Stalking Part II: Victims’ Problems With the Legal System and Therapeutic Considerations

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Objective: This paper is the second of 2 parts reviewing the topic of stalking. It focuses on victims’ difficulties with the legal system and the psychotherapeutic tasks for victims and therapists.

Method: Computerized literature searches were used to identify relevant papers from psychiatric and legal journals. Publications by victims’ and women’s organizations provided additional information.

Results: Victims suffer emotional consequences from being stalked. Additional stress is caused by the legal system’s lack of understanding of the causes and consequences of stalking and inadequate and unenforced laws. The treatment of victims requires a comprehensive approach, including education, supportive psychotherapy, and discussion of practical measures. Therapists may overidentify with the patient’s powerlessness or hesitate to take on a case out of fear of the stalker. Female therapists may protect themselves against the realization of their own vulnerability by blaming the victim, while male therapists may feel defensive or overprotective.

Conclusion: Stalking is a crime with major mental health consequences which is often poorly understood by society. Therapists need to be aware of the victim’s emotional reactions, the types of legal and practical supports available, and the possible biases of society. Further education and research should be encouraged.

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Stalking or criminal harassment involves a range of behaviours, including loitering near the victim, sending unwanted gifts, harassing in person or by phone, and making actual threats. The reported victims are most often women who have previously been involved in a relationship with the offender. Part I of this review summarizes the behaviour involved in stalking, the types of offenders, the relationships between offenders and victims, and the mental health consequences for the victim. Part II of this review addresses the difficulties victims encounter with the legal system and the psychotherapeutic tasks for victims and therapists.

Case Illustration

When Ms A decided to end her relationship, her boyfriend began to stalk and harass her. He would leave long messages on her answering machine, repeatedly call and hang up, and wake her up in the middle of the night. He also threatened to kill her and himself. Her experience of the police as unempathic, unhelpful, and condescending further aggravated the situation to the point where she felt helpless, was sleeping poorly, and was living in constant fear and sadness.

Therapy supported her efforts to protect herself and set limits, while exploring her guilt about “hurting” the stalker. Over time, her sadness and self-blame were viewed as his problem, and they turned into action and anger, such that she charged her ex-boyfriend under the Criminal Harassment Law. Her resolve to not let other women experience what she had experienced motivated her to resist police and friends’ pressure on her to reduce the charge to a peace bond, but, for a time, she remained emotionally distant and suspicious of others.

Unfortunately, despite having kept extensive documentation, the court viewed the harassment as the actions of a rejected, lovesick man who had no intention of harming the patient. This decision was experienced by the woman as a revictimization and led to a recurrence of some symptoms, such as insomnia, fear, helplessness, powerlessness, a sense of being cheated and controlled by others, and a belief that she would not be judged fairly or objectively by others. Fortunately, there was no further contact made by the ex-boyfriend. The patient’s conclusion that, despite the lack of acknowledgement by the courts, her actions had given him a message that his behaviour was unacceptable, helped her to overcome some of her feelings of helplessness and powerlessness. She continues to struggle with mistrust or fear of negative outcomes in relationships.


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Problems Due to the Legal System

Disappointment with the legal system may result in a worsening of the victim’s mental health. Problems arise as a result of both the system’s general lack of understanding of the causes and consequences of stalking crimes and inadequate and unenforced laws.

Law-enforcement insensitivity toward domestic violence has already been well documented. Police often feel that, as opposed to serious crimes such as murder, domestic issues are not an appropriate police responsibility; “private” misconduct should not be subject to public intervention, and, because few cases result in successful prosecution, pursuing domestic violence complaints is ultimately futile (1). This sense of futility, reinforced by the media and the courts, may be transmitted to the victim.

In cases involving ex-lovers, the police may have equal difficulty in being sympathetic to the issues involved. As in the case of Ms A, society often views stalking as a normal infatuation that will eventually resolve itself or as the actions of a rejected lover or lovesick individual, more to be empathized with than censured (2). Victims often report feeling that the police and society blame them for provoking harassment or making poor choices in relationships. Authorities may have particular difficulty understanding the woman who continues to have ambivalent feelings toward the offender. These normal ambivalent feelings may create anger on the part of the police, who become unsympathetic and label the woman as wanting to be harassed, ignoring her needs. Relatives or partners may also assume that the victim is subtly encouraging the behaviour (3). Male victims in particular may not receive the sympathy or assistance they deserve (3). In general, it is difficult for others to understand that unwanted behaviour or advances, such as flowers or “love” letters, can elicit a sense of violated privacy and be just as terrifying as direct threats. Women’s groups have advocated for education for police, crown prosecutors, and judges because of the perceived lack of understanding of the psychological suffering experienced by women who are harassed (4).

In terms of the laws themselves, there is a history of ineffectiveness in dealing with crimes of stalking (1,5). The nature of the offences themselves makes investigations and prosecution difficult, because surveillance and phone calls often have no witnesses. Barriers to victims using civil actions against stalkers include dangerous time delays and financial requirements. Temporary restraining orders or peace bonds have been used most commonly and are generally ineffective, partly because law-enforcement agencies have limited resources to enforce such measures. Even if caught, violators receive, at most, minimal jail time or minor monetary penalties. Sometimes the offender just waits out the short duration of the order. Persistent, obsessed stalkers are usually not deterred.

The limitation of previous remedies led to the creation of antistalking laws, but they too have been subject to problems, especially regarding narrow definitions, such as restricting the legal definition to those persons who had previous intimate relationships with their stalkers (1,6). Even in regions with fairly comprehensive criminal harassment laws, difficulties still exist. In Canada, one has to prove the following: that the individual engaged in the prohibited behaviour, that the behaviour caused reasonable fear for safety, and that there was an “intention” to engage in the behaviour or “recklessness” to the extent that the conduct was harassing and causing fear (7).

Many US laws require that a “credible threat” of violence be made against the victim (5). This “credible threat” element (defined as a threat causing a reasonable person to fear for his or her physical safety or life) required by some antistalking statutes may limit the application of the law and exclude many types of abusive and dangerous behaviour. Many stalkers may never make an overt credible threat yet eventually harm or even murder their victims. Even when not overtly threatening, the behaviour is frightening, and the victim is continuously unsure of the potential for danger. The lack of acknowledgement resulting from this narrow definition invalidates the victim’s feelings and increases her sense of helplessness.

Problems may also occur when the emotional distress suffered is judged by the “reasonable person” standard. Gender differences greatly influence perceptions of what behaviour is perceived as offensive (8). The “reasonable person” standard may be inadequate because it is male-biased and does not assess the behaviour from a reasonable woman’s viewpoint. The victim’s feelings are not validated, and she is further victimized. In addition, some antistalking laws allow for gruelling cross-examination of the victim’s past psychological history, which is similar to the revictimization that was seen with sexual assault cases (9), making “the woman and her perceptions part of the offence . . . imposing a standard of reasonableness opens the door to an examination of the victim’s character, mental health, and stability” (10). Furthermore, it allows for discretion on the part of police and prosecutors, who may not proceed with a complaint based on their personal assessment of the victim’s credibility (10).

Requirements of proof that the stalker intentionally or even recklessly caused fear in the victim may also be problematic because it would not catch individuals who honestly but unreasonably believed that their conduct was romantic and that there
was no risk of it being perceived as harassing (10). As in the case of Ms A, dismissal of charges on these grounds can increase feelings of powerlessness, helplessness, frustration, injustice, and fear. Women’s groups advocate for a lower threshold of intention, one that would include individuals who are reckless or willfully blind as to whether they harass (10).

In summary, the system becomes part of the problem by maintaining the power of the perpetrator while revictimizing the woman by misunderstanding her emotions, ignoring the real dangers, and failing to protect her (11).

Treatment

Case Illustration

Ms B had been stalked by her ex-boyfriend for 1 year, despite a restraining order. He finally broke into her apartment and strangled her with a rope, leaving only once Ms B had passed out. Threats by the stalker led Ms B to reduce her complaints to the police such that he spent only 4 months in prison. She continued to experience symptoms of a major depressive episode and posttraumatic stress disorder (PTSD) as well as guilt related to having been in the relationship.

Weekly psychotherapy centred on acknowledging the legitimacy of her fears, making sure that she was giving clear messages, trying to diminish her sense of helplessness and low self-esteem, and relieving her guilt. It also included education on violence against women, stalking, and safety issues. Over a period of 2 months, she responded well to desipramine and psychotherapy and began to realize that what had occurred was a result of her ex-boyfriend’s dependency and manipulation, rather than her fault. She began to recognize her own strengths but continued to live in constant fear because he continued to harass her. Unfortunately, she dropped out of treatment after 2 months. Apparently, she was again seeing her ex-boyfriend and may have felt too embarrassed to tell the therapist.

One month after stopping therapy, Ms B’s battered body was discovered in a field. Her ex-boyfriend was subsequently charged with her murder.

Discussion

Treatment of stalking victims requires a comprehensive approach, including education, supportive psychotherapy, and discussion of practical measures. Because the patient’s trust in others has been shaken, it is important to establish a therapeutic alliance by conveying to the patient that the therapeutic environment is safe and supportive (8).

The therapist who does not understand the patient’s reactions to the harassment or who gives the message that the victim has created the problem herself risks revictimizing her. As with victims of domestic violence, it is important for women who are stalked to realize that their victimization is not their fault. Even if the victim’s unconscious conflicts or past history of low self-esteem leave her vulnerable to choosing abusive partners, she does not consciously seek abuse or deserve to be abused.

Education of the patient about the nature of stalking, the controlling effects of threats or surveillance, common emotional reactions such as fear and humiliation, legal redresses, and safety precautions may be invaluable in validating the patient’s feelings, reducing her self-doubt, and mobilizing her. She may benefit from confirmation that certain behaviours constitute warning signals and warrant action. As with the case of Ms B, a patient’s fear of condemnation by the therapist as a result of behaviour consistent with ambivalent feelings may lead her to drop out of therapy. Helping the patient to understand that ambivalent feelings and actions toward ex-intimates are normal may reduce her self-blame and keep her in therapy. It is also important for the patient to understand that feelings of helplessness are normal reactions to the stalking and the problems with the legal system, rather than proof that she is ineffectual.

Supportive therapy focuses on increasing the woman’s self-esteem by helping her to assert herself with the stalker and authorities and to regain some control. Resolution of ambivalent feelings allows victims to send clear messages to the offender that their acts are illegal and will not be tolerated. Groups for stalking victims, if available, may help reduce the sense of isolation, validate feelings, and lead to a sharing of coping strategies among victims. Victim advocates may also assist in psychological and practical support for the patient (12). As described by Miller and Feibelman for PTSD, the occasional use of medication may facilitate a patient’s participation in individual and group psychotherapies by relieving severe anxiety symptoms and improving the benefits of psychotherapy in dealing with issues such as guilt (13).

An insight-oriented approach to trauma may explore relationships and the patient’s understanding of the cognitive and emotional consequences of trauma; however, therapists treating stalking victims should not fixate solely on intrapsychic conflicts but should address real practical issues and safety concerns. The goal is to help the patient to mobilize both herself
and others to discourage the stalking behaviour and punish it when needed. Victims should be encouraged to report the
behaviour to the police immediately and to include information such as the actual words or threats uttered by the stalker.
Victims should document details of all incidents, including dates, times, quotes from the harasser, and names of witnesses
(12). The patient should keep all letters and answering machine tapes as well as photos of destroyed property, vandalism, or
injury to the victim. She should alert others (employers, family, friends, neighbours, and building security) to the situation. If
a stalker calls from prison, the victim should inform the prisoner’s case manager or jail warden and follow up to ensure that
this information gets to the Parole Board, which decides on releases.

To protect property, it may be advisable to place it into a trust or in someone else’s name. Addresses and schedules should be
private and varied, with only a few close individuals being made aware of this information. Reading additional materials,
obtaining information regarding security measures, or even hiring a security expert may be helpful if the patient is very
concerned. Informing the police and taking various other measures, including safety steps, may be a positive experience for
the victim. Even if it does not lead to charges or a conviction, it enables her to feel that she is doing what she can to stop the
behaviour and exert some control over her circumstances. The patient needs to be cautioned about possible lack of support
from the police, courts, or others or else she may feel revictimized, with a consequent increase in her mistrust and sense of
isolation and vulnerability (8).

Patients should also be informed about stalking laws in their region and resources available to assist them (12). Therapists
may refer patients to legal aid services, social services, and victims’ organizations. An increased sense of control and self-
estee in the victim may result from considering that they have options and choices, including pursuing restraining orders or
charging the offenders with stalking or other illegal acts, such as assault, trespassing, or property damage. Unfortunately,
even the most extensive precautions and attempts to have the patient regain control of her life are not always successful.

**Issues for the Therapist**

During the treatment process, a range of emotions, such as vulnerability, helplessness, fear, rage, and guilt, may be evoked in
the psychiatrist. Defending against uncomfortable affects may interfere with the therapist’s ability to be helpful to the patient.
Male and female therapists may have different types of countertransference. Parallels may be drawn to treating victims of
sexual assault.

In order to protect herself from the realization of her own vulnerability by identifying with the female patient, the female
therapist may unconsciously blame her (14). This may be especially tempting if the victim has shown poor judgement in her
relationship choices. The female therapist’s anxiety over her own vulnerability may also tempt her to concentrate on early
developmental issues or to question the patient’s apparent “overreaction” instead of realistically dealing with the current
threats (15). Female therapists may also overidentify with the patient, become furious at the offender and police, and
prematurely push the patient to feel a similar level of rage. A patient’s history of psychological and physical abuse and sex-
role socialization, which discourages women from expressing aggression, may make it difficult for her to show anger (15).
The therapist needs to be in tune with the patient in order to gradually turn helplessness, guilt, and low self-esteem into
effective anger so that the patient is not so overwhelmed by intolerable rage that she flees from therapy.

Conversely, a female therapist may be more empathic with her victim–patient’s realistic fears. Women have to confront
feelings of helplessness and vulnerability more often than men in our society and may achieve “greater mastery or acceptance
of the attendant anxiety” (14). This may assist the female therapist in helping the patient to experience, contain, and tolerate
her feelings of powerlessness.

Male therapists must also deal with possible countertransference reactions. They may feel angry and guilty about failing in
their societal role as protectors of women and may project their own anger onto the patient, overwhelming her and distancing
the therapeutic relationship (14,16). Male therapists may also be overly protective in attempts to “rescue” a defenceless
female, thereby reinforcing the message that the victim is, indeed, helpless and vulnerable. Unconsciously motivated to prove
that “not all men are like this,” a male therapist may be overly defensive or angry. Male therapists may also identify with
some perceived feelings of the abuser, such as rejected love, and unconsciously diminish the patient’s anger and increase her
own guilt.

There is the risk that therapists of either sex may overidentify with the patient’s sense of powerlessness and hopelessness,
especially if the psychiatrist also feels daunted by an ineffective and unempathic justice system. This can lead to both
therapist and patient feeling overwhelmed by mutual helplessness, rather than developing an effective, empowering therapy
in which the patient regains some sense of control in her life. Therapists may also feel frustrated and impatient with a patient
who, because of normal ambivalent feelings, gives unclear messages to her abuser. Sometimes victims even initiate contact
with the stalker in order to try to resolve things in a civil, kind manner or give in to the abuser out of frustration or
ambivalence. The therapist needs to understand that, generally, women are more likely to try to resolve conflicts and preserve relationships than to pursue formal means of judgement and punishment.

Both male and female therapists may hesitate, out of fear, to take on the case of a woman who is being stalked by an ex-lover. Women are most at risk of being harmed or killed when they cut ties with their male partners, particularly with men who have a pathological need to control them and cannot accept that a relationship is over (17). Another common victim of the stalker is anyone perceived to stand between him and his goal of a “magical and perfect union” with the stalked person (3). The therapist, hearing stories of the stalker’s menacing behaviour, may feel too frightened for his or her own personal safety to become involved or, having taken on the case, remains so anxious and ambivalent that it interferes with the work of therapy. Conversely, the therapist’s awareness of these feelings may heighten his or her empathy and identification with what the patient is feeling.

As in the case of Ms B, the therapist may also have to deal with feelings resulting from the death of the patient. The therapist may experience a range of emotions, including grief, guilt, self-doubt, anger, and helplessness. These feelings may, however, increase the therapist’s sensitivity in dealing with issues faced by the surviving family members. In the case of Ms B, her mother was seen for grief counselling following the victim’s death. The mother noted feeling a special connection to the therapist, who had known her daughter and with whom she could discuss her own guilt and helplessness.

A therapist may also have concerns about being asked to testify in such cases. By the time such a case reaches the courts, the victim may appear quite unstable, that is, histrionic or paranoid. The treating psychiatrist may testify that the stalker’s behaviour is perceived as a very real danger to the patient and, as such, she has developed a number of symptoms. The therapist may need to explain factors affecting the severity of his or her patient’s reaction, such as prior stressful events or abuse from the offender or other persons, prior psychiatric conditions, supportive relationships, and severity and duration of the stalking. The treating psychiatrist should not act as an expert witness in such a case but only offer impressions of his or her particular patient.

Summary

Stalking is a crime with major mental health consequences that is often poorly understood by society. Therapists need to be aware of the victim’s emotional reactions, the types of legal and practical support available, and the possible biases of society. As well, therapists have a role in working with the medical profession, police, and the legal system to encourage education and research with respect to criminal harassment and lobbying for more understanding and effective interventions.

Clinical Implications

- Stalking has serious mental-health consequences.
- Therapists dealing with stalking victims need to be aware of both the psychological and legal aspects of the crime.
- Treatment management is hampered by society’s lack of understanding of the causes and consequences of stalking crimes.

Limitations

- This subject has not been well studied.
- Factors that make some individuals more vulnerable than others to stalking are unknown.
- There is no outcome research on psychotherapy for stalking victims.

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References


Résumé


Méthode : Des recherches informatisées de la documentation ont été utilisées pour repérer les ouvrages pertinents des publications psychiatriques et juridiques. Les publications des organisations de victimes ou de femmes ont été sources d’information additionnelle.

Résultats : Les victimes de harcèlement avec menaces subissent des conséquences affectives. Un stress additionnel est causé par le manque de compréhension de l’appareil judiciaire à l’égard des causes et des conséquences du harcèlement avec menaces, ainsi que par les lois inadéquates ou non appliquées. Le traitement des victimes exige une approche intégrée, incluant l’éducation, la psychothérapie de soutien et la discussion de mesures pratiques. Il est possible que les thérapeutes se suridentifient à l’impuissance des victimes ou qu’ils hésitent à accepter un cas par crainte du harceleur. Les thérapeutes féminins peuvent se protéger elles-mêmes contre la prise de conscience de leur propre vulnérabilité en blâmant la victime, tandis que les thérapeutes masculins peuvent se sentir sur la défensive ou surprotecteurs.

Conclusion : Le harcèlement avec menaces est un crime qui comporte d’importantes conséquences sur la santé mentale, mais il est souvent mal compris de la société. Les thérapeutes doivent connaître les réactions affectives de la victime, les types de soutien juridique et pratique offerts, et les préjugés éventuels de la société. Il faut encourager plus de formation et de recherche en la matière.

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