

# The Roles of Phones and Computers in Threatening and Abusing Women Victims of Male Intimate Partner Abuse

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## I. INTRODUCTION

Telephones are intimate partner abuse (IPA) victims' easiest and quickest access to help (i.e., 911 calls), support, and court case information.<sup>1</sup> A considerable amount of anecdotal research points to cases where victims' telephones have been damaged or broken, stolen, and even used as weapons by their abusers.<sup>2</sup> To a far lesser extent, research has indicated that some IPA offenders break, take, or otherwise limit their victims' access to computers.<sup>3</sup> A larger body of research, however, documents phone harassment as the most

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1. See *infra* Part IV.
2. See *infra* Part VI.B.
3. See *infra* Part V.

frequent,<sup>4</sup> or one of the most frequent,<sup>5</sup> forms of stalking. With the massive advances in technology communications, cyberstalking—using emails, text-messaging, and social network internet sites to harass and stalk—is a relatively recent form of abuse and, unsurprisingly, has significantly broadened how current and former intimate partners can monitor, stalk, harass, and threaten their victims.<sup>6</sup>

Technology can also lead to intimate partner abuse. Moreover, the link between technology and abuse comes in two forms: technology can be used as a *tool* to abuse, but it can also be the *trigger* for more violent abuse. For example, on February 4, 2012, an 18-year-old California woman called the police when she was “allowed to leave” the home where her 21-year-old boyfriend had bound her arms and legs with tape, threatened her with a hand gun, beaten her, and held her captive for nine days after he “became enraged when he found a text message from another man on her cellphone.”<sup>7</sup> Phone and computer harassing, damaging, threats, and so on, can include extremely serious danger and intimidation, including lethal threats and the use of weapons.<sup>8</sup>

A considerable amount of research documents that the vast majority of stalking is of women and that women’s most frequent stalkers are their male former intimate partners.<sup>9</sup> One of the leading scholars on stalking in the context

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4. Mary P. Brewster, *Stalking by Former Intimates: Verbal Threats and Other Predictors of Physical Violence*, 15 VIOLENCE & VICTIMS 41, 46 (2000); Gian M. Galeazzi et al., *Experiences of Stalking Victims and Requests for Help in Three European Countries. A Survey*, 15 EUR. J. ON CRIM. POL’Y & RES. 243, 248 (2009); Lorraine Sheridan & Graham M. Davies, *Stalking: The Elusive Crime*, 6 LEGAL & CRIM. PSYCHOL. 133, 136 (2001).

5. Lauren Bennett Cattaneo et al., *Describing Intimate Partner Stalking Over Time: An Effort to Inform Victim-Centered Service Provision*, 26 J. INTERPERSONAL VIOLENCE 3428, 3441 (2011); Eric Blaauw, Frans W. Winkel, Ella Arensman, Lorraine Sheridan & Adriëne Freeve, *The Toll of Stalking: The Relationship Between Features of Stalking and Psychopathology of Victims*, 17 J. INTERPERSONAL VIOLENCE 50, 56 (2002); Rosemary Purcell, Michele Pathé & Paul E. Mullen, *The Prevalence and Nature of Stalking in the Australian Community*, 36 AUSTRALIAN & NEW ZEALAND J. PSYCHIATRY 114, 117 (2002).

6. Lisa A. Melander, *College Students’ Perceptions of Intimate Partner Cyber Harassment*, CYBERPSYCHOLOGY, 13 Behavior & Social Networking 263, 266–67 (2010); Bradford W. Reyns & Christine M. Englebrecht, *The Stalking Victim’s Decision to Contact the Police: A Test of Gottfredson and Gottfredson’s Theory of Criminal Justice Decision Making*, 38 J. CRIM. JUST. 998, 998-99 (1995); Cynthia Southworth et al., *Intimate Partner Violence, Technology, and Stalking*, 13 VIOLENCE AGAINST WOMEN 842, 854 (2007); Patricia G. Tjaden, *Stalking Policies and Research in the United States: A Twenty Year Retrospective*, 15 EUR. J. ON CRIM. POL’Y & RES. 261, 274 (2009).

7. Erin Tracy, *Pregnant Teen Held, Beaten by Boyfriend for Days, Ceres Police Say*, THE MODESTO BEE (Feb. 8, 2012), <http://www.modbee.com/2012/02/08/2061657/pregnant-teen-held-beaten-by-boyfriend.html>.

8. See *infra* VI.B.3.

9. Bennett Cattaneo et al., *Describing Intimate Partner Violence Over Time*, *supra* note 5; Blaauw, *supra* note 5, at 51; Keith E. Davis, Ann L. Coker & Maureen Sanderson, *Physical and Mental Health Effects of Being Stalked for Men and Women*, 17 VIOLENCE & VICTIMS 429, 429 (2002); Galeazzi, *supra* note 4, at 246–47; Lorraine Sheridan, Graham Davies & Julian Boon, *The Course and Nature of Stalking: A Victim Perspective*, 40 HOWARD J. CRIM. JUST. 215, 221 (2001); Brian H. Spitzberg, *The Tactical Topography of Stalking Victimization and Management*, 3 TRAUMA, VIOLENCE & ABUSE 261, 266–67 (2002) (including meta-analysis of 108 samples across 103 studies on stalking, that represented over 70,000 participants, found that across the studies, 23.5 percent of women and 10.5 percent of men experience stalking, 75 percent of stalking victims are women, and the largest group of stalkers (49 percent) are former intimate/romantic partners); Tjaden, *supra* note 6, at 271–72; Patricia Tjaden & Nancy

of IPA, Mary P. Brewster, states: "Among the behaviors that might occur during stalking are following, watching, harassing by telephone and/or letter, causing property damage, threatening harm, and violence."<sup>10</sup> Bingham describes intimate partner emotional abuse as nonphysical abuses that include "controlling the victim's access to finances, isolating the victim from family and friends, damaging or destroying the victim's personal property, physically hitting or throwing objects at a surface nearby the victim, or conducting surveillance of the victim."<sup>11</sup> Notably, almost all measures of stalking include telephone harassment,<sup>12</sup> and more recent ones include cyberstalking by using computers.<sup>13</sup>

Although abuse between current or former intimates has a number of labels (e.g., domestic violence, woman battering, and intimate partner violence) for the purposes of this Article, we usually use the term "intimate partner abuse" (IPA) to include both violent and nonviolent abuse perpetrated by current or former intimate partners (e.g., dates, lovers, and spouses), versus the terms "domestic violence" or "intimate partner violence" which usually only include violent abuse.<sup>14</sup> This Article examines the significant threatening and controlling roles that phone and computer stalking and harassment can play in the victimization of women by their current and former intimate partners. Given that IPA

Thoennes, *Stalking in America: Findings from the national violence against women survey* (NCJ 169592) (1998).

10. Brewster, *supra* note 4, at 42.

11. Joy M. Bingham, *Protecting Victims by Working Around the System and Within the System: Statutory Protection for Emotional Abuse in the Domestic Violence Context*, 81 N. D. L. REV. 837, 840–41 (2005).

12. See e.g., Blaauw, *supra* note 5, at 51; Brewster, *supra* note 4, at 42; Kathy McCloskey & Nancy Grisby, *The Ubiquitous Clinical Problem of Adult Intimate Partner Violence: The Need for Routine Assessment*, 36 PROF. PSYCHOL.: RES. & PRAC. 264, 274 (2005); Heather C. Melton, *Stalking in the Context of Domestic Violence: Findings on the Criminal Justice System*, 15 WOMEN & CRIM. JUST. 33, 46 (2004) [hereinafter Melton, *Domestic Violence*]; Heather C. Melton, *Stalking in the Context of Intimate Partner Abuse: In the Victims' Words*, 2 FEMINIST CRIMINOLOGY 347, 349 (2007) [hereinafter Melton, *Intimate Partner Abuse*]; Susan L. Miller & Nicole L. Smolter, "Paper Abuse": *When All Else Fails, Batterers Use Procedural Stalking*, 17 VIOLENCE AGAINST WOMEN 637, 638 (2011); Paul E. Mullen, Michele Pathé, Rosemary Purcell & Geoffrey W. Stuart, *Study of Stalkers*, 156 AM. J. PSYCHIATRY 1244, 1245 (1999); Purcell et al., *The Prevalence and Nature of Stalking*, *supra* note 5, at 114; Rosemary Purcell, Michele Pathé & Paul E. Mullen, *Editorial: When Do Repeat Intrusions Become Stalking?*, 15 J. FORENSIC PSYCHIATRY & PSYCHOL. 571, 578 (2004); Barry Rosenfeld & Ronnie Harmon, *Factors Associated with Violence in Stalking and Obsessional Harassment Cases*, 29 CRIM. JUST. & BEHAV. 671, 681 (2002); Lorraine Sheridan & Graham M. Davies, *Stalking: The Elusive Crime*, 6 LEGAL & CRIMINOLOGICAL PSYCHOL. 133, 136 (2001). See also Spitzberg, *supra* note 9 (providing a meta-analysis for 103 stalking studies).

13. See e.g., Jill P. Dimond, Casey Fiesler & Amy S. Bruckman, *Domestic Violence and Information Communication Technologies*, 23 INTERACTING WITH COMPUTERS 413, 413 (2011); McCloskey & Grigsby, *supra* note 12, at 274; Lisa A. Melander, *College Students' Perceptions of Intimate Partner Cyber Harassment*, 13 CYBERPSYCHOLOGY, BEHAVIOR & SOCIAL NETWORKING 263, 263 (2010); Miller & Smolter, *supra* note 12, at 638; Mullen, *supra* note 12, at 1245; Purcell et al., *Editorial*, *supra* note 12, at 574; Reynolds & Englebrecht, *supra* note 6, at 998–99; Sheridan & Davies, *supra* note 12, at 145; Simon A. Turmanis & Robert I. Brown, *The Stalking and Harassment Behaviour Scale: Measuring the Incidence, Nature, and Severity of Stalking and Relational Harassment and Their Psychological Effects*, 79 PSYCHOL. & PSYCHOTHERAPY: THEORY, RES. & PRAC. 183, 189 (2006).

14. For a more complete explanation of the preference for the label "intimate partner abuse," see Joanne Belknap & Hillary Potter, *Intimate Partner Abuse*, in *RETHINKING GENDER, CRIME, AND JUSTICE: FEMINIST* 168 (Claire M. Renzetti, Lynne Goodstein, & Susan L. Miller eds., 2006).

offenders are typically charged with “domestic violence” in the criminal legal system, we use the term domestic violence interchangeably with IPA, including in cases where the abuse was not violent per se (e.g., death threats, demeaning verbal abuse, non-physical control of the victims, or humiliating behaviors).

This Article reviews the extant research on IPA in terms of phones and computers, the multifaceted roles they entail for IPA victims, and how loss of access can affect the victims’ (and their children’s) safety (e.g., from the police, prosecutors, and victim advocates), and social support (e.g., from friends, family, and co-workers). In addition, we provide new descriptive data on victims’ experiences with phones and computers following IPA cases where males were charged with “domestic violence” against their current or former female partners in two urban areas: Cincinnati, Ohio, and Denver, Colorado. Both of these studies were funded by the National Institute of Justice, one an “older” study (before cell phones were common) and the other a more recent study.<sup>15</sup> Specifically, the Cincinnati data included information from National Incident Based Reporting System (NIBRS), Cincinnati Police Department Police Reports, and prosecutors’ reports on cases of misdemeanor domestic violence that reached the courts in 1997.<sup>16</sup> The more recent Denver data are from one-on-one interviews of a sample of women whose current or former intimate partners’ abuse was reported to the Denver Police Department in 2007 and 2008.<sup>17</sup>

## II. THE SIGNIFICANT ROLES OF COERCIVE CONTROL, STALKING, AND HARASSMENT IN IPA

Through her ground-breaking work in the Domestic Abuse Intervention Programs in Duluth, Minnesota, in 1986, the late Ellen Pence developed (with Michael Paymar) the famous *Power and Control Wheel* by interviewing hundreds of women IPA survivors about if and how their partners controlled them.<sup>18</sup> This

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15. The two NIJ VAWA grants funding the studies from which the data reported in this paper are: Joanne Belknap (Principal Investigator) and Dee Graham (co- Investigator) on 1997–1998 National Institute of Justice Grant, *Factors Related to Domestic Violence Court Dispositions in a Large Urban Area: The Role of Victim/Witness Reluctance and Other Variables*; and Anne DePrince (Principal Investigator), Joanne Belknap and Angela Gover (co-Investigators) 2007 National Institute of Justice Grant, *The Effectiveness of Coordinated Outreach in Intimate Partner Cases: A Randomized, Longitudinal Design*.

16. Existing publications from this grant include: Joanne Belknap, Jennifer Hartman & Victoria L Lippen, *Misdemeanor Domestic Violence Cases in the Courts*, in *FEMALE VICTIMS OF CRIME: REALITY RECONSIDERED* 259 (Vanessa Garcia & Janice Clifford eds., 2010); Jennifer Hartman & Joanne Belknap, *Beyond the Gatekeepers: Court Professionals’ Self-Reported Attitudes About and Experiences with Domestic Violence Cases*, 30 *CRIM. JUST. & BEHAV.*, 349 (2003); Heather C. Melton & Joanne Belknap, *He Hits, She Hits: Assessing Gender Differences and Similarities in Officially Reported Intimate Partner Violence*, 30 *CRIM. JUST. & BEHAV.* 328 (2003); .

17. Existing and forthcoming publications from this grant include: Anne P. DePrince et al., *The Impact of Victim-Focused Outreach on Criminal Legal System Outcomes Following Police-Reported Intimate Partner Abuse*, *VIOLENCE AGAINST WOMEN* (2012) (in press); Anne P. DePrince et al., *The Impact of Community-based Outreach of Psychological Distress and Victim Safety in Women Exposed to Intimate Partner Abuse*, 80 *J. CONSULTING & CLINICAL PSYCHOL.* 211 (2012).

18. ELLEN PENCE & MICHAEL PAYMAR, *POWER AND CONTROL: TACTICS OF MEN WHO BATTER* (1986).

powerful wheel image is often used as an educational, awareness, and training tool with IPA victims, abusers, and professionals responding to these victims and/or offenders. Although Pence and Paymar identified “a pattern of coercive control” as central to IPA in their wheel,<sup>19</sup> no effort was made to conceptualize and measure these behaviors until Goodman and Dutton did so in 2005.<sup>20</sup> Evan Stark’s 2007 book, *Coercive Control: How Men Entrap Women in Personal Life*, is one of the most comprehensive works of the numerous ways that intimate partner abusers non-violently attempt to control their current and former women partners.<sup>21</sup> Mary Brewster’s research notes the interchange between intimate partner abusers’ coercive (non-physical) and violent abuse and reports:

Threats toward an intimate or former intimate may be an attempt to control her, and ultimately coerce her to remain in, or return to, the relationship. If the threats are not successful in accomplishing that end, violence may be utilized either for instrumental purposes (i.e., to exert greater control over the woman) or merely as an expression of the perpetrator’s anger.<sup>22</sup>

Thus, starting with Pence and Paymar, a growing body of research documents the profound use of nonviolent manners by which intimate partner abusers control, coerce, and threaten their victims.

Originally, then, research on and advocates’ depictions of IPA portrayed more simplistic views of domestic violence as occurring when abusers occasionally lost control, and women were solely victims of men’s *violent* actions.<sup>23</sup> The more recent research documents an exceedingly controlled and controlling nature of abusers that is contrary to the popular view of abusers who simply “lose control.”<sup>24</sup> Although IPA stalking is often framed as a post-relationship phenomenon, coercive control cannot be effectively examined without recognizing the ways stalking tactics are often used by both current and former intimate partners.<sup>25</sup> For example, Logan and her colleagues’ study of 757 IPA victims with protection orders found that the women who reported severe violence and stalking (compared to women who reported moderate violence and no stalking and women who reported severe violence and no stalking) were not significantly less likely to still be intimately involved with their abusers.<sup>26</sup>

Monitoring their victims’ behaviors and whereabouts is central to many

19. *See id.*

20. Ann Dutton & Lisa A. Goodman, *Coercion in Intimate Partner Violence: Toward a New Conceptualization*, 52 *SEX ROLES* 743, 743–56 (2005).

21. EVAN STARK, *COERCIVE CONTROL: HOW MEN ENTRAP WOMEN IN PERSONAL LIFE* (2007).

22. Brewster, *supra* note 4, at 42.

23. *See* JILL DAVIES, ELEANOR LYON & DIANE MONTI-CATANIA, *SAFETY PLANNING WITH BATTERED WOMEN: COMPLEX LIVES/DIFFICULT CHOICES* (1998) (discussing this issue).

24. Lundy Bancroft, *WHY DOES HE DO THAT: INSIDE THE MINDS OF ANGRY AND CONTROLLING MEN* 33–37 (2002); Joy M. Bingham, Note, *Protecting Victims by Working Around the System and Within the System: Statutory Protection for Emotional Abuse in the Domestic Violence Context*, 81 *N. D. L. REV.* 837, 837 (2005); PENCE & PAYMAR, *supra* note 18; STARK, *supra* note 21.

25. *See* Melton, *Intimate Partner Abuse*, *supra* note 12.

26. TK Logan et al., *The Impact of Differential Patterns of Physical Violence and Stalking on Mental Health and Help-Seeking Among Women with Protective Orders*, 12 *VIOLENCE AGAINST WOMEN* 866, 873 (2006).

intimate partner abusers' control. For example, Dutton and Goodman identify abusers' "frequent phone calls to monitor their partner's whereabouts" as a surveillance technique to ensure victims know that their compliance with their abusers' demands (no matter how outrageous) are being monitored.<sup>27</sup> Similarly, Dutton and Goodman ascertain that an abuser's surveillance process may include recruiting children to report on their mother's phone calls, visits, and leaving the home.<sup>28</sup> Indeed, "enlisting other family and friends to report on one's behavior allows an abuser to extend his or her surveillance far beyond that which one could reasonably conduct alone."<sup>29</sup> In fact, over half of the women in Melton's small, in-depth qualitative study of IPA survivors reported what Melton labeled as "proxy stalkers"—individuals who kept tabs on the victims when the abuser was in jail, had a restraining order, was at work, or was otherwise engaged (and thus unable to stalk).<sup>30</sup> Proxy stalkers were usually the abusers' friends and family members who followed and phoned the victim at his request.<sup>31</sup> Notably, three of the twenty-one women Melton interviewed who experienced stalking by their intimate partner abusers reported that their abusers would call and threaten them from jail phones while incarcerated for the charges against these victims.<sup>32</sup>

Threats, spoken and otherwise through harassment and stalking, are central to understanding coercive control. Significantly, most former intimate partners who stalk are seeking *reconciliation* (reunification) with their former partners or *revenge* against these partners.<sup>33</sup> Consistent with this, Melton's study of women whose husbands or boyfriends had been arrested for domestic violence and exhibited stalking behaviors found that many of these women believed their abusers used stalking not only because they were angry, jealous, and/or wanted to reunite but also to control their victims by instilling fear.<sup>34</sup> Importantly, research on IPA finds that abusers' threats of violence are highly predictive of actual violence against their current and former intimate partners.<sup>35</sup> Indeed, threats of violence by former partners who are currently stalking are an even better predictor of future violence than the prior violence used by these ex-partners.<sup>36</sup> In addition to physical violence, it is also necessary to acknowledge the significant fear and other types of psychological distress often experienced by stalking victims.<sup>37</sup>

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27. Dutton & Goodman, *supra* note 20, at 750.

28. *Id.*

29. *Id.*

30. See Melton, *Intimate Partner Abuse*, *supra* note 12.

31. *Id.* at 356–57.

32. Melton, *Domestic Violence*, *supra* note 12, at 53.

33. Brewster, *supra* note 4, at 43.

34. Melton, *Intimate Partner Abuse*, *supra* note 12, at 352.

35. See Lauren Bennett Cattaneo, Margret E. Bell, Lisa A. Goodman & Mary Ann Dutton, *Intimate Partner Violence Victims' Accuracy in Assessing Their Risk of Re-abuse*, 22 J. FAM. VIOLENCE 429 (2007); Brewster, *supra* note 4, at 49; TK Logan & Jennifer Cole, *The Impact of Partner Stalking on Mental Health and Protective Order Outcomes Over Time*, 22 VIOLENCE & VICTIMS 546 (2007).

36. Brewster, *supra* note 4, at 49.

37. For example, Melton quotes one woman as feeling "scared to death" by how her former

Logan and Walker state that there are at least five important dimensions to intimate partner stalking compared to non-intimate partner stalking.<sup>38</sup> First, *the relationship history or context*: most intimate partner stalking occurs in a relationship that has a history of physical and sexual violence; thus, the victim is often already afraid of the abuser and knows the threats are not simply idle.<sup>39</sup> A British study of stalkers, divided into victim-offender relationship categories of ex-intimates, former acquaintances, and strangers, found ex-intimate stalkers were not only the most likely to assault their victims, but they also committed significantly more threats and intrusive behaviors than the stranger and acquaintance stalkers.<sup>40</sup> Second, current and former intimate partners typically have far more information about their victims than strangers or acquaintances, allowing IPA stalkers to employ *a wider array of stalking tactics*, such as their victims' secrets, words, and behaviors that are particularly humiliating or frightening to their victims.<sup>41</sup> Third, stalkers who are intimate partners are more likely to *threaten and carry out threats of violence* to harm their victims, as compared to non-intimate stalkers.<sup>42</sup> Fourth, intimate partner stalkers often *begin their stalking while the victim and abuser are still intimately involved* in a close relationship, which can make it more confusing to identify behaviors as stalking and to report to the police or friends and family.<sup>43</sup> Melton's interviews with IPA survivors whose abusers stalked them revealed that the stalking began when the relationship was still intact, although at first most of them did not identify the constant phoning and checking up on them as stalking or harassing.<sup>44</sup> Fifth, research supports that stalking results in *greater psychological distress* for victims when the stalker is a current or former intimate partner rather than a non-partner.<sup>45</sup> Further, research attempting to identify when "unwanted intrusions" become "stalking" found a threshold surpassing two weeks; that is, individuals were more likely to define intrusive behaviors as "stalking" when these behaviors lasted more than two weeks, at which point the behavior became

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partner stalked her and "didn't give up," and another woman reported being "still afraid of him" and what he's going to do when he finds out she started dating someone else. Melton, *Intimate Partner Abuse*, *supra* note 12, at 357, 358. See also Bennett Cattaneo et al., *Accuracy in Assessing Their Risk*, *supra* note 35, at 434; Blaauw et al., *supra* note 5; Davis et al., *supra* note 9; Galeazzi et al., *supra* note 4; Logan & Cole, *supra* note 35; Logan et al., *supra* note 26, at 878; TK Logan, Lisa Shannon & Jennifer Cole, *Stalking Victimization in the Context of Intimate Partner Violence*, 22 *VIOLENCE & VICTIMS* 669, 681 (2007); Melton, *Intimate Partner Abuse*, *supra* note 12.

38. TK Logan & Robert Walker, *Partner Stalking: Psychological Dominance or "Business as Usual"?*, 10 *TRAUMA, VIOLENCE & ABUSE* 247, 249 (2009).

39. *Id.*

40. Lorraine Sheridan & Graham M. Davies, *Violence and the Prior Victim-Stalker Relationship*, 11 *CRIM. BEHAV. & MENTAL HEALTH* 102, 102 (2001).

41. Logan & Walker, *supra* note 38, at 249–50. For example, one woman in Logan and Walker's study described her intimate partner as a "terrorist" who, knowing she wanted him to leave her ill grandmother alone, would call her grandmother and tell her personal things about the victim that she did not want her grandmother to know. *Id.* at 250.

42. *Id.* at 250–51.

43. *Id.* at 251.

44. Melton, *Intimate Partner Abuse*, *supra* note 12, at 356.

45. Logan & Walker, *supra* note 38, at 252..

psychologically damaging to the victims.<sup>46</sup>

Since 2005, experts have identified *coercive control* and *persistent pursuit* as significant means by which intimate partner abusers control and abuse their victims. In addition, coercive control and persistent pursuit can isolate victims from formal criminal legal system supporters and informal or social friend, family, co-worker and neighbor supporters.<sup>47</sup> The *persistent pursuit* label is useful in acknowledging how doggedly committed and obsessed many IPA stalkers are to following, harassing, and controlling their victims. Research reports that some stalkers persist for decades;<sup>48</sup> a large Australian study found that former intimate partners had the longest duration of stalking their victims, and strangers the least duration.<sup>49</sup>

### III. CRIMINAL LEGAL SYSTEM RESPONSES TO COERCIVE CONTROL, STALKING, AND HARASSMENT

Melton presented anecdotal evidence from battered women who indicated that police often decided no crime had been committed when the women reported to police about their ex-intimate partners harassing them by phone (following domestic violence arrests for abusing these women).<sup>50</sup> Some of the long-standing anecdotal evidence about the damaging of telephones in the context of IPA include Berke and Loseke's report that, in addition to the IPA police may witness when they respond to a domestic violence call, they may observe other felonies and misdemeanors for which they charge the defendant along with or instead of domestic violence charges, including "destroying telephone company property (i.e., ripping the phone from the wall)."<sup>51</sup> Bingham cites the Restatement (Second) of Torts regarding states' legal bodies' reluctance to afford protection to victims of emotional abuse because such claims can be fictitious, difficult to prove, and trivial.<sup>52</sup> She goes on to discuss how statutory definitions of domestic violence stumble in assessing fear and other types of mental harm common among victims of IPA.<sup>53</sup> Instead, according to Bingham, courts want to see such "credible evidence" as "violence that resulted in serious bodily injury" and abuse involving "the use of a dangerous weapon."<sup>54</sup> Indeed, when intimate partner abusers pull the phone out of the wall, as a means of

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46. Purcell et al., *Editorial*, *supra* note 12, at 581.

47. See, e.g., Keith E. Davis, Suzanne C. Swan & Laura J. Gambone, *Why Doesn't He Just Leave Me Alone? Persistent Pursuit: A Critical Review of Theories and Evidence*, 66 *SEX ROLES* 328, 328-29 (2012); Dutton & Goodman, *supra* note 20, at 743-56; STARK, *supra* note 21.

48. Purcell et al., *The Prevalence and Nature of Stalking*, *supra* note 5, at 117 (reporting a case of harassment that lasted forty years); Lorraine Sheridan, Graham Davies & Julian Boon, *The Course and Nature of Stalking: A Victim Perspective*, 40 *HOWARD J.* 215,227 (2001) (reporting a case of stalking for over forty years).

49. Purcell et al., *The Prevalence and Nature of Stalking*, *supra* note 5, at 118.

50. Melton, *Domestic Violence*, *supra* note 12, at 50.

51. Sarah Fenstermaker Berke & Donileen R. Loseke, "Handling" Family Violence: Situational Determinants of Police Arrest in Domestic Disturbances, 15 *LAW & SOC'Y REV.* 317, 332 (1980-81).

52. Bingham, *supra* note 11, at 844 (citing Restatement (Second) of Torts, 46 cmt. B (1965)).

53. *Id.*

54. *Id.*



keeping their victims from calling for help, they might be charged with and convicted of committing property damage, but the courts rarely identify or convict such behaviors as domestic violence.<sup>55</sup> However, research identifies the most dangerous time for an IPA victim, particularly in terms of lethal violence, is when she leaves or attempts to leave her abuser.<sup>56</sup>

Survivors of IPA have historically been viewed as more “reluctant” and “uncooperative” than any other group of witnesses (e.g., victims of robbery, burglary, or stranger assault).<sup>57</sup> Bennett identifies two reasons this victim reluctance is crucial to understand: first, reluctance makes prosecution “difficult or impossible,” and second, “if we believe that responding to victims’ needs is a vital component of an effective response to domestic violence, we must understand why victims who come to a system for assistance attempt to drop out of that system.”<sup>58</sup> Importantly, one study found that, during the months that IPA victims had contact with criminal legal system personnel, women reported the highest levels of stalking—including phone and computer harassing and stalking behaviors.<sup>59</sup> One could rationally conclude from this finding that this escalated stalking may lead some women to drop out of the legal system in attempts to end the stalking.

Although the criminal legal system is “a difficult system for newcomers to navigate,” the “profundity of confusion or the extent to which it can shape victims’ decisions within the system” is particularly complex for IPA survivors.<sup>60</sup> IPA survivors may respond to the complicated system with frustration, shock, and anger, especially because the system response is so vital for their own and their children’s safety, yet they often encounter inadequate and unhelpful responses.<sup>61</sup> Logan’s research, consisting of interviews with 152 victim service and criminal legal system professionals working with IPA survivors, found “only about half . . . believed that there are or should be different resources, strategies, or services for women being stalked by a partner than for those who experience violence from a partner without stalking.”<sup>62</sup> Such findings suggest

55. See Morton Cnty. Soc. Serv. Bd. v. Schumacher, 674 N.W.2d 505, 509 (N.D. 2004) (holding that smashing a computer with an ax with the intention to harm or frighten the victim was not domestic violence); Ryan v. Flemming, 533 N.W.2d 920, 925 (N.D. 1995) (Levine, J., concurring) (noting that ripping a phone off the wall was not domestic violence “because [it was] not intended to inflict fear of imminent physical harm, or bodily injury or assault . . . even though [the victim] testified they did so”).

56. Jacqueln C. Campbell, *If I Can’t Have You, No One Can*, in FEMICIDE: THE POLITICS OF WOMAN KILLING 99 (Jill Radford & Diana E. Russell eds., 1992); Martha Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 MICH. L. REV. 2 (1991); Aysan Sev’er, *Recent or Imminent Separation and Intimate Violence Against Women*, 3 VIOLENCE AGAINST WOMEN 566 (1997).

57. Lauren Bennett, Lisa Goodman & Mary Ann Dutton, *Systematic Obstacles to the Criminal Prosecution of a Battering Partner: A Victim Perspective*, 14 J. INTERPERSONAL VIOLENCE 761 (1991); Maureen McLeod, *Victim Noncooperation in the Prosecution of Domestic Assault*, 21 CRIMINOLOGY 395 (1983).

58. Bennett et al., *Systematic Obstacles supra* note 57, at 762.

59. Bennett Cattaneo et al., *Describing Intimate Partner Stalking Over Time, supra* note 5, at 3446.

60. Bennett et al., *Systematic Obstacles supra* note 57, at 766.

61. *Id.* at 767.

62. TK Logan et al., *Victim Service and Justice System Representative Responses About Partner*

professionals' lack of understanding regarding the unique threats of IPA as compared to other abuses, such as the difficulty in finding a safe place for yourself and your children when you live with your abuser and your abuser is the father of your children. And certainly research indicates that current and former intimate partners who stalk are often among the most violent.<sup>63</sup> When professionals are unaware of the dangerousness of intimate partner abusers and the more complicated needs in gaining safety, IPA survivors may rationally believe they are, and indeed find themselves, without legal help.

Over the last quarter of a century, the federal government, as well as all fifty states and the District of Columbia, have made stalking a crime.<sup>64</sup> Significantly, police and courts appear to be unable or unsure of how to "count" phone and computer abuses as crimes,<sup>65</sup> despite the very real fear and violent consequences these threats and harassment can entail. For example, the police and court officials may not understand how phone and computer abuses can isolate, endanger, and frighten victims, and given that legal codes rarely document these as intimate partner abuse, these professionals may fail to see them as harassment or stalking in the context of an intimate relationship. Indeed, among professionals who respond to stalkers and their victims, "there is evidence that the field has not yet come to a consensus on what best practices should be."<sup>66</sup> Moreover, the research on what training and education is needed for professionals who work with IPA stalking victims suggests that although the danger and distress of such victimization is clear, the identification and clarity of effective professional and legal responses are not.<sup>67</sup> A survey study of stalking in three European countries—Belgium, Italy and Slovenia—found that the police, compared to lawyers, family and friends, and colleagues, "received the lowest ratings by victims regarding the perception of the support received and their perceived lack of capacity to take victims seriously," except in Belgium where they were second most effective supporters after lawyers.<sup>68</sup> Logan and Walker claim that research on stalking "has remained largely superficial, which has limited the development of effective legal or other interventions."<sup>69</sup> They suggest that such research should address "the unique dimensions of partner stalking."<sup>70</sup>

One recent study interviewing women who had left violent intimate relationships identified "paper abuse" as an unrecognized type of stalking.<sup>71</sup> "Paper abuse" is the use of the criminal legal system by abusers to procedurally stalk their victims by filing frivolous and false lawsuits (e.g., falsely claiming

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*Stalking: What do Professionals Recommend?*, 21 VIOLENCE AND VICTIMS 49, 60 (2006).

63. Logan et al., *Stalking Victimization*, *supra* note 37, at 669.

64. Bennett Cattaneo et al., *Describing Intimate Partner Stalking Over Time*, *supra* note 5, at 3429.

65. See Bingham, *supra* note 11; Bennett Cattaneo et al., *Describing Intimate Partner Stalking Over Time*, *supra* note 5.

66. Bennett Cattaneo et al., *Describing Intimate Partner Stalking Over Time*, *supra* note 5, at 3430.

67. *Id.*

68. Galeazzi et al., *supra* note 4, at 257.

69. Logan & Walker, *supra* note 38, at 248.

70. *Id.*

71. See Miller & Smolter, *supra* note 12.

their victims abused their children, harmed the abusers, and so on).<sup>72</sup> According to this study, the “paper abuse” had the intended effect of controlling the women, forcing them to have contact with their abusers, depleting their financial resources, and scaring them.<sup>73</sup> Importantly, when intimate partner abusers enlist the criminal legal system to help them stalk, their emails and phone calls might be considered “routine” for divorcing couples or couples coming to an agreement about child custody where there was not a history of IPA in the relationship.<sup>74</sup> When abusers send such emails and phone calls “under the guise of conventional legal proceedings,” it is yet another seemingly legal way to wield control of their victims.<sup>75</sup>

Research indicates that IPA victims evaluate criminal legal system responders more favorably when they believe their voices were at least heard in deciding the case’s outcome even when the court decision was inconsistent with their wishes.<sup>76</sup> Having no or limited access to phones or computers certainly strains the likelihood that such victims’ voices will be heard because of the difficulty in communicating with police, investigators, prosecutors, victim advocates, and medical professionals who might be providing evidence. Additionally, in their longitudinal study of intimate partner victims whose cases reached the court system, Cattaneo and Goodman found what they identified as “therapeutic jurisprudence”: the women’s empowering experiences in the court and the criminal case outcome were related (in the expected directions) to their subsequent lower levels of depression, better quality of life, and an increased likelihood of re-using the criminal legal system should they experience future IPA.<sup>77</sup> Given that IPA victimization often results in survivors’ degradation and humiliation, empowering victims is central to their well-being and the successful prosecution of their abusers.<sup>78</sup>

#### IV. PHONE AND COMPUTER STALKING

As we will demonstrate with descriptive data, telephones and computers are more than just a symbolic lifeline to safety. Technology also provides access to support and information on the medical, police, and court findings and events for IPA victims. Additionally, computer and phone damage can enhance abusers’ control of their victims. Lack of access to a phone potentially places victims at greater risk of danger without access to dialing 911. As previously

72. *Id.*

73. *Id.*

74. *Id.* at 238.

75. *Id.*

76. JOANNE BELKNAP & CRIS M. SULLIVAN, LONGITUDINAL STUDY OF BATTERED WOMEN IN THE SYSTEM: THE VICTIMS’ AND DECISION-MAKERS’ PERCEPTIONS, FINAL REPORT (2003) (Document No. 202946); Ruth E. Fleury-Steiner, Deborah Bybee, Cris M. Sullivan, Joanne Belknap & Heather C. Melton, *Contextual Factors Impacting Battered Women’s Intentions to Reuse the Criminal Legal System*, 34 J. COMMUNITY PSYCHOL. 327 (2006).

77. See Lauren Bennett Cattaneo & Lisa A. Goodman, *Through the Lens of Therapeutic Jurisprudence: The Relationship Between Empowerment in the Court System and Well-Being for Intimate Partner Violence Victims*, 25 J. INTERPERSONAL VIOLENCE 481, 484 (2010).

78. *Id.*

stated, most of the extant research on the role of phones in IPA pertains to abusers' significant use of phone calls and messages to monitor, threaten, harass, and stalk the women they are or have been intimately involved with.<sup>79</sup> In addition to calling 911, however, victims of IPA often call battered women's shelters and other victim hotlines for advice and help.<sup>80</sup> Research on the difficulty that IPA survivors have in accessing phones and having phones used as weapons is far more anecdotal than scientific. That is, most scholarly references to IPA survivors' difficulty in accessing phones describes one specific example. An example is Ferraro's observational study of police officers responding to domestic violence calls in a jurisdiction with a presumptive arrest policy where only 18 percent of the calls the police officers responded to actually ended in arrests.<sup>81</sup> In one instance Ferraro describes a woman with visible injuries, living in a housing project and forced to walk three blocks with her baby to use a phone to call the police only to be told by the police once they arrived that neither she nor the baby was in danger, instead only offering the advice to "call back."<sup>82</sup> This advice was offered despite her visible injuries, the serious danger she felt, her telling the police she wanted to press charges, and her nearest access to a phone at 2:00 a.m. being three blocks away.<sup>83</sup> Ferraro also describes a Latina victim at 3:00 a.m. with three small children who approached police officers when they were on another call close by.<sup>84</sup> She was reportedly told to call 911 if there was any more trouble despite having told the officers she had neither a phone nor money.<sup>85</sup> Anecdotal evidence indicates judicial responses can be equally ignorant as to the danger of using a phone as a weapon. For example, during a 1997 arraignment of a man charged with hitting his wife in the face with a telephone, the twenty-year veteran judge responded by laughing and asking, "What was wrong with this?"<sup>86</sup> Similar to the research on phones and IPA, research on computers and cyberstalking in the context of IPA is largely anecdotal.

#### V. REVIEW OF EXISTING RESEARCH ON PHONE AND COMPUTER STALKING

Although most cases of IPA that reach the formal criminal legal system do

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79. Bennett Cattaneo et al., *Describing Intimate Partner Stalking Over Time*, *supra* note 5, at 3441; Blaauw et al., *supra* note 5, at 56; Brewster, *supra* note 4, at 47; Galeazzi et al., *supra* note 4, at 248; Purcell et al., *The Prevalence and Nature of Stalking*, *supra* note 5, at 117; Sheridan & Davies, *Violence*, *supra* note 40, at 110.

80. See Joanne Belknap & Jennifer Hartman, *Police Responses to Woman Battering: Victim Advocates' Reports*, 7 INT'L REV. VICTIMOLOGY 159 (2000); Fenstermaker Berk & Loseke, *supra* note 51, at 323; LEE ANN HOFF, *BATTERED WOMEN AS SURVIVORS* (1990).

81. See Kathleen J. Ferraro, *Policing Woman Battering*, 36 SOC. PROBS. 61, 66 (1989).

82. *Id.*

83. *Id.*

84. *Id.* at 67-68.

85. *Id.*

86. Jeremy Waldron, *Lucky in Your Judge*, 9 THEORETICAL INQUIRIES L. 185, 189 (2008) (citing William Glaberson, *In the Tiny Courts of New York, Abuses of Law and Power*, N.Y. TIMES, Sept. 25, 2006, at A1).

so because the victim phones the police, most IPA victims do not call the police.<sup>87</sup> A study of stalking victims in general (not limited only to IPA) found victims were more likely to call the police when they were afraid, there was property damage, they felt intimidated, they were threatened by the stalker, or they lost time from work due to the stalking.<sup>88</sup> When focusing on cyberstalking, victims were most likely to call the police when they felt intimidated, there were financial costs, and/or they lost time from work because of the cyberstalking.<sup>89</sup> Surprisingly, the presence of a weapon, breaking and entering, and being physically attacked were never related to either non-cyber or cyberstalking.<sup>90</sup> This study also found that victims of cyberstalking by their intimate partners were significantly more likely than others to call the police, and female victims who knew their stalkers were almost three times as likely to call the police as male stalking victims.<sup>91</sup> Also, a study of stalking in three European countries found that almost a quarter (23.5 percent) of the victims contacted a lawyer for help.<sup>92</sup> Access to telephones to call for help and support are key to victims' and their children's safety and well-being. In addition, access to phones (and computers) to safely and routinely receive phone calls or emails from case workers, emergency housing, medical personnel, and victim advocates is also important for updates on police and prosecutor investigations, medical reports, and court dates. Indeed, it is often required, or at least routine, for victims of domestic violence to be given a list of resources to contact when police are dispatched to these calls or when women meet with victim advocates.<sup>93</sup> Phones are also vital so that victims can be notified if their abusers have been released from jail or some other form of custody.<sup>94</sup>

Phone calls from abusers can consist of calling and hanging up, silent calls, conversational calls, abusive calls, and monitoring calls; most stalkers use a combination of these phone tactics.<sup>95</sup> In addition to conversational calls, abusers frequently use phone calls both to apologize and woo their victims back, and to threaten victims if they break up with their abuser, call the police, or go forward

87. Patricia G. Tjaden & Nancy Thoennes, *Violence Extent, Nature, and Consequences of Intimate Partner Violence: Findings From the National Violence Against Women Survey*, U.S. DEPT. JUSTICE (2000), available at <https://www.ncjrs.gov/pdffiles1/nij/181867.pdf>; Galeazzi et al., *supra* note 4, at 250 (finding that 42.5 percent of stalking victims called the police for help with the stalking).

88. Reyns & Englebrecht, *supra* note 6, at 1001.

89. *Id.*

90. *Id.*

91. *Id.* at 1002.

92. Galeazzi et al., *supra* note 4, at 250 (finding that current or former intimate partners were the most frequent stalkers, though this large study was not restricted to current or former intimate partners).

93. See Ferraro, *supra* note 81, at 70; Judith McFarlane, Pam Willson, Dorothy Lemmy & Ann Malecha, *Women Filing Assault Charges on an Intimate Partner: Criminal Justice Outcome and Future Violence Experienced*, 6 VIOLENCE AGAINST WOMEN 396, 400 (2000); Carla Smith Stover, Anna M. Rainey, Miriam Berkman & Steven Marans, *Factors Associated with Engagement in a Police-Advocacy Home-Visit Intervention to Prevent Domestic Violence*, 14 VIOLENCE AGAINST WOMEN 1430 (2008).

94. Fernstermaker Berk & Loseke, *supra* note 51, at 324.

95. Sheridan et al., *The Course and Nature of Stalking*, *supra* note 9, at 224.

on a case already in the hands of the police or courts.<sup>96</sup> Furthermore, if their victims leave them, stay away, or cooperate with the police or court professionals, abusers may resort to harassing and stalking their victims, including lethal threats.<sup>97</sup> More than the victims of any other crime, victims of IPA have been stigmatized for “recanting” and being “uncooperative witnesses” in their own cases.<sup>98</sup>

The most compelling study to date on the role of telephones in IPA, by Bonomi and her colleagues, involved listening to audio-taped phone calls during the pre-prosecution period between twenty-five racially diverse, heterosexual couples where the man was in jail charged with felony domestic violence, involving serious violence.<sup>99</sup> The goal of the study was to examine “the underlying coercive interpersonal dynamics” through which abusers persuaded their victims to recant.<sup>100</sup> Of the twenty-five couples, seventeen of the victims recanted.<sup>101</sup> Although in the initial phone calls the victims had more agency and spoke more angrily to their abusers about the facts of the events, the victims’ confidence often unraveled through discrete processes.<sup>102</sup> Specifically, Bonomi and her colleagues found the abusers used “sophisticated techniques” to acquire their victims’ recantation, primarily focusing on appealing to their victims’ sympathy but also by minimizing the abuse they had perpetrated against their victims.<sup>103</sup> The appeals for sympathy seemingly reframed the abusers as the real victims because they had mental and physical problems, were living under intolerable jail conditions, and could not cope with the thought of a life without their victims and their children.<sup>104</sup> Bonomi and her colleagues explained:

Even victims who were “holding their own” against the perpetrator’s resistance of responsibility were vulnerable to the perpetrator’s accounts of personal suffering. Following such accounts, victims who seemed intent on following through with prosecution efforts began to change their stance, moving from a space of anger and resistance to sadness, guilt and regret and attempts to soothe the perpetrator.<sup>105</sup>

One victim in this jail phone study, initially adamant about not dropping charges, softened after the abuser threatened suicide and asked if he could “say

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96. Amy E. Bonomi, et al., “Meet Me at the Hill Where We Used to Park”: *Interpersonal Processes Associated with Victim Recantation*, 73 SOC. SCI. & MED. 1054 (2011); Brewster, *supra* note 4; Melton, *Domestic Violence*, *supra* note 12.

97. Tanha Marieh, Connie J.A. Beck, Aurelio Jose Figueredo & Chitra Raghavan, *Sex Differences in Intimate Partner Violence and the Use of Coercive Controls as a Motivational Factor for Intimate Partner Violence*, 25 J. INTERPERSONAL VIOLENCE 1836 (2010).

98. CHARLES PATRICK EWING, *BATTERED WOMEN WHO KILL* (1987); Barbara J. Hart, *Battered Women and the Criminal Justice System*, 83 AM. BEHAV. SCI. 624, 628 (1993).

99. Bonomi et al., *supra* note 96.

100. *Id.* at 1054.

101. *Id.* at 1056.

102. *Id.*, at 1055, 1057.

103. *Id.* at 1054.

104. *Id.*

105. *Id.* at 1057.

goodbye.”<sup>106</sup> In solidifying their devotion to each other and the strength of their connection, the abusers would often invoke “their song,” a place they associated with great romance and religious imagery.<sup>107</sup> (This is consistent with Melton’s interviews with IPA victims; while many of the women reported their abusers stalked them out of jealousy and revenge, some of the women used more “positive” explanations, claiming their abusers’ “stalking took place out of love or concern.”<sup>108</sup>) More than the victims of any other crime, victims of IPA have been stigmatized for “recanting” and being “uncooperative witnesses” in their own cases.<sup>109</sup> Analysis of these jail phone conversations also found that, once the victims decided to recant, they worked collaboratively with their abusers to redefine the abuse to protect the abuser, blame the state for intervening in their relationship, and strategize how this should be communicated to the criminal legal system officials.<sup>110</sup>

Brewster’s study of women stalked by their former intimate partners distinguished between the types of threats these men used against their partners:

Direct threats were those that specified types of violence (i.e., “I’m gonna kill you.” “I’m gonna run you down with my car.” “I’ll break your arms and legs.”). Implied threats were those threats that were veiled in nature (i.e., “Do you have a will in case anything should happen to you?” “Is your life insurance paid up?” “Where would you like to be buried?” “You should draw up a will just in case you should get killed or something.”).<sup>111</sup>

Clearly both types of threats are frightening, but the second may be minimized by the police or courts as the victim reading too much into the abuser’s words. Moreover, one study found that police did not take IPA survivors’ reports of their abusers’ lethal threats, including direct threats to kill the women.<sup>112</sup>

Stalking studies from a variety of countries typically report unwanted phone calls, phone harassment, or some other type of phone stalking as the most prevalent or almost most prevalent form of stalking ranging from 56 percent to 90 percent of the type of stalking among these studies (compared to, for example, following the victim, sending unsolicited letters, standing outside of the victim’s home, or standing outside of the victim’s place of work).<sup>113</sup> A study of stalking

106. *Id.*

107. *Id.* at 1058.

108. Melton, *Intimate Partner Abuse*, *supra* note 12, at 351.

109. CHARLES PATRICK EWING, *BATTERED WOMEN WHO KILL* (1987); Barbara J. Hart, *Battered Women and the Criminal Justice System*, 83 AM. BEHAV. SCI. 624, 628 (1993).

110. *Id.* Other research documents abusers’ appealing to their victims’ sympathy. *See, e.g.*, Bonomi et al., *supra* note 96. Some research documents abusers’ minimizing their abuse and the injuries of their victims. *See, e.g.*, Sarah Goodrum, Debra Umberson, & Kristin L. Anderson, *The Batterer’s View of the Self and Others in Domestic Violence*, 71 SOC. INQUIRY 221, 221(2001); D. Alex Heckert & Edward W. Gondolf, *Predictors of Underreporting of Male Violence by Batterer Program Participants and Their Partners*, 15 J. FAM. VIOLENCE 423 (2000).

111. Brewster, *supra* note 4, at 46.

112. Belknap & Hartman, *supra* note 80.

113. Bennett Cattaneo et al., *Describing Intimate Partner Stalking Over Time*, *supra* note 5, at 3441; Blaauw et al., *supra* note 5, at 56; Galeazzi et al., *supra* note 4, at 248; Purcell et al., *The Prevalence and Nature of Stalking*, *supra* note 5, at 117; Sheridan & Davies, *Violence*, *supra* note 40, at 110. *See also*

in Australia, not restricted to female victims or to intimate partner stalkers, found the most prevalent means of stalking was unwanted phone calls (56 percent).<sup>114</sup> One study found that 81 percent of the victims reported having to get unlisted phone numbers due to the stalking, although “many times the victims noted that the stalker had once again obtained the victim’s telephone number.”<sup>115</sup> Another study noted: “More than half of these telephone calls were made at night and included continuous pleas, negative remarks, death threats, or continuous silence.”<sup>116</sup>

As previously noted, technology has dramatically broadened and improved since IPA research started in the 1970s. In addition to improved capabilities, the availability and affordability of various technologies has transformed technologies into household items, such as cell phones and laptops. As expected, research on these newer technologies and IPA, particularly cyberstalking, is less common than research on IPA phone stalking and harassment. Southworth and her colleagues identify the “broad range of technologies in intimate partner stalking, including cordless and cellular telephones, fax machines, e-mail, internet-based harassment, global positioning systems, spy ware, video cameras, and online databases.”<sup>117</sup> Miller and Smolter address computer stalking of former intimate partners, reporting: “Maintaining control over someone and instilling fear through seemingly innocuous text messaging and emails is easy to accomplish.”<sup>118</sup> Melander’s focus group study with college undergraduates about intimate partner cyber harassment reported that, “[d]uring the different focus group interview sessions, participants discussed a wide variety of psychologically aggressive behaviors among intimates, such as stalking in cyberspace, posting incriminating photos and videos, and texting harassing messages.”<sup>119</sup>

Melander specifically identified constant emails and text messages, checking a partner’s emails and text messages, and monitoring an intimate partner’s locations and activities through electronic and global positioning system (GPS) technologies.<sup>120</sup> Southworth and her colleagues also list the following forms of computer and telecommunication-based harassment and stalking:

- Monitoring e-mail communication either directly on the victim’s computer or through “sniffer” programs;
- Sending e-mail that threatens, insults, or harasses;

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Spitzberg, *supra* note 9 (providing a meta-analysis of 103 stalking studies).

114. Bennett Cattaneo et al., *Decribing Intimate Partner Stalking Over Time*, *supra* note 5, at 3441; Blaauw et al., *supra* note 5, at 56; Galeazzi et al., *supra* note 4, at 248; Purcell et al., *The Prevalence and Nature of Stalking*, *supra* note 5, at 117; Sheridan & Davies, *Violence*, *supra* note 40, at 110. See also Spitzberg, *supra* note 9 (providng a meta-analysis of 103 stalking studies).

115. Blaauw et al., *supra* note 5, at 57. See also Melton, *Intimate Partner Abuse*, *supra* note 12, at 355, 357.

116. Blaauw et al., *supra* note 5, at 55.

117. Southworth et al., *supra* note 6, at 842.

118. Miller & Smolter, *supra* note 12, at 646.

119. Melander, *supra* note 6, at 264.

120. *Id.*



- Disrupting e-mail communications by flooding a victim's e-mail box with unwanted mail or by sending a virus program;
- Using the victim's e-mail identity to send false messages to others or to purchase goods and services;
- Using the Internet to seek and compile a victim's personal information for use in harassment.<sup>121</sup>

Other means by which cyberstalking can occur are through "instant messenger messages, chat rooms, blogs, message boards, [and] bulletins."<sup>122</sup>

Bennett Cattaneo's stalking study of IPA victims found that 13 percent reported each of the following stalking behaviors: (1) "Monitored your phone calls (bug, scanner, and so forth) or computer use (hacking, spyware, or other methods);"<sup>123</sup> and (2) "Sent emails about you to your friends, family, coworkers, and so forth."<sup>124</sup> Eleven percent of the victims reported each of the following computer- or phone-related stalking behaviors: (1) "Used the internet to stalk and or harass you;"<sup>125</sup> (2) "Used a website, blog, bulletin board, or other to harass you or stalk you;"<sup>126</sup> and (3) "Called your bank or utility to try to obtain information about you."<sup>127</sup> Seven percent of the women reported abusers posting information about them on listservs, electronic message boards, online personal dating sites, and so on.<sup>128</sup> The high levels of phone- and computer-related harassment and stalking in Bennett Cattaneo's research is particularly remarkable given that the women had to have access to a phone to qualify for participation in the study.<sup>129</sup> It is reasonable to surmise that, had there been a means of including the women whose abusers had stolen, damaged, or broken their phones or computers, the harassing and stalking behaviors (via phone, computer, and other means) reported would be even higher.

Bennett Cattaneo found that although there was no uniform level and pattern of former intimate partners' stalking over time, most of these abusers/stalkers decreased their stalking behaviors as time passed.<sup>130</sup> As expected, as the stalking decreased, so did the victims' levels of both distress and fear.<sup>131</sup> Notably, Bennett Cattaneo found that protection orders were effective in deterring some stalkers, but not others.<sup>132</sup>

Two longitudinal studies evaluating IPA survivors' assessments of the likelihood that they will be revictimized by their abusers in the future confirm that women were accurate overall in predicting re-abuse, which suggests the

121. Southworth et al., *supra* note 6, at 843.

122. Reyns & Englebrecht *supra* note 6, at 1000.

123. Bennett Cattaneo, *Describing Intimate Partner Stalking Over Time*, *supra* note 5, at 3442.

124. *Id.*

125. *Id.*

126. *Id.*

127. *Id.*

128. *Id.*

129. *Id.* at 3434.

130. *See id.*

131. *Id.*

132. *See id.*

importance of listening to and taking women's concerns seriously.<sup>133</sup> In one of these, a study of 246 IPA survivors seeking formal help, a quarter of the women (64 women) were revictimized to the point of injury and/or had a former partner attempt to kill them in the following eighteen months.<sup>134</sup> In this study, 11 percent of the women predicted they would be seriously revictimized and they were (true positives), 15 percent predicted they would not be seriously revictimized but they were (false negatives), 20 percent predicted that they would be seriously revictimized who were not (false positives), and the majority (54 percent) accurately predicted that they were at low risk of serious revictimization (true negatives).<sup>135</sup> Although women with high PTSD were more likely to have false positives (to predict revictimization when it did not occur) than true or false negatives (both accurately and inaccurately predict no re-abuse), PTSD was highest among the women who accurately predicted revictimization.<sup>136</sup> Victims stalked by their intimate partners were also likely to correctly predict continued stalking.<sup>137</sup> Women reporting the most substance use were the most likely to report false negatives (underestimate their likelihood of revictimization).<sup>138</sup> In sum, 44 percent of women who were seriously revictimized by their former intimate partner abusers correctly predicted the violence, indicating that when women fear serious revictimization, it is vital that the police and other criminal legal system professionals take these reports earnestly.

## VI. THE CURRENT STUDY

In their groundbreaking article documenting the first attempt to conceptualize IPA coercion, Dutton and Goodman highlight the urgency for coercive abuse to be examined in the legal arena, pointing out that instead it is rarely considered in criminal cases.<sup>139</sup> They emphasize that addressing the serious and prominent role of coercion and control in IPA will lead to better safety planning for victims, treatment for offenders, and appropriate sentencing.<sup>140</sup> The research reviewed in this Article has reported on mostly anecdotal reports of the damage, stealing, harassment, and use of phones and computers as weapons in the context of IPA.<sup>141</sup> Most frequently this is associated with stalking and harassment of intimate partner victims and other types of non-violent abuse.

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133. Bennett Cattaneo et al., *Accuracy in Assessing Their Risk*, *supra* note 35, at 429; Arlene N. Weisz, Richard M. Tolman & Daniel G. Saunders, *Assessing the Risk of Severe Domestic Violence: The Importance of Survivors' Predictions*, 15 J. INTERPERSONAL VIOLENCE 75, 86 (2000).

134. Bennett Cattaneo et al., *Accuracy in Assessing Their Risk*, *supra* note 35, at 433.

135. *Id.*

136. *Id.* at 437.

137. *Id.*, at 438.

138. *Id.* at 437–38.

139. Dutton & Goodman, *supra* note 20, at 744.

140. *Id.*

141. The one exception is Bonomi et al.'s 2011 study of the phone conversations between IPA victims and offenders during the pre-prosecution period. See Bonomi et al., *supra* note 96.

A number of scholars, victim advocates, and court personnel have requested for more specific research on telephone and computer abuse in the context of IPA. Southworth and her colleagues point out that “both quantitative and qualitative studies are needed to improve our understanding of the use of technology” in IPA,<sup>142</sup> and Bennett Cattaneo and her colleagues recognizes “a need to collect longitudinal data that allows for exploration of how stalking evolves, to build on what is largely a cross-sectional, retrospective literature that aggregates stalking over some period of time.”<sup>143</sup> This Article draws on both quantitative and qualitative data from two studies funded by the National Institute of Justice Violence Against Women Act monies.<sup>144</sup>

#### A. Method: Research Designs of the Cincinnati and Denver Studies

The first of the two studies in our findings is a cross-sectional study that collected data on domestic violence cases in Cincinnati, Ohio, in 1997. The data come from a one-page post-court survey that prosecutors completed following domestic violence cases that had gone to court. The questions from those post-court surveys include how often and how much time the prosecutors spent talking on the phone to the victims in each case.<sup>145</sup> In addition to the prosecutor surveys, the Cincinnati data presented in this Article included police-reported data on the domestic violence incidents that came from two sources: copies of the responding police officers’ actual hand-written, individual police reports from each incident and submitted to the Cincinnati Police Department, and NIBRS (National Incident Based Reporting System) data on misdemeanor domestic violence cases. Finally, pretrial data collected by the courts were used along with a random sample of the court transcripts from some of these court cases.

The second data set was collected in Denver, Colorado from survivors of IPA whose cases resulted in a police report.<sup>146</sup> The data for this study come from a larger longitudinal study designed to assess the impact of a coordinated community response to IPA survivors. The study enrolled 236 women within twenty-six (median) days of filing a police report of IPA.<sup>147</sup> Women who chose to participate in the study were interviewed at that point (within a median of 26 days post the filing of a police report) and were invited back for additional interviews six and twelve months later.<sup>148</sup> The larger interview protocol included questions about the women’s access to phones and computers, how often they used them to get case information, whether defendants blocked their access to phones and/or computers, and if they had additional partners who

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142. Southworth et al., *supra* note 6, at 852.

143. Bennett Cattaneo et al., *Describing Intimate Partner Violence Over Time*, *supra* note 5, at 3432.

144. *See generally supra* note 15.

145. Please contact the first author if you would like a copy of any of the surveys or data collection instruments at joanne.belknap@colorado.edu.

146. *See generally supra* note 15.

147. *See supra* note 16 for a list of publications that provide additional information on how this study was conducted.

148. *See generally supra* note 15.

engaged in stalking behaviors.<sup>149</sup> The data for this Article focuses on the data collected on phones and computers.

## B. Findings

The quantitative and qualitative findings reported in this Article come from both the Cincinnati and Denver datasets.<sup>150</sup> Table 1 summarizes the questions asked as well as responses collected from the Cincinnati study based on police reports.<sup>151</sup> Table 2 summarizes the questions asked as well as responses from the longitudinal Denver study based on researchers' interviews with victims.<sup>152</sup> The Denver data were collected shortly after the target incident (Time 1), six months later (Time 2), and again 12 months after the target incident (Time 3).<sup>153</sup> As expected, the rates for the abusers' phone violations were higher in the Denver data (Table 2)<sup>154</sup> than in the Cincinnati data (Table 1),<sup>155</sup> given that the women in the Denver study were directly asked about most of the phone violations, whereas the Cincinnati study relied on what the victims told the police and what the police decided to record in their reports. The Cincinnati police report qualitative data are in capital letters and the Denver research interview data of the women are capital italic letters.

### i. Women's Phone Access and Abusers' Breaking and Stealing Phones

Coding of the NIBRS and police reports from the Cincinnati study indicated that 3 percent of the defendants prevented the victims from calling 911.<sup>156</sup> The Denver study specifically asked the women about the consistency of their cell *and* land-line phone access at Time 1 and whether the abuser blocked their access to a phone and whether the abuser broke or stole their phones at Times 2 and 3.<sup>157</sup> Seventy percent of the women reported consistent cell phone access and half of the women (51.1 percent) reported consistent land-line access at Time 1.<sup>158</sup> More than one-fifth (21.2 percent) of the women had no access to land-line or cell phones.<sup>159</sup>

In the Denver study, women who had trouble with phone access at Time 1 were asked why.<sup>160</sup> Twelve women reported that their abusers had broken their phones. When specifically asked about phone access at Times 2 and 3 in the Denver study, about one in every seven women reported that their abusers blocked their access to phones (14.3 percent of the women at Time 2 and 15.7

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149. See note 145.

150. See *supra* Part VI.A.

151. See *infra* Table 1.

152. See *infra* Table 2.

153. See *id.*

154. See *id.*

155. See *infra* Table 1.

156. See *generally supra* note 15.

157. See *infra* Table 2.

158. See *id.*

159. See *supra* note 15.

160. See *generally infra* Table 2.

percent at Time 3).<sup>161</sup> About one in ten women reported their abusers broke or stole their phones at Times 2 (10.9 percent) and 3 (10.1 percent).<sup>162</sup> This is more than ten times as high as the rate of breaking or stealing phones found in the Cincinnati police reports (less than one percent, 0.8 percent).<sup>163</sup> Taken together, these findings suggest the importance of police officers, prosecutors, and victim advocates directly asking women about their access to their phones and if their abusers have broken and/or stolen them versus waiting for women to endorse those behaviors.

In addition to using phones to call 911, complainants can use phones to find information about their cases, including calling the prosecutors assigned to their cases. In the Cincinnati data, the prosecutors were asked to complete a survey after each misdemeanor domestic violence case.<sup>164</sup> Out of the 1,645 cases with female victims and male defendants for which the prosecutors returned surveys, *almost nine out of ten (87.2 percent) of the prosecutors reported that they never spoke with the victims on the phone.*<sup>165</sup> In 8.3 percent of these cases the prosecutors reported they spoke once on the phone with victims, and in 4.5 percent of the cases they spoke with the victims two or more times on the phone.<sup>166</sup> This makes the Cincinnati data on abusers' breaking and stealing phones and barring women's access to phones particularly poignant.<sup>167</sup> Additionally, the NIBRS data from the Cincinnati study indicated that 911 tapes were only available in 2.5 percent of the over 2,000 cases, suggesting the underuse of these data (which are typically available for any case where someone called 911), and that the prosecution of intimate partner abusers might be more successful if 911 tapes were used.<sup>168</sup>

The Denver data also provide information on women's use of their phones regarding their cases (post the target incident), but whereas the Cincinnati data came from prosecutor and police reports, the Denver data came from the women in the study. In Time 1 of the Denver study, 79.8 percent of the women reported using their phones at least once to get case information, and 52.8 percent of the women reported that they used their phones "lots of times" to get case information.<sup>169</sup> By Time 2, 58.9 percent of the women reported using their phones at least once to get case information and 40.6 percent reported using their phones "lots of times" to get case information.<sup>170</sup> At Time 3, about 36.7 percent of the women used the phone at least once to get case information and about 22.8 percent used it "lots of times" to get case information.<sup>171</sup> It is likely the rates of

161. See *supra* note 15.

162. Although not in Table 2, in the Denver cases where an abuser broke or stole a phone, about a third of the time it was the same abuser doing so in both time periods, Time 1 and Time 2.

163. See *infra* Table 1.

164. See *supra* note 15.

165. See *id.*

166. See *id.*

167. See *supra* note 15.

168. See *id.*

169. See *infra* Table 2.

170. See *id.*

171. See *id.*

using the phone over time to get case information decreased because the women's cases were more likely to be closed.

Some of the qualitative data from the Cincinnati Police and NIBRS reports and from the interviews with the women in the Denver study allow for a deeper understanding of the reality behind broken and stolen phones:<sup>172</sup>

- COMP & SUSPECT INVOLVED IN VERBAL ALTERCATION SUSPECT HELD 8" KNIFE THREATENING TO CUT PHONE CORD. SLAPPED COMP IN FACE AS HE LEFT HOME.
- COMP STATES THAT ARRESTED STRUCK HER ABOUT THE FACE CAUSING REDNESS TO RIGHT CHEEK. ARRESTED PULLED PHONE FROM WALL SO COMP HAD TO RUN TO APT #3 TO CALL POLICE
- COMP STATES HER LIVE-IN BOYFRIEND PUNCHED HER IN THE FACE AND SMASHED HER DINING ROOM TABLE AND CUT THE WIRE TO THE PHONE. SUS THEN STATED HE WOULD BURY HER WHEN HE RETURNED.
- VIC WAS STRUCK IN THE FACE SEVERAL TIMES BY HER DRUNKEN BOYFRIEND WHO IS THE FATHER OF HER TWO CHILDREN AGES 9 MONTHS AND 2 ½ YEARS. VIC'S TELEPHONE WAS DAMAGED BY SUS DURING THE ALTERCATION.
- COMP STATED SUS ANGRILY AND VIOLENTLY ASSAULTED HER, STRIKING HER REPEATEDLY IN HEAD AND ABOUT FACE W/ CLOSED FIST, BREAKING PHONE AS COMP ATTEMPTED TO PHONE POLICE. COMP RAN OUT OF HOUSE TO NEIGHBOR'S. SUS FLED NBOUND THROUGH COMPLEX.
- SUS AND VIC ARGUING WHEN SUS PICKED UP A 2X4 PIECE OF WOOD AND CHASED VIC AROUND THE APT. SUS THEN CAUGHT VIC, PULLED HER HAIR, THREW HER TO THE GROUND. WHEN SHE TRIED TO CALL POLICE, SUS CUT PHONE CORD. SUS GRABBED VIC SEVERAL TIMES AND THREW HER.
- SUSPECT AND VICTIM ENGAGED IN VERBAL ARGUMENT SUSPECT SCRATCHED VICTIM'S ARM, THEN TOOK PHONE FROM HER THEN FLED IN UNKNOWN DIRECTION.
- COMP STATED HER HUSBAND REPEATEDLY BEAT HER IN THE HEAD AND FACE W/ HIS FIST. AS AN ADDITIONAL RESULT OF THE BEATING SHE RAN BACK AGAINST THE HEATER. SHE ATTEMPTED TO CALL 911 AND THE SUS SNATCHED THE PHONE FROM HER. SUS HAD LEFT THE SCENE.
- *HE BROKE THE LANDLINE PHONE AND THE CELL PHONE.*
- *HE STOLE MY PHONE AND SOLD IT.*

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172. The police used the following notations in their reports: "comp"=complainant (victim); "sus"= suspect, "vic" = victim, and "art" = arrested (defendant). See *supra* note 15.

Notably, some of the Cincinnati police reports included both phone threats and property damage:

- SUSPECT & VICTIM INVOLVED IN A VERBAL ALTERCATION WHEN SUSPECT THREW A CIGARETTE AT VICTIM, THEN PUSHED COMPL BACK, SLAPPED HER, VICTIM THEN TRIED TO CALL HER MOTHER & SUSPCT RIPPED THE PHONE CORD OFF THE PHONE.
- VIC STATES THAT ARR DAMAGED THE REAR DOOR TO THE HOUSE TO GAIN ENTRY. ONCE INSIDE, ARR CHOKED VIC & A STRUGGLE BEGAN. VIC ATTEMPTED TO PHONE POLICE FOR HELP, BUT ARR PULLED THE PHONE FROM THE WALL. VIC RAN OUTSIDE ARR FOLLOWED THEN SLASHED VIC'S TIRES.
- SUS THREW THE COMPL TO THE FLOOR & PUNCHED HER SEVERAL TIMES FOLLOWING AN ARGUMENT. SUS THEN RIPPED THE PHONE CORD OUT OF THE WALL & THREATENED TO KILL THE COMPL IF SHE HAD HIM LOCKED UP.
- VIC STATES THAT THE LISTED SUS CAME TO HER RESIDENCE AND BECAME ANGRY AT VIC FOR UNKNOWN REASONS. SUS PULLED THE PHONE FROM THE WALL WHEN VIC CALLED THE POLICE AND STATED HE WOULD RETURN AND "FINISH THAT BITCH OFF."

One police report included both phone property damage and a serious phone threat:

- SUS & COMP IN VERBAL ALTERCATION SUS PUSHED COMP TOOK PHONE CORD OUT OF PHONE AND CAME TOWARD HER WITH THE CORD STATING HE WAS GOING TO KILL HER. SUS ALSO HAS AN EXISTING RESTRAINING ORDER AGAINST HIM.

#### ii. Abusers' Phone Monitoring of Women

Consistent with other research on intimate partner abusers monitoring their victims' phone calls, at Time 1, 57.7 percent of the women in the Denver study reported that their abusers had insisted on knowing who they were talking to on the phone at least once, and 39.5 percent of the women reported their abusers wanted to know twenty or more times.<sup>173</sup> Also consistent were the rates of the abusers' monitoring the women, which generally decreased over time. Yet over a third (35.5 percent) of the women reported their abusers still insisting on knowing who they were talking to on the phone at Time 2, and a quarter (25.3 percent) of the women reported abusers insisting on knowing who the women were talking to on the phone twelve months later (at Time 3 in the study).<sup>174</sup> Although the Cincinnati study did not ask about phone monitoring, two of the

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173. See *infra* Table 2.

174. See *id.*

police reports indicated that the incident resulting in the arrest was initiated by the abusers' anger over the victims talking on the phone to someone other than the abuser:

- COMP STATES THAT DURING A VERBAL ALTERCATION W/ SUS OVER A PHONE CALL SHE HAD MADE. SUS THREATNED [sic] TO KILL VIC (IF HE CANT HAVE HER NOBODY WILL). THEN SHORTLY AFTER THE THREAT, SUS WAS MASTURBATING AND 6 YR OLD DAUGHTER SAW THIS ACTION.
- COMP STATES THAT THE SUS CAME OVER AND BECAME VERY ANGRY OVER ANOTHER MALE CALLING THE COMP. SUS PUNCHED COMP SEVERAL TIMES IN FACE AND THEN HIT HER IN MOUTH W/ THE PHONE. SUS PUSHED COMP ON TOP OF KITCHEN TABLE CAUSING IT TO BREAK.

### iii. Abusers' Phone Threats to and Phone Harassment of Women

Although neither the Cincinnati nor Denver studies specifically asked about phone threats or harassment, 2.2 percent of the Cincinnati police reports noted phone harassment.<sup>175</sup> Similar to the previously cited research that coercive control can be more threatening than the violent abuse,<sup>176</sup> the threats documented in the Cincinnati police reports were often lethal, which is particularly chilling given that this study was restricted to misdemeanor domestic violence cases:

- I'M COMING OVER TO KICK YOUR MOTHER F\*\*\*ING ASS.
- COMPLAINANT TOLD POLICE THAT THE DEFENDANT CALLED HER FROM JAIL AND SAID: "ONCE I GET OUT OF JAIL I AM GOING TO FIND YOU AND KILL YOU AND WHOEVER IS WITH YOU."
- TELEPHONED TWICE THAT HE WOULD KILL OR HURT VIC MAKING REFERENCE TO OJ SIMPSON.
- COMPLAINANT STATED SUSPECT KNOWINGLY PHONED THE ABOVE RESIDENCE MAKING VERBAL THREATS TO CREATE SERIOUS PHYSICAL HARM TO KILL COMPLAINANT, HIS SON, OR BLOW THE HOUSE UP.
- ARRESTED CALLED THE COMPL ON THE PHONE AND THREATENED TO SHOOT HER.
- SUSP THREATENED TO KILL COMPL OVER THE PHONE.
- ARR TELEPHONED COMP AT WORK AND STATED "WHEN YOU GET HOME I'LL BEAT THE HELL OUT OF YOU," CAUSING COMP TO BELIEVE SHE WAS IN DANGER OF IMMINENT PHYSICAL HARM.
- COMPL STATES SUSPECT CALLED HER ON THE PHONE AND THREATENED TO KILL HER.
- COMP STATES THAT DURING A VERBAL ALTERCATION

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175. See *infra* Table 1.

176. See *supra* note 21.



OVER THE PHONE, THE SUS STATED THAT HE WAS "COMING OVER TO HURT HER AND DO EVERYTHING IT TOOK." COMP STATED THAT SHE FEARED PHYSICAL HARM, AND THAT SHE WOULD LIKELY SEE HIM WHEN HE WAS RELEASED FROM JAIL ON A BOND.

- REPORTEE STATES THAT HER HUSBAND PHONED AND THREATENED TO BLOW HER AWAY.
- REPORTEE STATES THAT SUS THREATENED TO "KICK HER ASS" IF HE CAME IN CONTACT W/ HER, BOTH BY PHONE AND IN PERSON.
- SUS IS THE FATHER OF VIC'S CHILD SUS CALLED VIC ON PHONE AND STATED THAT HE WAS GOING TO KILL THE VIC. VIC STATED THAT IN THE PAST THE SUS PUT A GUN TO HER HEAD AND SAID HE WAS GOING TO KILL HER.
- COMPL STATES THAT HER HUSBAND CALLED HER ON THE PHONE AND THREATENED TO KILL HER. COMPL STATES HE CALLED AND SAID "I'M GOING TO KILL YOU, I'M GOING TO SHOOT YOU WITH A GUN."
- VIC STATES THAT SUS CALLED HER WHILE SHE WAS AT WORK. HE TOLD THE VIC HE WAS GOING TO SHOOT HER W/A SHOTGUN. VIC STATES THAT THE SUS THREATENED HER LIFE SEVERAL TIMES DURING A 3 HOUR PERIOD OVER THE PHONE FROM 1200-1500

Although the Denver data did not include as many threats in the qualitative data, one woman reported to an interviewer: "I just had to change my phone numbers. I had to give out new numbers to everyone."<sup>177</sup>

#### iv. Phones Used as Weapons by Intimate Partners

The Cincinnati police reports indicated that in 1.4 percent of the cases phones were used as weapons against the women.<sup>178</sup> The qualitative data from the Cincinnati police reports indicated a number of ways that phones were used as weapons by the intimate partner abusers. Because a phone represents access to safety, the symbolism of using a woman's lifeline as a weapon against her is powerful:

- REPORTEE STATES THAT XX A 28 YR OLD MALE WHO IS LIVING AS A SPOUSE CHOKED HER WITH A TELEPHONE CORD.
- ARR AND COMPL INVOLVED IN VERBAL ALTERCATION OVER THE TELEPHONE UNTIL ARR THREW PHONE STRIKING COMPL IN THE ARM.
- DURING ARGUMENT SUSPECT STRUCK COMPL. ON BACK OF THE HEAD W/TELEPHONE CAUSING INJURY.
- COMPL. STATES ARR. PUSHED HER GRABBED HER FACE AND

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177. See *supra* note 15.

178. See *infra* Table 1.

THEN HIT HER RIGHT WRIST WITH A TELEPHONE CAUSING MINOR VISIBLE INJURY.

- ARR THREATENED TO KILL SUS. ARR ATTEMPTED TO HIT COMP W/ A PHONE. ARR AND COMP HAVE 3 CHILDREN TOGETHER.

The second example from a police report above is another poignant example of how an abuser's jealousy of his partner's phone call with someone else was what motivated him to abuse her, which in turn resulted in his arrest and the subsequent court case. A similar pattern is evident in the two examples in the above section on the abusers' monitoring of the women's phone calls triggering their physical abuse of their partners, leading to arrest and court cases.<sup>179</sup>

#### v. Computers and IPA

In addition to data on how phones were used in the context of IPA, the Denver interviews included information on computers.<sup>180</sup> At Time 1, 49.7 percent of the women reported they had unlimited computer access, while 35.2 percent had no computer access, and 15.0 percent had access but no privacy.<sup>181</sup> At Time 2, 2.9 percent of the women reported the abuser had broken or stolen their computers and 2.2 percent reported this at Time 3.<sup>182</sup> (In one case, the abuser broke or stole the woman's computer at both Times 1 and 2.)<sup>183</sup> Five percent (5.1 percent) of the women reported their abusers blocked access to their computers at Time 2 and four percent (3.9 percent) reported this at Time 3.<sup>184</sup> The number of women who never used computers to get information on their cases decreased slightly from Time 1 to Time 3 (82.8 percent at Time 1, 81.1 percent at Time 2, and 76.0 percent at Time 3).<sup>185</sup> In that same time period the rate of women who used computers "lots of times" to get case information just about doubled (6.3 percent at Time 1, 8.6 percent at Time 2, and 11.7 percent at Time 3).<sup>186</sup> Our data cannot answer why this is the case, but it is possible they had greater access to computers over time or felt safer using them over time to access their cases. Some of the women's responses provided how their access to computers was limited by their abusers:

- *I HAD TO USE MY SON'S COMPUTER BECAUSE HE TOOK OURS.*
- *MY COMPUTER BROKEN DURING THE INCIDENT.*
- *HE SENT A VIRUS [ON PURPOSE] TO MY COMPUTER.*

#### vi. Economic Hardship from Lost, Stolen, and Broken Phones and

179. See *supra* VI.B.2.

180. See *infra* Table 2.

181. See *id.*

182. See *id.*

183. See *supra* note 15.

184. See *infra* Table 2.

185. See *id.*

186. See *id.*

## Computers

In the Denver study, four of the women mentioned that their abusers broke their phones, but they were able to get new ones shortly thereafter, usually the next day. But for many of the women, getting a new phone was an economic hardship. This is consistent with Adams' and her colleagues' study of *economic abuse* as a component of IPA.<sup>187</sup> Indeed, across the three time periods in the Denver study, we coded the data to indicate whether the women mentioned any type of financial hardship associated with the phone and/or computer variables.<sup>188</sup> More than one in five women (21.4 percent) reported some type of financial hardship related to the phone or computer; most related to the phone and paying the bills and were primarily reported at Time 1:

- AFTER THE INCIDENT FOR ABOUT 2 WEEKS, I DIDN'T HAVE ACCESS TO A PHONE AND HAD TO WALK TO A PAY PHONE.
- MY PHONE GOT DAMAGED DURING THE INCIDENT (HE DAMAGED IT), THEN I DIDN'T HAVE A PHONE FOR ABOUT A WEEK, THEN I GOT ONE, AND THEN IT GOT SHUT OFF BECAUSE IT WAS EXPENSIVE.
- MY NEIGHBOR LEAVES HER PHONE WITH ME.
- I CANCELLED THE CELL PHONE POLICY BECAUSE IT WAS IN HIS NAME.
- I DON'T HAVE A CELL PHONE ANYMORE. IT GOT SHUT OFF AND I ACCIDENTALLY STUCK IT IN THE WASHER. I COULDN'T GET A NEW PHONE SO I DIDN'T PAY THE BILL.
- IT GOT HARDER TO PAY THE BILL FOR THE LAND LINE.
- HE HAS THE CELL PHONE.
- MY HOME PHONE WENT DEAD AND I'M HAVING A HARD TIME FINDING A BATTERY REPLACEMENT.
- MY LAND LINE WAS HIS SISTER'S PHONE AND SHE KICKED ME OUT, SO I LOST ACCESS TO THAT PHONE.
- I JUST HAVEN'T HAD ANY ACCESS TO A PHONE. I CAN'T AFFORD IT.
- I WASN'T SURE I HAD ENOUGH MONEY TO PAY MY CELL PHONE BILL.
- I'VE HAD TO STRUGGLE TO KEEP MY PHONE ON DUE TO FINANCES.
- I DIDN'T HAVE MY CELL PHONE FOR 2 WEEKS BECAUSE HE BROKE IT.
- LAND LINE BILL GOT TOO HIGH.
- LAND LINE GOT SHUT OFF.
- NOTHING'S CHANGED. I'VE ALWAYS HAD TO USE A PAY PHONE.
- MY PHONE GOT SHUT OFF.

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187. Adrienne E. Adams, Cris M. Sullivan, Deborah Bybee & Megan R. Greeson, *Development of the Scale of Economic Abuse*, 14 VIOLENCE AGAINST WOMEN 563–88 (2008).

188. See *supra* note 15; *infra* Table 2.

- MY LAND LINE WAS TURNED OFF IN APRIL AND I DON'T HAVE A CELL PHONE.
- MY PHONE WAS LOST IN THE INCIDENT AND I CAN'T AFFORD TO REPLACE IT.
- RIGHT AFTER THE INCIDENT, MY CELL PHONE GOT TURNED OFF BECAUSE WE DIDN'T PAY THE BILL.
- HE PAID THE CELL PHONE BILL AND IT WAS DISCONTINUED WHEN HE WAS ARRESTED.
- I MISSED THE PAYMENTS AND IT GOT TURNED OFF, AND FOR A WHILE I WAS SCARED TO LEAVE MY HOUSE. I WASN'T SURE IF XX WAS STILL LOCKED UP OR NOT, AND I WAS EMBARRASSED ABOUT MY EYE BECAUSE IT WAS ALL SWOLLEN. I DIDN'T WANT TO LEAVE TO PAY THE BILL.
- BEFORE MY HUSBAND AND I SHARED A PHONE IN HIS NAME AND HE HAD THE PHONE SHUT OFF BUT I EVENTUALLY TALKED HIS MOM INTO BUYING ME A PHONE BUT I STILL PAY THE PHONE BILL.
- HE WAS SUPPOSED TO PAY THE PHONE BILL BUT HE DIDN'T SO IT WAS CUT OFF.
- YES I HAD A LAND LINE AND IT GOT DISCONNECTED. ALSO A CELL, AND IT WAS DISCONNECTED.
- YES, I HAD A LAND LINE BUT THEY TURNED IT OFF.
- I WAS EVICTED BECAUSE OF THE INCIDENT. I HAD A CELL PHONE AND LOST IT AND I HAVE NO ADDRESS AND I CAN ONLY USE A FRIEND'S PHONE OCCASIONALLY.
- LAND LINE WAS SHUT OFF BECAUSE I HAD TO MOVE. I NEEDED TO CHANGE MY NUMBER SINCE HE KNEW THE LANDLINE NUMBER, SO INSTEAD OF PAYING TO CHANGE THE NUMBER, I JUST SHUT IT OFF UNTIL I MOVE.
- I LOST THE PHONE IN THE INCIDENT.
- THE CELL PHONE COMPANY SHUT IT OFF BECAUSE I DIDN'T PAY THE BILL.
- BECAUSE OF THE SITUATION, I WAS NOT ABLE TO WORK AND NOT ABLE TO PAY FOR MY PHONE BILL.
- I GOT A NEW CELL PHONE THAT MY MOM LETS ME KEEP.

Three women reported economic problems related to their phones at Time 2. One of these women told the interviewer: "He stopped me from working so I couldn't pay the [phone] bill."

### C. Conclusions

Perhaps the most vivid and poignant use of a phone or computer in the context of IPA is when the abuser uses the phone or computer as a weapon, indicating not only "I will continue to abuse you," but "I will abuse you with your life line to safety and support."

Although our findings on the roles of phones and computers in IPA are consistent with much of the extant research,<sup>189</sup> we offer additional information. First, these findings reinforce the need to include nonviolent abuse both in IPA research and in the criminal legal system, and consider nonviolent abuse by current or former partners as IPA. Second, the differences in rates of phone problems across the Cincinnati and Denver studies point to the importance of training law enforcement to ask victims directly about access to not only “a phone” but multiple modes of communication (land line, cell phone, and computer). Such questioning may reveal additional crimes (including theft or property damage) as well as reveal information that will be important for system-based victim advocates seeking to connect women with resources.<sup>190</sup>

Notably, most of the research reviewed in this Article, including the Denver study for which we report original data, relied on IPA survivors’ access to phones,<sup>191</sup> and in one study, to a computer.<sup>192</sup> It is reasonable to speculate that those women unable to participate in these studies because they had no access to phones (or computers) faced graver danger and were far less able to learn of updates on the police investigations and court cases surrounding their victimizations.

Clearly, cyberstalking has grown and will continue to grow with advances in technology:

Cyberstalking is a problem that will only increase in frequency and complexity as electronic communications technologies become more complex and widespread. It is also important that law enforcement and prosecution agencies hire personnel that understand these technologies. Finally, it is important that U.S. laws keep up with cyberstalking: Where necessary, state laws should be amended to include stalking through electronic communications, federal laws should continue to target inter-state cyberstalking, and consideration must continually be given to how nations can work together to target international cyberstalking.<sup>193</sup>

An innovative program, the Technology Safety Project of the Washington State Coalition Against Domestic Violence, offers a “train the trainer” model to provide computer and internet resources to IPA service providers and to educate them in training the survivors they work with how to secure more privacy and safety and have greater outreach to services for themselves and their programs.<sup>194</sup> Stated another way, “train the trainer” models teach professionals

189. See *supra* Part V.

190. For example, system-based advocates could show women how to access their court cases online, as well as how to access shelters, housing, welfare, medical help, and so on for themselves and their children.

191. See, e.g., Bennett Cattaneo & Goodman, *supra* note 77; Melton, *Domestic Violence*, *supra* note 12; Melton, *Intimate Partner Abuse*, *supra* note 12; Janine M. Zweig & Martha R. Burt, *Predicting Women’s Perceptions of Domestic Violence and Sexual Assault Agency Helpfulness: What Matters to Program Clients?*, 13 VIOLENCE AGAINST WOMEN 1149, 1155 (2007).

192. Galeazzi et al., *supra* note 4, at 244 (conducting their study on stalking victims with an online survey).

193. Tjaden, *supra* note 6, at 276.

194. Jerry Finn & Teresa Atkinson, *Promoting the Safe and Strategic Use of Technology for Victims of*

such as victim advocates or court or police workers on how to hone skills for their own use, but also to teach others to use their skills. In the case of the Washington State Coalition, the trainers learn how to use computers to find support and also how to make computers more resistant to hacking and viruses. After training, they can educate others who work in their office, and IPA survivors who come to them for support can also be taught how to contact agencies and how to make their computers more secure. This is significant when taking into account that “stalking often requires the mobilization of multiple helping agencies by victims and it is critical that victims are aware of what help is available to them and that agencies become more sensitive to their needs.”<sup>195</sup>

It is vital practice that IPA survivors being stalked by their abusers keep documentation or “proof” of the stalking and harassing behaviors (as well as violent re-victimizations) for seeking protection orders, pursuing criminal charges, and of course, safety.<sup>196</sup> Miller and Smolter report on the necessity of survivors saving their abusers’ threatening and harassing phone voice and text messages and emails:

[I]t is important to advise victims to document any ongoing abuse that happens *after* a victim has left the relationship. A recipient’s gut-level reaction to receiving an intimidating text message, voicemail message, or email is to quickly erase it, but if the threats were saved, they would create a virtual paper trail that could be used in court to demonstrate an abuser’s shift in tactics from physical to psychological threats. Court and judicial recognition of paper abuse as a legitimate form of victimization that occurs after the relationship ends could bolster women’s ability to renew their protection orders after their original orders have expired, especially if renewal decisions overrely on evidence of continued physical violence. By having tangible evidence, women would be in a better position to convince judges that they should have their orders renewed despite a lack of physical violence.<sup>197</sup>

This Article summarizes the existing research on phone and computer harassment of intimate partner stalking. Additionally, using the survivors’ words and the police reports in the two studies reported in this Article, in tandem with the quantitative data collected by the authors (through NIBRS and survivor interviews), we identify the multitude of ways that phones and computers can be used to harass, monitor, abuse, and keep women from access to formal and informal support systems and safety. Future research addressing and directly asking women in abusive relationships or who have left abusive relationships about how systems of technology have been used to monitor, harass, or abuse them could facilitate more evidence-based training for victim advocates, police, attorneys, and other court personnel. The reviewed research indicates a strong lack of awareness by court professionals and police regarding stalking and harassing by intimate partners, and this is even murkier when abusers stalk and harass with technology, including abusers limiting the victims’

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*Intimate Partner Violence: Evaluation of the Technology Safety Project*, 24 J. FAM. VIOLENCE 53, 53 (2009).

195. Galeazzi et al., *supra* note 4, at 244.

196. Logan et al., *Victim Service*, *supra* note 62, at 57–58.

197. Miller & Smolter, *supra* note 12, at 646.

access to technology. Research focused on phones and computers and potentially other types of technology can provide safety for abused women and their children, improve responses by victim advocates, the police, and the courts, and enhance the prosecution of intimate partner abusers.

**Table 1. Summary of Cincinnati Phone Variables in IPA Target Incident Based on Police and/or Prosecutor Reports**

Variable	N	%	(n)
<u>Times DA spoke with victim on phone<sup>a</sup></u>	1,645		
0 (never)	1,434	87.2	(1,434)
1	137	8.3	(137)
2+	74	4.5	(74)
<u>Total minutes DA spoke with victim on phone<sup>b</sup></u>	1,004		
0 (none)	808	80.5	(808)
1-5	47	4.7	(47)
6-10	72	7.2	(72)
>10	77	7.7	(77)
<u>Did the victim report the offender . . .?<sup>c</sup></u>	1,549		
Harassed her on the phone	34	2.2	(34)
Prevented her from calling 911	47	3.0	(47)
Broke and/or stole the phone	13	0.8	(13)
Used the phone as a weapon	22	1.4	(22)
<u>911 tapes available as evidence</u>	2,088		
No	2,035	97.5	(2,035)
Yes	53	2.5	(53)

<sup>a</sup> Based on prosecutor reports. The mean was 0.22 times, and the median and mode were both 0.0 times.

<sup>b</sup> Based on prosecutor reports. The mean was 3.41 minutes, and the median and mode were both 0.0 minutes.

<sup>c</sup> Categories are not mutually exclusive; a report could identify any of these.



**Table 2. Summary of Denver Phone and Computer Variables as Reported by Survivors of IPA**

Variable	Time 1		Time 2		Time 3	
	N	%	N	%	N	%
<u>Did the offender ever...?</u> <sup>a</sup>			175		178	
Block your access to a phone			25	14.3	28	15.7
Break or steal your phone			19	10.9	18	10.1
Block your access to a computer			9	5.1	7	3.9
Break or steal your computer			5	2.9	4	2.2
<u>How often offender insists on knowing who talked to on phone</u>	220		186		186	
0	93	42.3	120	64.5	139	74.7
1-5	18	8.2	24	12.9	17	9.1
6-20	22	10.0	14	7.5	14	7.5
20+	87	39.5	28	15.1	16	8.6
<u>Consistent Cell Phone Access?</u> <sup>b</sup>	193					
Yes	136	70.5				
No, but you can call out	2	1.0				
No, you can't call out	5	2.6				
No, you have no access at all	50	25.9				
<u>Consistent Land-Line Use?</u>	182					
Yes	93	51.1				
No, but you can call out	54	29.7				
No, you can't call out	35	19.2				
<u>How often did you use phone to get case info?</u>	193		175		180	
Never	39	20.2	72	41.1	114	63.3
Once	25	13.0	13	7.4	9	5.0
Twice	27	14.0	19	10.9	16	8.9
Lots of Times	102	52.8	71	40.6	41	22.8
<u>Computer Access?</u>	193					
Yes	96	49.7				
No, you don't have any privacy	29	15.0				
No, you don't have access	68	35.2				
<u>How often did you use computer to get case info?</u>	192		175		179	
Never	159	82.8	142	81.1	136	76.0
Once	13	6.8	7	4.0	13	7.3
Twice	8	4.2	11	6.3	9	5.0
Lots of Times	12	6.3	15	8.6	21	11.7

<sup>a</sup> Categories are not mutually exclusive; a participant could report experiencing all. Cells represent the total N answering the question and the n and % are those reporting “yes” they experienced this behavior by their abuser.

<sup>b</sup> This variable was collected for last six months with 0 = never, 1 = once, 2 = twice, 3 = 3-5 times, 4 = 6-10 times, 5 = 11-20 times, and 6 = more than 20 times, and these were collapsed into the smaller categories for Table 1. The mean of the number of times the offender insisted on knowing who the survivor was talking to on the phone, based on the original scale of 0, 1, 2, 3, 4, 5, and 6, was 2.99 at Time 1, 1.54 at Time 2, and 1.07 at Time 3.