

RESPONDING TO STALKING

A GUIDE FOR SUPERVISED VISITATION
AND **SAFE EXCHANGE PROGRAMS**



Stalking
resource center

A PROGRAM OF

THE NATIONAL CENTER FOR
Victims of Crime

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The **Stalking Resource Center**, a program of the National Center for Victims of Crime, works to enhance the ability of professionals, organizations, and systems to effectively respond to stalking. The Stalking Resource Center envisions a future in which the criminal justice system and its many allied community partners will have the best tools to effectively collaborate and respond to stalking, improve victim safety and well-being, and hold offenders accountable. For more information, visit www.VictimsOfCrime.org/src.

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Since its inception in 1995, the **Office on Violence Against Women** of the U.S. Department of Justice has handled the Department's legal and policy issues regarding violence against women, coordinated Departmental efforts, provided national and international leadership, received international visitors interested in learning about the federal government's role in addressing violence against women, and responded to requests for information regarding violence against women. For more information, visit www.ovw.usdoj.gov.

Introduction

Stalking is a serious and dangerous crime; yet, it is also often misunderstood, minimized, or overlooked entirely. Evidence of stalking—harassing phone calls or text messages, showing up at a victims' school or work uninvited—is sometimes interpreted as a pattern of domestic violence, rather than a distinct crime that should be identified and assessed. Recognizing stalking and its intersection with domestic violence is critical for evaluating the risk of further violence and lethality.

Over 7.5 million people are stalked in one year in the United States, and most commonly, the stalker is a current or former intimate partner.¹ Abusers stalk for many reasons: to track, monitor, gather information, harass, and intimidate; and to attempt to maintain or regain control over the victim. These offenders will frequently use any means available, including a wide variety of technologies.

Because victims can be stalked as they come and go from the supervised visitation center, during the visitation or exchange, and in between visits, it is critical that Supervised Visitation/Safe Exchange program staff recognize and effectively respond to stalking. This booklet will address the definition and

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¹ Matthew Breiding et al., "Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization—National Intimate Partner and Sexual Violence Survey, United States, 2011," *Centers for Disease Control Morbidity and Mortality Weekly Report Surveillance Summaries* 63, no. 8 (2014): 7.

dynamics of stalking, the intersection of stalking and domestic violence, the intersection of stalking and supervised visitation and safe exchange, safety considerations, and policies and procedures, and will also provide additional resources.

Stalking: Definition and Dynamics

Stalking is a crime under federal law, in all 50 states and every U.S. territory, in the District of Columbia, and under many Tribal codes.² While each jurisdiction has its own statutory definition of stalking, we can commonly define stalking as a pattern of behavior directed toward a specific person that would cause a reasonable person to feel fear.

Stalkers may use any method available to monitor, track, and harass the victim. Most offenders use multiple means of approach,³ meaning they will use a variety of tactics to stalk the victim, including:

- Repeatedly calling, including hang-ups
- Sending unwanted texts, emails, gifts, or letters
- Watching or following from a distance or spying on the victim using a listening device, camera, or global positioning system (GPS)
- Damaging the victim's home, car, or other property
- Driving by or hanging out at the victim's home, school, or work
- Threatening to hurt the victim or the victim's family, friends, or pets

- Contacting the victim's friends, family, neighbors, or co-workers

Stalkers may exploit a variety of technology, including cell phones, GPS devices, spyware, cameras, spoofing, email, and social media to harass, track, intimidate, and threaten. Often these technologies are used without the victim's awareness. For instance, stalkers can remotely download spyware onto a victim's computer and use this software to access files; view web histories; read emails, chats, and instant messages; view social media; and control operations including turning the computer on/off and activating the computer's camera. Stalkers may use children to surreptitiously deliver or install these technologies without the child or non-offending parent's knowledge. They may also give the child devices that have monitoring or tracking capabilities, such as providing the child with a cellphone that has a tracking app installed or a watch that is also a GPS tracker.

The effects of stalking on victims vary. Many victims minimize the stalking behaviors, underestimating the risk the offender poses, or believe that in time the behavior will simply stop. Others may experience increased anxiety or become hypervigilant, always on guard. The prevalence of anxiety, insomnia, social dysfunction, and severe depression is much higher among stalking victims than the general population.⁴ Changes in the victim's or children's behavior, such as increased anxiety or nervousness, should prompt staff to ask about the possibility of stalking occurring.

² To view your jurisdiction's stalking statute, visit <http://victims-of-crime.org/our-programs/stalking-resource-center/stalking-laws/criminal-stalking-laws-by-state>.

³ Mohandie et al., "The RECON Typology of Stalking," *Journal of Forensic Sciences* 51, no. 1 (2006): 150.

⁴ E. Blaauw et al., "The Toll of Stalking: The Relationship Between Features of Stalking and Psychopathology of Victims," (paper presented at the *Stalking: Criminal Justice Responses Conference* convened by the Australian Institute of Criminology and held in Sydney 7-8 December 2000).

Intersection of Stalking and Domestic Violence

There is a strong correlation between domestic violence and stalking. More than 80 percent of stalking victims who had been stalked by their current or former intimate partner reported that they had also been physically assaulted by that partner, and 31 percent were also sexually assaulted by that partner.⁵ Research has repeatedly found that intimate partner stalkers are the most dangerous stalkers—they are more likely to: physically approach the victim, interfere with or threaten the victim, use weapons, and re-offend, and their behaviors are more likely to escalate quickly.⁶

Intimate partner stalking victims face increased risk of stalking violence and lethality. More than three-quarters of women killed by a current or former intimate partner experienced at least one episode of stalking within 12 months prior to the murder.⁷

For women who are stalked by a current or former intimate partner experience, the majority are stalked prior to the end of the relationship—21 percent reported the stalking occurred before the relationship ended, 43 percent said it occurred after the relationship ended, and 36 percent said it occurred both before and after the relationship ended. Thus, contrary to popular opinion, women are often stalked by intimate partners while the relationship is ongoing.⁸ An abuser's desire for control often intensifies as he senses the relationship slipping away.⁹

Even those abusers who accept the end of the relationship can still be dangerous to their victims and children because of their determination to maintain control over their children and to punish their victims for perceived transgressions.¹⁰ It is critical that screening for stalking occurs upon intake to the program, as well as throughout the entire time the victim is accessing services.

Intersection of Stalking and Supervised Visitation and Safe Exchange

Victims of abuse using supervised visitation and safe exchange services are at additional risk of stalking, so it is important for staff to assess for stalking during every check-in process. Abusers who had not engaged in stalking behavior during the relationship may now begin to do so. And because it is a new tactic, the victim may not recognize that s/he is now being stalked. Continually reassessing when stalking is not occurring is nearly as important as recognizing when it is.

Supervised visitation may increase the risk of stalking because the abuser now has direct access to the victim. Visitation and exchange provide an offender with a time and place where they know the victim will be, allowing the offender to engage in further stalking behavior. The offender can have a third party monitor the victim's arrival and departure or place a GPS device on the victim's car. Exchanges give the offender direct access to the victim and the children. The offender may give the children gifts that have a hidden GPS device or camera. The offender may use the children's cell phone to download spyware.

⁵ Patricia Tjaden and Nancy Thoennes, "Stalking in America: Findings from the National Violence Against Women Survey," National Institute for Justice Centers for Disease Control *Research in Brief* (1998): 2.

⁶ Mohandie et al., "The RECON Typology of Stalking," *Journal of Forensic Sciences* 51, no. 1 (2006): 151.

⁷ McFarlane et al., "Stalking and Intimate Partner Femicide," *Homicide Studies* 3, no. 4 (1999): 308.

⁸ Tjaden and Thoennes, "National Violence Against Women Survey," National Institute for Justice Centers for Disease Control *Research in Brief* (1998): 6.

⁹ Lundy Bancroft, "Understanding the Batterer in Custody and Visitation Disputes," (1998) accessed December 8, 2014, <http://www.lundybancroft.com>.

¹⁰ Ibid.

New staff should be trained to understand and recognize stalking behaviors and, especially, how technology can be used to stalk. Vigilance and preventative measures may, at first, seem to run counter to the commitment of many programs to remain “neutral” in the delivery of services. But, the notion of neutrality as it is commonly practiced can unintentionally facilitate stalking behaviors. Allowing offenders unchallenged access to victims, their children, and technology compromises accountability to those victims and their children.¹¹ Being aware and alerted to the dangers of stalking empowers program staff and facilitates the delivery of safe exchanges.

While victims using visitation and exchange services may face some common risks, it is critical that program responses are tailored to each client, based on whether the client is being stalked and on which tactics the offender is using.

How to Recognize/Identify Stalking

Listen for signs of stalking. Here are some examples of what staff may learn or hear from the victim:

- “My ex keeps showing up wherever I am. Places I can’t figure out how they know I will be there. S/he claims it’s a coincidence, but it happens too often to simply be a coincidence.”

The stalker may have placed a GPS tracking device on the victim’s car or is tracking the victim via a location-based application hidden on the victim’s or child’s cell phone.

Program staff may want to inquire whether the offender has had access to the victim’s car or phone, or if the victim or child is posting plans on a social media site.

- “S/he knows things that they shouldn’t. S/he repeated back to me a private conversation I had with someone. There is no way they should have known what we talked about.”

The abuser may be listening in via cell phone spyware or be using a camera or listening device concealed in a gift.

Program staff may want to inquire whether the offender has had access to the victim’s or child’s cell phone or ask about any recent gifts given to the child.

- “S/he asked our son about some of the websites he had been on, taking him totally by surprise. He doesn’t have physical access to our son’s computer, so how could he have known about these sites?”

The abuser may have be using computer spyware to track what the victim is doing online. The spyware can be installed remotely through an email attachment or e-greeting.

Program staff may want to inquire whether the offender has had access to the victim’s or child’s computer or if they have received emails with attachments or e-greetings from the offender or from persons s/he does not know.

¹¹ Martha McHuron and Ellen Pence, “On Safety’s Side: Protecting those Vulnerable to Violence: Challenges to Notions of Neutrality in Supervised Visitation Centers,” *Technical Assistance on Supervised Visitation and Safe Exchange*, (MN: Praxis International, 2008), 3.

Policy and Procedures: Safety Considerations

Each family that uses the visitation program or exchange services has different challenges and risks. Rather than using a prescriptive checklist of safety considerations, programs are encouraged to critically assess each family's situation through the lens of safety.

The supervised visitation program guidelines provide that all staff receive training on domestic violence. Given the risk of stalking, especially with the use of technology, new staff should also receive information and training on stalking and the implications for their work. Training should include available resources such as webinars and online training, and experienced staff may be able to offer additional support and guidance.

Current policies and practices should be assessed to determine whether they consider the risk of stalking. For example, for each policy and practice the program should ask:

- How will this *policy* affect a victim/survivor of abuse who is being stalked?
- How will this *practice* support a victim/survivor of abuse who is being stalked?
- How might this policy or practice *interrupt* the stalking behavior?

For instance, many supervised visitation programs have staggered arrival policies so that the custodial and non-custodial parents do not have contact with each other. Yet, even with this safety measure in place, there is a potential risk of stalking. The stalking parent knows when the victim will be at the center and can use a proxy stalker to place a GPS device on the victim's

car or arrive early and linger near the center to see if the victim arrives with others. To account for these risks, the program could schedule more time between arrivals or center staff could meet the victim in the parking lot. Staff may encourage the victim to have another person transport the children to the center or to work with law enforcement to explore additional safety options. The visitation center should create safety measures around identified risks. For instance, staff may advise the victim to park close to security or in a spot monitored by a security camera, or may even reposition cameras to better monitor a broader area.

Many programs gather information from the families during intake and orientation. The amount of information collected can vary from center to center, and some programs may gather only the most essential data. Yet, a baseline is needed to ensure that program staff are informed of potential safety risks. The type of information gathered, and how much, could play an important role in how well staff are prepared to consider and respond to the threat of stalking.

When developing and implementing new policies, flexibility, transparency, and clear communication can help program staff and families understand how and why the policy is in place. Providing an explanation of policies accomplishes several things:

- 1) It will be *easier for staff* to understand and explain to participants the reason for a particular policy;
- 2) It will be *easier for parents* to understand and remember the policies;
- 3) It will provide parents with an understanding that the policy is for the safety and *well-being of everyone* in their family; there is more behind the policy than just following center rules; and

- 4) It can influence the *long-term safety* and post-separation skills of every family using your services.¹²

Transparency encourages program staff to be clear with victims about expectations, especially with regard to safety. If an offender is engaging in inappropriate behaviors, the victim or the program can and should seek court intervention to amend the terms of visitation/exchange.

Assessing for Stalking in Supervised Visitation and Safe Exchange Services

An effective response to stalking requires that centers assess how stalking could affect their policies and practices (the macro level) as well as explore individualized interventions with victims and their children (the micro level). Minimally, programs should be reviewing their policies and practices in relation to:

- Does *arriving and departing* from the Center pose a stalking risk?
- Does the Center *parking lot* pose a stalking risk?
- Does the use of *technology* pose a risk?
 - Computers (survivor's or child's)
 - Cell phones (survivor's or child's)
 - GPS
 - Cameras
 - Other
- Is the engagement of a *third party to stalk* a risk before, during, or after supervised visitation or exchange?

- Is the use of *children to stalk* or monitor a risk during supervised visitation or safe exchanges?
- Does the exchange *location* pose a stalking risk?

These same questions could be asked when working with individual victims to identify their specific risk factors and develop safety strategies. Centers can use the following chart as a tool to explore practical responses to stalking on a programmatic and client level. It is not intended to be another completed with a victim or part of an intake packet. Rather, it should guide a conversation in your programs and with clients that ultimately leads to enhanced safety. Stalking is an ongoing risk for victims, their children, and program staff. Enhancing staff's ability to effectively recognize and respond to stalking benefits everyone, and ultimately, can save lives.

¹² B. McNamara and J. Rose, "Policy Exploration Road Map: Developing Supervised Visitation and Safe Exchange Policies," (*Inspire Action for Social Change*, 2014), 2-3.

Assessing for Stalking in Supervised Visitation and Safe Exchange Services

Areas of consideration	No, Yes, or Maybe	If yes or maybe: – How does this pose a risk? – What are the unique needs of this family?	Possible center responses
Does arriving or departing from the Center pose a stalking risk?			
Does the Center parking lot pose a stalking risk?			

Does the use of technology pose a risk?

- Computers (survivor's or child's)
- Cell phones (survivor's or child's)
- GPS
- Cameras
- Other

Is the engagement of a third party to stalk a risk before, during, or after supervised visitation or exchange?

Is the use of children to stalk/monitor a risk during supervised visitation or safe exchanges?

Does the exchange location pose a stalking risk?

For more information on stalking or to request training, please contact:

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