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Submission of the PSA Women's Network to the Justice Select Committee on the Crimes Legislation (Stalking and Harassment) Amendment Bill

February 2025

About the PSA Women's Network

The PSA is New Zealand's largest union, with a membership of over 96,000, the majority of whom are women. In addition, our union is ethnically diverse, with members from a wide range of different backgrounds and cultures, including Māori, Pasifika, Asian and many other ethnicities. PSA members work in every part of the country and are committed to ensuring New Zealanders have the public and community services they need.

The PSA's Women's Network mission statement is:

By women, of women, for women – our commitment is to identify and promote industrial, economic, political and social issues of concern to PSA women members and advance these issues within the PSA and externally.

Our network is wholly committed to advancing the rights and freedoms not only of PSA women members, but of all women, both within Aotearoa and globally.

Our strong recommendation

The PSA Women's Network committee support the intent of this Bill however we strongly recommend critical change to address gaps in the Bill regarding victim and community protection.

Specifically, we support the following:

Putting stalking in the Crimes Act:

- The proposed list of stalking types (broadly: surveillance; following; unwanted contact; life sabotage; taonga/property damage; any distressing or frightening acts, e.g. threats).
- Including stalkers' harmful use of others and stalking of family members (e.g. using or threatening children to get at their mother) and interference with pets.
- Victims being able to keep their distress more private (as stalking consists of acts "which would cause fear or distress to a *reasonable person*" rather than to the specific victim).
- Police being able to warn a stalker after one act (this has helped prevent escalation in some cases overseas).



- Convicted stalkers being prohibited from owning a gun for ten years – to protect victims.

We do not support the following:

- That for stalking to be considered a crime, it requires:
 - 3 acts (**it should require only 2 acts**)
 - A time frame (**3 acts in 12 months; it should require 2 acts in an unspecified time.**)
 - The stalker *knowing* their acts will likely cause fear or distress (**it should be “knows or ought to know” to cover denial, and deluded stalkers**)
- Excluding acts of stalking friends, employers, employees and supporters (such as refuge workers) of the primary target
- Police being able to warn the stalker **without letting the victim know** and **without taking the victim’s informed preference into account**
- **That people charged with stalking but not yet convicted don’t mandatorily lose the right to own a gun** (conviction can take years)
- **That there is no mandatory consideration for stalker rehabilitation**, such as non-violence programmes, and/or psychological, psychiatric, cultural and/or addiction interventions.

Further:

Our network does not support the definition of criminal stalking as at least three (provable) acts within 12 months. Victims should not have to wait until they have suffered three provable acts of stalking before the behaviour of the person responsible is officially unacceptable.

Stalking does not have a timeframe - it can happen sporadically over years – the 12-month time limit should be removed. For example, a stalker imprisoned (for any offence) for longer than 12 months may re-start their stalking after their imprisonment has finished.

Instead, stalking needs to be defined as a minimum of **two** frightening or distressing acts, as is international standard, and as is currently the case in New Zealand for harassment. Changing the definition of criminal harassment from two acts to three would be a backwards step.

The courts must consider rehabilitation pathways for all people convicted of stalking.

The Bill does not currently mention rehabilitation pathways. 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, but the law should state the court must consider such use.

Our network does not support the definition of criminal stalking requiring the stalker knowing their acts will likely cause fear or distress.

Instead, criminal stalking should be when the stalker “knows or ought to know” their acts will likely cause fear or distress or would be likely to do so **if the victim or target ever found out about them.**

This is to cover:

Acts by delusional stalkers (such as fans/strangers who think their celebrity target actually welcomes their attention). As with other crimes, the law needs to make it clear that distressing and/or frightening stalking is unacceptable in all circumstances.

Stalkers pretending not to know their acts are likely causing fear or distress.

Covert tracking and surveillance that is not meant to be discovered by the victim.

Relevant lived experience could include any times when someone pretended that they did not know their stalking caused fear or distress for you, or for people connected to you – particularly when they were believed. It can also include the distress of any time you found out someone was tracking you covertly, digitally or in person.

Our network is concerned about allowing “reasonable excuse” as a defence, as it could be used by stalkers to avoid accountability.

On the other hand, sometimes attempts to stop someone else’s stalking can themselves be interpreted as stalking. For example, stalking victims may use counter-surveillance as a way of protecting themselves, and so “reasonable excuse” could be a way of defending their vital self-protection. We think the select committee should consider including a high level of evidence necessary to reach the threshold of “reasonable excuse” in the Bill or removing the defence altogether. There are two other defences in the Bill which we think should be kept: “lawful purpose” and “in the public interest”.

Relevant lived experience could include any times when someone pretended that their behaviour was for a purpose other than alarming or distressing you. (e.g. communicating with children they co-parent with you).



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Our network supports convicted stalkers being prohibited from owning a gun for ten years but the Bill should also require people who are charged with stalking (but not yet convicted) to be prohibited from owning a gun.

Currently, police can decide whether or not to revoke a gun licence from a person charged with an offence that may involve a prison sentence. Revoking gun licences from people charged with stalking should be a mandatory requirement, rather than a police decision, to better protect victims and the general public. The Bill includes removing permission to own a firearm (for ten years) from people who are convicted – but conviction can take years. During those years, victims need to be made safer by making it more difficult for their stalker to have access to firearms.

Relevant lived experience could include any times when you felt less safe because someone who stalked you or used other violence owned a gun.

The PSA Women's Network support stalking/ harassment being included in the Crimes Act 1961.

Putting this offence in the same law as other violent offences will make it easiest for police and other criminal justice professionals to find and understand. The related offence of criminal harassment (Harassment Act 1997) has not been well used. We understand that this is at least partially due to it not being in the Crimes Act.

Our network supports the proposed list of stalking types.

It is good that the Bill's list of stalking acts covers an appropriately broad range of behaviour, including surveillance, following, unwanted contact, life sabotage, damage or interference with taonga/property and pets.

Is future-proofed so that stalking by potential future technology is covered ("A specified act may be done by or through any means whatsoever.")

We support the definition of stalking acts as those which would cause fear or distress to a "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.

However, the Bill also needs to include an instruction that the interpretation of reasonable person **needs to take "context and circumstances"** (or similar) into account, 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.

Relevant lived experience could include any times when your experience was influenced by your gender, ethnicity, disability income, sexuality, and/or parental status – eg the effects of already-existing PTSD on the experience of being stalked; or the potential social, safety and financial aspects of being 'outed' involuntarily as a Takatāpui or Rainbow person.



Our network supports that the definition of stalking acts including 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). The definition should also include stalking friends, chosen family and professional/voluntary supporters (such as lawyers and social service workers) as a way of stalking a primary target.

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

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.

Relevant lived experience could include any times you have experienced someone stalking your loved ones or associates, or you have been stalked because of your connection to their primary target.

We support police being able to warn a stalker after one act – BUT:

It must be clear that a warning is not the only way for someone to know their stalking acts are causing fear and/or distress.

The victim must be fully informed about what the warning involves and what it legally represents. If the fully-informed victim strongly advises the police against warning the stalker for reasons of victim and/or community safety, then the police must not carry out the warning. (See option below). Before and after police give the warning, they must let the victim know.

Warnings have helped prevent escalation in some cases overseas.

It must be clear that police have the power to arrest a stalker who has not been given a warning if the criteria for illegal stalking have been met. Police must investigate whether stalking criteria are met even if no warning has been given, rather than assuming that without the warning, there is no evidence the stalker knows their behaviour is likely to cause fear or distress.

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. There are a range of opinions as to whether or not a victim's preference for the police not to give a warning should always be followed.



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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.

In support of this submission, some members of the PSA Women's Network have chosen to submit accounts of their personal experiences of stalking to highlight the trauma, distress and disruption these events have caused in their own lives. For reasons of personal safety, their personal statements only are provided. Names, addresses and any other information likely to place the submitters' privacy/safety at risk have been removed:

Personal Statement No. 1:

"Some years ago, while working as a Human Resources officer in a large, multi-national company, I was asked by our IT team to participate in interviewing candidates for the position of team leader. The members of the team were all male and wanted a female voice and perspective in the interviewing process.

I vividly remember that, upon entering the interview room, one of the candidates immediately gave me a very bad feeling. He did not look at me during the interview – even when I posed questions to him directly – and something about his personality and general demeanour seemed "off" to me.

At the end of the interview, the team asked for my opinion.

"I'm sorry, guys" I said "but something about this candidate doesn't feel right to me. I can't explain why but my intuition is telling me there's a problem." I proceeded to describe to them the various things I had observed, including the candidate's refusal to engage with me or even look in my direction.

The team were surprised and took great pains to highlight the candidate's technical skills and experience.

"It's not about his technical abilities" I said. "There's something "off" about his personality that I just can't dismiss. You wanted my opinion, I've given it to you, but the final decision is yours." After further discussion, the team decided to proceed with hiring this gentleman.

About a week after he had commenced work with our company, a young woman in another team came to my office and asked if she could speak to me. I invited her in and asked how I could be of help. She proceeded to tell me that the new gentleman we'd hired had been stalking her.



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It appeared that, upon his arrival, this man had asked her out. She had politely declined and noted, following this, that he seemed angry about her response.

A few days later, coming into work very early in the morning, as was her custom, she arrived to find the man sitting in his car in the otherwise empty car park. As she got out of her car and approached the building where our company's offices were located, this man did the same. He proceeded to follow her very closely up the stairs to her office, which caused her to panic. She realised that at that time of the morning, no one else was in the building yet and they would both be alone.

Over the next few weeks, the man continued to arrive very early at work and repeated the same behaviours. The young woman changed her arrival and finishing times, to avoid being alone with him in the building.

He then began to engage in other activities designed to intimidate her. For example, following her to the coffee machine and photocopier, invading her personal space and staring at her repeatedly to make her feel uncomfortable.

One day, the stress of this became too much and the young woman exploded at him, instructing him to stop following her.

The man went to his manager and made a complaint about her. He said he knew she had made a complaint and that if that "bitch" tried to "take him down", he would "take her down" with him.

I realised we had a serious problem.

Soon after, things became more complicated when another female member of staff told me they had worked with this man previously and that he had a gun collection. She informed me that the way he talked about his guns had made the other men in the office laugh behind his back. My female colleague told me she had not found the man's descriptions of his guns funny and that he was someone she felt was likely to seek retribution if he felt slighted or rejected.

I discussed the situation with the man's manager and our CEO, explaining my concerns. "We need to manage this person out" I told them "but we can't do it based on his behaviour towards this young woman – he may want pay back – and that will put her safety at risk."

Fortunately for us, it turned out this man was not good at his job. We were able to focus on his poor work performance, rather than his behaviour towards the young woman, and take the appropriate steps to assess and document this, then offer him an incentive to resign.



Thinking back on this now, I can see how the inclusion of stalking in the Crimes Act, with the processes and protections our network has outlined above, would have been hugely beneficial for all those who were involved in this incident, including the man who engaged in stalking his much younger female colleague.

It became apparent to me, as we progressed through the process of letting him go and he started to tell me about his background, that this man had had a very difficult upbringing, losing his mother at a very young age and having to endure significant bullying, physical violence and psychological put down's from a father who had basically not wanted him.

While I don't condone his stalking behaviour, I do feel that, had a rehabilitation pathway been available for this man, it could have mitigated any future risk he posed to other young women he might have had contact with. It could also have helped him process the events of his childhood and learn how to engage with females in a far more safe, healthy and appropriate way. Such an outcome would have been hugely beneficial, not just for him but for the young woman he traumatised and for society in general.

My wish is to see the recommendations our network has outlined above incorporated in anti-stalking legislation in Aotearoa with the hope that these measures will not only mitigate the risk, trauma and disruption that stalking causes in women's lives, but also provide effective supports for those who commit these crimes, so they can grow beyond these dangerous, unacceptable behaviours, understand and take accountability for their actions, and make the personal choice not to engage in them going forward. If we can put laws in place that enable this, the benefits to everyone in New Zealand will be nothing short of transformational.

Personal Statement No. 2:

“Like many women I have experienced a sense of being unsettled by a male stalker. This happened through a dating site (some years ago now) but the experience made me very cautious. The offence was digital stalking. It caused shame and a sense of hypervigilance for a period of time. I completely agree that this legislation should not be timebound, as the person continued to try and make contact over a year later.

I recognise that the person concerned had mental health issues, despite holding a high-profile job.

I managed to block him and believe that once he realised I had remarried he was prepared to back off.”



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