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Through a looking glass darkly



By [Hadrian Sammut](#)

Sometime around November 1998 an online surfer used the Internet to legitimately track down the home address of the well-known British TV presenter Jill Dando. This possibly obsessed fan logged on to a website called 192.com – an electronic, online UK telephone directory – and after providing personal credit card details paid to trace Dando's home address in Fulham. The online database allowed the person behind the search to download a highly detailed map highlighting Dando's terraced house in Gowan Avenue and the surrounding streets. On May 2nd 1999 Jill Dando was murdered on her own doorstep. It may possibly be one of the more extreme cases where a breed of wrongdoer - termed "cyberstalker" - overstepped the thin line between the virtual realm and stark, lethal reality.

Although it is acknowledged that the criminal behaviour of physical stalking is by no means a modern day phenomenon, cyberstalking is essentially an extension of, and contains the same elements as, traditional stalking albeit by using a high-tech modus operandi. It is a form of aggravation where the new electronic media – such as the Internet – are used to "wilfully, maliciously and repeatedly pursue, harass or contact a victim in an unsolicited fashion". It is yet another perverted offspring of the digital society - born out of the ease with which personal computers and the Internet have made detailed personal information available to everyone - using just a few simple keystrokes or mouse clicks. Ironically for such a public medium, the Internet offers sufficient anonymity to easily enable the cyberstalker to conceal his identity through a complex digital mask or even by impersonating an innocent third-party.

Experts estimate that more than 200,000 Americans are being cyberstalked on a regular basis. In Britain, Novell, one of the leading providers of network software revealed that 41% of regular UK users of the Internet said they had been harassed or stalked on the Internet. Surveys persistently indicate that most cyberstalking perpetrators are men and more than 80 percent of the victims are female - overwhelmingly ex-boyfriends or ex-husbands. E-mail is generally the preferred weapon of choice although chat room and newsgroup postings are fast gaining in dishonest popularity.

One of the earliest reported cases of cyberstalking occurred in Detroit in 1994. The circumstances revolving around this case demonstrated a serious gap in the legal framework on the question of cyberstalking. Andrew Archambeau, from Dearborn Heights, was accused of stalking a woman from nearby Farmington Hills via e-mail and computer messages. Archambeau and the woman had met sometime in February 1994. The woman had contacted him through a video dating service after discovering that they shared a mutual interest in computers and technology. After regularly phoning each other and meeting twice, the woman eventually decided to end the relationship through a terse e-mail message.

But Archambeau did not accept the termination of their relationship. He persisted in sending a flood of harmless e-mail

messages to the woman asking to be re-united. On her part she desisted from answering any message. Eventually Archambeau, in apparent frustration, turned to sending e-mails containing precise details about the woman's daily whereabouts, irrefutable proof that he had been stalking and watching the woman.

The woman contacted the Farmington Hills police. The police were unprepared and untrained in handling a stalking case that did not involve clear and tangible proof of corporeal stalking – legally known as “credible threat”. Initially the Farmington Hills police mistakenly classified this as yet another case of domestic violence and merely ordered Archambeau to desist from sending any further e-mail messages or risk being arrested. Archambeau ignored the order, was eventually arrested and in May 1994 was hauled before the courts.

Initially Archambeau was charged under the state's 1993 stalking laws that make it a misdemeanour to maliciously and relentlessly harass and physically pursue someone; but from the outset it was clear that this legislation had never been intended to encompass computer-related transgressions that generally did not involve any physical confrontation between perpetrator and victim.

The Oakland County prosecutor, Neil Rockind, underlined this fact when he declared, “this case broadens our horizons on how crimes can be committed. Computer stalking cannot be policed like other crimes.” Rockind sent an early warning of what was to follow within a few years when he forecast that, “From the secure privacy of the home, in the glow of a computer, you can stalk somebody (and) detection is very difficult.” In stark contrast and with relatively limited foresight, the defence attorney labelled the case “much ado about nothing.”

Archambeau made legal history when the District Judge ordered him to abstain from “directly or indirectly” contacting the woman, an obvious quick-fix solution to an evidently inadequate law.

As with most things Internet America has taken the initiative to combat this emerging and growing menace. One of the foremost cyberstalking laws was enacted in California in January 1999. Within three weeks of this enactment the Los Angeles County prosecutors were sternly tested in a case brought against a 50-year old security guard who used the Internet in an attempt to provoke the rape of a 28-year-old woman acquaintance who had spurned his advances.

The suspect, Gary Steven Dellapenta pleaded guilty to charges that he had posted false online advertisements, under the victim's name in one of the many sex-themed chat rooms on the Internet, declaring that the woman had an unfulfilled sexual fantasy of being raped. Dellapenta posts included the woman's name, physical description, address, phone number as well as detailed instructions about disarming the woman's home security system.

As expected, a number of men did answer the lurid adverts and six even showed up at the woman's apartment in North Hollywood claiming that they were prepared to rape her, although none attempted illegal entry. The victim took to posting messages on her apartment door stating that the adverts were false, but Dellapenta posted counter-messages online stating that these were simply tests to determine who was in fact “worthy” of her fantasies. The victim's father, who responded to the

chat room messages himself, managed to eventually trace the origin of the postings back to Dellapenta. He was arrested, charged with cyberstalking, using a computer to commit fraud, deceive or extort and solicitation to commit sexual assault, charges that resulted in Dellapenta being sentenced for six years in a California state prison.

In contrast consider the case of a Phoenix man who harassed his ex-girlfriend by posting false personal adverts, giving the woman's home and work address, in a community Web site claiming that she was seeking sex partners. Within a fortnight more than three-dozen men appeared at her workplace and home asking for sex. The Phoenix police eventually arrested the man but because Phoenix does not have any form of cyberstalking law, prosecutors were forced into charging him on a lesser crime - that of falsely using another person's identity. In contrast to Dellapenta's tough sentence the Phoenix man was sentenced to just ten days in prison. The Phoenix case created a major outcry within the United States resulting from the disparate jurisdiction, with respect to cyberstalking, across the various American states.

The US Senate is currently preparing the Stalking Prevention and Victim Protection Act of 2000 with the US Congress considering raising the offence of cyberstalking from that of misdemeanour to the more significant federal crime.

On February 26th, 1999 the Clinton Administration through Vice President Al Gore commissioned the country's Attorney General, Janet Reno, to prepare a report analysing the legal and social implications of cyberstalking. In response to reports which depict cyberstalking as just a harmless online activity, Vice President Gore said, "Make no mistake: this kind of harassment can be as frightening and as real as being followed and watched in your neighbourhood or in your own home."

In August 1999 the U.S. Department of Justice published a report, entitled "Cyberstalking: A New Challenge for Law Enforcement and Industry." The report warned that, "Current trends and evidence suggest that cyberstalking is a serious problem that will grow in scope and complexity as more people take advantage of the Internet and other telecommunications technologies."

Reno warned that cyberstalking is often "a prelude to more serious behaviour, including physical violence." A recent case involved a New Hampshire man who repeatedly threatened his victim via e-mail messages, and placing intimidating messages on his personal Web page stating that he would eventually kill her, which he finally did.

Sadly, in the Jill Dando case, Scotland Yard attempted to track the Internet call to 192.com back to the computer from which it was made. It was traced back to an America On-Line (AOL) account but the details of the caller, his credit card number and other links had been destroyed within a few weeks under the service provider's normal procedures. There is much that still needs to be done.

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