

19/08/2021

The Hon. Anthony North QC
Victorian Law Reform Commission
Level 3, 333 Queen Street
Melbourne, Victoria 3000

By email to: stalking@lawreform.vic.gov.au

Dear Chairperson

Re: Stalking Consultation Paper Response

Stalking behaviour is intrinsically linked to mental health in both perpetrators and victims, especially in the majority of stranger and acquaintance related stalking. As such, the profession of psychiatry has a key role to play in effective assessment, treatment, and prevention of stalking behaviour, to help serve both victims and people who stalk. Together, the RANZCP Victorian Branch and the RANZCP Faculty of Forensic Psychiatry Victorian Subcommittee welcome the opportunity to provide our views on the reform of stalking laws in Victoria.

As discussed in the consultation paper, underlying mental health conditions are present in the majority of people who stalk, and are ubiquitous in those who stalk outside of an ex-intimate relationship context. Mental health is also a concern for victims who can suffer long-term psychological harm. Because of this, the role of psychiatry is integral in providing support in assessment, treatment, and prevention. If the victims and the individuals who engage in stalking behaviour have early access to psychiatric care, there is a greater chance of risk prevention, successful treatment, a decrease in incarceration of people who stalk and less long-term psychological harm to victims.

The RANZCP is concerned with the lack of education, support services and information sharing available to support the community, victims, and people who stalk. We support the introduction of widespread community education on stalking and recommend that a clear message is given on what constitutes stalking behaviour, various safety measures and availability of support services for victims. Support services should be well informed in effects of stalking behaviour and especially in trauma informed care, to further guide the victim to appropriate services if needed and to ensure the victim is properly supported. There should also be support and resourcing for the victim to bring their case without ever having to have contact with the person who has stalked them. There should never be a reason for any contact, in any form, as this further creates opportunities for stalking behaviour to continue and for further trauma to the victim.

When communicating in Court, video link should be used to ensure the victim has no direct contact with the person who is stalking them and Police should be able to apply for IVOs (Intervention Orders) on behalf of victims to ensure their location is protected, as well as providing protection from any unnecessary trauma. The absolute separation of victim and offender should be provided for in legislation and practice.

A multi-agency approach should be implemented to provide assessment and management guidance for high risk, ongoing stalking situations. There are different approaches on how these are implemented but the most common approach is a multi-agency risk panel where specialist staff from a range of organisations including Police, Mental Health Services, Advocacy and Victim support services, meet regularly and bring high risk cases that have been brought to their attention through the internal processes within their organisation.

A multi-agency approach better serves both stalkers and their victims through clear and informed case management and improved risk assessment. This in turn will ensure that the criminal justice system better understands the behavioural dynamics of stalking, as the role of the police working alongside psychiatrists, is key in case management and risk assessment. Especially so in determining action in proportion to risk. We recommend that a multi-agency approach should be implemented and resourced through legislation. Currently, there is no information sharing system in place between Police and other agencies which may mean that any risk assessment of individuals who engage in stalking, could be incomplete. As well, victims are subjected to further trauma through retelling their story for each stalking incident and for each service they encounter.

Access to early treatment is a significant concern and it is recommended that people who stalk should be offered assessment and treatment, including specialist forensic mental health assessment and intervention within the justice system. Ensuring that a risk assessment is made, and that any mental health concerns are addressed by services. Given the high prevalence of major mental illness, particularly psychotic disorders, among those who stalk strangers or acquaintances, it is recommended that a request for a specialist pre-sentence forensic mental health assessment should be routine in cases of stranger or acquaintance stalking and recommended in cases involving ex-partners. It is strongly recommended that resourcing should be considered to accommodate this.

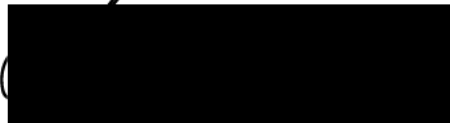
The mental health treatment needs of people who stalk should also be considered and accommodated for in sentencing. Crucially, the Courts should consider mental health treatment conditions for any individual who is sentenced for stalking related charges. This is likely to aid in rehabilitation and risk prevention.

An approach which incorporates psychiatry and mental health assessment and treatment from beginning to end, alongside the criminal justice system and support services within a multi-agency framework, is the best way forward in addressing stalking behaviour and better protecting its victims and the wider community.

Yours sincerely



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Chair, RANZCP Victorian Branch Committee



Dr Andrew Carroll
Chair, RANZCP Faculty of Forensic Psychiatry Victorian Subcommittee