

## Stalking inquiry

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To: Stalking (DJCS) <stalking@lawreform.vic.gov.au>

Please find my views on the Victorian law Commission stalking questions below.

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

- Location of report. Police stations are intimidating and police are often busy and 'flippant' in their attitude to a 'minor' stalking matter.
- Information that stalking is against the law. People from countries other than Australia may not understand the law. Many countries don't have stalking laws and the behaviours are not reportable.
- Previous cases may not have been acted upon or evidence may not have met the threshold to obtain an IVO / stalking charges and as such victim not willing to report again.

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?

- There needs to be faster and easier information sharing.
- Bi-directional violence, including physical violence perpetrated by the named 'victim' needs to be established early in the criminal justice process.

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?

- Agencies staff do receive training. Police and the criminal justice system are the main area of concern regarding stalking. Stalking charges aren't able to be made without the assistance of police. An IVO can be accessed with the help of support agencies but no criminal charges will necessarily go with the stalking behaviour.

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

- Less victim blaming.
  - A client was berated by police for having CCTV footage of the front footpath. Said footage clearly showed stalking behaviour from the offender, however that wasn't the Police officers focus.
- A more Information Tech specialised focus for cyber stalking

5 In the family violence intervention order system, information sharing is allowed. Should there be a similar framework for information sharing between agencies providing services for stalking? If so, how should it work?

- The information sharing needs to be faster, less cumbersome than the IVO process. Especially when stalking behaviour more often than not continues after an IVO has been obtained by the victim

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

- Code of practice needs to be led by stalking specialists. Rachel [REDACTED] – stalking Risk profile

7 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?

8 Should a person making an application for a personal safety intervention order be able to do so online? If yes, in what circumstances?

- I believe that although the courts are extremely busy, by making the PSIVO accessible online would increase the amount of vexatious complaints. An IVO can have implications for certain employment and as such needs to be vetted by a Magistrate.

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

- Yes, any matter that includes harassment type behaviours or those matters that have come before the courts on multiple occasions.

10 Should courts be able to order respondents to personal safety intervention order applications to attend treatment programs? If so, what kinds of programs and in what circumstances?

- Yes, and if not completed in a reasonable time frame then order should be extended. Programs should include, Drug and Alcohol programs, anger management, men's behavioural programs and also the equivalent for females, mental health treatment.

11 Should there be additional offences in the Personal Safety Intervention Orders Act 2010 (Vic) to address more serious breaches? If so, what should they cover?

- Yes, breaches involving an adult offender and child victim.
- Any matter related to sexual assault offending with pre or post offence stalking.
- Matters that involve multiple and lengthy incidents of cyber stalking – that have impacted the victims employment, study status or reputation.

12 Should the restrictions on publication in the Personal Safety Intervention Orders Act 2010 (Vic) be expanded to cover adults?

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

- Yes, income tested. Anyone that is unable to engage paid legal representation and are unable to represent themselves.

14 Should the appeals process for intervention orders be changed to improve the experience of victim survivors? If so, how?

- Yes, Appeal should have strict time frames and criteria. It should be a written application to the presiding magistrate not another hearing.

15 Are there any other aspects of the *Family Violence Protection Act 2008* (Vic) that should be replicated in the *Personal Safety Intervention Orders Act 2010* (Vic)?

16 Can the criminal law response to stalking be improved?

- Yes, it needs to be used more.

17 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. There are challenges regarding obtaining evidence, most stalking is underhanded and used to cause fear by the 'unknown' obtaining evidence in these cases is extremely difficult and takes a lot of time.

(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 burden of proof makes many offences of stalking unable to be prosecuted. Underhanded behaviour is often unable to be proved. Threats, damage, harassment is difficult to prove without tangible evidence. Many times stalking will be conducted when victim is alone.

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

- Yes, victims suffer greatly, often needing to relocate, change the way they live, the safety of their families. This needs to be taken into consideration by the department of justice and more supports need to be offered to the victims. More capacity for services to support at court for example and

by support packages (Like family violence) where relocation costs, security upgrades are financially supported.

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

- Repeat offending by offender both in related and un related victims
- Adult offender, child victim
- Mental health related

20 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?

21 How can we improve victim services so that people who experience stalking have their needs met?

- More funding so services can spend more face to face time with victims. Victim Assistance Program for example is restricted by funding constraints (staff and case load) to assist in lengthy matters.

22 How can the financial support scheme for victims of crime be improved so that it better meets the needs of victim survivors of stalking?

- Stalking needs to be better incorporated into the 'crime against the person'. Stalking is not always a violent crime and as such may not meet criteria of certain supports.

23 How can we better integrate victim services with relevant public and private services and systems so that people are supported while they are being stalked?

- Court services need to incorporate better support services instead of outsourcing to services that may not be identified by victims. If court based then the victims wont 'fall through the cracks"

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

25 Could some specialist courts and programs help address some of the issues that may occur alongside stalking behaviour? If so, how?

- Yes but I think they are too removed. Regional Victoria doesn't necessarily have access to specialist courts like Metro Melbourne does.
- There may not be capacity for the Drug court to hear stalking matter and therefore drug history may not be addressed.

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

27 Are there relevant learnings from the reforms to the family violence system that could be applied to the way the system responds to people who commit stalking?

28 What are the barriers that some victim survivors experience when seeking help for cyberstalking?

- Lack of Information Technology understanding from both victim and police.
- Uniform police don't have the specialist equipment needed to 'interrogate' a computer causing the forensic element of the investigation to become a lengthy process. While that process is being followed the stalking continues.
- Jurisdictional issues – cyber stalking that occurs overseas is impossible to prosecute. So victim needs to manage behaviours without the assistance of the criminal justice system.

29 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?

- Practical assistance from and IT specialist while evidence is gathered and compiled by police.

30 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?

- Until the stalking behaviour is discovered, victims will facilitate the stalking unintentionally in many cases. Cyber stalking can be undetected by the victim for lengthy periods.

Kind Regards,

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