



**Te Wāhi Wāhine o
Tāmaki Makaurau**
AUCKLAND WOMEN'S CENTRE

Submission re the Crimes Legislation (Stalking and Harassment) Amendment Bill

To the Justice Select Committee

13 February 2025

Tēnā koutou,

Mā te whakaatu ka mōhio
Mā te mōhio ka Mārama
Mā te mārama ka mātau
Mā te mātau ka aroha

By discussion comes understanding
By understanding comes light
By light comes wisdom
By wisdom comes love and everlasting compassion.

We must understand the need to unite and strive for a world free from violence.

Thank you for the opportunity to give feedback on the Crimes Legislation (Stalking and Harassment) Amendment Bill.

We welcome and acknowledge the good faith and care from politicians in all parliamentary parties considering this issue to date, as well as the ongoing thoughtful mahi of policy officials and the parliamentary secretariat bringing this Bill through this public consultation process.

We are pleased that, by enabling the public to contribute via an anonymous survey, you collectively as a select committee have acknowledged the importance of being informed by victim-survivors of stalking and harassment, and have assisted in reducing the difficulty and danger they may face in contributing in this way.

Assisting victim-survivors – and reducing the potential for people to be further targeted by stalking behaviour – is of course the reason for this legislation. It sounds obvious – but it is an important touchstone that can often get lost as we navigate our way through particular points. As victim-survivors told us in our own anonymous questionnaire:

"I pray this makes a difference for victims going forward!"

"Every NZer should feel SAFE. I want to go to school, work, shops and see friends without fear of being stalked, attacked and targeted over and over."

Auckland Women's Centre supports this Bill with critical amendments.

Te Wāhi Wāhine o Tāmaki Makaurau – Auckland Women's Centre is dedicated to promoting empowerment and well-being for all women. Open to women and non-binary people of all ethnicities, incomes, cultures, sexual orientation, gender identity, age and ability, we offer support, education, counselling, community kōrero & safe space. We lead the Coalition for the Safety of Women & Children and run the Aotearoa Free From Stalking project. www.awc.org.nz

List of recommendations

1. Add four additional types of stalking activities to section 216P
2. Insert the stalking and harassment amendment within the Crimes Act sections on assault (sec 190 to sec 196) rather than within the sections on privacy.
3. **CRITICAL** Reduce the threshold for a pattern of behaviour to be considered criminal stalking, from three specified acts to two specified acts.
4. **CRITICAL** Remove the requirement for specified acts to be carried out within a specified maximum time period (12 months).
5. **CRITICAL** Lower the threshold of perpetrator knowledge so the stalker does not have to carry out the specified acts “knowing” that their stalking behaviour is likely to cause fear or distress to their target. One of several options is changing the legislation to state that the perpetrator “knows or ought to know” their behaviour is likely to have such an effect.
6. Before police issue notifications to stalkers that their specified acts may constitute an offence, mandate that police:
 - i. ensure victims have a safety plan in place (and if they do not, then create one with them), and
 - ii. consult victims about whether or not to make the notification on the basis of risk to safety, and
 - iii. take the victim/s informed views into account, and
 - iv. let the victims know of the planned action and timing (also informed by the victim), and the reasons for it (including creating evidence of knowledge, if applicable), and
 - v. let the victim/s know as soon as possible afterwards that the notification has been delivered.
7. Clarify that police have the authority to arrest someone engaging in specified acts even in the absence of a formal notification.
8. Clarify that, if a police notification has been given to a perpetrator who has already engaged in multiple specified acts, that the perpetrator can be arrested after their next act.
9. Allow a notification to take place once only per stalker-victim case.
10. Clarify that covert stalking behaviours, such as hidden surveillance and anonymous digital harassment, qualify as stalking even if the victim is unaware of them at the time.
11. Include an instruction that the interpretation of “reasonable person” needs to take “context and circumstances” (or similar) into account.
12. Extend the list of specified acts to include stalking all secondary victims (not just certain family members), including friends, chosen family and professional/voluntary support workers (including lawyers) who are targeted as a means of intimidating or coercing the primary victim.

13. Remove the "reasonable excuse" defence.
14. Insert an explicit mandate that courts consider rehabilitation pathways for convicted stalkers, including (but not limited to) psychological interventions and behavioural change programmes.
15. Individuals charged with stalking should be immediately prohibited from possessing or acquiring firearms.

Introduction

Our vision is an Aotearoa New Zealand where women, children, whānau and all of us can happily and confidently go about our lives, free from fear caused by stalking.

It is no coincidence that stalking victims are primarily women; and that much stalking happens within a context of intimate partner violence, sometimes for many years after a relationship has ended. Stalking is often (although not always) about power and control, with the stalker assuming they have rights over their target. As victim-survivors told us in our questionnaire:

"He thinks of us [his ex-partner and children] as possessions so he never thinks he's doing anything wrong, he owns everything I own according to him"²

"[His denial tactic was] that I needed looking after and didn't know my own mind."

These contemporary stalker attitudes align with the long history in the Western tradition of women and children not being considered independent persons in their own right, but being considered weak and feeble both physically and mentally, and as legal chattels or possessions of men. Stalkers are still not discouraged – and sometimes even encouraged – to think in this way about their women targets, by their family, friends and associates, community and by the lack of response by the justice system and state agencies.

Our hope is that criminalising stalking will increase the accountability of stalkers, and send a clear message to them and to the community that stalking is not acceptable.

Currently, existing legal frameworks leave countless victims, their children, family and professional supporters (eg lawyers) without recourse and exposed to ongoing harm. Therefore, Auckland Women's Centre has been long advocating for stalking to be criminalised – via its ongoing leadership of the Coalition for the Safety of Women and Children, and now via its own dedicated project entitled Aotearoa Free From Stalking.

Our communities need a legal system which:

- recognises the full scope of stalking behaviours
- ensures that all victim-survivors receive adequate protection, support, and access to justice (including Māori on an equitable basis, as per te Tiriti o Waitangi); and

² Throughout this submission, italicised comments on green are from the anonymous online questionnaire run by the Auckland Women's Centre specifically to inform this submission. The questionnaire was open from 29 January to 9 February 2025, and received 90 responses. We are grateful to the Backbone Collective for their technical support.

- ensures that those convicted of stalking are offered rehabilitation, for the safety of their victim-survivors and the community as a whole.

The Bill needs to be accompanied by other initiatives to ensure its success

We welcome this Bill – once amended – as a useful step towards addressing the systemic failures in New Zealand's response to stalking. However, it is only one of the many steps required to set Aotearoa free from stalking. We emphasise the necessity of a holistic approach to stalking prevention, including legislative reform, improved police and judicial training, victim-centred support systems, public education campaigns towards a reset of social norms around stalking and relationships, and evidence-based support programmes for people convicted of stalking. For context, we discuss our hopes for the new law's implementation in the Appendix.

We recognise that, on its own, criminalising stalking will not enable better access to justice for *all* stalking victims. Many (although not all) women and gender-minority victims of gender violence (including stalking) find that going to the police makes them *less* safe, partially because the gender bias of the predominantly masculine culture of the police makes them less likely to be believed.³

"I was raped by a police officer. It would be fair to say I have no trust in their willingness to support anti stalking."

"The response I received with each report of an incident to police was highly variable. Some were amazing, some didn't know what to do, some were a little dismissive. This is scary because you know full well that police action or inaction can both make your situation worse."

The police's evidenced racial bias (an example of ongoing colonisation) means there is even less reason for wāhine Māori and whānau Māori, in general, to trust the justice system to make them safe from stalking.

"When you are Māori, [at the police station] it's accepted you get this [get targeted by stalking]. [They think it] must be gang-related. Police can be another battle to contend with which makes it more impossible and leaves you thinking you deserve it"

The Bill will need to be accompanied by:

- tailored and effective ongoing public-awareness campaigns about stalking and how communities have a role in preventing and responding to stalking (including employers and education providers)
- police training that aims at a culture shift to become a non-biased agency that listens to victims, takes their views into account, and offers them access to justice in their chosen ways

We agree with the Regulatory Impact Statement assessment of the above matters - "There is a risk that a lack of funding for specialised training, support services or public information

³ Backbone Collective & Hohou Te Rongo Kahukura (2024) [Make It About Us: Victim-survivors' recommendations for building a safer police response to intimate partner violence, family violence and sexual violence in Aotearoa New Zealand](#)

campaigns may limit the effectiveness of the offence and therefore reduce its impact on public confidence.”

Without adequate shifts in NZ Police responsiveness to women, whānau Māori, disabled people, people in Takatāpui and Rainbow and communities, and people from ethnic minorities, this Bill will have little-to-no positive effect

Reasons for supporting the intention of the Bill

- i. We support the intent of this Bill to criminalise stalking explicitly, recognising that existing legal mechanisms under the Harassment Act 1997 and the Harmful Digital Communications Act 2015 fail to comprehensively address stalking behaviours, particularly those involving coercive control and digital surveillance.
- ii. The current legal gap has resulted in cases where victims report stalking behaviour to authorities, only to be told that no action can be taken until the behaviour escalates into direct threats or physical violence. This approach contradicts international human rights obligations and best practices, which emphasise the necessity of early intervention.⁴
- iii. The 2021 New Zealand Crime and Victims Survey (NZCVS) found that behaviours consistent with stalking are among the most prevalent crimes. The psychological, social, and economic harms inflicted by stalking necessitate a legal framework that prioritises prevention and accountability.

Reasons to require critical amendments

In its current form, the Bill **will not** serve its intended purpose effectively. We urge the Justice Committee to amend the Bill to:

- align with international best practices;
- ensure survivor-centred justice; and
- remove legislative ambiguities that perpetrators could exploit.

Commendations and Recommendations

Add these types of stalking activities to section 216P

Recommendation 1: We support the submission by Hohou Te Rongo Kahukura, particularly their suggestion of adding two stalking activities to section 216P. We do not believe the threat to out or actual outing of someone's sexuality or gender to cause distress and helplessness is adequately covered by the existing activities, so recommend adding (to replace “damaging or undermining person B's reputation, opportunities, or relationships”):

- damaging or undermining or attempting to damage or undermine, person B's reputation, opportunities, or relationships, including through sharing information Person B does not want shared with others

We are unsure if “recording or tracking Person B” will adequately address the kinds of mining of publicly available information (social media photos and other material) for the purpose of stalking,

⁴ National Center for Victims of Crime (2007). [The Model Stalking Code Revisited](#). NVCV: USA

misinformation, and attempted humiliation associated with hate-based stalking. If not, we would like this activity to be strengthened to ensure those behaviours are adequately covered.

We also support VisAble's suggestion to better protect the needs of disabled people by recognising intersections of stalking and disability and adding:

- using or manipulating a person's care and support needs, their impairment, or the impairment of their children in a way that causes fear, distress, and/or confusion
- misusing or manipulating a person's lack of capacity to cause fear, distress and/or confusion

Placement of Stalking and Harassment within the Crimes Act.

We commend the placement of stalking and harassment within the Crimes Act, in order to indicate how unacceptable these behaviours are, and to achieve justice and increase safety for victim-survivors and the community, including by holding perpetrators to account.

Recommendation 2: Insert the stalking and harassment amendment within the Crimes Act sections on assault (sec 190 to sec 196) rather than within the sections on privacy.

Stalking is a form of violence (as defined by the Family Violence Act 2018); violation of privacy is only one of its many aspects, as per the Bill's own proposed list of specified acts. We are concerned that its proposed location will mean that it will not be 'top of mind' when specified acts are brought to the attention of the authorities.

Definition of Stalking Must Be Strengthened

CRITICAL Recommendation 3: Reduce the threshold for a pattern of behaviour to be considered criminal stalking, from three specified acts to two specified acts.

- A threshold of three acts is inconsistent with international legislative standards and does not follow Ministry of Justice advice (the RIS preferred option is two acts). Similar countries – such as Australia, the US, England and European Union members, who have had stalking laws for years if not decades – require only two provable acts for unwanted, distressing intrusions to be considered a crime, and do not specify a timeframe.
- The impact of stalking behaviours is cumulative and often severe from the outset, and early intervention is vital. It needs to be clear that two acts of stalking are unacceptable (rather than making it legal for stalkers to harass their victims twice (per year)).

"Sooner the intervention of stalking behaviour, the safer for lots of people, not just victim or target, saving unnecessary distress and harm for them and their neighbours, families and workmates who are also affected"

"The moment it becomes evident someone is being stalked eg 2x incidents should give the police ample evidence to suggest the stalker could take things further & the situation could get out of hand. The police should be able to lay charges against someone seen stalking at least 2 times"

- By repealing the related offence of criminal harassment, which is defined as two acts of serious harassment in a year, and replacing it with a threshold of three acts, the current Bill is set to further reduce already inadequate protection against

harassment. This is a remarkable feature of the current Bill, and calls into question its real purpose. It is legally enabling harassment.

- Having the threshold at 3 acts undermines the authority of the police: after notifying stalkers after one act that continuing such behaviour may constitute an offence (as per the Bill), they do not have the legal authority to arrest the perpetrator after the next act.
- As long as they keep to two acts a year, stalkers will be able to publicly flaunt their terrorising, and there's nothing anybody will be able to do about it.

CRITICAL Recommendation 4: Remove the requirement for specified acts to be carried out within a specified maximum time period (12 months).

- Stalking is often sporadic and long-term, and imposing a rigid timeframe undermines the reality of how stalking manifests. For example, a stalker who is imprisoned for more than 12 months may restart their behaviour upon release, or it may take a stalker more than a year of searching to find their target again after the target has moved home and/or work to avoid them. For these victims, the current Bill will do nothing to stop the stalking and harassment they are experiencing.

"[The stalker] showed up at my [café] workplace whenever they could find it. Sometimes if I had moved to a new cafe that would take some time, but once they worked it out they would suddenly start going there non stop. [When they showed up after finding me, it made me feel] angry mainly because then I would have to change my job again. [... I felt] intruded on."

- Our questionnaire asked how it made people feel, to hear again from their stalker after several months, or even after several years. Victims variously said it was "terrifying" (the stalker who suddenly showed up was an abusive ex-family member, thought to be overseas), "a shock" and "creepy and intimidating".

Key relevant experience: "I started hyperventilating when the policeman called me"

One woman had a stalker whose behaviour escalated from written texts to turning up at her work and her home, and in public places to humiliate her. He verbally abused her in front of her colleagues. After numerous acts, she was finally granted a restraining order against him with strict bail conditions which prevented him from contacting her for several years. But a few months ago, a few years after that restraining order lapsed, the woman received a phone call from police, informing her that her stalker had made a complaint of assault against her:

"My lawyer says we can use it as one of the incidents of harassment so if he does anything else we can get the restraining order reinstated. But we have to wait for the second incident!"

"[Since the phone call from the police] I think about [it] every day and it has been a rollercoaster. I started hyperventilating when the policeman called me and then had to go and stay with my parents until my husband got back from overseas. We are also selling our house and moving because I just can't deal with him knowing where I am. [I have counselling and a personal alarm] But every time I go into work I'm thinking about

what happened even though it's not the same workplace and sometimes I can be very distressed. I've had to inform my boss and tell my new colleagues. Every boss I've had [...] I've needed to tell them to get accommodations and safety measures. I'm a board member for an NGO and we've had to remove my name from the website and take other safety measures."

This victim, experiencing huge, life-disrupting distress, has to "wait for the second incident" before she can receive any legal protection – despite the stalker's documented and legally restrained earlier acts – partially or entirely because of the 12-month time limit (in the current harassment law). Without the time limit, it is more likely his reappearance could be legally treated as part of his documented pattern of stalking behaviour. Without the time limit, and with a new restraining order, she may have felt able to stay in her house rather than sell it.

CRITICAL Recommendation 5: Lower the threshold of perpetrator knowledge so the stalker does not have to carry out the specified acts "knowing" that their stalking behaviour is likely to cause fear or distress to their target. One of several options is changing the legislation to state that the perpetrator "knows or ought to know" their behaviour is likely to have such an effect.

The Bill currently requires **proof** that a perpetrator "knows" their behaviour is likely to cause fear or distress (extremely difficult). This creates a very large legal loophole wherein stalkers can claim ignorance. Police notifications will only partially close this loophole for some victims, as many victims will not contact the police until their stalker has already carried out multiple specified stalking acts, and in some cases it would be counter-productive for the police to notify the perpetrator as it will increase the danger for the victim. It is untenable that in order for something to count as an offence in future, the police must take an action that puts the victim in *further* danger. If the fully-informed victim strongly advises the police against notifying the stalker for reasons of victim and/or community safety, then it is concerning that this Bill would encourage the police to still make the notification (as the Bill makes notification the easiest or perhaps only way of creating evidence of perpetrator knowledge).

The current "knowing" clause in the Bill does not centre the rights and safety of victims and potential victims; it again enables stalkers to act as they wish with impunity because – even if they're told *repeatedly* by people other than the police that the behaviour is unwanted – they can say they "didn't know", and not be charged.

Our questionnaire asked respondents to share how their stalker denied that their acts were causing fear and distress. Common themes among the responses included:

- The stalker claiming to be just checking up on their victim to look after them
"They tried to say they were looking out for me, or keeping an eye on me to look after when, when I had never asked or encouraged this behaviour [drive-bys, gifts, messages, questions about visitors]. Saying it was for my own good and they wouldn't hurt me"

"The stalker [...] stated that he believed all of these actions [- placing a tracking device on my car. Sending messages that revealed he knew where I was. Placing a rose on my windscreen while I was in an appointment with my lawyer. [A]ssaulting the grandparent in front of the children. Attempting to track me using [digital software]] - were necessary and justifiable and were done out of concerns for my safety and the children's safety [... He said] the drivebys of the property were to check on its condition etc.)"

- The stalker claiming to love the victim

"He believed he was so in love with me, obsessed, couldn't be without me he had no comprehension that I was not interested. He saw me as his property [...] Told multiple people how much he loved me"

"he maintained he was persistent, and goal driven, which wasn't stalking because he loved me so much."

- The stalker claiming the victim is crazy

"He laughed on one of the few phone calls we had when I said I was scared and he must stop all the letters, emails etc. He claimed I was mentally sick (this was repeated throughout all his writing) and he just kept on doing the aforementioned stalking behaviors [Writing on windows, chopping down a tree that was special to me, legal moves to make it impossible for me to own my home.]. He also repeatedly kept saying he was a good man."

- The stalker claiming they "just want to talk" (and assuming a right to make the victim talk to them)

"That they just wanted to talk to me and if they could simply talk to me then they wouldn't need to resort to such measures"

"[He said he was] just trying to communicate about our child. Did not think my lawyer was doing her job so needed to communicate another way etc, etc. All that happened when a final protection order was in place."

- The stalker claiming coincidence

"The messages on the car were to let me know they were thinking of me (which is a nice thing to do right?). The watching me when I wasn't aware was also a coincidence – "was just passing by and happened to see you doing x activity, now I'm showing interest in your interests". When asked why they didn't make themselves known, they didn't want to interrupt me or cause disturbance."

- The stalker claiming that they are the ones that have been hurt by the victim

"The gifts and "surprises" were him "just trying to be nice", or that he still loved me and "would never love anyone else" and was "fighting for me". He would also sometimes flip the script on me and say it was me twisting things and I was actually the one scaring him. [...] He would send me messages threatening suicide. He once self-harmed - leaving the bloody evidence for me to find [...] - and took off with my children."

Stalkers could use any and all of the palpably invalid excuses above and not be considered to have committed stalking, by the current Bill, because they have not admitted to knowing their behaviour is causing fear and/or distress.

Victims also need legal protection from delusional stalkers, which the “knowing” clause currently does not offer.

“His schizophrenia had him believing I was sending him subliminal messages and that we were destined to be together. I do believe he was acting in delusion but at the same time ... he would escalate behaviour the second he was released or off his meds.”

We are aware of a number of different phrases to close this loophole appropriately for all victims, any one of which would be better than the current requirement. We advocate for **the adoption of a “knows or ought to know” standard**, ensuring accountability for reckless and deliberate behaviours. The criminal harassment section of the Harassment Act (which this Bill repeals) states that a person is guilty of harassment if they “know or ought to know” that their actions are harassing. This approach is aligned with the legal principle of constructive knowledge, which holds individuals responsible for the reasonably foreseeable consequences of their actions. The phrase “knows or ought to know” is used in other legal jurisdictions including England and Wales, and Victoria, Australia, in addition to our current Harassment Act.

We would like to see a clause/clauses included that means specified acts are considered illegal stalking if either one or both of the following pertain:

1. The stalker has been notified (by the target or another person) that the behaviour is unwanted by the target (our understanding is that “ought to know” would cover this); and/or
2. At least one of the acts would be illegal on its own if it were only a single act (for example a threat or an assault).

We commend and strongly support the current inclusion of “is likely to”, as in “knowing that it is likely to cause fear or distress” to the target. This is to protect the victim’s privacy by not forcing them to testify to their fear and/or distress. In jurisdictions where a victim has to prove the effects of the stalking on them, it has led to perverse outcomes.⁵

We commend enabling the police to notify the perpetrator after one specified act – if and only if they take the victims’ views into account as per the below recommendation. There is some international evidence that such notifications – *when at the request of the victim* – can deter many (although not all) stalkers.⁶

⁵ National Center for Victims of Crime (2007). [The Model Stalking Code Revisited](#). NCVC: USA: If a victim’s fear or distress must be proved then “Ironically,...while states have created a stalking offense to punish those who invade the privacy of others, a victim must relinquish that privacy in order to secure a conviction.” We commend that the Bill avoids this perversity.

⁶ Nga B. Tran, Note, A Comparative Look at Anti-Stalking Legislation in the United States and Japan, 26 HASTINGS INT’L & COMP. L. REV. 445, 445 (2003). “[S]talking victims may request the police issue a warning to their stalker. Within six months of the law being implemented, ninety-six percent of all reports of stalking

Recommendation 6: Before police issue notifications to stalkers that their specified acts may constitute an offence, mandate that police:

- i. ensure victims have a safety plan in place (and if they do not, then create one with them), and
- ii. consult victims about whether or not to make the notification on the basis of risk to safety, and
- iii. take the victim/s informed views into account, and
- iv. let the victims know of the planned action and timing (also informed by the victim), and the reasons for it (including creating evidence of knowledge, if applicable), and
- v. let the victim/s know as soon as possible afterwards that the notification has been delivered.

Re 5 (i) Victims have come to the police because they need assistance with safety; it is right and appropriate that the police ensure they have a safety plan (whether or not the notification takes place). It's also a constructive and positive move for police to make – and could increase job satisfaction.

Re 5 (ii) While notifications can deter some stalkers, they will incite other stalkers, and so victims must be involved in safety-planning decisions. Police need to take victim views into account to ensure that warnings are highly likely to make victims safer, and not put them further at risk. A consultation also empowers the victims with information and some shared agency.

As stalking notifications also act as a form of evidence of perpetrator knowledge for future prosecution, the Bill will put some victims in a “damned if you do, damned if you don’t” situation: either they are put at risk of retaliation (notification) or they forfeit the possibility of arrest for further acts (no notification). Victims need to be informed about the legal purpose of the notification (evidence of perpetrator knowledge), and told what the options are to gather alternative evidence if they do not wish the stalker to be notified (alternative evidence will be far easier if our recommendation 4 above re “ought to know” is implemented.)

While there must be a legal mandate for police to take victims’ informed views into account before notifying the perpetrator, opinions within our team and within our questionnaire respondents differ as to whether victims should have a legal veto over police notifications of stalkers (for reasons of safety). The law in Japan allowed for warnings at the victims’ request – the process was driven by victims. The legal knowledge-evidence purpose of the Bill’s notifications means that there are other considerations to be made.

For veto: “[Police should need victim permission] because our safety is at risk. It makes them [the stalkers] more mad. Warnings didn't work on my ex-husband. [...] He knew they couldn't arrest him. He knew there was nothing they could do. Even when I had a

ceased after a warning was issued.” However a low percentage of victims took up the option, suggesting that other victims did not see it as useful in their particular cases.

protection order he still didn't stop his stalking and police 'warned' and caught him many times. My ex-husband would retaliate and it can become more scary [...he] found ways to 'get back' at me, if police caught up with him [...] If my doors hadn't been locked I'd hate to think what would have happened once he realised I was home that day he tried to break in."

For consultation: "People can be fearful that it could escalate [so it should be up to the police]. I was asked at the time by Police if I wanted to file a restraining order, but I was in shock, (he'd just tried to attack me), 20 years old and scared. Looking back I should have said yes."

For veto: *"in a previous experience with someone who was emotionally and psychologically abusive, a warning from the police would have escalated the stalking and abuse if he knew police were involved."*

For consultation: *"This lets the stalker off the hook. If the person who is being stalked does not want the stalker to be warned, this raises a big red flag and should be looked into seriously."*

For veto: *"I don't have enough confidence in police training and abilities to manage situations without the proper understanding of these situations and consent from the person who is afraid. Police have a tendency to be flippant or biased and I don't think they have a true understanding of what is going on with stalking and mental illness to be able to respond to it appropriately."*

Before police give the warning, they must let the victim know a warning is to be given and when it is likely to be delivered, and then as soon as possible after the warning has been given, the police must let the victim know that the warning has been delivered, to mitigate distress and anxiety.

Recommendation 7: Clarify that police have the authority to arrest someone engaging in specified acts even in the absence of a formal notification.

The Bill currently leaves the impression that a police notification is the only way for a perpetrator to legally know their behaviour is likely to cause fear and/or distress – and therefore that a police notification is a compulsory precursor to arrest. It must be clear that this is not the case; that a police notification is not the only way for the threshold to be met that a perpetrator legally "knows" (or ought to know) their stalking acts are causing fear and/or distress. Police must investigate whether stalking criteria are met even if no notification has been given, rather than assuming that without the notification, there is no evidence the stalker knows (ought to know) that their behaviour is likely to cause fear or distress.

Recommendation 8: Clarify that, if a police notification has been given to a perpetrator who has already engaged in multiple specified acts, that the perpetrator can be arrested after their next act.

The count of allowable stalking acts does not reset to zero now that the perpetrator is considered to “know” – the knowledge is applied retrospectively. This recommendation is not necessary if recommendation 2 (a threshold of two specified acts rather than three) is accepted.

Recommendation 9: Allow a notification to take place once only per stalker-victim case.

Only one notification is required for a perpetrator to be considered to have knowledge of the effects of their actions. Further notifications undermine the deterrence of the warning system.

Recommendation 10: Clarify that covert stalking behaviours, such as hidden surveillance and anonymous digital harassment, qualify as stalking even if the victim is unaware of them at the time.

This is critical for addressing coercive control tactics often used by stalkers.

“[...]the stalking aspect was a truly distressing part of the evidence disclosed in court. I didn't know I was being stalked: it was part of the perpetrator's fantasy of tying up and sexually violating 3 women who were strangers to him.”

We support the definition of stalking acts as those which would cause fear or distress to “reasonable person” rather than to any specific, actual victim

Use of this phrase will limit the need for victims to prove fear or distress and therefore protect their privacy.

Recommendation 11: Include an instruction that the interpretation of “reasonable person” needs to take “context and circumstances” (or similar) into account.

This is to ensure a “reasonable person” is not assumed to be a previously-unharmed blank slate with no history or background, and with the same social, financial, and/or physical power/resources as their stalker. It is no coincidence that gender stalking disproportionately targets marginalised communities, including women, LGBTQIA+ individuals, disabled individuals, and migrants – the social power imbalance means stalkers are more likely to have opportunities to cause fear and/or distress. We would also accept the wording that is currently in the definition of criminal harassment in the Harassment Act (which the Bill repeals): “acting in any other way that would cause a reasonable person **in person A's particular circumstances** to fear for his or her safety”.

Disability can be exploited to create situations of danger/ no escape:

“[He said the stalking was] “to brighten her day; I knew she couldn't leave her home due to health. She's alone in lockdown she needed to know people cared”

The context and circumstances of stalking for a person with a disability will be quite different from those experienced by an able-bodied person, and the context and circumstances of a person from a minority group, or new immigrant, or a refugee will be different from that of others.

We commend that the list of specified acts includes stalking family members as a way of stalking a primary target, and includes using other people to stalk the primary target (whether or not those other people know they're being used in this way).

Acknowledgement of family victims other than the primary target – such as children threatened to cause fear and distress in their mum – is important to increase protection and reduce harm for all affected.

Recommendation 12: Extend the list of specified acts to include stalking all secondary victims (not just certain family members), including friends, chosen family and professional/voluntary support workers (including lawyers) who are targeted as a means of intimidating or coercing the primary victim.

This category should also include friends and associates as well as family members of the primary target – for example, the Bill currently does not mention people who are stalked because they are friends, colleagues, employees or supporters of the primary target, or their “chosen family” (which has specific importance inside Takatāpui and Rainbow communities and for people who cannot rely on biological families in ways others might be able to).

Currently, any stalking they experience due to their association with the primary target would be considered separately, rather than being seen as part of the same pattern of behaviour. It should be seen and treated as part of the stalking of the primary target.

Questionnaire respondents spoke of stalkers attempting to get their friends fired from work, for example. And we know of lawyers and family violence support service workers who have been stalked because of their professional support of the primary victim.

Recommendation 13: Remove the “reasonable excuse” defence.

Otherwise, this will be used by stalkers to avoid accountability.

Our questionnaire asked those respondents whose stalker had been believed when they denied knowledge that their stalking acts were causing fear and/or distress: why do you think they were believed? Many said the stalker was plausible and charming – and had good legal representation. A “reasonable excuse” defence would enable them to “get away with it”:

“Better legal representation. More money to pay lawyers. [...] Good liars and skilled at manipulating and being the good guy in public, so no one sees the toxic behaviour and abuse in private.”

“He is a conman anyway. He conned me for ten years. It's his superpower.”

“Well educated, calm demeanor, polite and played innocent very well”

“He's very convincing. Not your typical person known to police.”

“At that time the stalker worked in a bank and was (like a typical psychopath) able to turn on the charm.”

Strengthening Sentencing and Rehabilitation Measures

Recommendation 14: Insert an explicit mandate that courts consider rehabilitation pathways for convicted stalkers, including (but not limited to) psychological interventions and behavioural change programmes.

"I do believe that had my ex gotten help, and had the Police been able to do more than just suggest psychiatric help when he took off with my children [with no notice] "because he didn't harm anyone", that we may have had a different result. [...] He stabbed himself in the leg and arm in front of me and threatened to kill me if I called for help."

A punitive approach alone is insufficient to rehabilitate offenders, prevent recidivism and protect victims in the long term. Although the Sentencing Act 2002 already allows the court to consider programmes and supervision if the court decides to do so in certain cases, the law should go further and state that for all people convicted of stalking - indeed, perhaps for all people convicted of any offence - the court must consider whether one or more rehabilitation pathways are appropriate – to increase the safety of all our communities. These could include (but are not necessarily limited to): evidence-based, culturally-safe, identity-appropriate and monitored stopping violence programmes and/or psychological, psychiatric, addiction and/or cultural interventions. The court does not need to use rehabilitation pathways in all cases – and we acknowledge that in some cases the victims are clear that nothing would stop their stalker – but the law should state the court must consider such use. Our questionnaire offered a dropdown list of options for the question “Do you know of any person who has used stalking behaviours who might possibly have stopped stalking if they had access to one or more of the following interventions, assuming the specific intervention/s were culturally safe for them?” Some were more popular than others, but all of the options were indicated by multiple respondents: Psychiatric intervention; Cultural intervention; Intervention for addiction; Spiritual intervention; Psychological intervention; and Evidence-based and monitored stopping-violence programme.

We are aware that there are implementation issues currently with stopping-violence programmes, and these also need to be addressed for Aotearoa to be free from stalking (see Appendix).

Recommendation 15: Include a mandate for police to immediately suspend the firearms licence of individuals charged with stalking (until the outcome of the trial) and to remove their guns during this period of time so that victim-survivors can have immediate protection.

While the Bill currently revokes firearm licenses upon conviction, the risk of harm to victims is significantly heightened during the pre-trial phase, when the perpetrator is charged but not yet convicted. The respondents to our questionnaire – some of whom had been directly threatened with a firearm (eg had a gun held to their neck) - overwhelmingly agreed with this recommendation, and some made further recommendations, given that it is still possible to have access to firearms even after a gun licence is revoked.

"I think it's important to not have a licence and to not live on a property where guns are being stored."

"My ex lost his firearms licence [years ago, yet] he has had guns in his possession continuously since then. He was arrested [a few years later] in possession of a rifle without a licence [...] - got off all charges with a very expensive lawyer. He was further reminded that he was not allowed firearms when the [protection order] was granted. This didn't stop him either. So absolutely a firearms licence should be temporarily suspended when a person is charged with stalking, and revoked when convicted. But I don't for one second think this actually prevents someone obtaining a firearm."

We asked respondents how it would make them feel if the person who stalked them could still legally own a gun even after being charged with stalking:

"That his freedom to own a gun was more important than my safety."

"Very vulnerable- as my lawyer said - a piece of paper (protection order) won't stop a bullet"

Conclusion

We support the Crimes Legislation (Stalking and Harassment) Amendment Bill but emphasise the need for targeted amendments to ensure it is effective, survivor-centred, and aligned with international legal standards.

We urge the Justice Committee to incorporate our recommendations, which are based on legal best practices, survivor experiences, and empirical research.

By implementing these changes, Aotearoa can establish a legal framework that prioritises victim safety, holds perpetrators accountable, and affirms that stalking in all its forms is unacceptable.

Appendix: Implementation Considerations

As mentioned in the submission, the Crimes Legislation (Stalking and Harassment) Amendment Bill will need to be accompanied by:

- tailored and effective ongoing public-awareness campaigns about stalking and how communities have a role in preventing and responding to stalking (including employers and education providers)
- police training that aims at a culture shift to become a non-biased agency that listens to victims, takes their views into account, and offers them access to justice in their chosen ways. Without adequate shifts in NZ Police responsiveness to women, whānau Māori, disabled people, people in Takatāpui and Rainbow and communities, and people from ethnic minorities, this Bill will have little-to-no positive effect.

Below we offer questionnaire responses (*not* included elsewhere in the submission) to inform those state agencies charged with implementing the legislation; it is here as it offers the select committee some context for the legislation.

Strengthening Police Responses

AFFS urges mandatory and *comprehensive* police training on stalking, coercive control, and trauma-informed investigations. This is critical for ensuring that reports of stalking are taken seriously and that victims receive adequate support. When asked of any concerns that would stop them from going to the police about stalking causing them fear and/or distress, some respondents commented they were concerned about being belittled or mocked or not taken seriously.

"Police not being trained in mental health or abuse and not understanding the gravity of these situations [would stop me from going to the police]."

One respondent said she had not identified the behaviour as stalking – but perhaps the police did not either:

"Not understanding that what was happening was stalking. It took an acquaintance seeing what was happening and taking me to the police to make me realise what was happening was wrong. But that first time we went the police reception turned us away without being able to make a report."

Other respondents saw the issue as one of under-resourcing within the police to address gender violence:

"I've been to police multiple times for breaches of protection order and I know they are under staffed and under resourced in this area. A lot of the behaviours are complex and require a lot of police time to investigate and charge. Accordingly, I am often fobbed off by police because it's just not realistic to enforce the existing law. This increases my feeling of powerlessness so sometimes I just can't face the rigmarole of going to police."

"Police are under resourced for this. They are amazing and I trust them. But they moved only when I had a protection order."

Public awareness

"Education of all New Zealanders about the effects and terror stalking has on a victim mental health and physical effects. Victims standing up and visiting groups retelling their stories so they can realise it is more than someone following you"

Rehabilitation and Stopping-Violence Programmes

As per the comments below, there often seems to be little oversight on whether or not perpetrators are participating in their court-ordered programmes. Programmes are an important tool for rehabilitation, used by both the criminal court and the family court, and (i) they need to be evidence-based and (ii) there needs to be accountability regarding perpetrator participation. There also needs to be an understanding that such programmes are not a magic bullet or panacea, but that prevention and support need to start early to stop escalation in the first place. We support Te Kupenga Whakaoti Mahi Patunga's [Call to Action](#) which includes calling for quality assurance and resourcing for all interventions for all adults who choose to use violence.

"I don't feel my ex-husband would stop unless there were real consequences. Jail time. He didn't do the anti violence course he was supposed to do and most judges in my experience let these men off. No consequences. and men know this."

"My ex did not even do his court ordered non violence programme. He's been brought to court (after I complained to MoJ) but he's still not done it and no punishment. What is the point of ordering it in the first place? It's just window dressing."

"My ex had to attend a 20wk non violence course as part of the protection order requirements. He attended the fewest number of sessions possible. He continued to breach the protection order and stalk me for the entire duration of the course and afterwards. There is NO POINT sending people on these courses if they are high on meth and if there is no feedback loop whereby the police and/or victim can give feedback to the course provider of ongoing issues. He was given a completion certificate and sent on his way with a pat on the back. It became nothing more than a box-ticking exercise allowing him to bring a certificate to family court showing he was now 'cured'."

"It needs to be done properly, and the risk managed. The narcissists and psychopaths out there are normal presenting, often people with some power at work or other and are very adept at talking their way out of situations and gaslighting."

"I had a protection order on my stalker, and he had done the prevention course. But it made no difference because he did it to future partners as well"

"The problem with perpetrators being directed to attend any type of rehab is that it will only help if the person engages and wants to change. It is not enough for a perpetrator to tick a box that they have attended a course - they need to prove knowledge gains and genuine understanding and change. Otherwise, they complete the course, say the right things and go right back to their unacceptable behaviour - this effectively enables them as they now believe they can cheat the system and get away with it. This often results in escalating behaviours as they've been emboldened - this is exactly my experience."

"Rehabilitation services need to be barrier free and readily accessible. Many have so many restrictive factors!! (Limited hours, limited staff, mandates, etc)"

"My stalker went through court appointed anti violence sessions and he ended up being even more violent to a future partner than he was to me."

"Psychological abusers tend to be in denial so access alone will likely not assist - since in their view they do not need it. A full on-going programme of psychological therapy is needed with the psychologist, who must be an expert in coercive control, determining the type and length of therapy. Most typically, a few months barely scratches the surface. These are life behavioural changes needed. The therapist should report on progress (or not) and recommend where on-going protection is for the victim if needed."

Support for victim-survivors

Our questionnaire asked respondents to choose from a list of those supports and interventions they had received as victim-survivors. Each option was chosen by at least some respondents: whānau, family and friends; helpline support; police; counselling or therapy. Concerningly, however, many said that they had not received any support. The questionnaire also asked respondents to choose from a list of potential new interventions that they thought would be of use to victim-survivors – all of the following were chosen by at least some respondents as useful:

- information on safety
- a face-to-face support group with other people targeted by stalking,
- one-to-one talk therapy such as counselling
- a structured face-to-face course designed to empower people who have been harmed by stalking
- self-directed online modules designed to empower people who have been harmed by stalking
- telephone check-ins
- restorative justice (for example a facilitated meeting with the person responsible for the stalking where they apologise for their behaviour)
- victim support visits
- marae justice
- self-defence classes

We also asked whether respondents had anything else they wanted to add about support for victims. Their responses are illuminating:

Oh my gosh ANYTHING would be amazing! Anything to make the target feel like they are seen or heard!!

The best support I've had was from women's refuge a year ago. They understood I needed help with childcare, toys for Christmas, and a short weekend away to the beach.

Ongoing support to recover from this abuse which can take years, not an 8-week safety programme as currently for family violence.

We look forward to bringing further insights to agencies in future as they work toward implementation of this Bill, to ensure it is the best it possibly can be for victim-survivor and community support and safety.

No reira, tēnā koutou katoa.