



# DEPARTMENT NOTICE

21-018  
01/29/21

## **Stalking Investigations** (Supersedes 20-183)

### **Definition**

“Stalking” (646.9(a) PC) is defined as, “any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person **AND** makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking.”

“Harassing” means engaging in a knowing and willful course of conduct directed at a specific person that seriously annoys, alarms, torments, or terrorized the person and that serves no legitimate purpose. (See 646.9(e.) PC.) Courts have found that a credible threat may be implied from a subject’s pattern of conduct over a period of time. (See 646.9(g) PC; *People v. Lopez* (2015) 240 Cal.App.4th 436.)

### **Assignment**

Domestic violence incident reports listing stalking as the crime should be routed to the Special Victims Unit (SVU) for investigation. Use “Stalking” as the incident report title and “Domestic Violence” as the secondary type of incident.

Stalking incidents not related to domestic violence but involving high-profile individuals, public officials or dignitaries are investigated by the Special Investigations Division (SID).

All other stalking incidents shall be assigned to and investigated by the District Station Investigations Team.

### **Investigation and Prosecution**


There are a variety of stalking-related crimes including: stalking (646.9(a) PC); stalking in violation of a TRO (646.9(b) PC); annoying or harassing phone calls (646.9 PC); and aggressive pursuit of another (122 MPC).

Stalking (646.9(a) PC) is punishable, in the discretion of the court, as either a felony or a misdemeanor (wobbler). Members are reminded that crimes that are considered to be wobblers are treated as felonies by law enforcement officers. (See. 17 PC; POST LD 15.) Stalking (646.9(a) PC) suspects shall be booked and are not eligible for misdemeanor cite-release pursuant to 853.6(a)(3)(D) PC.

A domestic violence-related stalking case can also be prosecuted when the victim is stalked through the use of electronic devices such as e-mail, instant messaging, text messaging, social media, etc. There have also been instances when victims have been stalked by a suspect through

use of global positioning systems (GPS) or through video, digital cameras, or listening devices. Physical proof of usage devices should be seized and booked as evidence. Victims should also be encouraged to seek restraining orders when applicable.

Members with questions about stalking incidents can contact Inspector John Keane, SVU (415) 553-9363, SID (415) 553-1133, or their District Station's Investigation Team.

  
WILLIAM SCOTT  
Chief of Police

*Per DN 20-150, all sworn & non-sworn members shall electronically acknowledge this Department Document in PowerDMS. Members whose duties are relevant to this Document shall be held responsible for compliance. Any questions regarding this policy should be made to [sfpd.writtendirectives@sfgov.org](mailto:sfpd.writtendirectives@sfgov.org) who will provide additional information.*