

Stalking as a Variant of Domestic Violence

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Much of what is presently known about stalking in a domestic context has been depicted by the popular press, typically following a tragic outcome, and suggests that it is a problem of increasing dimensions. However, scientific literature on this subject is quite limited. This article provides an overview of scientific data related to stalking and associated psychiatric syndromes, including erotomania. It reviews the current antistalking legislation and the National Institute of Justice Model Anti-Stalking Code. Four case studies of stalkers with psychotic disorders versus personality disorders are presented, and the differential diagnoses are discussed. The implications of diagnostic classification, with respect to criminal responsibility, are also discussed.

In November of 1992, the Chief Judge of the State of New York, Sol Wachtler, was arrested by federal agents and charged with conspiracy to commit extortion and threatening to kidnap a child. The charges emerged after an intensive Federal Bureau of Investigation (FBI) investigation uncovered a systematic, highly convoluted and technically sophisticated operation to extort money from Joy Silverman.

According to Ms. Silverman, in April of 1992 she began to receive obscene letters, greeting cards, and joke cards. Sometime later, a series of threatening phone calls began. As part of Judge Wachtler's campaign of harassment, he also developed a fictional character

named David Purdy, a private investigator, to observe the victim. In August of 1992 "Purdy" delivered a typed letter to Silverman's building that said, "it will cost you to get me out of your life."

In September of 1992 Judge Wachtler directed the victim to establish another telephone line in her home and take out an ad in the *New York Times* classified section advertising "Lost Texas Bulldog," with the new phone number, in order to discuss blackmail terms. In the original extortion demand, Wachtler indicated that he had tape recorded and photographed intimate relations between Ms. Silverman and her married boyfriend and would make this information public if she didn't comply with his wishes. Ultimately, Ms. Silverman received threats that her daughter would be kidnapped if she failed to meet the demands specified.

On September 19, 1992, Ms. Silverman contacted FBI Director William Sessions

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and told him that she was being threatened and harassed by an unknown man. The following day she met with several New Jersey FBI agents. Ms. Silverman told them that she had had an affair with Judge Wachtler after her marriage dissolved and that he subsequently became enraged when she began seeing another man.¹

In the months following arrest, there was some speculation that Wachtler's attorneys would pursue an insanity defense, citing his recently diagnosed bipolar disorder and prescription drug misuse.² John Money described Wachtler as "manifesting advanced symptoms of the disease, erotomania," and likened him to other men and women suffering from this "disease," who are "stricken with love-sickness and obsessively possessed by love unrequited."³ The prosecution posited that his actions were simply those of a lover spurned.

On April 1, 1993 Judge Wachtler pled guilty to threatening to kidnap the daughter of Joy Silverman. Under the plea bargain, a five-count indictment that included an extortion charge was dropped by Federal prosecutors. In explaining his actions to the court, Mr. Wachtler said that he "began a course of activity aimed at causing Ms. Silverman to seek my help and protection. To do this I hoped to put Ms. Silverman in fear that her reputation would be ruined by publicizing her relationship with David Samson." Of this, Michael Chertoff, the Federal prosecutor remarked, "He confessed to carrying out a campaign of terror against a woman whose only crime was she said, 'no, Sol

Wachtler.' Scorned in one area, he simply couldn't let go."⁴

Overview

Over the last 20 years, domestic violence has been recognized as a social problem of some magnitude. National surveys estimate that approximately two million women are battered by their husbands annually, although current estimates of prevalence probably fall short for a number of reasons, the most obvious being under-reporting of incidents by victims. Conventional statistical analysis of criminal data also underestimates the actual incidence of domestic violence when commonly associated, nonassault criminal charges such as breach of peace and disorderly conduct are excluded from review.⁵ A substantial proportion of victims also demonstrate significant morbidity.⁶

Analysis of FBI homicide data from 1976 through 1985 by Mercy and Saltzman⁷ identified 16,595 spouse homicides representing 8.8 percent of all homicides reported. This study did not take into account homicides involving intimates however. Further analysis of FBI homicide data from 1976 through 1987 by Kellerman and Mercy reveals that, although women are at substantially lower risk for homicide overall, almost 40 percent of female homicide victims were murdered by a spouse, intimate acquaintance, or family member. The authors note that there is often a pattern of escalating violence prior to domestic homicide and that women are commonly murdered by their partners while in the process of leaving an abusive relationship.⁸

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To date, stalking has not been described in the literature as a form of domestic violence.* The only research data currently available, to the best of my knowledge, is that of Dietz,⁹⁻¹¹ who has studied stranger stalking by investigating the pursuit of celebrities and politicians by mentally ill offenders. Thus, much of what is presently known about stalking in a domestic context has been depicted in the popular press, typically following a tragic outcome, and suggests that it is a problem of increasing dimensions. In the domestic arena, there is no doubt that some stalking behavior represents a form of domestic violence and can be construed, at the very least, as a type of interpersonal coercion, as the Wachtler case illustrates. Motivation of the stalker is likely variable and multidetermined. Common wisdom suggests that stalking behavior is generally employed following a separation or the dissolution of a relationship, but there is little empirical data about its incidence, course, or resolution in the absence of a disastrous denouement.

Until recently, legal remedies for stalking have been grossly inadequate and, from a practical standpoint, largely unavailable. Dietz, in a review of legal relief available to victims of obsessional harassment in 1984, concluded that victims "often find comprehensive criminal remedies non-existent and civil remedies expensive and uncertain."¹² At that time,

nearly half of the states had laws prohibiting some forms of harassment; however, most of these statutes were very limited in scope and few specifically prohibited unauthorized touching with intent to alarm, or following in public places. Furthermore, virtually all states treated harassment as a misdemeanor, with fines falling below \$600 and maximum sentences of less than seven months. Available civil remedies included injunctive relief, monetary compensation, and actions for defamation, trespass, assault, nuisance, invasion of privacy, and intentional infliction of emotional distress. These actions, however, require proof of specific elements frequently absent in harassment scenarios and are expensive and time consuming. Even more critical, with the possible exception of injunctive relief, they provide no immediate protection to victims and may ultimately be of no deterrent benefit whatever.¹²

In the last few years state statutes have been developed to more specifically address harassment in the form of stalking. Following the homicide of Rebecca Schaeffer, in 1990, California became the first state to enact a stalking law.[†] In response to other highly publicized cases, growing media attention, and expanding public concern, as of November 1993, 48 states and the District of Columbia have instituted antistalking statutes. Two others, Arizona and Maine, have revised harassment and terrorizing statutes, respectively, to make them applicable to stalking situations. Approximately 11 states, Cali-

*For the purposes of this article, stalking is defined in current statutory language as "willful, malicious and repeated following and harassing" in which a "credible threat, either expressed or implied" is made and places the victim "in reasonable fear of death or serious bodily harm."

[†]Cal. Penal Code § 646.9 (West 1995).

California and Illinois among them, have revised and expanded existing antistalking legislation in 1993. California has added a civil remedy creating liability for the tort of stalking, which allows for equitable relief, not limited to an injunction, and monetary compensation, including but not limited to general, special, and punitive damages.[‡]

State code typically defines stalking as "willful, malicious and repeated following and harassing of another person" by an individual evidencing a pattern of conduct "who makes a credible threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm." Misdemeanor and felony classifications exist in many states, although generally a first offense is punishable as a misdemeanor with a sentence of up to one year in jail. Repeat offenses in some states are punishable by sentences of three to five years. Given the youth of these statutes, little information has accrued regarding enforcement, prosecution, average penalties, or impact on recidivism.

Nor has the constitutionality of such statutes been challenged. The American Civil Liberties Union (ACLU) has not taken a formal position on the new antistalking statutes, but has basic concerns about over breadth and vagueness. The ACLU supported a federal bill passed by Congress in 1992, which directed the National Institute of Justice (NIJ) to conduct a one-year study of the various laws enacted by states in order to develop a con-

stitutionally enforceable model that can serve as a guide in the development of further state legislation.

The results of this study were published by the NIJ in October of 1993.¹³ It recommends that stalking be classified as a felony offense and that penalties be established for stalking that reflect and are proportionate to the seriousness of the crime. The NIJ study also suggests expansion of code language. Discarding the use of the term "credible threat," which often requires a verbal or written threat, the study recommends using the language "threats implied by conduct" within the context of the offense. It also defines the intent element as conscious and purposeful activity that the defendant "knows or should know would cause fear in a person at whom the conduct is directed." Noting that stalking statutes criminalize behavior that could be construed as lawful, if fear were not induced, the model code identifies "fear of bodily injury or death" as a critical element in the charge, suggesting that annoying or emotionally distressing conduct be punishable under harassment or intimidation statutes. Further, it recommends that prohibited acts not be listed, because some courts have ruled that such specification is exclusive and thus may allow the perpetrator to circumvent the law.¹³

Several federal bills are currently pending. The Federal Stalking Prevention Act of 1993 defines stalking as a pattern of "conduct that involves an express or implied threat to kill or to inflict bodily injury that is made with the intent to place a person in fear and in a manner or context that causes that person to reasonably fear bodily injury or death." This bill autho-

[‡]Cal. Civil Code § 1708.7.

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rizes the Director of the Bureau of Justice Assistance to provide grants to states to develop stalking prevention and reporting programs, and to reduce formula grants if states are not compliant in implementing stalking-related programs and procedures as required by the national act. It also directs the U.S. Sentencing Commission to provide a longer sentence for second or subsequent offenses in circumstances in which a protective order was in effect. It is applicable in situations in which an individual crosses state lines during or for the commission of such an offense, uses the U.S. mail, or commits the offense in the special maritime and territorial jurisdiction of the United States. The Federal Employee Antistalking Act of 1993 would amend federal code to allow for criminal penalties and civil relief, including punitive damages, in cases in which a federal employee is stalked while engaged in, or on account of, his official duties.

Given the discord evoked by the Wachtler case, and with the advent of new antistalking statutes and harsher penalties for repeat offenses in some jurisdictions, significant philosophical and diagnostic controversies are likely to evolve as domestic stalkers receive more attention from forensic psychiatrists. In these circumstances, the central questions are obvious. Does this obsessional behavior, in and of itself, constitute a "disease" in the absence of a major mental disorder? Is "love sickness," coupled with nondelusional, obsessional pursuit by a rejected intimate, a form of erotomania, as Dr. Money has suggested? And are such individuals, if by love pos-

sessed, criminally responsible for their actions?

Associated Psychiatric Syndromes

Stalking behavior has historically been associated with erotomania (although anger rather than love may obviously motivate some stalkers). This syndrome has been recognized as a pathological form of love since ancient times. Descriptions of it can be found in the writing of Hippocrates, Plutarch, Galen, and others.¹⁴ It did not appear in the psychiatric literature until the 19th century, when it was described by Esquirol in 1838 in *Maladies Mentales*.¹⁵ In 1921 a disorder called "old maid's insanity" was identified by the English psychiatrist Bernard Hart. Earlier the same year, Kraepelin provided a detailed description of an identical syndrome, classifying it as a grandiose subtype of paranoia, and the French psychiatrist de Clerambault¹⁶ defined erotomania in *Les psychoses passionnelles*. In addition to describing the features of the syndrome, he characterized it as either pure or secondary. In the pure form, onset is sudden and the disorder is limited to erotomaniac features, whereas the secondary type has an insidious onset and represents only one aspect of a more pervasive paranoid psychosis, most commonly paranoid schizophrenia.¹⁶ All authors of the time considered it essentially a syndrome of women, and that view has persisted until recently.^{17, 18} Kraepelin noted that the erotomaniac delusions "appear . . . as the morbidly transformed expression of the natural emotions of the human heart," as "a kind of psychological compensation for the disappointments of life."¹⁹ Segal

has suggested that the delusions provide narcissistic gratification "when life cruelly fails to do so."²⁰

The cardinal feature of the disorder as originally described by Kraepelin and de Clerambault is the delusional belief, generally held by a woman, that a man of higher social station is secretly and madly in love with her.^{20, 21} This man is typically someone that she has not met, or with whom she has had only fleeting contact. Central to her elaborate belief system, this man acts as a silent caretaker, watching over her and communicating by extraordinary means. The woman, in turn, is eternally faithful and chaste. Curious associated features include paradoxical conduct, in which the patient perceives all denials of love, no matter how adamant, as ardent proof of love; and common secondary delusional beliefs. For instance, it is not unusual for the patient to believe that her "lover's" marriage is a mere pretense or that he can never be truly happy without her.²⁰

The syndrome tends to be chronic and unremitting, although the object of love may change. Treatment with antipsychotic medication and forced separation may lessen delusional intensity and preoccupation however.

Although originally regarded as a rare disorder and one that was essentially peculiar to women, recent data suggest otherwise.^{9, 17, 18} Even though reports on this syndrome are largely anecdotal, Dietz,⁹ in an empirical study of communications sent to celebrities and politicians, identified 35 erotomaniac individuals, representing 16 percent of the sample, who wrote to celebrities. He concluded that the syn-

drome is more common than previously thought and not predominantly female. Taylor *et al.*¹⁷ have described four cases of male erotomania in a violent male offender population of 112. They observed a low level of aggression and note an inverse relationship between this and the firmness with which the central delusional belief is held. In other words, the stronger the erotomaniac delusion, the less likely is dangerous behavior. Although they conclude that this disorder may be a variant of the major functional psychoses, they suggest that it is useful, for the purposes of management and prediction of behavior, to treat the disorder as a syndrome akin to morbid jealousy.

In an elegant paper, Meloy²² conceptualizes the disorder in a very interesting way. He hypothesizes that it exists in essentially two forms: he designates the first as classic, delusional erotomania and the second as borderline erotomania. Borderline erotomania as defined by Meloy is a nondelusional form of the syndrome in which "an extreme disorder of attachment is apparent in the pursuit of, and in the potential for violence toward, the unrequited love object." Central to his thesis is a distinction between the actual relationship and object relations. In delusional erotomania, there has been no prior relationship or only fleeting contact, whereas in the nondelusional form, there has typically been a history of actual emotional involvement of varying degree. Fundamentally, the personality is organized at the borderline level, and thus rejection by the love object evokes abandonment fears and rage. It is Meloy's view, based on a small clinical sample, that character traits

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of the narcissistic, histrionic, antisocial, or paranoid type are invariably present, solely or in some combination, in the non-delusional subtype. He also notes that a major psychosis, affective disorder, or organic mental disorder frequently coexists with the classical form of de Clerambault's syndrome. These observations are consistent with my clinical experience with a small sample of forensic patients charged with stalking-related offenses.

As the pathognomonic feature of erotomania is the delusional belief that one is passionately loved, is it meaningful or parsimonious to add a nondelusional subtype to this diagnostic category? Other forms of pathological or obsessional "love" are commonly observed in clinical practice and, although aberrant, may or may not reflect a major psychiatric disorder. For instance, current research on the personality characteristics of male batterers reveals significant character pathology, particularly of the borderline and antisocial types. Hamberger and Hastings^{23, 24} report that 85 percent of their sample of male batterers met Millon Clinical Multiaxial Inventory criteria for personality disorder. Borderline, passive-aggressive, schizoid, and antisocial diagnoses were the most prevalent. In a study done by Else *et al.*²⁵ using the Minnesota Multiphasic Personality Inventory, abusers demonstrated significant elevations on the borderline and antisocial subscales only, as well as poor problem-solving skills. Although there are presently no data available regarding the incidence of stalking behavior among men who habitually engage in domestic violence, it is likely that forthcoming research in this area will

uncover a significant relationship. Given the characterologic vulnerabilities of this group, particularly those with borderline and antisocial traits and obsessiveness, stalking behavior and other acts of violence would not be surprising findings.

Case Examples

The case histories that follow illustrate the variety of psychopathology and the clinical complexities and subtleties inherent in these situations. They also serve to highlight common features and critical distinctions between erotomaniac and non-erotomaniac individuals who obsessively pursue an object of "love."

These individuals, all male, presented for competence to stand trial evaluations after incurring a variety of criminal charges that resulted from stalking behavior. Each had evidenced a pattern of repeated following and harassment, although this was much more prominent in three of the four. Two demonstrated obvious signs of de Clerambault's syndrome. The remaining two individuals presented with prominent signs of Axis II pathology, although an Axis I disorder could not be ruled out, given the limitations of the examination.

In all cases the victims were fearful of contact with the perpetrators. It is also noteworthy that, in three of the four cases, protective orders had been violated on numerous occasions.

Case 1 Mr. A is a 62-year-old, white male who was charged with numerous counts of breach of peace, harassment, criminal trespass, and disorderly conduct. Additional charges included second and first degree stalking, failure to comply

with fingerprinting, and multiple counts of failure to appear. All criminal charges arose from events related to the pursuit of a nurse he met while he was a patient in a convalescent home several months earlier. Following his discharge, he made repeated attempts to contact her, by phone and in person, over a period of six months. On a number of occasions he returned to the nursing home and went to her residence, even attempting to kiss her on one occasion. In addition to maintaining the delusional belief that the woman loved him, Mr. A emphatically asserted that she was his wife. Despite his awareness that the woman in question was married, Mr. A repeatedly described how she magically became his wife when he gave her a watch.

On mental status examination, Mr. A presented as a tall, poorly nourished, disheveled, elderly, white male who appeared older than his stated age with physical stigmata of alcoholism. Attitude toward the examiner was overly familiar, jocular, and hypersexual. Speech was rapid, pressured, perseverative, and rambling. Thinking was frankly disorganized, frequently to the point of incoherence. Grandiose and erotomanic delusions were noted. Affect was expansive, irritable, and rapidly shifting. Attention and concentration were markedly impaired, but there was no evidence of delirium.

Available history revealed that Mr. A was a retired railroad worker, who took up drinking in later life and, at some point, was diagnosed as a chronic undifferentiated schizophrenic. He had previously been treated with a variety of antipsychotic medications including lith-

ium. Past medical history was remarkable for peripheral vascular disease.

Case 2 Mr. B is a single, 27-year-old, white college graduate, who was charged with threatening, criminal trespass, and interfering with a police officer. These charges arose from an incident in which he went to the home of a young woman whom he believed was in love with him and threatened to kill her. He had met her several years before at work and had gone on a group outing with her in the remote past. Despite an understanding that the young woman had not responded favorably to his overtures, and that an actual relationship had not materialized, Mr. B believed a special, spiritual one had evolved over time.

On mental status examination, Mr. B presented as a thin, attractive, well groomed, healthy-appearing young man who initially seemed lucid and articulate. His speech became increasingly pressured as the interview proceeded. His thinking became markedly disorganized and overly elaborate with flight of ideas and frank delusional content. He also endorsed auditory and visual hallucinations, ideas of reference, and prominent ideas of influence. Grandiose and supernatural themes were noted. For instance, Mr. B indicated that he had "paranormal faculties" that enabled him to project his thoughts to others and prevent people from hurting others by way of "mental coercion." He also expressed the belief that he had inadvertently caused a recent hurricane to hit Florida and that he was "single-handedly" capable of repairing the ozone layer. Affect was expansive and labile.

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Available history revealed that Mr. B graduated from a prestigious university after attending six years. He denied prior psychiatric treatment, indicating that he had participated in an outpatient "study of schizophrenia" briefly while in college. He endorsed the use of marijuana and cocaine intermittently during his college years and acknowledged recent daily alcohol consumption. He underwent significant psychosocial decline following graduation, living with his parents and working at menial jobs intermittently.

Case 3 Mr. C is a 27-year-old, unemployed, black male with a history of domestic violence charged with stalking, unlawful restraint, breach of peace, violation of a protective order, harassment, tampering with a witness, risk of injury to a minor and multiple counts of burglary. All criminal charges are related to persistent harassment of a former girlfriend and accrued over a period of several weeks. In several incidents, Mr. C broke into the victim's home and, on one of these occasions, she found him hiding under a bed. Following an arrest, Mr. C telephoned his ex-girlfriend at work and told her, among other things, that she was not to see other men.

On mental status examination, Mr. C presented as a healthy-appearing young man who was well groomed and polite. Speech was rapid, pressured, and overly productive. Thinking was organized overall, but circumstantial and evasive at times. Even though there was no overt psychotic symptomatology, grandiose and paranoid trends were noted. Mr. C also demonstrated ideas of influence with regard to the victim that were difficult to

interpret. He was clearly obsessed with her and believed that others could control her thoughts by "talking to her, telepathy, and subliminal persuasion" and that this would be done in an effort to take her away from him. Feelings of jealousy were also prominent as was Mr. C's conviction that none of the charges was serious because he was going to persuade the victim to drop them. Given the factual circumstances, this attitude reflected inadequate reality testing. Affect was expansive, labile, and anxious. On cognitive examination, Mr. C responded to testing rapidly and, generally, accurately. Of note, he was somewhat distractible and concrete.

Past history was very difficult to ascertain, as Mr. C demonstrated pseudologia fantastica. His parents denied any history of psychiatric treatment. They characterized him as a "disruptive and disobedient child," who was raised in a stable, working-class family. A history of alcohol abuse of several years duration was also noted.

Case 4 Mr. D is a 39-year-old, recently divorced, white male, father of one, with a history of alcohol abuse and domestic violence, who was charged with criminal mischief, breach of peace, harassment, threatening, illegal possession of a weapon, multiple related counts of burglary, and three counts of violation of a protective order. His ex-wife described him as "very controlling and short fused" during their five-year marriage and indicated that he could not hold a job because of aggressive behavior. She reported that he had been physically assaultive on only two occasions while married, but was verbally abusive and had frequent explosive

episodes over minor issues that resulted in him breaking up the home furnishings once or twice a week. Following their divorce, for a period of approximately six months, she noted that his behavior became increasingly erratic and irrational. She stated that he seemed "obsessed" with her and their child, harassed and followed her on numerous occasions, and burglarized the family home several times (once while lying in wait for his ex-wife). It is alleged that he also impersonated a private investigator and a lawyer, contacting the family and friends of his ex-wife to "inquire about me or intimidate others." Arrest warrants describe several violent incidents, one of which was quite serious and might have resulted in the murder of Mr. D's ex-wife if other factors had not intervened. Mr. D was out on bond at the time of the evaluation.

On mental status examination, Mr. D was unctuous, obsequious, superficially cooperative, and quite guarded. He dealt with the most serious criminal charges by denying any knowledge of the incidents. Although his thinking was organized overall, Mr. D was quite tangential, circumlocutory, and frankly evasive. He appeared excessively preoccupied with his family situation and obsessed with his daughter. He denied frank psychotic symptoms, but paranoid trends were noted with regard to his ex-wife, whom he described as trumping up all the charges "out of spite . . . because she hates me." Affect was constricted, disingenuous, overly controlled, and anxious. Mr. D denied significant affective symptomatology, as well as homicidality and suicidal-

ity. Cognitive examination was essentially within normal limits.

Past psychiatric history revealed remote inpatient treatment for alcohol dependence, but no history of psychiatric hospitalization. Mr. D sought outpatient psychiatric treatment several years earlier for a chief complaint of "difficulty concentrating" and was placed on 5 mg daily of Dexedrine (dextroamphetamine sulfate, Smithkline Beecham) for adult attention deficit disorder. His treating psychiatrist, at the time of the competency evaluation, indicated that he carried a primary diagnosis of antisocial personality disorder and amphetamine dependence. She estimated that he was taking 60 mg daily. He was poorly compliant with treatment and verbally threatening when she initiated a plan to taper him off Dexedrine. When hospitalized for restoration to competency, he acknowledged that he had been taking approximately 120 mg daily.

Discussion

In addition to obvious signs of de Clerambault's syndrome, Mr. A's presentation suggested organicity, either with psychotic features, or superimposed on a pre-existing psychotic process. Mr. B's case also highlights the frequent association of erotomania with major psychotic disorders, although it was unclear if he suffered from a schizophrenic or schizoaffective disorder.

In cases 3 and 4, both individuals were obsessed with their victims, but there was no evidence of de Clerambault's syndrome. Their histories were striking for hostility and repeated acts of aggression,

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including physical assaults, directed at the victims following the dissolution of the relationships. While there were prominent signs of a personality disorder and sociopathy in both cases, in Mr. C's case, manic and quasi-psychotic features also raised the question of an incipient bipolar disorder. By history and presentation, Mr. D met DSM-3-R criteria for antisocial personality disorder, in addition to amphetamine and alcohol dependence. His condition was clearly exacerbated by amphetamine abuse, but there was little to suggest a discrete amphetamine-induced paranoid disorder or other psychosis. Using Meloy's conceptual framework for borderline erotomania, one could infer that both Mr. C and D demonstrated by their thinking and behavior "an extreme disorder of attachment" consistent with borderline personality organization. Beyond this, however, their clinical presentations are quite disparate, as are the differential diagnoses they evoke.

Although one would expect a greater incidence of mental illness in a sample drawn from a group referred for competence to stand trial evaluation, scrutiny of this small sample of stalkers also suggests a broad range of psychopathology. Overall, the group can be divided by predominant symptomatology into those who have psychotic disorders versus those who have personality disorders, and this rough division has important implications. Equating Money's notion of "love sickness" with Meloy's concept of non-delusional erotomania and applying their theories to our current definition of erotomania would expand this diagnostic category by creating a nonpsychotic subtype.

Given our current understanding, this subtype would consist largely of individuals with primary personality disorders and no major mental disorders apart from the newly founded "erotomania." To make this theoretical leap before the subject has received scientific scrutiny is imprudent on its face and has serious implications with respect to criminal responsibility. Inasmuch as historically the insanity defense has been applied in circumstances in which the defendant suffers from a psychotic disorder, this change represents a substantial departure and would soften the current standard that defines a mental disorder for this legal purpose. The obvious consequences include misapplication of the insanity defense to circumstances that simply do not warrant its use, dilution of the potential for deterrence provided by the current stalking statutes, and growing public unpopularity and skepticism around the legitimate use of the insanity defense.

Summary

Stalking as a variant of domestic violence is a serious social problem that has received little scientific scrutiny, despite the fact that it is far more common than "stranger" or celebrity stalking.²⁶ It is also a complex behavior with social and cultural underpinnings as well as psychological determinants. To reason that this behavior is irrational and, thus, must represent a mental "disease" removes it from the spectrum of ordinary human experience and provides a pat answer before the essential questions have been asked. Research in this area will be helpful in identifying the most common psychiatric

disorders associated with stalking in a domestic context, and in elucidating the underlying dynamics in cases in which character pathology is the predominant disorder. Identification of risk factors associated with serious or tragic outcomes would be of considerable value, as restraining orders and other legal remedies thus far have typically afforded little protection to victims. Assessment of the impact of new stalking statutes on recidivism is also worthy of attention.

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