



# Submission on the Crimes Legislation (Stalking and Harassment) Amendment Bill

From the National Collective of Independent Women's Refuges (NCIWR)

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## Introduction

We would like to thank the Justice Committee for the opportunity to submit on this Bill.

### We wish to speak to our submission.

The National Collective of Independent Women's Refuges (NCIWR) is a non-governmental organisation with 41 member agencies, that has delivered services to women, children, and whānau affected by family violence in Aotearoa for over 50 years. We represent victim-survivors of family violence, specifically wāhine and tamariki, the primary groups subjected to and impacted by family violence.

This bill has the potential to fill a long standing and well recognised legislative gap for victims of intimate partner stalking, and in that respect we strongly support the intention of this bill. It is, however, imperative to make the bill as effective as possible in achieving the purpose of safety for victims of stalking and preventing further harm.

*"I wish stalking was actually taken seriously. For me it was the psychological damage that was the worst. Knowing that I would never be able to get away from him, he could be anywhere, he had every right to do what he was doing. The constant goosebumps. The tears and feeling of suffocation."*

– Women's Refuge Stalking Research Participant

*"A missing factor in our ability to do really strong advocacy is the lack of laws around stalking, and the way that perpetrators are emboldened to carry on abusing our clients and finding ways to mess with every part of their lives, sometimes in person and sometimes from afar. It feels never*

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*ending.”*

*- Women's Refuge Advocate*

Our feedback is informed by NCIWR's family violence specialist research and client risk data, and national and international research and evidence. NCIWR routinely publishes specialist research on family violence, risk, and safety in Aotearoa New Zealand. Intimate partner stalking is a theme that has featured prominently in many of these publications, including:

- Economic abuse (2017)
- Family violence and suicide (2018)
- Pet abuse (2018)
- Intimate partner stalking (2019)
- What Refuge Risk Data Tells Us About the Spread of Family Violence in Clients' Lives (2023)
- What children need to be safer from family violence: a pilot evaluation (2023)
- How communities feel about responding to family violence (2024)
- Digital abuse tactics in intimate partner violence (Forthcoming)
- Family violence and digital health records (Forthcoming)
- Family Violence Risk and Safety (Forthcoming, 2025)

In this submission we draw primarily on our 2019 stalking research (labelled throughout as 'Intimate Partner Stalking Research (2019)'. This research heard from 712 victims of intimate partner stalking, and interviewed 18 victims and 4 advocates who work intensely with stalking victims:

- *Thorburn, N. & Jury, A. NCIWR (2019). Relentless not Romantic: Intimate Partner Stalking in Aotearoa New Zealand.*  
<https://womensrefuge.org.nz/wpcontent/uploads/2019/11/Intimate-Partner-Stalking-.pdf>

This is supplemented with Women's Refuge client risk data:

- What Refuge Risk Data Tells Us About the Spread of Family Violence in Clients' Lives (2023)
- Women's Refuge client risk data (2024) Unpublished

Participants in the Intimate Partner Stalking Research (2019) detailed the impact of stalking on their lives and the need for comprehensive and appropriate mechanisms for safety from stalking. Their quotes highlight the importance of this legislation:

*“It went on for two and a half years of my life, and that was after a five year relationship... So the stalking and the text messages - I always thought at the beginning that he would eventually tire of them, that he would leave me alone, and if I could just ride it out then he would stop, and that he would begin to just focus on our daughter. But that never happened and it got worse and worse. It was very, very scary. It was extremely isolating, and it quite honestly got to the point where I couldn't function anymore. So I was struggling to go to work. By that time I was back at work fulltime. I was not eating, I couldn't sleep and the stress triggers - it just made me unwell to*



*be honest... So life got really, really hard because he was relentless in what he was doing to me, and it was every day, every night, early morning, late at night, there was never a time that I could escape it, ever."*

*"This man ruined my life. He tore my family apart, ruined my credibility and any future careers in [my] chosen fields... [but] it is very difficult to prove or be believed when being stalked. They [stalkers] are clever. [There is] not enough government [or] police training in this very individualised area, or legal support with an individual emphasis on stalking [as part of] domestic violence."*

## Summary of NCIWR recommendations for this bill

Following is a list of recommendations, for which we provide more detailed supporting information later in the submission.

1. We support that the bill makes stalking a crime within the Crimes Act.
2. While positive that the bill recognises stalking as a 'pattern of behaviour', we are very concerned the bill will take a backwards step in defining this pattern as being required to happen "on at least 3 separate occasions within a period of 12 months." This is a significant weakening of the current definition of criminal harassment which will be replaced by this new crime and which currently requires "at least 2 separate occasions within a period of 12 months" of specified acts. It is already unnecessarily prohibitive as it requires a 12-month timeframe. We strongly recommend that this pattern be defined simply as 2 or more specified acts, without a required timeframe.
3. The bill's definition of criminal harassment should not simply require that the perpetrator knows that the behaviour is likely to cause fear or distress, it should say that they know or ought to know that it is likely to cause fear or distress. This will address situations where a perpetrator is attesting that they did not, or could not, know they were causing fear or distress. This is also relevant in the section below where we discuss police warnings.
4. We support that the bill provides a list of examples of 'specified acts' of stalking, and that this list particularly includes examples of acts that, if viewed in isolation, would not be considered a crime and/or are less likely to be recognised as part of a pattern of stalking. This will help ensure the justice system will recognise and respond to the wide range of stalking behaviours that are used.



We recommend that the existing specified act “Damaging or undermining someone’s reputation, opportunities, or relationships” be amended to “Damaging or undermining, or attempting to damage or undermine, someone’s reputation, opportunities, or relationships, including through sharing information Person B does not want shared with others.”

5. In the last ‘specified act’ listed by the bill (216P(1)(a)(vi)), it is not enough to say, “acting in any way that would cause fear or distress to a reasonable person”. This is because the impact of stalking behaviours is highly dependent on the power difference between the perpetrator and victim, and the history or pattern of behaviours leading up to a particular act. The wording of ‘reasonable person’ therefore relies upon an assumed physical and social equality between the perpetrator and victim, which by virtue of the nature of intimate partner violence does not exist. Thus we strongly recommend making this more clearly about the particular person’s situation by adding “...reasonable person in the specific context and circumstances of person B.”
6. We recommend adding three specified acts to 216P(1)(a), as the current list is not clearly inclusive of these recommended additional acts, which are all acts that are not commonly or obviously thought of as part of a pattern of stalking behaviour, but which are certainly experienced as such by victims of stalking they are perpetrated towards.

First, we recommend adding an act that is included in the Harassment Act definition of criminal harassment: “Giving unwanted or offensive material to that person or leaving it where it will be found by, given to, or brought to the attention of that person, including in any electronic media.”

Second, we recommend adding acts whereby Person A impersonates or purports to be Person B or someone else in order to track, monitor, or otherwise contact Person B, or to attempt to damage Person B’s reputation, opportunities and relationships, whether this is done in person or via technology.

Third, we support the recommendations of Hohou Te Rongo Kahukura that are inclusive of acts specific to the experiences of Takatāpui and Rainbow victims of intimate partner violence.

7. While it is positive that the bill’s definition of ‘specified acts’ includes acts done to people connected with the primary victim, the definition of being in a ‘family relationship’ with the victim is too narrow. This part of the definition needs to be broad enough to cover the range of people who may be connected to the victim and thus likely to be targeted by the stalker. We strongly recommend this wording be broadened to include anyone targeted



by specified acts who has a family relationship with person B (which includes any close, personal relationship), or is supporting person B, or is someone important to person B (such as a good friend, boss or work colleague, teacher, mentor, etc.).

8. We support that the bill's definition of 'specified acts' also includes acts perpetrated through any third-party individual, institution or organisation, but we recommend adding "or communities of belonging" as acts may be perpetrated using communities that are wider than one individual, but are not considered an institution or organisation. This is particularly the case in communities of, for example, groups of particular Rainbow and Takatāpui adults, as well as tight-knit communities of particular immigrant ethnic groups.
9. We support that the bill enables Police to warn a person after they have perpetrated one act of stalking so that the person is unable to defend future stalking acts by claiming they were not aware their behaviour was an arrestable offence. However, it is important that the bill be amended in this section (216O) to:
  - a. Replace underlined words from 216O(3)(a) that the police may "notify person A in writing that- the specified act(s) are causing, or are likely to cause, fear or distress to person B" with notification that their act(s) "constitute an act or acts of stalking and harassment under the Crimes Act"
  - b. Make clear that a police notification is not the only allowable evidence that the stalker knows that their behaviour is likely to cause fear or distress to the victim. The lack of a police warning does not mean that there has not been stalking.
  - c. Require police to discuss with person B (the victim) beforehand whether they believe that issuing a warning would increase or decrease their safety and take into account the victim's perspective in making a final decision about whether or not to issue a warning
10. We support the inclusion of 'lawful purpose' and 'in the public interest' as defences for stalking in the bill, However, "reasonable excuse" should not be allowed as a defence for stalking. We strongly recommend removing clause 216A(2)(b) "with a reasonable excuse" from the bill. However, there needs to be a defence added for situations where victims of stalking monitor their stalker as part of a safety strategy.
11. We support that the bill prohibits convicted stalkers from owning a gun for ten years, however, we are concerned that victims of stalking might have to wait years for court hearings to conclude to be afforded this protection. We strongly recommend that the bill



be amended to give police the right to suspend a person's firearms licence when they are charged with a stalking offence so that victims can have immediate protection.

12. We support the bill amending the Evidence Act so that a defendant or party to a criminal proceeding concerning stalking is not entitled to personally cross-examine complainants, witnesses or a child witness, however, we strongly oppose allowing defendants to personally cross-examine child witnesses even in instances where 'the Judge gives permission', and strongly recommend this phrase be removed.
13. We support that the bill amends the definition of 'family violence' within the Family Violence Act 2018 to include references to stalking and harassment in the definition of psychological abuse.
14. We support that the bill adds new aggravating factors within the Sentencing Act of committing a stalking offence while subject to restraining order, or that the offender's behaviour other than the offence "involved persistent or repetitive behaviour" that "caused or was likely to cause fear or distress to the victim," however we recommend removing "over a prolonged duration" as this may be understood as necessitating acts over many months, when the nature of persistent and repetitive behaviour should be enough to be considered an aggravating factor even if over a relatively short period of time.
15. We strongly recommend including in the bill a mandate for courts to consider and monitor appropriate rehabilitation for people convicted of stalking, and for family violence stalking offences to explicitly include a requirement to complete a community non-violence programme that is approved and funded by the Ministry of Justice or the Department for Corrections.



## Background

### Intimate partner violence and stalking in Aotearoa New Zealand

One in three New Zealand women experience partner violence in their lifetime.<sup>1</sup> Stalking is a common tactic of family violence. It is however, a chronically under-reported issue.

Women's Refuge collects data from clients about physical and digital forms of stalking. *What Refuge Risk Data Tells Us About the Spread of Family Violence in Clients' Lives (2023)* looked at risk information of 500 clients. Of those clients:

- 58% had been stalked
- 56% had their whereabouts tracked or monitored
- 49% had constant unwanted contact

In 2024 we gathered further risk information from 3500 clients (this is an internal report and is unpublished). It shows a comprehensive snapshot of the risk of intimate partner stalking in the lives of women who reach out to Women's Refuge for support. Of 3500 clients:

- 61.92% were stalked, followed or checked up on
- 83.98% had experienced at least one form (but multiple instances) of digital stalking
  - 48.68% had constant unwanted contact
  - 40.41% had their whereabouts or activities tracked or monitored
- 58.62% had their perpetrator ask or pay others to stalk or follow them
- 39.99% reported that their perpetrator's stalking had escalated (gotten worse or more frequent) in the last month
- 58.62% were stalked after separating from their perpetrator
- 43.84% experienced their perpetrator breach a legal order (protection order, police safety order, or bail conditions)
- 79.42% had their perpetrator share or threaten to share private, stigmatising, or false information about them

Women experiencing intimate partner violence are often the primary caregivers of children; children are often impacted by intimate partner violence and stalking (directly and vicariously) as their mother/caregiver is very often their main source of safety. Children are used by perpetrators as a means of, or excuse to continue, stalking their primary victims. Of the 3500 clients who are mothers:

- 42.86% experienced their perpetrator using the children to find out details about their lives

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<sup>1</sup> Fanslow, JL, McIntosh, T. (2023). Key findings and policy and practice implications from He Koiora Matapopore | The 2019 New Zealand Family Violence Study. University of Auckland: Auckland New Zealand.



- 50.33% experienced their perpetrator using children used to compel further contact (with client)

International research aligns with New Zealand data about the breadth of the issue. The U.S National Violence Against Women Survey showed that lifetime prevalence is approximately 10% for women.<sup>2</sup> As with other (particularly gender-based) categories of crime, this is likely to under-represent the true scope of the problem, as stalking behaviour is not always identifiable as such, is often misinterpreted as other offences, is too difficult to disclose, or is regarded simply as offensive but not criminal behaviour and thus ignored.

The myth that victims can and should ‘just leave’ an abusive partner (and that leaving will result in safety) continues to be pervasive among the public.<sup>3</sup> This is an incorrect and dangerous misconception. Intimate partner stalking is likely to continue, or escalate, after separation from an abusive partner, and separating increases the risk of homicide.

Women’s Refuge clients who were separated from their abusive partners were asked ‘Did this stalking or checking up on what you’re doing continue after separation?’ – 58.62% indicated that stalking was ongoing.<sup>4</sup> On average, women in New Zealand are stalked for just under 2 years post-separation.<sup>5</sup> This is also evidenced in international literature.

Women generally only seek help from family violence services, like Women’s Refuge, when they exhaust their own resources and support networks and are feeling desperate because of their level of risk, which is caused by the perpetrator, and compounded by unhelpful systems and responses.

Stalking impacts on victims in far more ways than on their physical safety. Our Intimate Partner Stalking Research (2019) provides an overview of the wider impacts of stalking:

*“Being stalked by proxy or by digital means meant safety was an elusive concept, and the consequences to the victim of online stalking pervaded their existing and new relationships, their employment standing and prospects, and their use of online spaces as previous sources of safety and connection. Hypervigilance, fear, and a sense of futility or hopelessness about ever escaping the stalking plagued victims for prolonged periods of time. For some, this represented a compelling reason to return to the abuser, where at least patterns of abuse could be somewhat anticipatable and interspersed with periods of relative safety. Looking at the cost to the victim across multiple spheres of their lives, such where they have been forced to make compromises, withdraw, or behave differently in an attempt to negate the physical and social*

<sup>2</sup> Tjaden, P., & Thoennes, N. (1998). Stalking in America: Findings from the national violence against women survey (NC 169592). Washington, DC: National Institute of Justice.

<sup>3</sup> Arathoon, C., Thorburn, N., Beaumont, S., Gaskin, K., & Jury, A. (2024). How Communities Feel About Responding to Family Violence. National Collective of Independent Women’s Refuges - Ngā Whare Whakaruruhou o Aotearoa.

<sup>4</sup> Women’s Refuge client risk data (2024) Unpublished

<sup>5</sup> Thorburn N, Jury A, NCIWR (2019). Relentless not Romantic: Intimate Partner Stalking in Aotearoa New Zealand. <https://womensrefuge.org.nz/wp-content/uploads/2019/11/Intimate-Partner-Stalking-.pdf>





*risks of the stalking behaviour, may elicit greater comprehension of the threat that stalkers pose to victims' futures in addition to the risk to physical safety."*

Stalking is associated with escalating violence, injury, and homicide. As a result of stalking, victims report persistent distress, dread, debilitating fear, and a range of devastating short- and long-term impacts on their lives. It is imperative to have a criminal justice system that comprehends both the serious and destructive nature of stalking, and one which views this behaviour as a crime requiring an effective and proactive response to protect victims from escalating behaviour and further harm.

## The need to improve our criminal justice system response to stalking

There is widespread belief amongst members of the public that if victims reach out for help, systems will ensure their safety.<sup>6</sup> However, our Intimate Partner Stalking Research (2019), evidenced various ways that legislation, police approaches, and system responses to stalking are failing to:

- Recognise the tactics of intimate partner stalking
- Recognise partner stalking as criminal behaviour, and
- Provide an effective justice response.

Stalking is demonstrably related to homicide, often acting as a precursor even in the absence of other forms of abuse. Intimate partner murders are commonly preceded by stalking.<sup>7 8 9</sup> There's no doubt that a stronger legal framework that enables better and earlier justice system responses could help to lower the incidence of homicide and serious injury that follows a pattern of stalking. One example of the worst possible consequence of ineffective responses is the well-known and deeply problematic case of Farzana Yaqubi.<sup>10</sup>

Ineffective responses to stalking are exacerbated by pervasive societal norms and myths that give rise to poor identification of stalking behaviours and the inability to link these behaviours to the risk they pose to victims. Stalking often relies on a pattern of unwanted acts that, looked at in isolation, may seem inconsequential. This is particularly the case for intimate partner stalking where an act that may seem innocuous to a stranger can have a significant impact on a victim because of the cumulative harm caused by previous abuse. For example:

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<sup>6</sup> At 3.

<sup>7</sup> Glass, D. (2006). *Stalking the stalker: Fighting back with high-tech gadgets and low-tech know-how*. Lincoln, NE: iUniverse, Inc.

<sup>8</sup> McFarlane, J., Campbell, J., Wilt, S., Sachs, C., Ulrich, Y., & Xu, X. (1999). Stalking and intimate partner femicide. *Homicide Studies*, 3, 300–316.

<sup>9</sup> Mechanic, M. B., Weaver, T. L., & Resick, P. A. (2000). Intimate partner violence and stalking behaviour: Exploration of patterns and correlates in a sample of acutely battered women. *Violence and Victims*, 15, 55-72.

<sup>10</sup> [Litany of police failures found after Farzana Yaqubi murdered despite stalking complaints | RNZ News](#)



*“A client I helped recently got a text from her ex-partner saying, “I hope you and the kids had a great holiday in [name of small town]”. Seems nice, right? No, it wasn’t nice, it was a threat! My client hadn’t told anyone where she was taking the kids, hadn’t posted anything online. No one knew where she was going. Yet somehow, he found out, he’s still stalking her. This is on the back of almost 3 years of violence, including physical abuse and rape, as well as heaps of threats to take the children. It is easy to see how anyone could think that was nice message and not one of the worst threats you can receive as a mum. It says, ‘I know where you are, you’ll never be rid of me, and you’ll never feel safe’. Awful. – Women’s Refuge Advocate*

Our Intimate Partner Stalking research (2019) found that many (ex)partners harassed women with continual contact:

*“...rarely managed to identify effective means of stopping this unwanted contact, as new channels (such as switching to social media platforms or using new phone numbers) would be forged as quickly as they could act to block the initial ones. It was noted by several respondents that the effort required to block or prevent continual messaging from any avenue was prohibitive. Further, if they did succeed at blocking one form of contact, they not only continued to be subjected to incessant contact via other avenues, but also often lost contact details for important members of their social circle or became less reachable to other people. This represented an additional form of isolation beyond that already experienced as a by-product of the intimate partner violence.”*

Following the proliferation of stalking laws internationally, experimental research that assessed responders’ tendencies to classify behaviours as stalking showed that both police and non-police participants more readily acknowledged stalking by strangers than stalking by ex-intimate partners.<sup>11</sup>  
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Despite the disproportionate perpetration of homicides by ex-intimate partners comparative to stranger stalkers, even police with specialist training in intimate partner violence are more likely to consider stranger stalkers’ behaviour as intrusive, problematic, and dangerous than that of current or ex-intimate partners.<sup>14</sup> This is of particular concern given that in comparison to stranger stalkers, ex-

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<sup>11</sup> Phillips, L., Quirk, R., Rosenfeld, B., & O’Connor, M. (2004). Is it stalking? Perceptions of stalking among college undergraduates. *Criminal Justice and Behavior*, 31, 73-96. doi: <http://dx.doi.org/10.1177/0093854803259251>

<sup>12</sup> Scott, A. J., & Sheridan, L. (2010). “Reasonable” perceptions of stalking: the influence of conduct severity and the perpetrator-target relationship. *Psychology, Crime & Law*, 17, 331-343. doi: 10.1080/10683160903203961

<sup>13</sup> Scott, A. J., Nixon, K., & Sheridan, L. (2013). The influence of prior relationship on perceptions of stalking: A comparison of laypersons, non-specialist police officers, and specialist police officers. *Criminal Justice and Behavior*, 40(12), 1434-1448.

<sup>14</sup> Weller, M., Hope, L., & Sheridan, L. (2013). Police and public perceptions of stalking: the role of prior victim\_offender relationship. *Journal of Interpersonal Violence*, 28, 320-339. doi: 10.1177/0886260512454718



intimate partners who demonstrate stalking behaviour are more likely to persist in these behaviours and ultimately more likely to perpetrate physical violence against the victim.<sup>15 16</sup>

Relatedly, participants in our Intimate Partner Stalking Research (2019) were frequently met with comments that minimised, denied, or legitimised the stalking.

*"I told him from day one to stay the fuck away from me, I rang the police heaps of times they were total arseholes, the police would say things like ... "It's his farm, he has to come by your house."*

*"[I] only [got] help from family and friends. [I] tried to go to the police but was told [that] because he was my partner, it was normal for him to be checking on me."*

When stalking overwhelmed the strategies that women could enact alone, many then resorted to more 'formal' strategies. The most common 'formal' strategy to cope with stalking is to file for a protection or restraining order,<sup>17</sup> which is often the first course of action recommended by police when stalking is reported to them. Our research participants shared their experiences of having a protection order as a result of ongoing partner stalking:

*"After [a violent threat] the police advised me to get a protection order... [But still] he would constantly call, constantly text all that sort of stuff... Like maybe 20 times a night ... Yeah just turning up, and I had to change the locks, and he would just bang on the door, and sometimes he would come in and smash windows, and come in and throw my daughter's toys around, just stuff so that I knew that he was there.... Every time that [kind of] stuff happened, I would call the police."*

*"He didn't pay any regard to the protection order, it was just nothing to him, he didn't care... [But when it was reported] they would say it was fairly minor what he was doing. [He left notes that] were innocuous, like 'hi how are you', 'have a good day', you know, that kind of stuff... Or he would leave something on there like a CD or he would leave a little gift. I felt like saying [to the police] 'what needs to happen next?' I got the protection order, and I was telling them 'he is not listening to it'... He tried to run me off the road one time. I called the police immediately and they did undertake quite an investigation, but basically there was no evidence. It was my word against his and his won out, so nothing happened with that."*

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<sup>15</sup> McEwan, T. E., Mullen, P. E., & MacKenzie, R. (2009). A study of the predictors of persistence in stalking situations. *Law and Human Behavior*, 33, 149–158. doi: <http://dx.doi.org/10.1007/s10979-008-9141-0>

<sup>16</sup> McEwan, T. E., Mullen, P. E., MacKenzie, R., & Ogloff, J. R. P. (2009). Violence in stalking situations. *Psychological Medicine: A Journal of Research in Psychiatry and the Allied Sciences*, 39, 1469–1478. doi: <http://dx.doi.org/10.1017/S0033291708004996>

<sup>17</sup> Spitzberg, B. (2002a). In the shadow of the stalker: The problem of policing unwanted pursuit. In H. Giles (Ed.), *Law enforcement, communication and community* (pp. 173–200). Philadelphia, PA: John Benjamins North America.



Approximately half of victims are dissatisfied with police and/or justice responses to their complaints of stalking.<sup>18 19 20 21</sup>

As with all relational offences, there are likely to be compelling reasons for victims not to report stalking to the police. For example, 43.84% of Women's Refuge clients reported that their perpetrators breached a legal order (protection order, police safety order, or bail conditions). This further emboldens perpetrators and shows their ongoing contempt for the legal protections currently afforded to victims of family violence and partner stalking.

Stalking is not yet explicitly referenced in Aotearoa's family violence and harassment legislation. Many stalking-type behaviours are prohibited by the Harassment Act 1997 and the Harmful Digital Communications Act 2015. However, the greater part of the Harassment Act is civil, setting out victims' rights to obtain a restraining order. Restraining orders are not obtainable by victims of family violence, who must instead obtain a protection order, for which the threshold of harm is significantly higher.

It is essential to have a crime of stalking that encompasses both digital means of unwanted contact and physical forms of pursuit, monitoring, threats, and unwanted contact. This is explained by participants in the Intimate Partner Stalking research (2019) who often experienced these forms of harassment concurrently.

*"They never left me alone after the end of our relationship. Constant calling, texting, turning up at my house without warning or invitation, all sorts of invasive behaviour like that."*

*"Being called/texted/emailed literally hundreds of times a day. Turning up at my place uninvited. Sitting outside in his car. Monitoring online activity."*

*"After ending a casual relationship, he would not leave me alone I received over 300 messages and missed calls in a four day period he would also just sit in his car outside my house to make sure I had no male company turned up."*

Some digital stalking offences are prosecuted under the Harmful Digital Communications Act 2015. However, there are few offences that result in court action, and even fewer specifically when the perpetrator is an intimate partner or ex-partner. Over three calendar years (2016-2018), such

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<sup>18</sup> Brewster, M.P. (2001). Legal help-seeking experiences of former intimate-stalking victims. *Criminal Justice Policy Review*, 12, 91–112.

<sup>19</sup> Dunn, J.L. (2001). Innocence lost: Accomplishing victimization in intimate stalking cases. *Symbolic Interaction*, 24, 285–313.

<sup>20</sup> Dunn, J.L. (2002). *Courting disaster: Intimate stalking, culture, and criminal justice*. Hawthorne, NY: Aldine de Gruyter.

<sup>21</sup> Tjaden, P., & Thoennes, N. (2000). *Extent, nature, and consequences of intimate partner violence: Findings from the national violence against women survey (NCJ 181867)*. Washington, DC: National Institute of Justice.



proceedings against intimate partners and ex-partners resulted in court action for only 138 cases, and warnings or other methods of proceeding for an additional 72 cases.<sup>22</sup> These numbers appear particularly minimal considering that 83.98% of 3500 Women's Refuge clients indicated they had experienced digital stalking by an (ex)partner.

Our Intimate Partner Stalking Research (2019) found that victims' reports to the police were rarely met with court charges against the stalkers. On top of that, many were unable to access protection orders on the basis of stalking alone. Those who did have protection orders found these were unreliably upheld, and consequently not usually effective at curbing the stalking.

The legislative framework of stalking will be strengthened by criminalising stalking behaviour, which will in turn support police and other criminal justice professionals to understand and respond effectively to these harmful behaviours in a way that supports victim safety and prevents further harm. However, it will be important to ensure the bill is written to protect victims of stalking from being prosecuted as stalkers, as one strategy victims may use to keep themselves safe is to monitor their stalker.

By criminalising stalking behaviour with a comprehensive definition of stalking inclusive of the range of tactics typical of intimate partner stalkers, the Crimes Act (Stalking and Harassment) Amendment Bill will be a significant step towards a strengthened legislative framework for stalking.

To be effectively implemented, there will also need to be investment in ongoing training for police and other criminal justice professionals to ensure the new law is effectively enforced; and appropriate rehabilitation programmes to reduce future offending.

This legislation is long overdue in New Zealand; the need has been outlined and evidenced by family violence victims and sector experts alike. However, it is imperative to make this legislation as effective as possible in achieving the purpose of safety for victims of stalking and prevention of further harm. Victims have waited long enough for this to happen. It would be tragic for them to be let down by a bill that is not fit for purpose after so many years.

*"Despite more than half of the participants having reported the stalking to police, and despite reported stalking typically involving a greater volume of high-risk tactics, respondents felt overlooked, frustrated, stigmatised, and blamed. Given the consistencies between their experiences of reporting stalking, and the findings of research into the beliefs informing police*

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<sup>22</sup> Thorburn N, Jury A, NCIWR (2019). Relentless not Romantic: Intimate Partner Stalking in Aotearoa New Zealand. <https://womensrefuge.org.nz/wp-content/uploads/2019/11/Intimate-Partner-Stalking-.pdf>



*responses elsewhere, this is likely to be in part testament to misplaced blame attribution, and to incomprehension of the significance of seemingly harmless unwanted contact.”<sup>23</sup>*

## NCIWR detailed feedback supporting our recommendations

### 1. We support that the bill makes stalking a crime within the Crimes Act.

This bill is long overdue. The inclusion of this new crime within the Crimes Act will give greater visibility to stalking as an issue that impacts many people in Aotearoa, New Zealand and will impact how stalking is recognised, responded to, and addressed. The existing charge of criminal harassment has been used exceedingly rarely, when compared to the known rates of perpetration. One likely reason for this is that this charge sits within the Harassment Act rather than the Crimes Act.

### 2. While positive that the bill recognises stalking as a ‘pattern of behaviour’, we are very concerned the bill will take a backwards step in defining this pattern as being required to happen “on at least 3 separate occasions within a period of 12 months.” This is a **significant weakening** of the current definition of criminal harassment which will be replaced by this new crime and which currently requires “at least 2 separate occasions within a period of 12 months” of specified acts. It is already unnecessarily prohibitive as it requires a 12-month timeframe. **We strongly recommend that this pattern be defined simply as 2 or more specified acts, without a required timeframe.**

Victims should not have to wait until they have endured three provable acts of stalking before perpetrators are charged and prosecuted. Each and every act of stalking has a negative impact on the victim, some are long-lasting and all acts have a cumulative impact.

*“I mean, he was a very controlling individual, yeah, and to get away from him was not going to be easy, but I had to do it... It was a really long time to be continually living in fear. It turned me into somebody that was extremely paranoid and anxious. A high state of anxiety, constantly double-checking locks and doors and constantly looking behind my back just to make sure he wasn't anywhere near me. Yeah, it was a long time of just being on high alert and being hypervigilant about what was going on.” – Intimate Partner Stalking (2019)*

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<sup>23</sup> Thorburn N, Jury A, NCIWR (2019). Relentless not Romantic: Intimate Partner Stalking in Aotearoa New Zealand. <https://womensrefuge.org.nz/wp-content/uploads/2019/11/Intimate-Partner-Stalking-.pdf>



If two or three acts are separated by a timeframe of more than one year, victims should not have to wait in limbo for yet another act before the perpetrator can be charged with stalking. A long period of time between acts of stalking could happen for many reasons, including perpetrators serving custodial sentences. Anecdotal information (January 2025) from a Women's Refuge advocate highlights this:

*"A client had not been contacted by her ex-husband [perpetrator] for almost 11 months, he then contacts her online last week. He has a significant history of violence towards her, her children, and his previous partners. The next day her neighbour told her that a man who looks like him was at her property when she was out. This sudden escalation in stalking behaviour relates directly to his release from custody. Now, he hasn't been able to get to her for almost a year, and suddenly he makes himself known to her twice, by message and then in person." – Women's Refuge Advocate*

- 3. The bill's definition of criminal harassment should not simply require that the perpetrator knows that the behaviour is likely to cause fear or distress, it should say that they know or ought to know that it is likely to cause fear or distress. This will address situations where a perpetrator is attesting that they did not, or could not, know they were causing fear or distress. This is also relevant in the section below where we discuss police warnings.**

Our Intimate Partner Stalking Research (2019) has numerous examples of poor police responses. These are most likely a result of an inadequate understanding of the dynamics of family violence and coercive control. Successful implementation of this bill (once it becomes law) will require improvements to police procedures, as well as an ongoing investment into training for police and justice system professionals about these dynamics. Proving stalking should not rely on police giving a warning to prove the perpetrator understands the behaviour is causing fear or distress. It should be enough that the perpetrator *ought* to have known their behaviour would be likely to cause fear and/or distress, particularly when there is a history of coercive controlling behaviour.

*"So they contacted him, and his justification was [that] it is a social networking site. So proceeding [with charges] with regards to getting some form of motive [established], I don't know, and again for me having gone through that whole process I don't think that legal process took a toll on him, but it certainly did on me... [And now] my discussions with the police are literally just 'wait until it happens again, screen shot it, and once we've got a case we'll try it', but that again is [unrealistic]."*

- 4. We support that the bill provides a list of examples of 'specified acts' of stalking, and that this list particularly includes examples of acts that, if viewed in isolation, would not be considered a crime and/or are less likely to be recognised as part of a pattern of**



stalking. This will help ensure the justice system will recognise and respond to the wide range of stalking behaviours that are used.

We recommend that the existing specified act “Damaging or undermining someone’s reputation, opportunities, or relationships” be amended to “**Damaging or undermining, or attempting to damage or undermine, someone’s reputation, opportunities, or relationships, including through sharing information Person B does not want shared with others.**” NB: we recommend three further amendments to the bill’s list of specified acts below in points 5 and 6.

It is helpful that this section (s216P(1)(a)) begins with well-known stalking behaviours of “watching, following, loitering near or obstructing” someone, and also lists examples of covert (or hidden) types of stalking, including:

- Recording or tracking;
- Contacting or communicating with;
- Damaging, devaluing, moving, entering, or interfering with taonga or property (including pets) that the person has an interest in; and
- Damaging or undermining someone’s reputation, opportunities, or relationships.

We recommend including the additional language “**Damaging or undermining, or attempting to damage or undermine, someone’s reputation, opportunities, or relationships, including through sharing information Person B does not want shared with others**” so that *attempting* to damage or undermine someone’s reputation, opportunities or relationships is included whether the attempt succeeds in causing damage or not.

Women’s Refuge client data (2024) shows just how common this tactic is, and why it is important to make it explicit. Of 3500 clients:

- 79.42% had their perpetrator **share or threaten to share private, stigmatising, or false information** about them:
  - 46.94% about their mental health
  - 42.87% about their parenting
  - 27.81% about their use of alcohol or drugs
  - 24.25% about their access to incomes or benefits
  - 19.68% about their previous sexual experiences
  - 8.71% about their involvement in illicit activity





Women's Refuge's forthcoming research on Family Violence Risk and Safety (2025), surveyed 1700 victims of family violence. It found that 'reputation damage' is the second most common impact (from a list of 21 impacts of family violence), the second most difficult to get help for, and the fourth most debilitating for life and future prospects.

This tactic is commonly deployed as part of intimate partner stalking; it is used to command the compliance of victims and is especially devastating when perpetrators have access to victims' personal and sensitive information (as listed above).

The key distinguishing features of stalking across our Intimate Partner Stalking Research (2019) participants' narratives were:

- Insidious regular contact;
- Jealousy and retribution for imagined transgressions; and
- Cyclical patterns of perpetration that oscillated between affection or reconciliation attempts and destructive and malicious actions.

Stalking tactics reported by participants ranged widely, including varying forms of intrusive contact, monitoring and surveillance, intimidation and violence, and life sabotage. We believe this list of 'specified acts' covers these tactics well.

While stalking is often perpetrated covertly or discreetly, an escalation to physical or sexual violence is a common part of stalkers' broader patterns of power and control. These quotes from our Intimate Partner Stalking Research (2019) demonstrate the variation of stalking tactics that victims' experience; these often include in-person and digital contact that can be both overt and covert.

*"He was desperately trying to get me back, so it was mostly declarations of love, except when he saw me with my new partner. That time he waited for my partner to leave, and shook me by my coat collar, yelled in my face, and ripped up the card he had bought for me. He came into the house we had previously occupied together (I had stayed on), and begged for another chance, one weekend morning. He revealed that he'd taken a garage remote when he left, so I then felt more threatened. He emailed me up to 40 times a day. He constantly invited me out, to convince me to give him another chance. One time, I was naive enough to agree to see his new apartment (about 100 metres from my workplace). He tried to seduce me, and it took some convincing to get him to stop and let me leave. He guessed my email password and watched my email conversations, including my first and second meet ups with my new partner. He got a new job about 20m from my workplace. He wrote a letter to my parents, which they didn't open. He called constantly too."*

*"My ex created new Facebook profiles every time I blocked him. I ended up blacklisting his number with Vodafone. When he called, the number would show up as him, I just couldn't answer (which was good). He ended up using his flatmate's phone, his mother's phone, or new SIM cards to call*



*and text me. He called me 63 times over a couple of hours one day. At a do I went to, one of his friends and ex-wife flatmates had been talking to him and warned me that he'd expressed an interest of turning up at my house. Even before we broke up, he'd show up at my university and my lecturers had to ask him to leave."*

*"[It was a] weird mix of intimidation, flattery and friendly/loving words, sexual coercion, assault and defamation/isolating me from my friends. Sometimes he would just stare at me, other times he would approach me wanting to 'talk'... [He kept talking about] sexual actions & talking about sexual things he wanted to do to me. It was after the breakup so, generally with remorse, desperation and mania. E.g., "I'm only following you because I need you to know how sorry I am, if you think about it this is romantic actually!" Occasionally with attempts at intimidation... Also with sexual violence - times he managed to find a way to be alone with me usually involved forced sexual contact of some kind."*

- 5. In the last 'specified act' listed by the bill (216P(1)(a)(vi)), it is not enough to say, "acting in any way that would cause fear or distress to a reasonable person". This is because the impact of stalking behaviours is highly dependent on the power difference between the perpetrator and victim, and the history or pattern of behaviours leading up to a particular act. The wording of 'reasonable person' therefore relies upon an assumed physical and social equality between the perpetrator and victim, which by virtue of the nature of intimate partner violence does not exist. Thus we strongly recommend making this more clearly about the particular person's situation by adding "...reasonable person in the specific context and circumstances of person B."**

Our recommended wording is similar to wording in the definition of criminal harassment in the Harassment Act (which will be replaced by this new crime): "acting in any other way that would cause a reasonable person in person A's particular circumstances to fear for his or her safety."

Context and circumstance are critical when considering how a 'reasonable' person would be impacted by stalking, both in terms of power differences and a history of behaviours, especially intimate partner violence.

Power differences occur when one person has more power, control, status, credibility, capability, resources, or capacity than another. Perpetrators have advantages when there are differences between themselves and their victim with relation to age, physical strength or ability, education, gender, ethnicity, employment status, or social standing. For example, when a stalker is physically stronger (and therefore more able to harm another), fear and distress are more likely to occur. Likewise, where a stalker is a Pākehā man who has an educational, income or occupation advantage over a victim from a marginalised ethnic group, fear and distress are more likely to occur. Those individuals who hold the power in these examples are more likely to be believed and supported and are more likely to be resourced to navigate situations.



Age is one factor that will be important in determining whether a 'reasonable person' is caused fear and distress by stalking. The risk that victims of stalking will experience their first episode of poor mental health (a clear sign of 'distress') is disproportionately greater in very young women (18-22). Women in this age range who were stalked (but not sexually assaulted) were 113% more likely to suffer a first episode of mental ill-health. Adolescent women who had experienced both sexual assault and stalking were 516% more likely to then experience an episode of mental ill-health compared to non-victimised counterparts.<sup>24</sup>

In summary, in an intimate partner relationship, stalking (like coercive control) is most effective at causing fear and distress for the victim when the perpetrator is bigger, stronger, and more powerful in a number of other ways than the victim.

This wording is also important to help protect the legislation from being weaponised against primary victims who may monitor their stalker as part of their safety strategy (see page 24).

**6. We recommend adding three specified acts to 216P(1)(a), as the current list is not clearly inclusive of these recommended additional acts, which are all acts that are not commonly or obviously thought of as part of a pattern of stalking behaviour, but which are certainly experienced as such by victims of stalking they are perpetrated towards.**

**First, we recommend adding an act that is included in the Harassment Act definition of criminal harassment: "Giving unwanted or offensive material to that person or leaving it where it will be found by, given to, or brought to the attention of that person, including in any electronic media."**

The act of leaving unwanted things – whether gifts or offensive material - was a common form of stalking mentioned in our Intimate Partner Stalking Research (2019). It is used to let the victim know they are being stalked:

*"After I had moved out, he use[d] to come around [to] my house at night. Every night! And leave evidence he was there, i.e. a flower on my windscreen, [or a] drink can outside my bedroom window, [or] junk mail on the back porch. [Or he would] draw a smile in the dust on windows. Just a little something so we knew he had been there. My daughter was a mess. I would have to get up extra early to find and get rid of whatever he left."*

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<sup>24</sup> Diette, T. M., Goldsmith, A. H., Hamilton, D., Darity Jr, W., & McFarland, K. (2013). Stalking: Does it Leave a Psychological Footprint? *Social Science Quarterly*, 95(2), 563-580. Doi: 10.1111/ssqu.12058



*“He left a flower and note on my car, the only way he could have known where I parked was to follow me.”*

*“[He was] leaving tailor-made underwear for me as a gift... [and then used] any excuse to show up at my house outside in his car.”*

Zeni Gibson’s story in *The Spinoff* of being stalked by a man she barely knew<sup>25</sup> included him not only leaving numerous offensive messages but also human faeces on numerous occasions in her mother’s letterbox. When Police finally prosecuted Greg, they did not include evidence about any of these acts of leaving offensive material, which may be because these behaviours were not recognised by police as criminal harassment.

**Second, we recommend adding acts whereby person A impersonates or purports to be Person B or someone else in order to track, monitor, or otherwise contact Person B, or to attempt to damage Person B’s reputation, opportunities and relationships, whether this is done in person or via technology.**

While this additional specified act relates to two existing specified acts (“contacting or communicating with person B” and “damaging or undermining person B’s reputation, opportunities, or relationships”), it may not be clearly seen this way without being explicitly named in the Act.

Our forthcoming research *‘Digital abuse tactics in intimate partner violence’* heard from 13 young women about their experiences of digital abuse; they described countless examples of digital intimate partner stalking. Below are examples of the way that perpetrators impersonate or purport to be their victim or someone else in order to stalk their victim.

*“My ex had my emails, he linked everything on my phone to his iCloud so if I took a photo it would be uploaded to his iPhone immediately. He could track me. He had all my bank account information, he had photocopies of my driver’s licence, it was like he was going to steal my identity. Essentially, he had everything he could get on me.”*

*“He emailed my GP from my account and pretended to be, saying I’m having difficulty with my mental health again. It wasn’t true, and it wasn’t me! My GP emailed him back as she assumed it was me.”*

A 16-year-old participant whose work involved online streaming, recalled how post separation her ex-partner made a fake online profile and used it to establish contact with her. She had been the victim of his physical, emotional, and sexual abuse for three years prior, and had a protection order. She

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<sup>25</sup> [‘I need to make you suffer’: My near decade of violent harassment by a man I barely know | The Spinoff](#) dated 25-11-2024



became aware of his identity while she was facilitating a 'live stream' recording online. Of this experience she says, *"the whole ability to completely anonymise yourself online is terrifying"*.

Relatedly, Women's Refuge client data (2024) shows that 19.56% of 3500 clients have had their perpetrator use technology such as phones, computers, or the internet to pose as someone else to make contact with them.

**Third, we support the recommendations of Hohou Te Rongo Kahukura that are inclusive of acts specific to the experiences of Takatāpui and Rainbow victims of intimate partner violence.**

- 7. While it is positive that the bill's definition of 'specified acts' includes acts done to people connected with the primary victim, the definition of being in a 'family relationship' with the victim is too narrow. This part of the definition needs to be broad enough to cover the range of people who may be connected to the victim and thus likely to be targeted by the stalker. We strongly recommend this wording be broadened to include anyone targeted by specified acts who has a family relationship with person B (which includes any close, personal relationship), or is supporting person B, or is someone important to person B (such as a good friend, boss or work colleague, teacher, mentor, etc.).**

The importance of including acts done to others close to the primary victim is clear from our Women's Refuge client risk data (2024). Of 3500 clients, 47.25% reported that their perpetrator had threatened someone else they cared about. There is evidence that perpetrators of violence, including stalking, also target and victimise those close to their primary victim. Participants in our Intimate Partner Stalking Research (2019) reiterate this:

*"And from my daughter's point of view, I mean if she went to school, she couldn't stand outside the school or hang round anywhere, because he would find her and yell and scream at her going past in the vehicle and all sorts of stuff, calling her names. [He] contacted how many of her friends, and spread all sorts of rumours, and this was all after we broke up. And yeah it just got worse and worse and worse, until this day."*

*"I was lucky as I moved away but he still talks to my family and kids and occasionally I receive messages. It has completely ruined my life and my kid's lives. I don't have the ability anymore to participate in much of anything and I stay home a lot. It's very scary. I'm angry that I had to completely change my life to get away from it."*

*"[In one client's case] a friend was dropping [my client's] little boy off to the father and he was asking... what is she doing, and why is she with that guy, [had] she got a new boyfriend, and who*



*is it? ... The police said, "well look it's not really a breach, your friend didn't have to go and say anything to the client."*

- 8. We support that the bill's definition of 'specified acts' also includes acts perpetrated through any third-party individual, institution or organisation, but we recommend adding "or communities of belonging" as acts may be through communities wider than one individual, but are not considered an institution or organisation. This is particularly the case in communities of, for example, groups of particular Rainbow and Takatāpui adults, as well as tight-knit communities of particular immigrant ethnic groups.**

The importance of including acts perpetrated through third parties is illustrated by our Women's Refuge client risk data (2024). Of 3500 clients, 58.62% reported their perpetrator had asked or paid others to stalk or follow them. Participants in our Intimate Partner Stalking Research (2019) highlight their experiences related to third parties:

*"I saw his friends' vehicles go past my house regularly. He used them to spy on me because I had a protection order [against] him."*

*"[He was] sending people to watch my comings and goings from my place of residence and work, [and] siphoning my petrol so I would be unable to drive myself home from work and lingering around to offer me a ride home, violent threats, and actual physical violence when he didn't get his way. [He also] knock[ed] on my doors and windows overnight. He would express his feelings of love, and when I did not reciprocate, he would threaten violence. He has cornered me and threatened to kidnap, rape and kill me. Threats of physical violence, [like saying] "I could hit you". Smashing belongings of others I had been seen with. Repeated phone calls. Continuation of the psychological abuse tactics used in the marriage. "No one will believe you. People will find out who you are."*

While there were many examples from our research of individuals using stalking behaviours *knowingly* on behalf the perpetrator, there are also many examples of third parties *unwittingly* supporting the perpetrator's stalking.

*"He contacted my boss to ask about my work roster, my friends to see who I was spending time with, turning up at my house when I wasn't home to talk to my flatmates etc."*

*"Most times, he would tell people that he was an old friend and press for details as to where I was or had gone."*

*"He would constantly show up at my house, flood my phone with messages, contact mutual friends to ask them to get me to talk to him."*



*"I ended up blocking him on all my means of communication. He went to see [my] family and friends and tried to get them to convince me to consider going back with him, which mostly made them feel sorry for him."*

- 9. We support that the bill enables Police to warn a person after they have perpetrated one act of stalking so that the person is unable to defend future stalking acts by claiming they were not aware their behaviour was an arrestable offence. However, it is important that the bill be amended in this section (216O) to:**
- a. Replace underlined words from 216O(3)(a) that the police may "notify person A in writing that- the specified act(s) are causing, or are likely to cause, fear or distress to person B" with notification that their act(s) "constitute an act or acts of stalking and harassment under the Crimes Act"**
  - b. Make clear that a police notification is not the only allowable evidence that the stalker knows that their behaviour is likely to cause fear or distress to the victim. The lack of a police warning does not mean that there has not been stalking.**
  - c. Require police to discuss with person B (the victim) beforehand whether they believe that issuing a warning would increase or decrease their safety and take into account the victim's perspective in making a final decision about whether or not to issue a warning**

A police warning may increase the risk of further harm to victims, particularly if the stalking perpetrator perceives that the warning has been triggered by the victim's disclosure. As with all family violence, the risk of escalating violence or homicide increases at times when the perpetrator perceives themselves to have less control over a victim. This can include times when victims enact legal pathways to safety. In our Women's Refuge client risk data (2024), 39.99% of 3500 clients reported that their perpetrator's stalking had escalated (gotten worse or more frequent) in the month before they had taken formal steps to get support for the violence. This is most likely correlated with the perpetrator sensing, or being made aware, that the victim was intending to seek help, or to take steps to separate from them.

Due to the increased risk for victims, it is essential that Police discuss with the victim their intention to inform the perpetrator of their stalking (by way of a warning), so that the victim can prepare for any retributive stalking or violence and consider the level of risk they will face as a result.

It would be beneficial for this to be included in any training that sits alongside the implementation of the final version of this legislation.

- 10. We support the inclusion of 'lawful purpose' and 'in the public interest' as defences for stalking in the bill, however, "reasonable excuse" should not be allowed as a defence**



**for stalking. We strongly recommend removing clause 216A(2)(b) “with a reasonable excuse” from the bill. However, there needs to be a defence added for situations where victims of stalking monitor their stalker as part of a safety strategy.**

There is no reasonable excuse for a perpetrator’s stalking behaviour. We do know of cases where victims of stalking have attempted to monitor their stalker’s behaviour to have some knowledge about where their stalker is and what he is doing in order to give themselves some peace of mind. There is a risk that stalkers would claim this type of victim behaviour was stalking under the new law without this clarification. This is the only other acceptable excuse for behaviour that could possibly be perceived as stalking and harassment.

Too often stalkers have all sorts of ‘reasons’ to justify their behaviour to others. Our Intimate Partner Stalking Research (2019) categorised participants’ experiences of stalkers’ justifications for their stalking behaviour. These justifications not only allow stalkers to rationalise their behaviour to themselves, but also to attempt to legitimise it when they are speaking to their victims or to others. Unfortunately, because of widespread and continuing adherence to many myths about family violence, these are likely to be believed and accepted as legitimate excuses by others, including justice system professionals who do not have an enhanced/expert understanding of family violence.

Perpetrator’s Justification	Explanation
“Because I love you”	<p>A common justification for stalking was love, concern, or affection for the victim. However, this manifests as monitoring every activity, demanding full digital access to personal data, and frequent physical oversight. This is not about love or care, instead it is about power, control, and possessive entitlement over the victim and their life.</p> <p><i>“He bombarded me with texts and Facebook messages. I blocked him on these, so he would leave long handwritten letters and gifts in my locker at work...He harassed friends for information on me, and used other people’s Facebook accounts to check my profile. He came to my house uninvited, and hung out in the carpark at my work to intercept me. His demeanour was mostly “affectionate” - in a threatening and controlling way. He claimed (to me and others) that he couldn’t control his behaviour because he was “in love”.”</i></p> <p><i>“So many people, including friends, brushed off his behaviour or excused it as love, or him being “upset” with no expectation that he should be responsible for his actions.”</i></p>





<p>“Because you did something wrong”</p> <p>“Because you/women are untrustworthy”</p>	<p>Anger and increased monitoring, or tracking of location, often stemmed from baseless beliefs that women had wronged them – by talking to the wrong person, concealing their activities, or by not keeping them informed of every life event.</p> <p>Stalkers emphasised the need to ‘check up on’ their victims, even when the scope of activities available to those victims was already heavily restricted. This highlighted their belief that given the chance, victims would defy or betray them.</p> <p>This is not about ‘finding out the truth, or ‘making sense of victim’s behaviour’. It is about power, control, and possessive entitlement.</p> <p><i>“He hid his phone [with GPS] in my car when I went to the supermarket. When I got back he checked his maps and I had to stop for road works for longer than I usually would. He accused me of being unfaithful in that time, or talking to people I wasn’t supposed to, even though it made no sense at all. In his mind he was determined to prove I was doing something wrong.”</i></p> <p><i>“And [I had] my location on, showing that I was at my house, and through my phone [he could see] I hadn’t moved, that I was in the same place... [because despite] him having access to all my social medias, like he still thought I was doing something bad or lying.”</i></p> <p><i>“[There is] lots of [reputation damage] like emailing people about stories, [like] that she has like hurt the children, [or] that she is psychotic...[Or they say to police] I’m worried about her because she tried to kill herself last week, she has hurt the kids before, she is not as innocent [as you think], you know, she’s on drugs. – Women’s Refuge Advocate</i></p>
<p>“Because you’re mine”</p>	<p>The irrational focus on whether victims are having sexual relationships with other people (especially post-separation) illustrate stalkers’ intense focus on women as their possessions. This is not simply about jealousy, it is about power, control, possessive entitlement and ownership.</p> <p><i>“He would keep me awake, bombarding me with messages, demanding I tell him who I was with, making me video every corner of my house. We weren’t even together, but he was</i></p>



	<p><i>determined to catch me out, even when I was alone in my house with my son and my mum.”</i></p> <p><i>“[He was] begging me to take him back, [and] had previously raped me when I broke up with him, [but was still] showing up unannounced, calling crying, professing love for me.”</i></p> <p><i>“[My] younger ex-boyfriend would turn up at my new flat... and try and climb into bed with me when I was asleep, followed me and used to try and find out from others/flatmates if I was out with other guys. He got a new girlfriend and thankfully it stopped. He would express his feelings of love, and when I did not reciprocate, he would threaten violence. He has cornered me and threatened to kidnap, rape and kill me.”</i></p>
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Rather than try to justify their behaviour, some stalkers simply hide the intent of their communication or use lies and deceit to make their behaviour appear legitimate to others, including portraying their victim as ‘crazy’ or excusing the behaviour as minor or inconsequential.

*“At the very least I would have appreciated being taken seriously, "he hasn't really done anything except send you flowers, wait for you outside your work, happen to be on the bus you catch every day to and from work and sending you lots of texts.”*

*“[The stalking] seems to be crazy-making behaviour that puts us on edge, making us scared, and others don't understand. They think we become paranoid and crazy. Too much victim blaming and shaming is still going on.”*

*“I have got an older client, they have been separated for two years now, and he is still driving past. There is a protection order in place...he has been confronted before by police, and he said, “well I have got a mate at the end of the road”, you know.” – Women’s Refuge Advocate*

Often, a purported reason for contact is the children. In these cases, it may be clear to the victim that the real purpose is stalking and harassment, but this is often not obvious to others:

*“It leaves me feeling like my freedom and delight in life has been taken from me and I will never be free. I feel trapped and afraid. I feel like if I mention it people will think and reply something like, “what are you on about”. I don’t feel like anyone will believe me. When you have a child with the stalker, and you have to just get on with co-parenting, you are left feeling [like] you can’t complain about the stalking or the system will say you are making a “fuss”. It is heart-breaking and soul destroying.”*



*“Even with a protection order, even with a parenting order they still have to deal with the male perpetrators and this is the main way they do it because they use their kids against them, the access through guardianship basically keeps them trapped because they can’t move. So it makes stalking easier because the perpetrator needs to know where the kids live, needs to know where the kids go to school, [their] doctors, [et cetera].” – Women’s Refuge Advocate*

*“The agreement might be that he can text her but it can only be about the children. So he will text her and say how are the kids and she will say blah, blah, blah this happened at school today and then the next text is “who are you fucking at the moment” or “who are you seeing, I know that you have got a boyfriend”. So that just destroys the communication because she is like “[this] is not what we agreed on in the protection order”.” – Women’s Refuge Advocate*

*“I have one client who has got a protection order out against her ex-husband and they have a child together, and part of the protection order is not to associate with the child. So it is all supervised access, and he turned up twice to the preschool ... So the police would go around and talk to him and give him a bit of a slap on the wrist, and that was it. He wasn’t actually been done for a breach, because he said “I had just come to see if he was all right, he had a cold” [because] the little boy had a cold. They [abusers] always have good excuses.” – Women’s Refuge Advocate*

The identification of primary perpetrator and primary victim is essential in situations of family violence; this is no different for stalking behaviour. This distinction allows system actors to identify who is harming who. There is a critical difference between a primary perpetrator justifying their monitoring and tracking of a victim for the purposes of power, control, and a sense of entitlement and ownership over the victim, and a primary victim knowing the whereabouts of a primary perpetrator to avoid encountering them, for the purpose of their continued safety.

Knowing who is doing what to whom (and having training about this) will help police and decision makers to identify the important differences between a perpetrator who is justifying their stalking and abuse, and a victim who is taking steps to ensure their safety.

**11. We support that the bill prohibits convicted stalkers from owning a gun for ten years, however, we are concerned that victims of stalking might have to wait years for court hearings to conclude to be afforded this protection. We strongly recommend that the bill be amended to give police the right to suspend a person’s firearms licence when they are charged with a stalking offence so that victims can have immediate protection.**

**12. We support the bill amending the Evidence Act so that a defendant or party to a criminal proceeding concerning stalking is not entitled to personally cross-examine complainants, witnesses or a child witness, however, we strongly oppose allowing**



**defendants to personally cross-examine child witnesses even in instances where ‘the Judge gives permission’, and strongly recommend this phrase be removed.**

**13. We support that the bill amends the definition of ‘family violence’ within the Family Violence Act 2018 to include references to stalking and harassment in the definition of psychological abuse.**

This will help criminal justice professionals responding to family violence have a more consistent understanding of what stalking is and how it relates to family violence within other family violence proceedings, and will hopefully increase the ability of women who experience intimate partner stalking to successfully apply for protection orders.

**14. We support that the bill adds new aggravating factors within the Sentencing Act of committing a stalking offence while subject to restraining order, or that the offender’s behaviour other than the offence “involved persistent or repetitive behaviour” that “caused or was likely to cause fear or distress to the victim,” however we recommend removing “over a prolonged duration” as this may be understood as necessitating acts over many months, when the nature of persistent and repetitive behaviour should be enough to be considered an aggravating factor even if over a relatively short period of time.**

Prior police contact or criminal history, and the perpetrator failing to be deterred by police or criminal justice interventions are a common and prominent antecedent of family violence homicides.<sup>26</sup> Someone who uses violence *and* is not deterred by police or criminal justice intervention (e.g. someone who repeatedly breaches a protection order) is difficult to stop from perpetrating further violence. Thus, justice interventions that may create safety for victims in other situations will not have the same effect, hence it is appropriate this be considered an aggravating factor so that more serious sentences are considered that will provide greater protection for victims.

If stalking is prolonged beyond two weeks, both the likelihood of escalating violence and the likelihood of victims’ psychological distress are substantially increased.<sup>27</sup> This supports the argument for including an aggravating factor that the offender’s behaviour involves persistent or repetitive

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<sup>26</sup> Websdale, N., (2016). *Lethality Assessment Tools: A Critical Analysis*. National Online Resource Center on Violence Against Women.

<sup>27</sup> Purcell, R., Path\_e, M., & Mullen, P. E. (2002). The prevalence and nature of stalking in the Australian community. Australian and New Zealand. *Journal of Psychiatry*, 36, 114\_120. doi: <http://dx.doi.org/10.1046/j.1440-1614.2002.00985.x>



behaviour. It also highlights that fear and distress are not reliant upon a prolonged duration, as they can increase (and therefore negatively impact the victim), after only two weeks.

As with other types of intimate partner violence, the effects of stalking are cumulative. Similar to physical or in-person stalking, digital stalking incites feelings of distress, anxiety, and helplessness, and often this type of stalking is ever-present rather than a time-constrained incident.

However, even within a period of two weeks or less, persistent and repetitive behaviour can cause major disruptions and upheaval to a victim's life, in addition to causing fear and distress.

*"Being called/texted/emailed literally hundreds of times a day. Turning up at my place uninvited. Sitting outside in his car. Monitoring online activity."*

*"After ending a casual relationship, he would not leave me alone I received over 300 messages and missed calls in a four day period he would also just sit in his car outside my house to make sure I had no male company turned up."*

*"[There were] calls and texts to my phone from multiple different numbers. It was always him. I was getting 30 or more calls and 40 or more texts a day from 4am to 1am."*

*"He would ring my work 50 times a day, started turning up to my work and house and the started following me around when I went out."*

**15. We strongly recommend including in the bill a mandate for courts to consider and monitor appropriate rehabilitation for people convicted of stalking, and for family violence stalking offences to explicitly include a requirement to complete a community non-violence programme that is approved and funded by the Ministry of Justice or the Department for Corrections.**

There is already a significant infrastructure and workforce delivering targeted rehabilitation programmes for family violence offenders funded by the Ministry of Justice and Department for Corrections. Approved non-violence programmes are in place throughout New Zealand but are utilised to varying degrees by their local courts.

The eight existing Family Violence Courts routinely provide some appropriate support for behaviour change by mandating offenders to attend a local specialist non-violence programme. Other courts most often impose sentences without mandating attendance at a non-violence programme before or as part of sentencing.<sup>28</sup> Community non-violence programmes receive only a fraction of their referrals

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<sup>28</sup> Cording, J., Wheatley, P., Kaiwai, H. (2021). *Evaluation of the Family Violence Courts*. Allen and Clarke.



from Community Probation as compared to criminal courts, and Corrections currently do not provide any specialist in-house family violence programmes for offenders in prison or in the community.

While mandating non-violence programmes is positive and may go some way toward holding perpetrators to account for their actions, mandating these programmes alone is not enough. Their success, and the outcome of realised behaviour change is dependent on both the offender's motivation to change, and programme providers ability to influence that motivation. Mandating non-violence programmes should be part of sentencing options *alongside* provisions to monitor both attendance and impact, as well as longer term monitoring to ensure sustained change and victim safety.

The Drive Pilot in the UK, for example, is providing an innovative approach to achieve this by assigning a case manager to high-harm family violence perpetrators and implementing:

“A whole-system approach using intensive case management alongside a coordinated multiagency response, working closely with victim services, the police, probation, children's social services, housing, substance misuse and mental health teams. Drive focuses on reducing risk and increasing victim safety by combining disruption, support and behaviour change interventions alongside the crucial protective work of victim services. The service has been developed to knit together existing services, complementing and enhancing existing interventions.”

Meanwhile, New Zealand courts continue to provide little to no requirements or support for family violence offender behaviour change, little to no judicial monitoring of behaviour change, and no long-term support for monitoring behaviour change, and thus no support for sustainable, longer-term safety for victim-survivors. Doing so would be a step forward for prevention, perpetrator accountability, and victim safety.

Note: We are happy to be contacted at [Research@refuge.org.nz](mailto:Research@refuge.org.nz) to give clarification about any of the points in our submission.