



Findings from Family Violence Death Review data relating to stalking: January 2020 - June 2024

Background:

This paper was initially prepared by the Family Violence Subject Matter Experts (FV SMEs), within Te Tāhū Hauora, in response to a Ministry of Justice request in July 2024. The paper was prepared to assist the development of new legislation to make stalking a criminal offence.

It brings together examples of stalking behaviours collated from reviews of family violence homicides.

Following the submission of this information to the Ministry of Justice, there was a request from the Auckland Coalition for the Safety of Women and Children (the Coalition) to disseminate this information more widely as a training tool. The original paper was modified into this current iteration.

As highlighted by the Coalition, and the National Collective of Independent Women's Refuges, current protections from stalking in Aotearoa New Zealand are piecemeal and reliant on civil orders.¹

The narratives collected in this paper underscore why this may not be sufficient to keep women, their partners, and their children safe.

Stalking is a pattern of unwanted repetitive, persistent and intrusive behaviour^{2,3} that involves, among other things, the implied or actual threat towards an intended person that elicits fear of death or injury. Stalking is not only a human rights violation⁴ but is recognised worldwide as a component of intimate partner violence and a precursor to homicide.

Information in this paper is drawn from data collated by the FV SMEs on behalf of the National Mortality Review Committee (NMRC). Under schedule 5 of the Pae Ora (Healthy Futures) Act,

¹ Auckland Coalition for the Safety of Women and Children, National Collective of Independent Women's Refuges, National Council of Women New Zealand. (2022) A Stalking Law for New Zealand: Why it is necessary and what it should look like. URL: <https://awc.org.nz/wp-content/uploads/2023/02/FINAL-A-STALKING-LAW-FOR-NZ-NGO-November.pdf>

² Roberts, K. A. (2005). Women's experience of violence during stalking by former romantic partners: Factors predictive of stalking violence. *Violence Against Women*, 11(1), 89-114.

³ Thorburn, N., & Jury, A. (2019). *Relentless not romantic: Intimate partner stalking in Aotearoa New Zealand*. Wellington: Women's Refuge NZ.

⁴ Universal Declaration on Human Rights (1948). Article 12: No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks. URL: <https://www.un.org/en/about-us/universal-declaration-of-human-rights> Accessed 25 September 2024.

2022⁵ the FV SMEs (previously the Family Violence Death Review Committee, FVDRC) conduct in-depth reviews of family violence homicide events on behalf of the NMRC.

Outline:

This paper includes information from reviews of intimate partner violence (IPV) and child abuse and neglect (CAN) homicides undertaken between January 2020 and June 2024.⁶

The 12 cases included from this period all had police-recorded evidence of stalking behaviours prior to the homicide event.

Common themes include:

- non-compliance with protection orders and/or bail conditions
- use of children as a form of stalking and control
- use of multiple forms of behaviour (eg, physical stalking, unwanted gifts, harassment, property damage)
- inadequate responses to people seeking help
- threats to kill.

Illustrative examples have been developed and presented below. Pseudonyms have been used for ease of reading and to maintain confidentiality. Those who have been stalked will often experience a combination of the above themes. However, each theme is described separately for clarity.

Non-compliance with protection orders and/or bail conditions

The issue

The FVDRC's 6th Report highlighted that 38 percent of male predominant aggressors in an intimate partner homicide were the respondent to a protection order. Of these, over half breached that protection order prior to the homicide event.⁷

For the female victims, judicial responses such as protection orders and bail conditions did not keep them safe. The offenders involved did not adhere to the orders or conditions put in place, meaning their victims continued to be at risk of harm.

Example: Maia and Fraser

Maia and Fraser had one child together early in their relationship. However, Fraser regularly used violence against Maia and, as a result, Maia decided to separate from him.

⁵ Schedule 5 of the Pae Ora Act enables the collation of personally identifiable information for the purpose of mortality review.

⁶ Events are reviewed once they have progressed through the criminal court. This can take up to two years or longer. As such, these cases were drawn from the period 2018-2022, during which time there were 23 child abuse and neglect deaths and 49 intimate partner violence deaths.

⁷ Family Violence Death Review Committee 2020 Sixth report | Te Pūrongo tuaono Men who use violence | Ngā tāne ka whakamahi i te whakarekerekere. Wellington, Health Quality & Safety Commission. URL: https://www.hqsc.govt.nz/assets/Our-work/Mortality-review-committee/FVDRC/Publications-resources/FVDRC6thReport_FINAL.pdf

She moved out of the couple's home, but Fraser continued to express a desire to see their daughter, Ariana. Because of this, Maia felt she had to continue to be involved with him. Maia subsequently became pregnant with the couple's second child.

Fraser had been prosecuted for one serious assault on Maia and had bail conditions not to associate with her, which he continued to breach. He would frequently turn up at her new home, despite the bail conditions, saying he just wanted to see the kids. During these visits he continued to harass and abuse Maia.

Maia told Kainga Ora that she had recently obtained a protection order against Fraser. Due to her ongoing concerns about Fraser's violent behaviour, Maia arranged with Kainga Ora to move from the region they were living in.

She informed Kainga Ora that she would consider living anywhere in several areas where her whānau were based so that she could have a support network around her.

It was documented in agency notes that Maia wanted and needed to relocate because Fraser knew where she was living, and he continued to be violent towards her, despite court orders being in place. Her GP was increasingly worried about her mental wellbeing and how the continued experience of violence was impacting on this.

Maia had been trying to make things work for her children's sake, but Fraser continued to use violence against her and she felt she had to leave.

When asked by police about her black eye on one occasion, Maia declined to comment about the injury, other than to say she got it from a party. She was advised that if she wished to make a statement about a family harm episode, police would support her to do so.

She declined, however, as she did not want to bring any further court proceedings against Fraser. She said he was the father of her babies, and she didn't want him prosecuted.

She was also scared about how he might react if she reported him again. Fraser was known to have said that he would do whatever it took to see his children, and that he had no intention of complying with police or court orders.

Questions raised by this example

- In this example, Maia wanted to move, and she had whānau in various locations that could support her. How can services support the protective factors that are already in place for individuals and their family or whānau?
- What options are available when offenders continue to breach bail or protection order conditions in the process of stalking victims?
- Is it possible to consider the presence of a breach of other court orders an aggravating factor in the presence of stalking?

Use of children as a form of stalking and control

The issue

The example above includes access to children as way of controlling a partner. This is not usually considered a form of stalking.

Within FVDR data there are examples of offenders using child access rights to keep in regular contact with women, to continue to harm and intimidate them, and to gather information that they then use to try and further control the woman.

Example: Lucy and Dan

Lucy became pregnant with Katie as the result of a casual intimate relationship with Dan. Although, in Lucy's mind, the relationship never progressed further than the casual stage, it became increasingly obvious that Dan wanted more.

Lucy attempted to include Dan in Katie's life as much as she could. However, she was also Katie's main caregiver and was breastfeeding her. Dan would persistently seek access and complain that Lucy was using breastfeeding as an excuse to refuse him access.

Dan also undermined Lucy's parenting skills and tried to come between Lucy and her parents. After constant pressure from Dan, Lucy agreed to leave Katie in Dan's care overnight.

In the lead up to this time, Lucy spent some time with Dan and Katie together, to ensure that Dan knew what was required to keep Katie safe and that he was confident carrying out necessary daily cares (such as bottle feeding and nappy changes).

When Lucy returned to pick Katie up, Dan refused to return Katie to Lucy's care. He refused Lucy entry to the house, and her further attempts to gain access to Katie were met with a response from Dan indicating that he would 'see her in court'.

Also, Dan did not respond to attempts by Lucy's mum and dad to gain access to Katie over this time.

During a phone call with Dan, he promised Lucy she could see Katie if she agreed to give him full custody. Lucy then went to Oranga Tamariki as she was concerned that Dan had not returned Katie to her care and was not allowing her access. She also had concerns about Dan's drug use.

As the situation was viewed as a custody issue rather than a pattern of control, Lucy was advised to get a lawyer, which she did, and was in contact with local police about her concerns.

Less than a week before Katie's death, Lucy sought to address the custody issues before the Family Court. Prior to a hearing taking place, Dan fatally assaulted Katie.

Questions raised by this example

- How are the courts, police and social service providers educated about coercive control in the context of child custody?
- The above example highlights non-physical forms of IPV, in particular psychological abuse and control. Individually, the behaviours may be considered benign, but as a cumulative pattern, they undermine parenting ability and place children at risk. How can this be considered and prosecuted as a form of stalking?
- Family and whānau often express concern about the safety of infants and children prior to the death event. How can services better ensure that these voices are heard?

Use of multiple forms of behaviour (eg, physical stalking, unwanted gifts, harassment, property damage)

The issue

The New Zealand Family Violence Study provides evidence of the overlap between different forms of violence.⁸

The example below also highlights that offenders use a variety of behaviours when stalking. Indeed, any of the behaviours viewed in isolation may be seen as benign or not intended to cause fear or distress, as is shown in the example above where a desire to look after a child could simply be considered fatherly.

However, when viewed as a pattern of behaviour it is possible to understand the context as it might have been experienced by the victim.

Example: Tracey and Stan

Prior to separating, Tracey and Stan had lived together for almost 20 years and had two teenage children together.

It was noted by friends and family that Stan seemed to stalk Tracey and always seemed to know where she was. Stan would often arrive home a very short time after Tracey did. She believed he followed her, which is how he always knew when she arrived home.

He would often listen in to her phone conversations, be spotted by her when she was out and about without him, and sometimes she would see Stan following her in the car, although he always said this was just a coincidence.

Tracey told friends that he followed her everywhere. On the night of the fatal assault, Stan had followed Tracey and her friends throughout the course of the evening. He appeared at the restaurant they were at. When he became aggressive and was thrown out, he remained in the area and waited for 'the girls' to leave.

Stan's behaviour was intimidating and controlling, and it was clear that Tracey was scared of him. Her close friends and family noticed Stan had become increasingly possessive of Tracey since their separation and he was often threatening towards her.

Days before the homicide event, Stan arrived at Tracey's workplace unannounced and demanded that she pay him for items he had bought, which she did. Tracey's work colleagues commented that her demeanour changed from happy to being withdrawn when Stan turned up at her work.

He would always get flowers delivered to Tracey's work for her after he turned up unannounced.

Stan would harass Tracey while she was out with her friends, and he was told to leave numerous premises due to his behaviour towards her. Out of jealousy, he would confront unknown men to whom she had been speaking.

⁸ Fanslow, J.L., Mellar, B.M., Gulliver, P.J. and McIntosh, T.K., 2023. Evidence of gender asymmetry in intimate partner violence experience at the population-level. *Journal of interpersonal violence*, 38(15-16), pp.9159-9188.

To be able to talk without him listening or being present during their conversation, friends reported that they often had to remove themselves and Tracey from her house and sit in the car if Stan was home, as he made them feel uncomfortable.

Tracey told friends that Stan was unhappy about her and her friends leaving the house to talk in private. He also accused her and a good friend of being in a lesbian relationship and believed she was taking Tracey away from him.

Following a heated argument with Stan, Tracey stayed with a friend for the night. The following morning when she was leaving for work with her friend, she noticed Stan drive by the house.

When they returned to her friend's house after work, they noticed a front window of the house was smashed and Tracey's car door was wide open.

Tracey went to the police station with her friend. While at the police station, Stan arrived. He proceeded to lean up against their car and wouldn't leave. Tracey had to call the police to assist her. When police went to her friend's address and discovered the inside of the house had been smashed up, Stan was arrested and charged with intentional damage.

Questions raised by this example

- What are the systems and processes required to develop an understanding of a pattern of behaviour? Is it possible to respond to the overall pattern of behaviour rather than isolated events?
- How do you understand stalking in the context of different relationships? For example, an ongoing relationship, a relationship that is no longer continuing, or one where the status of the relationship may be perceived differently by both parties?

Inadequate responses to people seeking help

The issue

Reviews of family violence homicide events highlight that victims regularly seek help. However, their help seeking is often met with an inadequate response, placing them and others in their family or whānau at risk of harm.⁹

Our reviews show the cumulative effect of inadequate responses. The FVDR data supports the view that stalking behaviours are an extension of control within an intimate partner relationship and can impact more people than just the primary intimate partner victim.

The death of Farzana Yaqubi in December 2022 highlighted inadequate responses to her active help seeking.¹⁰ The case example below is not based on Farzana's experience, but it does highlight some related issues.

⁹ Family Violence Death Review Committee, 2014. Fifth Report: January 2014 to December 2015. Wellington: Family Violence Death Review Committee. URL: <https://www.hqsc.govt.nz/assets/Our-work/Mortality-review-committee/FVDR/Publications-resources/FVDR-5th-report-Feb-2016-v2.pdf>

¹⁰ <https://www.ipca.govt.nz/Site/publications-and-media/2024-media-releases/2024-apr-18-investigation-response-farzana-yaqubi-online-report-.aspx>

Example: Saffron and Neil

Saffron was granted a protection order after she was physically assaulted by her husband, Neil, several months prior.

Neil was arrested for the serious assault against Saffron and his bail conditions included no contact with Saffron and to live separately from her. They separated following the assault.

Saffron shifted to a new, semi-rural community which required a longer commute to work but meant that she was far enough away from Neil that she began to feel safer.

She started a new relationship with Alex sometime afterwards. Not long after she moved, Saffron reported to police that she had been the subject of five events within a short space of time where her house had been burgled and/or her car was broken into or damaged.

She suspected Neil or his friends were responsible, however there was no evidence to confirm this. Saffron had been working with a local rural women's network for support, and police informed her support worker as an 'FYI'. They also suggested financial assistance be offered to Saffron so she could obtain CCTV footage to help identify those responsible for the damage.

One day early in the new relationship with Alex, Saffron saw Neil photographing her car outside Alex's home. A trespass notice was obtained by Alex at this time.

Several weeks later, Alex went to the police station to report that window wipers had been pulled off his car while the car was parked outside Saffron's address. Alex suggested Neil as a suspect and explained that Saffron was also having ongoing issues with Neil.

Alex requested another trespass notice to serve on Neil and mentioned that neighbours had seen Neil hanging around Alex's home address earlier that day.

Police identified that Neil was the respondent of the protection order relating to Saffron. In response, they requested that she come in the following day to formalise a complaint for breaches of the protection order and breach of bail due to the stalking behaviours demonstrated by Neil. Alex told police at this time that he believed he was safe, but that he was more concerned for Saffron's safety.

The attending police officer did not think serving a trespass order was a good idea due to a potential confrontation from Neil at this time. Police entered a file note in their system following Alex's complaint at the station, but they did not link Neil to the file as they deemed there was insufficient evidence for this.

No mention was made of Neil and Saffron in the police records for the wilful damage. No further action was taken by police due to having 'no lines of enquiry'. The following day, Alex was murdered by Neil.

Questions raised by this example

The above example shows how new partners can be at risk of previous partner's violence. This is similar to Lucy and Dan's story, where violence was directed at a child.

- Is it possible to understand that stalking presents risk to other people associated with the relationship, including new partners and other family or whānau members?
- The police response in this situation sought to minimise further harm. What other response options are available? When considering alternative responses, is it possible to avoid placing further burden of response on the individual, their family or whānau?

Threats to kill

The issue

FVDR reviews have highlighted the occurrence of threats to kill the victim ahead of the homicide event.

These may have been made to the victim themselves, to other family members or to friends. The threats might not be taken seriously by the woman or others, and there may be concern that reporting the threat will lead to further harm.

Even when threats to kill or seriously harm are reported, as was highlighted in the *'Inadequate responses to people seeking help'* section above, help seeking is not always met with a response that enhances safety and decreases the risk of harm or death.

While a threat to kill may be interpreted or minimised as 'just words' without action, evidence from FVDR data demonstrates that these threats can become a reality, and the homicide method often mirrors the specific threats made.

Example: Jenny and Justin

Jenny and Justin were described by many of their family and friends as having a 'toxic relationship'.

They had been together for a number of years but separated when Jenny decided she wanted to leave the relationship. This was, in part, due to Justin's ongoing jealousy, paranoia and drug use.

Jenny told Justin she wanted him to move out and they had discussed plans for him to hand over the keys to her house. Around this time, Jenny told a friend that Justin had accepted the relationship was over, and that he was to move out.

Justin believed Jenny was having an affair with another man and, on occasion, Justin was seen parked outside this man's address.

Justin mentioned to a friend that he had a loaded gun and that he believed Jenny was seeing this other man.

On another occasion, a family member observed Justin point a gun-like gesture at Jenny and say to her, "I will shoot you b**ch".

Not long before the fatal shooting, Jenny's daughter observed Justin intently watching Jenny one day, which she thought was unusual. Justin also told another family member that if Jenny was having an affair, he would kill her and then shoot himself.

Around this same time, Justin and a friend went on a short road trip together. Justin said to his friend, "f**k I'd like to blow her away", in reference to Jenny.

The friend asked Justin if he had a gun, to which Justin replied, "yes and it's loaded". The friend thought he was just 'venting' and advised him to cool down. Jenny's mum, Naomi, was also aware of Justin's threats to kill Jenny and then himself.

Naomi believed that Justin had a gun licence for hunting and was worried he might be in possession of guns. She was concerned by this but felt unsure about talking to police and didn't want to bother anyone about it unnecessarily if they were just hollow threats.

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Naomi was aware that their family never went to police about anything. There was some drug use within the family, which was a contributing factor in the family not reporting their concerns to police.

Justin's methamphetamine use made him extremely paranoid and seemed to escalate his underlying jealousy.

Jenny was so scared of him when he was in that state that she had begun purposefully locking all the doors and windows in the house after they separated. This was unusual for Jenny, even though she lived in a busy part of the city.

She told family she was reluctant to make any kind of statement about his behaviour to police, due to potential 'backlash' from him and not really thinking they could do anything to help.

As reported by friends and family members to police after the homicide event, Justin had made a number of threats towards Jenny. This included threats that reflected the specific manner in which he ended up taking her life and then his own.

Questions raised by this example

- In this example, the family were concerned that reporting the threats to kill to police would lead to prosecution for other behaviours (such as drug use). In these situations, how can family or whānau feel confident about reporting behaviour that involves threats to life?
- The example also highlights the need for family, whānau and helping services to act when they are aware that threats to kill have been made. How can families or whānau be better informed and supported to consider reporting threats to kill to relevant authorities or social services?

Summary

This paper highlights that:

- breaches of protection orders and other bail conditions may be a feature of stalking
- children and new partners are at risk of escalating violence in the presence of intimate partner stalking
- stalking is a pattern of behaviour that can take on many different forms (apparently benign and threatening, physical and non-physical)
- alternative responses that create safety should be considered when prosecution is not deemed an appropriate response.

Recommendations:

The FV SMEs recommend:

1. Any stalking legislation be based on a comprehensive understanding of violence, as described in the Family Violence Act (2018), including an understanding of patterns of harmful behaviours.
2. Family violence responders are supported to take heed of the concerns of family and whānau members who report violence.

3. Consideration should also be given to supporting and providing a whole of family, whole of whānau response where stalking is evident.

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Te Kāwanatanga o Aotearoa
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