

ANTI-STALKING LEGISLATION, RECIDIVISM AND THE MENTALLY  
DISORDERED STALKER

by

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This manuscript has been read and accepted for the Graduate Faculty in Criminal Justice in satisfaction of the dissertation requirement for the degree of Doctor of Philosophy.

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Abstract

ANTI-STALKING LEGISLATION, RECIDIVISM AND THE MENTALLY  
DISORDERED OFFENDER

By

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In December of 1999, New York became the last of the fifty States to formally approve anti-stalking legislation, with the goal of facilitating early intervention in potentially dangerous situations. Prior to the passage of the Clinic Access and Anti-stalking Law of 1999, local law enforcement was only able to prosecute stalking behavior through the use of legal prohibitions against other pursuit behaviors such as harassment and menacing. This study examines the effect of the Clinic Access and Anti-Stalking Law on stalking recidivism, using a population of 217 mentally disordered individuals arrested for stalking ( $n = 68$ ) or other pursuit behaviors ( $n = 149$ ) in the five years immediately following the passage of the legislation, and referred for evaluation to the Bellevue Hospital Center Forensic Psychiatry Clinic. Additional data was obtained from the New York State Division of Criminal Justice Services. Logistic regression analysis was unable to demonstrate that individuals charged with stalking were less likely to repeat stalking behavior than individuals charged with other pursuit behaviors. The study further attempted to explore stalking recidivism as a function of the prior relationship between the stalker and the victim, the level of violence in the stalking episode, and the stalker's diagnosed mental disorder. However, what appeared to be more important to the prevention of future recidivism was the sentence imposed on the stalker subsequent to arrest and conviction.

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I dedicate this manuscript to my dad and mom, Chester and Zelda Harmon. Although you are not here now to share my happiness, I am very glad to be able to live up to your faith in me. I also dedicate it to my husband Mike Cherni, for his love and support.

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## Introduction

This research focused on the problem of how to determine whether anti-stalking legislation has deterred mentally disordered<sup>1</sup> stalkers from the continuing pursuit of their victims, and whether different types of stalkers might react differently to such legislative prohibitions. It also attempted to provide information about the circumstances under which some mentally disordered stalkers stop their pursuits, and others do not.

Although the obsessive following and fixating of one individual upon another has been written about and classified as a type of psychiatric disorder for many years, the behavior pattern that the criminal justice system has come to regard as stalking emerged in the national consciousness in the United States in the last decade of the 20<sup>th</sup> Century. Since the early 1990's, the process of defining stalking has proceeded on two tracks: the legislative level and the behavioral level.

Beginning in the 1980's with a series of high profile cases, including most notably the killing of musician John Lennon in 1980, the 1981 attempted assassination of President Reagan by John Hinckley, the attack on actress Theresa Saldano by an obsessed fan in 1982, and the murder of actress Rebecca Schaeffer in 1989, attention was directed to stalking by the media, and focused on those who harassed public figures, such as celebrities and politicians. At around the same time, a series of high profile stalking incidents targeting ordinary people highlighted the need for attention to a different sort of victim. In 1985, Richard Farley became obsessed with his co-worker Laura Black, and his stalking of her resulted in his termination from his job in 1986 (Lindsey 1988). Farley's stalking of Black continued, and in the winter of 1988, he returned to

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<sup>1</sup> The terms "mental disorder" and "mental illness" in this context will refer to individuals who have been given a psychiatric diagnosis by a clinical, mental health professional, using one of the volumes of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

the Sunnyvale, California offices and went on a shooting spree that injured Black and killed seven other workers. Kathleen Gallagher Baty was stalked by a man who had run track with her in college (Leiter 1996). The cross-country stalking began in 1982 in California, continued after she moved to Florida, and finally resulted in his arrest in 1991, when he attempted to kidnap her. He was sentenced to 8 years in prison, but re-arrested in 1995 when he returned to stalk her again after being released subsequent to four years of incarceration. Baty's testimony before the California State Assembly played a key role in the passage of the state's 1990 anti-stalking legislation, the first of its kind in the United States. Also in the late 1980's and early 1990's, the women's movement was raising the issue of domestic violence. Recognition that stalking was very much a part of the pattern of intimate partner violence brought the interests of a new, growing group of potential victims to the developers of anti-stalking legislation. In 1992 in Boston, Massachusetts, Michael Cartier, a man with a long criminal record that included the violent stalking of his former girlfriend, shot and killed Kristin Gardner, then turned the gun on himself. Gardner had dated Cartier, but had taken out a restraining order after he had threatened, stalked and beaten her (Hanson 1996). That same year, in the same city, Elizabeth McCandless Murray was also murdered by her ex-husband, who ignored restraining orders and pending court appearances, killing her and himself (Tan and Kennedy, 1992). Cases like these helped to shift the theoretical emphasis from the stalker as a mentally ill, obsessed fan, to the stalker as a jealous, overly-possessive partner.

Most criminal offenses such as arson or burglary consist of an obviously unlawful event that occurs on a single occasion. In contrast, stalking is a series of behaviors (i.e. phone calls, emails, street encounters, visits) which, taken individually, might not seem intrusive or threatening. The writers of early anti-stalking legislation had to contend with the problem of

how to prohibit such behaviors without potentially interfering with the constitutional rights of the stalker (Lingg 1993, Carmody 1994, Domestic Violence, Stalking, and Antistalking Legislation 1996). When these activities become so persistent as to constitute an intrusion into the life of the targeted individual, they can ultimately cause that individual to fear for his or her safety.

Legislators were concerned with fashioning laws that would give local law enforcement the tools needed to protect the public from such perceived ‘dangerous predators’, and with allowing law enforcement officers to intervene before behavior escalated to physical violence.

In the early 1990’s, behavioral scientists attempted to clarify the motives behind stalking activities, with the expectation that identifying the causes of the behavior might lead to an understanding of how to contain it. Clinical research conducted during this time period focused on stalking as a psychological disorder, and on the development of typologies intended to facilitate the understanding of stalking behavior and, through such understanding, to facilitate its management (Zona, Sharma and Lane 1993; Harmon, Rosner and Owens 1995; Dietz, Matthews, Van Duyne, Martell, Parry, Stewart, Sarren and Crowder 1991; Meloy and Gothard 1995). Several of these studies produced classification systems, grouping stalkers according to such things as motivation, relationship with the targeted individual, and psychiatric disorder. What has become clear from these early approaches is that there is no single “profile” of a stalker or of stalking behavior. Different types of stalkers may share a common behavior pattern, but will react differently to attempts to control stalking behavior. Some will target one individual for a period of time, but will respond to an encounter with the criminal justice system by discontinuing their stalking behavior. Others will react by repeating the stalking, but against a different target. Finally, some will persist in their pursuit of a single victim regardless of all efforts to discourage them. Clinical researchers have also discovered that not all stalking is violent in nature, and that

the consequences of ongoing stalking can affect many different areas of the victims' lives (Meloy 1998, Kamphius & Emmelkamp 2001, Mullen & Pathe 2002, Rosenfeld 2004).

Although non-violent stalking is generally addressed in the research literature only as a prelude to physical violence, for many victims of non-violent stalking, regaining a sense of personal safety and emotional security is of critical importance. That sense of security may only be achieved if and when the stalking ends.

This thesis will discuss the theoretical context of stalking behavior in relation to three key criminological theories: classicist theory, positivist theory and feminist theory. The development of clinical descriptions and typologies of stalking, and the relationship of stalking behaviors to psychiatric disorders, will be reviewed. The evolution of the criminal offense of stalking, the legislative intent behind anti-stalking legislation, and the relationship between anti-stalking legislation and stalking behavioral patterns will be discussed. The review will also include discussion of stalking-related violence and recidivism, and whether any legal, clinical or other measures are expected to deter the offender from further stalking. Logistic regression will be used to review data collected from a convenience sample of the case files of 217 defendants accused of stalking and related offenses between January 1, 2000 and December 31, 2005, after the passage of the New York State Clinic Access and Anti-Stalking Law in late 1999, and referred for clinical evaluation to the Bellevue Hospital Center Forensic Psychiatry Clinic for the Criminal and Supreme Courts of New York between January 1, 2000 and December 31, 2006.

### **Basic Definitions and Classification System**

For the purposes of this thesis, stalking will be broadly defined as unsolicited and unwelcome behavior initiated on multiple occasions by one individual towards another

individual, group or organization. Some stalking behavior can seem innocuous at first (i.e. telephone calls, gifts of flowers, waiting and watching), but if it is repeated on more than one occasion without having been encouraged, if it continues in the face of active discouragement, or if it escalates into more aggressive attention-getting tactics, the targeted individual may become fearful that it will not stop short of physical violence. Other stalking behavior can occur in the context of domestic violence, either as a part of a pattern of domination and harassment during an ongoing relationship, or as an exhibition of power and control over a partner trying to terminate a relationship.

There is no profile of a “typical” stalker (Sohn 1994). Stalking has most frequently been categorized according to the relationship, or lack thereof, between the stalker and the targeted victim before the stalking began (Lingg 1993). The stalker and the targeted victim may have been strangers (defined for the purposes of this paper as the victim having no previous knowledge of the stalker), acquaintances (defined for the purposes of this paper as the victim knowing the stalker on some level, either as a friend, a neighbor, a co-worker, a retained professional, a casual date), or former intimates (defined for the purposes of this paper as a spouse, domestic partner or close family member).<sup>2</sup>

Stalking behavior can also be classified in terms of how difficult it is to modify or control. The Stalking Recidivism Profile established by Harmon (2005) and Ciric and Harmon (2002) was based on the premise that researchers had been discovering that it was difficult to

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<sup>2</sup> For the purposes of this thesis, “intimacy” is thought of as emotional, rather than purely sexual, intimacy. This is different from some other classification schemes in which only an occurrence of sexual intercourse, including casual sex, places subsequent stalking into the “intimate” category. Such a casual occurrence, in this paper’s classification system, would be placed in the “acquaintance” category. Similarly, the relationship between a stalker and a close family member such as a parent or sibling is considered to be an intimate personal relationship, and is so classified here.

predict which stalkers might turn to physical violence in their pursuit patterns, and which stalking situations might remain psychologically stressful for the victim, but never escalate to dangerousness. If such prediction was not feasible, it was thought that it might be more fruitful to direct inquiries to the question of whether a stalker could be persuaded, either by legal or psychological means, to desist from the stalking behavior. A stalker who had abandoned his pursuit would, by default, no longer pose a risk to the victim.

Several additional definitions which will be used throughout this thesis require clarification. The designation “*stalking*” will be used to reference individuals charged with New York State Penal Law Articles 120.45, 120.50, 120.55 and 120.60, the specific offenses created by the New York State Clinic Access and Anti-stalking Act of 1999. The designation “Other Pursuit Behaviors” will be used to reference individuals charged with other offenses available under the New York State Penal Law (i.e. Harassment, Menacing, Criminal Contempt) for the criminal prosecution of stalking behaviors. **Stalking behaviors** include individual activities such as phoning, letter writing, waiting, following; **stalking events** are defined as incidents during which one or more of these behaviors take place, such as the depositing of a gift on the victim’s doorstep, telephoning the victim’s home or office, or approaching the victim on the street. **Stalking episodes** are defined as the complete series of stalking events that make up the course of conduct required by law to constitute actionable stalking. (Nobles, Fox, Piquero, Piquero 2009). **Stalking history** is the complete series of episodes that constitute an individual (stalker or victim)’s experience with known stalking behavior. Recidivism for the purpose of this project is defined as the known existence of an arrest or arrests for stalking behavior within two years of a **primary stalking offense**, which is defined as the first known arrest for stalking behavior committed between January 1, 2000 and December 31, 2005, resulting in a criminal

charge against the perpetrator and a referral to the Bellevue Hospital Center Forensic Psychiatry Clinic between January 1, 2000 and December 31, 2006. All primary offenses include, by definition, either a charge of *Stalking* or a charge for Other Pursuit Behaviors.

### **Goals and Objectives**

To determine whether a uniform approach should be applied to the mitigation of stalking behavior, or whether there is a need for multiple approaches for

- stalkers who have had different types of relationships with their targets,
- stalkers who have different types of mental problems, or
- stalkers who have a history of violent behavior

## **Theory**

### **Stalking and Criminological Theory**

The Western system of laws initially was designed to punish unacceptable behavior. It evolved into a system which attempted to prevent such unacceptable behavior before it occurred. Because preventing an event before it happens requires a certain amount of knowledge about why the event might occur, when the event might occur, and who might initiate the event, the history of criminological theory has largely been about a search to find the causes of crime in general. Researchers investigating the stalking phenomenon have similarly attempted to identify the causes of stalking behavior, with the hope that by understanding it, they might be able to explain how to prevent or limit it. The same problem exists for research about the causes of stalking as exists for research into the causes of crime, and that is that there are many different kinds of motives for stalking, and they can not all be managed by the same type of preventive or punitive approach.

### **Stalking and classical criminology.**

In classicist theory, because people are for the most part considered to be rational beings with free will, their behavior can be guided by a system of laws which clarify the punishment they can expect to receive if they behave badly. This then allows them to estimate the relative costs and benefits of their actions, and to conduct themselves accordingly. Classicist thinking arose during the political and social turmoil that marked Europe in the second half of the 18<sup>th</sup> Century. In 1764 Cesare Beccaria published “An Essay on Crimes and Punishments.” It was soon translated into both French and English, and was circulated widely in Europe and in the American Colonies. Among other things, Beccaria proposed that criminal laws should be

written down and made available, so that people could know what was against the law.

Punishment under the law should be attached to the crime itself, should apply equally to all individuals, no matter what their rank or social status, should be administered as rapidly as possible, and should be no more serious than is necessary to penalize an offender for what he or she has already done. Punishment should not be intended to change the future behavior of an offender, except in so far as it might establish an example for the offender, or other observers, of what might be in store for someone caught behaving in the same way in the future. As a general principle, classicists believed that once a rational individual had experienced punishment suitable to their criminal behavior, they would be deterred from committing the criminal activity in the future. Thus, according to Lilly, Cullen and Ball (2007, p.15):

The most important feature of the classical school of thought is its emphasis on the individual criminal as a person who is capable of calculating what he or she wants to do. This idea was supported by a philosophy that held that humans had free will and that behavior was guided by hedonism. In other words, individuals were guided by a pain-and-pleasure principle by which they calculated the risks and rewards involved in their actions.

It is important to remember that, although traditional classicist theory espoused the idea of the equality of all in the eyes of the law, there was always a recognition that some individuals existed who should not be subjected to equal punishment, due to a variety of exculpatory reasons. As Young (1980, p.8) points out,

[Classicism] was rarely, however, anywhere put into practice in its pure form...For example, a wider number of groups – children, the insane and feeble-minded – were recognised as being incapable of full rational responsibility for their actions, and the law was required to take some circumstantial factors and influences into account, modifying the pure classicist doctrine of ‘free will’. The resulting amalgam of Positivism reinforced and expanded on the idea that individual variations in biological, psychological and social influences must be taken into account when discussing the offender/potential offender’s response to the law.

Anti-stalking law can be seen as based partly on the classicist concept that an appropriately crafted law, with appropriate penalties, will deter rational individuals from criminal offending. Beginning in the last decade of the 20th Century, the definition of the criminal offense of stalking evolved through legislative actions by local and national governing bodies around the world. New laws were conceived of as a way to stop stalking before the targeted individual could be physically harmed (Jordan et al. 2000, Diacovo 1995). In the United States, legislators were concerned with fashioning laws that would give local law enforcement the tools needed to protect the public from perceived dangerous predators. The unstated assumption was that if a stalker could be arrested and subjected to punishment early in the course of stalking behavior, they might be stopped from escalating to violent behavior. This would be accomplished either through the stalker's recognition that the stalking behavior was subject to punishment, or through the enforced separation by incarceration of the stalker from his or her victim, or both.

It is one of the premises of this paper that some, but not all, types of stalkers will be responsive to the motivations espoused by classicist theory, and will be deterred from further stalking by the proper implementation of anti-stalking legislation.

### **Stalking and positivism.**

Classicism was influenced by the political and social events of the 18<sup>th</sup> century. The criminological theorists of the late 19<sup>th</sup> Century were affected by changes in the biological and social sciences (Young 1980), in particular by developments that were occurring in the use of the scientific method. Part of the positivist movement was the shift from classical deductive logical

reasoning, in which a general principle, accepted as true, leads to a specific conclusion (ie: rational men prefer freedom over incarceration; John is a rational man; therefore John will not risk incarceration by committing a criminal offense), to inductive logical reasoning (Hempel 1966 p.10). Inductive reasoning starts with known facts about a situation, and generalizes from these facts making use of scientific methodology.

Positivism advanced the notion that not all individuals had the same ability to make deliberate, conscious, rational choices. In addition to maturity and mental capacity, there were other factors, both internal and external, that affected people. The various influences of these factors meant that not all people could or should be regarded as equal under the law. Because all individuals had different familial, social and environmental backgrounds, punishment could not be administered equally to different individuals, but had instead to be targeted towards the needs of each person. Positivism holds that an individual who is so irrational or ignorant that he or she does not appreciate that their behavior is unacceptable in society should not receive the same level of punishment as another individual, who commits the same offense, with the full knowledge and intent of breaking the law. It is a part of positivist philosophy that such uninformed individuals should not necessarily be punished for what they have unwittingly done, but rather should be assisted, either through treatment, education or rehabilitation, to moderate their antisocial conduct (Young 1980 p. 20).

Different schools of criminology grew up around the goal of determining what it was that might cause a 'man' to commit a criminal act.

In the late 19th Century, Cesare Lombroso's initial efforts focused on physiological characteristics, visual cues that could be used to identify potential criminals (Lilly, Cullen and

Ball 2007 p.18). Lombroso was interested in the role of evolution and biology on behavior, and he was influenced by Charles Darwin's mid-century work connecting humans to animals. He believed that people whose physical characteristics more closely resembled prehistoric humanoids (i.e. sloping foreheads, long arms, receding chins) would also have the lower intellect and lesser morality that was ascribed to criminals. Lombroso also posited that there were non-biological influences (e.g. the church, the government, climate, sex, marriage) that could impact criminal behavior (Ibid. p. 19). These assumptions became the basis for initiating individualized treatment for offenders which would address the biological and sociological causes of crime (Ibid p. 31).

The mid-century emergence of sociological theory directed inquiries about criminal behavior towards environmental influences such as the accessibility of economic advantages, community cohesiveness, or the impact of friends and family members on a person's moral compass. Instead of the genetic characteristics of each individual being the cause of criminal behavior, the industrial revolution, and the living conditions brought about by rapid urbanization in the United States, was vested with the blame for the rise in crime statistics. Poverty, urban anonymity, and social injustice were what "caused" individuals to break the law, and the way to slow the increasing urban crime rate was to increase the availability of adequate housing, education and job opportunities as alternatives to criminal behavior.

In the early 20<sup>th</sup> century, psychological theory suggested that mental characteristics such as intellect, impulsiveness and narcissism could cause men to ignore the greater good in favor of personal gains. "Intellect" was quantified with the development and use of the IQ test, considered an objective, scientific method. Individuals with lower IQ scores were considered more likely to be criminal offenders. Criminal behavior was also thought to result from an

absence of self-control, which could be exacerbated by the use of alcohol (Ibid p.26). Many such characterological traits were believed to be part of a person's genetic makeup, and individuals who had inherited these traits were not to be blamed for their mental disorders. Instead, they should be provided with clinical treatment whenever possible to help them overcome these illnesses. When this was not considered possible, they should be removed from society for the protection of themselves and others. This resulted in a system in which isolation, institutionalization and incarceration became one solution to the problem of crime.

Unfortunately, the notion that the psychological causes of criminal behavior were rooted in genetics and biology did not allow for much in the way of treatment options for rehabilitation. The prevention of future criminal behavior could only be accomplished by prohibiting criminals from passing down their "bad genes" to a future generation, through the use of such tactics as sterilization, immigration laws, and the prevention of marriage between "undesirables."

The influence of positivism is reflected in much of the early stalking literature, with clinically based research designed to describe the sociological and psychological characteristics of stalkers so that their behavior can be better understood. The question of rationality, or the lack thereof, often enters discussions of stalking behavior. And, with regard to many stalkers, it is a valid issue to raise. Clinical analyses of various stalking populations have been focused on psychiatric diagnoses, including delusional and other psychotic disorders. Mullen et al. (1999) indicate that delusional stalkers must be treated through the mental health system. Researchers have also focused on the motivations behind stalking behavior, and their relationships with their targets, with the goal of finding out how those motivations drive the stalkers' behavior. It is one of the premises of this paper that some mentally disordered stalkers will respond to the treatment of their psychiatric illnesses and alter their pursuit behavior.

### **Stalking and feminist theory.**

The so-called ‘first wave’ of feminism, from the late 1800’s into the first half of the 20<sup>th</sup> century, dealt with what might be regarded as basic issues of human rights in a democratic society, such as women’s right to vote, their right to own property, and their right to education. The role of women in a social system based on male power and control of resources was challenged in this period. In the 1960’s and 1970’s, the ‘second wave’ of feminism in the United States coincided with the emergence of the anti-war movement and the civil rights movement, and was an outgrowth of women’s expression of their own identities and needs, apart from issues of economic status or race. In the 1970s – alongside work that focused on race and class – feminists began to raise the question of how gender was treated in traditional criminology and criminal justice studies (Smart, 1976). There was a dual focus in feminist criminological theory (Akers and Sellers 2004, Lilly et al 2007), which looked at women as both perpetrators and victims of crime.

Discussions of women as criminals explored the idea that criminal justice theory had been centered on the behavior and background of male offenders to the exclusion of women. Physiological, psychological and sociological analyses of the causes of crime explained only crimes committed by men. The women’s movement also brought increased attention to women as the victims of crime. Offenses that impacted on women in particular, like sexual assault and domestic violence, and that had traditionally been neglected by the criminal justice system, were seen as part of men’s efforts to exert and reinforce their power and control over the women around them. They became the focus of changes in policies and procedures in the criminal justice system (Lilly, Cullen & Ball 2007 p. 228-9). Mullen, Pathe and Purcell (2000, pp. 18 – 23) describe the evolution of the crime of stalking as a part of this process, tied directly to the

recognition of domestic violence as a social problem and as a particular problem affecting women.

In non-intimate relationships, stalking, the impulsive, relentless pursuit of an unwilling love interest, was often considered “romantic.” Popular movies, novels and songs romanticized men who persisted in the face of unrequited love; women were frequently expected to resist before they eventually succumbed (Jordan, Quinn, Jordan and Daileader 2000; Purcell, Pathe and Mullen 2004; Anand 2001, Radosevich 2000). In the socio-cultural environment of the late 20<sup>th</sup> and early 21<sup>st</sup> Centuries, untrained, uneducated police officers initially had a tendency to view stalking and its related offenses as non-threatening, and in some cases even complementary (i.e. “He’s telling you he loves you and sending you flowers, why are you complaining?”). Neither perpetrators nor law enforcement officials were accustomed to viewing this behavior as against either legal or moral codes. Even after anti-stalking legislation was introduced, it was not effectively implemented in many states, in part due to the lack of adequate training of local law enforcement and prosecutors (Martinez 2000, Miller 2001). Each stalking case can require individualized problem-solving approaches for identifying who the stalker is, gathering evidence to prove both the identity of the stalker and that stalking has occurred, and proving those facts to a jury. Methods used with other types of crimes are often inadequate for stalking cases, and new approaches must be developed (Miller 2001 p.4). Studies by Tjaden and Thoennes (1998 and 2000) concluded that at that time, prosecutions for stalking related behavior were more likely to proceed on charges such as harassment, intimidation and other related offenses than on actual stalking charges.

However, the needs of the victims – in most cases women – must be taken into consideration. It is one of the premises of this paper that it is not sufficient to simply introduce

anti-stalking legislation. Without adequate education and information about the problem to both local law enforcement, and victims/potential victims of stalking behaviors, anti-stalking laws will not be applied correctly and their impact on recidivism will be reduced.

## Literature Review

References to the behavior pattern we now call “stalking” are centuries old. Kamir (2001, p.23) considers the Bible’s Lilith to be “Western culture’s ancient and enduring archetypal female stalker.” It has been suggested that William Shakespeare’s sonnets represented the stalking of his “Dark Lady” (Skoler 1998). Louisa May Alcott wrote about an ultimately fatal stalking history in *A Long, Fatal Love Chase* (1866). Scarlett O’Hara’s obsessive pursuit of Ashley Wilkes in Margaret Hamilton’s “Gone with the Wind” (1936) can be viewed as stalking.

### Stalking and Mental Illness

The psychiatric disorder that is frequently associated by the general public with stalking behavior is Erotomania, which is one of several Delusional Disorders defined in the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR 2000 pp. 323 - 329). Other subtypes of Delusional Disorders are Grandiose, Jealous, Persecutory and Somatic.

According to Berrios and Kennedy (2002), erotomania was initially considered by the ancient Greeks and Romans to be a form of physical disorder, or an actual “love sickness,” which could be brought about by unrequited love. By the 1800’s, that view had changed. The authors cite an 1810 case study from Viennese criminologist E. Zeiler that appears to be an example of persistent, homicidal erotomania in which a mentally disordered man believed that a young woman had fallen in love with him, but that they were being kept apart by another, older woman. The delusional man killed both women. They note that the French psychiatrist Esquirol, in the early 19<sup>th</sup> century, conceived of erotomania as a mental, rather than a physical, disorder, based in irrationality and poor judgment, in which the subject has excessive love for

another individual. In the early 20<sup>th</sup> century, erotomania began to be classified as a delusion. During this period, erotomania was primarily considered a feminine disorder; there were very few cases reported of male erotomanics in early English language references. Currently accepted clinical definitions of erotomania can be dated to the early 1920's. (Taylor, Mahendra and Gunn 1983, Segal 1989). In 1921, German psychiatrist Emil Kraepelin included erotomania as a subtype of the delusional syndrome he called paranoia (Segal 1989). Sigmund Freud also classified erotomania as one of the forms of paranoia (Taylor, Mahendra, Gunn 1983). At around the same time, the French psychiatrist de Clérambault became interested in the disorder, and presented and published a number of case studies of "psychoses passionelles," as a result of which erotomania is sometimes known as de Clérambault's Syndrome. De Clérambault divided erotomania into two sub-types, "pure" erotomania, which is not associated with other psychiatric disorders, and "secondary" erotomania, which is a possible symptom of the diagnosis of paranoid schizophrenia.

Enoch, Trethowan and Barker included erotomaniac behavior in their book, *Some Uncommon Psychiatric Syndromes* (1967). Hollender and Callahan themselves presented four case studies of erotomania in delusional women aged 36 to 53. One 42 year old single woman announced to co-workers her engagement to the married department head; she had other delusional symptoms. A 36 year old woman became obsessed with a television newscaster, and believed that he interacted with her through her television. A 36 year old separated woman traveled to Nashville, Tenn. in response to "messages" she believed she had received from a country music star asking her to marry him; other delusions were present. A 53 year old woman reported being told by others that her minister wanted to leave his wife and marry her; she had a history of psychiatric hospitalizations. The authors noted that very few such cases had been

identified since de Clérambault's time, and concluded that erotomania does not exist as a separate clinical diagnosis, but only as a subtype of paranoid schizophrenia.

The psychiatric community's debate about whether erotomania should be considered a separate disorder, or whether it existed only in combination with schizophrenia, was decided by the developers of the *Revised Third Edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders* (DSM-III-R 1987) in favor of the former argument. The definition of delusional disorders, including Erotomania, included in that and subsequent editions of the *Manual*, closely follows Kraepelin's original formulation (Segal 1989). The current definition of Delusional Disorder (Diagnostic Code Number 297.10) includes five requirements:

(A) Non-bizarre delusions of at least one month duration; (B) have never met Criteria A for schizophrenia [two (or more) of the following, each present for a significant portion of time during a 1-month period (or less if successfully treated): delusions; hallucinations; disorganized speech; grossly disorganized or catatonic behavior; negative symptoms]; (C) apart from the presenting delusion, behavior is not obviously odd or bizarre and functioning is not impaired; (D) if mood episodes have occurred concurrently with delusions, their duration has been brief relative to the delusions; and (E) the disturbance is not due to a general medical condition. (DSM-IV-TR 2000 p.329)

In order to classify a delusional disorder as "erotomantic type," it is necessary for there to be the delusion that "another person, usually of higher status, is in love with the individual." (Ibid p.329). This particular provision is rarely documented, and the diagnosis of Erotomania is seldom specified in clinical practice.

According to O'Connor and Rosenfeld (2004, p. 4), "many of the most widely publicized early stalking cases have been attributed to individuals suffering from erotomantic delusions."

However, since many stalkers understand that their feelings are not reciprocated by the object of their affections, the diagnosis of erotomania in the strict sense of DSM-IV-TR is rare in stalking cases (See Table 1: Diagnosis of Erotomania in Clinical Studies of Stalking Behavior).

Kamphuis and Emmelkamp (2000 p.204) note that “a delusional disorder of the erotomaniac type...only accounts for a very limited subset of episodes of stalking; stalking can result from many different motivations and constellations of psychopathological symptoms.” Among these disorders they include schizophrenia, bipolar disorder, major depression, and several types of personality disorders.

*Table 1*

*Diagnosis of Erotomania in Clinical Studies of Stalking Behavior*

Study	N	Erotomania
Mullen, Pathe, Purcell, and Stuart (1999)	145	20 (14%)
Zona, Sharma and Lane (1993)	74	7 (9%)
Meloy, Rivers, Siegel, Gothard, Naimark and Nicolini (2000)	65	2 (3.1%)
Kienlin, Birmingham, Solberg, O'Regan, and Meloy (1997)	25	1 (4%)
Meloy and Gothard (1995)	20	2 (10%)

**Descriptive studies.**

Early studies of stalking behavior were descriptive in nature, and focused on populations identified principally through threatening behavior (Dietz, Matthews, Martell, Stewart, Hrouda,

Warren 1991a; Dietz, Matthews, Van Duyne, Martell, Parry, Stewart, Sarren, Crowder 1991b). In the early 1990's, advocacy for victims of domestic violence broadened the public's perception of stalking to include situations in which individuals who either were in the process of leaving intimate relationships, or had just terminated such relationships, were being relentlessly pursued by their former partners (Kurt 1995, Meloy & Gothard 1995). As awareness about stalking increased, the definition of the phenomenon broadened (Harmon, Rosner and Owens 1995, 1998, Mullen, Pathé and Purcell 2000). A stalker could be a former lover, an acquaintance, or a total stranger. A victim could be a celebrity, a co-worker or a former spouse. The stalking could be done from a distance (by telephone or mail) or in person (through following and visiting). It could be accompanied by threats of physical violence, or protestations of undying love, or both.

Harmon, Rosner and Owens (1995) found that individuals referred to a forensic psychiatric evaluation facility who had been arrested for stalking-related behavior were older and more educated than the overall population of the facility's cases. The mean age of the stalking sample was 40 years old, and nearly 80% had completed high school; by comparison, the mean age of all individuals referred for evaluation in 1993 was 31, and only 30% had completed high school. In follow-up research done on an expanded population, Harmon, Rosner and Owens (1998) identified four major diagnostic categories for these stalkers: psychotic disorders, personality disorders, alcohol and substance abuse disorders, and adjustment or mood disorders. Delusional disorders (including erotomania) were grouped with other psychotic disorders. Five percent of the stalkers in this group had no clearly identifiable mental disorder.

Pathé and Mullen (1997) noted the high frequency with which stalking cases appear to be related to multiple types of mental disorders. "When...behavioral scientists began to study the wide range of individuals who were being apprehended by the new antistalking statutes, it

became clear that perpetrators were not confined to those with conditions in the erotomaniac spectrum but included a wide variety of individuals with states of mind varying from the virtually normal to the grossly psychotic” (Mullen and Pathé 2002, p.281). Mohandie (2004) noted that “[o]bsessional followers often qualify for a number of diagnosable mental disorders. These issues may pre-date the stalking episode or become identified as the subject is evaluated at different junctures of his/her involvement in the criminal justice and mental health system.” (p.27).

### **Typologies of stalking.**

Classification systems evolved from the descriptive studies noted above, and were intended to facilitate the identification and recognition of stalking behavior by law enforcement and by the general public. Three of the most influential early typologies will be reviewed and compared here, highlighting the population on which the study was based, the intention behind the formulation of the classification system, the grouping system developed and the principal findings.

Zona, Sharma and Lane (1993) initially reviewed 74 case files from the Los Angeles Police Department’s Threat Management Unit (TMU), developing a descriptive study based on demographic data from cases involving obsessional pursuit. “Obsessional pursuit” was defined as an “abnormal long-term pattern of threat or harassment directed toward a specific individual” including “persistent ideas, thoughts, impulses, or images that result inevitably in some act in relation to the victim.” (p.896) The population was divided into three subgroups based on the type of obsession. The Erotomaniac Group consisted of seven individuals diagnosed with Delusional Disorder, Erotomaniac Type according to the official Diagnostic and Statistical

Manual of Mental Disorders. Thirty two cases were considered “Love Obsessional,” defined as primarily having no prior relationship with their victims, having a primary psychiatric diagnosis other than or in addition to delusional disorder, erotomanic type, and believing that the object of their pursuit would come to love them in time. The final classification was termed “Simple Obsessional,” and consisted of 35 individuals who had a prior relationship with their victims. This could include such disparate relationships as intimate partners, business associates, neighbors and casual acquaintances. Two subsequent studies (Zona, Palarea and Lane 1998; Palarea, Zona, Lane, Langhinrichsen-Rohling 1999) elaborated on this research. In the 1998 study, the same data source yielded 341 cases, and the classification of False Victimization (or self-stalking) was added. The relationship model was maintained, but the additional subjects affected the overall proportions of the group. (Simple Obsessional 64%, Love Obsessional 26%, Erotomanic 5%, Other 6%). The authors attributed this shift to the Threat Management Unit’s efforts to include a larger number of community-based cases. “Since the LAPD-TMU was created in response to the murder of a celebrity, their initial database was over-represented with celebrity and other public-figure cases. Consequently, the study by Zona et al. (1993) contained an over-representation of Love Obsessional and Erotomania cases, and an under-representation of Simple Obsessional cases.” (Palarea, Zona, Lane, Langhinrichsen-Rohling 1999, p.282). In spite of the shift in composition, for both of these studies they determined that Simple Obsessional stalkers made more threats, and were potentially more dangerous to their targets than the other two types. A possibly related factor was that they were significantly more likely to use face to face approaches in their stalking behavior. They also found Simple Obsessional stalkers to have more instances of diagnosed substance abuse and personality disorders. In the more recent report using this data source, the authors (Ibid. 1999) broke down their Simple

Obsessional stalkers into former intimates and former non-intimates. Their definition of “intimate” (N=135) included individuals who were married, engaged, cohabiting, dating, and casual sex partners. Their definition of “non-intimate” (N=88) included coworkers, schoolmates, roommates, neighbors and professional relationships. They found that intimate relationships between stalker and victim meant that, during the stalking, there was a greater likelihood of threats, direct contact, and physical violence towards persons or property. They also noted that substance abuse would increase these risks, because it decreases inhibitions and impairs impulse control. Regarding stalkers who were not deterred by the actions of law enforcement, they noted that “continued stalking behavior, despite law enforcement and judicial intervention, demonstrates a disregard for being held legally accountable for one’s actions. This may place the victim or third parties at an increased risk for physical violence or property damage.” (ibid p. 281).

The Harmon, Rosner and Owens (1995, 1998) studies cited above were based on data collected from individuals referred to the Criminal and Supreme Court Forensic Psychiatry Clinic for the City of New York (“the Forensic Psychiatry Clinic”). The Forensic Psychiatry Clinic functions as a diagnostic evaluation service providing reports to the Courts and the Department of Probation on criminally accused individuals’ competence to stand trial and suitability for probationary status. It does not provide treatment services. The intent of these studies was to describe the population, and to determine whether their typology would highlight any differences between the various sorts of stalkers.

In the first study (1995), 48 cases were grouped into a two-axis classification system. The first axis was based on the motivation attributed to the stalker. Two categories were established (1) Amorous: the stalker was driven by a need to establish, re-establish or assert an

intimate relationship with the targeted individual, for example, a 26 year old woman diagnosed as a true erotomaniac was obsessed with her former employer. She persisted in her belief that he loved her in spite of his denial and the multiple orders of protection that were issued against her. She threatened his patrons and his girlfriend, and was charged at least twice with harassing him (note that this case took place prior to the enactment of an anti-stalking law in New York State).

(2) Persecutory: the stalker was driven by a belief that something the target had done, or not done, had harmed him in some manner, for example, a 35 year old former secretary, who felt she was being persecuted, made phone calls and sent letters and packages to the company where she used to work. The packages contained mouse traps, feminine hygiene products, glue and panty hose. The company was the only clearly defined object of her obsession. The second axis was based on the relationship that had existed between the stalker and the targeted individual prior to the commencement of the stalking. Six classifications were proposed: (1) Personal: known romantic attachment, for example a former spouse; (2) Professional: the stalker had at one time retained the professional services of the target, for example as a physician or an attorney, (3) Employment related: the stalker was either the employer or employee of the target, (4) Media: the target was a well known public personality with no other connection to the stalker, for example the obsessed fan as stalker, (5) Acquaintance: the stalker and the target had met on a superficial level, for example they had dated casually or been introduced at a social occasion, and (6) None: there is no discernable relationship between the stalker and the target however, for example, they ride the bus together, or live in the same neighborhood. The primary finding from this study was that offenders considered to be motivated by feelings of persecution exhibited stalking behavior that was not significantly different from the behavior exhibited by individuals whose stalking was motivated by amorous purposes.

The second study (1998) expanded the population, adding 126 cases from the same source for a total of 174, and simplified the classification scheme. The two motivational groups (Amorous and Persecutory) were kept, but, following a recommendation by Meloy (1996), the relationship-based axis was regrouped into three categories: (a) Intimate (formerly Personal) included both sexual partners and immediate family members, (b) Acquaintance (formerly Professional, Employment and Acquaintance) incorporated, among other relationships, neighbors, co-workers, casual dates, attorneys and treating clinicians. (c) None (formerly None and Media) included fan stalking situations and non-celebrity fixations. This study affirmed that both amorous and persecutory stalkers had an equal tendency to act violently towards their targets. In fact, for both types of motive, it was the threat of physical violence (present), the type of previous relationship (former intimate), and the psychiatric diagnosis (dual diagnosis of personality disorder and substance abuse) that signalled a greater likelihood of dangerousness during stalking.

Additional examination of data on the same group of stalkers was conducted (Ciric and Harmon 2002, Harmon 2009) to address the question of whether a stalker could be persuaded, either by legal or psychological means, to discontinue the stalking behavior. The stalking defendants were divided into three recidivism types: (1) Single-incident stalkers engaged in a series of activities leading to an arrest either for stalking or for violating an initial order of protection. For this type of stalker, the behavior pattern is generally not repeated after the arrest/legal intervention. (2) Persistent stalkers committed multiple incidents of stalking behavior that did not appear to cease subsequent to a legal intervention. This type of stalker does not appear to desist from their pursuit of the same target or group of targeted individuals. (3) Serial

stalkers<sup>3</sup> were responsible for multiple incidents of stalking behavior in conjunction with legal action (arrest), where the targets of subsequent or simultaneous stalking were different, *unrelated* individuals or groups of individuals. This review of the data explored whether there was any predictive significance for recidivism from a variety of independent variables, including the nature of the prior relationship, the categorization of the case as amorous versus persecutory, various demographic and clinical characteristics of the stalker, and various aspects of the criminal case (charges, dispositions, criminal history). Three principal factors were identified that could assist victims, victim service providers, and law enforcement to determine whether stalking might persist. These were (a) the prior relationship between the stalker and the targeted individual, with former intimate partners being most likely to be persistent in their stalking behavior; (b) whether the stalker violated an order of protection to obtain access to the victim, with violators more likely to be persistent, and (c) any incidence of documented physical aggression during the course of the stalking, with violent stalkers more likely to be persistent. It was suggested that law enforcement should pay particular attention to stalkers who have acted violently toward their victims or toward other individuals around their victims. These persons are among the most likely to persist in their stalking regardless of legal intervention. In such situations, the best defense against stalking may be keeping the victim safely separated from the stalker, either through incarceration or through hospitalization of the stalker, or through the careful relocation of the victim. Another finding, not reaching the level of statistical significance, was that the criminal disposition of the stalking cases in this small group of defendants did not appear to affect recidivism. Whether a stalker was sentenced to incarceration or probation, and the length of the term of either sentence, did not appear to have a significant

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<sup>3</sup> The term “serial stalking” was coined by Goldstein (2000), which he defined as “the *sequential* stalking of discrete victims at different times” (emphasis in original). Ciric and Harmon’s definition also considers the simultaneous stalking of multiple unrelated targets to be serial stalking.

impact on the recidivism profile. This suggested that some additional form of intervention, in addition to punishment by the criminal justice system, should be considered when mental illness is an issue in a stalking case.

In another study, Rosenfeld and Harmon (2002) looked at an overlapping data set (N = 204) from the same forensic psychiatry evaluation service. This research attempted to predict which stalkers would be more likely to be dangerous. As with the earlier studies, Rosenfeld and Harmon found that former intimates were more likely to be violent than acquaintances and strangers, that threats were related to subsequent physical violence during stalking, that psychotic offenders tended to be less violent than non-psychotic offenders, and that a diagnosis of substance abuse was associated with a greater probability of stalking violence.

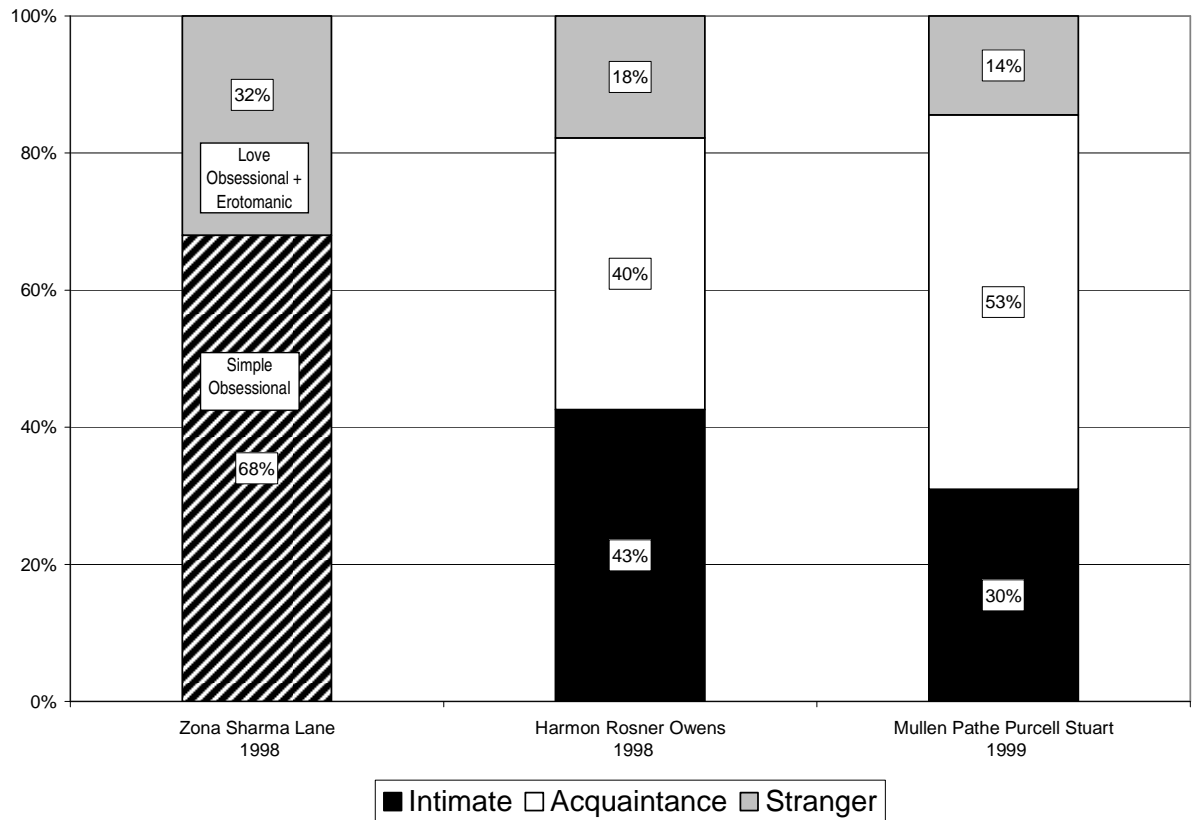
Mullen, Pathé, Purcell and Stuart (1999) developed a multi-layered typology of stalking behavior, based in part on the stalker's motivation and in part on the context in which it arose. Data was drawn from a forensic evaluation and case management sample, primarily referred by the Melbourne, Australia court system and seen under the auspices of Monash University and the Victorian Institute of Forensic Mental Health. The goal was to facilitate behavior management, and to assist in the prediction of the nature and course of stalking behavior. One hundred forty five (145) stalkers were classified by this criteria: Motivation for the stalking was designated either (a) rejected (attempting to rekindle a failed relationship), (b) intimacy seekers (attempting to initiate an intimate relationship), (c) incompetent (seeking to establish a relationship without understanding proper social mores), (d) resentful (responding to a perceived insult or injury), or (e) predatory (looking for sexual gratification and control). The system was intended for use in the development of predictions about the nature and course of the stalking, and in the management of the behavior by treating mental health and law enforcement professionals.

They found that rejected former partners, frequently men who could not accept their partner's termination of the relationship, were most likely to be assaultive. Resentful stalkers were more likely to make threats. Intimacy seekers had a low risk for physical violence, but when it occurred it could be extreme. They also noted that a history of mental disorder with comorbid substance abuse predicted physical violence. Different approaches were suggested for the management of these different types of stalkers, with either legal strategy, clinical strategies or both recommended, depending on the classification. Intimacy seekers do not respond well to court sanctions, but need psychiatric management; rejected stalkers may be more likely to respond to fines or threat of incarceration; incompetent stalkers may respond to legal actions, but subsequently switch to a new target; resentful stalkers can be made angrier by legal action. Predators are a special case – these are generally long term sex offenders who have planned and prepared for their assault of a particular victim. The victim may not be aware that she is being followed and/or observed, so this type of offender may fall outside of some legal definitions of stalking behavior

Harmon et. al's 1998 typology found significance in the relationships (or lack thereof) between stalker and victim at the start of the stalking behavior. Although their classification system took a somewhat different approach, Mullen et. al (1999) also provided data that grouped their subjects according to their prior relationships with their victims. Zona et. al (1993, pp.895-896) provided descriptions that allow a similar classification (the erotomaniac "often has had only brief or no prior contact with the object"; the love obsessional "almost always does not know his /her victim except through the media"; and for the simple obsessional "there exists a prior relationship between the subject and the victim." Figure 1 compares these groupings.

Figure 1

*Stalker Typologies Based on Relationships*



When viewed in the context of prior relationship, the Zona et al. typology is split between former strangers with no previous relationship (erotomanics and love obsessivals), and stalkers who are known to their victims (simple obsessivals). Harmon et al. and Mullen et al. present populations which fall into a somewhat different pattern, with smaller proportions in the stranger category, and greater proportions of acquaintances. This difference may be due to the sources used for the data for these studies. The Harmon and Mullen studies drew on data collected in clinical forensic psychiatry settings. While a certain amount of celebrity stalking was included, the focus was on capturing data on all types of victim/offender relationships. The Zona data

drew more heavily on celebrity victims, using the files of the Los Angeles Police Department's Threat Management Unit, "...the main law enforcement agency responsible for investigating celebrity stalking cases." (Palarea et. al. 1999 p.279).

Several common threads should be considered when reviewing these three bodies of work. Although primarily conceived of as descriptive studies, all three followed a similar formula for grouping stalking cases according to relationship patterns between the stalker and the victim or victims. They found that there were substantive differences between individuals whose targets had been former intimate partners, those who knew their targets on a less than intimate level, and those whose targets were not aware of their existence prior to the stalking. Individuals who stalked people with whom they had formerly had intimate relationships were more likely to make threats during the stalking process, and were also more likely to act out violently, than were individuals whose stalking victims were acquaintances or strangers. When a stalking situation was founded on intimacy, it was also found to be more likely that the stalker had either a substance abuse problem, or a non-psychotic mental disorder, or both.

Relationship-based typologies conclude that there are different types of stalkers, with different characteristics, whose cases must be managed differently. In addition to the primary difference of previous relationship, there are other factors which differentiate these groupings from one another. These include: primary psychiatric diagnosis; substance abuse; stalking persistence; stalking motivation; arrest history; presence of violent behavior during stalking and response to formal orders of protection. These differences imply that different types of stalkers will respond differently to efforts to limit and control their behavior.

## **The Criminal Offense of Stalking: Legislative Definitions**

### **Evolution of anti-stalking legislation.**

Prior to the early 1990's, a basic internet or literature search for the term "stalking" was more likely to yield references to hunting than to human criminal behavior. Although stalking is not a new behavior (Jordan, Quinn, Jordan, Daileader 2000), statutes that could have been used against certain types of unwelcome activities (harassment, menacing, terrorist threats, trespassing, violations of orders of protection) prior to the advent of anti-stalking laws were often considered to be ineffective against this type of offender (Flynn 1993; Lingg 1993; People v. Carron 1995; Harmon 1999). Restraining orders were of limited use in stalking cases that did not involve domestic violence, since most could only be requested when the offender was related to the victim. Even in such circumstances they were difficult to obtain and difficult to enforce. The discrete acts that together constitute stalking might not individually rise to the level that would permit the arrest of the perpetrator (i.e. non-threatening phone calls and letters, visibly waiting in a public place where the victim will certainly be able to see them, following the victim down the street). Some stalking behaviors did not readily conform to the statutory definitions of the other offenses; in other cases statutes could not be used unless/until physical violence had already taken place (Gilligan 1992; Purcell, Pathé and Mullen, 2004).

Beginning in the last decade of the 20th Century, the definition of the criminal offense of stalking evolved through legislative actions by local and national governing bodies around the world. New laws were conceived of as a way to stop stalking before the targeted individual could be physically harmed (Jordan et al. 2000, Diacovo 1995). In the United States, legislators were concerned with fashioning laws that would give local law enforcement the tools needed to

protect the public from perceived dangerous predators, and to prevent stalking behavior from escalating to physical violence. California passed the first legislation in the United States that specifically defined and prohibited stalking (Cal. Penal Code 646.9(a) added by Ch. 1527, 1 (1990)). In several highly publicized cases (including among others the murder of actress Rebecca Schaeffer, in 1989, and the 1988 multiple murders in a Sunnyvale, California electronics firm by stalker Richard Farley (People of the State of California vs Richard Wade Farley, 2009)), the (ultimately) homicidal stalker had been suspected of pursuing or threatening his victim, but had not actually broken any laws, up to the point at which the physical assault occurred. Police departments were frustrated by their inability to intervene at an earlier point in time. The original 1990 California legislation defined stalking as “willfully, maliciously, and repeatedly following or harassing, as defined<sup>4</sup>, another person and making a credible threat, as defined, with the intent to place that person in reasonable fear of death or great bodily injury or place that person in reasonable fear of the death or great bodily injury of his or her immediate family, punishable as a misdemeanor.” In 1992, the National Criminal Justice Association was commissioned by the National Institute of Justice to “develop model antistalking legislation that is constitutional and enforceable.” (Domestic Violence, Stalking, and Antistalking Legislation 1996). The resulting “Model Code” was published in 1993, presenting recommendations to state legislatures for the modification of stalking laws to meet emerging constitutional challenges.

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<sup>4</sup> As of May, 2009, California Penal Law: Section 646.9, states that: “(e) For the purposes of this section, ‘harasses’ means engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose.”... “(g) For the purposes of this section, ‘credible threat’ means a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the defendant had the intent to actually carry out the threat. The present incarceration of a person making the threat shall not be a bar to prosecution under this section. Constitutionally protected activity is not included within the meaning of ‘credible threat.’”

The Code, which was designed primarily to address felony level, potentially dangerous stalking cases, established several parameters for such cases:

- Stalking behavior must be directed at a specific person, immediate family member, or resident of the person's household.
- It must be sufficiently serious as to induce fear of bodily injury or death.
- It must occur as a "course of conduct," that is, behavior should be repeated at least two or more times. Specific behaviors are not identified.
- The offender does not have to threaten or intend to frighten the targeted person, so long as he or she is aware (or should be aware) that the behavior is causing fear.

The drafters of the Model Code recommended that the States develop a continuum of offenses, from ones that cause emotional distress but may not rise to the severity of stalking, to the extreme type of offense described in the Model Code. They suggested that the lesser offenses might not be classified as stalking, but should continue to be prosecuted under existing harassment or intimidation statutes.

### **New York State's anti-stalking legislation.**

New York State passed legislation in 1992 adding elements to the harassment and menacing statutes that were designed to prohibit stalking behavior. The phrases "course of conduct" and "continuity of purpose," and the element of repetition were incorporated into the laws on harassment and second degree menacing. The issue of intent to "harass, annoy or alarm," rather than intent to harm the victim, was included as part of the new offense of

Aggravated Harassment. In 1996, in response to the murder of Galina Komar, the offense of Aggravated Criminal Contempt (the violation of a valid order of protection by causing physical injury) was established as a felony level crime. Ms. Komar was killed at her workplace, while in possession of an order of protection from her assaultive domestic partner, who subsequently committed suicide (Roehl, O'Sullivan, Webster, Campbell 2005; New York Times Editorial February 18, 1996). In 1998, the NY State Legislature strengthened penalties for domestic violence, including that form of stalking behavior. Orders of protection issued outside of NY State would be acknowledged and honored within the State of New York.

In late 1999, New York became the last State to incorporate the term "stalking" into its penal law. The legislation was carefully researched and crafted over several years, taking into account the history, constitutional challenges and experiences of the local and national anti-stalking legislation that preceded it (Pappas 2000). The concerns of victim advocates were also considered by the New York State Legislature and the Governor's Office. The statement of legislative intent for the Clinic Access and Anti-Stalking Law of 1999 specifies that "[t]his act will protect victims by providing real and effective sanctions for stalking conduct even at its earliest stages." (Matthew Bender & Co. 1999).

Serial stalking was defined in 2003, again in response to a stalking incident previously not covered by law, in which a man was accused of stalking multiple women at the same time. It was added to the description of Stalking in the Second Degree, a felony offense, as "the crime of stalking in the third degree against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted."

From 2000 through 2007, the number of arrests for *stalking* charges in New York City remained at around 200 per year. National estimates at that time concluded that approximately 1% of women and 0.4% of men might be stalked in any given year, and approximately half of those men and women were said to report their stalking to the police (Tjaden and Thoennes 1998). Since the population of New York City was approximately 8 million people as of the 2000 census (4.2 million females and 3.8 million males), the national statistics would seem to indicate over 28,000 stalking situations in New York City annually where the offenders are still not being charged with the criminal offense of *stalking*. That is not to say that these offenders are not arrested and prosecuted; in fact, many of them may be arrested and prosecuted for the stalking-related charges which existed prior to 2000. These non-*stalking* cases are difficult for researchers to identify and to study, because they are classified either with other non-stalking cases accused of the same criminal offenses, or because they are subsumed under the more serious and violent acts that may otherwise include stalking behaviors (i.e. stalking related murders, assaults, sex offenses).

Purcell, Pathé and Mullen (2004), in an extensive, international review of anti-stalking legislation, concluded that while there is no consistent, universal legal definition of stalking, most laws contain some combination of three elements: conduct requirements, intention, and the response of the victim. New York's anti-stalking law addresses these issues.

*Conduct requirements define stalking by the actions of the offender.*

In contrast to many other criminal offenses, such as robbery or homicide, with stalking there may be no single identifiable incident that marks the beginning, middle or end of the crime. Stalking consists of a series of incidents occurring episodically. Some early anti-stalking

legislation listed specific acts (i.e. following, telephoning, approaching, letter writing). When it became clear that it would not be feasible to list all actions that could be taken by a stalker, the legal phrase “course of conduct” was integrated into many anti-stalking laws. In New York State, judicial references to case law defining “course of conduct” date back to the English common law case of *Crepps v. Durden* (1777), in which the Court held that the sale of four loaves of bread on Sunday in violation of a statute forbidding such sale constituted one offense, not four. Case law decisions have resulted in the definition of “course of conduct” as “an intentional pattern of conduct encompassing a period of time, no matter how short, evidencing a continuity of purpose.” (Rosenbaum 2000). For example, in *People of the State of New York vs. Murray* (167 Misc. 2d. 857), the defendant initially followed the complaining witness down the street, grabbed her, and tried to prevent her from entering her home. Although this series of incidents lasted only 5 to 8 minutes, the Court ruled that “the defendant need not repeatedly commit acts; it is sufficient for the defendant to demonstrate a continuity of purpose evidenced by a series of acts and that such acts created a reasonable fear of physical injury to the complainant.”<sup>5</sup> Generally speaking, a minimum of two specific actions have been considered to constitute a course of conduct.

*Intention can be defined as the motivation behind the stalking behavior.*

Early anti-stalking laws required the perpetrator to have made a threat (Miller 2003), and/or to intend to harm or frighten the victim. This quickly was recognized as being non-productive in stalking cases where the pursuit was based on the desire to create and/or maintain a loving relationship, in which case the stalker could claim they had no intention of hurting

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<sup>5</sup> In this 1995 case, the defendant was convicted after jury trial of unlawful imprisonment in the second degree, menacing in the second degree, harassment in the first degree, menacing in the third degree, and harassment in the second degree.

anyone. In many jurisdictions, statutory requirements were amended so that the stalker only had to intend to commit the acts of which they were accused (i.e. making calls, mailing letters, sending gifts). Deliberate behavior, whether or not it was intended to cause fear, could be punished as stalking. In New York State, the stalker does not need to threaten, or intend to threaten or harm, his target; it is sufficient that the stalker's conduct is intentional. For example, in *People of the State of NY vs. Pidhajecky* (decided July 16, 2008), the Judge opined that "Actual fear, whether reasonable or not, is not a required element of the offense; the facts need only show that a defendant knows or should reasonably know that his actions are likely to cause reasonable fear". In this celebrity stalking case (*Stranger/Celebrity/Vengeful*) under the classification scheme), "...defendant was arrested after allegedly having contacted the complainant via telephone, letters sent through the mail, a hand-delivered written note, and personal appearances at the complainant's residence. The information sets forth allegations concerning six separate acts by defendant, occurring over ten months' time... A person is guilty of stalking if they intentionally engage in a course of conduct; and they know or reasonably should know that their conduct will create reasonable fear of material harm to the person they are targeting. Thus, it is irrelevant that, as defendant asserts, he did not intend to violate the statute; rather, what is relevant is it is alleged that he intentionally engaged in the behaviors which displayed his continuity of purpose"

*The response of the victim is an important element to the offense of stalking.*

In addition to the ongoing nature of the crime, the offense of stalking is also unusual in giving substantial weight to the impact of the offense on the victim. The stalking victim's perceptions, or the perceptions of an impartial "reasonable person," of the stalker's behavior as threatening or frightening, may determine whether a crime has been committed (US Dept. of

Justice, 1998). New York's anti-stalking statute requires that the stalking behavior be directed at a specific person or that person's immediate family, and should consist of a course of conduct that would produce reasonable fear, with no legitimate purpose. If it can be demonstrated that the stalker should know that his actions are causing fear in his target, then, regardless of his intent, he can be charged with stalking (Radosevich 2000). The victim's fear of serious physical harm, while bringing the stalking offense to the level of a felony, is not required for a misdemeanor stalking charge. The latter may be brought if there is sufficient evidence of material harm to the mental or emotional health of the victim. There is also a provision that requires that the stalker be notified that his behavior is unwanted and must cease. If the stalking continues after such notification, evidence that the stalker has been so notified can constitute proof of intent to continue stalking. In *People of the State of NY vs. Paes* (decided October 26, 2007) the Court determined that

Under PL § 120.45(1) and (2) [*Stalking in the Fourth Degree*], liability arises from a series of acts that instill fear of harm in the complainant, irrespective of the content of the communication. Also under PL § 120.50(3) [*Stalking in the Third Degree*], defendant's conduct must be likely to reasonably cause complainant to fear physical injury, or the commission of a sex offense against [him]. In the instant matter, the transmittal of defendant's nude image together with the superimposed message "Joe's next" [knowing complainant is named Joseph] would, to any reasonable person, suffice to convey a "threat" to physical health and safety. While the communication may not represent an overt and clearly stated threat, it is clear to this court that the inference is sufficient to convey the threat.

The defendant had sent the victim two rambling, incoherent letters, (including the above-cited photographs) and an additional third letter after he had been directly informed to cease this behavior. The sending of the third letter demonstrated intent on the part of the stalker

(“defendant, by his conduct of repeated and unwanted communication in the nature as outlined in the complaint, has met the requisite standard to establish general intent”).

### **Stalking Behavioral Issues**

#### **Stalking and violence.**

Although stalking violence has held the attention of many researchers, victims and law-makers, in point of fact, research has determined that only a small part of all stalking (30 – 40%) involves physical violence, and a still smaller part of that stalking-related violence is lethal (Rosenfeld 2004, Meloy 1998, Mullen, Pathé and Purcell 2000, James and Farnham 2003, Nair 2003).

One of the conclusions Spitzberg’s (2002, p.278) meta-analysis of stalking studies was that the majority of stalking incidents “...emerge(s) from prior acquaintance, specifically romantic relationships, rather than strangers...” Although his behavioral classification of “aggression” was the least frequently described behavior, he also concluded that the behavior of former intimate partner stalkers “is significantly more likely to be violent than stalking that emerges from stranger relationships.”

Boon and Sheridan (2001) developed a four part risk classification system from a sample of self-referred victims of serious stalking. Former intimate partners, especially when there was a history of domestic violence, were found to be at high risk for physical violence. Infatuated stalkers were a low level risk for dangerous actions towards their targets, and might respond well to legal action. Stalkers who had a delusional fixation about their targets could be somewhat more dangerous; these individuals might have a history of psychiatric problems and/or of

previously stalking other victims, and were difficult to dissuade from their pursuits. This category includes individuals who can be diagnosed with the delusional mental disorder erotomania (DSM-IV-TR, 2000), in which the object of their affection is generally a person of higher status or reputation. Although they are strangers, the delusional individual firmly believes that there is an existing relationship between them. Because of this unshakable belief, all attempts to dissuade the stalker are viewed as either unwelcome interference from others (like security personnel or family members, who may consequently become at risk of harm), or as the stalking victim's roundabout means of communicating their love. Finally, sadistic stalkers (similar to Mullen et al.'s predatory stalkers) see their targets as victims to be intimidated. The motive behind this type of stalking is the exertion of power and control over another individual, who is frequently a former intimate partner. They can be very dangerous and capable of physical violence, and are considered the most difficult stalking cases to manage, from the point of view of law enforcement intervention.

Palarea, Zona, Lane and Langhinrichsen-Rohling (1999) studied the difference between the former intimate partner type of stalkers, deemed most dangerous by early research, and stalkers pursuing other kinds of victims. Their methodology utilized two path analysis models to relate the pre-stalking relationship first to damage (to persons and property) and to the stalker's psychiatric, criminal, violence and domestic violence histories, and second to threats and proximity to the victim. Their findings confirmed the earlier work indicating that former intimate partners were the most dangerous kind of stalkers. The primary risk factors were a history of physical violence, the ability of the stalker to physically approach their target, and the presence of threats. They also pointed out that the more highly publicized fan/celebrity stalking incidents

were less likely to lead to physical violence than situations in which the victim has been intimately known to the stalker.

Groves, Salfati and Elliot (2004) limited their study to situations in which the stalker/target relationship had an amorous motive. They confirmed that former intimate partners were at higher risk for physical violence from their stalkers than non-intimate stalking victims. They classified their stalking cases according to two predominant behavioral styles: Infatuation and Controlling. Although these types did not represent mutually exclusive behaviors, they found that stalkers who had been intimate partners of their victims would exhibit more controlling behaviors than infatuation behaviors, and stalkers who had no prior sexual relationship with their victim would exhibit more infatuation behaviors.

James and Farnham (2003) separated incidents of serious physical violence from what they termed “general violence,” corroborated some of the findings of earlier classification systems, and disagreed with others. In their group, both serious and general violent stalking behaviors were related to having had a former intimate relationship, and to the use of multiple kinds stalking techniques. Serious violence was also associated with the presence of depression in the stalker, and tended to occur early in the course of stalking. Other significant predictors of serious violence were incidents of physical violence during the stalking period and visits to the victim’s home. In a change from other studies, James and Farnham found no significant association between serious violence and substance abuse. They also were not able to connect serious violence with a diagnosis of personality disorder, or with previous convictions for physical violence against the stalking victim. They strongly suggested that their methodology (dividing stalkers into more dangerous and less dangerous subgroups) would provide more accuracy when attempting to develop risk assessment approaches to stalking.

Rosenfeld and Lewis (2005) re-examined the data from earlier studies (Harmon et al. 1998, Rosenfeld and Harmon 2002), using a classification and regression tree (CART) model to predict stalking violence. That analysis generated a model in which relatively young, formerly intimate stalkers who were high school graduates showed the highest risk of future physical violence and less educated stalkers who were not former intimate partners were less likely to be physically dangerous to their targets. The research indicated that classification trees and regression models would be very useful for stalking risk assessment. In a literature review and meta-analysis published in 2004, Rosenfeld (p. 28) concluded that “[A]mong the most consistent correlates of violence observed in the stalking literature are threats and a previous intimate relationship between the victim and offender.” Stalkers who were not diagnosed as psychotic, but who did have a history of substance abuse, were also more dangerous in this review. He suggested the need for additional research about demographic factors that might affect stalking behavior (variables such as age, race, gender, and level of education).

Recently, the evaluation of stalking behavior has focused on using risk assessment tools for the determination of the probability that non-violent stalking behavior will escalate to physical violence. Kropp, Hart, and Lyon (2002) stated that "(v)iolence risk assessment is the process of evaluating individuals to (a) characterize the risk that they will commit acts of violence and (b) develop interventions to manage or reduce that risk." They noted the importance of continuing the work on stalking typologies, with the goal of examining the motives and behaviors of stalkers.

While there is some agreement among researchers about which factors (the nature of the prior relationship between the victim and the stalker, the stalker's criminal history, the stalker's

psychiatric diagnosis) might indicate stalking situations that were more likely to pose a threat, very few researchers have discussed recidivism in non-violent stalking cases.

### **Stalking Recidivism**

Stalking is by its very nature a crime that is about repetition. Repeated incidents of what might on the surface seem like innocuous behavior such as sending flowers or making phone calls become, by virtue of the volume of repetition, frightening. Stalking recidivism as it is being discussed here refers to the continued pursuit of the targeted victim even after the intervention of the legal system in the form of an arrest. The fear of violent behavior plays a substantial role in many stalking prosecutions, but stalking recidivism is not necessarily violent.

Although the experience of being stalked continues to carry with it the fear of physical violence, it is now generally accepted that bodily harm is not the only deleterious effect of stalking behavior. Predicting physical violence is only one part of foretelling when a stalking victim's problems will end. The victim of stalking often experiences extreme emotional distress, sometimes with results as serious as a diagnosis of post-traumatic stress disorder (Rosenfeld 2004; Mullen and Pathé 2002; Kamphius and Emmelkamp 2001; Pathé and Mullen 1997; Westrup, Fremouw, Thompson, and Lewis 1999). A victim of stalking does not know whether they will continue to receive phone calls, or how often, or whether calls will be replaced by the stalker showing up in person. They may be threatened, but may not know if threats will turn into actions taken against them or against others – friends, co-workers, or family members. The uncertainty can cause elevated levels of stress, and can affect the victim's personal and professional life, damaging careers, relationships and families. The victim's fear of stalking may be completely independent of physically violent behavior on the part of the stalker.

In a study of stalking behavior among college students, Nobles, Fox, Piquero and Piquero (2009) questioned their subjects about both stalking victimization and perpetration. The respondents described very few instances of more than one episode of stalking in either situation. In the rare situations where multiple instances of stalking did occur, the frequency of the behaviors associated with these episodes tended to increase during the second episode.

Mullen, Pathé, Purcell and Stuart's (1999) approach to the prevention of stalking recidivism in their population of mentally disordered Australian stalkers focuses on psychiatric treatment in addition to punishment. They recommend a balance between criminal justice solutions and therapeutic solutions to control stalking behavior. They note that the most important direction for future research is the exploration of "who stalks, why they stalk, and, most important, how to stop them."

Mohandie et al. (2006) defined stalking recidivism as "target contact after intervention." For their sample, this occurred in 60% of the applicable cases. Formerly intimate stalkers were more likely to demonstrate recidivism than were either acquaintance stalkers or public figure stalkers. Almost one third of the population had a history of prior stalking, and intervention did not appear to deter the stalker's behavior.

Rosenfeld (2003) looked at stalkers referred to the Bellevue Hospital Center Forensic Psychiatry Clinic for forensic evaluation between 1991 and 1997. He used a combination of frequency analysis and survival analysis to determine that a history of substance abuse, a prior intimate relationship between the victim and the stalker, and a diagnosis of personality disorder, were potential predictors of recidivism in this population. The data indicated that a relationship existed between stalking recidivism and the risk for physical violence, that is, the variables most

likely to predict a stalker's violent behavior would also predict recidivism (Rosenfeld and Harmon, 2002). He suggested at that time that further research was needed to evaluate the effectiveness of anti-stalking interventions targeted to particular kinds of stalkers and their behaviors.

In a pilot study using data collected from an earlier cohort of defendants referred to the Forensic Psychiatry Clinic, Ciric and Harmon (2002), and Harmon (2005) used a classification system based on the stalker's demographic and clinical information, and on the relationship that existed between the stalker and his victim before the start of the stalking behavior, to develop each stalker's "Recidivism Profile." The Recidivism Profile classified stalkers into three behavior patterns. Single incident stalking occurs when a series of activities leads to an arrest either for stalking or for violating an initial order of protection. For this type of stalker, the behavior pattern is generally not repeated after the arrest/legal intervention. Persistent stalking is described as multiple incidents of stalking behavior that do not cease subsequent to a legal intervention. A final subgroup of serial stalkers was originally described by Goldstein (2000). For this group, multiple incidents of stalking behavior occur in conjunction with legal action (arrest), where the targets of subsequent or simultaneous stalking are different, unrelated individuals or groups of individuals. The research determined that three factors could assist victims, victim service providers and law enforcement to determine if stalking will persist or desist: (a) the pre-stalking relationship between the victim and the stalker; (b) whether the stalker violates an order of protection; and (c) whether the stalker is aggressively violent. Criminal disposition did not seem to affect recidivism among stalkers in this preliminary study.

In summary, the literature is relatively consistent in concluding that former intimate partner stalkers are both more persistent and more violent than either acquaintances or strangers.

This suggests that there may be a relationship between the stated objective behind anti-stalking legislation (the early curtailing of stalking behaviors) and the stalker's propensity for physical violence. In other words, the more violent group of formerly intimate stalkers may also be more difficult to deter.

## **Summary of Hypotheses**

### **Hypothesis One**

A defendant referred to the Forensic Psychiatry Clinic with a charge of stalking or other pursuit behaviors will be less likely to recidivate within two years if the initial charges were a violation of the anti-stalking law than if they constituted Other Pursuit Behaviors.

### **Hypothesis Two**

A defendant referred to the Forensic Psychiatry Clinic with a charge of stalking or other pursuit behaviors will be more likely to recidivate within two years if the previous relationship between the defendant and the target of the stalking behavior was a former intimate than if the target of the stalking behavior was an acquaintance or a stranger.

### **Hypothesis Three**

A defendant referred to the Forensic Psychiatry Clinic with a charge of stalking or other pursuit behaviors will be more likely to recidivate within two years if there is some indication of violence, including physical violence during the stalking episode, or a history of arrests for violent behavior, or a documented history of domestic violence, than if such indicators of violence are not present.

### **Hypothesis Four**

A defendant referred to the Forensic Psychiatry Clinic with a charge of stalking or other pursuit behaviors will be more likely to recidivate within two years if the defendant is diagnosed with an Axis II Personality Disorder, has a history of alcohol or substance abuse, and/or was found not competent to stand trial upon clinical evaluation.

## **Methodology**

### **Population**

The data set consists of individuals referred to the Forensic Psychiatry Clinic for the Criminal and Supreme Courts of New York (the Clinic), an operating unit of the Department of Psychiatry of the Bellevue Hospital Center of the N.Y.C. Health and Hospitals Corporation. Although the Clinic's name might indicate otherwise, no treatment is provided at this facility, which operates at the New York County Criminal Court building at 100 Centre Street, New York, New York. Staff members provide mental health consultation services to the Criminal Court and the Supreme Court of the First and Second Judicial Districts of the State of New York (the five boroughs of New York City). The Clinic conducts forensic evaluations of adult and adolescent criminal defendants, at the request of the Courts or the Department of Probation, regarding competence to proceed with criminal legal matters (under Article 730 of the New York State Criminal Procedure Law), pre-pleading, pre-sentence and after-sentence assessments of criminal defendants' mental health for the Department of Probation (under Article 390.3 of the New York State Criminal Procedure Law), and mental health consultation for the Court. Defendants referred for evaluation may be at liberty in the community, or incarcerated in facilities under the jurisdiction of the Department of Correction of the City of New York. The staff of psychiatrists, psychologists, social workers and paraprofessional mental health assistants sees approximately 1,200 such defendants annually. Reports on the mental status of these individuals are provided to the Court and the Department of Probation. It is important to note that the individuals so evaluated are not considered patients at the Clinic, and are advised at the start of the evaluation that the information they provide is not considered confidential. It is the Judges and Probation Officers who instigate referrals who are the true clients of the Forensic

Psychiatry Clinic services. As such, records maintained in the Clinic are not medical records but are rather legal documents retained for the Court. The Clinic also functions as a training location for the New York University School of Medicine's Forensic Psychiatry Residency program.

The records of these legal interviews are maintained as hard copies on the Forensic Psychiatry Clinic's premises for ten years, and as scanned electronic copies after that. If an individual is returned to the Clinic as a result of a new criminal charge, or because of a change in his or her mental status that requires additional evaluation, records of the earlier evaluation will be combined with the new referral and maintained on premises with the new referral and its documentation. Although these individuals are not representative of the total population detained by the New York City criminal justice system, the data available in the clinical case records provide a wealth of information on the characteristics and mental condition of a subgroup of defendants considered by the Courts and the Department of Probation to require psychiatric evaluation.

The specific population studied consists of individuals referred to the Bellevue Hospital Center Forensic Psychiatry Clinic between January 1, 2000 and December 31, 2006 for evaluations for legal purposes. For the purposes of this research, a non-random convenience sample of 217 individuals were identified from this population who were either charged with *stalking* after the enactment of the New York State Clinic Access and Anti-Stalking Law in December 1999, or charged with other pursuit behaviors between January 1, 2000 and December 31, 2005.

A retrospective chart review was conducted to gather information from the Forensic Psychiatry Clinic case charts<sup>6</sup>. Charts include the evaluating clinician's report and notes, and one or more of the following as available: the Court referral for evaluation, the criminal complaint, the "rap" sheet, an assigned Probation Officer's preliminary case investigation, records of psychiatric treatment, samples of the defendant's written communications to the target, notes from the Forensic Psychiatry Clinic's social services staff, records from any previous or subsequent referrals to the Forensic Psychiatry Clinic, and data from the New York State Division of Criminal Justice.

### **Selection criteria.**

Records of individuals referred to the Forensic Psychiatry Clinic during the seven year period from 2000 through 2006 with the presenting criminal charges of Harassment, Aggravated Harassment, Menacing, Assault, Manslaughter, Murder or Criminal Contempt (or 'attempted' versions of these offenses) were reviewed to select those cases which met the following criteria: unsolicited and unwelcome behavior was initiated by the defendant against the complainant; it was at minimum alarming, annoying or harassing; there were more than two incidents of such behavior reported. In addition, all cases referred to the Forensic Psychiatry Clinic during that period with a charge of *stalking* (New York State Penal Law Articles 120.45, 120.50, 120.55 and 120.60) were included. There were 217 referrals made to the Forensic Psychiatry Clinic that met these criteria.

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<sup>6</sup> NB: During the time data was collected for this research, the author was employed as the Associate Director of the Forensic Psychiatry Clinic, and was part of the faculty of the New York University School of Medicine Forensic Psychiatry Residency Program. Richard Rosner, M.D., a member of the advisory committee for this dissertation, was the Medical Director of the Forensic Psychiatry Clinic, and the Director of the New York University School of Medicine Forensic Psychiatry Residency Program. Dr. Anuj Gupta was one of the Residents assigned to the Forensic Psychiatry Clinic, and assisted in the collection of data from Clinic records.

For the purpose of this research, the population was divided into three subgroups: Intimates/former intimates are individuals who had a history of an intimate relationship with the target of their stalking, and who were unable or unwilling to accept that the relationship has terminated. The relationship could have been sexually intimate, as in former spouses, or interpersonally intimate, as in familial relationships between parents and children, or siblings. The stalking behavior was conducted either with the purpose of restoring that intimate relationship, or to make demands on the targeted individual based on the former relationship (i.e. issues of parental rights, demands for financial support). Former intimate partners constituted 53% of this population. Acquaintances are individuals who knew the target of their stalking in a non-intimate setting, ranging from neighbors, to casual dates, to business associates. The stalker was known to the victim on some level. Either the stalker believed that there already was an intimate, amorous relationship, or that such a relationship could exist if they were sufficiently persistent in their pursuit, or the stalker had a grudge against the victim, i.e. the upstairs neighbor was thought to be intruding on his/her privacy; the employee believed they were terminated with prejudice. Acquaintances constituted 28% of this population. Stranger stalkers are individuals who have not met the person they are stalking. The most common sort of victim of this type of stalking is the public figure or celebrity being stalked by an amorous fan. The stalker may believe that there is already an intimate relationship between him and his victim, or may believe that his actions will bring about such a relationship. Ordinary people are also subject to this type of stalking by strangers who may see them routinely in the same place (i.e. commuting to work, shopping at a mall). Another victim of this type of stalker may be a public figure who is being subjected to harassment and threats due to his or her political or professional standing. Strangers constituted 19% of this population.

**Confidentiality issues.**

Although part of the Health and Hospitals Corporation, the Forensic Psychiatry Clinic is not a designated health care provider for HIPAA purposes. However, in order to address confidentiality concerns, the following precautions were taken.

All defendant data (e.g., completed mental status evaluations, psychological assessment measures and results, information received from the Courts and/or the Department of Probation) are stored in the Forensic Psychiatry Clinic's locked and secure office suites. Once cases appropriate for inclusion in the study were identified, a restricted computerized data base was created using a criminal justice identification number known as the NYSID Number (New York State Identification Number) as the identifying factor. An Individual Stalking Case Code Number was assigned to each subject, keyed to the defendant's NYSID number. This restricted data base was required so that data from separate sources (Forensic Psychiatry Clinic files, the NY State Division of Criminal Justice Services) could be combined to form the research data base. The restricted data base was maintained on the Forensic Psychiatry Clinic Medical Director's computer with password access only.

Case file data was transferred to a data collection form by the New York University Forensic Psychiatry Resident, using only the Code Number for identification. The data collection forms were stored in a locked file cabinet in Ms. Harmon's home office. Material obtained during the course of the evaluations was entered into a secure Microsoft Access Data Base by trained personnel. The data collection forms were then transferred into an SPSS database by one of the proposed study's research personnel. All persons handling data collected for the study completed the required IBRA and HIPAA tutorials.

The complete data base, including the New York State Identification (NYSID) number, was forwarded to the New York State Division of Criminal Justice Services. In New York's criminal justice system, the NYSID number is used as a key identifier for individuals arrested in the State. Whenever someone is charged with a first time criminal offense, a NYSID number is assigned to that person and linked in a secure data base to their fingerprints. Thereafter, any arrests resulting in a fingerprint match to that NYSID number trigger the linking of the criminal records for that individual. The Forensic Psychiatry Clinic also uses the NYSID number to link old case records with new referrals, and maintains one clinical file for each individual defendant referred for evaluation by combining old records with new referrals. Pursuant to a non-disclosure agreement signed with DCJS, the NYSID numbers were matched to the DCJS data base to create a file of the requested criminal history information. Both the original data file and the DCJS data file were then stripped of the identifying data, and a specially created designated code number was assigned to cases in both files so that data could be linked for analysis purposes. These de-identified files, which included documentation of all arrests of the stalking defendants between January 1995 and November 2008 were then returned to Ms. Harmon in December of 2008.

Data analysis was conducted using a research (or unrestricted) version of the database created by linking the Clinic data with criminal history data, as returned from DCJS. The unrestricted version did not contain identifying markers (NYSID Number, name, date of birth, etc.). Given that the total research sample has at least 200 participants, the presence of other demographic information did violate any participants' anonymity within the research database.

## Variables

*Criminal charges* filed for arrest for primary stalking offense: As a dichotomous variable (*stalking* vs. Other Pursuit Behaviors). It was expected that the criminal charges would not have an impact on stalking recidivism.

*Recidivism*, or repeated arrest for stalking. This is a dichotomous (Yes/No) variable, defined by the known existence of an arrest or arrests for *stalking* or Other Pursuit Behavior within two years of the primary stalking offense. The Primary Stalking Offense is defined as the first known arrest for *stalking* or Other Pursuit Behaviors between 2000 and 2005 resulting in a criminal charge against the perpetrator and a referral for forensic psychiatric evaluation.

*Prior relationship* between the stalker and the primary target: using the classification scheme outlined in Harmon, Rosner and Owens, 1998, the relationships were separated into three major categories (stranger, acquaintance and intimate – see above for definitions). It was expected that the “Intimate” category would have the most significant relationship both to physical violence and to re-arrests for stalking, and the “Acquaintance” category would have the least significant relationship.

*Incidents of violence* during *stalking* or Other Pursuit Behaviors: For the purposes of this study, any incidence of documented physical aggression is considered to be an indicator of some level of violence. A dichotomous independent variable (Yes/No) indicates whether or not the obsessional harasser became physically aggressive towards his or her target, or towards friends, families, associates or property of the target. Cases were divided into “violent” and “non-violent” categories according to the following criteria: Was the target or another individual physically assaulted by the defendant? Was the property of the target attacked or damaged (including any

physical contact, i.e. the defendant banged on the door repeatedly)? Did the defendant make physical contact with the target, someone close to the target, or a surrogate for the target?

*Prior Violence:* Any arrest defined in DCJS data files as a Violent Felony Arrest.

Separate variables were created for the total count of DCJS incidents of violent felony arrests, and as a dichotomous indicator that any known incident of a violent felony arrest took place.

*Domestic Violence:* Any arrest defined in DCJS data files as a Domestic Violence arrest. .

Separate variables were created for the total count of DCJS incidents of domestic violence arrests, and as a dichotomous indicator for any known incident of a domestic violence arrest.

*Threats:* documentation of threats made to the targeted victim or possible secondary victims (Yes/No). Based on prior research, it was expected that the presence of threats during a stalking situation would predict an increased risk for violent behavior (Harmon, Rosner, Owens 1998, Rosenfeld 2004, Mohandie et. al 2006).

*Violation(s) of orders of protection (Known/Unknown).* This variable was expected to be directly related to the incidence of recidivism (Ciric and Harmon 2002, Harmon 2005).

*Psychiatric diagnoses* were grouped into classifications following DSM IV-TR, as follows: Schizophrenia, delusional disorders, psychotic disorders, substance induced psychosis, bipolar disorder and depressive disorder were grouped under the heading of Psychosis. The grouping of Alcohol and Substance Abuse Disorders included alcohol abuse; polysubstance, cocaine and alcohol dependence; and alcohol, cannabis, cocaine, and inhalant abuse. Personality Disorders were obsessive-compulsive, antisocial, borderline, and “not otherwise specified.” Depressive disorders, anxiety disorders, adjustment disorders, and conduct disorders were

grouped as Other Non-Psychotic Disorders. Other Disorders was comprised of dementia, pedophilia and mild mental retardation. Finally, ten defendants were either found to have no diagnosable mental disorder, or to have had their diagnosis deferred by Forensic Psychiatry Clinic staff due to inadequate evidence.

*Sentence*, or disposition of primary stalking case: Although some formulations of deterrence theory predict that incarceration may reduce recidivism (Lynch 1999; Sitren & Applegate, 2007; Wright et al 2004), this variable was not expected to significantly impact on re-arrest for stalking (Circic & Harmon 2002, Harmon 2005).

*Competency*: A separate variable was created to record when a defendant was referred to the Forensic Psychiatry Clinic for evaluation of competence to stand trial.

*Demographic control variables* for sex, ethnicity, age and marital status were also collected to clarify the nature of the population.

### **Analysis technique: Logistic regression**

For this research, logistic regression was used in a retrospective chart review study of data collected from an identified population of stalkers referred for evaluation to the Bellevue Hospital Center Forensic Psychiatry Clinic, to assess the statistical significance of the association between stalking recidivism, stalking charges, stalker/target relationship and other independent variables.

This analysis examines whether stalking recidivism is affected by the charges imposed against the perpetrator. The primary independent variables in this model are the criminal offense charged (*stalking* or Other Pursuit Behaviors), and the relationship existing between the stalker

and the targeted victim (intimate/acquaintance/stranger). The dependent variable consists of the binary variable of whether or not a stalking arrest is followed by a known subsequent arrest within two years for stalking the same victim. Other variables tested include violence, arrest history, sentence imposed, competence to stand trial, stalker age, stalker marital status, stalker gender, stalker ethnicity, and psychiatric diagnosis.

It was predicted that this analysis would show that, despite optimism about the potential for anti-stalking legislation to deter stalking behavior, this form of intervention has not been able to effectively curb the activities of all stalkers.

## Results and Discussion

Behavioral sciences research on stalking has tended to take two tracks: data collected from surveys of stalking victims, and data collected on stalkers evaluated and/or treated in forensic psychiatric settings. Because it is difficult to extract stalking cases from criminal justice data on individuals charged with harassment, menacing, assault, murder, manslaughter and criminal contempt, the current research makes use of a convenience sample available through the latter model. The case files of the Bellevue Hospital Center Forensic Psychiatry Clinic were reviewed, and 149 defendants (69%) were selected for whom criminal charges were filed during the first full five years of the existence of the anti-stalking law (January 1, 2000 – December 31, 2005), and which met established criteria for stalking behavior patterns. These cases were combined with 68 cases (31%) referred on actual *stalking* charges (PL 120.45, PL 120.50, PL 120.55 and PL 120.60) to form the 217-subject data set for this research. Additional data on these defendants' criminal histories between 1995 and 2008 was obtained from the New York State Division of Criminal Justice Services. The research hypotheses were that either situations in which stalkers were charged with violation of the anti-stalking law, stalkers had a former intimate relationship with their victim, physical violence occurred during the course of stalking, or stalkers were diagnosed with certain psychiatric diagnoses, would demonstrate higher risk for recidivism than situations without those qualities and qualifications. The available data was insufficient to confirm or refute any of the hypotheses.

The Primary Stalking Offense was defined as the first known arrest for *stalking* or Other Pursuit Behaviors between 2000 and 2005 resulting in a criminal charge against the perpetrator and a referral for evaluation to the Bellevue Hospital Center Forensic Psychiatry Clinic. For the purposes of this project, stalking recidivism was defined as a dichotomous variable, identified by

the known existence of an arrest or arrests for *stalking* or Other Pursuit Behaviors within two years of the primary stalking offense. Within this group, it was found that 41 defendants (19%) could be determined to have repeated some form of stalking behavior within two years of the arrest that triggered their primary referral to the Forensic Psychiatry Clinic (See Table 2).

Demographic characteristics of the population are presented in Table 3. Eighty two percent (82%) of the population was male. There was no predominant racial group, with the population divided at one third Caucasian, one third African American, one quarter Hispanic, and just under ten percent classified as Other. Note that “Other” includes Asians and mixed race individuals. Two thirds of the population was described as never married or cohabited. The remaining population was either married or cohabiting at the time of the stalking episode, or were listed as separated, divorced or widowed. None of the defendants were cohabiting with the stalking targets at the time of their arrests. The age of the population ranged from 16 to 71 years old; the mean age was 38 years old, and the median age was 37 years old.

**Table 2**

**Stalking and Criminal Justice Characteristics of the Population  
with number (percent) and  $\chi^2$  significance**

Characteristic		Recidivism w/in 2 years?		<i>p</i>
		No	Yes	
Primary Charge	Other Pursuit Behavior	118 (79%)	31 (21%)	0.287
	Stalking	58 (85%)	10 (15%)	
Prior Relationship	Stranger	32 (82%)	7 (18%)	0.154
	Acquaintance	42 (72%)	16 (28%)	
	Intimate	94 (85%)	17 (15%)	
Documented Violence	No	120 (81%)	28 (19%)	0.803
	Yes	52 (82%)	11 (18%)	
Threats	None/Unkown	88 (80%)	22 (20%)	0.673
	Yes	88 (82%)	19 (18%)	
V.O.O.P. <sup>a</sup>	No	37 (80%)	9 (20%)	0.899
	Yes	109 (80%)	28 (20%)	
Arrests for Violent Felony	No	164 (81%)	38 (19%)	0.910
	Yes	12 (80%)	3 (20%)	
Arrests for Domestic Viol.	No	154 (81%)	37 (19%)	0.626
	Yes	22 (85%)	4 (15%)	
Sentence on Primary	No Sentence Recorded	63 (71%)	26 (29%)	0.013*
	Conditional Discharge	20 (87%)	3 (13%)	
	Probation	39 (87%)	6 (13%)	
	Incarcerated	54 (90%)	6 (10%)	
Court Clinic Findings	Fit to Proceed	24 (75%)	8 (25%)	0.385
	Not Fit to Proceed	52 (83%)	11 (17%)	

<sup>a</sup>V.O.O.P. = Violation of Court Issued Order of Protection.

\*  $p < .05$

**Table 3****Demographic and Clinical Characteristics of the Population  
with number (percent) and  $\chi^2$  significance**

Demographic Data		Recidivism w/in 2 years?		<i>p</i>
		No	Yes	
Sex of Offender	Male	151 (85%)	26 (15%)	0.001*
	Female	25 (63%)	15 (37%)	
Ethnicity	White	59 (83%)	12 (17%)	0.230
	Black	58 (80%)	15 (20%)	
	Hispanic	42 (86%)	7 (14%)	
	Other	13 (65%)	7 (35%)	
Marital Status	Never Married	117 (84%)	23 (16%)	0.318
	Married/Cohabiting	20 (71%)	8 (29%)	
	Separated/Div/Widowed	36 (82%)	8 (18%)	
Psychiatric Diagnoses <sup>a</sup>	Psychoses	113 (80%)	29 (20%)	0.429
	Alcohol and Substance	64 (84%)	12 (16%)	0.391
	Personality Disorder	46 (85%)	8 (15%)	0.377
	Other Mental Disorders	43 (77%)	13 (23%)	0.338
	No Mental Disorder	9 (90%)	1 (10%)	0.462
Delusional Disorder <sup>b</sup>		15 (56%)	12 (44%)	0.000*

*Note:* N = 217, but will differ for some variables due to presence of unknowns in data set.

<sup>a</sup>Psychiatric diagnoses: all diagnoses identified for defendants are noted here. Psychoses includes Delusional Disorders.

<sup>b</sup>Delusional Disorder is also identified separately from other psychoses.

\* $p < .05$

Hypothesis One addressed one of the principal intents behind anti-stalking legislation, the idea that charging an individual with the criminal offense of *stalking*, which can be brought when stalking behaviors are first recognized, will limit the evolution of these behaviors into more disturbing courses of conduct. In particular, whether arrests under New York's newly created

criminal charge of *stalking*, as opposed to the continued use of charges previously invoked against stalking behavior, would reduce stalking recidivism. In theory, the new legislation should, through the imposition of punishment close to the onset of the stalking history, reduce the repetition and escalation of stalking behavior. Hypothesis One also made the assumption that if the offense of stalking were not repeated, it would not evolve into worse behavior. A dichotomous variable was created to separate defendants charged with *stalking* from defendants who were still being charged under other provisions of the criminal law (Other Pursuit Behaviors). In this data set, one third of the defendants were charged with violation of the Clinic Access and Anti-Stalking Legislation of 1999. The remaining two thirds were charged with other pursuit behaviors. It was expected that the criminal charges would impact on stalking recidivism. Initial  $\chi^2$  analysis comparing the two variables, Charges (*stalking* vs Other Pursuit Behaviors) and Recidivism (documented arrest for stalking behaviors within two years of the Primary Stalking Offense) did not reveal a statistically significant relationship ( $\chi^2 [1, 217] = 1.134, p = .287$ ). Demographic data (age, sex, marital status and race) were added for the purpose of evaluating the relationship between charges and recidivism using binary logistic regression, with marital status and race treated as categorical variables (see Table 4).

When this hypothesis was tested using both logistic regression and nonparametric procedures, it was found that defendants charged with violation of the anti-stalking law were not significantly less likely to re-offend than were defendants charged with other pursuit behaviors.

**Table 4****Recidivism as predicted by Stalking Charges and Demographic Variables**

Predictor	B	Wald $\chi^2$	<i>p</i>	Odds Ratio	95% CI
Constant	-.751	.527	.468	.472	
Charges (Stalking = Yes)	-.341	.636	.425	.711	[0.31, 1.64]
Race <sup>a</sup>					
Other	.683	1.241	.265	1.980	[0.59, 6.59]
Hispanic	-.148	.061	.804	.862	[0.27, 2.79]
Black	.160	.110	.740	1.174	[0.46, 3.03]
Age	.003	.036	.850	1.003	[0.97, 1.04]
Sex (Male)	-1.231	8.775	.003	.292	[0.13, 0.66]
Marital Status <sup>b</sup>					
Never Married	-.014	.001	.977	.986	[0.36, 2.67]
Married/Cohabiting	.489	.636	.425	1.631	[0.49, 5.43]

Note: Model  $\chi^2$  (8, 208) = 15.07, *p* = .058

<sup>a</sup> Race is a categorical variable. The reference value is White.

<sup>b</sup> Marital Status is a categorical variable. The reference value is Divorced/Separated/Widowed.

The volatile nature of intimate stalking relationships is well known in the literature, with former intimate partners reported as the most violent stalkers in many research studies. This is also the case in this population, with violent behavior present in 43% of former intimate partner stalking episodes, 16% of stranger stalking episodes, and 15% of acquaintance stalking episodes (30% of all stalking episodes). Because of the possible confounding impact of these two variables, the second and third hypotheses explored the impact on recidivism of the pre-stalking relationship between the stalker and the victim, and on the level of violence in the stalking episode, independently.

Hypothesis Two reflects the stalking literature's focus on the relationship that existed between the stalker and the targeted victim prior to the onset of the stalking. Issues of the relationship between stalker and victim have been the subject of much of the behavioral sciences stalking research. Intimate relationships have been found to be the most common of pre-stalking associations, and this was the case in this data set, with former intimates comprising more than half of the population. Ciric and Harmon (2002), Mohandie et al. (2006), and Harmon (2009) found that stalkers who had previous intimate relationships with their victims would be more likely to persist with stalking behavior than either acquaintance or stranger stalkers. It was expected that the presence of a formerly intimate relationship between stalker and victim in this data set would also predict more recidivism.

Table 5 presents the findings of the bivariate logistic regression predicting recidivism from the three part relationship variable (Stranger, Acquaintance, Intimate), and including demographic variables as controls.

**Table 5****Recidivism as predicted by Relationship**

Predictor	B	Wald $\chi^2$	<i>p</i>	Odds Ratio	95% CI
Constant	-1.132		0.283	0.322	
Relationship <sup>a</sup>					
Stranger	0.354	0.437	0.509	1.425	[0.50, 4.07]
Acquaintance	0.678	2.135	0.144	1.971	[0.79, 4.90]
Sex (Male)	-0.915	4.210	0.04	0.401	[0.17, 0.96]
Race <sup>b</sup>					
Other	.702	1.309	.253	2.019	[0.61, 6.72]
Hispanic	-.044	.005	.941	.957	[0.30, 3.09]
Black	.311	.393	.531	1.365	[0.52, 3.61]
Age	-.002	.016	.899	.998	[0.96, 1.04]
Marital Status <sup>c</sup>					
Never Married	-.156	.092	.762	.856	[0.31, 2.35]
Married/Cohabiting	.485	.622	.430	1.624	[0.49, 5.42]

Note: Model  $\chi^2(9, 201) = 15.07, p = .101$ . Overall percentage predicted correctly increased slightly from 81.1 to 83.1.

<sup>a</sup> Relationship is a categorical variable. The reference category is intimate relationships.

<sup>b</sup> Race is a categorical variable. The reference category is White.

<sup>c</sup> Marital status is a categorical variable. The reference category is Separated/Divorced/Widowed.

It was expected that the “Intimate” category would have the most significant relationship to re-arrests for stalking, and the “Acquaintance” category would have the least significant relationship. This classification system was used as a categorical variable in the regression equation, with the Intimate Partner category used as the reference variable. The hypothesis that the previous relationship between the stalker and his or her targeted victim would impact on recidivism was not proven.

Hypothesis Three looked at the relationship between stalking recidivism and incidents of violence occurring during the stalking episode. Rosenfeld and Harmon (2002) and Rosenfeld (2003) documented a relationship between stalking violence and recidivism. In this paper, it was assumed that if a stalker displayed more potential for violent behavior, then there was also more potential for the stalker to ignore prohibitions imposed by the criminal justice system and to repeat the stalking behavior. Violence was documented (from Forensic Psychiatry Clinic files) during the stalking episode approximately 30% of the time. History of violent behavior was also taken from DCJS data files, which identifies whether an arrest was recorded as a Violent Felony Arrest. Just over 20% of the defendants had at least one arrest flagged as a violent felony between 1995 and 2008. However, only 15 (7%) of the primary stalking arrests were flagged in the DCJS data set as violent felony arrests. This discrepancy is probably due to the fact that the court system defines a Violent Felony Arrest purely in terms of the statute cited in the arrest, whereas the Violence variable in this research was established from the description provided in the Forensic Psychiatry Clinic case file. In addition, DCJS records note whether an arrest is identified as related to Domestic Violence. Just over 21% of the defendants had at least one arrest flagged as domestic violence between 1995 and 2008. However, only 26 (12%) of the primary stalking arrests were flagged as domestic violence. Documentation of threats made to the targeted victim or possible secondary victims was also obtained from Forensic Psychiatry Clinic files. Based on prior research, it was expected that the presence of threats during a stalking situation would predict an increased risk for violent behavior (Harmon, Rosner, Owens 1998, Rosenfeld 2004, Mohandie et. al 2006). Almost one half of these defendants were known to make some kind of threat during the stalking episode. The known violation of Court-issued orders of protection (V.O.O.P.) was expected to be directly related to the incidence of recidivism

(Ciric and Harmon 2002, Harmon 2005). In 75% of the primary stalking arrests, the Forensic Psychiatry Clinic had documentation of the violation of an order of protection in its clinical records. For 117 defendants (54%), at least one of the arresting charges for the primary stalking offense consisted of Criminal Contempt, which in most instances was for the violation of an order of protection. A binary logistic regression was run for the influence of these five variables on stalking recidivism, but there was no statistical significance found. The hypothesis that more violent stalkers would be more likely to repeat their stalking offenses was not proven (see Table 6).

**Table 6**

**Recidivism as Predicted by History of Violence**

Predictor	B	Wald $\chi^2$	<i>p</i>	Odds Ratio	95% CI
Constant	-1.511	10.519	.001	.221	
Threats	-.049	.016	.901	.952	[0.44, 2.06]
Violence	-.305	.369	.544	.737	[0.31, 1.85]
V.O.O.P. <sup>a</sup>	.377	.587	.444	1.457	[0.55, 3.79]
Arrests for Violent Felonies	.062	.048	.826	1.064	[0.24, 1.86]
Arrests for Domestic Viol.	-.241	1.040	.308	.785	[0.19, 11.34]

Note: Model  $\chi^2(5, 178) = 1.974, p = .853$

<sup>a</sup>VOOP = Violation of Court Issued Order of Protection.

Hypothesis Four assumes that there will be some relationship between recidivism and the stalker's psychiatric diagnosis, with those individuals who have the greatest difficulty controlling their behavior being most likely to repeat that behavior over time. The variable for psychiatric diagnosis was coded as determined by staff of the Forensic Psychiatry Clinic, with information

collected on all psychiatric disorders recorded. The total number of psychiatric diagnoses recorded for all defendants was 338 (See Table 7).

**Table 7**

**Psychiatric Diagnoses**

Classifications	Diagnoses included	<i>n</i>	%*
Psychotic Disorders	Schizophrenia, delusional disorder, other psychotic disorders, substance induced psychoses, bipolar disorder, depressive disorder	142	65.4%
Alcohol and/or Substance Abuse	Alcohol, cocaine and polysubstance dependence; alcohol, cocaine, cannabis and inhalant abuse	76	35.0%
Personality Disorders	Antisocial, borderline, obsessive-compulsive, not otherwise specified	54	24.9%
Other Mental Disorders	Depressive disorder not otherwise specified, anxiety disorder, adjustment disorders, conduct disorder, dementia, pedophilia, mild mental retardation	56	25.8%
No Mental Disorder	Diagnosis deferred, no diagnosis, partner relational problem	10	4.6%

\*Percent is the percentage of the 217 defendants who were reported with each diagnosis. Because of multiple diagnoses for 93 defendants, total is greater than 100%.

There were 114 individuals (53%) who had only one psychiatric diagnosis, 93 (43%) who had more than one psychiatric diagnosis, and ten (5%) who were either not diagnosed with a mental disorder, or whose diagnosis was deferred due to insufficient information. Mental

disorders were grouped in compliance with the American Psychiatric Association's DSM IV-TR classification scheme, as psychoses, alcohol and substance use disorders, personality disorders, other disorders and no diagnosable mental disorder. Psychiatric diagnosis is reported in the literature to be related to stalking behavior (Harmon, Rosner, Owens 1998, Rosenfeld 2003, James & Farnham 2002, Mohandie et. al 2006), particularly when individuals are reported to have personality disorders (54 defendants, 25%) or substance use disorders (76 defendants, 35%) or both (24 defendants, 11%). These sorts of mental disorders are felt to make offenders more likely to act impulsively and ignore the imposition of punishment by the criminal justice system. Recidivism was expected to be more frequent in these groups. Logistic regression did not measure any significant difference between these two diagnostic categories and the other diagnostic categories. No statistical significance was found. The hypothesis that certain psychiatric diagnoses could be used to predict stalker recidivism was not confirmed (see Table 8).

**Table 8**

**Recidivism as Predicted by Psychiatric Diagnosis**

Predictor	B	Wald $\chi^2$	<i>p</i>	Odds Ratio	95% CI
Constant	-1.602	9.253	.002	.202	
Psychoses	.301	.382	.537	1.352	[0.52, 3.52]
Alcohol/Substance Use	-.379	.940	.332	.685	[0.32, 1.47]
Personality Disorders	-.289	.378	.538	.749	[0.29, 1.88]
Other Mental Disorders	.543	1.501	.220	1.722	[0.72, 4.11]
No Ident. Mental Disorder	-.595	.255	.613	.551	[0.06, 5.55]

Note: Model  $\chi^2(5, 217) = 3.913, p = 0.562$

Only three examined variables correlated significantly with stalking recidivism in this research: gender, a diagnosis of delusional disorder, and the sentence imposed on the defendant. Individual chi-square analyses were performed relating these variables to the recidivism variable. Stalking recidivism was identified for 19% of this population, however that percentage was significantly higher for female defendants (37.5%) than it was for male defendants (14.7%),  $\chi^2(1) = 11.078, p = .001$ . It was also identified for 44% of individuals diagnosed with delusional disorder but only 15% of those who did not have delusional disorders,  $\chi^2(1) = 13.137, p = .000$ , and for a significantly higher proportion of individuals receiving no sentence (29%) than those receiving sentences of incarceration (10%), probation (13%) or conditional discharge (13%),  $\chi^2(3) = 10.704, p = .013$ .

The existing literature provides no guidance on the question of why male defendants would be less likely to repeat stalking offenses than female defendants. It can be suggested that the gender factor might be seen as a confounding variable, and might be associated with found correlations between sex and prior relationship ( $p = .034$ ); psychiatric diagnoses of psychosis ( $p = .032$ ), alcohol and substance abuse ( $p = .010$ ), and personality disorder ( $p = .016$ ); and sentences ( $p = .007$ ). This series of relationships should be explored further.

The diagnosis of delusional disorder was also significantly correlated with recidivism, and with the prior relationship between stalker and victim ( $p = .000$ ), and whether the charge was *stalking* or other pursuit behaviors ( $p = .000$ ). Delusional stalkers, whose projections of relationships with their victims were a product of their imaginations, were by definition more likely to fall into the “stranger” or “acquaintance” classifications. The significantly greater

probability that a delusional stalker will be charged with *stalking* rather than other pursuit behaviors,  $\chi^2(1) = 17.889, p = .000$ , implies that the criminal justice system may recognize the pursuit of a stranger as stalking more easily than it recognizes as stalking the pursuit of acquaintances or former intimate partners. Additional research may reveal more information about this connection.

Perhaps the most interesting of the statistically significant correlations is between recidivism and the sentence imposed on the defendant. Although the hypothesis that stalking charges would affect recidivism was not demonstrated, individuals receiving sentences of incarceration (10%), probation (13%) or conditional discharge (13%), were significantly less likely to repeat their stalking offenses within two years of their original offense than were defendants receiving no sentences at all (29%),  $\chi^2(3) = 10.704, p = .013$  (see Table 9).

**Table 9**  
**Sentence correlated with Recidivism**

Sentence	Recidivism within 2 years	
	No	Yes
No Sentence Recorded*	63 (71%)	26 (29%)
Conditional Discharge	20 (87%)	3 (13%)
Probation	39 (87%)	6 (13%)
Incarcerated	54 (90%)	6 (10%)
Total	176 (81%)	41 (19%)

$\chi^2(3) = 10.704, p = .013$

\*No sentence recorded: dismissed ( $n = 58$ ), covered by/consolidated with ( $n = 8$ ), abated by death of defendant ( $n = 2$ ), no disposition ( $n = 9$ ), interim disposition ( $n = 8$ ), unknown ( $n = 4$ )

Anti-stalking legislation, when used, should permit arrest, conviction and sentencing at an earlier point in the stalking episode than the previously used offenses of harassment, menacing and criminal contempt (violation of a court issued order of protection). In actuality, conviction on any of these potential stalking charges subjected the defendant to the same level and type of sentence, whether incarceration or probation, depending on the seriousness of the charges imposed. It is possible that the conviction and sentence combination has a greater impact on stalking recidivism than the charge itself.

Further exploration of the issue of punishment, through criminal sentencing or otherwise, needs to be pursued in order to address the full impact of anti-stalking legislation on this population. This should include the relationship of punishment to the criminal charges filed in stalking cases. Because of the difficulty of identifying stalking cases in the criminal justice data base, it may be necessary to limit this research once again to the convenience sample of defendants referred to the Forensic Psychiatry Clinic.

### **Limitations**

Not all individuals accused of stalking and related offenses in the City of New York are referred to the Forensic Psychiatry Clinic for evaluation, so the initial population from which this data base was drawn is a convenience sample. In addition, the research was constrained by the selection procedure used. Although all defendants referred to the Forensic Psychiatry Clinic and accused of stalking (New York State Penal Law Articles 120.45, 120.50, 120.55 and 120.60) were included, the process of selecting stalking cases from other individuals referred to the Clinic was limited by the information available for review in the charts. The Other Pursuit Behavior cases were selected for this study by examination of the records of individuals referred to the Forensic Psychiatry Clinic during the seven year period from 2000 through 2006 with the presenting criminal charges of Harassment, Aggravated Harassment, Menacing, Assault, Manslaughter, Murder or Criminal Contempt (or 'attempted' versions of these offenses). Cases which met the following criteria: unsolicited and unwelcome behavior was initiated by the defendant against the complainant; it was at minimum alarming, annoying or harassing; there were more than two incidents of such behavior reported were included in the study. This procedure may have had the unfortunate effect of omitting from the data base cases in which stalking behavior occurred, but was not included in police or probationary reports. For example, if a stalker murders or rapes his victim, the police may charge only the more serious offense, and the criminal complaint may make no reference to the pre-incident stalking behavior. Because the data is limited to the information available in the Clinic charts, it may be incomplete with regard to the relationship between the stalker and the victim, any data from similar offenses committed outside of the State of New York, and stalking related offenses committed by the defendant that did not result in a referral for psychiatric evaluation.

When a criminal defendant also has a diagnosed mental disorder, access to research data is limited by confidentiality issues. This is particularly complicated with regard to individuals who have been transferred between the correctional system and the mental hygiene system, triggering multiple layers of administrative oversight. If a stalker is institutionalized in a psychiatric facility rather than in a prison or jail, information about the duration of that institutionalization, inpatient treatment, and subsequent outpatient follow-up is not generally available. In a proportion of the cases in this study, this restricted access to complete information on possible recidivism.

A second or third conviction for stalking the same individual, subsequent to an earlier stalking conviction, is supposed to result in increased penalties, but when the population consists of mentally disordered defendants, an initial conviction may not be possible. In 29% [ $n = 63$ ] of the study population, a finding of incompetence to stand trial may have resulted in a dismissed charge, under the procedures of Article 730 of the Criminal Procedure Law, and a transfer of custody to the New York State Office of Mental Health. CPL Article 730 states, in part,

When a local criminal court, following a hearing conducted pursuant to subdivision three or four of section 730.30, is satisfied that the defendant is ... an incapacitated person, ... such court must issue a final or temporary order of observation committing him to the custody of the commissioner [of Mental Hygiene] for care and treatment in an appropriate institution for a period not to exceed ninety days from the date of the order ... When a local criminal court accusatory instrument other than a felony complaint has been filed against the defendant, such court must issue a final order of observation... When a local criminal court has issued a final order of observation, it must dismiss the accusatory instrument filed in such court against the defendant and such dismissal constitutes a bar to any further prosecution of the charge or charges contained in such accusatory instrument. (N.Y. CPL. LAW § 730.40 : NY Code - Section 730.40: Fitness to proceed; local criminal court accusatory instrument)

Information on psychiatric treatment and duration of institutionalization was not available on these individuals for the purposes of this paper, and these factors would impact on the defendant's ability to continue stalking the targeted victim.

The chief obstacle to doing any kind of stalking research is that it is difficult to identify stalking cases. Although there are anti-stalking laws on the books in all 50 states and the District of Columbia, they are not always used for the prosecution of stalking cases. In the State of New York, for the first 5 years following the implementation of the New York State Clinic Access and Anti-Stalking Law, the rate of arrests for violation of the statute was approximately 200 per year, much lower than the 28,000 predicted by national research (Tjaden and Thoennes 1998). It must be noted, however, that there were in all probability many other arrests and prosecutions for stalking behavior under the harassment and menacing statutes, as well as for violations of court orders of protection that resulted from stalking arrests, and for the more serious offenses of assault, attempted murder and murder that could have resulted from stalking behavior. With regard to recidivism, although criminal history information on the identified defendants was provided by the New York State Division of Criminal Justice Services, it was not possible to definitively identify whether arrests for other pursuit behaviors might have represent stalking cases, or whether arrests for stalking offenses represented the subsequent stalking of the same or different targeted individuals.

### **Implications**

This project was not intended as an attempt to describe how to stop stalkers. It was an effort to identify which stalkers might be less likely to stop after initial arrest and prosecution for a stalking offense, in order to provide more information for safety planning, counseling, and legal interventions. If the premise of anti-stalking legislation in New York State rests on the assumption that early arrests for minor behavior, coupled with increased penalties for repetitive stalking behavior, will increase safety for stalking victims, a finding that the law either was not being used adequately, or that, even if used, it did not inhibit repetitive stalking for certain subtypes of stalkers, would have had implications for the legal system. The evidence collected did not conclusively indicate that using the anti-stalking law rather than the previously available criminal offenses of harassment, menacing and criminal contempt (for the violation of an order of protection) would have any impact on recidivist stalking. There was also no significance found for the hypothesized predictor variables of prior relationship between stalker and victim, violence as part of the stalking pattern, and psychiatric diagnosis. Instead, the implication of the findings is that the sentencing process may influence stalking recidivism. Additional analysis should explore the effect of the sentencing process on stalking, taking all possible criminal charges into account. This can include offenses committed prior to the implementation of the anti-stalking legislation, as long as they can be properly identified. The difficulty identifying stalking offenses and collecting useful data about the perpetrators is a very real impediment to the successful completion of research in this area.

## Bibliography

Akers, RL and Sellers, CS (2004). *Criminological Theories: Introduction, evaluation and application: Fourth Edition*. Roxbury Publishing Co. Los Angeles, CA.

Alcott Louisa May: *A long fatal love chase*: written in 1866 but unpublished until 1995.

Anand, S. (2001). Stopping Stalking: A Search for Solutions, a Blueprint for Effective Change. *Saskatchewan Law Review*. 64 Sask. L. Rev. 397.

Berrios G.E. and N. Kennedy, Erotomania: a conceptual history, *History of Psychiatry* 2002; 13; 381

Boon, J.C.W. and Sheridan, L. (2001). Stalker typologies: A law enforcement perspective. *Journal of Threat Assessment*, 1, 75-97.

Carmody, C (1994). Deadly Mistakes. *American Bar Association Journal*, 80 ABAJ 68

Caso, A. (1983), Ed. *An essay on crimes and punishments by Cesare Beccaria*: The original Fourth Edition translated from the Italian. International Pocket Library, Branden Publishing Co., Boston, MA.

Chesney-Lind, M. (2003) A Feminist Theory of Female Delinquency in *Criminological Theory Past to Present: Second Edition*, FT Cullen and R Agnew, Eds. Pp. 423 – 429, Roxbury Publishing Company, Los Angeles, CA.

Ciric, S. and Harmon, R. (2002) Serial Stalking. Presentation at the Annual Meeting of the American Academy of Forensic Sciences, Atlanta, GA.

Diacovo, N. (1995). California's Anti-Stalking Statute: Deterrent of False Sense of Security. *Southwestern University Law Review*; 24 SW. U. L. Rev. 389.

*Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition Text Revision* (DSM-IV-TR) (2000), American Psychiatric Association, American Psychiatric Publishing, Arlington, VA

Dietz PE, Matthews DB, Martell DA, Stewart T, Hrouda DR and Warren J (1991a) Threatening and otherwise inappropriate letters to members of the United States Congress. *Journal of Forensic Sciences*, Vol 36, No. 5, pp. 1445 – 1486.

Dietz, PE, Matthews DB, Van Duyne, C, Martell DA, Parry CDH, Stewart T, Sarren J, Crowder JD (1991b) Threatening and Otherwise Inappropriate Letters to Hollywood Celebrities; *Journal of Forensic Sciences*, V 36, No.1, pp.185-209

Domestic Violence, Stalking, and Antistalking Legislation, Annual Report to Congress, March 1996, U.S. Department of Justice, Office of Justice Programs, National Institute of Justice

Dressing H, Christine Kuehner and Peter Gass; The epidemiology and characteristics of stalking. *Current Opinion in Psychiatry* 2006, 19:395–399

Dressing H, Henn FA, Gass P. Stalking behaviour – an overview of the problem and a case report of male-to-male stalking during delusional disorder. *Psychopathology* 2002; 35:313–318.

Enoch, MD, Trethowan, WH, Barker, JC (1967). *Some Uncommon Psychiatric Syndromes*. Bristol, England, John Wright and Sons Ltd.

Feinberg, J. (2001). What is so special about mental illness? In *Readings in the Philosophy of Law: 3<sup>rd</sup> Edition*. Edited by John Arthur and William H. Shaw. Prentice-Hall, Inc. Upper Saddle River, NJ.

Flynn, CP (1993) The New Jersey Antistalking Law: Putting an end to a “Fatal Attraction.” *18 Seton Hall Legis. J.* 297.

Gilligan, M.J. (1992) Stalking the Stalker: Developing new laws to thwart those who terrorize others. *Georgia Law Review*, 27 Ga L Rev 285.

Goldstein, R.L. (2000) Serial Stalkers: Recent clinical findings. In L.B. Schlesinger (Ed.) *Serial Offenders: Current Thought, Recent Findings*. New York: CRC Press

Gross, Linden (1998). Understanding and Surviving America's Stalking Epidemic: A Special Report. Internet Publication.

Groves, RM; Salfati, CG; Elliot, D (2004). The Influence of Prior Offender/Victim Relationship on Offender Stalking Behavior *Journal of Investigative Psychology & Offender Profiling*, Vol. 1 Issue 2, p. 153-167.

Hanson, W. (1996, February 29). Blind Justice: the murder of Kristin Lardner. Downloaded from <http://www.govtech.com/magazines/gt/Blind-Justice-The-Murder-of-Kristin.html>

Harmon, R. (2009). The Development of a Typology of Stalking Behaviors to Facilitate Interventions. In Saleh, F., Brodsky, D.J., Grudzinskas, A.J., and Bradford, J. *Sex Offenders: Identification, Risk Assessment, Treatment, and Legal Issues*. Oxford University Press, New York, NY.

Harmon, R., O'Connor, M., Forcier, A., Collins, M. (2004). The impact of anti-stalking training on front line service providers. *Journal of Forensic Sciences*: Vol. 49, No.5

Harmon, R.B. (1999). Are Stalking Laws Effective? in Fuller, J.R. and Hickey, E.W., Eds., *Controversial Issues in Criminology*, Allyn & Bacon Publishers, Needham Heights, MA, 1999

Harmon, R.B., Rosner, R., & Owens, H. (1995) Obsessional Harassment and Erotomania in a Criminal Court Population, *Journal of Forensic Sciences*, 40, 188-196.

Harmon, RB, Rosner, R, & Owens, H, Sex and Violence in a Forensic Population of Obsessional Harassers (1998), *Psychology, Public Policy and Law*, Volume 4, Nos. 1 - 2.

Hoffmann J (2009) Public Figures and Stalking in the European Context. *Eur J Crim Policy Res* (2009) 15:293–305

Hollender, MH and Callahan, AS (1975) Erotomania or de Clérambault Syndrome. *Archives of General Psychiatry* V. 32, p . 1574-1576.

Jagdessar, J. D. H., Sheridan, LP. Stalking Perceptions and Experiences Across Two Cultures. *Criminal Justice and Behavior*, Vol. 31 No. 1, February 2004 97-119

James D.V., Mullen P.E., Pathé M.T., Meloy J.R., Preston L., Darnley, B., et al. (in press) Stalkers and harassers of royalty: the role of mental illness and motivation. *Psychological Medicine*.

James, D. V., Mullen, P. E., Meloy, J. R., Pathé, M. T., Farnham, F. R., Preston, L., et al. (2007). The role of mental disorder in attacks on British and European politicians 1990–2004. *Acta Psychiatrica Scandinavica*, 116(5), 334–344.

James, D. V., Mullen, P. E., Pathé, M. T., Meloy, J. R., Farnham, F. R., Preston, L., et al. (2008). Attacks on the British Royal family: the role of psychotic illness. *The Journal of the American Academy of Psychiatry and the Law*, 36(1), 59–67.

James, D.V. and Farnham, F.R. (2003) Stalking and Serious Violence. *The Journal of the American Academy of Psychiatry and the Law* Vol. 31 (432-9)

Jason, L. A., Reicher, A., Easton, J., Neal, A., & Wilson, M. (1984). Female harassment after ending a relationship. *Alternative Lifestyle*, 6, 259-268. *Journal of Family and Economic Issues* PublisherSpringer Netherlands ISSN1058-0476 (Print) 1573-3475 (Online) Issue Volume 6, Number 4 / June, 1984

Jordan, C.E., Quinn, K., Jordan, B. and Daileader, C.R., (2000). Stalking: Cultural, clinical and legal considerations. 38 Brandeis L.J. 513.

Jordan, CE, Logan, TK, Nigoff, A (2003) Stalking: An examination of the criminal justice response. Journal of Interpersonal Violence, Vol. 18, No.2, 148-165.

Kamir, O. (2001). *Every breath you take: Stalking narratives and the law*. Ann Arbor, MI: University of Michigan Press.

Kamphuis, JH and Emmelkamp, PMG (2000). Stalking – a contemporary challenge for forensic and clinical psychiatry. British Journal of Psychiatry 176, 204-209.

Kamphuis, JH and Emmelkamp, PMG (2001). Traumatic Distress among Support-Seeking Female Victims of Stalking. American Journal of Psychiatry 158:795-798

Kropp, PR, Hart, SD and Lyon, DR (2002). Risk assessment of stalkers: some problems and possible solutions. Criminal Justice and Behavior, volume 29 number five, 590 – 616

Leiter, L. (1996, July 15) The Struggle to Stretch the Long Arm of the Law. Insight on the News. Part NATION: STALKERS; Pg. 18

Lilly, JR, Cullen, FT, Ball RA (2007), *Criminological Theory: Context and Consequences: 4<sup>th</sup> Edition*. Sage Publications, Thousand Oaks, California.

Lindsey, R (1988, February 18) Three-year obsession led to carnage. The New York Times: National; p. 1A.

Lingg, RA (1993). Stopping Stalkers: A critical examination of anti-stalking statutes. St. Johns Law Review, Vol. 67:347.

Martinez, SC (2000) COMMENT: Utilizing the Tools: Successfully Implementing the Stalking Statutes University of Wyoming Land and Water Law Review 35 Land & Water L. Rev. 521

Matthew Bender & Company, Inc. (1999) New York Consolidated Law Service, NY  
CLS Penal Law § 120.40, Editor's Notes: Laws 1999, Ch 635, §§ 1, 2 and 17, eff. Dec. 1, 1999.

McFarlane J, Malecha A, Gist J, et al. Protection orders and intimate partner violence: an 18-month study of 150 black, Hispanic and white women. *American Journal of Public Health* 2004; 94:613–618.

Meloy J. R., L. Sheridan & J. Hoffmann (Eds.), *Stalking, Threatening, and Attacking Public Figures: A Psychological and Behavioral Analysis*. New York: Oxford University Press.

Meloy, J. R. (1998). *The Psychology of Stalking: Clinical and Forensic Perspectives*. San Diego, CA: Academic Press.

Meloy, J. Reid; Gothard, Shayna (1995) Demographic and Clinical Comparison of Obsessional Followers and Offenders With Mental Disorders. *American Journal of Psychiatry* Issue: Volume 152(2), February 1995, pp 258-263

Mendes, SM (2004). Certainty, Severity, and Their Relative Deterrent Effects: Questioning the Implications of the Role of Risk in Criminal Deterrence Policy. *The Policy Studies Journal*, Vol. 32, No. 1.

Mohandie, K, Meloy, JR, McGowan, MG, Williams, J. (2006). The RECON Typology of Stalking: Reliability and Validity Based Upon a Large Sample of North American Stalkers. *Journal of Forensic Sciences*, Vol. 51, No.1.

Mohandie, K. (2004). Stalking Behavior and Crisis Negotiation. *Journal of Police Crisis Negotiations*, Vol. 4(1).

Morrison, KA (2008). Differentiating between physically violent and nonviolent stalkers: An examination of Canadian cases. *Journal of Forensic Sciences*, Vol. 53 No. 3.

Mullen, P. E., James, D. V., Meloy, J. R., Pathé, M. T., Farnham, F. R., Preston, L., et al. (2009). The fixated and the pursuit of public figures. *Journal of Forensic Psychiatry and Psychology*, 20(1), 33–47.

Mullen, P.E., Pathé, M. and Purcell, R. (2000) *Stalkers and their Victims*, Cambridge University Press.

Mullen, P.E., Pathé, M., Purcell, R., & Stuart, G.W. (1999) A Study of Stalkers. *American Journal of Psychiatry*, 156:1244-1249.

Mullen, PE and Pathé, M (2002). Stalking. 2002 *Crime and Justice* 273. Univ. of Chicago.

Nair, M (2003). Stalking. In Rosner, R Ed., *Principles and Practice of Forensic Psychiatry: 2<sup>nd</sup> Edition*, Oxford University Press/Arnold Pubs., London, England, UK

New York Times Editorial (February 18, 1996) Why Stalkers Go Free.

Nobles, MR, Fox, KA, Piquero, N, Piquero, AR (2009). Career Dimensions of Stalking Victimization and Perpetration. *Justice Quarterly*, Vol. 26 No. 3.

O'Connor, M and Rosenfeld, B (2004). Introduction to the Special Issue on Stalking: Finding and filling the empirical gaps. *Criminal Justice and Behavior*, Vol.31, No.1, 3-8.

Palarea, R.E., Zona, M.A., Lane, J.C., & Langhinrichsen-Rohling, J. (1999) The dangerous nature of intimate relationship stalking: Threats, violence and associated risk factors. *Behavioral Sciences and the Law*, 17: 269-283

Pappas DM. Stopping New Yorkers' stalkers: An anti-stalking law for the millennium. 2000: 27 *Fordham Urban Law Journal* 945.

Pathe M, Mackenzie R, Mullen PE. Stalking by law: damaging victims and rewarding offenders. *Journal of Law and Medicine* 2004; 12:103–111.

Pathé, M and Mullen, PE (1997). The Impact of Stalkers on their Victims. *The British Journal of Psychiatry*, Volume 170(1), pp 12-17.

People of the State of California v. Carron (1995) 44 Cal.Rptr.2d 328, 331.

People of the State of California vs Richard Wade Farley (2009). 46 Cal. 4th 1053.

People of the State of New York vs. Murray (1995). 167 Misc. 2d. 857.

Piquero, AR and Pogarsky, G (2002). Beyond Stafford and Warr's Reconceptualization of Deterrence: Personal and Vicarious Experiences, Impulsivity, and Offending Behavior. *Journal of Research in Crime and Delinquency*; 39; 153.

Pogarsky, G (2002). Identifying “deterable” offenders: Implications for research on deterrence. *Justice Quarterly*; 19, 3.

Purcell, R., Pathé, M., Mullen PE. Stalking: Defining and prosecuting a new category of offending. *International Journal of Law and Psychiatry*, 27 (2004) 157–169

Radosevich, AC (2000) . Note: Thwarting the stalker: Are anti-stalking measures keeping pace with today’s stalker? *University of Illinois Law Review*. 2000 U. Ill. L. Rev. 1371

Roberts, KA (2002). Stalking Following the Breakup of Romantic Relationships: Characteristics of Stalking Former Partners. *Journal of Forensic Sciences*, Vol. 47, No. 5.

Roehl, J., O’Sullivan, C., Webster, D., Campbell, J. (2005) Intimate Partner Violence Risk Assessment Validation Study, Final Report. U.S. Dept. of Justice NIJ 2000WTVX0011.

Rosenfeld, B. & Harmon, R. (2002) Factors associated with violence in stalking and obsessional harassment cases, *Criminal Justice and Behavior* Vol. 29, No. 6

Rosenfeld, B. & Lewis, C. (2005) Assessing Violence Risk in Stalking Cases: A Regression Tree Approach. *Law and Human Behavior*, Vol. 29, No. 3.

Rosenfeld, B. (2003) Recidivism in Stalking and Obsessional Harassment. *Law & Human Behavior*. Vol. 27(3) pp. 251-265

Rosenfeld, B. (2004) Violence Risk Factors in Stalking and Obsessional Harassment: A Review and Preliminary Meta-Analysis. *Criminal Justice and Behavior*, Vol. 31 No. 1, pp. 9-36

Sheridan, L., Blaauw, E. and Davies, G.M. (2003). Stalking: Knowns and unknowns. *Trauma, Violence & Abuse: A Review Journal*, 4, 148-162.

Shore D, Filson RC, Davis, TS, Olivos, G, DeLisi, L, Wyatt, RJ (1985) White House Cases: Psychiatric patients and the Secret Service. *American Journal of Psychiatry* 142, 308 - 312.

Shugarman Ryan S., MD, Stalking: The Veiled Epidemic. 2009 *Psychiatric Times*. Vol. 26 No. 7

Silva, PA and Stanton, WR (1996). *From Child to Adult: The Dunedin Multidisciplinary Health and Development Study*. Auckland, New Zealand: Oxford University Press

Sitren, AH and Applegate, BK (2007) Testing the Deterrent Effects of Personal and Vicarious Experience with Punishment and Punishment Avoidance, *Deviant Behavior*, 28:1, 29 - 55

Skoler, G. (1998) The archetypes and psychodynamics of Stalking. In *The Psychology of Stalking: Clinical and Forensic Perspectives*, J. Reid Meloy, Ed., Academic Press, San Diego, CA. 1998

Sohn, Ellen F. (1994) Antistalking Statutes: do they actually protect victims? *Criminal Law Bulletin* Boston: May/June 1994. Vol. 30, Iss. 3; pg. 203.

Spitzberg Brian H., William R. Cupach (2007). The state of the art of stalking: Taking stock of the emerging literature. *Aggression and Violent Behavior* 12 (2007) 64–86

Spitzberg, BH (2002). The Tactical Topography of Stalking Victimization and Management. *Trauma, Violence, & Abuse*, Vol. 3, No. 4, 261-288.

Stafford, MC and Warr, MA (1993) A reconceptualization of general and specific deterrence. *Journal of Research in Crime and Delinquency*, Vol. 30, No.2, pp. 123-135.

Tan, LK and Kennedy, H. (1992, December 17). A damn shame: System failed to protect slay victim from ex-husband. *The Boston Herald, News*: p.1.

Taylor P, Mahendra B, Gunn J. (1983) Erotomania in Males. *Psychological Medicine*, 13, 645-650.

Tjaden, P., & Thoennes, N. (1998). *Stalking in America: Findings from the national violence against women survey (NCJ-1669592)*. National Institute of Justice, Centers for Disease Control and Prevention. Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice.

Tjaden, P., & Thoennes, N. (2000). The role of stalking in domestic violence crime reports generated by the Colorado Springs Police Department. *Violence and Victims*, 15(4), 427-441.

Warren, LJ, MacKenzie, R, Mullen, PE and Ogloff, JRP (2005). The Problem Behavior Model: The Development of a Stalkers Clinic and a Threateners Clinic. *Behavioral Sciences and the Law* 23: 387–397.

Westrup D, Fremouw WJ, Thompson RN, Lewis SF (1999). The psychological impact of stalking on female undergraduates. *Journal of Forensic Sciences*; 44(3):554-557.

Wolfe Sherrie A. (1984). Note: The scope of a psychiatrist's duty to third persons: The protective privilege ends where the public peril begins. *59 Notre Dame Law Review* 770

Wright, BRE, Caspi, A, Moffitt, TE, Paternoster, R (2004) Does the Perceived Risk of Punishment Deter Criminally Prone Individuals? Rational Choice, Self-Control, and Crime. *Journal of Research in Crime and Delinquency* 2004; 41; 180.

Zona, M.A., Sharma, K.K., & Lane, J. (1993). A comparative study of erotomanic and obsessional subjects in a forensic sample. *Journal of Forensic Sciences*, 38 (4), 894-9