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A Study on STALKING Preventive System

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Abstract

Stalking is a behavior tailing another constantly and repeatedly due to mere unilateral favor to the one even if it is opposed. Victims and assailants of stalking are mostly 'acquaintances', particularly ex-dating partners. Victims tend to passively respond to the constant harassment by assailants without informing outside due to own guilty of close ex-relationship, resulting in being victims of violent crimes, including rape, assault and murder. Furthermore, stalking is legally regulated only when it has been constantly committed, was felt as terrifying action, was overtly rejected and was committed with an intention. Thus, such behaviors by assailants with no legal qualification fulfillment are not regulated by law. The thesis would like to identify the notion, features, development condition and punishment upon stalking and to propose a preventive system against it.

[Keywords] *Stalking, The Minor Offenses Act, Constant Harassment, Characteristics of Stalking, Punishment for Stalking Act*

1. Introduction

Stalking is considered as a mere notion of privacy infringement of celebrities by several fans with mental disorder, however, as it has been initiated to be known as violent crimes due to grudge of being rejected to date with among couples, attention to stalking is increasing[1].

90% of victims and assailants of stalking are 'acquaintances' and 58% of them are ex-couples. Due to the guilt of close ex-relationship, victims hesitate to inform outside of that ex-partner is stalking, hence, assailants end up harassing the victims constantly taking advantage of the information that they had gained before.

Stalking is only recognized when it has been constantly and repeatedly committed against overt intention of victims to reject. Generally, offline stalking is punished under 'the Minor Offenses Act' and online stalking is punished under 'the Use of Information Network System and

Protection of Information Act'. However, violence, harassment, threat and defamation et al. during stalking process is punished under a charge of threat, defamation and housebreaking et al., thus it is difficult to find stalking assailants being punished just for stalking commitment, in fact.

The thesis proposes a preventive system against stalking that enables victims report stalking affairs to investigative agencies via a device without letting outsiders know them, when constant harassment, stalking, not to mention, and even crimes that do not fulfil stalking qualifications are committed against victims' intention opposed to the assailants. The proposing stalking-preventive system can allow victims to obtain systematic supports and phased protection measures by the police based on the reported affair details and to prevent further recidivism in a form of revenge by assailants and development into violent crimes.

The chapter structure as follows. Chapter 2 illustrates the notion, characteristics, development condition and punishment upon stalking commitment and chapter 3 suggests a preventive system against stalking. Considerations regarding the system and conclusion are illustrated in chapter 4 and 5.

2. Related Research

2.1. Notion and characteristics of stalking

According to the Polizeiwissenschaft dictionary, stalking is “one of the recently emerging crimes and refers to behaviors following after another till the one being chased feel the fear of life or assault. It may be a violence type that does not involve any direct contact[2].

Stalking is a crime involving unilateral action by means of phone-call violence, constant tail, waiting in daily-life surroundings, lech and shower of presents. Survey result from 1700 stalking victims is disclosed during a seminar to prevent power-related sexual harassment. Based on the result, stalking affairs is largely divided into 7 and the most frequent type was ‘Unwanted Phone-call(74%, incl. Medium-Width). ‘Tail’(70%, ‘Visiting house’(65%), ‘Spreading Rumor about Victims’(63%), ‘Suicide Threat’(62%) and ‘Unwanted Letter or Writing’(62%) in descending order[3].

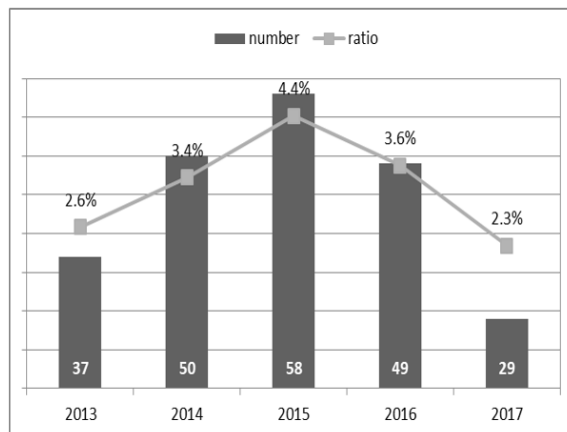
As Info-communication technology is developed at recent times, a new stalking form, ‘cyber-stalking’ appeared. Cyber-stalking refers to constant and repetitive harassment via phone-calls, e-mail, internet board and chatting room et al., by using marks, letters, sounds, videos and images. Cyber-stalking can occur ubiquitously, enabled any random 3rd party to harass and threaten others, reduced risk of direct face and can spread over random multiple people, thus is different from any other form of offline stalking commitment[4].

2.2. Stalking occurrence status

No consistent investigation on stalking occurring by year is not performed in Korea, however, its number can be estimated based on the number of sexual violence victim counselling registered in Korea Sexual Violence Relief Center. As

depicted in <Figure 1>, although stalking rate does not take the largest proportion among all sexual crime cases, it is not socially accepted as a clear violence, thus it is highly likely that victims are not able to get help or ask for help leading to constant damage[4].

Figure 1. Stalking rate among sexual crime types.

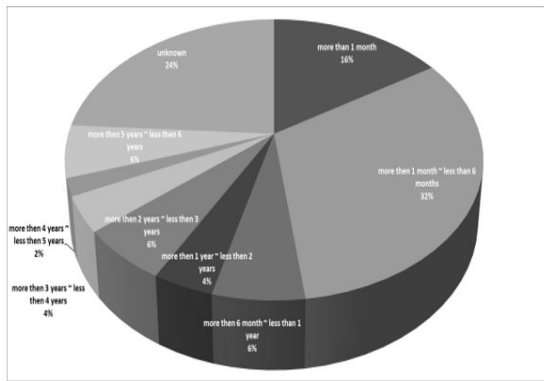


2.3. Stalking-related punishment

According to the Minor Offenses Act, those who commit constant harassment, that is, visit or dating request, watching, following and stake-out via consistent approaches to victims can be punished[5].

However, ‘constant harassment’ of the Minor Offenses Act imposes maximum 100 thousand won fine or confinement et al., for stalking, hence repetitive and constant mental and psychological damages are caused, furthermore, if it is not resisted at an early stage, it may develop into violent crimes, such as assault, kidnapping and murder. Thus, there are practical limitations to deal with stalking, and effective measures to protect victims are asked for preparation.

Figure 2. Stalking duration.



3. Stalking Preventive System

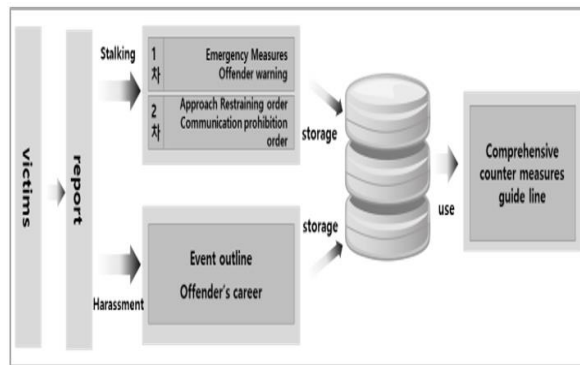
Based on the current law, stalking is defined as, 1. Certain behavior is repeated for a significant period, 2. The other felt fear and terror due to the act, 3. Clearly opposed to the other’s will, and 4. Specific intention is implied in the behavior.

Primarily, offline stalking is regulated by ‘the Minor Offenses Act’ and online stalking is regulated by ‘the Use of Information Network System and Protection of Information Act’. However, punishing against stalking with such legislations is merely limited to general stalking, and assault, harassment, threat and defamation originating from stalking procedures are just dealt with a charge of threat, defamation and housebreaking et al., therefore it is difficult to find stalking assailants being punished only for stalking commitment[6].

The thesis proposes a preventive system against stalking that enables victims to directly report to the police, prevent additional damages in advance and support victims with appropriate countermeasures against stalking by assailants who abuse victims’ information, upon behaviors that are fixed as stalking such as unilateral and constant contact, sudden visit to residence or workplace and privacy infringement including personal information leakage and even light commitments, if they are opposed to the will of a victim.

The preventive system being proposed against stalking consists of 3 distinct functions as <Figure3> depicts, reporting to investigative agencies online via smart-devices.

Figure 3. Stalking preventive system.



1. Report and Processes Stalking

When victims report investigative agencies about their stalking damage cases(date, time, place, dialogue, letter and phone-call et al.), the data(personal details of victims and assailants, harmful acts of assailants and damage degree of victims) is recorded in DB. Investigative agencies analyzes the damage information and judge whether to perform mobilization. Then, the mobilized police perform an expediency such as separating victims and assailants, and warn assailants. If, recidivism of stalking is recognized, measures of approach-or-communication prohibition are practiced. Despite such prohibitions, if stalking recidivism occurs, criminal punishment is applied to the assailants and the data stored in DB is utilized for evidences of the criminal punishment.

2. Report of Harassment Undefined as Stalking, but against Victims’ Will and Following Procedures

If a harassment is not definable as stalking despite disagreement with victims’ will, victims constantly record its details(date, time, place, harassment type) and personal data of assailants and themselves in DB of investigative agencies. At this point, any request – police intervention and online or offline warning letter to assailants – is recorded together in the DB. When the harassment fulfills stalking qualifications through consistency, it is dealt as a stalking crime case.

3. Integrated Countermeasures against Stalking and Supports for Victims

Analyzing the stored stalking data(victim and assailant types, crime type and damage degree

et al.) in DB of investigative agencies, the data is used as a legal basis – establishing a case processes standard, reinforcing punishment against assailants and legislating protective laws for victims.

4. Considerations of Proposing System

Stalking victims tend to hide the affair inside privately due to various reasons – 1. Fear of getting disadvantages when their stalking state is disclosed from societies or family, 2. Anxiety that other people would suffer from the assailants or to stimulate them, 3. Sense of Guilt that oneself attributes to the stalking since it is by an assailant, an acquaintance, 4. Resignation owing to fear and guilty conscience towards the assailants[7]. Therefore, discovering stalking at an early stage is difficult, preventing it from developing into violent crimes fails, and preparing protective and supportive measures is difficult.

The preventive system being proposed in the thesis enabled rapid responses against assailants, active initial countermeasures by the police by allowing stalking victims to inform investigative agencies of the damaged facts and assailant details via smart-devices without letting outsiders know it[8]. Furthermore, constant record and management of stalking prevented assaults and threats from occurrence and allowed its uses as a basis for criminal charges. Even if a harassment is not defined as stalking, as it opposes victims' will, by letting it be recorded continuously, its utilization for any report and investigation against stalking and prevention of its development to stalking have been enabled.

5. Conclusion

Stalking refers to constant behaviors harassing another by phone-call violence, consistent tail, waiting in daily life surroundings, lech, hugging and shower of presents. However, stalking victims mostly end up being victims of violent crimes including rape, assault and murder as they merely conduct passive response, bearing violence by assailants and not informing outsiders of their damaged condition due to their

sense of guilt, originating from their close ex-relationship.

Currently, stalking is punished under the Acts of Minor Offenses and Use of Information Network System and Protection of Information, however, there is a limitation to deal with stalking crimes with such laws as stalking is highly likely to result in serious criminal offense such as murder, and effective tools to protect the stalking victims are not sufficient. Moreover, legal grounds such as criminal definition and punishment criteria are insufficient, hence following penalties are light, as harmful behaviors by assailants are not visible, field measures to protect victims are limited – thus, considering the nature of 'constant harassment' taking an advantage of victims' information acquired from previous 'acquaintance relationship', the punishment level is insufficient.

The preventive system against stalking being suggested in the thesis enables victims to report their damaged condition from stalking with evidences to investigative agencies without exposing their identity via smart-devices, eventually prevented its development into violent crimes by initial measures by the police and rapid responses against assailants. In addition, though a harassment is not punishable on charge of stalking, by continuous record of the disagreed behaviors with victims' will, identification of encountered situation of victims and storing assailant personal details in prior, its development into stalking is preliminarily prevented. Further, analyzing a set of data about stalking stored in the preventive system has a case procedure standard be prepared, finally allowed a legal basis, such as 1. Reinforcing punishment against stalking, 2. Reinforcing field responsiveness of the police and 3. Systematic supports – counseling, treating and protecting – for victims have become available for preparation, be prepared.

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