

## Objectives

- Understanding WV and Federal Laws
- Prevalence
- Stalking Behaviors and Offender Typologies
- Understanding Overlap of Crimes
- Response and Evidence Collection

## What is Stalking?

A course of conduct directed at a specific person that would cause a reasonable person to feel fear.

## Context

- Can you threaten or harass someone without using threatening words?
- Can non-criminal acts be stalking?

**Context is critical!**

## RANK BASED ON FEAR:

1. Leaves notes on her car several times weekly.
2. Daily emails ("You look great. Let's go out.")
3. His black jeep is everywhere she goes.
4. Finds her picture and "slut" on Facebook.
5. Sends her flowers at work weekly.
6. Sends her 75 text messages daily.
7. Joins her exercise class.

## Impact on Victims

- Afraid of:
  - 46% not knowing what would happen next
  - 29% behavior would never stop
  - 9% death
- 1 in 8 of employed victims lost time from work
  - More than half lost 5 days or more

– Stalking Victimization in the United States, BJS (2009)

Peggy's  
Story

PLAY ►

## FEDERAL LAWS

### INTERSTATE STALKING

18 U.S.C. §2261A(1) makes it a federal crime punishable from five years to life in prison, *to travel across state, tribal or international lines to stalk another person.*

18 U.S. C. §2261A(2) makes it a federal crime, punishable from five years to life in prison, to stalk another person across state, tribal or international lines *using regular mail, electronic communication service (cyberstalking).*

### INTERSTATE VIOLATION OF A PROTECTIVE ORDER

18 U.S.C. §2262 (a)(1) makes it a federal crime, punishable from five years to life in prison, to travel across state, tribal or international lines with the *intent to violate a protective order and to subsequent conduct that violates that order.*

### INTERSTATE VIOLATION OF A PROTECTIVE ORDER

2262(a) (2) makes it a federal crime, punishable from five years to life in prison, *to cause a person to cross state, tribal or international lines by force, coercion, duress, or fraud and subsequently engage in conduct that violates a protective order.* The protective order must state that the abuser cannot threaten, harass or cause bodily injury.

### PENALTIES FOR VIOLATING FEDERAL LAWS

- Life imprisonment if the victim dies
- 20 years if the victim is permanently disfigured
- 20 years if the victim suffers life threatening bodily injury
- 10 years if the victim suffers serious bodily injury
- 5 years for any other situation

### INTERSTATE COMMUNICATIONS

18 U.S.C. §875(c) makes it a federal crime, punishable by up to five years in prison, *to transmit in interstate or foreign communications, any threat to kidnap or injure another person.*

### HARASSING TELEPHONE CALLS IN INTERSTATE COMMUNICATIONS

47 U.S.C. §223 (a)(1)(C) makes it a federal crime, punishable by up to two years in prison, *to use a telephone or other telecommunications device to annoy, abuse, harass or threaten another person at another number.*

### Which Federal Laws Were Violated?

In WV, how/where would a victim seek legal help for a federal stalking law violation?

### Legal Help in WV

#### U. S. Attorneys Offices

- **WEST VIRGINIA—NORTHERN DISTRICT**  
Horne Building  
1100 Main Street, Suite 200  
Wheeling, WV 26003  
Mail Address: P.O. Box 591  
Wheeling, WV 26003  
(304) 234-0100  
Fax: (304) 234-0110
- **WEST VIRGINIA—SOUTHERN DISTRICT**  
P.O. Box 1713  
Charleston, WV 25332  
(304) 345-2200  
Fax: (304) 347-7074

### West Virginia Stalking Laws WV Code §61-2-9a Stalking ; harassment; penalties; definitions.

- (a) Any person who repeatedly follows another knowing or having reason to know that the conduct causes the person followed to reasonably fear for his or her safety
- or suffer significant emotional distress is...

### Penalty

- guilty of a misdemeanor and,
- upon conviction thereof, shall be incarcerated in the county or regional jail for not more than six months or
- fined not more than one thousand dollars, or both.

### Intent

- Stalker repeatedly follows; and
- Knows or has reason to know that by following them they fear for their safety or suffer significant emotional distress

### Standard of Fear

What is required regarding the victim's fear?

- Actual fear
  - Feelings or change in lifestyle due to the stalking
- Reasonable person standard
- Both

### Level of Fear

Fear of...

- Serious bodily injury, death or sexual assault
- Fear for safety
- Significant emotional distress

- (b) Any person who repeatedly harasses or repeatedly makes credible threats against another is guilty of a misdemeanor and, upon conviction thereof,
- shall be incarcerated in the county or regional jail for not more than six months or fined not more than one thousand dollars, or both.
- **Penalty: misdemeanor**

- (c) Notwithstanding any provision of this code to the contrary, any person who violates the provisions of subsection (a) or (b) of this section in violation of an order entered by a circuit court, magistrate court or family court judge, in effect and entered pursuant to part 48-5-501, et seq., part 48-5-601, et seq. or 48-27-403 of this code is guilty of a misdemeanor and, upon conviction thereof,

- be incarcerated in the county jail for not less than ninety days nor more than one year or fined not less than two thousand dollars nor more than five thousand dollars, or both.

**(Penalty: misdemeanor)**

### If stalking behaviors occur:

- In violation of an existing order, it is a misdemeanor and can result in local or regional incarceration for 90 – 365 days and/or fines of \$2000 - \$5000
- Within five years of a conviction and results in a second conviction, or is a violation of an existing protective order, it is a felony punishable by incarceration in a state correctional facility for 1 – 5 years and/or fines of \$3000 - \$10,000

### Definitions

- "Repeatedly" means on two or more occasions.
- "Harasses" means willful conduct directed at a specific person or persons which would cause a reasonable person mental injury or emotional distress.

## Definitions

- "Credible threat" means a threat of bodily injury made with the apparent ability to carry out the threat and with the result that a reasonable person would believe that the threat could be carried out.

## Threat Requirement

- Implicit or Explicit?
- Proof of ability to carry out the threat
- Some things to consider...
  - Many stalkers never make explicit threats.
  - Others threats are veiled.
  - Context is extremely important.

## Miscellaneous Elements

- It is a condition of bond for any person accused of the offense that the person is to have no contact, direct or indirect, verbal or physical, with the alleged victim.
- Exemptions for certain categories of people
  - Lawful assembly, including labor issues and demonstrations at the seat of federal, state, county and municipal government

## Scenario

- Karen is a freshman in college. She did not get along with her lab partner and asked her professor to reassign her to a different partner. After the reassignment, her former lab partner followed her to or from class every week. He no longer speaks to her, but she finds him staring at her whenever she looks up from a project in class. He always seems to be in the cafeteria when she is there.
- Several times she has found dead insects or flowers at her lab table when she arrives. Someone has been spreading rumors about her on campus. Karen admits that she is somewhat frightened, thinking that someone may be targeting her for some reason. Last week she attended a football game at another college. When she turned around to speak to a friend, she saw her former lab partner two rows behind her.

## Is it stalking?

## Prevalence of Stalking

**6.6 million people are stalked in one year in U.S.** (NCVRS, 2012)

- Persons aged 18-24 experienced the highest rates of stalking victimization
- Nearly half experienced at least 1 unwanted contact per week

– Stalking Victimization in the United States, BJS (2009)

## Gender of Stalking Victim

- 1 in 6 women and 1 in 19 men have experienced stalking victimization at some point during their lifetime in which they felt very fearful or believed that they or someone close to them would be harmed or killed.



1 in 6 women



1 in 19 men

## Victims and Offenders

- Nearly 75% of victims know their offender in some capacity.
  - 22% - former intimate
  - 16% - friend, roommate, or neighbor
- Nearly 1/10<sup>th</sup> of all victims were stalked by a stranger.

– Stalking Victimization in the United States, BJS (2009)

## Stalkers



## Profiles

THERE ARE NO DEFINITIVE  
PROFILES OF STALKERS!

## Stalker Typologies

- Multiple typologies – ranging from 3 to 12
- Can be helpful, but are only general classifications
- Individual stalkers may not precisely fit any single category, and often exhibit characteristics associated with more than one category
  - Simple obsessional
  - Love
  - Erotomania
  - False victimization syndrome
  - Intimate
  - Non-intimate
    - Organized
    - Delusional

## Demographics

Criminal History:

- 27% had no priors
- 33% had prior adult violent criminal history
- 19% had prior adult non-violent criminal record

The RECON Typology of Stalking, Mohandie et al (2006)

## Demographics

- 46% of offenders had a clear or probable DSM-IV-TR diagnosis at time of stalking; 30% had none
- Substance abuse present in 32% of cases
- Suicidal ideation present in 25% of cases

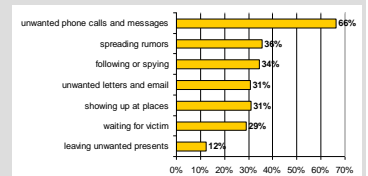
The RECON Typology of Stalking, Mohandie et al (2006)

## Patterns of Behavior

- 2/3 of stalkers pursue their victim at least once per week
- 78% of stalkers use more than one means of approach
- Weapons used to harm or threaten victims in about 20% of cases

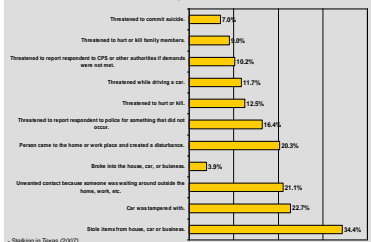
- The RECON Typology of Stalking (2006)

## Stalking Behaviors



- Stalking Victimization in the United States, BJS (2009)

## Stalking Behaviors



- Stalking in Texas (2007)

## Cyberstalking

- Willful and repeated use of any form of electronic or technological media to threaten, harass or intimidate
- May use technology in combination with other tactics (e.g., following)

## Use of Technology to Stalk

More than 1 in 4 victims reported some form of technology used

- 83% email
- 35% instant messaging (IM)
- 7% electronic monitoring of some kind



- Stalking Victimization in the United States, BJS (2009)

## Why do they stalk?

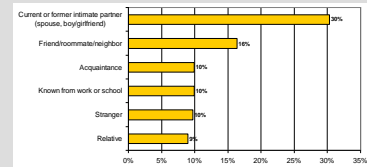
- Seeking Affection
- Rejection
- Obsession
- Power & Control
- Sexual Gratification
- Planning to commit a crime
- Because they can



## Stalking and Intimate Partner Violence



## Relationship Between Victim and Offender



- Stalking Victimization in the United States, BJS (2008)

Physical or Sexual Abuse  
+ Stalking  
= Higher indicator of lethality than either behavior alone

## Intimate Partner Stalkers: Increased Risk for Victims

- More likely to physically approach victim
- More insulting, interfering and threatening
- More likely to use weapons
- Behaviors more likely to escalate quickly
- More likely to re-offend

- The RECON Typology of Stalking (2006)

## Stalking Violence:

- any physical attack on the victim by the stalker that resulted in physical injury to the victim or that was interpreted by the victim as being intended to result in physical injury.
- 36% of women stalked by former romantic partners experienced stalking violence.

- Women's Experience of Violence During Stalking by Former Romantic Partners (2005)

## Stalking Violence

- Greatest risk of violence is when the stalker:
  - issued direct threats of violence
  - was jealous of the victim's relationships with others during the relationship
  - user of illegal drugs
- Where there is evidence of the presence of all of these factors, the risk of stalking violence is heightened.

- Women's Experience of Violence During Stalking by Former Romantic Partners (2005)

## DANGER SIGNS

- Frequent loss of temper
- Extreme jealousy and controlling behavior
- A belief that destiny led him or her to you, so you belong to the stalker in some way
- Few close friendships and an over-dependence on you as a link to the world
- Refusing to accept "no"
- Vandalizing or destroying your property

## FACTORS THAT MAY INDICATE INCREASED POTENTIAL FOR VIOLENCE

- History of violence exhibited by the stalker
- Presence of physical abuse or domestic violence
- Presence or absence of threats
- Obsession with the same or similar victim over a period of time
- Access and knowledge of weapons
- Traveling a distance to be near the victim

## Lethality

- 76% of femicide cases involved at least one episode of stalking within 12 months prior to the murder.
- 85% of attempted femicide cases involved at least one episode of stalking within 12 months prior to the attempted murder.

- Femicide Study (1999)

## The Intersection of Stalking and Sexual Assault



## Stalking and Sexual Assault

- 2% of stalking victims were raped/sexually assaulted by their stalker

- Stalking Victimization in the United States, BIS (2009)

- 31% of women stalked by her intimate partner were also sexually assaulted by that partner

- National Violence Against Women Survey, Tjaden & Thoennes (1998)

## Stalking and Sexual Assault on Campus

- In 10.3% of campus stalking incidents, the victim reported that the stalker forced or attempted sexual contact
- 3/4 of women who experienced stalking-related behaviors experienced other forms of victimization (sexual, physical, or both)
  - Stalking and rape/sexual assault only - 26%
  - Stalking, physical and rape/sexual assault - 11%

- National Sexual Victimization of College Women (2000)

- Stalking acknowledgement and reporting among college women experiencing intrusive behaviors (2007)

## Reports to Law Enforcement

- Overall, 83.1% of campus stalking incidents were NOT reported to police or campus law enforcement.

BUT....

- 93.4% of victims confided in someone, most often a friend, that they were being stalked.

- National Sexual Victimization of College Women (2000)

- National Sexual Victimization of College Women Survey

## Premeditation and Stalking

- What does premeditate mean?
- How might someone premeditate a sexual assault?
- Can premeditation = stalking?

### "Nondomestic Organized Stalker"

Case example from *A Typology of Interpersonal Stalking*: Journal of Interpersonal Violence, Vol. 11, No. 4, December 1996.

- Journal article discusses what they call the **"nondomestic organized stalker."**
- Victim is unlikely to know she is being stalked by this person until stalker chooses to let her know.

### "Nondomestic Organized Stalker"

- A man who was stalking a woman was arrested outside her apartment after she observed him & called police.
- Woman recently found her bathing suit taped to windshield of her car.
- On another occasion, she found some of her undergarments draped on the car's mirror.
- 1 week prior to the arrest, the victim found cartridge casings from a handgun taped to her car's window.

### "Nondomestic Organized Stalker"

- Stalker was found sitting in his car less than 100 yards from victim's apartment.
- He was carrying:
  - Knife
  - Key to woman's apartment

### "Nondomestic Organized Stalker"

In his car they also found:

- |  |                                 |
|--|---------------------------------|
| – .22 caliber pistol & ammunition      | – Rubber gloves                 |
| – Stun gun                             | – Cotton gloves                 |
| – Mace                                 | – Stocking mask                 |
| – Camera & film                        | – Large nylon bag               |
| – 2 sets of binoculars                 | – Bag w/ change of clothing     |
| – 2 tape recorders                     | – Several condoms               |
| – 2 flashlights                        | – Book of nude pictures         |
| – Pictures of victim's apartment & car | – Gun cleaning kit              |
|  | – Cooler filled with ice & beer |

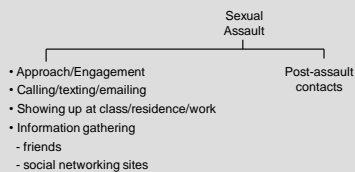
### "Nondomestic Organized Stalker"

- Months prior to this incident the offender was acquitted of burglarizing the woman's home.
- What do you think he was planning to do?

### FBI Research

- Interviews with convicted rapists in prison
- General pattern for rape:
  - Targeted women
  - Watched them over time
  - Waited for opportunity when woman was vulnerable
- Is this stalking?

### Course of Conduct



### What do you think?

**Is there a connection between stalking and sexual assault?**

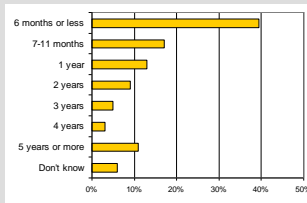
### So What?

What benefit is there to making a connection between stalking, harassment and sexual assault?



- Validation of Victims' Experiences
  - Provides context
  - Places blame solidly on the perpetrator
  - Provides additional proof
- Increased opportunities for offender accountability

### Duration of Stalking



### Do protective orders discourage stalking?

- 25% of stalking victims obtain restraining orders
- Over 66% of these orders are violated
- In 21% of cases, violence and stalking escalated after the protective order was filed

### Top 3 reasons victims thought stalking ended:

- Victim relocated
- Stalker found a new partner
- Law enforcement warned the stalker

### Recidivism Rates

- Occurred in 60% of cases
- Time between a criminal justice intervention (arrest, charge, and/or protection order) and recidivism was about 2 months
  - Ranged from 1 day to 6 years

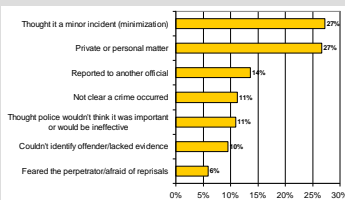
— The RECON Typology of Stalking (2006)

### Reporting to Law Enforcement

- 37% of male stalking victims
- 41% of female stalking victims

— Stalking Victimization in the United States, BJS (2009)

### Reasons For Not Reporting



### INVESTIGATING AND BUILDING A STALKING CASE



The primary responsibility of law enforcement professionals is to determine whether a crime has been committed, conduct an investigation, to identify and apprehend the perpetrator and gather evidence to assist prosecutors in a criminal trial.

## RESPONSE

- Collaborate with other agencies through multidisciplinary teams and Sexual Assault Response Teams (SARTs) to be certain that appropriate training, policies and procedures are in place to prevent unnecessary gaps in service delivery on the local, regional and state levels.

*Stalking is one of the few crimes where early intervention can prevent violence and death.*

**35 Years Ago There Was No Such Thing as “Domestic Violence” or “Stalking”**

The terms did not exist.  
Law enforcement had no effective means to address it and society was not ready to accept it.

We know better now!

## WHY NOW?

- Better Education
- Better Resources
- Better Investigation

## OFFICER RESPONSE

- Respond to call
  - Without delay
  - Officer safety
  - Never alone
  - Evaluate danger - i.e., perp lying in wait
  - Initial contact - identify and maintain safety of victim(s)

**One Officer Assault Nearly Every 8 Minutes**

## INITIAL CONTACT

- Complete a report on **all** incidents
- In some exigent circumstances, forced entry is necessary. Circumstances include but are not limited to:
  - Signs of a fight or scuffle;
  - Person from inside the residence calls for assistance or is yelling;
  - Reason to believe that the person is wounded, injured, or is otherwise in need of assistance;
  - Accused is suspected of concealing the victim;
  - When the call came from the residence and the victim is identified as the caller and entry is denied by others present on the scene; or
  - When the officer has articulable suspicion that absent immediate entry, serious bodily injury or death may result.

## CONCERNS REGARDING THE VICTIM

- Safety of victim, children, family members
- Medical attention
- Communication barriers
  - Limited English
  - Hard of hearing/deaf
- Remember
  - Police intervention can be dangerous to victim

## ESTABLISHING CONTROL

Once at the scene of the incident, the responding officer should establish control by:

- Identifying and securing potential weapons
- Separating victim and accused when appropriate
- Inquiring about injuries, administering first aid, and notifying emergency medical services as necessary
- Identifying all occupants and witnesses on the premises
- Separating occupants and witnesses from the victim and accused

## SECURE THE SCENE

- Multiple jurisdictions/crime scenes
- **Assess entire scene for:**
  - Property damage
  - Weapons/Instruments of Crime
  - Clothing
  - Fingerprints
  - DNA/Trace
- Preserve evidence and secure the scene

## EVIDENCE COLLECTION

- Photograph and or video tape before disturbing anything
- Diagram scene
- Electronic evidence

## EVIDENCE COLLECTION

- Stalking related electronic evidence
  - Computers
    - Emails; social networking sites, etc.
  - Answering machine tapes/Voicemails
  - Phones
  - Digital cameras/photographs
  - Mobile devices (e.g., portable media players)
  - Others (e.g., CDs, GPS)

## VICTIM INTERVIEW

- Inconsistent statements
- Level of fear
- Document injuries
- Any documented history of incidents
- Identify relationship
- Protection order
- Advocate

## ADVOCACY

Allows victim to talk freely

- Allows victim to remember more details and put all the pieces in place
- Telling their account facilitates the transition from traumatic memory to day-to-day memory

Provides validation

- Validation is the process by which service providers teach victims that most reactions to traumatic events are normal
- Validation should reinforce that most reactions of anger, fear, frustration, guilt, and grief are natural and common

## VICTIM INTERVIEW

- IDENTIFY PERPETRATOR BEHAVIORS
  - Following or surveillance
  - Confrontations
  - Surprise appearances
  - Unwanted gifts or messages
  - Removing victim's garbage
  - Missing mail
  - Reporting victim for various crimes
  - Assaults
    - physical/sexual

## ADVISE VICTIM

- Protective order (home, school, business)
  - Personal Safety Order (non-domestic)
  - DV Protective Order (domestic cases)
- Order for child custody
- Eligibility for victim compensation
- Safety plan

## SAFETY PLANNING

Why safety plan?

- Safety planning empowers victims
- Safety planning provides practical ways to decrease risk
- Safety planning puts victims in contact with a variety of services, agencies, and individuals who can help
- Safety planning works

Stalking Incident Log

Name of victim/agent			Name of Stalker		Police Report?	
State	County	City	Incident Description	Yes ____ No ____	Report #	
Location:					Officer's Name:	Badge #
Telephone:						
Address & Phone:						

Name of victim/agent			Name of Stalker		Police Report?	
State	County	City	Incident Description	Yes ____ No ____	Report #	
Location:					Officer's Name:	Badge #
Telephone:						
Address & Phone:						

## PERP INTERVIEW

- Always interview (if possible)
- Prior to arrest (if possible)
- Record or not to record
- Bio information
- Alleged perps side of story: **Lock-it-in**
- Clarify statements

Remember...  
perp will almost always want to be your friend.

**Take Advantage!**

"I was going to be a cop but my parole officer said that could be a problem."

## CONSIDERATIONS

- Alcohol/Drugs
- Enough to arrest
- Keep victim informed

## Do Not Underestimate Creativity of Stalker

- Investigations
  - Complex
  - Protracted (long, drawn-out)
- Think outside the box

## INCIDENT REPORT DOCUMENTATION

- Do a report on all domestic/sexual violence and stalking incidents
- Include all information precisely
  - Observations
  - Date & Times
  - Interviews
  - Evidence
- Indicate preliminary interviews

## PUTTING IT ALL TOGETHER

Scenarios

## Resources

- Local rape crisis/domestic violence center
- WV Foundation for Rape Information and Services [www.fris.org](http://www.fris.org)
  - brochures
  - informational handbook
- WV Coalition Against Domestic Violence [www.wvcadv.org](http://www.wvcadv.org)
- Stalking Resource Center (SRC at <http://www.victimsofcrime.org/our-programs/stalking-resource-center>)

**Stalking**  
resource center

Practitioners: 202-467-8700

THE NATIONAL CENTER FOR  
Victims of Crime

Victims: 1-800-FYI-CALL

[www.ncvc.org/src](http://www.ncvc.org/src)