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# Community Perceptions of Stalking: What are the Fundamental Concerns?

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The present study sought to examine community conceptions of what constitutes stalking by manipulating the role of intent to cause harm or fear (*present or absent*), consequences to the victim (*extreme fear, moderate fear, no fear*) and offender-victim relationship (*stranger, ex-intimate, acquaintance*) in an alleged stalking scenario. 540 participants from the Melbourne (Australia) community read a vignette detailing persistent and potentially harassing conduct by a male directed towards a female. Results indicated that participants classified stalking according to the actions of the accused, such as following, telephoning and watching the target. The presence or absence of intentions to cause harm or fear, the consequences to the victim, and the relationship of the target to the accused played no role in the identification of behaviour as stalking. Results are discussed in terms of the fundamental concerns of the community and the scope of the criminal law, particularly stalking legislation.

The criminal law aims to protect the values and interests that are fundamental to that society (Findlay, Odgers, & Yeo, 1999). However, given the serious consequences of a criminal conviction and the general restrictions on civil liberties, these laws are normally reserved for limited kinds of wrongdoing. Various additions have been made to the criminal law over the past decade. Represented in changes to the law is an increased interest in protecting one's right to go about a normal lifestyle without interruption from others. Many individuals are now turning to the courts to ensure their rights are protected.

For example, in New South Wales (NSW), Apprehended Violence Orders (AVOs) have gradually extended from protecting against a current spouse or de facto partner to cover all people, under the Crimes (Apprehended Violence) Amendment Act 1989, NSW. In recognition of the large number of AVOs now

being sought in the NSW courts (23464 in 1997; NSW Bureau of Crime Statistics and Research, 1998), concerns have been expressed that people may be abusing the legal system and the role of AVOs by seeking protection over trivial matters, particularly in disputes between neighbours and work colleagues (NSW Attorney General's Department, 1999).

Another amendment to the criminal law that has received particular prominence is the introduction of stalking laws. In a legal context, stalking generally involves the intentional harassment, threats and/or intimidation of a person that may take place through a variety of behaviours (Model Criminal Code Officers Committee, 1998). The occurrence of stalking in the context of domestic violence situations, where abusive partners continued to pursue their estranged spouse or de facto, prompted concerns that sufficient laws were not available to victims of this behaviour

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and stalking legislation was subsequently introduced (Goode, 1995), originating in Queensland in 1993 (Criminal Law Amendment Act, 1993, [QLD]). Since this date, all Australian States and Territories have adopted anti-stalking legislation.

Since the introduction of stalking legislation in Victoria at the beginning of 1995, cases of alleged stalking recorded by police have risen from 380 in 1995/96 (Department of Justice Victoria, 1997) to 939 cases in 1997/98 (Wilkinson, 1998). Of the stalking charges finalised in the Magistrate's Court, the number of stalking offences proven also increased from 31.9% in 1995/96 (Department of Justice Victoria, 1997) to 56.1% in 1997/98 (Wilkinson, 1998). Whether the crime of stalking is on the rise, or whether it is the reporting of stalking that is increasing, the data nevertheless indicate that the concept of stalking has been readily embraced, with an increased usage of stalking legislation by the Victorian community. With the law extending to cover more situations, it is important to reflect upon whether unreasonable restrictions are being placed on individual liberties and whether the criminal courts are appropriate forums to resolve these situations.

In terms of the emerging concerns of the community, there are two important points that should be made. First, while stalking legislation and "stalking" as a legal concept is relatively new, the behaviours captured within this legislation are not new. For example, the actions of following, persistently telephoning, watching, and sending unsolicited gifts are not behaviours that emerged in the past decade. However laws have now been introduced to criminalise this type of conduct, generally when it is engaged in with the intent to cause harm or fear to the target, although this is not always the case.

The second point is that there is relatively little consensus between jurisdictions in Australia over what constitutes an offence of stalking. Criminal behaviour may be defined according to either the intentions of the offender, the consequences to the victim, the actions engaged in by the offender, or some combination of these elements. The question to be explored in this article is which of these elements is seen by the public as constituting stalking. The type of actions involved in stalking may include persistent following, telephoning, written communication, sending unsolicited gifts and a whole gamut

of other actions that could arguably cover most human behaviours. Whether these actions are only illegal when the offender intends to cause harm or fear, and/or causes fear or harm to the victim, are issues that fuel the debate on stalking legislation in Australia. These issues have important implications for civil liberties with the potential that the broader the legislation, the greater the likelihood of the legislation being misused.

Victoria's stalking legislation stipulates that "a person stalks another person if the offender engages in a course of conduct with the intention of causing physical or mental harm to the victim or of arousing apprehension or fear in the victim for his or her own safety or that of any other person and the course of conduct engaged in actually did have that result" (Crimes Act, 1958 (Vic) s21A, [1996]). Such legislation requires not only that particular behaviours have been engaged in by the offender and that the mental element of intent to cause harm or fear is present, but also that the victim suffered fear or harm as a consequence of being the target of the offender's actions. In contrast, legislation in NSW actually stipulates that "the prosecution is not required to prove that the person alleged to have been stalked or intimidated actually feared personal injury" (Crimes Act, 1908 (NSW) s562AB, [1996]).

Some Australian States also introduced the notion of foreseeability, by specifying that the offender has the necessary intent if the offender knows, or in the circumstances ought to have understood that their course of conduct was likely to cause harm or arouse apprehension or fear (Crimes Act, 1958 (Vic) s21A, [1996]; Crimes Act 1900 (NSW) s562AB, [1996]). Similarly, Western Australia recently widened their stalking provisions by adding a *simple offence* of stalking (Criminal Law Amendment Act [No 1] 1998 [WA]). With this offence it is now only necessary to show that the behaviour in question "could reasonably be expected to intimidate and that it does in fact intimidate". This eliminates the need for explicit evidence of intent to create fear or harm by allowing for construction of intent by way of what a reasonable person could foresee.

Moves to eliminate the specific element of intent to cause fear or harm have brought about by criticisms that this element is virtually impossible to prove in many cases of alleged stalking

(see, for example, Goode, 1995). For example, the behaviours engaged in by an alleged stalker may not contain overt threats and may in fact be very subtle, consisting of the accused maintaining a visual presence, or indicating knowledge of the target's daily movements. Subtle behaviour such as this could render it difficult to establish the intent to cause harm or fear. Furthermore, many individuals accused of stalking may lack this specific intent. Their pursuit may be inspired by the hope of a romantic union and therefore have relatively innocuous intentions, although their relentless behaviour may nevertheless cause the recipient concern. However, removing the requirement for intent to cause harm or fear has the potential to impinge unfairly on individual liberties.

The Queensland Government recently amended their stalking legislation to provide the widest form of stalking legislation in Australia with the introduction of the Criminal Code (Stalking) Amendment Act 1999 (Qld). The approved changes include that "Unlawful Stalking" is conduct — (a) intentionally directed at a person (the "stalked person"); ...and (d) that — (i) would cause the stalked person apprehension or fear, reasonably arising in all the circumstances, of violence to, or against property of, the stalked person or another person; or (ii) causes detriment, reasonably arising in all the circumstances, to the stalked person or another person". According to s359C (5) "For section 359B(d)(i), it is immaterial whether the apprehension or fear, or the violence, mentioned in the section is actually caused". Thus there is no specific requirement that the offender intended to cause harm or fear, and the victim of the stalking does not need to have experienced any harm or fear.

During the process of developing a Model Criminal Code for Australian jurisdictions, the Model Criminal Code Officers Committee (MCCOC) reviewed the current anti-stalking legislation throughout Australia. On the basis of public consultation, the Committee advised that "it is apparent that many supporters of anti-stalking offences are clearly and avowedly supportive of attaching criminal sanctions to any conduct at all which might be described as harassment, intentional or not, and whether it causes harm or not" (MCCOC, 1998, p.57). The Committee argued that the less serious forms of harassment or nuisance behaviour should not form an

indictable offence that is triable by jury (MCCOC, 1998). A question that then arises is whether less serious conduct should form a summary offence or be captured within the criminal law at all.

The result of the Committee's concerns was to draft a model stalking law that contained the requirement of intent to cause harm or fear, in preference to designing stalking laws that may also capture minor nuisances. This model stalking law however extended some current stalking laws by allowing that the behaviour need not cause actual fear or harm in the target (MCCOC, 1998).

Despite the recommendations of the MCCOC, the elements required to sustain a charge of stalking continue to be debated with consequential amendments leading to a broadening of the legislation in some States (e.g., Qld: Criminal Code (Stalking) Amendment Act 1999). While wider legislation is thought to better reflect the concerns of the community in some jurisdictions (Government of Western Australia, 1997; Queensland Government, 1998), there has been some concern as to whether anti-stalking legislation is too restrictive on individual liberties (Boychuk, 1994; Fahnestock, 1993; Scrutiny of Legislation Committee, 1999) or whether the type of behaviour captured within broad stalking legislation warrants criminal intervention (Model Criminal Code Officers Committee, 1998).

Balancing civil liberties with the seemingly increased desire for protection against many forms of harassment is problematic. The question is whether the community's interest in privacy and protection from harassment, however mild, is so fundamental that it warrants the protection of the criminal law. In particular, when behaviour is not intended to cause harm or fear, and in fact it does not cause harm or fear, does the community perceive this behaviour as stalking? Insight into community perceptions of harassment, intimidation and invasion of privacy may provide understanding into the type of behaviour that community members perceive as stalking and may also inform legislators of the appropriateness of existing legislation.

Hills and Taplin (1998; Taplin, 1997) conducted the only research to date that has addressed community perceptions of stalking. The authors manipulated the effect of presence or absence of a threat and the relationship of the

stalker to the victim (stranger, acquaintance, ex-intimate) in a heterosexual stalking scenario, using the sex of the participant as a third independent variable. The likelihood of specific behavioural and affective responses of 172 participants (81 males, 91 females) from the metropolitan area of Perth, Western Australia was then examined.

The results of this study indicated that the likelihood of feeling frightened and the likelihood of calling the police was significantly higher when the participant was placed in the scenario of being stalked by a stranger than when stalked by an ex-intimate. Females were more likely to call the police than males. The likelihood of calling the police when a threat was either absent or present was equal for females, whereas males were more likely to call the police in the threat condition than the no-threat condition. Females were more likely to be frightened, worried, concerned and annoyed than males, who were more likely to be indifferent and flattered.

Hills & Taplin suggested that participants might have been less concerned by the actions of the ex-intimate as they may have felt that they were able to better predict the future actions of someone known to them and thus the potential danger that they face. This is in comparison to the danger of the unknown, such as the stranger. In contrast to these findings, the literature on stalking has emphasised a greater occurrence of ex-intimate stalking and a high level of danger to the victim associated with such a stalker (Bernstein, 1993; Mullen & Pathe, 1994; Pathe & Mullen, 1997; Zona, Sharma & Lane, 1993).

On the basis of the findings from Hills and Taplin's (1998) study, it seems that perceptions of stalking may be influenced according to who is engaging in the behaviour. It is important to note that the responses of participants in Hills's and Taplin's (1998) study may not be an accurate representation of how the participants would react in real life circumstances. Although, there were no significant differences between those participants who reported having a similar stalking experience themselves and those who had not, with the exception of the likelihood of being flattered, participants who had experienced a similar situation were less likely to feel flattered.

Given that there is no comprehensive understanding of when the community perceives behaviour constitutes stalking, it is difficult to draft legislation that reflects the fundamental concerns of the community, and to anticipate

whether stalking legislation will be misused. Therefore, the aim of the present study is to determine what conduct members of the community perceive as stalking. More specifically, the study aims to examine whether participants classify stalking according to the intentions of the alleged stalker, the consequences to the target, the actions engaged in, or a combination of these elements. For the purpose of this study, the term "target" has been used to refer to the recipient of the alleged stalker's attention, rather than the term "victim", to avoid the implication that the accused is guilty of the stalking offence. Following the results of Hills & Taplin (1998), this study also seeks to examine whether perceptions of stalking are influenced by the relationship between the offender and the target.

Furthermore, criticisms of the intent requirement in stalking legislation involve arguments that it is difficult to prove whether the accused intended to cause fear or harm to the target. An examination of participants' perceptions of the alleged stalker's intentions may provide useful information regarding when members of the community perceive intent to harm or cause fear is present, and thus how stalking cases appearing in court might be interpreted. Since some jurisdictions in Australia have already moved away from the intent requirement, and instead rely on whether fear or harm to the target might reasonably arise in the given circumstances, examining whether members of the community perceive that the offender should have foreseen, or realised, the potential consequences of his actions may provide insight into how stalking cases might be interpreted in courts under this jurisdiction. Also of interest is whether perceptions that the alleged stalker intended to cause fear or harm or should have foreseen the likely outcome of his actions leads to an identification of the behaviour as stalking.

In examining when members of the community perceive behaviour as stalking, it is useful to also examine confidence of participants. Using confidence ratings provides a measure that is more sensitive to subtle influences of intent, consequences and relationship.

## Method

### Design

The experimental design was a 2 x 3 x 3 between subjects factorial design. The independent

variables were: (1) Alleged stalker's intentions — explicit evidence of intent/ no explicit evidence of intent; (2) Consequences to the target — extreme fear, moderate fear, no fear; and (3) Relationship of alleged stalker to the target — stranger, ex-intimate, acquaintance.

The dependent variables were: (1) Perceptions of whether or not behaviour was stalking; (2) Perception of whether the alleged stalker intended to create fear or apprehension, or physical or mental harm to the target; (3) Perception of whether the alleged stalker should have realised that the behaviour he was engaging in was likely to cause apprehension or fear in the target; and (4) Confidence with decision in classifying the behaviour as stalking.

#### Participants

There were 540 participants in the study, 30 participants in each of the 18 conditions. The 540 participants comprised 200 males and 297 females (a further 43 participants did not indicate their sex). The ages of participants ranged from 18 to 85 years. The mean age of males was 33.21 years ( $SD = 13.93$ ), and the mean age for females was 32.32 years ( $SD = 12.22$ ). All participants were members of the Melbourne (Victoria, Australia) community. Participants were treated in accordance with the ethical guidelines of the Australian Psychological Society.

#### Materials

Participants read a 4-page scenario depicting a male persistently following and telephoning a female target, turning up to the same social settings, and watching the target's house, over a period of 5 months.

There were two versions of intent, one where there was explicit evidence of intent to create fear or apprehension, or mental harm or physical harm to the target, and one where this explicit evidence was absent and therefore the presence or absence of intent was open to interpretation. In the conditions where there was an absence of explicit evidence of intent to create fear or harm, the accused states that he did not follow the target, but that he walks the same route to work as her each day. He explains his occasional appearance in the same social settings as co-incidental, given that the target and he live and work in the same area. He also indicates that he telephoned the target because he was lonely and

wanted to hear her voice. The accused argues that his intentions were innocuous, rather than to create fear or harm in the target.

Explicit intent was depicted two ways: by a threatening message on the target's answering machine stating "If you don't give me a chance then there will be trouble. You owe me at least that much"; and by the discovery of the alleged offender's diary that detailed the movement of the target and the dates and times that he had watched her. It also included an entry made by the accused that stated "I wonder how long I have to follow her until she becomes frightened of me. She's starting to look nervous already. That will teach her for rejecting me". All other behaviour by the accused remained the same as that in the no intent condition.

With respect to consequences to the target, in the *extreme fear* condition, the target is terrified by the behaviour, is reluctant to leave her house, buys an answering machine and security system for her home, is unable to function properly at work, and eventually takes sick leave, she moves back to live with her parents, has nightmares of being attacked, and enters counselling. In the *moderate fear* condition, the target becomes increasingly frightened and reluctant to leave her house, buys an answering machine and security system, reacts nervously to noises around the house, and has lost some of her confidence and feelings of independence. In the *no fear* condition, the target experiences annoyance and frustration by the alleged stalker's persistent behaviour but indicates that she is not afraid of him, she is reluctant to leave her house because of the inconvenience of him watching her, buys an answering machine to screen calls, and experiences feelings of resentment at the invasion of her privacy.

The accused is depicted as being either: (1) A stranger who bumped into her in the street and subsequently contacted her and invited her out, to which she declined; (2) An ex-boyfriend who the target had dated for 12 months, she felt that he was possessive and broke up with him, there was no violence involved in the relationship; (3) An acquaintance who worked in the same office as the target, he had invited her out and she had declined. The harassing behaviour begins after the relationship break-up in the ex-intimate scenario, or in the case of the stranger and

acquaintance, after the offer for a date was declined.

#### Procedure

Participants were approached in public places, such as outside suburban shopping centres and city malls, and invited to take part in the study. Participants were supplied with an information sheet that explained the aim of the study and the tasks involved, a scenario describing the alleged stalking event, and a questionnaire. The questionnaire included items requesting participants to indicate whether the conduct of the accused was stalking or not, whether the accused had intended to cause mental harm or physical harm, or arouse apprehension or fear in the target, whether the accused should have realised that his behaviour was likely to cause apprehension or fear in the target, and their confidence in determining whether the behaviour was stalking (i.e., not at all confident, somewhat confident, or very confident with their decision). The task required approximately 20–30 minutes to complete. Participants were randomly assigned to read one of the 18 vignettes. Participants were also supplied with a stamped, self-addressed envelope to return the completed questionnaire. Nine hundred and eighty questionnaires were distributed in the Melbourne community, 555 were returned, providing a response rate of 57%. As 540 completed questionnaires were required for this study, once each cell had 30 participants in it any remaining questionnaires were not included in the analysis.

#### Results

To examine differences in the frequency of responses between experimental conditions, chi-square analyses were performed. Due to the multiple analyses conducted alpha was set at 0.01 to provide a more conservative measure of significant differences. Frequencies in some tables do not add up to 540 as some participants failed to respond to certain questions.

#### Perceptions of Stalking

Of the 540 participants in this study, all but 10 participants indicated that they believed the behaviour detailed in the vignette was an example of stalking. Of the participants who did not perceive the behaviour as stalking, seven

responded that the example was not stalking, and three indicated that they were unable to decide. The participants who did not perceive the behaviour as stalking were dispersed throughout the different conditions.

#### Perceptions of Intent

When requested to indicate whether they believed that the alleged stalker intended to create fear or apprehension, or physical or mental harm to the target, 72.3% of the participants in the intent condition said that intent was present, 7.1% said that there was no intent. In contrast, in the no intent condition only 36.0% said that intent was present and 24.0% said that it was not. Frequencies for responses in the intent versus no intent condition are provided in Table 1.

Participants who received the scenario in which explicit intent was present more frequently indicated that the alleged offender intended to create fear or apprehension, or mental harm or physical harm to the target, compared to those participants who read a scenario in which intent was absent  $\chi^2(2, N = 534) = 73.65, p < .01$ . There were no differences in the frequency of perceptions of intent between the consequence conditions  $\chi^2(4, N = 534) = 0.28, p = .99$  or between the relationship conditions  $\chi^2(4, N = 534) = 7.58, p = .11$ .

Perceptions of intent were also examined to determine whether classifications of stalking differed according to whether participants perceived that the alleged offender intended to cause fear or harm to the target. Of the 288 participants who responded that the alleged stalker did intend to cause fear or harm to the target, 99.7% classified the behaviour as stalking. Similarly, of the 161 participants who indicated

**Table 1**  
Frequencies for Intent Decision as a Function of Intent Condition.

VIGNETTE VERSION	INTENT DECISION			Total
	No	Unsure	Yes	
Intent	19 7.1%	55 20.6%	193 72.3%	267 50.0%
No Intent	64 24.0%	107 40.1%	96 36.0%	267 50.0%
Total	83 15.5%	162 30.3%	289 54.1%	534 100.0%

that they were unsure whether the alleged stalker intended to cause fear or harm to the target, 98.8% classified the behaviour as stalking. Significantly more participants responded that the behaviour was not stalking when they did not believe that harmful intentions were present  $\chi^2(2, N = 531) = 10.08, p < .01$ , with 95.1% of the 82 participants in this group classifying the behaviour as stalking.

#### Foreseeability

Four hundred and eight-one participants believed that the alleged stalker should have foreseen that his actions were likely to cause fear or apprehension in the target. Only 10 individuals indicated that the alleged stalker should not have foreseen the likely consequences of his actions, and 41 responded that they were unsure. There were no differences in the distribution of frequencies between the intent conditions  $\chi^2(2, N = 532) = 2.66, p = .50$ , the consequences conditions  $\chi^2(4, N = 532) = 9.49, p = .05$ , or between the relationship conditions  $\chi^2(4, N = 532) = 3.89, p = .50$ .

Perceptions of foreseeability were also examined to determine whether classifications of stalking differed according to whether participants perceived that the alleged offender should have realised that his actions were likely to arouse fear or apprehension in the target. Of the 481 participants who responded that the alleged stalker should have realised the likely outcome of his actions, 99.6% classified the behaviour as stalking. Of the 41 participants who indicated that they were unsure whether the alleged stalker should have realised the likely consequences of his actions, 95.1% classified the behaviour as stalking. In contrast, of the 10 participants who responded that the accused should not have foreseen the likely consequences of his actions, 70% classified the actions of the accused as stalking. The difference between classifications of stalking for perceptions of foreseeability were significant  $\chi^2(2, N = 532) = 70.09, p < .01$ .

#### Confidence Ratings

Confidence ratings are provided for those participants who responded that the behaviour was stalking. Confidence was not analysed for the remaining 10 participants due to the small sample size. The majority of participants were very confident in their decision, with only six participants indicating that they were not at all

confident. Even in the no intent/no fear conditions, only 3 participants out of a potential 90 indicated that they were not at all confident in their decision. Frequencies are given in Table 2. For the purpose of presentation the relationship variable has been collapsed as there was no difference in the pattern of frequencies between the relationship conditions  $\chi^2(4, N = 529) = 4.47, p = .35$ .

There was a difference in the pattern of frequencies between confidence in the intent versus no intent conditions. Participants who read the scenarios where there was explicit evidence of intent to cause fear or harm more frequently responded that they were very confident  $\chi^2(2, N = 529) = 21.82, p < .01$ . More specifically, there was a difference in confidence between participants in the intent condition and no intent conditions when the target experienced extreme fear  $\chi^2(1, N = 177) = 23.28, p < .01$  (see Table 2). Fewer participants in the extreme fear conditions indicated that they were very confident with their classification of stalking when they read the scenario in which explicit evidence of intent to create fear or harm was absent. There was no difference in confidence between participants in the intent and no intent conditions when the target experienced moderate fear  $\chi^2(2, N = 176) = 1.53, p = .47$  or when the target experienced no fear  $\chi^2(2, N = 176) = 5.00, p = .08$ .

There was no difference in the pattern of frequencies for confidence between the consequence conditions  $\chi^2(4, N = 529) = 6.76, p = .15$ . However, for those participants who read a scenario where explicit evidence of intent to cause harm or fear was absent, more participants in the moderate fear and no fear conditions reported being very confident with their classification of stalking compared with participants in the extreme fear condition  $\chi^2(4, N = 264) = 13.35, p < .01$ . When intent to cause fear or harm was present, there was no difference in confidence between the participants in the three consequence conditions  $\chi^2(4, N = 265) = 3.64, p = .46$ .

#### Discussion

The scenarios depicted the accused persistently following the target, making hang-up phone calls, maintaining a visual presence in a variety of social settings, and watching the target's house over a period of five months. The



Table 2

Frequencies of Confidence Ratings for Stalking Decision, as a Function of Intent and Consequences

Intentions	VIGNETTE VERSION Consequences	CONFIDENCE RATINGS		
		Not at all	Somewhat	Very
<b>Explicit Intent</b>	Extreme Fear	0	10	78
		0.0%	11.4%	88.6%
	Moderate Fear	1	14	74
		1.1%	15.7%	83.1%
	No Fear	0	16	72
		0.0%	18.2%	81.8%
Subtotal		1	40	224
		0.4%	15.1%	84.5%
<b>No Explicit Intent</b>	Extreme Fear	0	39	50
		0.0%	43.8%	56.2%
	Moderate Fear	2	19	66
		2.3%	21.8%	75.9%
	No Fear	3	23	62
		3.4%	26.1%	70.5%
Subtotal		5	81	178
		1.9%	30.7%	67.4%
Total		6	121	402
		1.1%	22.9%	76.0%

majority of community members classified this behaviour as stalking. Stalking was not defined according to the intentions of the alleged stalker or severity of the consequences to the victim. Even when there was no explicit evidence of intent to cause harm or fear to the target, and even when the target did not in fact experience any fear or harm but rather an invasion of privacy, the behaviour was still perceived as stalking. The relationship of the offender to the target did not significantly influence perceptions of stalking. The behaviour was judged seriously regardless of this element.

Given that nearly all members of this community sample classified the behaviour as stalking, it is important to consider which elements of the scenarios led participants to perceive the behaviour as stalking. In all scenarios the alleged stalker made numerous telephone calls to the target, in which he would hang-up without speaking when the target answered the call. This behaviour may have been perceived as particularly intrusive, given that it occurred in the target's home. The frequency of the alleged following may have also increased the likelihood that the behaviour was perceived as stalking, as it occurred 2–3 times per week over a five-month

period. This degree of persistency, teamed with the intrusive phone calls, may have allowed participants to construct or infer the intentions of the accused, or even to classify the behaviour as stalking based on the conduct alone.

The results of this study suggest that the explicit intentions of the alleged stalker to cause fear or harm to the target do not play a major role in influencing whether members of the community classify behaviour as stalking. Despite a statistical difference in respondents, perceptions of intent and their subsequent classification of stalking, even for those participants who believed that the accused did not intend to cause fear or harm to the target, 95.1% still classified the behaviour as stalking. This finding gives further support to the notion that members of the community are classifying stalking based on elements other than the intentions of the alleged stalker, and that in the context of this study, the intentions of the accused are relatively inconsequential to the classification of stalking.

Furthermore, with the majority of participants indicating that the alleged offender should have realised that his behaviour was likely to cause apprehension or fear in the target, even when the target did not experience any fear at all

but rather resentment at the invasion of her privacy, it may be that participants are less concerned with the actual outcome of the conduct than they are with the likely outcome of someone's actions. The expectation in the community that the accused should have anticipated the *likely* consequences of his actions may have contributed towards perceptions of the behaviour as stalking.

Some evidence for this suggestion is provided whereby those participants who said that the accused should have foreseen the likely consequences, or were unsure whether the accused should have foreseen the likely outcome, 99.6% and 95.1% respectively responded that the behaviour was stalking. Significantly less participants responded that the behaviour was stalking (70%) when they indicated that the alleged stalker should not have realised that his actions were likely to cause fear or apprehension in the target. While the majority of participants still responded that the behaviour was stalking, it is evident that *foreseeability* contributed somewhat in the classification of stalking. However given the small number of participants who did not believe the consequences were foreseeable ( $N = 10$ ), these differences should be interpreted with caution.

Nevertheless, this finding has implications for the inclusion of a *foreseeability* element in stalking legislation. When the defendant engaged in persistent following, telephoning and watching the target most members of this community sample indicated that the accused should have realised that his actions were likely to create fear or apprehension in the target. If legislation was to provide for constructive intent such as in Victoria and Western Australia, establishing the *foreseeability* of the likely consequences and whether the actions could be reasonably expected to intimidate could alleviate the perceived need to abolish the intent requirement altogether. For example, in the condition where explicit evidence of intent to cause fear or apprehension was absent, 64 participants responded that intent to cause fear or apprehension was not present, whereas only six participants in this condition responded that the accused should not have foreseen the potential consequences of his actions.

Most participants were very confident with their judgement as to whether the behaviour was stalking. However, some differences in confi-

dence did exist, with the elements of intent and consequences affecting confidence ratings. When participants read a scenario in which the target experienced extreme fear, they were more confident in their decision when explicit evidence of intent to cause fear or harm was present than when this specific intent was absent, indeed participants were least confident with their classification of stalking in this latter condition. They were significantly less confident than participants in the same intent condition whose scenarios depicted either moderate or no fear.

This finding was unexpected and difficult to explain. One potential explanation for this anomaly is the extent of fear the target experienced and that her lifestyle was severely affected, even when there was no explicit evidence to indicate the accused intended to harm or cause fear in the target. Participants may have seen the target's behaviour as an overreaction to the situation. This may have led participants to put less faith in the victim's account of the behaviour, and subsequently caused them to be less confident in their classification of stalking. Ultimately however, the consequences to the victim did not effect classifications of stalking.

There was no difference in confidence between the two intent conditions when the target experienced either moderate or no fear. There were also no significant differences in confidence ratings between the three relationship conditions, a finding that differs with that of Hills and Taplin (1998). Participants in their study reported a greater likelihood of experiencing fear and a greater likelihood of calling the police when the stalker was a stranger compared with when the stalker was an ex-intimate. The findings of Hills and Taplin's (1998) study suggests that members of their community sample view unwanted contact and harassing behaviour more seriously when a stranger is engaging in the conduct. In contrast, the results of the present study indicate that the behaviour is viewed seriously regardless of the relationship between the stalker and target.

Given the differences in the scenarios involved in the present study and that of Hills and Taplin (1998), and the differences in questions directed at participants, it would be prudent not to generalise too much from these results. While pursuit behaviour may be classified as stalking regardless of relationship, individuals

who are the target of such behaviour may nevertheless experience greater fear when the stalker is a stranger. Differences in perceptions of stalking due to the relationship between the stalker and target may be dependent on a variety of variables, such as the type of behaviour engaged in and the type of prior knowledge the target had of the accused. For example, whether the accused was known to have previously engaged in violence could be an important factor in determining whether an ex-intimate causes fear in the target. In the case of the present study it was explicitly stated in the ex-intimate scenario that there was no violence involved in the earlier relationship. Further research could explore these factors to determine in what instances the relationship between the accused and the target effects perceptions of stalking.

With respect to laws meeting the interest of the wider community, requirements of intent and consequences may not reflect the conduct the community wants to proscribe. Stalking has become more commonly used as a catch-all term, describing a wide variety of events rather than conduct that is calculated to cause fear or harm. The actions of persistent and unwanted contact such as following, telephoning, or watching may be enough to elicit perceptions of stalking in the absence of intentions to create fear or harm and in the absence of any fear or harm being experienced. This may be especially so when the actions are seen as likely to arouse fear or apprehension in a target.

If laws were amended to match community perceptions of stalking and the community indiscriminately perceives nuisance behaviour and conduct which does not cause fear or harm but invades their privacy as stalking, then applying the criminal law to many of these behaviours may exceed the seriousness of the conduct. It may be worth considering whether the civil law would provide a more appropriate forum for resolving some of these disputes. However, conclusions should not be drawn too quickly from this research, given that this community sample was not asked whether they thought the conduct described in the scenario should be illegal. Rather they were asked for their opinion as to whether the behaviour was stalking or not.

Thus one of the most important findings to arise out of this study is that members of the community may perceive unwanted persistent

pursuit as stalking, irrespective of intent, consequences and relationship. An important line of inquiry for future research is to ascertain whether in classifying behaviour as stalking, the community also believes that this behaviour should be illegal. This has implications for designing legislation that meets community needs, or alternatively educating the public where perceptions differ from existing stalking legislation. Such data may also provide insight into whether broad stalking laws are likely to result in a proliferation of stalking charges similar to that seen with applications for restraining orders and AVOs.

In order to gain a broader understanding of community perceptions of stalking, it may also be worthwhile to alter such elements as the persistency and intrusiveness of the alleged stalker's behaviour to further delineate the type of conduct the community perceives as stalking. In particular, the frequency of the alleged following and the occurrence of hang-up phone calls may have a significant impact on perceptions of stalking. Whether the elements of intent and consequences gain more weight when the conduct is less persistent and/or intrusive is an issue that needs to be further explored.

This research provides a starting point to which further understanding of the type of situations that the community perceives it should be protected from can be pursued. With criminal laws being developed to protect ideals regarding rights to privacy and protection from unwanted contact, it is important that the scope of the legislation does not reach too far such that it intrudes upon and limits social interaction. The debate over appropriate stalking legislation, and indeed the extent of protection that the criminal law should offer, may benefit from obtaining a greater understanding of the fundamental interests of society and what it is as a community that we wish to proscribe.

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