

Stalking Policies and Research in the United States: A Twenty Year Retrospective

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Abstract Twenty years ago California passed the first stalking law in the United States. Since then, much has been done in the U.S. to increase regulation and understanding of this serious crime. All states and the District of Columbia have laws criminalizing stalking. The U.S. Congress enacted a law making it illegal to stalk across state, federal, and international boundaries. It also mandated a model stalking code for states be developed that is both constitutional and effective, and established January National Stalking Awareness Month. The National Center for Victims of Crime established the Stalking Resource Center to raise awareness and encourage the development and implementation of multi-disciplinary responses to stalking in local communities. In addition, there has been an explosion of stalking research, including two national surveys on stalking victimization and a study on the implementation of stalking laws nationwide. Despite these many achievements, significant deficiencies exist with respect to U.S. stalking policies and research. Many policymakers and practitioners are unclear about what constitutes stalking. Stalking statutes vary widely from state to state with respect to behaviors outlawed and penalties imposed. Reliable information about many aspects of stalking is not readily available, and implementation of stalking laws remains limited. This paper examines these issues in more detail and provides recommendations on how U.S. stalking policies and research may be improved.

Keywords Criminal justice · Measurement · Policy · Research · Stalking · Victimization

Introduction

In 1990, the California legislature passed the first law in the United States outlawing stalking. Impetus for the California law came from a series of five stalking-related murders of Orange County women in less than a year. The first of these murders was perpetrated against Rebecca Schaeffer, a popular young starlet who was gunned down and killed in

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front of her apartment on July 18, 1989, by an obsessed fan who had been following and harassing the young actress for several months (Dawsey and Malnic 1989). Shortly after Schaeffer's death, four other women in Orange County were stalked and murdered within a six-week time span, each by a former boyfriend or husband (Schaum and Parris 1995). Before their death, three of the women had reported to the police they feared for their safety because of repeatedly being followed, harassed, and threatened by their ex-partners, and had obtained a restraining order against their respective assailant. In each case, the restraining order proved ineffective (Schaum and Parris 1995).

Publicity surrounding the five deaths galvanized both the film industry and the wider community to pressure the California legislature to pass a stalking law. Responding to this pressure, state senator Edward Royce of Fullerton, California, and Judge John Watson of Orange County, California, drafted the nation's first stalking law (Beatty 2003). Senate Bill 2184 was passed by the California legislature in 1990, and on January 1, 1991, became part of California Penal Code 646.9 (Beatty 2003).

As news of the California law spread, other state legislatures rushed to pass their own stalking legislation. In 1992, 29 additional states passed some type of law proscribing stalking (Hunzeker 1992). By 1993, all states and the District of Columbia had addressed stalking in their penal codes, either by creating the crime of stalking or modifying existing harassment statutes to apply in stalking situations (Hunzeker 1993). Thus, in just a few years, stalking went from being an activity for which there was no criminal sanction in the U.S. to one that was criminalized throughout the country.

Concerned that the rush to pass state stalking laws was creating a miscellany of flawed and unenforceable statutes, the U.S. Congress in 1992 directed the Department of Justice's National Institute of Justice (NIJ) to develop a model stalking code for states that would be both constitutional and enforceable and to aid states in implementing such a code (National Institute of Justice 1996).¹ The NIJ in turn commissioned the National Criminal Justice Association (NCJA) to carry out this directive. In October 1993, the *Model Stalking Code for States* was delivered to Congress (National Criminal Justice Association 1993). The NCJA distributed copies of the code to the states and conducted a series of regional training seminars on issues related to implementing the model code (National Criminal Justice Association 1993). Many states subsequently amended their initial stalking laws to bring them in line with recommendations and language outlined in the model code (National Conference of State Legislatures 1995; Yee 1994).

Shortly after development of the model stalking code, Congress passed a series of laws that were designed to increase regulation of stalking at the federal level (see section entitled Federal Laws, page 15). In addition, the federal government took measures to increase understanding and awareness of this serious crime. In 1998, the NIJ and the Centers for Disease Control and Prevention (CDC) released a study on the extent and nature of stalking in America (Tjaden and Thoennes 1998). In 1999, Vice President Al Gore asked the Attorney General to study the emerging problem of cyberstalking and report back with recommendations on how to protect people from this threat (U. S. Department of Justice 1999). In 2000, the National Center for Victims of Crime launched the Stalking Resource Center to raise awareness and encourage the development and implementation of multi-disciplinary responses to stalking in local communities (Stalking Resource Center 2001). In 2003, Congress designated January National Stalking Awareness Month (Dann 2008). Most recently, in 2009, the Bureau of

¹ The model code was mandated in Public Law 102-395, the U.S. Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act for Fiscal Year 1993. The directive to develop model antistalking legislation is contained in Section 109 (b).

Justice Statistics (BJS) released a report on stalking victimization using data from a supplement to the National Crime Victimization Survey (Baum et al. 2009).

Despite these many positive achievements, many deficiencies remain with respect to U.S. stalking policies and research. Nearly 20 years after the first stalking law was enacted, many policymakers and practitioners still are unclear about what constitutes stalking. Stalking statutes vary widely from state to state with respect to the specific types of behaviors outlawed and the severity of penalties imposed for a stalking violation. Reliable information about many aspects of stalking is not readily available, and implementation of stalking laws remains limited.

Given these issues, it is no wonder that it sometimes feels like “deja vu all over again”² when it comes to stalking. As in the era leading up to passage of the first stalking law, stories of obsessed fans stalking celebrities continue to fill the air waves (Alpert 2009). And all too frequently newspapers report stories of stalking-related murders where the victim, usually a woman, had a restraining order against her assailant (e.g., Greenville 2008; Wedge 2009). Although much has been done to ameliorate the plight of stalking victims in the past 20 years, much remains to be done.

In the remainder of this paper I discuss in more detail issues related to defining, regulating, and measuring stalking. I also examine how stalking laws have been implemented. I conclude with recommendations on how U.S. stalking policies and research may be improved.

Stalking Definitions

Before a specific type of behavior can be regulated or investigated it must be properly defined. This has proven somewhat elusive with respect to stalking. Today, many ordinary people are unaware of what the term stalking implies. Indeed, often when I tell a lay person that I study stalking for a living, he or she assumes I work in women’s hosiery.

Of more concern is the fact that many criminal justice personnel are unclear about what constitutes stalking. A study conducted nearly ten years after stalking laws were enacted nationwide found that many criminal justice professionals and policymakers gave incorrect answers when asked to provide a legal definition of stalking. For example, a prosecutor stated that following a victim without her knowledge constituted stalking, a police officer stated that stalkers had to act on their threats before the crime of stalking had occurred, and a STOP Grants administrator stated that the use of date rape drugs constituted stalking (Miller 2001). None of these statements accurately describes the *crime* of stalking.

Stalking has proved a difficult term to define in part because it means many things, legally and illegally. Historically stalking has been defined as the seeking and pursuing of quarry or prey stealthily in order to kill it, such as a cat stalking a bird or a hunter stalking a deer (see any U.S. dictionary). Thus, until recently, the term stalking has generally been associated with big game hunting or predatory behavior in the animal kingdom rather than predatory behavior among humans.

The term stalking took on a different meaning in the U.S. in the 1980s, when the tabloid press began to use the term stalking in their coverage of a series of high profile cases involving celebrity figures pursued by obsessed fans.³ Used in this context, stalking referred to persistent predatory and intrusive behaviors by obsessed fans toward well-know

² The term is borrowed from John Fogerty’s 2004 CD, *Deja Vu All Over Again*.

³ Perhaps the most well-known of these cases involved John Hinkley Jr.’s attempted assassination of President Reagan on March 30, 1981, as a show of love for film actress Jodie Foster.

or celebrated persons that threatened their privacy and/or well-being (Maiuro 2002:ix). Many of these cases were determined to involve gross levels of delusional thinking in the form of “erotomania” and other forms of mental illness (Maiuro 2002:x). Soon the term stalking also was used to describe a pattern of domestic violence and abuse in which a person made a series of unwanted, harassing, and threatening contacts with a former spouse or intimate partner (Maiuro 2002:x). By the time California passed the first stalking law, it had become commonplace to use the term stalking to describe human-to-human predatory behavior, whether between strangers or intimates.

From a lay perspective, stalking also is associated with obsessive courtship behavior. Often depicted in a humorous and innocuous manner in books, plays, and films, obsessive courtship behavior—however unwanted—may be perceived as acceptable, or even admirable, if it is motivated by true love. According to some, this “Cyrano mind-set” obliterates the line between romantic behavior that is socially acceptable and that which is obsessional, intrusive, and criminal, and may help explain why some criminal justice professionals have been slow to take stalking cases seriously and why some stalking victims doubt their status as victims or blame themselves for their victimization (Beatty 2003:2–6).

In recent years, several behavioral scientists have studied obsessive courtship behavior in an attempt to discover patterns and causes that may underlie it. In describing their research, these experts often use the terms “obsessional following” and “obsessive relational intrusion” interchangeably with stalking, even though the behaviors they are studying do not necessarily involve criminal behavior (Meloy 1998; Spitzberg and Rhea 1999). This has created some confusion with respect to measuring the prevalence and characteristics of stalking among social scientists, some of whom prefer to focus only on the “*crime* of stalking” while others prefer to include in their definition of stalking a broader spectrum of predatory or obsessive behavior.

From a legal perspective, stalking is difficult to define because one of its core features is a pattern of behavior over a period of time rather than a single event (Maiuro 2002:x). In addition, stalking can manifest itself through a multitude of behaviors, at times subtle and idiosyncratic to the victimized individual (Maiuro 2002:x). Finally, unlike crimes such as rape or robbery, stalking is not a common law crime⁴ and must therefore be defined by statutes and by court decisions interpreting those statutes (Miller 2001). Given these factors, it is not surprising that law makers have had difficulty defining stalking in a ways that pass constitutional muster.

State Stalking Laws

Model Stalking Code

As previously noted, the rush to pass stalking laws at the state level created a hodgepodge of laws that were questionable in terms of their constitutionality and effectiveness. To rectify this situation, the U.S. Congress mandated a model stalking code for states be developed. The *Model Stalking Code* specifically states:

Any person who:

- (a) Purposely engages in a course of conduct directed at a specific person that would cause a reasonable person to fear bodily injury to himself or herself or a member of his

⁴ Common law crimes are based on judge-made law (as opposed to legislative law) and have their origins in England (Oran 1983:88).

- or her immediate family or to fear death to himself or herself or a member of his or her immediate family, and
- (b) has knowledge or should have knowledge that the specific person will be placed in reasonable fear of bodily injury to himself or herself or a member of his or her immediate family or will be placed in reasonable fear of death of himself or herself or a member of his or her family; and
 - (c) Whose acts induce fear in the specific person of bodily injury to himself or herself or a member of his or her immediate family, or induce fear in the specific person of the death of himself or herself or a member of his or her immediate family; is guilty of stalking (National Criminal Justice Association 1993:43–44).

The *Model Stalking Code* defines course of conduct “...as repeatedly maintaining a visual or physical proximity to a person, repeatedly conveying verbal or written threats or threats implied by conduct or a combination thereof directed at or toward a person,” with repeated meaning “...on two or more occasions (National Criminal Justice Association 1993:43–44).”

The *Model Stalking Code* further recommends making stalking a felony offense; establishing penalties for stalking that reflect and are commensurate with the seriousness of the crime; and providing criminal justice officials with the authority and legal tools to arrest, prosecute, and sentence stalkers (National Criminal Justice Association 1993).

Specific Elements of Stalking Laws

Although many states subsequently amended their statutes to conform with provisions outlined in the model stalking code, state stalking laws continue to differ greatly with respect to language and specificity around certain elements of the crime of stalking.

Course of Conduct Some stalking statutes specify what acts are included in the course of conduct (e.g., lying in wait, following, pursuing, placing under surveillance), while others, recognizing the ingenuity of stalkers, focus on the outcome of the criminal conduct rather than the conduct itself (e.g., course of conduct that would cause a reasonable person fear). The latter approach is favored by the *Model Stalking Code* because it is broad enough to encompass all types of stalking behaviors, but narrow enough to avoid proscribing what would otherwise be legal activity (Beatty 2003:2–8). Some stalking statutes include a long, laundry list of proscribed acts, while others include just a few. Some statutes may also require stalkers to follow or be in the physical presence of the victim and exclude non face-to-face activities, such as sending letters or leaving gifts.

Statutes also specify how many acts are required to satisfy the course of conduct element. According to some statutes, a single, threatening posting on a social network could satisfy the element, while others require two or more acts. Finally, stalking statutes may specify whether stalkers who enlist third parties (e.g., family and friends) to stalk on their behalf are guilty of stalking (Stalking Resource Center 2004b).

Intent The intent element of the crime of stalking is considered by many to be the most difficult element of the crime to prove and is often cited as the reason why so few stalking cases are prosecuted (Beatty 2003). All state stalking statutes require the prosecution to show the stalking was intentional, that is, the stalker meant to perform the acts that constituted stalking (Miller 2001). However, statutes vary with respect to whether they are a *general intent* or a *specific intent* crime. According to the Stalking Resource Center website,

a stalker commits a general intent crime when the stalker intends the actions in which he engages (Stalking Resource Center 2004b). In states that categorize stalking as a general intent crime, the prosecution does not have to prove that the stalker intended the consequences of his actions. Conversely when stalking is categorized as a specific intent crime, the stalker must intend to cause the result of his actions (typically the victim's fear) to commit the crime of stalking. Specific intent statutes may be more difficult to prosecute. Court decisions in several states have reduced the prosecutorial burden of proving intent to threaten and cause fear by holding that the defendant's actions were such that he or she should have known that his or her actions would be perceived as a threat or would provoke fear (Miller 2001).

Threat Initially, most state stalking statutes required that the stalker make a "credible threat" of violence against the victim. This requirement was problematic because it established two critical elements that had to be proven to secure a stalking conviction: 1) the threat had to be explicitly communicated to the victim, and 2) the stalker had to have the ability to carry out the threat (Beatty 2003). Today, most states have adopted a broader standard, one allowing the threat to be explicit or implicit. Implicit threats differ from explicit threats in that they do not have to be conveyed in words, but may instead be inferred by the victim based on what the stalker says and does and taking into account any special knowledge the victim may have of the stalker (Beatty 2003). Implicit threats are often hard to prove in stalking cases. To exclude oversensitive reactions from the law's reach, the threat must meet a reasonable person standard (Miller 2001). Regardless if the threat is implicit or explicit, its execution does not have to be immediate but instead can occur in the indefinite future (Miller 2001).

Fear Fear is the fundamental justification for stalking laws. As Beatty states (2003:2–10), "Fear is the common currency of the stalker. Conduct that creates fear in others is what stalking laws essentially seek to eliminate." In other words, without fear, there is no crime of stalking.

Most stalking statutes have both a *standard of fear* and *level of fear* requirement. With respect to the *standard of fear*, some stalking laws require that the stalker's behavior cause the victim actual fear. Under such a requirement, the victim has to prove that his or her emotional state or lifestyle was changed as a result of his or her stalker's course of conduct (Stalking Resource Center 2004b). Other laws require that the behavior would cause a reasonable person to feel fear (Stalking Resource Center 2004b). Some laws require both actual fear on the part of the victim and proof that a reasonable person would also feel fear (Stalking Resource Center 2004b).

Stalking laws vary widely on the *level of fear* a victim (and/or reasonable person) must experience for stalking to have occurred. Some statutes require the victim to feel terrorized, frightened, intimidated, or threatened, or fear that the stalker intends to injure the person, another person, or property of the person or another person (Stalking Resource Center 2004b). Other statutes require that the victim fear serious bodily injury or death (Stalking Resource Center 2004b). Some states require only that the victim fears for his or her safety or suffers emotional distress (Stalking Resource Center 2004b).

It is noteworthy that the *Model Stalking Code* does not require stalkers to make a credible threat-implicit or explicit-but it does require victims to feel a high level of fear-fear of bodily harm or death. As the drafters of the *Model Stalking Code* stated, "Since stalking statutes criminalize what otherwise would be legitimate behavior, based upon the fact that the behavior induces fear, the level of fear in a stalking victim is a crucial element (National Criminal Justice Association 1993:44)."

Target of Stalker's Acts State stalking statutes vary with respect to whom the intended target of stalker's acts can be. Most states include as covered targets the victim or an immediate family member. Other states extend the covered targets to include others, such as a current or former intimate or social companion, or the victim's professional counselor or attorney (Stalking Resource Center 2004b).

Crime classification and sentencing schemes State sentencing schemes are usually based on the offense class structure established by the specific stalking statute (Beatty 2003:2–17). The offense class usually relates to whether the crime is a first, second, or subsequent offense, or whether the crime involved aggravating circumstances.

Some states classify stalking as a felony on the first offense. Others do so only in the most serious cases, such as upon the second offense and/or when the crime involves aggravating factors. Aggravating factors may include: a victim under 16 years of age or the same victim as prior occasions; possession of a deadly weapon; violation of a court order or condition of probation or parole; or whether the stalker has been convicted of a prior felony.

Analyzing State Statutes

Because state legislatures are constantly amending specific stalking laws, it would be unproductive to provide a breakdown in this article of how state stalking statutes compare with respect to specific behaviors outlawed or level of penalties imposed. Persons interested in analyzing specific state stalking statutes may obtain up-to-date copies of all state criminal stalking statutes, federal statutes, and some tribal codes, on-line at the Stalking Resource Center website at www.ncvc.org.src. The website lists the following questions be used when analyzing a specific state stalking statute:

- Does the statute's "course of conduct" language include all behaviors that stalkers employ?
- How many acts are required to satisfy the course of conduct element?
- Is the statute a general intent or specific intent crime?
- What standard of fear does the statute require?
- What level of fear does the statute require?
- Does the statute require proof of an explicit threat?
- Does the statute cover behaviors directed at persons other than the victim?
- How is the crime of stalking classified?

Other Stalking Laws

Several other types of laws are used to regulate stalking in the U.S., including related criminal laws, criminal procedure laws, stalking civil laws, federal laws, tribal codes, and military laws (Miller and Nugent 2002; Stalking Resource Center 2004b). All but tribal codes and military codes are discussed in more detail below.

Related Criminal Laws

Stalking can encompass a wide range of behaviors that overlaps with a variety of other crimes. These include, but are not limited to, assault, attempted assault, breaking and entering, harassment, telephone harassment, threats, terroristic threats, trespassing,

vandalism, menacing, invasion of privacy, intimidation, robbery, fraud, postal fraud, identity theft, violation of a protective order, contempt, cruelty to animals, and of course, murder. All of these crimes can be used to prosecute stalkers, either in conjunction with or separate from the crime of stalking.

Criminal Procedure Laws

There are a number of criminal procedure laws that may come into play in stalking cases. For example, some states authorize warrantless arrests for stalking where probable cause exists and/or when stalking is against a spouse or ex-spouse (Beatty 2003:2–16; Miller 2001). Recognizing the need to protect stalking victims from further acts of stalking and/or violence, some states have included special provisions in their stalking laws to protect against the release of the victim's address to the public, the defendant, and to the defendant's council (Beatty 2003:2–16). Given the ongoing threat some stalkers pose to their victims, even after they have been incarcerated, many state laws have provisions that require notice to the victim of a convicted stalker's release from prison (Beatty 2003:2–16). And finally, recognizing that stalking laws can only have an impact on victims' lives if they are implemented, some states have added provisions to their statutes that require training for law enforcement personnel, prosecutors, and judges (Beatty 2003:2–17).

Civil Laws

Civil protection orders All states provide for protective orders in special situations, such as in the context of domestic violence. Because these options may not always be available to stalking victims, more and more states are passing laws allowing protective orders against stalkers. Violation of such a protection order may be treated as a felony, a felony contempt of court, or a crime. In some states, repeat violation of a stalking protection order increases the crime classification to aggravated stalking, which is considered a felony.

To help facilitate the enforcement of protective orders, more and more states have established statewide protection order registries. Using secure internet-based applications, these registries allow state courts, law enforcement agencies, and other relevant organizations to access in real time protection order information. That information is automatically communicated to the Law Enforcement Data System (LEADS) and the National Crime Information Center for instant access by law enforcement (Dann 2008).

Civil lawsuits Recognizing how hard it is to successfully prosecute the crime of stalking, some states allow victims to file a civil lawsuit against stalkers (Dion 2009; Stalking Resource Center 2004a). Although these laws vary from state to state with respect to specific provisions, they generally allow a stalking victim to recover civil damages from a stalker regardless of whether the stalker has been charged or convicted under a criminal law. Recoverable damages may include expenses incurred by the victim as a result of the stalker's behavior, as well as punitive damages. Some states also allow the stalking victim to recover attorney fees and court costs (Dion 2009).

Federal Laws

In 1994, the U.S. Congress enacted the Violence Against Women Act (VAWA) as part of the Violent Crime Control and Law Enforcement Act (Crime Bill). The 1994 VAWA makes

it a federal crime for anyone to cross state lines with the intent to injure, harass or intimidate that person's spouse or intimate partner (Violence Against Women's Grants Office 1997). It also requires that protective orders issued anywhere in the U.S. be honored by every other state (Violence Against Women's Grants Office 1997). This directive is particularly important to victims who are stalked across state lines or attempt to flee their stalker by moving to another city or state (Beatty 2003: 2–19). In addition, the 1994 VAWA requires the U.S. Attorney General to submit an annual report to Congress providing information about the incidence of stalking and domestic violence and the effectiveness of anti-stalking efforts and legislation (National Institute of Justice 1996).

In 1996, U.S. Congressman Ed Royce, the same person who sponsored the first California state stalking law, introduced and secured passage of the federal Interstate Anti-Stalking Punishment and Prevention Act.⁵ The 1996 Interstate Stalking Law improves stalking provisions contained in the 1994 VAWA in several important ways: It expands the measure to include victims stalked by persons other than their spouse or intimate partner; it outlaws stalking within all federal jurisdictions (e.g., national parks, U.S. Territories, military bases, and Indian reservations); and finally, it creates a federal crime of “interstate stalking” which makes it illegal for stalkers to cross state lines in pursuit of their victims (Beatty 2003:2–21; Violence Against Women Grants Office 1997).

In 2000, Congress re-authorized VAWA⁶ and broadened its scope to include cases of stalking across federal and international boundaries and by criminalizing use of mail or any facility of interstate or foreign commerce for purposes of stalking (Beatty 2003:2–21). The new provisions were specifically intended to outlaw the use of the Internet for purposes of stalking.

Stalking Research

Little research had been conducted on stalking before California passed the first stalking law. Indeed, a computerized literature search of the term stalking referenced in the indices of the PsychoInfo and Criminal Justice Abstracts uncovered only two citations prior to 1990 (Maiuro 2002:x). Since that time, the U.S. has witnessed an explosion of stalking-related research.

In the early 1990s, stalking research consisted primarily of law reviews examining the constitutionality and effectiveness of individual state stalking statutes (e.g., Bernstein 1993; Boychuk 1994; Gilligan 1992; Guy 1993; Harmon 1994; Strikis 1993; Walker 1993; Cormandy 1994; Lingg 1993; Morin 1993); psychiatrically-oriented studies that treated stalking as an obsessional or delusional disorder known as “erotomania” (Harmon et al. 1995; Leong 1994; Segal 1989; Wright et al. 1995; Zona et al. 1993); and firsthand accounts of individual stalking cases (Hoffman 1994; Lardner 1992; Markham and Labrecque 1994; Orion 1997; Skalias and Davis 1994). Although these studies were an important first step in furthering understanding of the dynamics of stalking and stalking regulation, they did little to answer such fundamental questions as: How much stalking is there? What are characteristics of stalkers and their victims? How often do stalkers threaten, abuse, or kill their victims? How often is stalking reported to the police? What are the psychological and social consequences of stalking?

⁵ The Interstate Stalking Punishment and Prevention Act of 1996 (18 U.S.C. 2261).

⁶ 2000 VAWA.

It was not until the mid- to late-1990s, that studies started being conducted on representative samples of stalkers and/or stalking victims that were designed to uncover the extent and nature of stalking in the general population. From these studies has emerged a body of literature detailing the prevalence, characteristics, and consequences of stalking in the U.S.

Stalking Prevalence

The first-ever national study of stalking prevalence in the United States was conducted by Tjaden and Thoennes (1998) using data from the National Violence Against Women Survey (NVAWS). The survey consisted of telephone interviews with a representative sample of 8,000 U.S. women and 8,000 U.S. men 18 years of age or older. Respondents were queried about their experiences as victims of various forms of violence, including stalking. The survey employed a multiple measurement design that included direct questions about stalking victimization, as well as behaviorally-specific screen questions with incident-specific follow-up questions.

Using a definition of stalking that was based on the *Model Stalking Code* and required the victim to feel a high level of fear, Tjaden and Thoennes (1998:3) found that 8 percent of female respondents and 2 percent of male respondents were stalked at some time in their lifetime, while 1 percent of female respondents and 0.4 percent of male respondents were stalked in the 12 months preceding the survey. Extrapolating these findings to 1995 U.S. Census data, Tjaden and Thoennes estimated that 8.2 million U.S. women and 2.0 million U.S. men had been stalked in her/his lifetime, while 1 million U.S. women and 371,000 U.S. men are stalked annually.

Using a less stringent definition of stalking, one requiring victims to feel only a little frightened or somewhat frightened by their stalker, Tjaden and Thoennes (1998:4) found lifetime prevalence rates increased dramatically, from 8 to 12 percent for women and from 2 to 4 percent for men, while annual prevalence rates increased from 1 to 6 percent for women and 0.4 to 1.5 percent for men. Tjaden et al. (2000) also found that stalking prevalence rates increased to 12 percent of women and 6 percent of men when respondents to the NVAWS were given the opportunity to self-define as stalking victims, that is, they answered “yes” to the question, “Have you ever been stalked?”

A few years after the NVAWS study, researchers at the Louisiana Office of Public Health conducted a statewide stalking study. They found that 15 percent of Louisiana women were stalked at least once in their lifetime (Louisiana Office of Public Health 2000), a rate nearly twice the 8 percent lifetime rate uncovered by the NVAWS.

Two surveys of female coeds shed further light on stalking prevalence. A telephone survey of a randomly selected, national sample of 4,446 women attending a two-to-four year college or university during the fall of 1996 found that 13.1 percent of female students in the sample were stalked since the school year began (Fisher et al. 2000). Another study of stalking on colleges found that 10.5 percent of 861 women attending a nine post-secondary institutions were stalked during the previous six months (Mustaine and Tewsbury 1999). Extrapolating these six-month victimization rates to a 12 month period, it is estimated that 21–26 percent of women attending post-secondary institutions are stalked each year. These figures are about twenty-five times greater than the NVAWS estimate that 1 percent of the total population of U.S. women age 18 or older are stalked each year.

More recently, the Department of Justice’s Bureau of Justice Statistics (BJS) conducted a study of stalking victimization in the U.S. using data generated from a supplement to the National Crime Victimization Survey (NCVS). The study found that during a 12 month period

14 out of 1000 persons (or 1.4 percent) age 18 years or older “...experienced the repetitive behaviors associated with stalking in addition to feeling fear or experiencing behaviors that would cause a reasonable person to feel fear (Baum et al. 2009:2).” Extrapolating this prevalence rate to 2006 U.S. Census estimates of the total population age 18 or older, BJS researchers estimate that 3.4 million Americans are stalked annually (Baum et al. 2009:2). This estimate is nearly 2.5 times higher than the earlier NVAWS estimate of 1.4 million. The sharp increase in the number of Americans stalked each year is due in part to the fact that the U.S. population increased 26 percent between the time the NVAWS and the BJS survey were conducted.⁷ Mostly, however, the increase is due to the fact the BJS study uncovered higher stalking victimization rates for both men and women. Like the NVAWS study, the BJS study found that women are more than twice as likely as men to be victimized. A breakdown of stalking prevalence rates generated from the BJS study by gender shows that 20 per 1000 women were stalked in the 12 months preceding the survey compared to 7.4 per 1000 men (Baum et al. 2009:3). These victimization rates are about twice as high as those generated by the NVAWS, which are 10 per 1000 women and 4 per 1000 men.

There are several possible reasons for the disparity in stalking victimization rates generated by the various studies. The first has to do with the definition of stalking employed in the respective studies. The NVAWS used a very restrictive definition of stalking, one that required victims to feel a high level of fear as measured by their reporting that their stalkers’ behavior made them feel *very* frightened and/or made them think they or someone close to them *would be seriously injured or killed* (Tjaden and Thoennes 1998). In comparison, the college survey conducted by Fisher et al. (2000) and the BJS study used a definition that required victims only to experience repeated behaviors that would cause *fear* or cause a *reasonable person fear*, and the college survey conducted by Mustaine and Tewsbury (1999) allowed victims to *self-define* stalking. It is probable, that studies employing higher standards of fear will generate lower victimization rates. As previously noted, when a lesser standard of fear was used in the NVAWS study, or when victims were allowed to self-define stalking, victimization rates increased dramatically.

The college studies produced much higher victimization rates than either the NVAWS or the BJS. No doubt this stems from the fact the NVAWS and the BJS surveyed adult women of all ages, not just college-age women, who are typically younger than women in the general population. Research shows that adults between the ages of 18–24 are at greater risk of stalking than older adults (Baum et al. 2009:3). Finally, college women may be at greater risk of stalking than women in other social milieus. As Fisher and colleagues note (2000:27), “It is possible that the social domain of colleges places women in situations and in contact with a range of men that increase the chances of being stalked.”

Characteristics of Stalkers and Victims

Based on data generated from the NVAWS, Tjaden and Thoennes (1998) found that stalkers are primarily men and stalking victims are primarily women: Overall, 87 percent of the stalkers identified by the survey were men and 78 percent of the victims were women. Most of the victims (77 percent of the women and 64 percent of the men) knew their stalker. Tjaden and Thoennes (1998) also found that American Indian/Alaskan Native women were at greatest risk of being stalked at some time in their lifetime, followed by mixed race women, white women, African American women, and Asian/Pacific Islander women. Combining data for men and women, the BJS study found that mixed race persons were at

⁷ The total population age 18 or older was 246,500,200 in 2006 and 193,427,000 in 1995.

greatest risk of being stalked, followed by American Indian/Alaskan Natives, blacks, whites, and Asian/Pacific Islanders (Baum et al. 2009:3).

Research suggests that stalking victims tend to be young adults. The NVAWS found that over half (52 percent) of stalking victims were between the ages of 18–29 years of age (Tjaden and Thoennes 1998). Similarly, the BJS study found that persons age 18–24 experienced the highest rates of stalking (Baum et al. 2009:3).

The BJS study found an inverse relationship between stalking victimization and income (Baum et al. 2009:3). However, in her study of 145 stalking victims who volunteered to answer questions about their victimization, Hall (1998:150–152) found that stalking victims appear to come from all walks of life. Specifically, 31 percent were professionals, 20 percent were managers, 17 percent were technical workers, 16 percent were sales workers, 12 percent were students, 3 percent were retired persons, and 3 percent were homemakers.⁸

There is some evidence that gay men are more likely to be stalked than heterosexual men: Eight percent of the men in the NVAWS sample who had ever lived with a man as a couple reported being stalked compared with 2 percent of the men who had never lived with a man as a couple (Tjaden and Thoennes 1998).

Stalking and Violence in Intimate Relationships

Several studies have established a link between stalking and violence in intimate relationships. Information generated from the NVAWS indicates women tend to be stalked by current or former intimate partners. Of all female stalking victims identified by the survey, 59 percent were stalked by a current or former spouse, cohabiting partner, date or boyfriend; 4 percent were stalked by a relative other than a spouse; 19 percent were stalked by an acquaintance, such as a neighbor, co-worker, or friend; and 23 were stalked by a stranger. (It should be noted that these percentages exceed 100 because some victims were stalked by more than one type of stalker.)

Meloy (1998) conducted a profile of known stalkers and found that stalkers who had been sexually intimate with their victims were most likely to be violent toward their victims. Tjaden and Thoennes (1998) found that 81 percent of the women in the NVAWS who were stalked by a current or former husband or cohabiting partner also were physically assaulted by that partner, while 31 percent were raped by that partner. Tjaden and Thoennes (1998) also found that ex-husbands/cohabiting partners who stalked their partners were significantly more likely than ex-husbands who did not stalk to have engaged in emotionally abusive (e.g., shouting or swearing) and controlling behavior (e.g., limiting contact with others, jealousy, possessiveness, denying access to family income) while the relationship was intact. Moracco et al. (1998) found that nearly a quarter (23.4 percent) of femicide victims in North Carolina who were murdered by a current or former intimate partner had been stalked before the fatal incident. And McFarlane et al. (1999) found that 76 percent of partner femicide victims and 85 percent of attempted partner femicide victims in 10 cities were stalked by their assailant in the 12 months preceding the victimization. McFarlane et al. (1999) also found a statistically significant association between intimate partner physical assault and stalking for both femicide and attempted femicide victims. In a study of 1,785 domestic violence reports generated by the Colorado Spring Police Department, Tjaden and Thoennes (2000) found that 1 in 6 (16.5 percent) domestic violence cases reported to the police involved allegations of stalking. Finally, in a study of

⁸ Percentages exceed 100 due to rounding.

144 battered women who had left their partners, Mechanic et al. (2000) found that 13–29 percent (depending on the definition of stalking used) had been stalked in the six months immediately following separation.

Effects of Stalking on Victims

Research indicates that stalking victims suffer a variety of psychological and social consequences as a result of their victimization. Tjaden and Thoennes (1998:11) found that 30 percent of female stalking victims and 20 percent of male stalking victims identified by the NVAWS sought mental health counseling as a direct result of their stalking victimization, while over a quarter (26 percent) of all stalking victims said their victimization caused them to lose time from work (on average 11 days). Among those who lost time from work, 1 in 14 (7 percent) said they never returned to work. Compared to non-victims, stalking victims were more likely to report that they were very concerned about their personal safety (42 vs 24 percent) and about being stalked (30 vs 10 percent). They also were nearly twice as likely as non-victims to carry something to defend themselves (45 vs 29 percent). In addition, many stalking victims reported engaging in some type of self-protective measure, such as, enlisting the help of family and friends (18 percent), getting a gun (17 percent), moving out of town (11 percent), changing addresses (11 percent), avoiding their stalker (7 percent), and varying driving habits (5 percent).

Other studies have reported similar findings. The Louisiana stalking survey found that 36 percent of stalking victims moved from their household as a direct result of their victimization, while 11 percent purchased a gun (Louisiana Office of Public Health 2000). In their stalking survey of college students, Mustaine and Tewsbury (1999) found that many stalking victims reported changes in their behavior, such as carrying mace and/or a pocketknife. The BJS study found that 70 percent of stalking victims sought some type of help, while 14 percent changed their-day-to-day activities (Baum et al. 2009:6).

Implementation of U.S. Stalking Laws

Little research has been conducted in the U.S. on the implementation of stalking laws or the experiences of stalking victims who have sought assistance from the justice system. The few studies that have been conducted in this area indicate the laws are underutilized and that victims' experiences with the justice system are generally negative. For example, the Institute for Law and Justice twice conducted national surveys of police and prosecution agencies to determine what, if any, special efforts the agencies had undertaken to enforce anti-stalking laws (Miller 2001). The first survey was conducted in 1998–99 and consisted of mailed questionnaires to 204 police agencies and 222 prosecution agencies in jurisdictions with a population over 250,000. A replication of the first national survey was conducted in November 2000 at which time 169 police agencies and 183 prosecutor agencies were mailed questionnaires. (The sample sizes were smaller in the second survey because agencies who had indicated they had no responsibility for handling stalking cases in the first survey were dropped from the sample.) In both surveys, agency representatives were queried about possible specialized units, training, and written policies and procedures they may have developed with respect to handling stalking cases.

Data from both surveys indicate a general lack of specialization and training among law enforcement and prosecution agencies with respect to enforcing stalking statutes. Only one police agency reported having a specialized stalking unit; instead, most police agencies

assigned stalking cases to non-stalking specialist units, such as those dealing with domestic violence, sex crimes, or crimes against persons. Similarly, most prosecution agencies assigned stalking cases to a special unit that was responsible for prosecuting domestic violence and/or sex crimes. Data from both surveys show that only a small percentage of police agencies (13 percent) provided specialized stalking training to recruits that was independent of domestic violence training. And prosecutor training actually worsened over time with the number of prosecutor offices reporting no stalking training increasing from 18 percent to 21 percent during the second survey. The study found that about half of all police and prosecution agencies had written policies and procedures for handling stalking cases; however, most of these were part of protocols for handling domestic violence cases. Given these findings, it is not surprising that the researchers concluded that much more needs to be done by law enforcement and prosecutors to implement state stalking statutes (Miller 2001:55).

Only one study has examined actual police and court case records to determine how stalking laws are implemented. Tjaden and Thoennes (2000) reviewed 1,785 domestic violence complaints generated by the Colorado Springs Police Department from April to September 1998 to determine how frequently stalking is alleged by a victim of domestic violence during the initial report to the police, and whether cases with stalking allegations are prosecuted under stalking statutes. Of the 1,785 domestic violence reports included in the sample, 1,731 (97 percent) had a victim narrative, a police narrative, or both, and therefore could be used to determine whether the victim or the police officer mentioned the suspect had stalked the victim. In 285 (16.5 percent) of these reports, there was evidence the suspect stalked the victim. Crime reports with stalking allegations were significantly more likely to involve female victims and victims and suspects who were former intimate partners. Of the 285 reports with evidence the suspect stalked the victim, only 1 resulted in the police officer formally charging the suspect with stalking (Tjaden and Thoennes 2000:12).

Conclusions and Recommendations

The speed with which stalking was criminalized in the U.S. is unprecedented in the history of American jurisprudence, and shows just how quickly the legal landscape can change once public opinion is aroused. It is important, however, that the legal landscape continues to change as more is learned about stalking. To this end, and as necessary, legislatures should amend their stalking statutes to reflect the serious nature of stalking. In states where stalking is defined as a misdemeanor, the law should be amended to treat stalking as a felony on the first offense. In addition, states that require stalkers to be in the physical presence of their victim, should amend their language to reflect the myriad ways stalkers stalk their victims without engaging in face-to-face contact.

Given how stalking frequently overlaps with other crimes, more effort should be given to improve coordination of stalking with other related laws. In addition, more civil law options should be made available to stalking victims. States should authorize protection orders for all stalking cases, regardless of the relationship between the stalker and the victim. And all victims should have the recourse of a civil tort.

However, enacting laws to proscribe stalking is only the first step toward combating this serious social problem. Unless measures are developed to ensure stalking laws are implemented, the passage of stalking laws will prove to be an empty promise. As Beatty (2003:2–22) notes, “The passage of stalking legislation is about promises made—their implementation is about promises kept.”

These are several steps that can be taken to ensure stalking laws are implemented. One of these is to increase training of law enforcement officers and prosecutors about what constitutes the crime of stalking. Miller (2001) found that when asked to provide a legal definition of the term stalking, many law enforcement personnel misinterpreted the definition. Moreover, many policymakers and practitioners underestimate both the prevalence of stalking and its injuriousness. They also lack an understanding of how difficult it is to investigate and prosecute stalking cases. As Miller (2001) concludes, policy makers and practitioners around the country need to know that stalking is more common and more dangerous than they think, and that it requires specialized staff to investigate and prosecute.

Given the lack of understanding that exists about legal definitions of stalking, it is imperative that law enforcement officers and prosecutors receive specialized training on the specific elements of stalking statutes in their respective states, as well as training on how to identify and investigate stalking cases. This will undoubtedly increase the amount of stalking known to the police as well as police awareness of the pervasiveness and seriousness of stalking. One study found that 16.5 percent (1 in 6) of domestic violence crime reports generated by a police department in Colorado during a five-month time span contained evidence the suspect stalked the victim (Tjaden and Thoennes 2000). Because this estimate represents stalking allegations that were made spontaneously by the victim and not in response to systematic questioning by the police officer, it probably underestimates the true amount of stalking that occurred. Thus, training police officers to ask specific questions about possible stalking victimization while investigating reports of domestic violence will probably increase the amount of stalking known to the police. Hopefully, it also will increase police awareness of the link between stalking and intimate partner violence perpetrated against women by their male partners and the need to take stalking seriously.

In addition to learning about specific elements of their state stalking statutes, prosecutors need more training on how to meet specific requirements of the laws, such as proving how a pattern of conduct shows intent to cause victim fear and whether the victim experienced the level of fear required (e.g., fear of bodily harm). Hopefully, as prosecutors gain more experience (and success) prosecuting stalking cases, they will feel more vested in stalking laws and therefore more willing to put the necessary effort into prosecuting them.

Research has shown that stalking is more prevalent than previously suspected. Before any scientific studies were conducted on the prevalence of stalking, information on stalking prevalence was limited to unscientific estimates provided by forensic and mental health professionals based on their work with known stalkers. The most frequently cited "guesstimate" of stalking prevalence was made by forensic psychiatrist, Park Dietz (see Dietz et al. 1991) who, when pressed by a reporter to do so, guessed that 5 percent of U.S. women had been stalked at some time in their lifetime, while 200,000 U.S. women are stalked each year (Puente 1992). Given the lack of official estimates on stalking prevalence, these figure quickly became part of the stalking literature and were quoted extensively by reporters, governments officials, legal scholars, and researchers. However, victimization surveys conducted since then indicate stalking prevalence is much higher than previously thought, especially among college populations.

Given the high rate of stalking uncovered by these surveys, as well as scientific evidence on the deleterious effects of stalking on victims, stalking needs to be regularly included in the nation's two official crime measurement systems. Proposals to include stalking in the Federal Bureau of Investigation's Uniform Crime Reporting System have been proffered, and if implemented would provide data on the number of stalking cases reported to the

police nationwide, as well as the number of stalking reports cleared by arrest. To date, however, stalking is not systematically included in the Uniform Crime Reports. A stalking supplement was recently included as part of the Bureau of Justice Statistics' National Crime Victimization Survey. This supplement should be implemented on a regular basis to ensure up-to-date statistics on stalking victimization are available to the public at large and to practitioners and policymakers. Without information generated from these crime measuring systems, it will be difficult to gauge whether any inroads have been made on implementing stalking laws or preventing stalking crimes.

At the same time the federal government should increase funding for research on the characteristics and consequences of stalking. Stalking studies need to be conducted on both the general population and sub-populations, such as college students and certain ethnic minorities, that appear to be at increased risk of stalking victimization. Research should also focus on specific types of stalking, such as stalking in the workplace, stalking in the context of intimate partner relationships, stalking among teenagers, and stalking of celebrities. It is possible the dynamics underlying specific types of stalking are variable and require different forms of intervention and prevention strategies. And of course, research needs to be conducted on the extent and nature of stalking perpetrated via the internet and other electronic communication devices. Cyberstalking is a problem that will only increase in frequency and complexity as electronic communications technologies become more complex and widespread. It also is important that law enforcement and prosecution agencies hire personnel that understand these technologies. Finally, it is important that U.S. laws keep up with stalking cyberstalking: Where necessary state laws should be amended to include stalking through electronic communications; federal laws should continue to target inter-state cyberstalking; and, consideration must continually be given to how nations can work together to target cases of international cyberstalking.

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