Domestic Violence

Intimate Partner Sexual Violence (IPSV) & Stalking

Law Enforcement 2009 Training Guide

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The last three reports of the Washington State Domestic Violence Fatality Review (2000, 2002, and 2004) have demonstrated the high correlation between stalking and murder and local cases of domestic violence.

10-14% of women ever married or cohabiting have been raped by the use of threat of physical force at least once by their partners, and many report being raped repeatedly throughout their marriages or intimate partner relationships.
Domestic Violence

- Adapting and developing screening tools to assess for sexual assault and stalking will enable both law enforcement and prosecution to respond more effectively to domestic violence and will help ensure safety for the victims.
Domestic Violence
Intimate Partner Sexual Violence and Stalking

Conservative estimates of domestic violence range from 1,036,340 per year (Bureau of Justice Statistics) to nearly 16 percent of married and cohabiting couples per year in the United States, and many of these couples have children. Based on the findings of the largest U.S. study of violence against women to date, it is estimated that over 7 million women have been raped by their intimate partners. An estimated 3.4 million persons age 18 or older were victims of stalking.
WASHINGTON SEXUAL ASSAULT LAWS

“Sexual violence is any unwanted, forced sexual contact, ranging from child sexual abuse to obscene phone calls to sexual harassment to rape.”

Washington RCW 9A. 44.040 – Rape in the first degree
A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory:

Uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or

a) Kidnaps the victim; or

b) Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious; or

c) Feloniously enters into the building or vehicle where the victim is situated.
RCW 9A.44.050 – Rape in the second degree

A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:

a) By forcible compulsion:
b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated.

RCW 9A.44.060 – Rape in the third degree

A person is guilty of rape in the third degree when, under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person, not married to the perpetrator.

a) Where the victim did not consent as defined in RCW 90A.44.010(7), to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim’s word or conduct
b) Where there is threat of substantial unlawful harm to property rights of the victim.
Women experience:

- both physical and sexual violence in the relationship, (Finkelhor & Yllo, 1985)
- some are battered during the sexual violence,
- rape may follow a physically violent episode, husband wants to “make up” and forces wife to have sex, (Bergen, 1996; Finkelhor & Yllo, 1985)
- “sadistic” or “obsessive” rape; these assault involve torture and/or “perversion” sexual acts and are often physically violent (Bergen, 1996; DeKeseredy & Joseph, in press; Finkelhor & Yllo, 1985).

Not all Intimate Partner rape survivors are Battered

Social Coercion:
- social and cultural expectations of marriage as an institution,
- women who feel pressured to have sex when non-violent threats such as withholding money or child support are made, and
- in a national study, Basile (2002) found that 61% of women indicated that they had unwanted sex with their partner as a result of marital obligation.

High Risk Factors for Sexual Assault:
- Pregnancy,
- Being ill or recently discharged from the hospital,
- If an attempt to leave the abuser has been tried,
- Separated or Divorced,
- Drug and/or Alcohol abuse.
Domestic Violence
Intimate Partner Sexual Violence

- Short Term Effects
  a) Anxiety
  b) Shock
  c) Intense fear
  d) Depression
  e) Suicidal ideation
  f) Disordered sleeping
  g) Post-traumatic stress disorder

- Long Term Effects
  a) Disordered eating
  b) Sleep problems
  c) Depression
  d) Sexual distress
  e) Problems establishing trusting relationships
  f) Distorted body image
  g) Increased negative feeling about themselves
  h) Flashbacks
  i) Sexual dysfunction
  j) Emotional pain for years

All of which may impact a victim’s ability to assist in the investigation.
Intimate partner sexual violence brings both to the victim and the investigation the following added impact:

- Because victims of IPSV usually share homes and children with the rapist, they are often unlikely to report rape or other forms of abuse. Therefore, a victim of IPSV is likely to have been raped multiple times. Also, victims of assault may more likely identify the occurrence of physical assault than sexual assault within a relationship.

- Victims of IPSV may experience heightened forms of self-blame for being in or staying in the abusive relationship.

- Because the perpetrator is someone with whom the victim had chosen to be intimate on other occasions, the victim’s sense that she/he can trust her/his own judgment is strongly affected.

- When a perpetrator is also a person with whom one has shared intimacy, the sense of betrayal of trust is keen.

- If the victim is also an immigrant, s/he may fear deportation if s/he reports a crime against her partner.
DOMESTIC VIOLENCE
Challenges of Investigating Sexual Assault

- Domestic violence is a life-threatening crime for most victims. When investigating a domestic violence call, the initial focus is on the health and safety of the victim.

- Rape in the first and second degrees are crimes that can happen in marital and intimate partner relationships. Although rape in the third degree is not defined as a crime between married persons, the trauma and effects of the crime are the same for the victim, married or not. Rape in the third degree can be charged in domestic partner and other intimate partner relationships.

- Rape is a largely underreported crime. Survivors of marital rape have a particularly difficult time reporting their experiences of sexual violence. Primarily this is the result of public perception of marital rape and the woman’s relationship with her assailant.

- Women raped by their husbands or partners may hesitate to report because of family loyalty, fear of their abuser’s retribution, fear that they will not be believed, or an inability to leave the relationship.

- Domestic violence victims may not know that marital rape is against the law.

- Domestic violence victims may not define their experiences of forced sex in marriage as rape. They experience the rape as just another part of a domestic violence situation not as a separate component.

- All domestic violence investigation protocols should include sensitive questions to assess whether or not sexual violence is also occurring. Many times sexual violence may be present, even if not during the most recent event.
Role of Law Enforcement

Remain non-judgmental towards the victim and/or case. Let the victim know you may have to ask some difficult questions.

Identify and build a detailed picture of the extent of the violence in a relationship, including sexual assault.

- Understand the context in which incidents are occurring and provide information related to the crime/s being committed.

Provide the victim with resources – including domestic violence, sexual assault and stalking community based programs.

Engage in proactive problem solving and early intervention including medical treatment, protective orders and safety planning.

MOST IMPORTANTLY – ASK THE DELICATE QUESTIONS
One third of the women killed each year in America die at the hands of a current or former intimate partner. In light of these facts, there is good reason to treat every domestic violence case as a potential stalking case, and in many instances, to treat domestic violence cases as high risk, potentially lethal stalking cases.

Domestic Violence
Stalking

A course of conduct directed at a specific person that involves repeated visual or physical proximity; non-consensual communication; or verbal, written or implied threats; or a combination thereof that would cause a reasonable person fear.

**STALKING instills:**
- Fear
- Creates uncertainty
- and wrecks lives
Domestic Violence
Stalking

- According to the 2009 National Crime Victimization Survey: during a 12 month period 14 in every 1,000 persons age 18 or older were victims of stalking.
- The risk of stalking victimization was highest for individual who were divorced or separated – 34 per 1,000

Washington Stalking Defined – RCW 9A.46.110

* A person commits the crime of stalking when he or she, without lawful authority intentionally and repeatedly harasses or repeatedly follows another person and the person being harassed or followed is placed in reasonable fear that the stalker intends to injure the person, another person or to the property of the person or another person, and the stalker knows or reasonably should know that the person is afraid, intimidated or harassed.*
Domestic Violence
Stalking

The most common type of stalker is the Simple Obsessional: usually male, a former boss, ex-spouse, ex-lover, who begins stalking after relationship ends or there is a perception of mistreatment.

The most common type of stalking behavior according to the Bureau of Justice Statistics Special Report: *Stalking Victimization in the United States*, January 2009

1) An offender following or spying on the victim.
2) Showing up at places without a legitimate reason.
3) Waiting outside (or inside) places for the victim.
Why stalking behavior began (and continues), according to the Bureau of Justice Statistics Special Report: Stalking Victimization in the United States, January 2009:

1) Retaliation
2) Anger
3) Spite
4) Desire to control the victim, and
5) To keep him or her in the relationship with the offender
Victims' worst fears resulting from stalking according to the Bureau of Justice Statistics Special Report: *Stalking Victimization in the United States*, January 2009:

1) Not knowing what would happen next
2) Behavior would never stop
3) Bodily harm
4) Harm or kidnap child
5) Harm other family member
6) Loss of freedom
7) Death
8) Loss of job
9) Harm current partner
10) Losing one’s mind

Stalking creates a psychological prison that deprives its victims of basic liberty of movement and security in their homes. We must address these crimes effectively by working together to protect stalking victims and to hold perpetrators responsible for their criminal behavior. To eradicate stalking, we must act with the full force of the law.

Fourth Annual Report to Congress, Stalking and Domestic Violence, May 2001
The Challenges of Policing Stalking

- Stalking is not a single, obvious, easily identifiable criminal act like assault, robbery, burglary and other crimes.
- The impact of stalking on the victim – the fear it induces is a key component of its legal definition.
- Stalking behaviors are complex, varied, and unpredictable.
- The stalker may commit criminal acts in different locations and may be under investigation in multiple jurisdictions.
- Stalkers are not easily deterred.

- There is no single or standard stalker profile to assist investigators.
- In the context of domestic violence, investigation of stalking incidents may easily be eclipsed by the cruder manifestations of abuse.
- Effective investigation in stalking cases depends on gathering information from many sources and seeing “the big picture”.
- **Victim safety is always a priority.**
Role of Law Enforcement

- Identify and build detailed picture of stalker and his/her behavior
- Understand context in which incidents are occurring
- Assess risks faced by victim
- Provide victim with resources – including safety planning
- Engage in proactive problem solving and early intervention
The criminal intent to commit stalking is measured by examining:

a) Intent to engage is a course of conduct involving repeated following or threatening an individual.
b) Knowledge that this behavior reasonably causes fear of bodily injury or death.
c) Knowledge (or expectation) that the specific victim would have a reasonable fear of bodily injury or death.
d) Actual fear of death or bodily injury experienced by a victim.
e) Fear of death or bodily injury felt by members of the victim’s immediate family.
Basic questions:

a) Does the victim believe the threat?
b) Was the threat made in the presence of other people? In writing? In a recorded telephone conversation?
c) Is the threat detailed and specific?
d) Is the threatened act consistent with his past behavior?
e) Does the stalker have the means to carry it out?
f) Have there been “rehearsals” of the act that is being threatened?
g) Does the threat extend to others (such as, children, family members, police, or new lover)?
h) Does the threat involve murder, suicide, or both?
**History of Violence: Proactive/Avoid Harm to Victim**

**Basic questions:**

1) Was the suspect abusive to former partners or family members?

2) Has the physical violence increased in frequency or intensity over the past year?

3) Did the physical violence involve choking or attempted strangulation or a head injury?

4) Does the suspect have a history of violence toward people who aren't intimates or family members?

5) Does the suspect have a history of sexual assault behavior?

6) Has the suspect ever abused pets or other animals?

7) Has the suspect ever destroyed property, especially a former partner's or current target's personal property? (Intentional and terrorist destruction of property is often an "it could just as well be you, and next time might be" message.)

8) Does the suspect have a special interest in/fascination with movies, television shows, video games, or books that focus on themes of violence, power, and revenge?
Basic Questions:

a) Does the stalker have access to weapons? Does the stalker keep weapons in more than one place? Does the stalker have access to weapons owned by others? Is the stalker trained in their use?

b) Does the stalker have illegal or exotic weapons?

c) Is having and being willing to use weapons part of the stalker's self-image? (This is particularly crucial in relationships that involve people in law enforcement, corrections, the military, and the criminal justice system.)

d) Has the suspect's past violence involved the display, use or threatened use of firearms or other weapons?

e) Does the victim possess weapons? What kind? Is the victim trained in their use?
Domestic Violence
Stalking and Sexual Assault

Recommendations for Police Management and Training

1. Efforts to implement stalking and sexual assault protocols in police departments should be conducted with the full support of the chief of police.

2. Supporting video statements by chiefs, and repeated public verbal support for these efforts, should be considered for formal inclusion as part of the protocol.

3. Training should give emphasis to definitional issues that the crime of stalking or sexual assault need not necessarily involve physical violence or strangers. Tests of officer knowledge of these fundamental issues may be an appropriate component of training.

4. Consideration should be given to follow-ups and checks to ensure that all the officers targeted for training are reached.

5. Consideration should be given to the development of FAQ sheets for trainers and key players involved in implementation efforts, to address skepticism and highlight critical points about stalking and sexual assault within domestic violence.
Recommendations for Improving Crime Prevention Impact

1. Future efforts to implement anti-stalking and sexual assault protocols need to significantly emphasize non-traditional crime prevention measures and to actively address the needs of the crime victim.

2. A phased implementation plan may best facilitate implementation efforts. Initially, 'traditional' practices, such as charging and arrests, should be the focus, using data to provide feedback on these spearhead issues. Later, additional preventive measures and tactics should be highlighted.

3. Police information technologies should be designed to allow the tracking and cross-referencing of repeat incidents, locations, victims, and offenders.
Domestic Violence
Stalking and Sexual Assault

Recommendations for Inter-Agency Work

1. Judges, victim/witness coordinators, and representatives from local agencies that work with victims of domestic violence, such as housing, social services and victim advocacy programs, should be included in multidisciplinary teams seeking to prevent and address stalking and sexual assault in the context of domestic violence.

2. Members of the multidisciplinary team should be included in law enforcement training sessions regarding stalking and sexual assault within domestic violence.

3. Members of the multidisciplinary should be consulted as early as possible during the process of tailoring a protocol to suit local community needs.
References


- National Center for Victims of Crime (NCVC). [www.ncvc.org](http://www.ncvc.org)

- National Center for Women & Policing. [http://www.women and policing.org](http://www.women and policing.org)

- National Violence Against Women (NVAW).


  
  Dawn Larsen  dlarsen@waspc.org  (360) 486-2380

- Washington Coalition of Sexual Assault Programs (WCSAP). [www.wcsap.org](http://www.wcsap.org)