petrovic calling M.B. a “whore 4 sale” is a defamation of character with malicious intent aimed at causing her to lose her job and evoke doubt on her character.

13 The First Amendment issues involved in raising a cyberstalking defense include the level of review, the tension between conduct and speech, the captive audience doctrine, the distinction between public and private speech, and the nature of facial and as-applied challenges. (Young, 2013: p. 56)
images were private communications shared between the couple while they were dating. After being made public, the court reserved the right to limit Petrovic’s First Amendment abilities.

**Progressive State Case Study: New York**

In a New York case, a former employee of the State Division of Parole (DOP) testified against her employer who allegedly terminated her employment after Redd, the plaintiff, came forward to report a case of sexual harassment and discrimination based on her identity. Redd was disciplined by the DOP due to her refusal to input parolee case files into their computer system, as requested by Sarah Washington who is the alleged sexual harasser. Redd reported three instances of sexual harassment. In the first report Redd said Sarah Washington called her into her office and made sexually suggestive comments. The second instance involved Redd talking to a coworker in the hallway when Washington supposedly came up and rubbed Redd’s breasts. The last report of sexual harassment described Washington coming over to Redd while working at a computer to touch her breasts again. What was unusual about the third report was that it occurred in September 2005 and was made right after she was reprimanded for insubordination. The jury was informed of this coincidence. The timing of Redd’s claims point out ulterior motives to save her job and deflect blame for supposed insubordination. Redd has previously been found guilty of filing a false police report of stalking against Calvin Taylor, who supposedly followed her home from work and loitered around her residence. This initiated a police investigation where no evidence was found proving that stalking actually occurred. Redd’s false accusation of stalking brings up the issue of false-reporting in stalking cases. Her reversal of the situation at hand calls upon the “Reversal Subtype” of stalking cases.

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Sheridan and Blaauw provide a case study involving false reporting by a 21-year-old woman who was turned down by a 37-year-old married man, which ignited a harassment campaign by her against the man. Whenever her actions were reported to the police, “she would make counter-allegations of stalking, providing the police with conflicting scenarios and an initially confusing case” (Sheridan & Blaauw, 2004: p. 59). False reporting can “add to the jadedness of law enforcement” because resources are wasted on fabricated cases (Zona, personal communication, March 24, 2014). Fabricated evidence presented to police can be seen as a form of stalking because it invites a reversed form of harassment in which police officers are used as pawns. This typology sheds light on how actual stalking cases might be complicated by Courts erring on the side of disbelief. The burden of proof is put on the victim’s shoulders to build their own case with a preponderance of evidence. Victim responsibility can complicate false reporting because reporting individuals are the ones who launch initial police investigations, allowing “victims” to concoct grandiose, fictional accounts of stalking in order to have an accused person legally reprimanded for personal reasons.

Aside from making false allegations about stalking and sexual harassment, Sarah Washington’s sexual orientation was brought under scrutiny due to her suggested sexual harassment of Redd. Redd argued that the court should not be able to question Washington about her sexual preferences, arguing that “a plaintiff's ability to make a claim for gender-based hostile work environment is not necessarily dependent on the gender of the individuals involved.” Because of this, “sex discrimination consisting of same-sex sexual harassment is actionable under Title VII”17. The court dismissed Redd’s sexual harassment claims in 2010. Redd’s case is intriguing because of how it addresses issues of gender, sexual orientation, and false reporting.

The plaintiff used false allegations against other employees as a mechanism of self-defense. What is peculiar here is how Redd accuses a man of stalking, a form of gender violence, and accuses a woman of sexual harassment because she reprimanded her work performance—a less violent, but persistent offense. The case calls upon issues of identity that are not as frequently addressed by the other states described in this study, providing a more progressive approach in handling stalking violence. A Title VII plaintiff must be able to prove that discrimination happened because of his or her sex. Redd argued that the Court should not allow Washington to testify about her sexual identity and preferences. The Court decided that this information was relevant to assess Washington’s motivations and state of mind. By arguing that this information should not affect the case, Redd calls attention to Washington’s sexual identity, which could potentially harm the validity of her sexual harassment claims. The parole office was permitted to offer evidence of Washington’s sexual orientation and marital status.

Moderate State Case Study: Colorado

In a Colorado case, defendant Robert Sullivan was convicted of second-degree arson and harassment by stalking. After Sullivan was divorced, he was provoked and decided to take his wife’s clothing into the backyard and proceed to burn them. Besides this, Sullivan implanted a global positioning device, or GPS tracker, on his wife’s car in order to keep tabs on her whereabouts. He justifies this action as his way to check up on her based on concerns regarding the divorce and custody issues with their children. The device was supposedly removed once a restraining order was put in place. The defendant contended that the evidence provided is insufficient to support the arson conviction because the prosecution was unable to confirm Sullivan burned someone else’s belongings required by the law. “Relying on the definition of

‘marital property’ he argues that he could not have burned the property of another because he and the victim, as husband and wife, owned her clothes jointly” (People v. Sullivan, 2002). Sullivan’s statement makes his heterosexual-male privilege visible as he exudes disillusioned authority and dominance within a now failed relationship. The wife becomes an extension of Sullivan through material objects, while her belongings are just as much his as they are her own. Therefore, he wasn’t damaging another’s property. Arrogantly, Sullivan portrays an archetypal form of masculinity, constructing his wife as “less than” and infantilizes her as though she would not be able to have anything unless he provided it as the sole financial provider. The implanting of a GPS tracker on his wife’s car is what allowed the Court to be able to prosecute him for stalking charges.

Sullivan’s use of a GPS tracker on his ex-wife’s car required the Colorado Courts to redefine stalking legislation to incorporate electronic mediums. The defendant also contended that the conviction of harassment by stalking is insufficient, even though stalking involves an individual who “repeatedly follows, approaches, contacts, places under surveillance, or makes any form of communication with another person ... in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person ... to suffer serious emotional distress” (§ 18–9–111(4)(b)(III), C.R.S.2001). The Colorado General Assembly acknowledges how other states only recognize “surveillance” as someone observing an individual outside of their own home, work venue, family residence, public venue, and any other location but the defendant’s place of residence. Demonstrating an increased aptitude in prosecuting stalking

\[19\text{ (d) Any increases or decreases in the value of the separate property of the spouse during the marriage or the depletion of the separate property for marital purposes. (2) For purposes of this article only, and subject to the provisions of subsection (7) of this section, “marital property” means all property acquired by either spouse subsequent to the marriage except: (a) Property acquired by gift, bequest, devise, or descent; (b) Property acquired in exchange for property acquired prior to the marriage or in exchange for property acquired by gift, bequest, devise, or descent; (c) Property acquired by a spouse after a decree of legal separation; and (d) Property excluded by valid agreement of the parties. Colo. Rev. Stat. Ann. § 14-10-113 (WestLaw)}\]
offenders, Colorado Courts go as far to include surveillance as a tool to keep watch over someone or something as a way to obtain information used at the viewer’s discretion. A GPS tracker is recognized as an electronic medium to enact stalking. Colorado’s urgent action to expand legal definitions in this case, being the first of its kind, proves why Colorado is a moderate state. Instead of overlooking the case because prosecution was out of reach, the state recognized the need to improve its legal capabilities to better help stalking victims in a digital age. This case was the first stalking case on the books that involved the use of a Global Positioning System device to track an unknowing individual, marking a turning point in understandings of stalking as it was formerly known.

An ad advertising “TravelEyes Tracking Units” caught Sullivan’s eyes. Sullivan excitedly placed an order and had his 19-year-old son help him install it on his wife’s Oldsmobile. “Four years after Robert Sullivan became America’s first documented GPS-enabled stalker, we are faced with a classic technology dilemma, as perfectly legal and useful devices are turned to less savory ends” (Rosenwald, 2004: para. 7). Innocent devices meant to aid in monitoring people’s safety who have degenerative diseases like Alzheimer’s, wandering livestock, and children have been turned into gadgets effectively used to track, control, and terrorize. The implementation of devices like GPS trackers, baby monitors, and hidden cameras in obscure places, like sprinkler heads or picture frames, aid stalkers in their ability to stalk their victims discretely and under the radar. Devices like these provide stalkers with information about their victims without them actually having to do the groundwork. Even though these technologies exist, many people do not understand how easy it is to use for unsavory and potentially violent purposes. The Internet has unchained the stalking monster and it is up to state legislatures to keep up before the menace gets.

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20 The National Stalking Resource Center cites an article published in Popular Science explaining Sullivan’s case.
out of hand\(^{21}\). This case provides insight on how stalking has continued to evolve, leading states like Colorado to draw from dictionary citations of the word “surveillance” in order to effectively handle new cases that deal with electronic mediums. Colorado is only considered moderate for expanding legal definitions to include electronic mediums, but taking longer than other states to enact the new legislation, as well as having to draw on definitions from sources outside of what has been created by Colorado legislature. Electronic mediums reconstruct ideas of perceived threat and fear because they operate in a virtual realm and not a physical one. Devices used for stalking purposes raise concern for affected individuals because they make stalkers less visible to the victims and allow stalkers to continue to harass from afar, expanding their capabilities.

**Negligent State Case Study: Wyoming**

A case from the Wyoming State Court proves negligence by inadequately handling information, causing a prolonged case and stagnant justice for the victim. Defendant Daniel Walker was supposed to be charged with felony stalking before the case was dismissed based on the court’s failure to properly inform the jury. Daniel Walker was married to Angelia Leair until he was charged with domestic violence and they got a divorce. When the domestic violence case was brought to trial, however, Ms. Leair chose not to cooperate in her ex-husband’s prosecution, causing the State to dismiss the charges. By opting out of pressing charges, Angelia displays the complicated nature of courtship relations. When faced with the law and having to press charges against an intimate partner(s), women have struggled to comply with the full demands of law enforcement. Women who end a lengthy relationship or marriage to an abusive partner that was not always abusive may resist pressing charges and following up on their initial complaints

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\(^{21}\) Today, Smart Phone applications are sold on the itunes app store called “Phone Tracker” amongst others. Also, social networking and dating applications have features that show how many miles or feet one user is from another. Distance features might enable individuals to zero in on their victims, following phone readings until they are close enough to sit and wait for their victim to appear within a given radius of the tracking cellular device.
“[b]ecause the men they are leaving are men with whom they have been intimate and about whom they often still care deeply… [t]his can occur even when avowals of love are intermingled with surveillance, threats and violence” (Dunn, 2002: p. 38). It was not until after the case had been dismissed when Angelia began having increasingly more violent run-ons with her ex-husband. An initial restraining order was filed, which Daniel violated leading to a Stalking Order of Protection to be put in place based on the repetitive nature of Daniel’s harassing behaviors. When the protection order was violated again after a run-in at their local Wal-Mart, the case was brought to trial in an attempt to convict D. Walker of felony stalking charges. The defendant appealed and after the jury trial the Wyoming Supreme Court overturned the conviction attributable to faulty jury instructions. Here, the court found that the evidence used to inform the jury included a detailed account of the incident at Wal-Mart, which involved the defendant approaching his ex-wife and daughter while they were looking at cell-phones. Walker commented on his ex-wife making a lot of money in order to afford that for her. Outside examples of Walker’s harassment were included without notification to the defendant. Some of the included examples did not occur within the time period that the Stalking Protection Order was filed, making them irrelevant. Therefore, the defendant’s prior acts were considered uncharged misconduct that was only useful to establish a course of conduct, but not as violation of the anti-stalking statute. The case was again dismissed until further notice and a retrial was scheduled.

What Walker’s case demonstrates is a negligence of the Court to properly compile the victim’s evidence to give to the jury, causing the Court to retract its previous decisions and admit fault despite the apparent guilt of the perpetrator. If the court would have properly notified the defendant of the evidence involved in his proposed charges, then he could not have argued for
infringement of his constitutional rights. The Wyoming case demonstrates Court negligence because an error was made that could have been easily avoided, which caused the defendant’s case to be dismissed until further notice. The Court backing off and releasing a statement indicating error proves Wyoming’s malpractice. This fluke colors Wyoming’s approach to stalking as offenders are let off due to legal pitfalls, despite presented evidence indicating potential threat and danger for the victim based on previous history of abuse and harassment. During the period between this hearing and the scheduling of a follow-up session, the stalker could have potentially hurt the victim. Victim needs and appropriate safety measures become afterthoughts, therein, privileging the alleged perpetrator.

**Federal Provision of VAWA**

As of March 7th, 2014, President Obama has made a provision to the Violence Against Women Act, which requires universities across the country to report cases of gendered and sexual violence\(^{22}\) in their annual crime reports. The incorporation of this measure is meant to get colleges and universities across the nation to be more proactive in how they handle violence such as domestic violence, rape, and stalking. Schools will be required to incorporate new policies and trainings to deal with these issues, potentially helping to decrease the rates of occurrence and better equipping staff, faculty, and students with the knowledge needed to work to combat these issues. Ideally, this federal mandate will necessitate a need for college administration boards to become more attuned to the everyday occurrences of violence on or off school grounds so that affected individuals feel more safe and comfortable to report if and when acts of violence occur.

Conclusion

In this chapter I selected examples from both federal and state courts to demonstrate how stalking is being interpreted at varying levels and with different capability. Researching Court cases proved to be incredibly challenging because it was hard to find examples with palpable biases in regards to perpetrator/victim identities. However, there is something to be said about the apparent lack of information in what was searched for based on the three categories used. From what is gathered in this chapter, the progressive state, New York, included issues of gender and sexuality, which were not discussed in the other two cases. In Redd v. New York Division of Parole, the issue of false reporting is raised, calling attention to the different actions taken by the Court to ensure a case’s validity. New York’s citations included findings documented by the state of California, which initiated national anti-stalking legislation. The moderate state selected is Colorado. Colorado demonstrates how its amended legislation to include electronic mediums in stalking behaviors challenged the Court to prove how the defendant’s actions fit the definitions of their current stalking statutes. This case illuminates how stalking is rapidly transforming and that it is up to legislators to keep up with it by incorporating more precise language to describe the evolving crime and sufficiently prosecute offenders. Lastly, in Walker v. State of Wyoming, Court negligence is apparent because of how the jury was misinformed and evidence had not been compiled and used in the appropriate manner, causing charges to be dismissed without prejudice. Besides this, the less progressive a state is in regards to their existing legislation, makes finding information pertaining to the use of technology, gender, and sexuality nearly impossible. The moderate and negligent states’ omission of this information speaks to their socio-political backdrops and perceived priorities. Violence enacted by heterosexual men towards women is deemed more severe and worthy of a criminal hearing than
those cases with non-traditional victims and offenders based on cases that came up while searching. The U.S. Department of Justice discusses underserved populations and suggests that law enforcement agencies receive special training to better assist these victims and help them more frequently.

**Chapter V: Hope for Change—What Can Be Done Differently? Thoughts on New Initiatives, Trainings, and Approaches in Handling Stalking Cases**

Since the recognition of stalking as a crime is a relatively new phenomenon, inevitably there are pitfalls in its existing legislation. Legal recognition can discursively construct its social existence via helping certain populations more than others, creating difficulty for victims in navigating the legal system, and its inability to prosecute offenders because of limiting legislation. An ideal victim and perpetrator are constructed, making justice appear unobtainable for non-traditional victims. Neutrality in the courts undermines prosecutorial potential in stalking cases. Stalking cases are identity-based crimes pertaining to various intersections, which could be helpful in determining outcomes if used explicitly. This chapter explores possible remedies, which could aid in reduction of new cases and overall rates of the crime.

First and foremost, the gendered dimensions of stalking need to be reevaluated to progress society in a manner that acknowledges this form of violence as a possibility for relationships other than heterosexual ones, or those enacted between different sexed partners. Recognizing stalking as gendered and heterosexual presumptions help shape assumptions that it is a crime of sex. Granted, the crime affects a predominant number of women with one in six women and one in nineteen men stalked in their lifetime (Stalking Resource Center, 2013). However, there are instances of same-sex stalking and intimate violence that occurs between queer-identified persons that are being overlooked and relegated as less severe because of gender bias. Therefore, cases are dismissed as less important due to the fact that sexually virulent men
are not attacking women with an appetite for destruction. Understandings of femininity and masculinity are articulated through archetypal frameworks that hinder law enforcement’s ability to accept cases as worthy of circumspection. Anecdotes revealed in stalking reality series shed light on the hardships specific individuals have faced when attempting to pursue help. A lack of empathy and perceived credibility further victimizes stalked persons and deters others from seeking justice and reporting their cases. The invisibility of such cases impacts crime statistics and sways legislative decisions toward less effective models for outreach and community impact, misrepresenting the crime itself.

Secondly, Internet activity and people’s uninhibited behavior on the web must be regulated, if not by the government then by the companies that allow for open posting on bulletins and discussion boards. Companies not stepping in and telling abusive users that what they are posting is wrong causes users to take their lack of repercussions as further motivation to continue in their online behaviors. Right to use policies allow companies to provide or decline services to users. These policies function as a safeguard from civil liability creating a semi-private status (Sanders & File, 2011: p. 1). Incorporating semi-private measures allow websites to abridge people’s speech as they see fit. Also, cyberstalking crimes have been handled at the federal level in terms of implementing the Interstate Stalking Law for offenders who have sent or broadcasted offensive, threatening, or obscene materials across multiple state lines in order to harass. The problem with this law, however, is getting states to work in unison to track the offending predators, especially because of how different states handle stalking cases in dissimilar ways based on definitions and the sociopolitical backdrops of those independent regions. The federal government has released tips for Internet users to protect themselves from cybercrimes. These strategies serve as decent guidelines for basic security, but articulate problematic
discourses that emulate victim blaming and campaigns for self-defense that are prevalent in modern rape culture. Suddenly, the responsibility to defend one’s self against abusive Internet users falls on the victim’s shoulders, versus reprimanding the offenders that heavily populate cyberspace.

The Internet is an unsafe resource for many women and marginalized groups that use it everyday. One suggestion for female Internet users is to refrain from using an email address or screen name that suggests their female identity and might be inviting for Internet harassment. Baer discusses, “The idea that changing one's username “prevents” cyberstalking seems misleading—it does not get at the root of the problem, and may in fact buy into cyberstalker mentality” (Baer, 2010: p. 167). Baer points out how a simple change of a woman’s username reinforces cyberstalker mentality, as women are encouraged to alter their online personas and hide their true identities. Name changing tactics do not tackle the real issue of male violence and gender discrimination of female users. Women shouldn’t have to pretend to not be women out of fear of harassment. This is regressive rhetoric that does nothing to change the nature of the crime. Women are forced to act differently as a means to prevent cybercrime and themselves from their own harassment so that they will not be “asking for it” by having feminine identities online.

Currently, 13 states have specialized police units to manage cybercrime. With more specialized police units we would better our chances of reducing cybercrimes, which include cyberstalking and Internet harassment. Digital forensic laboratories would enable a group of specialized investigators to gather evidence and track down offenders. The states with these programs in place are expected to assist in cybercrime offenses for surrounding states in that region. The New Jersey Regional Computer Forensic Laboratory, or NJRCFL Squad for short, is
comprised of five State Police Detectives and two civilian analysts who work out of the forensic laboratory. This unit is a part of the 13 established laboratories set up by the FBI to assist law enforcement agencies at the local, County, State, and Federal levels. Members of law enforcement agencies from all levels staff NJRCFL. FBI oversight has the ability to trump state law. This program helps in tackling cyberstalking as a growing offense. It would be even better to add specialized units to focus on smaller regions to further minimize the crime’s growth.

Examination of digital media from computers, cellular phones, and different forms of video and Personal Data Assistants [PDAs] help to uncover criminals who hide behind the mask of anonymity. This department enforces the Federal Interstate Stalking Law and is required to support law enforcement agencies across the country, while also working with intelligence agencies (New Jersey State Police, 2014). However, what they do not do is investigate singular incidents, or those localized situations that do not transcend state lines. Therefore, it would be beneficial to have these units in every state so that cyberstalking would be less pervasive with a higher rate of punishment for offenders. Limited government resources could impact the creation of more units. Some potential critiques of adding these units might include how specialized units are expensive, other budget priorities are more pertinent, or that existing statutes seem to work well enough to prosecute offenders. Increased numbers of police units and government funding are points for future research, but at this point I think the cost is worth it. With added units, more victims could be helped who experience cyberstalking by a harasser who does not transcend state lines. More offenders would face charges; therefore, people would be less likely to want to engage in abusive online behavior, altering its current trajectory. More states need to broaden their definitions of stalking to include cyberstalking because it is different from physical stalking and existing statutes fall short when attempting to handle these cases. Usual standards (e.g.
credible threats doctrine and reasonable person standard\(^{23}\) cannot apply in the same way and actually can negatively affect cyberstalking outcomes.

The Megan Meier case is a prime example of how cyberstalking outcomes have proved unfavorable in providing the victim, or her family, the justice they deserve. Megan Meier was a teenage girl who frequented Myspace. While online, she met a teenage boy who convinced her that he loved her. The two communicated online for some time, maintaining a virtual relationship. Eventually, Megan’s neighbor, Lori Drew, used the pseudonym “Josh Evans” to con Megan into a false relationship. He broke up with Megan and began a vicious cycle of harassment where other Myspace members became involved in calling her names. Megan told Josh that he was the kind of boy a girl would hang herself over. In turn, Megan hanged herself with a belt and a police investigation uncovered Lori Drew acting as Josh Evans and the instigator of her suicide. When Lori was due for a court hearing to see what she might be charged with, she began to see how bad cyber harassment actually was. Internet users began to post her name, telephone number, and home address all over the Internet. The Drew family had a brick thrown threw their kitchen window with people threatening to kill her or pretending to be her online. Reactionary violence to Drew’s Internet behavior proves that cyberbullying is a very real and pernicious side effect of a world-wide web that allows for free-speech and anonymous trade of information almost instantly from any location or device with access (Baer, 2010: p. 157). The aftermath of Megan’s case recalls Mahatma Gandhi’s belief that, “An eye for an eye leaves the world blind,” which is demonstrative of how violent online behavior leads to physical

\(^{23}\) The Credible Threat Doctrine holds that a threat can only be punished if it is taken seriously and causes a reasonable person to feel fear and understands the threat to be true. The Internet complicates this because a perpetrator’s distance may evoke understandings of the cyberstalking offense and non-credible threats. Cyberstalkers may not contact their victims directly, which troubles the reasonable person standard because the victim might not be exposed directly to what is being said or exploited to the public. Also, third party individuals can be involved in doing the stalking for the perpetrator themselves.
violence in the real world, involving no critical reflection on the effects of violence in the first place. Using vengeance as a defense mechanism in a hostile world blinds people of more pragmatic approaches to make their points. Public intervention on behalf of Megan Meier is done out of support for her and her family’s cause, yet it instigates comparable forms of violence that make retributive action appear acceptable as a means to police Drew’s behavior when Court did not. All the while, people receive the message that the only way to fight violence is with more violence. This flawed logic proves that we live in a violent culture that is willing to go to extremes to make a point that something or someone has done wrong, while failing to recognize how responses to violence might be morally corrupt themselves. How do we create a more humanitarian approach to speak out against wrongdoings without recreating violence we are speaking out against? Lori Drew was not charged with harassment, stalking, or child-endangerment because the Court could not find adequate evidence to do so and the jury found her “not guilty.” Drew was instead charged with several misdemeanors that relate to violation of Myspace’s terms and conditions that users are supposed to abide by, as well as the Computer Fraud and Abuse Act. Megan’s family was outraged and her father stated that he was “furious and heartbroken” that Drew was not being charged as a criminal (Burrichter, 2010: p. 4). In response to Meier’s case, her school began to discipline students for Internet activity aimed at harassing others or creating concern for people’s safety. Besides this, California State Representative, Linda Sanchez, has introduced a bill in the House called the Megan Meier Bullying Prevention Act24, but it has not been passed due to issues of constitutionality. Baer reflects, “Letting go of our attachment to kinetic manifestations of harm and deciding upon standards for aggressive online behavior means that there will be trade-offs when it comes to

making and enforcing cyberstalking laws… informed by values we choose to live by as Internet citizens” (Baer, 2010: p. 5). Lawmakers and American citizens must recognize that our understandings of threat and harm have been expanded by cyberstalking. Technology saturates our everyday lives and there is little governance over how we are supposed to use it. Whether or not U.S. government will form working legislation soon or not is beside me, but there are still ways to get involved to urge legislators that cyberstalking legislation is a necessity. Lobbying state representatives is one way that American citizens can attempt to persuade Senate and Congress representatives that cyberstalking is an issue worth caring about. For people involved in acts of retribution in the aftermath of another’s violent crime, they should be legally reprimanded and required to partake in counseling, anger management classes, or another program that educates people about how to live non-aggressive lifestyles.

Media representations facilitate how people use colloquial language and formulate their general understandings of pertinent social issues. Common stalking representations have affected public perception of the crime in a negative way. As younger generations tune in to their favorite programs, they are met by scripting performed by popular TV characters who use the term “stalking” flippantly to refer to chance encounters as instances of one “stalking” another. When someone says, “Oh, you must be stalking me,” or “I stalked (enter name here) on Facebook,” they trivialize the actual crime and make stalking appear as a common activity that is not to be feared necessarily, but laughed at and popularized. A person of interest becomes an object of affection that another finds worthy of investigating. Fewer individuals are likely to find stalking to be a serious problem and understand another’s behaviors as problematic until they truly experience some sort of invasion of privacy. Public perception might be remedied by media campaigns and public service announcements catered to calling attention to the problematic use
of violent language to describe events or behaviors. For example, I have heard college students explain sports wins as one team having “raped” the other by winning with a significant margin of points. The use of the word “stalking” or “stalked” as a colloquial term and everyday euphemism is no different. The crime affects millions of Americans and causes psychological problems like post-traumatic stress for survivors to battle while trying to move forward. Hearing these words in a joking manner can be triggering for those who might have experienced similar situations. If a friend or acquaintance of a stalking survivor told the survivor that they “Facebook stalked” them or somebody else, feelings of fear and distrust could come up for the survivor because of the toll stalking has had on their life. A survivor might repress this memory or not want to discuss it so passive jokes about stalking can feel like knives to a healing wound.

It isn’t just the television shows that are at fault. Movies like Single White Female and Fatal Attraction have shaped how American society conceptualizes stalking. Both problematic and narrow in scope, these movies construct stalking in highly dramatized Hollywood fashion, revealing very little about how the crime actually functions in society. First, the movies depict stalking situations involving murder, or attempted murder, which make up a small margin of actual cases. The movies create widely replicated tropes of women scorned. The tropes include violent homoeroticism and its decimation of heteronormativity. Also, the “bunny boiler” trope includes an enraged intimate partner seeking to ruin an otherwise happy family. Queerness is demonized and crosses swords with innocent heterosexuality as the heterosexual heroine attempts to survive queerness and its reign of terror. Independent womanhood becomes suspect and feared behavior for violating social norms and women’s purpose as wives and mothers. These films rose out of the era in which anti-stalking statutes were being implemented nationally. The fictitious renderings have successfully made the crime appear far-fetched and
virtually impossible to encounter in one’s own lifetime depending on whether or not they live a seemingly “normal” lifestyle that is free from outsider, or othered, modes of being.

The true crime series *Stalked: Someone’s Watching* is a more holistic depiction of stalking and features a large selection of true anecdotes, as retold by the affected individuals themselves. This true crime series features Dr. Michelle Ward, a criminal psychologist, who has also experienced stalking first hand. Besides this professional perspective, the series includes local police officials who helped work on the cases. By incorporating all of these vantage points, the show enhances viewer understandings of stalking as a whole and all of its multiplicities in terms of effects on the individuals and their families. An understanding of criminal minds and how law enforcement is able to intervene might be restricted based on how the laws are structured in the states they work in.

The show that replaced *Stalked: Someone’s Watching* is *Obsession: Dark Desires*. The new version is a compelling rendition, shedding light on how external Hollywood pressures have transformed the show to increase viewer ratings. Professional viewpoints are no longer included. Instead, the creators have transformed the setting and narration so that only the victim is featured within a torn-up, abandoned looking home as the setting. The scene breaks are titled in white, flickering letters as though they are neon light tubing. Aesthetic decisions like the flickering lighting add to the show’s haunting quality for purposes of added gloominess and increased discomfort in viewers. With an emphasis on dramatization and the residual feelings of the victims, the mood of the television show is much darker and overwhelming. Viewers are put in the victims’ roles as we secondarily observe what’s on the screen. While the formatting of the show may demonstrate the seriousness of stalking, it does however make the crime appear more dubious and obscured from everyday reality. Granted, at least television is depicting the crime in
some form, rather than not acknowledging it at all. Media representations do have the power to construct public understandings of social issues. If framed in a discursive manner, stalking crimes are distanced from reality, leading people to believe stalking is rare and an unimaginable occurrence. Having multiple perspectives on the crime is more reasonable for people’s better understanding of how stalking works and how to deal with it.

I believe stalking should be an issue that is reported on broadcast news stations with appropriate measures taken to protect the privacy of victims. If the public was introduced to stalking as a regular occurrence, both physically and virtually, then a moral panic could potentially influence lawmakers to do something more than what is already being done. If the public saw how social media and the current online climate jeopardizes children and teens that are increasingly becoming more active in using these resources, then there would be a stronger push to remedy current safety measures. Stalking policy and law enforcement response is limited in states like Kentucky, Nebraska, or Wyoming for example. Their limited definitions offer little to victims looking for justice and a sense of security in the aftermath of stalking. Prosecution is troubled by the different modes stalking behavior can take in order for a perpetrator to harass their victim(s).

One element of stalking behavior that is particularly taxing for authorities are courtship tactics used by perpetrators to harass, all the while, using the guise of loving gestures in their pursuit of their infatuation. Dunn points out how patriarchy intersects with how culture is arranged, helping mold the ways men and women interact in society. Social constructions of gender-appropriate behavior give rise to different forms of interaction in instances of courtship, love, and romance. These gender dependent interactions alter the way violence is perceived and what forcible interaction looks like. Dunn explains how former intimate partners and unwanted
admirers may disguise their actions by making them appear affectionate and sincere, possibly leading women astray who “may not perceive these interactions as deviant or problematic…” Women may, then, become inadvertently complicit in their own invasion” (Dunn, 2002: p. 123). The issue gender scripts bring up is the continuation of normative behavior that is replicated in maturing generations. Altering social norms is a daunting task that cannot occur in a single day and would require years to sink in and affect lasting change for the better. It is not possible for a single person to change cultural practices. My recommendation is for educational awareness programs to be implemented so that people are exposed to issues of gender normativity and the pervasive rates of sexual violence in society today. By deconstructing hegemonic masculinity and looking at the underlying inequities it creates for women, men might begin to see how behavioral qualities of aggression, dominance, and others attributed to the proactive male are detrimental to the well being of society as a whole. This is a better approach than victim-prevention ones because it will ensure change that will reach future victims— not just current ones.

Gendered violence is a problem that affects us all, so remaining open to different, non-traditional forms of stalking cases is critical because there are individuals who may not reach out for help due to people’s rigid understandings of how binary gender is supposed to operate. Non-traditional forms of stalking, like those exhibited by same-sex persons or women stalking men, have been excluded from courts of law due to the idea of men needing to be able to handle and protect themselves, or same-sex persons acting out due to a miscellaneous disturbance, which they can remedy themselves. Police biases may deter officers from wanting to help a man or same-sex stalking victim based on rigid understandings of gender and how men are supposed to act; police work itself is incredibly gendered in this way. The ratio between male officers and
female officers illuminates how this discrepancy is able to operate. For the last 50 years, U.S. law enforcement agencies have been required to hire qualified individuals without discriminating against candidates based on their race or gender (Civil Rights Act, 1964). However, there has been a lot of resistance in allowing women to do police work. The sectors of law enforcement women predominantly fill are low-paid positions as police staffers (O’Hagan, 2012: para. 3). Disparities of women in officer positions illuminate socio-cultural beliefs and the fallacy that women are unable to defend themselves and are most often the ones who need protecting. In support, the research in this study suggests that police officers are most active in supporting victims of stalking when a heterosexual woman is seeking help. If more women were officers, perhaps there would be an increased likelihood of assistance in stalking cases that are non-traditional. Also, female stalking victims could experience less secondary victimization by having someone who better understands women’s needs and is more likely to be comforting following male induced trauma, which could lead victims to experience triggers.

Dr. Michael Zona, a forensic psychiatrist who worked alongside the LAPD when stalking first became a criminally punishable crime, discusses his experience in victim advocacy and stalking cases. Zona points out what he has seen as an expert witness in Los Angeles Courts, revealing that most cases are easily resolved—probably because of California’s progressive leadership in amending its legislation to keep up with this rapidly evolving crime. In an interview I personally conducted with Zona, he was asked whether he has witnessed or heard of implicit bias operating in the courtroom in light of expected neutrality when cases are argued. Zona states, “I haven’t seen it. Most stalking cases are plea-bargained. Taking rates from my forensic files, I don’t think it’s pertinent” (Zona, personal communication, March 24, 2014). Zona reflects on previous cases, indicating a lack of conversation regarding identity issues. Finding these
issues impertinent, Zona affirms existing legal structures, believing that they are adequate in protecting victims. California being the first state in the union to enact anti-stalking legislation means that it was the first state to release convicted offenders from prison. After working two years in a parole unit, Zona confirms that California Courts and law enforcement are not biased when choosing which victims to assist. Different racial groups do not receive varying levels of help. “People who are afraid try” to get legal assistance. California has a diverse group of judges, including people with “Asian, Black, or Mexican” identities. In regard to victims’ gender and sexual orientation, Zona mentions, “Lesbian and gay cases [were taken] on just as much as [heterosexual] cases. There is a tendency for courts to be more lenient with female perpetrators because of a general underestimation of the [perceived] danger women can present.” Zona believes lesbians and gays are equally assisted when accessing legal services. Additional research is required to support these claims. Violence exhibited by female perpetrators is classified as less severe. This can be read as institutional bias because it reinforces gender stereotypes concerning women as physically inferior and not as capable as male perpetrators.

An interesting point Zona made regarding victim/perpetrator identities involves what he calls “stalking by proxy.” Stalking by proxy refers to cases in which ex-girlfriends (or ex-boyfriends) begin to stalk the current partner of their exes. Zona found this type of stalking to occur mostly in the Black community. Perpetrators possess the mentality of “if you’re not going to have me, then she can’t,” leading to harassment as a ploy to damage the newly formed couples.

A reverse discourse of stalking violence through the lens of male violence was suggested to better help non-traditional victims. Dr. Zona replied, “I don’t think you can reach around cultural norms,” making my suggestion appear too radical to work. This suggestion calls upon
the reasonable woman standard and how Forell and Hess (2000) had to work within existing legal structures to make a valid claim concerning gender. A liberal feminist approach uses current institutional frameworks for feminist action. An inability to change legal code means that attorneys must be more creative in their approach.

Punitive justice and alternative methods for convicted stalkers depends on the type of stalker courts are working with. Restorative justice is a form of justice that emphasizes the needs of victims, offenders, and community intervention. The victim is given an active role in the process and is allowed to present the effect the committed offense has had on their lives, while allowing the perpetrator to accept responsibility and demonstrate remorse. Zona was asked for his opinion concerning restorative justice. Replying with an emphatic no, Zona explains why restorative justice is an inadequate method, stating, “Restorative justice is what a stalker wants. A stalker wants an opportunity to be in front of [their] victim again. They don’t care about transgressing the law. Why would restorative justice, asking a stalker to appreciate boundaries, work when they have shown that they cannot respect boundaries? This is the kind of stuff stalkers employ to further torque revenge and get closer to victims.” Zona explains that restorative justice becomes a weapon used against the victim.

The best way to respond to damages is by filing a lawsuit. Filing civil lawsuits allows victims to receive compensation, while still holding stalkers accountable for their crimes. They also allow victims to charge third-party individuals for partaking in harassment, making up for the absence of legislation allowing states to reprimand third-party sources (Clair, 2004: para. 2). Stalkers suffering from a particular psychosis or delusion, like erotomanics, should undergo full, long-term legal processes and medicalization before rereleased into society. In cases involving “a love gone sour, courts need to bring the hammer down with fast and hard legal intervention”
(Zona, personal communication, March 24, 2014). Convicted stalkers “have been given good reports” based on good behavior and compliance with court orders.

Legal processes must evolve as stalking mechanisms do. It is crucial that states amend their laws accordingly. We cannot sit back and passively watch this crime evolve as potential justice for victims is minimized by reluctance to improve working definitions. Stalking is not a passé issue that has already been dealt with. It is ever changing and virulent like a recombinant disease, requiring new and improved measures to reduce its prevalence and means to affect communities.
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