

***SUMMARY
OF
Creating an Effective
Stalking Protocol***

Initial Protocol Developed by:
U.S. Department of Justice
Community Oriented Policing Services
Police Foundation
The National Center for Victims of Crime

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Creating an Effective Stalking Protocol: SUMMARY

Aims of protocol:

- Promotes a strategic approach that encourages early intervention
- Broadly defines the roles of officers in functional areas including patrol, 911 operators, detectives and community relations
- Presents guidelines for developing and participating in a coordinated community response stalking
- Encourages the use of collaborative problem-solving techniques
- Defines the appropriate threat assessment techniques

Why community policing?

“Traditional “reactive” policing is ill-suited to the challenges because it means waiting for something to happen and then responding. Where there is an ever-present risk that stalking will cross cover into physical violence and victim safety and prevention are the priorities, such an approach inevitably falls short. Stalking by its nature calls for early intervention, preventive action and proactive problem-solving. These are the hallmarks of community policing.”

Defining Stalking

“a crime involving repeat victimization of a targeted individual by the perpetrator—it is, by its very nature, a series of acts rather than a single incident. Second, it is partly defined by its impact on the victim.”

- stalking is mix of criminal and (in a different context) non-criminal behavior
- impact of stalking on the victim—the fear it induces—is a key component of its legal definition
- in the context of domestic violence, investigation of stalking incidents may be eclipsed by the cruder manifestations of abuse (physical violence)

Connection to Domestic Violence

- the majority of the victims know their stalkers
- while stalking does not always involve domestic violence, domestic violence almost invariably includes elements of stalking
- perpetrators who stalk former intimate partners are more likely to have physically or sexually assaulted them prior to termination of the relationship.
- in a high proportion of cases involving the murder or attempted murder of women, the perpetrator was shown to have stalked the victim beforehand
- seventy-six percent of femicide cases and eighty-five percent of attempted femicide cases there was at least one incident of stalking in the year prior to the commission of these crimes

Role of Police

- build a detailed picture of the stalker and his/her behavior
- understand the context in which the incidents are occurring
- assess the risks faced by the victim
- be able to propose meaningful safety precautions
- engage in pro-active problem-solving and early intervention

Victim Input

- actively engaging victims in the investigation and working out case strategies in partnership with them results in more appropriate and effective police responses
- evidence collection starts with the victims—only victims can detail the contacts made by the stalker in person, through voicemail, letters, faxes, email, or unwanted gifts. Only victims can describe the fear they feel as a consequence of the stalker's behavior

STALKING LAWS

- State statutes that may be applicable include:
 - Protective orders
 - Assault statutes
 - Threatening statutes
 - Theft statutes
 - Property crimes
 - Attempted murder
 - Kidnapping
 - Terrorism or terroristic threatening
 - Domestic violence
 - Sexual assault statutes
 - Hate crime statutes
 - Identity theft
 - Wiretapping and utility theft
- Federal statutes that may be applicable include:
 - Full Faith and Credit Act, 18 U.S.C. § 2265 (1994, 2000, 2005)
 - Interstate Travel to Commit Domestic Violence Act , 18 U.S.C. § 2261 (1994, 2000, 2005)
 - Interstate Stalking Punishment and Prevention Act, 18 U.S.C. § 2261 A (1996, 2000, 2005)
 - Interstate Violation of a Protective Order Act, 18 U.S.C. § 2262 (1994, 2000, 2005)
 - Federal Domestic Violence Firearm Prohibitions Act, 18 U.S.C. § 922 (g) (8)(1994, 1996)
 - Interstate Communications Act, 18 U.S.C. § 875 (c)

- Harassing Telephone Calls in Interstate Communications Act, 47 USC § 223 (a) (1) (c)

TYPES OF STALKERS

- **Simple Obsessional:** most common type of stalker, usually male, a former boss, ex-spouse, ex-lover , who begins stalking after relationship ends or there is a perception of mistreatment.
- **Love Obsessional:** Stranger to victim who begins a campaign of harassment to make victim aware of stalker.
- **Erotomania:** Usually female, believing falsely that the victim is in love with her and, but for some external reason, they would be together. Those around the victim may be the most at risk.
- **False Victimization Syndrome:** Rare situation where someone desires to be placed in role of victim, so constructs false tale of being stalked and may in fact be actual stalker.

HOW TO IDENTIFY STALKING

- Any time victim reports any type of harassing, threatening or menacing behavior: is this an isolated incident or repeated behavior?
- If victim expresses fear of suspect, these fears should be taken seriously and detailed inquiry made to determine the origin of the fear
- Ask if prior reports have been made
- Have friends or family members made reports
- **Any time suspect has engaged in more than one incident of any type of harassment, the case should be evaluated as a potential stalking case**
- Stalking can be an ingredient of the following crimes
 - Domestic violence
 - Vandalism or destruction of property
 - Wiretapping or utility theft
 - Burglary
 - Theft
 - Identity theft
 - Assault
 - Child abuse
 - Hate crimes
 - Harassment
 - threats

STALKING BEHAVIORS: *Stalking is a course of conduct or a pattern of behavior and is generally is an escalating series of actions and incidents.*

- Violation of protective order by visits to victim's home or any other location frequented by victim
- Telephone calls to victim
- Mail, cards, or gifts
- Trespassing
- Burglary of victim's home
- Following victim on foot or by vehicle
- Showing up at victim's place of employment
- Spying or monitoring victim
- Making slanderous statements about victim or false reports
- Delivery of objects intended to cause fear
- Threats made to victim (direct, veiled or conditional)
- Vandalism or theft, of victim's property or that of anyone who is helping her
- Vandalism affecting the security of victim's home
- Disabling victim's vehicles
- Disabling or tapping phone
- Intercepting mail by filing change of address forms
- Harassing or threatening by use of computers and internet

UNIQUE ASPECTS OF STALKING CASES

- Cases often appear insignificant to the officer in the beginning because they manifest as violations of protective orders or harassing phone calls which can be viewed as low priority
- Must question victim thoroughly
- For majority of victims, fear that something will happen is overwhelming and they never feel safe
- Stalkers may commit crimes in several jurisdictions
- Stalking cases can last for years with varying periods of increased activity
- Arrest and prosecution of stalker, or victim obtaining a protective order may not halt stalker's behavior; in fact, may aggravate situation

DISPATCH CONSIDERATIONS

- Use question prompts with callers to identify a stalking incident: Name, location, relationship of parties, current protective order, injuries, location of suspect, drugs/alcohol, weapons, children present?
- Code and prioritize stalking incidents
- Notice of an active stalking case should be included in data provided to dispatchers
- Check for previously reported incidents and protective orders

GRADUATED RESPONSE (see Appendix 1)

CAVEAT: this threat assessment has to be a constant element of stalking response by law enforcement, in that all stalking incidents are potentially life-threatening, as stalking behaviors are often escalating in severity and violence.

INVESTIGATION OF CASE

Basic questions:

- 1) Who is the suspect?
- 2) What risk of violence does the suspect pose to the victim?
- 3) How does the investigator manage the suspect and the dangers posed to the victim?

EVIDENCE COLLECTION

- Data on suspect: name, description, personal info, residence, place of work, mode of transportation, vehicle make and model, license plate
- Evidence from victim:
 - Letters or notes written by suspect (preserve DNA!)
 - Objects sent/left for victim
 - Any answering machine tapes (document and make a tape)
 - Telephone call records or phone trap information from phone company (*57 records)
 - Evidence of phone tapping by suspect
 - Any log/diary/journal of suspect contacts
- Police generated evidence:
 - Use search warrants for suspect's residence, vehicle and workplace
 - Any photos of victims (may have words/drawings on them)
 - Photographs, diagrams or drawings of victim's home or workplace
 - Writings, journals or diaries of suspect that describe his activities and thoughts/fantasies of victim
 - Books describing stalking techniques or having subject matter of stalking, violence or harassment
 - Keys that fit house or vehicle of victim
 - Any equipment that appears to have been used to stalk victim (cameras, binoculars, video recorders, computers, fax machines)
 - videotape or still photos of suspect
 - security videos
 - telephone records/seizure of cell phone of suspect
 - documentation of email sent to victim (phone call to internet provider to freeze account until search warrant is completed)

- certified copies of police reports from other jurisdictions, protective orders
- Further corroborating evidence by police:
 - photograph any objects that have been damaged
 - check for fingerprints or DNA on vandalized objects or objects sent/left for victim
 - advise victim to contact phone company to install phone trap
 - have victim set up answering machine, if one is not already in place
 - for any incidents of harassment, get corroboration by witnesses
 - research suspect's whereabouts to deter alibi defenses
 - SURVEILLANCE of suspect if case is serious
- Evidence to prove victim's state of mind and FEAR of suspect (since stalking requires fear of injury, etc)
 - Has the victim moved to new location?
 - Obtained a new phone number?
 - Put a tap on the phone?
 - Told co-workers, friends or family about the harassment?
 - Told building security at work, home or school?
 - Given photos of the suspect to security?
 - Asked to be escorted to the parking lot and work site?
 - Changed work schedule or route to work?
 - Stopped visiting places previously frequented?
 - Taken self-defense courses?
 - Bought pepper spray?
 - Purchased a gun?
 - Installed an alarm system?
 - Bought a guard dog?

STALKER ASSESSMENT

- Interview of VICTIM about suspect should cover the following:
 - Prior threats made to victim
 - Actual pursuit or following of victim
 - History of violence against victim or others
 - Information regarding suspect's tendency towards emotional outburst or rage
 - Prior mental illness or substance abuse problems
 - Possession of or fascination with weapons
 - History of protective order or violations
 - Annoying phone calls made by suspect to victim or victim's friends/family
 - Any unsolicited correspondence from suspect to victim
 - Threats of murder or suicide

- Any acts of vandalism or arson by suspect
- Is the victim in fear?

THREAT ASSESSMENT :*PROACTIVE/ AVOID HARM TO VICTIM*

- Interview multiple sources about the suspect (co-workers, etc)
- Is the victim known to suspect? Is victim vulnerable to attack? Have resources for physical security? Is the victim afraid? Is victim able to convey a clear and consistent “I want no contact with you” message to the suspect?
- Will the suspect attack? **RISK FACTORS**
 - Present or past threats to kill
 - Use of weapons
 - Degree of obsession/jealously/possessiveness towards victim
 - Violations of protective order with little concern for consequences of jail/arrest
 - Past incidents of violence
 - Present or past threats of suicide
 - Access to victim and victim’s family
 - Hostage taking
 - Depression
 - Other mental illness
 - Drug or alcohol abuse
 - History of prior stalking of this victim or other victims
- Threat assessment
 - Does the victim believe the threat?
 - Was it made in presence of others?
 - Is the threat detailed and specific?
 - Is it consistent with the suspect’s past behavior?
 - Does the stalker have the means to carry it out?
 - Have there been rehearsals of the act that is being threatened?
 - Does the threat extend to others?
 - Does it involve murder, suicide or both?
- History of violence:
 - Was the suspect abusive to former partners or family?
 - Has the physical violence increased over the past year?
 - Did the violence involve choking or attempted strangulation or head injury?
 - Does the suspect have a history of violence towards others? A history of sexual assault behavior? Abused animals?

- Destroyed property, including personal property?
- Weapons
 - Have access to weapons? Keep weapons in more than one place? Is trained in use of weapons?
 - Have illegal or exotic weapons?
 - Is having and being willing to use weapons part of the stalker's self-image?
 - Has past violence included show of weapons?
 - Does the victim possess weapons? Is victim trained to use weapons?
- Escalation of stalking behavior
 - Does the offender enlist others to help monitor victim?
 - Made threats to those around victim?
 - Spied on or stalked victim?
 - Made unwanted attempts to communicate? (including cards with messages such as "I have made a mistake. I want to work things out. I love you.")

ADVISING THE VICTIM ABOUT RISK

- advise victim about protective orders
- provide referrals to victim service programs
- provide the victim in writing with the responding officer's name, badge number, the incident report number and a number for the victim to call for information about the case
- offer to have police conduct a walk-through security check of the residence and recommend measures to ensure security
- provide information about safety planning
- help victim leave residence
- be honest with victim about any information that suggests that suspect is a real threat to her/him
- **advise victim to stop all contact with the stalker**
- **don't let third parties other than law enforcement intervene with the stalker**
- **consider taking out protective order**
- keep a log of all stalker contacts (see Appendix 2)
- keep full tank of gas
- inform security guards and neighbors of stalker; give photo of stalker
- change phone, move to new address, avoid places frequented by stalkers
- install phone trap, block emails

SUSPECT INTERVIEWS

Should only be conducted in coordination with victim and with appropriate safety planning for victim given that some stalkers will be provoked into more extreme action.

- Do background checks and be aware that suspect may try to deny or rationalize behavior and try to outsmart law enforcement
- Interview people who may provide relevant information about stalker: family, friends, employers, school officials, child protective services
- Have a strategy prior to interviewing suspect:
 - Interview suspect in pairs
 - Be aware of safety
 - Document the details of the interview
 - Provide the suspect a chance to view how his/her actions as misunderstood by the victim and how others could have misunderstood his/her intentions
 - Ask about other potential victims or crimes
 - Videotape interview
- Objectives of suspect's interview:
 - determine criminal activity
 - determine current state of mind
 - attempt to assess threat
 - does the suspect have other victims in mind?
 - Encourage the suspect to change his/her behavior
 - **Advise the suspect that the behavior is unwanted, unacceptable and must stop immediately**

STALKER INTERVENTIONS

Some stalkers may cease behaviors when warned by police, but intervention may trigger more problems in other cases. Each of the following options should be assessed for safety with victim. Interventions should aim to establish that a) stalkers are strictly and solely responsible for their own behavior; b) stalking is a serious matter and that stalkers should be under a "social hold"; c) the victim receives restitution; d) offenders learn about the dynamics of stalking and domestic violence and change behaviors through stalkers/batterers intervention programs.

- contact/warning by law enforcement –*most effective when the behavior does not yet constitute a full violation of law*
- counter-stalking ("stalk the stalker") during pre-trial and post-conviction: *may use new technology, including GPS*
- protective order on behalf of victim and witnesses
- arrest and detention of suspect for victim-directed criminal conduct

- arrest and detention for other criminal conduct (such as drugs, weapon charges)
- revocation of weapon permits/ weapon confiscation (through search warrant, court order, condition of bail or through a protective order)
- bail and other conditions of pre-trial release
- criminal convictions
- jail, fines and restitution
- suspended sentences
- supervised probation
- house arrest
- psychiatric evaluation and hospitalization, mental health referral, drug and alcoholism treatment
- batterer's intervention programs

ARREST, CHARGING AND DETENTION

- Officers should ARREST and detain a person when:
 - there is probable cause to believe that the suspect committed a stalking offense or a stalking-related offense (for example, second or third violation of a protective order in the context of a stalking/domestic violence relationship) OR
 - there is probable cause to believe that the offender violated an anti-stalking protection/restraining order

NOTE: probable cause may be obtained by a written statement from a person alleging that an alleged offender has committed a stalking-related offense

- When an officer determines there is probable cause and the suspect has left the scene, the officer should promptly seek a warrant for the arrest of the person
- The officer should notify victim of warrant and of steps the victim should take should the victim know of the suspect's whereabouts
- The officer should consult with the prosecutor's office on appropriate charging decisions, including whether the suspect should be arrested on a related crime rather than waiting for a course of conduct when the victim is at high risk.
- Based on threat assessment, request for no bail, or if suspect is released, for supervised release and frequent monitoring of suspect when out on bail.

REPORTING AND FILING PROCEDURES

Coordination and access to records is key to preventing further harm from stalking.

- Officers should make written report for any incident of harassment, threat, stalking, and violation of a protective order or for any other offense in course of conduct whether or not an arrest has been made.
- Systems should code stalking reports
- Systems should enable tracking of stalking incidents and cases so that locations are flagged and prior or active case information is available to dispatch and responding officer
- Record systems should share regional and national data to support enforcement of protective orders and gun controls
- To manage cases in multiple jurisdictions, assign a “key case number” to the victim that a victim or friend or family member must give to each officer investigating to ensure that information does not fall through the cracks reporting and filing procedures

TRAINING

Should be conducted for 911 operators and dispatchers, patrol officers, detectives, supervisory personnel, victim advocates and non-emergency call takers.

COMMUNITY COLLABORATION AND MODEL PROGRAMS (see Appendices 3 and 4)