



Stalking – a Criminological Perspective

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The first anti-stalking law was introduced in 1990 in California. In Japan, a national anti-stalking law was enacted in 2000. Seven years later, in 2007, after a long period of discussions on different versions, an anti-stalking law finally became effective in Germany. For a very long time, the phenomenon of stalking had been ignored by the German society and only recently, research has started to investigate this phenomenon. As Meloy, one of the most established researchers on stalking, noted in his 1998 paper¹: stalking (is), an old behavior, a new crime. Yet, it is still very controversial whether this new anti-stalking law is the right way to address this phenomenon. For example, for Kinzig², this law is only a symbolic act. Others like Eiden³ even consider it incompatible with the German constitution. However, before seeking the best legislative response to stalking, we first have to really understand the social phenomenon „stalking“, its different instantiations, causes, and consequences.

I. Definitions of stalking

While stalking generally refers to harassing or threatening behavior that an individual engages in repeatedly, there is no commonly accepted definition for stalking. One reason is, of course, that the specific activities that stalkers engage in to harass and terrorize their victims can be quite different. Another reason is that the phenomenon of stalking is of interest to researchers of many disciplines and this different disciplines focus on different

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¹Meloy, *The Psychology of Stalking: Clinical and Forensic Perspectives*. San Diego, CA: Academic Press (1998).

²Kinzig, ZRP 2006, 255, 258.

³Eiden, ZIS 2008, 123, 137.

aspects. For example, sociologists and psychologists are particularly interested in the clinical aspects of stalking. Research in criminal law, in contrast, focuses on the punishable aspects of stalking.

There is no universally valid definition of stalking because it manifests in various ways such as following a person, appearing at a person's home or place of business, making harassing phone calls, leaving written messages or objects, or vandalizing a person's property. In order to be classified as stalking behavior, many countries require that the alleged stalker engages in a course of conduct that shows that the crime was not an isolated event.

Zona et al.⁴ define stalking as a „abnormal or long-term pattern of threat or harassment directed toward a specific individual.“ Pathé and Mullen⁵ describe stalking as "a constellation of behaviors in which an individual inflicts upon another repeated unwanted intrusions and communications". According to Meloy and Gotthard⁶, stalking is defined as the willful, malicious, and repeated following or harassing of another person.

This article is based on the definition of stalking of Voss and Hoffman which understands stalking as any activity that may harm another person and thus is considered undesirable. These activities create feelings of anxiety and panic.

As mentioned earlier, stalking is never an isolated event. In many countries, for a prosecution to succeed there must be two or more acts involving unwanted intrusions that would cause a reasonable person alarm, distress or harm and that would impact on the victim. Yet, the real challenge of any definition of stalking is to provide a clear distinction to behavior that is just annoying but does not deserve prosecution. Unfortunately, I also cannot provide such a "clear-cut" definition.

II. Forms of stalking

1. Empirical Research on the phenomenon „stalking“

Although research on stalking is in Germany – in particular compared to the US – still in its early stage, there are some interesting first results. For example, there is a survey by the Zentralinstitut Mannheim (a public research institution on mental diseases).

a) Results of surveys in Germany

⁴Zona, Sharma & Lane, A comparative study of erotomaniac and obsessional subjects in a forensic sample. *Journal of Forensic Sciences*, 38 (1993), 894 – 903, p. 896.

⁵Pathé and Mullen, The impact of stalkers to their victims. *British Journal of Psychiatry*, 170 (1997), 12 – 17, p. 12.

⁶Meloy, J. R. & Gotthard, S. (1995) *Demographic and clinical comparison of obsessional followers and offenders with mental disorders*. *American Journal of Psychiatry*, 152, 258– 263, p. 258.

aa) Survey of the Zentralinstitut Mannheim⁷

For their survey a questionnaire was sent to 2000 randomly selected residents of Mannheim (1000 men and 1000 women) between the age of 18 and 65. In total 679 people responded. 12% of the respondents had been a victim of stalking in the past. Although stalking is a gender-neutral crime, women are the primary victims of stalking and men are the primary perpetrators: 87% of the victims were women and only 13% men. 86% of the offenders of stalking were men, which is almost a mirror-image.

Not surprisingly, women were often stalked by men (91%). Male victims, in contrast, were also often stalked by other men (44,4%).

In three-quarter of the cases the victim knew the offender. The largest group of stalkers (32,1%) were people who were the former intimate-partner of the victim; only 24% of the offenders were strangers.

The intensity and quantity of stalking is also an interesting aspect. More than one third of the respondents were contacted several times per week. 16% reported unwanted contact even several times per day. On average, the stalkers engaged in 5 different methods to contact their victims. The most dominant activities included unwanted phone calls (78,2%), waiting outside their victim's home (62,2%), e-mails, letters, faxes or text messages (50%), as well as following the victims (38,5%).

In about one-third (34,6%) of the cases the offender threatened the victim, in 30,4% even force was used, in 42,3% sexual harassment occurred.

Approximately two-third (68%) of the victims stated that the pursuit and harassment lasted longer than a month, in one-quarter of the cases even more than a year.

The survey generated strong evidence for the negative impact of stalking on the victims' mental health:

More than one half of the victims suffered from anxiety, approximately one-third from gastric disorders and depressions. 17% moved to another apartment and 5% changed their workplace. About three-quarter of the respondents made changes to their lifestyle because of the stalking.

Surprisingly only about 20% reported to the police and merely 11,5% asked an advocate for help. Their confidence in the law enforcement agencies seems to be rather low.

⁷Dreßing, H. Aktueller Forschungsstand zu Stalking, in: Dreßing, H./ Gass, P. Stalking! – Verfolgung, Bedrohung, Belästigung, Bern 2005; Dreßing, H./ Kuehner, C./ Gass, P. Stalking in Deutschland, in: Hoffmann, J./ Voß, H.-G. W. (Hrsg.) Psychologie des Stalking: Grundlagen -Forschung – Anwendung, Frankfurt 2006.

According to the victims, the supposed main-motive of their stalker was the effort to reinstate the relationship. Another important motive was revenge.

bb) The Bremer Stalking-Victim-Study from 2005

The Bremer Stalking-Victim-Study from 2005⁸ differs in its experimental design from the other study.

In this study, stalking victims who reported to the police were surveyed (in total 290 women and 410 men over a period of three years). Similar to the other two studies, in most cases, the offender was the ex-partner of the victim (54%). Only 9% of the victims didn't know the offender before.

As a result of the stalking, most of the victims sought for professional treatment: 71% went to the doctor and 63% to a psychotherapist.

Surprisingly, only 8% of the victims made a police report immediately. 39% of the victims contacted the police only after four to twelve months after the beginning of the stalking.

dd) Summary

First of all, it is important to note that the findings of the studies cannot easily be generalized and are also often difficult to compare. Yet, there are some things that show up in many of the existing empirical studies. For example, most victims previously had a relationship to their offenders; the ex-partners are regarded as the biggest risk category. In most cases, the offender is male. Furthermore, stalking often takes various forms. This variance in stalking behavior also makes it so difficult to provide a clear-cut definition of stalking and it also makes it very difficult for legislation to capture this phenomenon properly.

b) Official Crime statistics in Germany

Only since the anti-stalking law has become effective in 2007, official statistics on stalking crimes are available. Before 2007, stalking-offenses were already included in these statistics, yet, not separately categorized. They have been categorized as physical injury, assault, threat, defamation and other offenses.

Today, stalking accounts for only 0,5% of all offenses. This number seems to be pretty low. Yet, as noted before, victims are often very reluctant to report to the police.

⁸ Rusch/ Stadler/ Heubrock, Ergebnisse der Bremer Stalking-Opfer-Studie: Leitlinien zum Umgang mit Opfern. *Kriminalistik*, 3 (2006), 171 – 176.

aa) Criminal Statistics of the Police
(1) Documented cases

Table 1⁹

year	Documented cases respective § 238 StGB	Percentage of the documented cases in total
2007	11401	0,2
2008	29273	0,5
2009	28536	0,5
2010	26848	0,5
2011	25038	0,4

One reason for this is of course the special relationship between victim and offender. Most offenders are well known to the victim (former partners). Only a minority are strangers. As a result, victims might be quite reluctant to report cases of stalking and the number of unreported cases is probably very high.

(2) Solved Cases

Table 2¹⁰

year	Solved Cases	Rate of solved cases in %
2007	10081	88,4
2008	25804	88,1
2008	25532	89,5
2010	24031	89,5
2011	-- ¹¹	89,2

According to these statistics, the detection rate across all crimes is around 55% (for the years 2007 to 2011). For stalking, the detection rate is much higher, around 89%. The reason is of course that in most cases, a specific suspect can be identified, often a former partner, and named to the police.

⁹ Schlüsselkennzahl 232400; PKS 2007, Tabelle 1; PKS 2008, Tabelle 1; PKS 2009, Tabelle 1; PKS 2010, Tabelle 1; PKS 2001, Tabelle 1; PKS Zeitreihen Tabelle 1.

¹⁰ PKS 2007-2010, jeweils Tabelle 1; Zeitreihen.

¹¹ The absolute figure for 2011 is not available yet.

(3) Suspects of Offenses

Table 3¹²

Year	Investigated suspects	
	Total	Male
2007	9389	7711
2008	23296	18882
2009	23247	18691
2010	21698	17520
2011	20492	-- ¹³

In line with the empirical studies, male suspects dominate the official statistics. Over 80% of all suspects are male. 90% of all suspects are older than 21. Most suspects are between 40 and 50, which is considerably older than for other crimes.

(4) Victim-suspect-relationship

Table 4¹⁴

year	Victims total	Victim-offender-relationship				
		Relatives, partner	including	Acquaintance	Compatriot	Nodding acquaintance
2007	12139	2422	5424	41	1265	1159
2008	31549	9097	11198	81	3712	3211
2009	30763	11116	9423	75	3591	2952
2010	28870	10657	8546	54	3363	2911
2011	26876	10529	7370	78	3257	2722

The official statistics confirm empirical studies that most victims know their stalker. In most cases, a victim is stalked by an intimate partner or relative, mainly the spouse. Acquaintances are the 2nd most prominent class of stalkers. And again, stalking by strangers does not happen too often.

¹² Schlüsselkennzahl 232400; PKS 2007 - 2010, Tabelle 1; PKS Zeitreihen, Tabelle 20.

¹³ The absolute figure for 2011 is not available yet.

¹⁴ PKS 2007-2010, jeweils Tabelle 92; PKS Zeitreihen, Tabelle 92

(5) Victims

Table 5¹⁵

year	Victim	
	total	male
2007	12139	2284
2008	31549	6124
2009	30763	6265
2010	28870	5961
2011	26876	5462

According to official statistics, women are the primary victims of stalking (more than 80% of all victims were female in the years 2008 to 2011). Most victims were older than 21 years (the official statistics don't provide a more fine grained categorization), only a small minority was adolescent or juvenile.

(6) Victim according to age

Table 6¹⁶

Year	Victim total	Kids till 14	Juvenile from 14 to 18	Adolescent from 18 to 21	Adult from 21
2007	12139	131	484	950	10574
2008	31549	434	1314	2490	27311
2009	30763	450	1218	2640	26455
2010	28870	443	1289	2467	24671
2011	26876	416	1227	2202	21536

International studies suggest that most victims are young women. This is not surprising given that stalking often starts after a relationship ended and that these breakups are more likely to occur when the victims are still young. But contrary to popular opinion, women are often stalked by intimate partners while the relationship is still intact.

2. How do stalkers stalk?

¹⁵ PKS 2007-2010, Tabelle 91; PKS Zeitreihen, Tabelle 92.

¹⁶ PKS 2007-2010, Tabelle 91; PKS Zeitreihen, Tabelle 91.

There is a variety of systems to classify the different forms of stalkers. One of the most prominent systems is the one developed by the Australian psychiatric expert Paul Mullen.¹⁷

According to Mullen, there are five different types of stalkers:

- the rejected stalker
- the intimacy seeking stalker
- the incompetent stalker
- the resentful stalker
- the predatory stalker

a) Rejected stalker

Rejected stalking comes up when close relationships break down. Victims are usually former sexual partners. Rejected stalkers either want to reconcile the relationship by stalking their victims or they seek for revenge for a perceived rejection.

Sometimes the stalking behavior itself is intended to be a substitute for the lost proximity between the stalker and the victim. By stalking, the rejected stalker can continue to be close to his former partner. In other cases the stalker has experienced personal degradation and wants to get over it by stalking his victim.

b) Intimacy seeking stalker

Intimacy seeking stalkers are motivated by a deep feeling of loneliness and “the lack of a close confidante”.¹⁸ In search of close relationships to other human beings, intimacy seeking stalkers start to reach out for strangers or acquaintances. Frequently their behavior is fuelled by a severe mental illness including delusional beliefs about the victim, such as the belief that they are already in a relationship, even though this is not the case (erotomantic delusions).

c) Incompetent stalker

The incompetent stalker “stalks in the context of loneliness or lust and targets strangers or acquaintances”.¹⁹ Unlike the intimacy seeker, however, incompetent stalkers don’t look for a loving relationship. They rather seek for dates or short term sexual relationships. At the same time they are often unable or reluctant to put themselves in their victims’ shoes and to imagine their physical and mental affliction caused by the stalking behavior.

d) Resentful stalker

¹⁷ Mullen/ Pathé/ Purcell/ Stuart, Study of stalkers. American Journal of Psychiatry (1999), 156, 1244 – 1249, p. 1246 ff.

¹⁸ Mullen/ Pathé/ Purcell/ Stuart, Study of stalkers. American Journal of Psychiatry (1999), 156, 1244 – 1249, p. 1246 ff.

¹⁹ Mullen/ Pathé/ Purcell/ Stuart, Study of stalkers. American Journal of Psychiatry (1999), 156, 1244 – 1249, p. 1246 ff.

Resentful stalkers maintain their behavior because they have the feeling that they have been mistreated or are the victim of some kind of injustice or humiliation. They stalk people whom they consider to have mistreated them. These victims are normally strangers or acquaintances.

As Mullen says "resentful stalking can arise out of a severe mental illness when the perpetrator develops paranoid beliefs about the victim and uses stalking as a way of 'getting back' at the victim. The initial motivation for stalking is the desire for revenge or to 'even the score' and the stalking is maintained by the sense of power and control that the stalker derives from scaring the victim. Often resentful stalkers present themselves as a victim who is justified in using stalking to fight back against an oppressing person or organization."²⁰

e) Predatory stalker

Predatory stalking is often linked with deviant sexual practices and interests. Perpetrators are usually men who stalk women in whom they develop a sexual interest. In this case the stalker's motivation is a feeling of power and control which is a result from targeting the usually unsuspecting victim.

(6) Summary

Such a classification of course raises the question whether these archetypes actually exist in reality. Stalking behavior may materialize in different ways at different times in the process of stalking. Nonetheless, such a classification is an important tool because it helps to capture the different facets of stalking behavior.

III. Psychological roots of stalking behavior

After having focused on the demographics of stalkers and their victims as well as the different types of stalking behavior that can be observed it is also important to explain the psychological roots of stalking. Why do stalkers become stalkers?

Meloy's theory²¹ on the psychodynamics of stalking provides one possible answer. To put it into Meloy's words "the psychodynamics of stalking refer to the thoughts, emotions,

²⁰Mullen/ Pathé/ Purcell/ Stuart, Study of stalkers. American Journal of Psychiatry (1999), 156, 1244 – 1249, p. 1246 ff.

²¹Meloy, The Psychology of Stalking: Clinical and Forensic Perspectives. San Diego, CA: Academic Press (1998).

and rationalizations in the mind of the stalker that are related to the object of pursuit.”²² According to Meloy²³, stalking often follows a very specific pattern:

- (1) At the beginning there is a narcissistic linking fantasy targeted at an object that is either existing in reality (e.g. an actual sexual mate) or delusional (e.g. a relationship with a celebrity). A narcissistic linking fantasy often is the basis of a romantic idea, instilled with hope and the idealization of the future.
- (2) Such fantasies, which are probably known by everybody, lead the stalker to take action, which causes a reaction from the victim’s side. The reaction can be acceptance or rejection. Yet, in most of the cases, the victim will reject the stalker.
- (3) This rejection then stimulates shame and humiliation.
- (4) The stalker then responds to feelings of humiliation with anger or rage.
- (5) As a result, the stalker wants to hurt, control, damage or destroy his victim.
- (6) Finally, and this is very ironic, this aggressive and destructive pursuit of the victim, if successful, restores the narcissistic linking fantasy.

IV. Conclusion and outlook

Stalking is not a new phenomenon but only recently, legislation has sought to capture this phenomenon by introducing new anti-stalking laws. To put it again into Meloy’s words: stalking is an old behavior but a new crime²⁴. The emergence of stalking as a social issue and a new category of crime can be traced back to two main reasons: first, changes in our society such as a shorter duration of the typical relationship. Empirical studies suggest that when women are stalked by intimate partners, the stalking typically comes up after the woman has tried to leave the relationship. The shorter the typical relationship is and the more relationships women are engaged in, the more likely they are to become a victim of stalking. Second, our perception of what constitutes legitimate or illegitimate behavior has changed over the course of time.

Most importantly, however, stalking is a crime that has severe social and psychological consequences for its victims. Thus, it is only one question whether the current legislative approach is the best way to handle stalking crimes. At least equally important is the question how to best help the victims of the stalkers.

²²Meloy, *The Psychology of Stalking: Clinical and Forensic Perspectives*. San Diego, CA: Academic Press (1998).

²³Meloy, *The Psychology of Stalking: Clinical and Forensic Perspectives*. San Diego, CA: Academic Press (1998).

²⁴Meloy, *The Psychology of Stalking: Clinical and Forensic Perspectives*. San Diego, CA: Academic Press (1998)

It is important to note that a focus on the legislative and sentencing aspects is not comprehensive enough. Stalkers have very unique characteristics that must be taken into account. For example, they are obsessive, unpredictable, and potentially violent. They often commit a series of increasingly serious acts, which might become suddenly violent, and sometimes result in the victim's physical harm or even death. They might behave in a psychologically abnormal way. Yet, their behavior would not qualify them as mentally ill. Most stalkers are former partners. It also has been proven empirically that the mentally ill stalking type most of the people have in their mind when they think about stalking occurs in only very few cases. As a consequence, most stalkers would be punished under criminal law, either with fines or prison sentences. Yet, these measures seem not to be the best choice to achieve social rehabilitation. Instead, measures such as psychiatric and psychological counseling or therapy might be much better alternatives.

Legislation and law enforcement agencies can seek to protect stalking victims by protection orders or sending stalkers to prison. Yet, in the long-run, protecting victims by ensuring social rehabilitation of (potential) stalkers seems to be a much more sustainable measure. Most importantly, however, not only the offenders but also their victims need comprehensive support and help by our society. Filling in a police report only triggers the prosecution process. Yet, victims often need much more comprehensive support. For example, they may need help to move away or find a different job. They often require psychological counseling or therapy. Obviously, many victims of criminal acts would benefit from such support measures. But given that victims of stalking often have to change their entire life (by moving away and changing their jobs), this group of victims seems to be particularly vulnerable and in need of support from our society.

In any case, it is in both the offender's and victim's interest that help is accessible before stalking "reaches a criminal level". Preventive instruments such as mediation or new preventive forms of restorative justice may prevent a further intensification or escalation of stalking activities.