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Stalking by Cellphone

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By Casey Quinlan

Are tracking apps a new tool for domestic abuse? *The Crime Report* investigates.



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Alexis Moore knows what it means to be the victim of a cyberstalker.

Her ex-boyfriend hacked into her online accounts and her cellphone, and emptied her bank account—an experience that was so traumatic she attempted suicide in 2006. One of the hardest things, she recalls, was convincing authorities that a crime had taken place.

“I understand that to them there’s no chalk around a body,” she says. “There’s no tape at a stalking or cyberstalking crime scene, but victims are falling through the cracks. “

But now, Moore and others who are advocates for domestic abuse victims say technology has come up with yet another worrisome tool: tracking apps installed in smartphones.

The apps, a popular option for parents monitoring their kids' whereabouts, can also be used to monitor and exert control over a spouse, partner or date—often the first sign that a relationship could turn, or has already become, abusive—and they are not only changing the way advocates think about getting victims out of harm's way, but affecting the way police departments respond to stalking cases.

Abusers who once simply followed victims by car, monitored their laptop activity, or even installed a GPS tracking device in their vehicle, now have a powerful new tool that has made it easier for anyone who wishes to track someone for the purposes of monitoring and controlling their behavior.

“For an already abusive partner, these apps just amplify a situation,” says Jessica Yaffa, a domestic violence survivor as well as co-founder of No Silence No Violence.

Isolating the Victim

Yaffa, who is also co-founder of The Restoration Inn, a women's rehab center for those suffering relationship abuse and substance disorders, adds: “Part of what happens is isolation: the goal for the abuse itself is to pull the partner away from things outside the relationship.”

A [2010 National Intimate Partner and Sexual Violence Survey](#) released by the Centers for Disease Control, found that one in six women and one in 19 men were stalked at some point in their lifetime. The majority of stalkers are male, and are usually current or ex-partners or spouses.

Although the rate of serious intimate partner violence declined 72 percent for women and 64 percent for men from 1994 to 2011, according to the [U.S. Department of Justice](#), many domestic violence advocates are still concerned that stalking, a behavior often observed shortly before intimate partner homicides is becoming easier than ever. (76 percent of female homicide victims were stalked by their murderers, according to [the latest data available](#), from 1999.)

One recent example is Jesus A. Lopez, who used a cellphone equipped with GPS that he placed in his estranged wife's car for the purposes of tracking her, according to the *Chicago Tribune*. Lopez was [arrested in February](#) and subsequently [charged with stalking](#). He also has a conviction for violating an order of protection in addition to a few domestic violence arrests.

In January, a [U.K. man](#) is alleged to have stabbed the man his wife was sleeping with after tracking him down through a [mobile phone app](#), according to the London *Daily Mail*.

However, it's not always the people tracking their partners and spouses who are charged with a crime.

“We even meet them in grocery store aisles if need be,” she says. “We tell women to leave the phone at home, and we know of course she might be punished for not answering the phone, but we say maybe if she takes a short visit to a coffee shop near home she can say she was vacuuming and didn't hear.”

Last September, Hammad Akbar was [indicted](#) in the Eastern District of Virginia for allegedly “conspiring to advertise” and sell a Spyware app, StealthGenie. An FBI statement announced that it was the first ever criminal case regarding the sale and advertisement of a mobile device spyware app.

Tracking someone's movements via phone is only one way an abuser can terrorize a partner or a former partner.

Los Angeles Deputy City Attorney Eve Sheedy and counsel for domestic violence policy says it's not unusual for abusers to encourage others to carry out violence for them through social networks and other Internet forums.

“The ability to track someone's movements by hiding a tracking device on their car, downloading a tracking app on their phone or otherwise ‘electronically stalking’ makes already vulnerable victims feel even more vulnerable,” Sheedy said in an email to *The Crime Report*.

“It also has the potential to increase the threat of violence, as batterers can easily reach out to others through the internet or social media and get others to carry through for them, e.g., the batterer who posts that his victim has a ‘rape fantasy,’ posts her address and encourages others to fulfill that fantasy by breaking into her residence and raping her.”

Access is Easier

To make things worse, the barrier to obtaining sophisticated technology is now lower, according to Michael P. Boulette, a Minneapolis divorce attorney and an adjunct professor of family law at the University of St. Thomas School of Law.

“Not so long ago, it took a motivated spouse to use GPS or other expensive tracking device,” says Boulette, who notes there has been a “sea change” since in access to electronic information that is often not recognized by authorities.

“It’s harder to explain to judges, because even the youngest are in their 40s and 50s,” he says. “To explain tracking apps (is) a constant process of education.”

Minnesota Senator Al Franken introduced a bill in 2014, called [The Location Privacy Protection Act](#), which would require companies to obtain permission before collecting location data from smartphones, tablets, in-car navigation devices, etc., before sharing it with others. This legislation would not apply to parents tracking children. The legislation has been held in the Senate Judiciary subcommittee on privacy, technology and the law since last June.

However, some advocates argue such legislation is only symbolic---as long as police and others on the front lines don’t make the issue a priority.

“The laws are good for awareness,” says Alexis Moore “But it’s been 10 years since I began doing this and (although) we have better responses, they’re still backburning these cases.”

Moore wrote a book exploring the topic—*Cyber Self-Defense*—and now serves as a risk management consultant for victims of domestic violence and stalking.

“I’m still seeing eyes glazed over and rolled back in their head,” she says.

“If you show up with the victim, if you have someone like me call, you get a little further; but it shouldn’t have to be that way.”

To make matters worse for victims of tracking and online harassment, the National Stalking Resource Center victim helpline has been [closed](#) since 2010, Moore says.

Moore points to one particular stalking unit in San Diego as a good model for stalking units across the country.

San Diego Deputy District Attorney Rachel Solov is in charge of the stalking unit, which provides a [stalking information line](#) and security tips for victims on its website.

Boulette says current laws don't always make it easy for police to take stalking seriously as a key part of domestic violence, however.

"It may be that law enforcement is in a difficult role in the first place. There is an emotional and physical component of domestic violence, and the law typically only recognizes one as domestic violence, but apps can be used as effectively as a fist as a method of control," he says.

Lack of Equipment

Even when authorities take the danger seriously, their ability to address it is hampered by the lack of appropriate equipment, says Cindy Southworth, executive vice president and founder of Safety Net Technology Project at the National Network to End Domestic Violence.

"Most smaller (police) departments don't have these tech labs," says Southworth, who helps officers navigate the complexities of cellphone tracking technology as part of her work with state and federal agencies and private industry to improve safety and protect victim privacy.

"I've seen a lot of progress from 15 years ago, and officers are more tech savvy," she says. "But they're still underfunded; so there's not enough training and resources."

Another problem that police, domestic violence advocates and attorneys wrestle with is the evolving nature of the technology. Once an app is identified as a potential risk or threat to privacy, another pops up in its place or users are asked to upgrade to a different version.

"Technology is ever-evolving," says Southworth. "Anti-spyware software creators try to keep up with the spyware; however the spyware developers are constantly trying to get away from detection."

Boulette, who often deals with instances where his clients are being tracked by spouses, says he also finds it difficult to keep up with the changes.

“I have seen that as soon as we’re tipped off, it’s one of these things where as soon as we’re educated about what’s behind these apps, time’s up,” Boulette says.

Southworth says there are ways for victims to discover they are being tracked and prevent it to the best of their ability.

“Abusers often tip their hand by saying, ‘Why did you go see your sister? Why were you at the grocery store at this time?’” Southworth says.

Often, victims can get a prepaid phone from Target for calls of a more sensitive nature, Southworth says.

There are many different kinds of tracking apps available for cell phones. Some apps are an extra service that cell phone providers give their customers, especially to locate their phone in case it gets lost or to keep tabs on children; but the user is asked for permission to install the tracking app before it activates.

Remote Spyware Tracking

In recent years, however, spyware has become far more prevalent, and users can track the phones remotely, according to Brook Schaub, manager of computer forensics and discovery at Eide Bailly LLP and a former sergeant of the St. Paul, Minn. police department.

“That usually requires some kind of payment or subscription to a service, often a monthly fee sometimes for unlimited access, to get information. It only takes a few minutes in possession of the cell phone to initiate the app without the person’s knowledge, but I see a lot of that,” Schaub says.

“It’s not infrequent that I get cases where a spouse is concerned that something has been placed on their cell or laptop to track their activity.”

Then there are devices with GPS tracking that can be hidden in a partner or spouse’s vehicle. These devices often have magnets on them that can be stuck to the undercarriage of the vehicle, Schaub says, which are known as “slammers” by law

enforcement because you can easily slam them on a vehicle. Partners can wait until a spouse is at work or otherwise occupied to install them.

One type of slammer requires the device be retrieved from the vehicle and the archived data loaded onto a mapping program on a computer through a USB. The other is a real time tracking device where the spouse can log in on the Internet and see where the vehicle is at any given time and a history of where it has been, and those often require a subscription payment.

Schaub does everything he can to find out whether a device is being tracked, but it has its challenges.

“It’s meant to be stealthy and maybe you just luck out and find a website in the browsing history and the computer reaching out to a website,” he says. “We’re also looking at internet protocol, addresses, particular drivers [software programs] or DLLs [dynamic link library].”

“One of the first programs would hide information as a text message in a temporary file, and within all of those thousands of text messages you had to find very specific keywords.”

According to Schaub, “You can often go to the Apple store and have them wipe your phone of all apps. Sometimes Apple can tell you if an app is an anomaly. It all depends on whether you’re looking for piece of mind versus evidence.”

Reaching Out to Victims

Yaffa says the apps make it “an increasingly difficult task” for advocates to reach out and help abuse victims. But she and her staff try to identify places the victim and abuser have designated as “safe spaces” that are okay for the victim to visit, such as church and other community spaces.

Can You Tell If You’re Being Tracked?

Although it would prove very difficult for someone being tracked to know for sure if the app is on the phone, there are clues to look out for in case you have suspicions, such as a shorter battery life, strange text messages, high data use, and random starts or shutdowns.

“With real-time tracking – not all of the applications may be compatible with everything else on the phone,” Schaub says. “Ask yourself, ‘Are you using data you normally don’t? Does your battery normally go two days without needing to be charged but suddenly every few hours you’re charging it?’ That’s because it’s always reaching out to the cell towers to send data to the server.”

What you decide to do with your phone after discovering this information depends a lot on whether you intend to simply stop the tracking or go to court.

“We even meet them in grocery store aisles if need be,” she says. “We tell women to leave the phone at home, and we know of course she might be punished for not answering the phone, but we say maybe if she takes a short visit to a coffee shop near home she can say she was vacuuming and didn’t hear.”

Boulette says victims can also seek expert help to discover and document whether their phones are being tracked. But that can be an expensive task that is only open to those privileged enough to afford it.

Often, abuse victims have lost financial control, so paying for this is an extra burden.

“The experts I work with in Minneapolis cost anywhere in the \$500 to \$1000 range,” Boulette says. “It depends on what is there. The deeper forensic work could be more expensive. It’s not a small cost.”

Advocates and lawyers recommend documenting any kind of stalking, whether it be acknowledgement from a forensic computer analyst that the phone is being tracked or a screenshot of social media harassment.

What Victims Can Do in Court

Laws related to stalking didn’t really become a priority until the 1990s, so it is a relatively new and inconsistent area of the law.

For many states, there needs to be “one or more intentional acts that evidence a continuity of purpose,” according to a 2012 [report to Congress](#) from the Department of Justice’s Office on Violence Against Women on grant funds used to address stalking.

Some states define stalking as a crime of general intent while others define it as a specific intent.

As the report notes, surveillance technology is often not covered by state stalking statutes. While some states only require that victims are going through emotional distress or a broad fear for their safety, other states require that victims show the defendant has made them feel terrorized and threatened.

In many situations, there is an even higher standard, which is that a victim is afraid of serious injury or death, or a “reasonable person” standard is used, according to the report.

Karen Fultz, visiting professor at Western Michigan University’s Cooley Law School, says that victims can often take legal action and charge abusers with stalking, which leads to obtaining an order of protection.

“You can build a case of that kind if a secret app was downloaded into your system to track communication,” Fultz says. “If there is a sense of danger and fear for your safety, it may rise to the level where you can obtain an order of protection.”

Fultz gave an example where a husband suspected his wife is putting his safety at risk.

"I think if a spouse has made threats, what the husband would have to do is go to the court, and present evidence of recent events that, in his opinion, places him in fear for his safety," Fultz says.

"Whether it’s a comment by way of third parties or evidence of a tracking device, they would have to show it goes beyond conduct consistent with a normal relationship."

If those proceedings were successful, the husband in the example could get a temporary order to remove the threat from the residence, and depending on the jurisdiction, would go back to court in seven to 10 business days so the husband could produce evidence (while his wife is in court) that supports his petition for a protective order.

Assuming he provides sufficient evidence, the order would remain in place for at least six to 12 months, Fultz says.

"It used to be that an order of protection was as good as the paper it was written on," Fultz says. "The difficulty wasn't in getting an order, it was enforcing it. Now the police are taking it more seriously."

The Law Enforcement Response

Although abusers often use social media to harass and intimidate, police are also using social media to their advantage, she says.

"Police are becoming more knowledgeable and resourceful when it comes to social media," adds Fultz. "They will Google someone's Facebook page because some are open to the public and everyone, and you can see the most recent posts and look at their state of mind."

"If the author discloses something on the victim's Facebook page that is interpreted as inappropriate, such as 'I watched you. I saw you at the night club and I was following you home,' the police are looking at that."

An issue for a male abuse victim, such as the one referenced in Fultz' example, however, is that he often needs to provide more evidence, she says. Police often find it difficult to believe a man feels physically intimidated by a woman.

Alexis Moore agrees, saying that although she has seen more men come forward and talk to her about stalking, she finds that men have a steeper hill to climb.

"That's a huge problem: I explain to guys who go to law enforcement that they have to have 10 times more evidence than a female victim," Moore says.

A lot of that has to do with common personality traits of abusers, and of course the abusers tend to be men, so law enforcement authorities are skeptical.

"It's common to have a predator say they're the one being stalked, because many [abusers] have a narcissistic personality disorder," Moore says. "Men need much more documentation. They have to be gentleman. They can't say 'How dare you for not helping me?' or act arrogant."

It's difficult to keep abuse from escalating into assault and homicide when victims are completely unaware of its existence.

Patti Giggins, executive director of Peace Over Violence, says one victim was tracked to a shelter, exposing an otherwise safe place to the abuser.

"We had one victim tracked to a shelter via her phone. She was forced to leave the shelter," Giggins recalled. "We had to destroy the phone (and) get her to a shelter outside of L.A. County to get her off the grid. This can be very serious if someone really wants to come after you."

Melissa Wayment, victim assistance center manager for Your Community Connection in Odgen, Utah, says her center doesn't ask people to leave behind their phones: They want victims to have connections to family.

"It would prohibit survivors from coming in." Wayment explains. "If they can't communicate with family, it secludes them here. We want them to have those avenues [for communication]."

Jacque Marroquin, of the California Partnership to End Domestic Violence, says that banning devices would further isolate and disempower survivors.

"Abusers use power and control over their victims, and part of that includes isolation, so I'm all for the use of tech for convenience, to provide connections," Marroquin says. "(Otherwise), it just reinforces what abusers want us to do. "

Casey Quinlan is an editor of the investing section at U.S. News and World Report. She has written for the New York Daily News, City Limits, The Atlantic and Minyanville. She welcomes comments from readers.