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Legal and psychological aspects of stalking: a review

BRIAN McGUIRE and ANITA WRAITH

ABSTRACT Stalkers can be loosely divided into those without a mental disorder (usually disgruntled ex-partners) and those who are mentally disordered. Although the former group is by far the larger, very little is known about the characteristics of those stalkers. The mentally disordered group comprises mainly those with erotomanic delusions, presenting either as a primary illness or secondary to another mental illness. The impact of stalking on victims is enormous – many develop post-traumatic stress disorder, contemplate suicide and suffer immense disruption to their lives. A sizeable portion of stalking victims are subjected to physical and/or sexual assault. Anti-stalking laws are usually ineffective against erotomanic stalkers, but may be more effective in deterring non-disordered stalkers. The efficacy of treatment for mentally disordered stalkers is mixed – in some cases the illness resolves completely while in others it persists unabated, often for decades.

Keywords: stalking, erotomania, delusion, sexual assault, mental disorder

Stalking has received increasing attention in the media over recent years. However, it is by no means a new crime, and has in fact been described as a new term for an old crime (Flynn, 1993; as cited in Fritz, 1995). Incidents such as the highly publicized murder of the actress Rebecca Schaeffer in July 1989, who was the victim of an obsessional stalker, have served to increase awareness about the issue, and have motivated research into the area of stalking and related mental health problems, typologies, legal issues, and the psychological effects on victims. Due to the increased prominence of stalking literature, and

recent changes to legislation, a review of the literature in the area was considered timely and relevant for clinicians.

BACKGROUND

Legal and medical writers have defined stalking in a number of ways which usually incorporate the presence of repeated behaviours such as following, loitering near, maintaining surveillance, approaching, telephoning, interfering with personal property, giving offensive material and intimidating or threatening (Mullen and Pathé, 1994a). It has been noted that recent advancements in communications technology, such as email and the Internet, have provided stalkers with additional vehicles for their harassment, a form of behaviour that has been coined 'cyberstalking' (Goldstein, 1998).

While the word 'stalking' tends to evoke thoughts of celebrities being pursued by relentless and besotted fans, the reality is that many non-celebrity, normal individuals are the victims of stalking campaigns. Fritz (1995) noted that an estimated 200,000 people in the USA are currently stalking someone, that approximately one third of all female homicide victims were killed by former or current spouses or boyfriends, and that of those victims, 90% were stalked prior to their death. Similarly, Tjaden and Thoennes (1997) found that of 16,000 people surveyed, 8% of women and 2% of men had been stalked at some point during their lives.

THE PERPETRATORS OF STALKING

A broad range of opinion exists about the 'typical' characteristics of stalkers. It has been noted that no single profile of a stalker exists, and that stalkers exhibit a wide range of behaviours and psychological traits (Keinlen, 1998). However, some similarities have been identified in the literature, suggesting that stalkers are older than the usual criminal offender (Harmon *et al.*, 1995; Meloy and Gothard, 1995), and are often educated men with unsuccessful employment and relationship histories (Harmon *et al.*, 1995; Keinlen *et al.*, 1997; Meloy, 1996; Meloy and Gothard, 1995; and Zona *et al.*, 1993). Cases of homosexual stalking incidents are also documented in the literature, although not as frequently as cases of individuals stalking someone of the opposite sex (Dunlop, 1988; Harmon *et al.*, 1995).

Broadly speaking, stalkers tend to fit into two categories according to their relationship with their victim: stalkers who have known their victim on an intimate level, and those who do not know their victim or have had only the most brief acquaintance with them. However, Dziegielewski and Roberts (1995) proposed three typologies of stalkers, based on their motivations: (1)

the domestic violence stalker – who is motivated by a need to continue or re-establish a relationship; (2) the delusional stalker – who has not had a previous relationship with the victim, and is motivated to stalk by a delusional fixation; (3) the nuisance stalker who will continually harass the victim purely to cause nuisance.

The largest group of stalkers seems to consist of ex-husbands or ex-lovers who refuse to accept that the relationship is at an end, or who are seeking retribution for what they perceive as rejection or infidelity (Mullen and Pathé, 1994a). Most of these individuals perform the stalking behaviour in an attempt to harass, intimidate, or punish the ex-partner, thus behaving out of anger, pain, or hatred. Alternatively they are motivated by a desire to express their ongoing love and desire to reconcile the relationship and hope that their incessant acts will be seen as a sign of their commitment to the relationship and that their target will respond accordingly. In a very small number of cases, stalkers do not know their victims, or have had only superficial or fleeting contact with them, or, if they knew them more than this, it was never in an intimate relationship. Cases of a stranger fixating on an unknown citizen are rare and least likely to end in violence (De Becker, 1997, as cited in Hall, 1998). Stalkers in this latter group are likely to be mentally disordered individuals who have developed a delusional belief that they have had, or will have, an intimate relationship with their target. Such delusions are described in the *Diagnostic and Statistical Manual of Mental Disorders*, 4th edn (DSM IV; American Psychiatric Association, 1994) under the heading of 'Delusional Disorder' (297.1) and are defined as follows: (1) non-bizarre delusions (i.e. involving situations that occur in real life, such as being followed, poisoned, infected, loved at a distance, or deceived by spouse or lover, or having a disease) of at least 1 month's duration; (2) Criterion A for schizophrenia has never been met; (3) apart from the impact of the delusion or its ramifications, functioning is not markedly impaired and behaviour is not obviously odd or bizarre; (4) the delusion is not part of a mood disorder; (5) the disturbance is not due to direct physiological effects of a substance or a general medical condition. A number of subtypes of delusion are denoted, including erotomanic type, which is defined as a delusion that another person, usually of higher status, is in love with the individual.

Although there is no universal agreement, the literature suggests that delusional stalkers might further be divided into those who have a primary delusional disorder, and those who have a delusional disorder secondary to another major illness (e.g. schizophrenia, mania).

Zona, Palarea and Lane (1998) have identified that stalkers commonly suffer from Axis I disorders such as thought disorders, disorders related to substance abuse and mood disorders. Within the group of thought disorders, a diagnosis of schizophrenia or a delusional disorder is most common. The delusions fit into jealous, persecutory and erotomanic subtypes. It is thought

that the first two are the most prevalent, simply because erotomania, as a mono-delusional disorder, is so rare.

A proportion of stalkers who are mentally disordered do not fit the diagnostic criteria of Axis I disorders. In the majority of cases these stalkers suffer from Axis II personality disorders (Harmon *et al.*, 1995; Keinlen *et al.*, 1997; Meloy, 1996; Meloy and Gothard, 1995). Cluster B personality disorders (anti-social, histrionic, borderline and narcissistic personality disorders) are the most pervasive in stalkers, involving dramatic, emotional and erratic features (Meloy, 1996). The remaining personality disordered stalkers are likely to be experiencing paranoid personality disorder, schizoid personality disorder (Cluster A), or dependent personality disorder (Cluster C) (Zona *et al.*, 1998).

Meloy (1996) hypothesized that individuals suffering from antisocial, histrionic, borderline and narcissistic personality disorders are characterized by a lack of identity and sense of self, preventing them from forming appropriate attachments with others. This theory has been supported by evidence from other research into attachment models, which associates pathological attachments with personality disorders (West and Sheldon, 1988). Furthermore, childhood relationship disturbances resulting from physical, emotional, or sexual abuse from primary carers have been documented to occur in adults who exhibit stalking behaviour (Keinlen *et al.*, 1997).

EROTOMANIA

Despite the broad range of possible disorders that can occur in mentally disordered stalkers, the vast majority of clinical literature in the field of stalking focuses on the erotomanic subtype of delusional disorder. In documenting the history of erotomania, Kurt (1995) notes that it has been recognized as a pathological form of love since ancient times. It was documented in writings from Hippocrates, Plutarch and Galen and first appeared in psychiatric literature in 1838 when Esquirol described it in *Maladies Mentales*. Kraepelin also described a syndrome in 1921, which he classified as a grandiose subtype of paranoia, and which he thought was a morbid transformation of the normal emotions of the human heart, created to compensate for the disappointments of life. Finally, De Clérambault, after whom the disorder was originally named, officially defined erotomania in *Les Psychoses Passionnelles*. Although the definition of erotomania has varied somewhat over the years, the general concepts are contained in the DSM criteria for Delusional Disorder (Erotomanic Type).

Although previously conceptualized as a disorder found only in women, particularly those who are lonely and without sexual partners (Goldstein, 1987, as cited in Harmon *et al.*, 1998; Kurt, 1995; Segal, 1989), it is now known that erotomania occurs in both genders. In fact, males dominate the

forensic population of stalkers (Keinlen *et al.*, 1997). Furthermore, erotomania can occur at any age from adolescence (Urbach *et al.*, 1992) to old age (Chiu, 1994). It has been reported in its pure delusional form and in the context of a range of other disorders and conditions such as schizophrenia (Phillips *et al.*, 1996); Capgras syndrome (Stip *et al.*, 1996), brain damage (John and Ofsiew, 1996); in AIDS-related complex (Boast and Coid, 1994) and in intellectual disability (McGuire *et al.*, 1994).

Mullen and Pathé (1994a) described 14 stalking offenders from a forensic setting. All had stalked the objects of their affection and all had strong erotomanic features. The diagnostic criteria employed by Mullen and Pathé were: (1) the presence of a conviction of being loved and/or a preoccupied infatuation; (2) the object of the patient's affection has done nothing to encourage the patient's attentions and/or has clearly and repeatedly rejected any continuing interest; (3) the love preoccupies the patient to the exclusion of other interests and produces a serious disruption of his or her life; (4) the patient is convinced that his or her feelings are legitimate and will eventually be proved by obtaining a loving relationship with the object of his or her affections; (5) the words and actions of the supposed lover are reinterpreted to maintain the belief in the imputed love; (6) there are repeated attempts to follow and approach the object of his or her affections, creating at the very least distress and embarrassment. These criteria quite concisely describe the 'typical' deluded erotomanic stalker. In their sample, five patients had primary erotomania while nine had delusions secondary to other illnesses such as schizophrenia, mania and organic psychosis. Mullen and Pathé reported that their patients had in nearly all cases followed their targets and pestered them with telephone calls and letters; most had made direct approaches. Four of the patients had pre-existing anti-social personality disorder and indications of childhood conduct disorder, while another had long-standing sadistic and necrophilic fantasies, and eight of the stalkers had been convicted of offences unrelated to the erotomanic preoccupations.

Another study by Mullen and Pathé (1994b) of forensic stalking patients, from a range of social and occupational backgrounds, indicated that from a sample of 16, nine had concomitant psychiatric disorders, and some had suffered erotomanic delusions for as long as 30 years.

The vast majority of stalkers are not mentally disordered, but are individuals who are intending either to hurt or to reunite with an ex-partner. Although they are by far the largest subgroup of stalkers, they are the ones about whom least is known in terms of the clinical literature. There may be a number of reasons for this, including the fact that they have the capacity to understand the consequences of their behaviour and are likely to cease the stalking behaviour once they come to the attention of the legal system. They tend not to be 'chronic' in the same sense as those with delusional disorders are, and because they are not psychiatrically ill as such, they are unlikely to come into contact with mental health services. Stories of celebrities and others stalked by

obsessed fans in the media usually relate to the delusional erotomaniac stalker rather than the non-disordered stalker, whose behaviour is much less likely to be an extreme and all-encompassing preoccupation of the person's life.

LEGAL RESPONSES TO STALKING

In response to the increase in stalking offences, many countries have now adopted anti-stalking laws, including the USA, Canada, Australia and the UK. In the USA, laws vary from state to state, but usually proscribe repeated following or harassing, along with a credible threat of harm, and say that the behaviour must be wilful and malicious and designed to evoke fear of death or serious bodily harm in the victim. The first laws in the USA appeared in 1990 in California, following the murder of actress Rebecca Schaeffer (in 1989), and the stabbing of actress Theresa Saldana, as well as the murders of several other women who had taken out restraining orders against their attackers prior to their murder. The first legislation in Britain with regards to stalking was the Protection from Harassment Act, which came into effect in March 1997. Under this Act the legal system can grant injunctions to restrain the defendant from further conduct amounting to harassment, with sentences of up to 5 years' imprisonment, or a fine, or both, if the restraining order is broken. The victim is also able to take civil proceedings against the defendant for an award of damages for the anxiety caused by the harassment.

Prior to the introduction of anti-stalking legislation, victims could only take action against the stalkers once they had been attacked, as the laws did not provide protection against harassment; therefore victims had to rely on pressing charges for other crimes such as trespass or assault (Dziegielewski and Roberts, 1995). The current laws mean that as soon as the stalker is arrested, the victim will get temporary relief from the harassment, but unfortunately the stalker is invariably released until the court case, often resulting in an even greater threat being posed to the victim due to anger from the stalker. Despite the presence of anti-stalking laws, Fritz (1995) has noted that restraining orders generally fail in keeping the stalker at a safe distance from the victim. Unfortunately, the laws only provide protection once restraining orders have been broken, by which time the victim may have suffered great distress.

Anti-stalking laws rely on restraining orders, fines and prison sentences to deter the stalker. However, issuing restraining orders may only serve to encourage the mentally ill stalker by inadvertently 'confirming' the validity of the relationship. Restraining orders have equally been criticized for their ineffectiveness due to lack of enforcement by the police (Fritz, 1995), and they have been described as 'paper shields' (Walker, 1993, as cited in Fritz, 1995). Stalkers who are suffering from delusional disorders are also unlikely to be deterred by the thought of punishment, as the penalties inflicted when orders are violated are often relatively light, and the stalkers are not generally aware

of, or concerned by, the consequences of their behaviour (Cullen-Anderson, 1993; Fritz, 1995). Anti-stalking laws are most likely to be effective in controlling those with borderline erotomania or non-delusional obsessions, as such individuals are more capable of understanding the personal costs and consequences of their behaviour (Cullen-Anderson, 1993). In many circumstances police are reluctant to arrest an alleged stalker due to a fear of arresting an innocent party and being sued for wrongful arrest (Dziegielewski and Roberts, 1995). In cases where the stalker and victim have been in a previous intimate relationship, police are often unwilling to intervene, as it is viewed as a domestic issue (Mullen and Pathé, 1994a).

The most successful statutes provide for immediate and effective protection for the victim, appropriate sanctions for the stalker, and appropriate clinical treatment aimed to prevent the behaviour recurring (Dziegielewski and Roberts, 1995). Fritz (1995) noted that the court can, in various jurisdictions, order counselling as a condition of bail, order mandatory mental health evaluations upon conviction, and impose counselling as part of the sentence, or as part of probation or parole. However, it would appear that these powers are rarely used. Fritz suggested that all statutes should include some provision for reviewing the mental health of all persons charged with stalking violations, and that the evaluation should outline whether the defendant is amenable to treatment, and whether the defendant poses a danger to himself or herself, or to others. This evaluation should occur early in the processing of an individual who violates anti-stalking laws.

RISK OF VIOLENCE

Rates of assault in cases of stalking have been estimated to range from 21% to 36% (Harmon *et al.*, 1995; Meloy and Gothard, 1995; Mullen and Pathé, 1994a) and rates of homicide are estimated at less than 2% (Meloy, 1998). As a consequence of the perceived threat of violence to the victim, research has expanded into the area of predicting dangerousness of stalkers.

Weapon use in stalking is rare, and is most often employed as a means of threatening, controlling and intimidating the victim. In cases where planned predatory violence has occurred it has been positively correlated with psychopathy (Meloy, 1988, 1995; Serin, 1991; Williamson, Hare and Wong, 1987, as cited in Meloy, 1998). Contrary to the common perception that the object of the stalker's affections is at greatest risk of violence, it has been shown that the person perceived to stand between the stalker and their loved one is most at risk; for instance, the victim's husband or partner (Harmon *et al.*, 1995; Leong, 1994; Meloy, 1992; Mullen and Pathé, 1994b). However, the victim also stands a risk of aggressive attack (Goldstein, 1987; Meloy, 1989).

Stalkers who have previously known their victims, or been involved in a

relationship with them, pose the greatest risk of aggression or violence (Hills and Taplin, 1998; Zona, Sharma *et al.*, 1993) and the more intimate the relationship had been in the past, the more likely the stalker is to have aggressive tendencies (Devenish-Meares, 1995, as cited in Hills and Taplin, 1998). Other factors have been identified as increasing the risk of violence, including multiple delusional objects and unrelated serious anti-social behaviour (Menzies *et al.*, 1995), and substance abuse or a diagnosis of a major mental disorder alongside such abuse. Individuals suffering from an Axis I disorder alone are less likely to be dangerous than multiply diagnosed persons (Harmon *et al.*, 1998). In the case of delusional stalkers, the tendency to assault is triggered when they perceive that their delusional beliefs are threatened (Taylor *et al.*, 1983).

An exceptionally important consideration to be made when assessing the risk of violence in stalkers, is that violence and danger have multifactorial origins (Menzies *et al.*, 1995). Cases must be handled on an individual basis, with specific factors that may trigger aggression in the individual stalker considered as a priority (Monahan and Steadman, 1994, as cited in Harmon *et al.*, 1998).

In summary, both the victim's partner and the victim herself or himself are at risk of violence at the hands of the stalker. The nature of the violence is most likely to be incidental physical aggression as opposed to predatory violence, and the use of weapons is highly unlikely. A previous intimate relationship with the stalker places the victim at higher risk of violence, as does the presence of a delusional disorder in the stalker.

IMPACT OF STALKING ON VICTIMS

The experience of stalking has been labelled psychological terrorism (Hall, 1998). Yet, despite the recent increase in research about stalkers there has been only a small amount of research on the impact of stalking on victims (Mullen and Pathé, 1994a). The data available reflect the fact that victims live in fear of the stalker, to the extent that many victims make very extreme adaptations to everyday life in order to escape. Some of the adaptations victims have made to their lives include changing their telephone number and removing the number from public access, and installing additional security devices to their property, as well as carrying personal security devices, taking self-defence classes, changing cars and moving house (Hays *et al.*, 1995). In the worst case scenarios, people have needed to change jobs, schools, and sometimes even their surname in order to escape the stalker. In several cases people have even emigrated (Pathé and Mullen, 1997).

It is not surprising then, that concerns have been expressed about the effect that a stalking episode may have on the mental health of the victim (Fritz,

1995; Meloy, 1996). In fact, Pathé and Mullen (1997) have provided evidence to confirm these concerns, with large numbers of victims reporting a deterioration in their physical and mental health after the onset of stalking. The research provided evidence to suggest that increased anxiety levels were experienced by 83% of victims, and up to 37% fulfilled the criteria for a diagnosis of post-traumatic stress disorder.

Not only is the victim affected by stalking, but the rest of his or her family is as well. Clearly, significant changes such as moving house and school, possible loss of employment, and increased social isolation as a result of living in fear, are factors that will affect the victim's entire family. Further to this, evidence shows that victims of previous stalking offences are more likely to become 'false victims' at a future date. Because the victim is hypersensitive about stalking behaviours, he or she can misconstrue as stalking the innocent behaviour of others, causing the victim to make false accusations (Pathé *et al.*, 1999).

TREATMENT OF STALKERS

Treatment and management of stalkers will vary according to whether or not they have a mental illness. There is little or no information available on the features and characteristics of non-mentally disordered stalkers and consequently we have little information about how best to manage them. It would seem that judicial management is at least partly effective because it would appear that those who can evaluate the potential consequences of engaging in stalking behaviour will in most cases desist from it. It is reasonable to assume that of those who do not heed the warnings of police and magistrates, a small percentage have a psychiatric illness, possibly a delusional disorder. A percentage may also have an anti-social personality disorder and scant regard for anything to do with 'the system'. Some will also no doubt have substance abuse disorders and as is the case with homicidal behaviour, one suspects that much stalking behaviour (and breaches of restraining orders) occurs in the context of intoxication, impaired judgement and increased aggression.

Treatment of the delusional stalker has generally been viewed as difficult and unlikely to produce benefit but Mullen and Pathé (1994b) opine that this pessimism is misplaced. They suggest that where the erotomaniac delusion occurs in the context of another psychiatric illness, then treatment of that illness will often treat the delusion. They suggest that in the 'pure' delusional syndromes, the use of anti-psychotics coupled with supportive, gently challenging psychotherapy can produce a gradual amelioration and even resolution of the delusions.

In terms of crisis management of stalking, Dziegielewski and Roberts (1995) have suggested a victim should immediately let a stalker know that he or she has no desire for a relationship. They suggest that this should be done

quickly and explicitly and in a direct manner, with as few words and with as little emotion as possible. The brevity and shallowness of affect allow for the least amount of misinterpretation by the stalker.

CONCLUSION

As is evident from the research literature, stalking can be enormously disruptive and distressing to victims. Ironically, the stalkers who form the largest group, usually disgruntled ex-partners, are also the ones about whom least is known. This may be because they are less likely to come into contact with mental health services and most likely to be managed through the threat of legal sanction. The more severely disturbed stalker usually has delusional erotomania. Although this latter group is much smaller, a description of it has been well documented in the clinical literature.

The majority of research to date in this area has involved non-random, 'convenience' samples from forensic settings (Meloy, 1996), resulting in an inability to make generalizations from the results. Consequently, little is known about non-delusional stalkers as they are less likely to be involved in criminal proceedings than delusional stalkers who will not be deterred by the law. To date there have been no controlled treatment studies. Uncontrolled studies suggest that treatment with anti-psychotics and confrontational psychotherapy have been reported to be effective in some, but not all, cases. Most of the published studies to date have involved single cases or small groups – a reflection of the rarity of delusional erotomania and the fact that non-disordered offenders are unlikely to come into contact with mental health services.

Stalking is a serious social and clinical problem by virtue of the intense damage done to victims. Further research into the psychodynamics of stalking, the management and treatment of offenders, risk assessment and the impact of anti-stalking legislation is urgently required.

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