

## Stalking, Questions and Answers

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### What is Stalking?

The legal definition of stalking is defined primarily by state statutes. While statutes vary, most define stalking as a course of conduct that places a person in fear for their safety.

However, the term "stalking" is more commonly used to describe specific kinds of behavior directed at a particular person, such as harassing or threatening another person. But the variety of specific strategies employed and behaviors displayed by stalkers are limited only by the creativity and ingenuity of the stalkers themselves. Suffice it to say, virtually any unwanted contact between a stalker and their victim which directly or indirectly communicates a threat or places the victim in fear can generally be referred to as stalking.

### Is Stalking a New Phenomenon?

No -- the history of stalking behavior is as old as the history of human relationships. Stalking has always been with us -- what is new is that, until recently, it was never labeled as a separate and distinct class of deviant behavior. Prior to its common usage and its subsequent designation as a crime, stalking was referred to as harassment, annoyance or, in some cases, simply as domestic violence.

In the late 1980s and early 1990s, numerous high-profile cases involving celebrities began to catch the attention of the media and public policy leaders. Only then did such behavior begin to be described as "stalking."

Since then, stalking has become a common subject in the popular media. With the advent of blockbuster films -- such as *Fatal Attraction*, *Cape Fear*, and *Sleeping with the Enemy* -- and its coverage by the news media, "stalking" has become a household word.

### How Common is Stalking?

Unlike most violent crimes, law enforcement officials do not track the incidences of stalking offenses as part of their normal crime reporting process. Since there has been virtually no empirical data available, no one knows just how common stalking cases are in the United States.

Best estimates indicate that as many as 200,000 Americans are currently being stalked; moreover, 1 in 20 women will become targets of stalking behavior at least once during their lifetimes. With the passage of the *1994 Crime Bill* by the U.S. Congress, which mandated the tracking and compilation of stalking crime statistics, experts will be able to determine the prevalence of this crime for the first time.

### Who Are Stalkers?

#### Demographically:

Stalking is a gender neutral crime, with both male and female perpetrators and victims. However, most stalkers are men. Best statistics indicate that 75-80 percent (75-80%) of all stalking cases involve men stalking women. Most tend to fall into the young to middle-aged categories. Most have above-average intelligence. Stalkers come from every walk of life and every socio-economic background. Virtually anyone can be a stalker, just as anyone can be a stalking victim.

#### Psychological and Behavioral Profile of Stalkers:

Unfortunately, there is no single psychological or behavioral profile for stalkers. In fact, many experts believe that every stalker is different, making it very difficult not only to categorize their behavior, but doubly difficult to devise effective strategies to cope with such behavior.

Forensic psychologists, who study criminal behavior, are just beginning to examine the minds and motives of stalkers. These

psychologists have identified two broad categories of stalkers and stalking behavior -- "Love Obsession" and "Simple Obsession."

### **Love Obsession Stalkers**

This category is characterized by stalkers who develop a love obsession or fixation on another person with whom they have no personal relationship. The target may be only a casual acquaintance or even a complete stranger. This category represents about 20-25 percent (20-25%) of all stalking cases.

Stalkers who stalk celebrities and stars -- such as David Letterman, Jodie Foster, and Madonna -- fall into the category of love obsessionists; however, stalkers in this category also include those who develop fixations on regular, ordinary people -- including co-workers, their aerobics instructor, casual acquaintances or people they pass in the street.

The vast majority of love obsessional stalkers suffer from a mental disorder -- often schizophrenia or paranoia. Regardless of the specific disorder, nearly all display some delusional thought patterns and behaviors. Since most are unable to develop normal personal relationships through more conventional and socially acceptable means, they retreat to a life of fantasy relationships with persons they hardly know, if at all. They invent fictional stories -- complete with what is to them real-life scripts -- which cast their unwilling victims in the lead role as their own love interest. They then attempt to act out their fictional plots in the real world.

The woman who has stalked David Letterman for five years truly believes she is his wife. She has been discovered on Mr. Letterman's property numerous times, has been arrested driving his car and has even appeared at his residence with her own child in tow -- each time insisting that she is David Letterman's wife.

Love obsessional stalkers not only attempt to live out their fantasies, but expect their victims to play their assigned roles as well. They believe they can make the object of their affection love them. They desperately want to establish a positive personal relationship with their victim. When the victim refuses to follow the script or doesn't respond as the stalker hopes, they may attempt to force the victim to comply by use of threats and intimidation.

When threats and intimidation fail, some stalkers turn to violence. Some decide that if they cannot be a positive part of their victim's life, they will be part of their life in a negative way. Some even go so far as to murder their victims in a twisted attempt to romantically link themselves to their victim forever. This was the case with the man who shot and killed Rebecca Schaffer, the young actress and star of the television show *My Sister Sam*.

### **Simple Obsession Stalkers**

This second category represents 70-80 percent (70-80%) of all stalking cases and is distinguished by the fact that some previous personal or romantic relationship existed between the stalker and the victim before the stalking behavior began.

Virtually all domestic violence cases involving stalking fall under this rubric, as do casual dating relationships (commonly referred to as *Fatal Attraction* cases, named after the popular movie by the same title).

While this kind of stalker may or may not have psychological disorders, all clearly have personality disorders. One forensic psychologist has attempted to identify some of the common personality traits and behavioral characteristics among this category of stalkers. Stalkers in this class are characterized as individuals who are:

- Socially maladjusted and inept;
- Emotionally immature;
- Often subject to feelings of powerlessness;
- Unable to succeed in relationships by socially-acceptable means;
- Jealous, bordering on paranoid; and
- Extremely insecure about themselves and suffering from low self-esteem.

The self-esteem of simple obsession stalkers is often closely tied to their relationship with their partner. In many cases, such stalkers bolster their own self-esteem by dominating and intimidating their mates. Exercising power over another gives them some sense of power in a world where they otherwise feel powerless. In extreme cases, such personalities attempt to control every aspect of their partner's life. This behavior pattern was vividly depicted in the major motion picture entitled *Sleeping with the Enemy*, where the antagonist turns to intimidation and violence as the means to control every aspect of his victim/wife's life.

Since the victim literally becomes the stalker's primary source of self-esteem, their greatest fear becomes the loss of this person. Their own self-worth is so closely tied to the victim that when they are deprived of that person, they may feel that their own life is without worth.

It is exactly this dynamic that makes simple obsession stalkers so dangerous. In the most acute cases, such stalkers will literally stop at nothing to regain their "lost possession" -- their partner -- and in so doing, regain their lost self-esteem.

Just as with most domestic violence cases, stalkers are the most dangerous when they are first deprived of their source of power and self-esteem; in other words, the time when their victims determine to physically remove themselves from the offender's

presence on a permanent basis by leaving the relationship.

Indeed, stalking cases which emerge from domestic violence situations constitute the most common and potentially lethal class of stalking cases. Domestic violence victims who leave an abusive relationship run a 75 percent (75%) higher risk of being murdered by their partners.

Stalking behavior is as diverse as the stalkers themselves. Yet behavioral experts are beginning to identify patterns in the cycle of violence displayed by simple obsession stalkers.

### Stalking Behavior Patterns and Cycles:

Stalking behavior patterns closely mirror those common in many domestic violence cases. The pattern is usually triggered when the stalker's advances toward their victim is frustrated -- regardless of whether the stalker is seeking to establish a personal relationship or continue a previously established relationship contrary to the wishes of the victim.

The stalker may attempt to *woo* their victim into a relationship by sending flowers, candy and love letters, in an attempt to "prove their love." However, when the victim spurns their unwelcome advances, the stalker often turns to intimidation. Such attempts at intimidation often begin in the form of an unjustified, jealous and inappropriate intrusion into the victim's life. Often these contacts become more numerous and intrusive over time, until such collective conduct becomes a persistent pattern of harassment. Many times, harassing behavior escalates to threatening behavior. Such threats may be direct or indirect and communicated explicitly or implicitly by the stalker's conduct. Unfortunately, cases that reach this level of seriousness too often end in violence and/or murder.

Stalkers, unable to establish or re-establish a relationship of power and control over their victims, turn to violence as a means of reasserting their domination over the victim. In some cases, offenders are even willing to kill their victims and themselves in a last, desperate attempt to assert their domination over the victim.

The evolution of the stalker's thought pattern progresses from, "If I can just prove to you how much I love you," to "I can make you love me," to "If I can't have you, nobody else will."

While this progression in behavior is common, *no* stalking case is completely predictable. Some stalkers may never escalate past the first stage. Others jump from the first stage to the last stage with little warning. Still others regress to previous stages before advancing to the next. It is not uncommon to see stalkers intersperse episodes of threats and violence with flowers and love letters.

As difficult as it is to predict **what** a stalker might do, it is at least as difficult to predict **when** he might do it. A few stalkers will progress to later stages in only a few weeks or even days. In other cases, stalkers who have engaged in some of the most serious stalking behaviors may go months or even years without attempting a subsequent contact.

It is this unpredictability that makes developing an effective response strategy so difficult in any particular stalking case. (See "*Stalking: Safety Plan Guidelines*" for more information.)

### Are There Laws that Make Stalking a Crime?

While many states had laws prohibiting harassment and assault, it wasn't until 1990 that California became the first state to pass a law which specifically made stalking a crime.

This law was passed in response to several high-profile cases in which the perpetrator stalked and eventually killed their victim. In each case, the victim had notified the police of their stalker's threatening behavior. Yet, in each case, the police said that unless the stalker acted on those threats, there was nothing they could do legally. The California law that for the first time outlawed stalking behavior was intended to give law enforcement officers the legal tool they needed to intervene in stalking cases **before** offenders acted upon their threats.

Since the passage of that first stalking law in 1990, all 50 states have enacted stalking laws. While each state stalking statute differs in both definition and approach, virtually all proscribe behavior that constitutes a pattern of conduct seeking to harass and/or threaten the safety of another.

Some of these early statutes came under constitutional attack due to the broad language used to describe stalking behavior. Some lower courts actually struck down these laws in a handful of states causing lawmakers in those states to re-draft their stalking statutes in order to cure such constitutional defects.

It was this concern over constitutionality that led Congress to mandate the formation of a special drafting committee to develop a model stalking code that would withstand any constitutional scrutiny. The National Criminal Justice Association -- in conjunction with the National Institute of Justice, the National Center for Victims of Crime, and numerous other criminal justice and victim organizations and experts -- developed a *Final Report* that included a model stalking statute. In short, the model language makes it a crime to:

*Engage in a course of conduct that would place a reasonable person in fear for their safety, and that the stalker intended and did,*

*in fact, place the victim in such fear.*

Beyond this basic definition of the crime, statutes include a wide variety of additional stalking-related provisions. For example, some state stalking statutes:

- Allow police to make warrantless arrests in stalking cases where probable cause exists;
- Make stalking a non-bailable offense under certain circumstances;
- Provide for automatic and emergency protective orders;
- Require mandatory psychological evaluation and treatment for stalkers;
- Establish sentencing enhancements in cases where the victim is a minor, or when there is a protective order in place against the perpetrator; and
- Create heightened crime classifications for stalkers who commit second stalking offenses.

It is important for victims to obtain a copy of the stalking law in their state to determine which of these special provisions are included in their state's statute.

Apart from state statutes, stalking victims should be aware of the recently passed federal legislation that makes it a crime to cross a state line in order to stalk another. Federal anti-terrorism laws may also apply in some stalking cases, allowing victims to bring charges in federal court as an alternative to the state criminal court of their jurisdiction. These laws may also prove useful in stalking cases where the offender makes threatening phone calls from outside the state where the victim resides.

### How are Stalking Laws Being Implemented?

Statutes that establish new crimes, such as stalking, are not universally implemented or instantaneously enforced from the moment they take effect. There is often a considerable lag time in implementing new statutes as law enforcement officials, prosecutors and judges become familiar with the law and develop policies and procedures to implement them.

Since stalking laws are fairly new, victims cannot always be certain that law enforcement officials, prosecutors or even judges are aware of these new laws. Stalking victims may find it necessary to provide law enforcement officials with a copy of their state stalking statute, along with evidence which proves the stalker has violated the statute. Copies of such statutes can be found in your state's published criminal code, available in some public libraries and all law libraries.

### How Do I File a Complaint Under My State's Stalking Statute?

To file a complaint that will trigger an arrest and prosecution, it must be accompanied with sufficient evidence to establish "probable cause" that the stalker engaged in conduct that is illegal under the state's stalking statute. If law enforcement officials do not witness such conduct first-hand, it is often up to the victim to provide them with the evidence necessary to establish probable cause.

Again, victims would be well-advised to obtain a copy of their state's stalking statute in order to gain a clear understanding of what conduct constitutes an offense under the statute. While most state stalking statutes are written in laymen's terms, the exact meaning of those terms is not always clear. Victims may wish to consult with law enforcement officials, prosecutors, or a private attorney for an explanation and interpretation of the specific stalking statute in question.

In other words, stalking victims are often put in a position of having to first prove their case to a law enforcement official *before* being afforded the opportunity to prove their case before a court of law. It is for this reason that it is crucial for stalking victims to document every stalking incident as thoroughly as possible, including collecting and keeping any videotapes, audiotapes, phone answering machine messages, photos of the stalker or property damage, letters sent, objects left, affidavits from eye witnesses, notes, etc. Experts also recommend that victims keep a journal to document all contacts and incidents, along with the time, date and other relevant information. (See "*Stalking: Safety Plan Guidelines*," for more information concerning evidence and safety strategies.)

Regardless of whether or not they have sufficient evidence to prove a stalking violation, victims wishing to file a stalking complaint with law enforcement officials should do so at the earliest possible point in time. In some cases, victims may also be able to file a complaint in the jurisdiction where the offender resides, if it is different from the victim's.

If law enforcement officials refuse to investigate, or if they are not responsive to a complaint filed, victims may always directly approach their local prosecutor (also known in various jurisdictions as, the district attorney, state's attorney, commonwealth's attorney or state solicitor).

It is also recommended that any person who suspects or believes that they are currently being stalked should immediately seek the advice and assistance of local victim specialists in developing a personalized safety plan or action plan. Victim specialists can be found at local domestic violence or rape crisis programs -- which should be listed under "*Community Services Numbers*" or "*Emergency Assistance Numbers*" in the front section of the local phone book -- or in victim assistance programs located in most local prosecutors' offices and in some law enforcement agencies -- which should be listed under "*Local, City or County*

Government" in the Blue Pages of the local phone book.

### **Bibliography**

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