

Confidentiality

By Joan Zorza

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After separation, abusers often use harassing, stalking, and other monitoring or isolating tactics to locate, control, and terrorize their victims and often their children.¹ Abusers typically ask children, friends, relatives, or neighbors to monitor and report on the victim's activities and whereabouts. Abusers also may fabricate domestic violence, child abuse, child abduction, or other allegations to manipulate the courts

and police, and to discredit and disempower their victims.² One of the most important tools for preventing this abusive behavior is a clear court order, rigorously enforced, which restricts the abuser from having any access to records of the victim or children that might reveal confidential telephone numbers and addresses. In extreme cases, it may be necessary to obtain an order which permits the victim and the children to relocate and to change their names and social security numbers.³

Domestic violence survivors must take steps to keep their locations confidential because of the violence of their abusers. Once the victim's whereabouts are known to the abuser, the abuser is likely to resume the violence, and even kill the victim and children.⁴ Nowhere is the danger greater than when the

¹ MARY ANN DUTTON, *EMPOWERING AND HEALING THE BATTERED WOMAN: A MODEL FOR ASSESSMENT AND INTERVENTION* 18–27 (1992); LENORE E.A. WALKER, *ABUSED WOMEN AND SURVIVOR THERAPY: A PRACTICAL GUIDE FOR THE PSYCHOTHERAPIST* 60–61 (1994); GEORGE LARDNER, *THE STALKING OF KRISTIN: A FATHER INVESTIGATES THE MURDER OF HIS DAUGHTER* 159 (1995).

² David Adams, *Identifying the Assaultive Husband in Court: You Be the Judge*, BOSTON BAR J., July–Aug. 1989, at 23, 24; ELLEN PENCE & MICHAEL PAYMAR, *EDUCATION GROUPS FOR MEN WHO BATTER: THE DULUTH MODEL* 5 (1993); JEFFREY L. EDLESON & RICHARD M. TOLMAN, *INTERVENTION FOR MEN WHO BATTER: AN ECOLOGICAL APPROACH* 34 (1992); Susan Schechter & Lisa Gary, *A Framework for Understanding and Empowering Battered Women*, in *ABUSE AND VICTIMIZATION ACROSS THE LIFE SPAN* 240, 242 (Martha B. Straus ed., 1988).

³ See my *Recognizing and Protecting the Privacy Needs of Battered Women*, 29 *FAM. L.Q.* 273, 289–91 (1995).

⁴ Michael Lindsay, *The Terror of Batterer Stalking*, *THE CATALYST: DOMESTIC VIOLENCE RESOURCE NEWSLETTER*, Spring 1994, at 1, 2.

abuser knows or suspects that the abused person is staying at a domestic violence shelter. Most states require or at least allow courts to keep the address of any domestic violence shelter confidential.⁵ The federal government requires every domestic violence shelter that receives federal monies to have a confidentiality protocol.⁶

What to Keep Confidential

Advocates for victims of domestic violence should keep the following confidential:

- Always keep the address of any domestic violence shelter confidential. File a motion to quash any adverse party's subpoena for domestic violence shelter records or counselor's testimony that the abused person wants excluded. Not only is the victim's safety at stake, but so is the safety of shelter residents and staff members.
- If the abused person has moved to escape abuse, keep the victim's new address and telephone confidential in any court pleadings. Consider asking the court *ex parte* for a change of venue to obscure the victim's new location. Seek an order allowing motions to be filed without reference to the actual venue.
- Request judicial orders restricting the abuser's access to the victim's new home, work, and school addresses and telephone numbers. Notify each agency or organization, including: victim's and children's schools and day care centers, that might reveal this information of the court's order; doctors, hospitals, and clinics, workplaces; utility companies, banks, and credit card companies.
- If the victim receives public assistance on behalf of the abuser's children, consider whether to request a good-cause waiver of the requirement to cooperate with child support collection.⁷ This will prevent the victim from having to provide information; help prove that the abuser is the child's parent; testify against the abuser; or otherwise assist in locating the abuser or the abuser's workplace.
- Once the abused person has a custody order, notify the U.S. Department of State of the custody order to prevent the abuser from obtaining passports for children who are American citizens.
- Notify the post office of any order of protection asking that, as required by the Violence Against Women Act, it protect access to information about the abused person's address or post office box.⁸
- Notify the state registry of motor vehicles to restrict release of information (name, address, social security number, photograph, driver identification number, medical or disability information) about the abused person.⁹
- Consider whether and how the victim may register to vote, and vote in elections, without publicly revealing a confidential address.¹⁰
- In cases where the abuser is involved in drug-related or other federal criminal activity, consider whether to contact the

⁵ See, e.g., MASS. GEN. L. CH. 209A, § 8 (West Supp. 1995); 23 PA. CONS. STAT. ANN. § 6112 (West Supp. 1995).

⁶ See, e.g., 42 U.S.C. § 10402 (a) (2) (E) (1994).

⁷ *Id.* § 602(a)(26)(B).

⁸ *Id.* § 13951, 14014.

⁹ 18 U.S.C. § 2725 (West Supp. 1996); see also *supra* note 3 at 287. The Violent Crime Control and Law Enforcement Act of 1994 gave states three years to enact the Driver Privacy Protection Act.

¹⁰ See, e.g., *District of Columbia v. Superintendent of Elections*, 618 A.2d 931 (N.J. Super. Ct. Law Div. 1992); WASH. REV. CODE ANN. § 40.24 (West Supp. 1996); WASH. ADMIN. CODE § 434-840 (1995); FLA. STAT. ANN. § 119.07 (West 1996).

U.S. Attorney's Office about the victim and children entering the federal witness protection program.¹¹

- Put newly acquired real estate in trust so that the abuser cannot search property title records for the victim's name.¹²
- Consider whether the victim and children should modify their hobbies, social habits, and magazine subscriptions.¹³
- Notify each institution or agency that has records regarding the abused person or the abused person's children about court protective orders which give the abused person custody or restrict the abuser's access to information. Inform these agencies how to prevent child abduction and wrongful release of confidential information.
- Consider whether the victim and children should seek a name change. Ask

the court to keep all information about the new name confidential from the public and the abuser. In cases where the abuser is the children's parent and the victim desires to change their names, ask the court to be permitted to notify the abuser that the victim has filed a court action to change the children's names because of the abuse; omit all reference to the intended new names. Ask the court to make findings of the danger to the victim and children if none has been made in other proceedings.

- Consider asking the director of the Social Security Office to issue new social security numbers on behalf of the victim and children.
- Discuss with a pregnant unmarried abused person whether or not to establish paternity when the child is born.¹⁴

¹¹ See Robert Sabbag, *The Invisible Family*, N.Y. TIMES MAGAZINE, Feb. 11, 1996, at 33–39.

¹² Willie L. Williams et al., *Stalking: Successful Intervention Strategies*, POLICE CHIEF, Feb. 1996, at 24–25.

¹³ *Id.* at 25.

¹⁴ See also *supra* note 3 at 292. Every hospital and birthing center must assist unwed parents in establishing paternity; the abused person will lose child support and may forgo eligibility for welfare benefits until paternity is established.