

# A Checklist for Law Enforcement Response to Stalking



## Stalking in America

Stalking is a violent crime that has terrorized countless women for years, yet only recently has the criminal justice system and the public recognized stalking as a distinct crime. Beyond highly publicized cases involving celebrities and political leaders, there is still little understanding of stalking and how it affects "ordinary" people. The National Violence Against Women (NVAW) Survey reports that an estimated 1,376,000 men and women are stalked annually in the United States.<sup>1</sup> Women are the primary victims of stalking (78 percent) and men are the primary perpetrators (87 percent).<sup>2</sup> In contrast to highly publicized cases, the majority of stalkers know their victims; only 23 percent of all female victims are stalked by strangers.<sup>3</sup>

Stalking most often occurs within the context of domestic violence. Many criminal justice practitioners now advise that every domestic violence case should be treated as a potential stalking case. The NVAW survey found that 59 percent of female victims were stalked by current or former intimate partners.<sup>4</sup> The survey also revealed that intimates who stalk their partners are also more likely to physically and sexually assault their victims before the termination of the relationship.<sup>5</sup>

There are numerous cases in which stalking is a precursor to homicide. A recent study of the relationship between stalking and intimate partner homicide found that 76 percent of cases in which female victims were murdered and 85 percent of cases of attempted murder of a female partner involved at least one incident of stalking within one year of the murder.<sup>6</sup> Victims in 69 percent of female homicide cases were stalked while in a relationship with their stalker, and 88 percent of victims were stalked after the relationship ended.<sup>7</sup>

Stalkers may be charged under a variety of traditional criminal statutes, including harassment, battery, trespass, violation of orders of protection, forcible entry, or assault laws. Anti-stalking laws afford law enforcement the rare opportunity to intervene in cases before those cases escalate to more violent or even lethal tragedies. The persistence and potential lethality of stalking behavior have become primary considerations in shaping strategies and protocols for investigating and prosecuting such cases. Everyone involved in systemic response, from police dispatchers to prosecutors to judges, must come to understand the complexity of stalking and know how to intervene effectively through a victim-centered approach. A primary goal of any intervention is safety for the victim and her family. Stopping the stalking behavior and holding the offender accountable may protect today's victim and prevent others from being stalked in the future.

In 1994, Congress passed the Violence Against Women Act (VAWA) to enhance the ability of states, territories, and Native American tribes to respond to crimes against women, including stalking. The legislation was designed to help communities reduce gaps in their response to such violence, with a commitment of federal dollars and support. The Violence Against Women Office, under the U.S. Department of Justice, has supported the publication of a series of Checklists to demonstrate promising practices to help criminal justice officials and victim services fully address the crimes of stalking, domestic violence, and sexual assault. This Checklist highlights innovative law enforcement practices in stalking matters.

## **Checklist for Law Enforcement Response to Stalking**

This **Checklist for Law Enforcement Response to Stalking** provides guidance for law enforcement to enforce the law and thoroughly investigate stalking cases, while being sensitive to the needs of victims. By using this Checklist, dispatchers and responding and investigating officers, as well as supervisors and agency policy-makers, can assess their response to stalking cases—both as individuals and as an entire agency. Fully implementing the Checklist's practices will provide tools so law enforcement can safely and sensitively intervene to protect victims; hold offenders accountable for their violent, coercive actions; and reduce the likelihood of additional harm to or revictimization of stalking survivors.

### **The Importance of Law Enforcement Response to Stalking**

Law enforcement represents the entry point to the criminal justice system for a substantial number of stalking victims. Timely and responsive law enforcement intervention can increase victim safety, enhance investigations, and facilitate successful prosecution. Law enforcement must make stalking cases a high priority and dedicate resources to their management.

Law enforcement's traditional role of apprehension and arrest of perpetrators of violence after a crime occurs has been inappropriately applied in stalking cases for a number of reasons.<sup>2</sup> Stalking, by definition, is a crime that requires a "preventative" approach. Yet, until recently, stalking was viewed only as an antecedent to the commission of another crime. Police responsibility, and authority, to intervene in stalking cases has been unclear and officers were not familiar with useful investigative approaches. With the recent passage of anti-stalking laws, law enforcement has been challenged to respond more proactively to stalking in order to prevent further violence. The laws make clear that victims should be able to turn to law enforcement for protection and intervention even *before* stalkers assault and injure their victims. Timely intervention by law enforcement in cases of stalking can deter escalating stalking behaviors and potential violence.

Police leadership should implement stalking protocols and develop specialized investigative strategies. Law enforcement must be educated on how to identify stalking cases and to distinguish among the different types of stalkers. Because each stalking case is unique and must be evaluated individually, there is no one investigative approach to deal with all stalkers. Law enforcement must be trained to use a wide range of intervention strategies and innovative evidence-gathering techniques to establish probable cause for arrest and successful prosecution.

Stalking cases involving acquaintances and intimate partners should be pursued as vigorously as cases involving strangers. Stalkers who repeatedly violate protection orders should be met with ever-increasing sanctions and more restrictive constraints on their conduct.

Law enforcement must be aware of the victim's fear and take all possible precautions to protect her, regardless of whether an arrest can be made after a particular incident. Victims may also need police protection and intervention after an arrest has been made.

In individual cases, officers must pay careful attention to the safety requirements of the victim, inform the victim of her legal rights, and refer the victim to community resources to address her particular needs. Justice system personnel and victim service providers should offer immediate protection and monitor victim safety on an ongoing basis, adjusting their interventions as necessary.

A victim should be an active part of any safety planning in her case. An informed victim is best able to assess her offender's lethality and is best able to plan for her own safety and well being. Departments must eliminate the barriers that stalking victims from underserved populations face in getting police help by making certified interpreters and language appropriate resources available.

Law enforcement officers should be expected to investigate stalking crimes in a manner that restores the victim's sense of control and decreases the victim's anxiety.

Stalking victims feel safer when they know police are taking aggressive and multiple measures to protect them, including restricting the stalker and collecting evidence. The more comprehensive the investigation and evidence collection, the less likely the prosecution will rely solely on victim testimony.

In an effort to facilitate a more coordinated response to stalking cases, many police departments have developed interagency agreements with other justice system personnel and community-based service providers\* who interact with stalking victims. Some jurisdictions have also developed multidisciplinary specialized response teams that focus on victim safety and offender accountability.

## How to Use This Checklist

This Checklist is divided into sections that correspond with the roles and/or responsibilities of each law enforcement professional involved in the agency's overall response to stalking. Each section includes a list of specific steps and strategies officers should undertake to help ensure optimal response to stalking cases. Some jurisdictions with more limited resources may find that responsibility for the functions described may rest with a smaller number of officers or even a single officer. In such cases, jurisdictions may establish priorities and tailor their policies to accommodate such limitations.

Individual officers can use the Checklist to assess their own response during the course of an ongoing case and measure their past performance in stalking cases. The Checklist can also be used to train new recruits or to provide continuing education to veteran officers.

Supervisors can use the Checklist to assess how their officers are performing as individuals and how their unit is responding as a whole. Managers can employ the Checklist to determine the entire agency's effectiveness in responding to stalking and to develop an agency action plan to improve response.

The Checklist is not intended to provide agencies with all the detailed information they might need to create and implement comprehensive programs, policies, and protocols to address every issue raised in the assessment process. However, this booklet includes references to resources that offer such detailed information. It also includes referrals to organizations and agencies that are already implementing many of these promising practices and can provide technical assistance regarding program development and implementation.

Stalking behavior often occurs as either an extension of an ongoing pattern of domestic violence or a precursor to sexual assault. For promising strategies and practices related to these crimes, officers should consult the Domestic Violence and Sexual Assault booklets in this series.

***Review the points on the following list that are relevant to your role in responding to stalking cases. Check off those points that you (or your agency) successfully perform. Make note of the remaining items and develop a strategy for addressing them.***

\* People who provide services to victims are based both inside and outside the criminal justice system. Although they may perform many of the same functions, the scope of their work and even the laws that govern the delivery of their services may vary considerably. Their titles may also vary from jurisdiction to jurisdiction. Service providers based in prosecutors' offices are often called victim/witness coordinators or specialists. Those who operate through community-based nonprofit organizations may be called crisis counselors or victim advocates. For the purposes of this publication, the term "victim/witness specialist" refers to system-based service providers; "victim advocate" refers to community-based service providers; and "victim service provider" is used generically to refer to both.

## **Dispatcher Response**

### **Obtain Critical Status and Victim Safety Information:**

Determine the initial facts of the situation, whether the victim or others are in imminent danger or in need of emergency medical attention, and call for emergency medical assistance as necessary.

### **Obtain Relevant Information from the Caller:**

Obtain the name, address, phone number, location, and current status of the victim.

Determine the suspect's use or possession of a weapon.

If you assess that the victim is in imminent danger, advise the victim to move to a safe location (e.g., to the home of a neighbor or a family friend, a police station, or a church), as long as moving can be accomplished safely. Obtain the phone number where the victim can be reached at the new location. If the victim remains at the original location, stay on the line unless you believe that places her in further danger.

Identify the incident as "stalking related" and assign the appropriate priority rating and treatment protocol. (For policy on categorizing and priority rating of stalking cases, see protocols established by your department management.)

Where circumstances warrant, follow the protocol established for crisis intervention with stalking victim callers. (For policy related to crisis intervention, see protocols established by your department management.)

Record and preserve the victim's "excited utterances" for evidentiary purposes.

If the suspect is not present, attempt to determine his location, or possible locations, and the likelihood that he may return to the scene or attempt to immediately contact the victim again.

When the reporting party is not the victim, obtain the caller's name, address, phone

number, and relationship to the victim, and the names of any other witnesses or parties involved.

### **Obtain Related Information:**

Obtain information from the caller to assist in apprehension of the suspect, including gender, physical description, clothing, vehicle description, weapon possession, and so on.

Obtain initial information to determine whether the suspect's conduct constitutes other crimes (e.g., domestic violence, sexual assault, harassment, trespass, vandalism, violation of sexual offender registry requirements, violation of a protection order, and illegal firearm possession).

If the suspect is a law enforcement officer, dispatch a supervisor to the scene immediately.

### **Provide Victim with Critical Information:**

If the victim has been assaulted, remind the victim not to wash herself, change clothes, eat, drink, urinate, or clean the crime scene until responding officers have arrived and forensic examinations can be performed to preserve evidence. (See the section on forensic exams in the Sexual Assault booklet in this series.)

Notify victim of the availability of crisis response services. If crisis service providers are responding to the scene, notify the victim of that fact immediately. (For policy related to notification of crisis response services, see protocols established by your department management.)

### **Obtain Offender History and Information on the Likelihood of Danger:**

Use "Call History," "Criminal History," and other available databases to provide responding officers with crucial criminal and civil information, including prior stalking arrests and convictions, firearm possession prohibitions, pending protection orders, conditions of release, outstanding warrants, or unexecuted sentences (e.g., escape from custody, revoked parole or post-sentence bond, or deferred sentence).

Furnish the officers with information on the suspect's dangerousness and specifics about the incident.

Review and preserve all "911" and/or emergency dispatch tapes.

## Initial Officer Response

### Respond to the Call:

Respond to the dispatch call immediately, whether or not the report itself is immediate or delayed.

On the basis of information provided by the dispatcher, evaluate the potential for violence, and secure backup, whenever possible.

### Approach the Scene:

Determine whether there are multiple crime scenes (e.g., threatening conduct that began in one location, but continued or ended in another).

Determine if crimes may have occurred in different jurisdictions. If so, follow agency policy concerning case coordination with agencies in other jurisdictions. (For policy related to multi-jurisdictional case coordination, see protocols established by your department management.)

Evaluate the scene (e.g., whether it is damaged or disturbed condition, whether there is evidence of alcohol/drug use, whether there are emergency health issues to be addressed, or whether there are other witnesses to the incident).

If the suspect is present and appears to be a law enforcement officer, implement department policies and protocol established for such situations (e.g., request a supervisor to come to the scene if one has not already been dispatched, secure service revolver pending internal investigation, file a report with internal affairs, and so forth). (For policy addressing officers as suspects, see protocols established by your department management.)

If possible, photograph or videotape the crime scene before it is disturbed. Note the location of the victim and, if present, the suspect at the time of your arrival.

Take any steps necessary to preserve evidence on the victim's and suspect's person(s) and at the scene of the crime.

Secure and protect the crime scene, and request that forensic/crime-scene technicians be dispatched, as available and appropriate.



Confiscate all weapons actually used to harm or threaten the victim, including those in plain sight or in the possession of the suspect in violation of state or federal law (such as gun possession by a convicted felon).

Conduct a search of the suspect's vehicle, if present, for tools and implements used to commit stalking, kidnapping, or other crimes.

### Address the Immediate Needs of Victims:

If they are available and have not been called, summon victim crisis intervention personnel to the crime scene, once the crime scene is secure and the victim is safe. Otherwise, refer the victim in writing to appropriate crisis intervention and assistance services. (For policy on notifying victim crisis intervention personnel and referrals, see protocols established by your department management.)

Assess the need for a sign-language interpreter or translator for the victim, witnesses, or suspect. Do not rely on family members or interested parties for interpretation or translation.

Assure the victim that her immediate safety is the first priority.

Take steps necessary to protect the victim's personal privacy and dignity (e.g., medical records, identity, intrusion by media or others).

Observe agency policy to protect the identity of stalking victims from the media, coordinating such privacy considerations with the law enforcement public information department, victim advocacy organizations, and the news media. (For policy related to victim privacy, see protocols established by your department management.)

Inquire as to the victim's need for emergency medical attention, and provide first aid as necessary.

Assess and provide for the safety needs and care of any children, family members, or others associated with the victim.

Arrange transportation to and from a designated medical facility for medical care, if necessary.

### **Conduct an Initial Interview with the Victim:**

If the victim is in critical need of medical attention, do not attempt to interview her until after she has received medical assistance to stabilize her condition. Limit the interview to those questions necessary to achieve the apprehension of the suspect and only to the extent the victim's physical and emotional condition permits. Additional questions should be withheld until a follow-up interview.

Before attempting to interview the victim, remove the victim to a place that provides privacy and is away from any children present. Allow a victim advocate to be present if the victim wants such support.

Indicate in the report that the interview with the victim is preliminary in nature and is not intended to elicit the victim's recollection in detail, and that the agency will discuss the case with the victim again.

Take careful notes on the questions asked of the victim and the answers given. Note any statements that describe relevant sensory and peripheral details recounted by the victim.

Assume the accuracy of statements made by the victim until evidence suggests otherwise. Convey confidence in the victim's statement regardless of her relationship with the suspect.

Ask questions in a supportive, blameless, and nonjudgmental manner. Be calm, direct, and patient. Be clear that you want to help. Explain the necessity for asking any personal questions or questions that may make the victim uncomfortable.

Record the "excited utterances" of the victim, family members, and witnesses, specifically including expressions denoting fear.

Document indications of the victim's fear resulting from the suspect's conduct directed toward her, as evidenced by her statements, physical reaction, body language, or behavior.

If the victim is injured, document the injuries in detail, and inquire about injuries that may not be visible (e.g., blows to the stomach or strangulation). Use body charts to assist in documentation of injuries. Use photography to provide additional documentation whenever possible. Inform the victim that state compensation may cover the costs of her exam and treatment. Provide or arrange for the victim's transport to and from the medical facilities.

Obtain information to determine whether the suspect's conduct constitutes multiple crimes (e.g., domestic violence, assault, sexual assault, violation of a protection order, firearm possession, trespass, and vandalism).

Obtain preliminary information from the victim about the crime and specifics leading up to the incident, whether there is a relationship between the victim and suspect, any prior history of inappropriate or threatening conduct, any court orders, any use of weapons, or any use of alcohol or drugs. Inquire about previous reports or incidents the suspect has perpetrated against the victim. Determine the date, place, and jurisdiction relevant to each.

Inquire if complaints have been filed against the suspect previously, by whom, and in what jurisdictions.

Inquire if the suspect has been informed that the victim desires no contact with him.

Obtain address/phone information for any temporary residence to which the victim may move for safety.

Arrange for the victim's transportation to a place of safety if the victim so desires (e.g., a shelter, a friend's/relative's house, or a hotel).

Obtain address/phone information for any family member and/or other person entrusted with the victim's forwarding contact information.

#### **Determine Violation of Federal Law:**

Determine if the suspect's conduct constitutes a violation of federal law (e.g., crossing a state line to inflict bodily injury, to stalk, or to violate a protection order). If so, follow protocol established to notify appropriate federal authorities. (For policy on notification and coordination of response to federal crimes, see protocols established by your department management.)

#### **Identify and Interview Witnesses:**

Identify any witnesses and document their full names, addresses, and phone numbers. Note their relationships to the victim.

Interview nearby residents, coworkers, and any others who may have witnessed the current or previous incidents of stalking or other related conduct. Specifically request

information concerning evidence of the victim's fear fostered by the suspect's conduct.

Note the demeanor of the witnesses and collect written statements from each witness.

Interview children who may have witnessed the incident. Inquire about previous incidents of stalking conduct directed at the victim or themselves. Comply with protocols specifically related to interviews with child witnesses and victims.

Interview children in a manner appropriate for their age and in a way that does not put their safety at risk or inflict additional trauma. Document any excited utterances, indications, or signs of injuries, past or present.

#### **Interview the Suspect:**

Attempt to interview the suspect prior to arrest and custody, if he is present or can be located.

Use audio- and/or videotape to record the suspect's interview. Inform the suspect that you are recording, as required by law.

Obtain general information from the suspect (e.g., name, address, relationship to the victim).

Ask the suspect to tell his side of the story. Do not challenge or criticize what he is saying. Particularly note any indication of his intent to place the victim in fear.

Ask questions to clarify statements and facts asserted by the suspect.

Record the suspect's excited utterances, his emotional and physical condition, and his demeanor.

Note any evidence of substance/chemical consumption.

If the suspect cannot be found, apply for a warrant. If he is subsequently taken into custody, attempt to interview him only after a proper Miranda warning has been issued to him.

## **Collect Evidence at the Crime Scene:**

Collect and secure evidence of stalking in all cases regardless of the victim's initial willingness to pursue a complaint.

Determine whether a search warrant is needed (e.g., based on state law, determine whether any aspect of evidence collection would require a search warrant).

Call in a crime scene technician, as indicated by department policy.

*Unless crime scene technicians or a forensic specialist will be called to the scene, responding officers should undertake the following:*

Conduct a preliminary search for all physical evidence without compromising the crime scene.

Assess the crime scene for physical evidence (e.g., body fluids, clothing, objects left, footprints, displaced objects, and property destruction). Check for fingerprints left on any of the items.

Collect all evidence of stalking related communications between the suspect and victim, including telephone records, answering machine tapes, letters, faxes, and e-mail.

Obtain evidence of other crimes committed by the suspect (e.g., domestic violence, sexual assault, violation of a protection order, illegal possession of drugs, firearm possession, trespass, and vandalism).

Photograph and/or videotape the crime scene prior to touching, moving, or disrupting potential evidence. Provide an indication of size and scale for all evidence photographed.

Photograph items left by the suspect and/or any of the victim's property that was defaced, vandalized, or damaged by the suspect. Check for fingerprints left on any of the items.

Note any evidence of alcohol and/or drug consumption by the suspect (e.g., open beverages, glasses, medicine bottles or packaging). Check for fingerprints that may have been left on any item.

Collect all collateral evidence of other crimes that may have been committed (e.g., videos, video cameras, pictures, ropes, condoms, pornography).

Collect, properly package, and mark all evidence. Ensure that all evidence has been gathered before releasing the crime scene. Properly preserve the samples of all biological evidence.

Coordinate the prompt return of any of the victim's property seized as evidence as soon as it is no longer needed for prosecution purposes.

Diagram the crime scene; use specialized report forms/diagrams, and document all findings. (For policy or standardized forms concerning reports, see protocols established by your department management.)

Review and preserve all "911" and/or emergency dispatch tapes.

Transport all collected evidence to a designated forensic lab for analysis and/or to the law enforcement property room for storage in a way that maintains the proper chain of custody.

If circumstances warrant, transport the victim to a designated medical facility to undergo a forensic exam. (If the victim has been sexually assaulted, refer to the Sexual Assault Checklist for recommendations concerning forensic exams.)

## **Arrest and Charging:**

Determine the identity of the suspect(s), and effect an arrest based on probable cause.

Make a warrantless arrest whenever permitted by law.

Provide the agency communication center with the description of the suspect, suspect's vehicle, direction of flight, and other identifying information for broadcast to other law enforcement units on patrol.

Serve all warrants in a timely manner.

Charge the suspect with all crimes arising from the incident (e.g., harassment, assault, sexual assault, violation of a protection order, trespass, breaking and entering, property destruction, and firearm possession). Contact the prosecutor with any questions or concerns regarding appropriate charges.

Adhere to state law regarding the arrest decision. Do not consider any other factors (e.g., speculation that the victim will not go forward; likelihood of conviction; the victim's behavior prior to the incident; or the race, culture, sexual orientation, class, or profession of either party).

Arrange for the suspect's transport to an appropriate facility to collect physical and medical evidence, if necessary. If possible, transport the suspect to a facility other than the one to which the victim was sent.

If the suspect is arrested, notify officials at the detention center at which the suspect will be held of the possibility that he may attempt to contact the victim while incarcerated. Request that the suspect's communications while incarcerated be monitored and controlled to the extent possible.

Upon arrest, a universal no contact order should be issued, and other remedies issued as afforded by state law (e.g., a peace bond).

Advise the victim that arrest of the suspect is not a guarantee of the victim's safety, as the suspect may be released on bond shortly after arrest and may pose an immediate threat to the victim or her family.

If no arrest is made, discuss with the victim the possibility of all safe housing alternatives that may be available, and provide written information about organizations or agencies that provide housing assistance services for domestic violence/stalking victims.

If no arrest is made, consider requesting an emergency protection order on behalf of the victim.

If the suspect is not arrested, explain to the victim the reasons for the decision.

If the decision not to arrest is based on a lack of evidence, explain to the victim what additional evidence is required to establish probable cause for arrest.

If the suspect is not arrested, make it clear to both parties that the police take crimes of stalking seriously and that further conduct that constitutes stalking or other related crimes will lead to arrest.

### **Write an Incident Report:**

Complete a written report, whether or not an arrest is made. If an arrest was not made, explain the rationale and circumstances for that decision in the report.

Include all information, as indicated in the Interview and Evidence Collection sections above.

Make reference to previous incidents between the parties, either incidents known to responding officers or as reported by the victim or other witnesses.

Indicate in the report that the interview with the victim was preliminary in nature and not intended to elicit the victim's recollection in detail.

Provide the follow-up investigator with all related information, reports, and documentation.

### **Provide the Victim with Essential Information:**

*Inform the victim of her rights and provide her with essential information:*

Provide the victim with written referrals to system- and community-based assistance agencies and organizations.

Notify the victim of her rights as a victim under state law (e.g., the rights to notification, to be present, and to make a statement at proceedings; the right to apply for crime victim compensation). Encourage victims who opt for notification to keep the agency informed of any change in their contact information.

Notify the victim of the state victim/witness harassment and intimidation laws and provide her with options, guidelines, and strategies for reporting and prosecuting violations of such laws by the suspect, his family, or agents.

Notify the victim of her right to seek an emergency protection order, if available, and provide information concerning how such an order may be obtained.

Provide the victim with basic information (both orally and in writing) about investigative processes and what role she may play in the investigation. To the extent possible, inform the victim of what to expect during the course of the process.

Provide the victim with immediate short-term safety recommendations and preliminary safety planning strategies, as necessary.

Notify the victim of any arrests made in connection with the case.

Notify the victim in a timely fashion of the release of the suspect from custody.

Advise the victim of laws that protect her from harassment and intimidation by the suspect, and encourage her to contact law enforcement if those laws are violated.

While still at the scene, provide the victim in writing with your name, badge number, and contact information.

Provide the victim with a copy of the incident report without charge.

Consider developing a "vertical case numbering system" to allow all criminal justice and other involved governmental agencies to use a single case number in reference to the case. Provide the number to the victim and encourage her to reference the number any time she contacts any agencies. (For policy related to vertical case numbering systems, see protocols established by your department management.)

## **Follow-up Investigator Response**

### **Serve and Enforce Protection Orders:**

Make every effort to serve all protection orders obtained by the victim against the suspect as soon as he is located.

Enforce all criminal and civil protection orders, restraining orders, or conditions of parole or probation against the suspect, including those issued in other jurisdictions or states.

### **Gather Further Information to Support Charges:**

Consult with the initial responding officer(s) and any agency personnel who were subsequently called to the scene.

Develop an investigative strategy (e.g., consult with a prosecutor regarding evidentiary case issues; develop follow-up witness lists).

Determine whether a search warrant is needed with regard to any aspect of the investigation.

Arrange for a follow-up interview with the victim as soon as possible, if additional or clarifying information is needed.

Look for ways to corroborate the victim's statements, including those that support victim sensory and peripheral recollections of the crime (e.g., memory of sounds, smells, and so forth, that may corroborate her case).

Obtain all records related to the suspect's physical or mental health, including military, employment, and social service records.

Obtain all records related to the suspect's stalking conduct, including telephone records, e-mail records, copies of delivery invoices, etc. Obtain copies of records that can verify or disprove the suspect's claims of his whereabouts at the time of stalking incidents (e.g., work records, credit card or other purchase receipts, and automated toll records).

Request a search warrant to seize stalking-related evidence from the suspect's residence(s), office, automobile, boat, etc. Search for items that link the suspect to stalking conduct, including weapons; ammunition; documents related to the victim; photographs of the victim; video or audio cassettes in any way related to the victim; items belonging to the victim; journals, tape recordings, or letters that mention or relate to the victim; telephone or Internet service bills; bills for purchase of items sent to the victim; postal or other delivery receipts; communication devices (phones, Caller ID, fax machines, computers, hard disks, floppy disks, writable CDs, tapes, or typewriters); ropes; tape; masks; and gloves. Obtain a handwriting sample from the suspect's residence(s) and/or place of business.

In cases of suspected cyberstalking, retain all e-mail or other electronic messages that target the victim. Work with Internet service providers to trace the source of such communications to the suspect. Consider contacting allied law enforcement officials with expertise in computer forensics to assist with the investigation. Once probable cause is established, seize the suspect's computer hardware and software, including the hard drive and all file storage media (disks, tapes, or CDs). Look for hard copies of any communications, pictures, etc., that the suspect may have sent to the victim. Consider warrants for seizing computer equipment used by the suspect at home and at work.

Obtain copies of security camera tapes that may have captured the suspect engaging in stalking behavior (e.g., camera tapes from apartment complexes, government buildings, retail stores, and banks).

Encourage the victim to contact you or other investigative officers with any new information, evidence, or additional contacts involving the suspect.

Encourage the victim to document future contact from the stalker by maintaining a contact log or by capturing contacts via photography, videotape, answering machine, or other audio recording devices. When possible, encourage the victim to

obtain an answering machine with recording cassettes to capture phone contacts made by the suspect. Collect and preserve all tapes of such calls. In addition, and where appropriate, encourage the victim to obtain Caller ID with built-in memory to record the numbers of the suspect's incoming calls and to then document such calls.



Offer to equip the victim with a micro-recorder or body wire to capture face-to-face or telephone conversations with the suspected stalker. Such a strategy should be used only when a taped phone call is not possible, and only after the victim is made aware of the potential risks inherent in such an approach. Where possible, law enforcement should conduct surveillance of such confrontations to help ensure victim safety. Encourage the victim's family, friends, coworkers, and neighbors to similarly record the suspect's attempts to contact the victim.

Encourage the victim to keep a journal to record how the stalking has affected her life and well-being (e.g., loss of sleep and/or appetite, days missed from work, need to seek counseling, security and safety measures undertaken, feelings or thoughts of fear or dread) to help establish the fear and emotional distress elements of the

crime of stalking, where required by law. Inform the victim that the suspect/defendant will have the right to review the journal during the prosecution process.

Encourage the victim and others documenting contacts or collecting evidence to protect collected evidence from theft or destruction by the suspected stalker.

Identify and obtain statements from any additional witnesses not interviewed at the scene, and collect all pertinent information.

Cross-reference fact pattern and “M.O.” of the crime with previously unsolved stalking cases or crimes.

Based on information gathered during the investigation, identify and contact other potential victims of the suspect (e.g., previous partners of the stalking suspect).

If a forensic exam has been conducted, maintain contact with the forensic lab to obtain results. Identify and follow up on any evidentiary leads or issues that may arise.

Obtain further information on the suspect’s criminal/civil histories and other relevant background, when available. (For policy on criminal history, see protocols established under the Data Collection and Communications Section.)

### **Address Victim Safety and Support Needs:**

Arrange for a follow-up discussion with the victim to address her safety and support needs.

Adhere to agency policy against the use of polygraphs to test the veracity of victim statements. (For policy prohibiting the use of polygraphs in investigations, see protocols established by your department management.)

Call in and coordinate with relevant victim service providers from system- and community-based organizations and agencies (where available) to assist the victim with the development of safety planning strategies.

In cases where the victim knows the suspect, elicit information about the suspect that may not appear in official records (e.g., unreported incidents of contact, harassment, actual or threatened violence, mental illness, or tendencies toward rage or substance abuse).

Base safety planning on the specific circumstances surrounding the current relationship between the victim and the suspect (e.g., temporarily separated, permanently separated, divorced, or reunited). Adjust the plan as any change of circumstances may warrant.

On each subsequent officer contact with the victim, assess the likelihood of continued violence by the suspect toward the victim or other family members. Review and revise safety plans and response strategies, as needed, to provide optimal protection. Conduct additional lethality assessments as circumstances dictate.

Review the suspect’s past conduct and current circumstances to assess the likelihood of continued or increased risk of harm to himself or others (e.g., threats made toward the victim, history of mental illness, purchase of a weapon).

Work closely with available victim assistance providers and advocates to support the victim through interviews and other investigation procedures.

Encourage the victim to inform neighbors, family members, coworkers, and friends of her situation so that they can watch for the suspect and/or the suspect’s car, and warn the victim and/or the authorities if the suspect appears. Encourage the victim to discourage any third party from interfering with the offender on her behalf (other than in situations of assisting in self-defense) without the knowledge and assent of the law enforcement and victim service professionals working with her on the case.

To protect the victim’s safety and privacy, discourage the victim from using and talking on portable or cell phones to prevent conversations from being intercepted by the suspect.

Offer to provide the victim with a home security check. Suggest measures to increase security (e.g., upgrade locks and lighting; obtain a home security system with a panic button; obtain a cell phone for emergencies; reduce or eliminate foliage or other obstacles around the residence that might provide cover for a stalker).

Encourage the victim to develop strategies that will help her avoid face-to-face contact with the suspect (e.g., vary daily routines and routes traveled; vary shopping locations; avoid making appointments to which the suspect may be privy or which he might anticipate; arrange for escorts when in public, at work, or outside the immediate residence).

In cases in which the suspect has visitation rights to children in common with the victim, arrange for a transfer of the children through third parties to avoid face-to-face confrontation.

Encourage the victim to call law enforcement if the suspect violates any existing court orders, including, but not limited to, emergency or full civil protection orders or criminal orders.

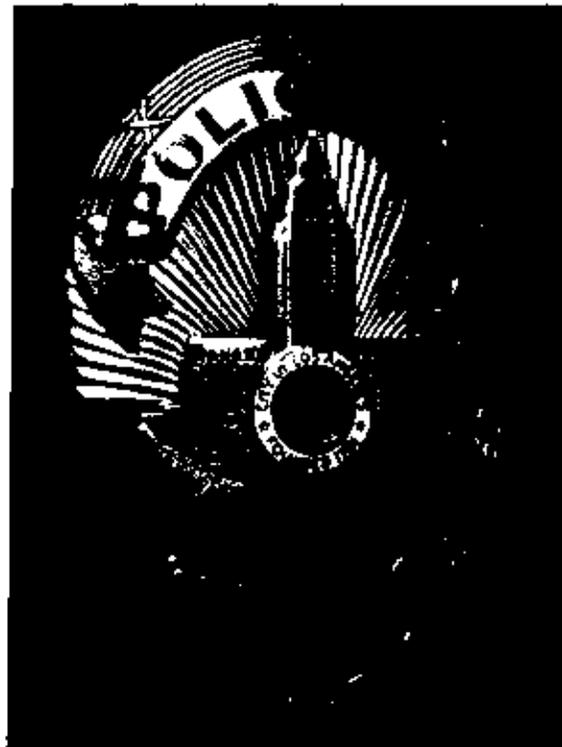
#### **Provide Victim with Essential Information:**

Verify that the victim has received and understands all the information provided during the initial interview.

Keep the victim informed of all developments in the investigation, to the extent that such information will not compromise the investigation.

Provide the victim with report forms and guidance to assist her in documenting the suspect's further stalking conduct.

Make referrals to any additional stalking and other victim-related assistance services, advocacy organizations, and agencies that provide support, counseling, housing, and financial assistance.



#### **Additional Contact with the Suspect:**

Conduct a noncustodial interview with the suspect, once an initial investigation and background research on the suspect has been completed, in order to fully address and assess any issues and/or responses the suspect may offer. Record the interview on audio- or videotape. Inform the suspect of taping, where required by law. Ask a mental health professional with experience with stalking cases to review the tape to assist in the arrest and possible prosecution of the suspect.

Begin the suspect interview using an objective approach (i.e., nonaccusatory questions, nonjudgmental responses to the suspect's answers) to encourage the suspect to volunteer as much information as possible regarding his conduct toward the victim.

Assess whether your contact with the suspect may trigger an escalation in the suspect's behavior, creating an increased safety risk for the victim. If so, take precautions to address the potential of increased threat (e.g., extra safety planning for the victim and police surveillance).

As an initial response, and/or as circumstances warrant, consider sending the suspect a warning letter stating that the suspect is under investigation for stalking and that additional inappropriate action directed toward the victim may result in his arrest and prosecution. Include in the statement that the suspect's previous contacts have made the victim fearful and that she does not desire any further contact with the suspect. Alternatively, consider telephoning the suspect to convey the victim's fear and desire for no further contact.

In cases where the suspect poses a clear and immediate threat to the victim, consider holding a face-to-face discussion with the stalker to clearly state that his actions are making the victim fearful and that she does not wish any further contact with him. Indicate that any further conduct may lead to arrest and prosecution. Provide this information to the suspect in writing at the time of the face-to-face discussion.

In cases where proof of stalking is difficult to establish, consider employing surveillance strategies consistent with established agency protocol including, but not limited to, such strategies as telephone taps/traps/pen registers, pagers, mail covers, hidden video cameras/microphones, visual surveillance aided by telephotography, and audio recording.

In cases where stalking occurs only in face-to-face confrontations with the victim, consider having the victim carry a portable tape recorder or wire to capture the stalker's comments and/or threats. Such a strategy should be used only when a taped phone call is not possible, and only after the victim is made aware of the potential risks inherent in such an approach. Where possible, law enforcement should conduct surveillance of such confrontations to help ensure victim safety.

Assess whether sufficient evidence is present to establish grounds for involuntary commitment to a secure mental health facility either for assessment, temporary observation, or ongoing detention and treatment. Consult with qualified mental health professionals and the prose-

cution office. Request court-ordered evaluation and/or medication where appropriate. Make arrangements to notify the victim of the suspect's commitment and subsequent release in a timely fashion.

Notify the victim of the state victim/witness harassment and intimidation laws and provide her with options, guidelines, and strategies for reporting and prosecuting violations of such laws by the suspect, his family, or agents.

If the suspect is incarcerated, inform jail or correctional officers of the possibility that the suspect may attempt to contact the victim while incarcerated so that they can monitor, document, and intercept such attempts at communication.

### **Deliver the Case to the Prosecution Office:**

Discuss the case with the prosecution office and conduct any further investigation as requested, securing any additional evidence and communicating any additional information obtained to the assigned prosecutor.

Provide the victim with the name and contact information for the prosecutor assigned to the case, if such information is known, and facilitate the initial contact and/or meeting between them.

Facilitate contact between the victim and prosecutor-based victim witness specialist (e.g., provide contact information, arrange a meeting, and notify victim services with the victim's permission).

Complete necessary reports and forms, and transfer the information to the prosecution office.

Testify as requested during bail hearings, trial, and all other criminal justice proceedings.

Where possible, provide the victim with the secure transportation necessary to enable her participation in the criminal justice process and to facilitate her access to assistance services.

## **Supervisor Response:**

To the extent possible, assign a single officer or detective to the case in order to provide maximum continuity in the agency's response and to encourage full collaboration between the assigned officer and the victim.

Create tracking procedures to document and facilitate compliance with statutorily mandated duties and all relevant departmental policies and procedures.

Oversee officer compliance with agency policies and procedures related to stalking (e.g., incident reporting, weapons confiscation, and evidence collection).

Oversee officer compliance with inter-agency agreements related to stalking.

Oversee officer performance concerning enforcement of protection orders.

Review the performance of each officer in his or her response to stalking cases. Reward officers for appropriate and exemplary performance. Undertake corrective action with officers whose performance fails to meet appropriate standards. Reassign officers whose response to stalking cases consistently fails to meet performance standards.

Determine and identify the need for additional officer training or supervision. Work with managers to develop an approach that will address the identified needs.

Review officers' incident reports to ensure proper investigation procedures are being followed and appropriate charges are being filed.

## **Data Collection and Communications:**

Designate, collect, and retrieve all stalking related case information.

Automate case information to expedite access.

Track cases from the first call forward, including case substantiation and follow through.

Review case classification practices and procedures throughout the process to ensure stalking cases are being properly classified as such.

Provide a method to track cases that are initially charged or filed as stalking cases, regardless of how they may later be reclassified as the result of a plea or recharging decisions.

Develop policies for interagency coordination in cases involving multiple jurisdictions.

Develop policies, protocols, and inter-agency agreements necessary to integrate criminal and civil histories of offenders into available databases.

## **Management Response**

### **Set Tone Through the Development of Protocols, Practices, Training, and Other Mechanisms:**

Establish protocols and practices that are grounded in an understanding of stalking and embody values such as victim safety and welfare; respect for victim dignity, privacy, and autonomy; and offender accountability.

Develop law enforcement procedures for handling violence against women committed by law enforcement and other justice system personnel.

Develop a policy and protocol to give stalking calls priority rating and treatment by dispatchers.

Develop a crisis intervention policy and protocol for use by dispatchers when responding to calls from reporting victims.

Develop a program, policy, and protocol to provide victim crisis intervention services in response to the crime scene. Such programs should take into consideration service provider safety.

Develop a policy and protocol in conjunction with other criminal justice and governmental agencies to establish a vertical case numbering system that will allow all agencies responding to stalking cases to use the same number to identify specific stalking cases.

Develop specialized report forms for stalking, complete with diagrams to document injuries.

Develop agency policy prohibiting the use of polygraphs with victims in stalking investigations.

Develop a clear and comprehensive policy to protect the identity and privacy of stalking victims from the media, public, and others. Coordinate the policy with the law enforcement public information department, victim advocacy organizations, and members of the media. Secure all agency information systems containing victim-related information.

Develop a strategy for addressing complex cases (e.g., convening problem-solving meetings with officers; designating officers to assume assignment or assist with such cases; and consulting and coordinating with the prosecution office, with victim services, and with other relevant agencies or professionals).

Develop protocols for secondary response to stalking cases (e.g., calling out forensic/ crime-scene technicians in cases where attempted murder or strangulation is suspected).

Develop policies, protocols, and agreements to identify and coordinate response with federal authorities in stalking cases involving violations of federal law.

Develop a policy and protocol to allow for the involuntary commitment of stalkers to secure mental facilities. Include provision for notice to the victim if/when the suspect is released from such a facility.

Promote proactive intervention in all stalking cases.

Allocate funds, resources, and personnel specifically for stalking cases (e.g., for special units, evidence analysis and collection, training, and victim assistance).

Build a staff that reflects the demographics of the community it serves.

Develop strategies to remove barriers facing underserved populations that prevent them from having access to victim assistance services and using the criminal justice system (e.g., translation of materials into relevant languages, 24-hour access to translation and interpreter services, and education and outreach).

Support ongoing stalking-related training for all new and veteran staff (e.g., during orientation and roll call, and continuing education/training). Consider including training on pertinent legislation, investigative strategies, and dynamics of stalking intervention, surveillance techniques, evidentiary issues, and multidisciplinary responses. Support reimbursement for any overtime associated with such training.

Include information on all new statutes, protocols, and procedures related to stalking in all updated training or continuing education programs.

Develop a system to monitor compliance with all stalking-related policies, programs, and protocols.

Include information about local community resources and referral sources in officer and staff training programs. Verify and update the information as necessary.

Revise policies and practices to accommodate the rights, resource needs, and interests of stalking victims.

Adopt agency policies that establish "appropriate response to stalking cases" as a job performance measure for all relevant personnel.

Use command level monitoring to ensure policy compliance.

### **Provide Leadership in Community Initiatives to Reduce Violence Against Women:**

Ensure coordinated response and collaboration with other justice agencies and other relevant service providers. Develop interagency agreements as appropriate (e.g., encourage the adoption of a multi-disciplinary response to stalking cases).

Participate in community task forces or other collaborative efforts (e.g., systems review committees) to improve the response to stalking.

Support statewide policy changes and legislation that positively address stalking-related issues.

Recognize and support community-based advocacy programs and the critical role they play in supporting individual victims through all stages of the criminal justice process and in working with the criminal justice system to improve its response to stalking.

Promote community education concerning stalking and its unacceptability in society.

Provide a process for obtaining and responding to victim/citizen complaints regarding the handling of stalking cases. Inform victims of their opportunity to avail themselves of such a process. Proactively promote public awareness of the process and its availability to the general public.

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### **Footnotes**

- 1 Patricia Tjaden and Nancy Thoennes, "Stalking in America: Findings From the National Violence Against Women Survey," National Institute of Justice and Centers for Disease Control and Prevention, Washington, D.C. (1998). Editor's note: While victims and offenders of sexual assault are both women and men, the vast majority of victims are female and offenders are male (see Patricia Tjaden and Nancy Thoennes, above). For this reason, as well as for consistency of style, this manual refers to victims as women and offenders as men.
- 2 Ibid.
- 3 Ibid.
- 4 Ibid. The same study also showed that 21 percent of the victims said 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.
- 5 Ibid.
- 6 Judith M. McFarlane, et al., "Stalking and Intimate Partner Femicide," *Homicide Studies*, 3(4) (November 1999).
- 7 Ibid.
- 8 Violence Against Women Grants Office, *Stalking and Domestic Violence: The Third Report to Congress Under the Violence Against Women Act*, U.S. Department of Justice, Office of Justice Programs, Washington, D.C. (1998).

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