

### 1. What are the factors that influence whether people who experience stalking report their experiences to police? Are there barriers to reporting that need to be addressed?

There is a lack of trust in the police and justice system overall; too often it's been demonstrated the victims are let down by the system and a lack of action is taken - victims are not believed, not provided adequate support and so forth. Negative personal experiences and the (somewhat accurate) common perception that performative action from Victoria Police is useless and is a large barrier. Unfortunately police are limited in what they are able to do, bound by legislation or in some instances are not necessarily adequately trained in specialist situations - not to mention the handful of representatives who flat out won't provide assistance ("No crime has been committed" - furthermore reinforcing a lack of legal options). Some victims refuse to even consider being vilified by the police; because let's face it - this has and can happen. In the offence of stalking, the most common legal action taken is to 'enforce' a Personal Safety Intervention Order - which has proven ineffective in so many cases funnily enough because it is difficult to enforce. I may refer to one case that comes to mind to substantiate this - that of Jean Lennon in Parramatta, NSW. I would prefer not to go into details but Personal Safety Intervention Orders are basically useless.

### 2. Should a risk assessment framework be developed to help police and courts identify the course of conduct and manage risk of serious harm in the context of stalking? If so, how should it work?

This is absolutely a fantastic idea. Offending can be often be quite accurately predicted through a criminological lens and therefore having a risk assessment framework in place would assist law enforcement and judiciary in adequately assessing an individuals behavior and therefore likelihood of reoffending. This could then be applied to assist in deciding what forms of deterrents, punishment and otherwise related actions are appropriate to reducing the risk of future harm.

Yes, sometimes people change. However past behavior is one of the biggest and most accurate indicators of future behavior; particularly without a multitude of extensive interventions. This needs to be recognized and utilized in a more substantial manner instead of giving offenders a slap on the wrist.

### 3. What else might help agencies to identify the risk of serious harm in a stalking situation? For example, should there be special training or guidelines, or expert advice?

The example provided is sufficient - yes there should be special training and expert advice available. Specialist training and extensive research has enabled experts to be able to conduct thorough analysis of stalking holistically; there are people who are able to provide proactive advice through evidence based methods to reduce harm and risk to the community. Forensic psychologists for example have been used for these types of assessments in other areas of the criminal justice system and it is this collaborative approach that has seen more satisfactory outcomes for victims, offenders and the wider community. This would be such a valuable and effective role to have working within this area of the justice system. Evidence and statistics have proven that there has been a significant and alarming increase in the number of stalking and related offences with figures virtually doubling recently (please see below). Stalking has been the second highest offence to have seen a substantial increase in reporting in Victoria, only to be surpassed by assault. This needs to be addressed.

- As reported in the Victorian Crime Statistics Report, published by the Crime Statistics Agency, (June 2021); there is a significant discrepancy between victim reporting and police recorded offences of Stalking, Harassment & threatening behavior.

- In 2012, there was 4,772 victim reported incidents of this offence; and 7,823 police recorded offences for this year ending in March.

- In 2021, there was 8,115 victim reported incidents of this offence; and 14,126 police recorded offences for this year ending in March.

This therefore demonstrates a clear divide in what is being recorded by police in comparison to reported by victims (with regard to stalking, harassment and threatening behavior). Furthermore there is a significant increase in these crimes over the past 9 years; with figures of reporting almost doubling in both instances.

#### 4. What approaches or techniques should be used by law enforcement agencies when investigating stalking complaints?

The utilization of a baseline risk assessment framework and interaction with specialist services or expert services to accurately determine level of risk. Forensics should be consulted and utilized in this as this specialist field of expertise would provide a most valuable input that virtually no other law enforcement body can.

#### 5. Should there be a specific police Code of Practice for reports of stalking? If so, what should it cover?

Everything needs to be taken more seriously, documented and followed up on. I personally know of many instances; in my personal life and through interactions with others as well as through the media - that far too many incidences of stalking are not taken seriously enough. This is simply further reinforcing a lack of trust in the system; and is displaying a lack of ability to effectively manage this offence by the police and courts. Stalking was only introduced as an offence in Victoria in 1994; and this is the first review into responses to stalking and how the justice system handles this issue. A lot of things clearly need to be reviewed and amended.

#### 3. Should there be an option under the Personal Safety Intervention Orders Act 2010 (Vic) for police to be able to issue the equivalent of a Family Violence Safety Notice? Why/why not?

Yes - police should be able to attend an offenders property or otherwise make face to face contact by which they serve a summons to attend a hearing (whereby they are forced to interact with and complete some form of stalking rehabilitative course; behavior therapy; a combination of therapies; or whatever is deemed appropriate and effective) and advise them that they will not be monitored and if they continue making any form of unwanted contact with the victim they will be legally penalized - which would not only demonstrate the severity of the crime that has been committed (note how I do acknowledge, a crime has been committed) but it would also be a more forceful deterrent, a more adequate response from the justice system; a more protective and proactive reaction for the victim; and provide more useful options for the offender to be rehabilitated.

4. Should respondents be prevented from personally cross-examining the affected person in some personal safety intervention order matters? If so, in what circumstances?

In Family Violence and few other proceedings there is the notion of a 'Protected Victim', basically a victim who is likely to suffer further intimidation or harm in the court process if having to be cross examined or often even face the offender. Considering the basic legal definition of stalking, many stalking victims could potentially meet the criteria to be treated, and have their case handled as that of a Protected Victim similar to in Family Violence proceedings; however there is currently no legislative framework for this.

5. Should there be free legal representation in some personal safety intervention order matters? If yes, what eligibility criteria should apply?

Yes. The cost of legal representation can clearly often be a barrier to accessing adequate legal assistance for victims of stalking. The thought of having to take a matter to court is stressful enough however victims should not be further retraumatized by the criminal justice system in having to be subjected to financial stress to have their matter settled. The mere idea of having to go to court is a barrier for many individuals to even contemplate consulting the police; please consider doing what is possible to make this process easier.

6. Can the criminal law response to stalking be improved?

Yes, in so many ways that I myself can not necessarily list currently however I am hoping that another submission covers this well enough. I do strongly believe however that police should have more power and less restriction to protect the victim; they should be able to do their duty in protecting the public however this doesn't always seem to be the case - especially with regard to stalking.

7. You might like to consider whether: (a) there are any challenges in identifying when a person has engaged in a course of conduct or in obtaining evidence to demonstrate a course of conduct (b) the list of conduct in section 21A(2) of the Crimes Act 1958 (Vic) covers all types of stalking behaviour (c) cyberstalking is adequately covered (d) the law presents any barriers to investigating, charging and prosecuting offenders for stalking conduct.

The onus is almost entirely on the victim to provide a sufficient amount of evidence that demonstrates they are in a dire situation and immediate danger for their matter to be taken seriously and acted on. This offence is not a civil matter, it is criminal - therefore the onus should be on the offender to prove their innocence. Or the onus could be on the police whos job is to investigate a matter of illegal activity

when they are alerted to it. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] If I may refer to Di McDonald, who went to the police numerous times over 2 years and was not believed; leading to her life now being permanently impacted from the effects of stalking. Whatever it is that needs to be done to protect our community, Parliament needs to do it. It's not getting any better, and it's not going away.

#### 8. Should there be more protections for victim survivors in stalking prosecutions? If so, what kind?

Yes, for example if they are required to defend themselves by any means necessary they should not be penalized for this. It has been noted that the majority of stalking victims are females; and it has further been noted that stalking often is a precursor to more violent offences including assault and murder. If someone feels as though they are in an unsafe situation they should not then be required to defend their actions to the justice system - in many cases, if the system had of listened to the public or been more proactive in even trying to actually assess data and lived experiences in order to reduce these issues - maybe more people wouldn't experience a heightened need to protect themselves.

#### 9. Should the court be able to request specialist risk assessment reports for stalking? If yes, in what circumstances?

Yes; for repeat offenders or offenders having been deemed high risk. Once again some sort of specialist or forensic psychologist would be able to provide more a accurate and detailed assessment of offenders who are enacting these crimes. These reports should not be difficult to obtain for the above mentioned offenders and would genuinely provide a substantial and significant aid in aligning the offender with more satisfactory and effective interventions to actually rehabilitate the causes of their offending behavior.

#### 10. Should electronic monitoring be introduced to monitor people who have been assessed as posing a high risk of ongoing stalking behaviour? If yes, in what circumstances?

Yes. If taxpayers are already putting so much funding into the justice system then my belief is there should be adequate monitoring of offenders who are at high risk within the community. Repeat offenders or offenders deemed as being high risk through a specialized risk assessment analysis should be electronically monitored in order to protect the community and in particular the individual(s) being stalked/harassed. This is a no brainer; so many innocent victims could still be with us today if this had been brought in earlier. Furthermore there are survivors such as Di McDonald wearing electronic monitoring devices in an attempt to keep themselves safe and alert others if she is in an unsafe situation; why is this something that a survivor must do and not the offender? When they are the ones

who have committed a crime which has a continual negative impact on the survivor. I genuinely can not comprehend how this has not been brought into effect earlier as I know it is something the general public would almost fully support.

11. How responsive are rehabilitation and reintegration interventions to the diverse needs of people who commit stalking?

Not sufficient. Currently, the approach of taking out an Personal Safety Intervention Order is not helpful and doesn't provide much assistance whilst angering or setting off the offender. Please refer to the more detailed responses above which I believe cover this. Furthermore, each offender is a diverse individual. General assessments or therapists; and generally trained law enforcement and rehabilitative officers simply can not always provide the specialized care required in order to assist these diverse individuals. Once again may I refer to criminology and specialized professionals as they are the best individuals and methods to consider moving forward in my belief.

12. How well are prison and post-prison rehabilitation or reintegration measures working for people who have committed stalking? How can they be improved?

Clearly not working - Adrian Bailey was out on bail when he stalked and murdered Jill Meagher - if his dangerous behavior had been assessed adequately then he should not have been let back out into the community (at the VERY least without monitoring) - so the justice system has not only failed the victim and community; but also the offender by not providing the required interventions to ensure he was a functioning member of society. Why was Di McDonalds stalker freed from prison after an 8 month sentence - which does not align with community values regarding punishment and the seriousness of the crime; it likely would not have been a sufficient amount of time to provide adequate rehabilitation to ensure the offenders risk to the community was diminished; an 8 month sentence is not a deterrent based on the seriousness of the crime; and the threat to the community hasn't been diminished therefore the public is not protected - please correct if I'm wrong but aren't these the five basic principles of sentencing? Offenders are coming out institutionalized and often learn more with regard to criminality and antisocial behavior whilst incarcerated.

13. If a person suspects that they are being kept under surveillance using cyberstalking, what kind of help do they need to ensure that they are safe?

Some sort of educational assistance to ensure that they are fully aware of what information they are putting online and how accessible it is thereby giving the ability to make informed decisions; they need to be believed by police and such related services. If a victim is actually believed then the appropriate measures can be taken to rectify the situation and reduce the harm - otherwise the situation will likely continue to escalate.

14. In what ways can apps and smart devices be used to facilitate stalking? What controls could be put in place to prevent apps and smart devices being used to facilitate stalking?

So easily technology can be used for malice - from tracking someone's location and personal information; to harassing them via social media apps; fake accounts can easily be made by the perpetrator pretending to be someone else (ie. A friend of the victim) for surveillance; all of this can have a deep detrimental effect on the victim (mentally; socially; financially etc) however as it isn't a physical harm it isn't treated seriously by the criminal justice system. Then when it escalates to serious harm it's usually too late. However I am not a professional therefore I can not make suggestions as to what preventative controls or measures could be taken other than more promoted and accessible information and education.

Respectfully, this enquiry, and many times stalking incidents as a whole, are quite retrospective. Responsive; if you will - although a lack of response is what has led us here. The questions asked; the data around stalking and the lived experiences of the public (some illustrated in other submissions to this enquiry) clearly demonstrate a need for change. I genuinely hope this enquiry assists the VLRC to create a detailed report and adequate recommendations that the Australian government acts upon promptly in the order of public safety. Albeit law enforcement is restricted in their actions however there is a certain level of discretion within the judiciary that has not been to a level of public satisfaction.

Stalking and such offences need to be treated more seriously and delicately; reflecting the level of harm and distress they cause to the victim and the wider community as a whole. The current frameworks in place to 'protect' are failing at an increasing rate. It's too little too late for far too many people affected and let down by the system.

We shouldn't be living in a perpetual state of hyper vigilance worrying about our safety and the need to protect ourselves.

Yours Sincerley

Natasha Walters