

JUDICIAL OFFICER BENCH CARD: STALKING

SPARC STALKING PREVENTION, AWARENESS, AND RESOURCE CENTER

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This bench card is designed for use in conjunction with the more comprehensive [Judicial Officer Guide for Responding to Stalking](#) and as a reference when considering the role of stalking in Federal courts; Tribal courts; immigration courts; state family, juvenile, civil, and criminal court cases; and administrative law adjudications including immigration and Equal Employment Opportunity Commission adjudications. Judicial officers are strongly encouraged to read [the full Guide](#) prior to using this bench card during proceedings.

This bench card serves as a reference for judicial officers on stalking behaviors and how these behaviors relate to other crimes, to be better able to identify stalking in any type of case. Judicial officers are encouraged to make specific findings of fact regarding stalking and issue detailed orders designed to stop stalking behaviors, hold offenders accountable, and prevent dangerous consequences.

CONSIDERING/IDENTIFYING STALKING



Stalking can appear in any type of case and it is particularly important to look for indicators when the parties know one another and/or there is evidence of ongoing harmful contact. Stalking can occur in the context of other crimes and other crimes can occur in the context of stalking.



Stalking should be considered in protection order and domestic violence hearings because intimate partner stalkers are more likely (than stalkers with other relationships to their victims) to physically approach the victim; be interfering, insulting, and threatening; use weapons; escalate behaviors quickly; and re-offend.







Technology-facilitated stalking (cyber-stalking) needs particular consideration and concern in stalking cases. Perpetrators of stalking use and misuse technology to facilitate their stalking. They use computers, social media, mobile phones, and other devices in their stalking behaviors to monitor, contact, control, and isolate their victims, as well as to damage their victims' credibility or reputation. The impact of technology-facilitated stalking is vast and may be just as threatening and fear-inducing as in-person stalking. Victims of technology-facilitated stalking often report higher levels of fear than individuals who experience in-person stalkingⁱ

ASSESSING STALKING

It is extremely important to note that victims of stalking often do not identify their victimization as stalking or harassment and are unlikely to use those words to describe what they're experiencing; instead, they often describe the stalking behaviors and impacts.ⁱⁱ As such, it is important to use a framework for assessing the presence of stalking rather than rely on victims to identify and name it. Stalkers often try to argue that their behavior is based on a legitimate purpose (to see the kids, to share the car, to drive down the street, etc.), is a coincidence, or is not itself criminal behavior; however, if their behavior is a pattern that shows the intent to survey, invade, intimidate, or interfere with/sabotage the victim using the behavior, then their actions legally meet the evidence-based definition of stalking. Stalking can be done in-person, using technology, or both.

SLII STALKING TACTICS

Dr. TK Logan's multi-dimensional framework, focused on **S**urveillance, **L**ife Invasion, **I**ntimidation, and **I**nterference through sabotage or attack (SLII) tactics, provides a research-informed approach to assessing stalking behaviors in judicial proceedings.ⁱⁱⁱ The examples of SLII tactics below pertain to all types of victim-stalker relationships.

 <h3>SURVEILLANCE</h3> <p>Follow, watch, monitor, wait for, show up uninvited, track using software or devices, gather information, proxy stalking (using a third party to stalk and report on the victim)</p>	 <h3>LIFE INVASION</h3> <p>Unwanted/nonconsensual contact and communication, show up without warning, property invasion, public humiliation, harass friends/family</p>
 <h3>INTIMIDATION</h3> <p>Explicit and implicit threats, property damage, symbolic violence, forced confrontations, threat to or actually harm self, threat to harm others, deportation threats</p>	 <h3>INTERFERENCE THROUGH SABOTAGE OR ATTACK</h3> <p>Financial and/or work sabotage, ruin reputation, custody interference, keep victim from leaving, road rage, attack friends/family/children/pets, physical or sexual attack</p>

DURATION, INTENSITY, FREQUENCY

The framework also explains that stalkers use SLII tactics in a dynamic way that can be measured by the *Duration*, *Intensity*, and *Frequency* of implementation.

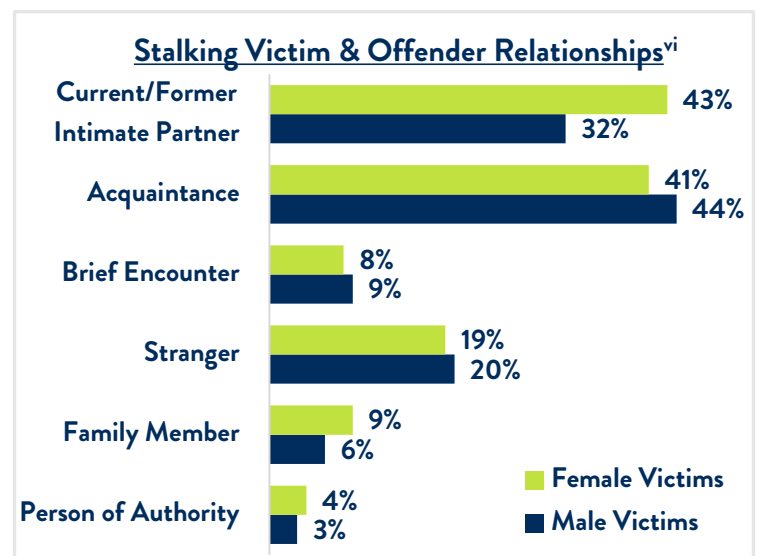
- **Duration** is how long the tactics have gone on — when the stalking started and how long it has lasted.
- **Intensity** is the number of different tactics and locations that the stalker employs.
- **Frequency** is how often the stalker makes their presence known — how often the stalker approaches, confronts, and/or interferes in the victim's life.

Whether the offender exhibits one continuous tactic or a variety of tactics, the longer the duration and greater the intensity and frequency of any stalking tactics, the greater the risk of harm, persistence, escalation, and life sabotage.^{iv} Data show greater victim psychological distress in response to greater frequency of stalking and to any changes in stalker behavior, and escalation is known to lead to greater violence.^v

ESTABLISHING FEAR

In the vast majority of stalking situations, the stalker knows their victim^{vi} and so may have unique and intimate knowledge about their victim's vulnerabilities and what would scare them. **Stalking behaviors often include a specific meaning only understood by the victim, and may be intended to seem benign to anyone other than the victim.** When the offender targets a victim with specific incidents or tactics that the victim finds frightening, this may show the offender's intent to frighten them.

Victims react to stalkers in a variety of ways, and fear is often masked by other emotions: anger, frustration, hopelessness, despair, or apathy. Some may minimize and dismiss their stalking as "no big deal."



It is helpful to consider how victims change their behaviors to cope with the stalking. At a minimum, these are signs that the stalker’s behaviors are unwanted and the victim is resisting the contact. Evidence and corroboration of the victim’s fear and resistance can be found by considering changes and accommodations the victim has made to their life.

Some victims continue to have contact and engage with the stalker as a safety strategy, to gather information, assess the offender’s state of mind, and negotiate their safety. Contact on the part of the victim does not mean that the victim is not in fear or that the stalker’s behaviors are wanted. In fact, it may indicate that the victim is very afraid of the offender and is contacting the offender to be able to assess and plan the steps they will take to increase safety for themselves and others.

RISK FACTORS

When reviewing a stalking case, there are 14 factors to consider in assessing the risk posed to victims. Evidence-based research has found that the presence of or increase in any of the factors contributes to increased risk of current and future harm to the stalking victim.^{vii} (Note that there may be additional risk factors unique to a case that do not fit neatly into one of these categories but that should still be considered.)

BIG PICTURE 	STALKER MINDSET 	STALKER HISTORY 	VICTIM VULNERABILITY 
<ol style="list-style-type: none"> 1 Course of conduct (duration, intensity, frequency) 2 Escalation of behaviors over time, events or dates that may trigger an escalation 3 Nature, specificity, and context of threats 4 Previous threat follow-through, ability to carry out threats 	<ol style="list-style-type: none"> 5 History of abuse to victim (control, jealousy, violence) 6 History of violence and abuse to others 7 Access to and previous use of guns and weapons, any prior training in using weapons 8 Criminal history, mental health, substance abuse 	<ol style="list-style-type: none"> 9 Victim’s resistance and stalker’s persistence 10 Stalker’s motive and demonstrated lack of concern for consequences 11 Proxy stalking (enlisting others to stalk the victim) 	<ol style="list-style-type: none"> 12 Victim’s fear, whether the victim’s life and environment provide opportunity for stalking or not, the impact of the stalking on the victim’s life 13 Stalker’s use of and expertise with technology 14 Victim vulnerability

The Stalking and Harassment Assessment and Risk Profile (SHARP) is a web-based tool that provides a situational risk profile (available at www.CoerciveControl.org). This risk assessment is useful for several considerations: pretrial detention and bail conditions, which cases may demand greater attention, and sentencing and post-sentencing (e.g., probation or parole).

COURT ORDERS AND FINDINGS

- **Courts can specifically design court orders containing no-contact provisions, mitigating direct contact between the victim and offender, and utilizing other available safety measures.** Providing qualified interpreters in proceedings involving stalking and translating court orders when the offender and/or the victim are limited English proficient promotes offender compliance and victim safety.
- Identifying and distinguishing stalking from other forms of intimate partner violence occurring in a case enhances the effectiveness of court orders in protection order and domestic violence related custody and divorce cases. Victims cannot violate their own protection orders because the orders circumscribe only the offender’s behavior, not the victim’s.
- **Detailed findings regarding the stalking behaviors and their frequency, duration, and intensity also help appraise future judicial officers** who hear actions involving the same parties of the severity of the abuse occurring in the case.

PROTECTION ORDERS & BAIL CONDITIONS

Consider orally informing the offender of conditions and prohibitions for protection orders and bail in court (particularly the prohibition from possessing firearms, ammunition, and related permits and their associated verifiable surrender), as well as that violations can result in revocations of bail, probation, etc. and may be the basis for (additional) criminal charges. Use qualified interpreters in any criminal, family, or civil case involving people with limited English proficiency. Having court orders translated into the languages spoken by the offender and/or victim promotes greater compliance and victim safety.

When stalking behaviors are present, both protection orders and bail conditions should:



Include no-contact provisions that carefully specify prohibitions on indirect as well as direct contact, including contact through the use of technology and social media, and any other conditions (e.g., GPS monitoring or restrictions on use of digital devices) that will help to ensure the victim's safety.

Specify that "no contact" includes indirect contact and contact through third parties, as well as social media posts about, or directed toward, the victim.



Prohibit contact with members of the victim's family or household and, in appropriate cases, the victim's employer and named friends of the victim.

Prohibit the offender from monitoring, tracking, or surveilling the victim, by use of technology or otherwise.



List any locations frequented by the victim and specify the distance that the stalking perpetrator must stay away from these locations.

Address when the offender and victim regularly frequent the same places (e.g., a church or a gym) — the order should bar the offender from those locations completely except during times specified in the court order (designing the order so that the victim is safe to be at the location except during the hours that the offender is authorized to be there).



Specify that if the offender arrives at a public location and the victim is present, the offender must promptly depart.

Prohibit the offender from possessing firearms, ammunition, and firearms permits; require verifiable surrender of any of these that the offender currently possesses, and orally inform the offender of this prohibition in court.



Require the Prosecuting Attorney in a criminal case be informed of any attempt made by the Defendant to purchase a weapon that is rejected by a Federal database.

Require electronic monitoring of the offender (e.g., ankle bracelet) and regular in-person reporting to probation.



Prohibit the use of alcohol or recreational drugs.

EXAMPLE OF STALKING FINDINGS

Petitioner, *name*, is a victim of stalking. Respondent, *name*, has utilized [insert stalking tactics categories, i.e., Surveillance, Life Invasion, Intimidation, Interference through sabotage or attack] through the following behaviors [list the behaviors that fall under the respective category]. These behaviors are found to be stalking tactics. Respondent, *name*, has executed these behaviors that display a pattern of stalking [name the pattern; include frequency, duration, and intensity]. Respondent's pattern of behavior escalated and resulted in greater threat and/or violence against Petitioner, *name*. Respondent's actions constitute stalking [insert citation to state law definition]. **HAVING MADE THESE FINDINGS...** [Insert detailed specific orders to stop that specific behavior].

ENDNOTES

- ⁱ Fissel, E. R., & Reyns, B. W. (2020). The Aftermath of Cyberstalking: School, Work, Social, and Health Costs of Victimization. *American Journal of Criminal Justice*, 45(1), 70-87.
- ⁱⁱ Jordan, C. E., Wilcox, P., & Pritchard, A. J. (2007). Stalking acknowledgement and reporting among college women experiencing intrusive behaviors: Implications for the emergence of a “classic stalking case”. *Journal of Criminal Justice*, 35(5), 556-569.
- ⁱⁱⁱ Logan, TK & Walker, R. (2017). Stalking: A Multi-dimensional Framework for Assessment and Safety Planning. *Trauma, Violence and Abuse*, 18(2), 200-222.
- ^{iv} Id.
- ^v Id.
- ^{vi} Smith, S.G., Basile, K.C., & Kresnow, M. (2022). The National Intimate Partner and Sexual Violence Survey (NISVS): 2016/2017 Report on Stalking. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.
- ^{vii} Logan, TK & Walker, R. (2017). Stalking: A Multi-dimensional Framework for Assessment and Safety Planning. *Trauma, Violence and Abuse*, 18(2), 200-222.

Learn more at StalkingAwareness.org



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