

Making the Connection between Intimate Partner Violence and Stalking

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Stalking is often defined as a course of conduct directed at a specific person that would cause a reasonable person to feel fear. It is a crime that affects 3.4 million people every year. Although stalking can affect both men and women, women are nearly three times as likely to be victimized.¹

Most stalking victims know their offender in some capacity—friend, neighbor, colleague—and most often the stalker is a current or former intimate partner.² Intimate partner violence-related stalking is both the most common type of stalking and the most dangerous. The National Violence Against Women Survey found that more than three-fourths of stalking victims who were stalked by an intimate partner reported that they had also been physically assaulted by that partner, and more than one-third of women stalked by an intimate partner were also sexually assaulted by that partner.³ Intimate partner stalkers know a great deal about their victims and often have access to the most critical and vulnerable aspects of their lives. Stalkers use that knowledge and access to their advantage.

Stalkers are persistent and creative. They will often use any means available to them to further harass their victims. Two-thirds of stalkers pursue their victims at least once per week and are unlikely to stop after law enforcement or court intervention. Seventy-six percent of stalkers use more than one means of approach.⁴ Stalking behaviors may include unwanted phone calls and messages, following or spying, showing up at places the victim frequents, spreading rumors, sending unwanted letters or e-mail, or leaving unwanted gifts for the victim.

Increasingly, stalkers are taking advantage of technology, including phones, cameras, computers, and global positioning systems (GPS), to do their stalking. It is all too easy for stalkers to find equipment to assist in their stalking and information on how to use it on the Internet. Stalking via technology can be particularly terrifying and frustrating for victims because they may not understand how the offender obtained the information about their conversations, whereabouts, or daily activities.

Regardless of the means, stalking victims can experience feelings including loss of control, hyper-vigilance, depression, anger, fear, and a whole host of other emotions and reactions. When asked what they are most afraid of, 46% of victims say they are afraid of not knowing what would happen next, 29% say they are afraid the behavior would never stop, and 9% fear death at the hands of their stalkers.⁵

Stalking often escalates to other violent behavior. One study found that more than one-third of stalking victims experienced a physical attack by the offender.⁶ Stalking is not just dangerous, it is also potentially lethal. Seventy-six percent of intimate partner femicide⁷ cases involved at least one episode of stalking within a one-year period prior to the murder, and 8% of intimate partner attempted femicide cases involved at least one episode of stalking within a one-year period prior to attempted murder.⁸ The message

is clear that in cases where physical abuse and stalking are present there is a higher risk of lethality than either behavior alone.

Despite the high prevalence and dangerousness of stalking, it remains an underreported crime. Less than half (about 41%) of female victims report stalking to law enforcement.⁹ One reason is that stalking may be difficult to recognize. Neither victims nor law enforcement may identify unwanted or harassing contact with the offender as stalking. When tied to other crimes such as domestic violence or damage to the victim's property, stalking may be overlooked as being less serious than the immediately obvious offense.¹⁰

There are many other reasons why victims do not report stalking. They may not recognize the seriousness of the behavior or think that if they ignore it the stalking will stop. They may also fear

retaliation from the offender if they involve law enforcement. Victims may also feel as though they cannot report stalking because there is little or no proof of the behavior.¹¹

Also, in many cases, it is difficult for intimate partner stalking victims to sever all ties with the offender because they may have children in common. The victim may be

required to appear in family court or to bring the children to court-ordered unsupervised visitation or exchanges which unintentionally allows the stalker access to the victim. Stalkers also use children and other family members to help them stalk their victims.

What can judges do? Making the connection between domestic violence and stalking is the first step. In cases of stalking, early intervention can prevent violence or death. Increase the safety of victims by issuing and enforcing protective orders that take stalking into account. Recognize that stalking affects children and consider stalking behavior when ordering visitation. Hold offenders accountable.

For more information, visit <http://www.ncvc.org/src>.

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END NOTES

¹ Tjaden, Patricia, & Thoennes, Nancy. (1998). *Stalking in America: Findings from the National Violence Against Women Survey, Research in Brief*. U.S. Department of Justice, National Criminal Justice Reference Service. Available at <http://www.ncjrs.gov/pdffiles/169592.pdf>.

² Baum, Katrina et al. (2009). *Stalking Victimization in the United States, Special Report*. U.S. Department of Justice, Bureau of Justice Statistics. Available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/svus.pdf>.

³ Tjaden & Thoennes, *supra* note 1.

⁴ Mohandi, Kris et al. (2006). The RECON typology of stalking: Reliability and validity based upon a large sample of North American stalkers. *Journal of Forensic Sciences*, 51, 147.

⁵ Baum et al., *supra* note 2.

⁶ Roberts, Karl. (2005). Women's experience of violence during stalking by romantic partners. *Violence Against Women*, 11, 106.

⁷ Defined as murder of a woman.

⁸ McFarlane, Jim et al. (1999). Stalking and intimate partner femicide. *Homicide Studies*, 3, 311.

⁹ Baum et al., *supra* note 2.

¹⁰ Logan et al. (2009). *The Kentucky Civil Protective Order Study: A Rural and Urban Multiple Perspective Study of Protective Order Violation Consequences, Responses, and Costs*. Available at <http://www.ncjrs.gov/pdffiles/nij/grants/228350.pdf>.

¹¹ *Id.*

National Trends in Family Violence Legislation: 2009

Each year, NCJFCJ's Family Violence Department publishes the *Family Violence Legislative Update*. By identifying legislative trends and summarizing state legislation, the FVD hopes to provide guidance to legislators, judges, attorneys, domestic violence coalitions, and others to inform change efforts in their own jurisdictions. The *Family Violence Legislative Update Volume 15* focuses on the new legislation from 2009. The following is an overview of some of the trends from last year:

CHILD CUSTODY AND VISITATION

Child custody and visitation legislation ranged from allowing for the use of parental coordination, to giving judges broader discretion to prevent child abduction, to creating exceptions to policies favoring friendly parents in custody determinations where there is a history of domestic violence.

- **Parenting Coordination:** Four states (Florida, Maine, North Dakota, and Texas) passed laws related to the use of parenting coordinators. Florida's and Maine's statutes provide explicit exemptions where there is a history of family violence.
- **International Abduction:** Missouri gives judges broad discretion to prevent international child abduction. Texas requires courts to consider domestic violence when reviewing one parent's attempts to relocate internationally.
- **Rebuttable Presumption:** Four states (Florida, Nevada, North Dakota, and Oklahoma) amended their laws to include additional behaviors that trigger rebuttable presumptions that a perpetrator of domestic violence should not be granted sole or joint legal or physical custody or unsupervised visitation.
- **"Friendly Parent" Exceptions:** Arizona and Oklahoma passed laws to create exceptions to policies favoring friendly parents where there is a history of domestic violence.

ELECTRONIC MONITORING

Five states (Arkansas, Illinois, Indiana, North Dakota, and Texas) passed legislation allowing courts to order electronic monitoring of domestic violence perpetrators and set minimum time limits for monitoring.

FIREARM PROHIBITIONS

Seven states passed laws concerning the prohibition of weapons. Three states (Illinois, Tennessee, and Texas) now require the court to provide notification of federal firearms restrictions to domestic violence perpetrators. Four states (Illinois, Maryland, Nebraska, and Tennessee) added state-based prohibitions on firearms. California passed laws authorizing courts to issue firearm search warrants for violations of protection orders and incidents of domestic violence.

PROTECTION ORDER SYSTEM ENHANCEMENTS

Several states amended their protection order laws to include new protections, processes for registering, and additional methods of serving orders.

- **Additional Protections:** Arkansas clarifies for the courts when a temporary child custody or visitation determination can be made within a protection order and which custody or visitation order applies to the case if there is a pre-existing custody or visitation order. It allows courts to make temporary child custody or visitation determinations within protection orders even when there is an existing child custody or visitation order made by another state with continuing jurisdiction. The temporary child custody or visitation determination within the protection order remains in effect until the court with continuing jurisdiction enters a subsequent

order regarding child custody or visitation. Hawaii, North Carolina, and Washington now allow protection orders to include provisions related to the safety and care of animals.

- **Registration:** Indiana, Mississippi, and West Virginia passed laws establishing and creating procedures for protection order registration.
- **Service:** Three states (Florida, Maine, and West Virginia) passed laws to improve service.

STALKING

Acknowledging the link between stalking and domestic violence and the increased safety concerns for victims, four states (Illinois, Kentucky, Nevada, and New Mexico) strengthened or established protections for stalking victims.

STRANGULATION

Recognizing the danger strangulation poses to victims, five states (Arkansas, Illinois, Nevada, Oklahoma, and Texas) created new strangulation crimes or expanded existing laws related to strangulation.

TESTIMONY

Three states established or clarified protections for victim testimony. California allows pre-trial testimony of a domestic violence victim when there is evidence that the defendant tried to dissuade the victim from testifying. Illinois permits judges to take the testimony of domestic violence victims in chambers if testifying in open court would cause the victim emotional distress. The District of Columbia makes it clear that spouses and domestic partners can testify in domestic violence cases.

DOMESTIC VIOLENCE COURTS

Idaho became the first state to enact legislation for the development of domestic violence courts statewide.

For a free copy of the *Family Violence Legislative Update*, please contact the Resource Center on Domestic Violence: Child Protection and Custody at 1-800-527-3223 or visit www.ncjfcj.org.

In honor of domestic violence awareness month, here are some judicial leadership strategies that you can implement in your community to improve judicial and community response to domestic violence. Some of your fellow judges have identified:

- Presiding judges can get your judges and court staff trained in domestic violence.
- Attend a program on domestic violence or elder abuse offered through NJIDV (www.njidv.org).
- Compile and disseminate a community listing of services for victims and batterers.
- Set up a coordinated community response.
- Provide feedback to prosecutors, public defenders, and probation officers on domestic violence issues.
- Advocate for the necessary technology to identify and track domestic violence cases.
- Create a multidisciplinary intake system.
- Encourage the private bar to provide pro bono legal services to victims, batterers, and shelters.
- Develop a relationship with the media to explain what occurs in domestic violence courts.
- Train community and faith-based leaders regarding domestic violence.

