

**Testimony of  
Hilary Sunghee Seo, Esq.  
Domestic Violence Advocate,  
Sanctuary For Families'  
Center For Battered Women's Legal Services**

**before the  
Commission on Public Access to Court Records**

**May 30, 2003**

Thank you for giving us an opportunity to testify before you today. Sanctuary For Families' Center For Battered Women's Legal Services is the oldest and largest legal services organization in New York State dedicated to domestic violence victims. Last year, our staff and volunteer attorneys provided direct legal representation and advocacy to over three thousand battered women. We also lead community education and public advocacy efforts to help promote healthy relationships free of violence.

As citizens, attorneys and advocates of domestic violence victims, we embrace the general principle that the workings of the judiciary and court records are matters of great public interest. In a democratic society, the public not only has an interest in but a duty to inspect and hold accountable the court system. We recognize that with technological advances, there are significant potential advantages of making case files available to the public electronically – one of the main advantages being the ease with which information can be accessed.

However, ease of access also raises very serious privacy and safety issues for individuals who use the court system. By making court files available to the general public through the Internet with no significant restrictions, the courts essentially would be publishing that material to a worldwide audience. Such broad publication would provide

batterers and stalkers with a potent weapon to track down, harass and endanger victims. This is not an alarmist statement, but reflects our measured judgment based on our experience with tens of thousands of domestic violence and stalking victims and their abusers.

Why are we so concerned? I will outline our basic reasons and then go back to each to elaborate. First, we find in our work that batterers and stalkers generally are extremely obsessed with monitoring and controlling their victims. Many abusers terrorize their victims over many years, even after their victims have managed to “escape” for the time being. They often spend countless hours trying to track down their victims using any means available to them. Second, we find that the batterers and stalkers of our clients are often very savvy technologically. If court files are made available on the Internet, batterers and stalkers would spare no efforts in misusing that information to harass and endanger their victims. Third, while records from family court and matrimonial proceedings generally are not available to the public, court files from criminal and other civil cases are publicly available. Whether it be a criminal assault case involving rape or a sexual harassment case, case files will often contain personal and sensitive information about women that their batterers and stalkers could use to locate, humiliate and re-victimize them. More mundane cases involving landlord/tenant disputes or a minor car accident will likely contain some identifying information that could be used to endanger the safety of domestic violence and stalking victims. Fourth, in many cases, it will be difficult to predict beforehand what information could end up in the hands of an abuser and be transformed into a dangerous weapon. Unfortunately, once

sensitive information is released and made publicly available on the Internet, it would be almost impossible to undo the damage.

Let me now take a few minutes to elaborate on each of these points.

First, domestic violence and stalking are crimes that, at bottom, involve a desire to control and exert power over the victim. I would like to share with you the stories of two women. Both stories are rather typical of domestic violence and stalking victims, and illustrate how resourceful, thorough, and persistent abusers can be when it comes to finding ways of terrorizing their victims.

The first woman, J. S., was physically and emotionally abused by her husband. Besides beating her regularly and forcing her to have sex while he slapped her and verbally abused her, he isolated her by preventing her from working, forbidding her from leaving the house without his permission, calling her multiple times a day from his workplace to keep tabs on her, becoming angry at her if she talked to her friends or family over the telephone, and not giving her any money so that she would have to ask for his permission to buy even small items like toothpaste or feminine hygiene products. When she fled the house, he called every one of her relatives and friends until he eventually tracked her down.

The second woman, S.H., was a stalking victim. The stalker was someone she met briefly while volunteering at a community organization in South Korea. He followed her to her home one night and asked her out. When she said no, he started stalking her outside her home. He found out her work phone number and called her incessantly at work. He also stalked her at her workplace. After about a year, S.H. moved to New York to pursue her graduate studies. To her dismay, her stalker found out the name of

her school by contacting a fellow volunteer at the community organization, and took a plane and came to New York. He showed up at her school in New York causing her great fear. He also found out her phone number, email address and home address through the Internet and began to harass her. After a while, S.H. became so scared that she moved to a new location. But she is still afraid that her stalker may again succeed in tracking her down.

Like J.S.'s batterer, most abusers we encounter are obsessed with controlling and monitoring their victims. When their victims attempt to escape their sphere of domination, they often become even more aggressive and will go to great lengths to track down their victims. Like S.H., many stalking victims live in constant fear of being found out and re-victimized.

Second, in our work, we often encounter technologically savvy abusers who show enormous persistence and creativity in using the Internet to terrorize and humiliate their victims. The National Network to End Domestic Violence has observed that "the World Wide Web is far and away abusers' best tool for finding and continuing to harm their victims." It is not uncommon for abusers to spend hours scouring the Internet for potentially harmful information and spend many more hours disseminating such information to publicly humiliate their victims. To give just one example, T.J., a domestic violence advocate, had a client whose batterer was very Internet savvy. He was able to locate the confidential address of the domestic violence agency T.J. works for, even though her agency had gone to great lengths to keep the address confidential. He then created a website devoted to humiliating and terrorizing T.J.'s client and her support community. He posted the confidential address of the domestic violence agency on the

website, endangering the thousands of clients served by that agency. He also posted stories filled with what he claimed were intimate details of T.J.'s client's sex life. He did not stop there. He found T.J.'s photograph on the Internet and posted it, along with defamatory statements about T.J. using information he found about her on the Internet. This is not an atypical story. The fact is that the Internet is already a favored and extremely destructive weapon used by batterers and stalkers to terrorize and harm victims.

Third, making court records available to the general public over the World Wide Web would infuse the Internet with a large volume of information that previously was practically inaccessible except to those people willing to invest considerable time and energy to access such information. Providing electronic access to court records through the Internet is markedly different from giving the public access to those records during set hours in a set location – allowing indiscriminate Internet access would be more analogous to publishing that material to a world-wide audience and would change radically the potential usage of such information. Is such publication necessary to attain the goal of holding courts publicly accountable? Is it consistent with balancing the competing goals of public accountability and individual safety and privacy? What recourse would individuals have when such information is misused? What if the abuser resides in a foreign jurisdiction? We would urge the Commission to consider carefully these and other questions concerning individual privacy and victim safety.

While it is true that in New York, court records of matrimonial actions and family court proceedings are generally unavailable to the public, the case files of criminal and other civil cases *are* publicly available. Court records in these cases may contain

personal and identifying information that could be used by abusers to seriously harm victims. Also, New York has laws protecting the identity of victims of certain sex crimes. However, the protection does not apply unless the victim is prosecuted under very specific sections of the penal law. The identity of domestic violence victims or stalking victims whose perpetrators are prosecuted under the assault, harassment, stalking or menacing statutes would not be protected. Nor are there existing laws protecting the identities and identifying information of domestic violence or stalking victims involved in civil tort cases.

Let me give two examples to illustrate some of these points. Sarah, a battered woman, who was stalked relentlessly by her ex-husband, flees him and moves to another location. To protect her identity, she de-lists her phone number and is careful about giving out her address. She gets a new job but is terminated after she complains to her supervisor about sexual harassment and decides to seek redress in court. Her employment files which contain the name and address of her employer become available electronically because they become a part of the court's records. The case files also contain detailed information about how her boss sexually harassed her. Her batterer/stalker who is intent on finding her spends every Saturday evening scouring the Internet for information about her, and one day comes across her case. He is not only able to locate her through her work address but also threatens her that he will humiliate and embarrass her by posting all of the details of her sexual harassment case on the Internet and by mass-mailing the link to her family, friends and colleagues.

Here is a second example. Jessica is raped when she is 22. Her rapist is charged and convicted under an aggravated assault statute. Jessica testifies at the trial. Two years

after that, Jessica is sued over a minor contractual dispute. Because she proceeds *pro se* on the case, her case files contain her home address and phone number. The case eventually settles and is closed. A year later, she becomes a victim of acquaintance stalking. She tries very hard to keep him from finding her home address because she lives on a relatively isolated street, but he is able to locate her by searching electronically through case files using her name as a search word. He also finds out that she had previously been raped and begins sending her letters recounting graphic details from that case. Jessica is terrified and emotionally traumatized.

As these examples illustrate, because a woman who is currently not a victim of domestic violence or stalking could become one in the future, and a past victim of domestic violence or stalking may find herself embroiled with the courts in the future, it will be difficult to predict at any given point what information may become transformed into a weapon in the hands of an abuser.

Moreover, even with respect to more predictably sensitive categories of information, such as name, social security number, direct or indirect geographic locators such as home and work addresses, telephone number, email address and bank account information, it concerns us greatly that the guardians of such vital information would be understaffed, albeit hardworking, court personnel who may be technological novices. Also, women who have in the past been battered or stalked may in some cases ask courts to seal potentially harmful information on a case-by-case basis. But in many circumstances, they may not have the foresight or the resources to make such a petition to a court or the ability to persuade a judge that information which appears harmless on its face could potentially harm their safety. Finally, future victims of domestic violence or

stalking would have no way to undo the fact that because of cases they were a party to or a witness in in the past, there exists a body of sensitive and personal information about them that is available to the public through a court's website. Once potentially harmful information is made available on the Internet, whether because of clerical mistake or because, at the time of the posting, there was no reason to believe such information would jeopardize anyone's safety, it would be impossible to undo the damage.

We believe that the public's interest in conveniently accessing court records should never take precedence over the safety of people. We also believe that a woman should never be made to feel that in seeking redress under the law, she may be jeopardizing her safety because personal and sensitive information about herself would be made indiscriminately accessible to anyone.

I would like to end by underscoring the fact that intimate partner violence is extremely pervasive in our society. The safety issues I have highlighted are of grave concern to millions of women and the numbers are even greater when the victims' children, family members, friends, advocates and other support community are taken into account. According to a recent survey co-conducted by the National Institute of Justice and the Centers for Disease Control and Prevention, nearly 25 percent of all women in the United States are physically assaulted by an intimate partner over their lifetimes. This translates into approximately 26 million women across the nation. According to a recent survey conducted by the National Institute of Justice, about 8 percent of women are stalked over their lifetimes, or about 8.2 million women nationwide. These numbers are staggering. And as Charlotte Watson testified before you earlier today, over a

thousand women are killed each year by their partners *after* fleeing. Countless more are re-assaulted after they have supposedly escaped.

We thank and commend the Commission for the care with which it is approaching this extremely important, complex and sensitive topic. We urge the Commission to proceed with care, being mindful of the safety of the millions of women that your decisions will affect.

Thank you.