

THE 'STRANGE' SENTENCING: THE NEW STALKING LAWS AND THE PLACE OF STALKING IN INTIMATE PARTNER SEXUAL VIOLENCE

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The New Zealand government plans to introduce a stalking offence into the Crimes Act 1961. At the time of writing the Justice Select Committee has unanimously recommended that the Crimes Legislation (Stalking and Harassment) Amendment Bill proceed. The Bill aims to improve the criminal justice response to stalking—a response that was demonstrably lacking when AUT law student Farzana Yaqubi complained to the police that she feared for her life due to Kanwarpal Singh's disturbing stalking behaviours. She was stabbed to death by Mr Singh several days after her second police report in December 2022. Advocates for the Bill argue that there is a lack of appreciation amongst criminal justice agents that stalking is not 'wrongheaded romance' but poses a serious threat of harm to victims. This misunderstanding is reinforced by the current situation in which legal responses to stalking are piecemeal and patchwork.

With the impending legislation, comparatively poor understanding of stalking, and the rapid increase in the digital means to stalk, police, lawyers and the judiciary must become more familiar with stalking behaviour, the harm it does, and the new legal framework for responding to it. In this article, we outline the nature and scope of stalking behaviours and offer a framework for identifying stalking, describe the harm that stalking does to victims, and outline and contextualise the proposed legislative changes. We then go on to scrutinize a recent Court of Appeal decision on sentencing, *Liam David Strange v R* [2024] NZCA 673, in which the Court struggled to conceptualise the role of stalking in a case of intimate partner sexual violation. Our analysis of the case demonstrates how a stalking framework helps to articulate the operation of stalking in a factual scenario, how it aggravates harm and culpability, and highlights the scope and limits of the impending legislative changes.

What is stalking and what are its harms?

Stalking is a course of conduct or pattern of unwanted behaviour that intrudes on the victim's life, causing them fear, distress or apprehension. It is the insidious, persistent and intrusive

nature of the stalking behaviours and their cumulative effect that can cause victims to become hypervigilant, fear for their safety, or reduce their sphere of activities. It can escalate quickly, is associated with physical and sexual violence, and with an elevated risk of homicide, especially when ex-partners are involved (J Monkton Smith, K Szymanska and S Haile *Exploring the relationship between stalking and homicide*. University of Gloucestershire, 2017). Stalking often goes unrecognised because it can manifest through a wide range of behaviours, many of which appear innocuous when viewed as a single incident and out of context. For example, sending gifts might appear innocuous, but not to a stalking victim. Mr Singh had a pizza delivered to Farzana's home, which in the context of his stalking, was a frightening indication that he knew her home address.

Stalking can occur in a wide range of situations. The term arose to describe the obsessive following of celebrities, a phenomenon that is increasingly common for women in public-facing roles due to the ease of using digital means to stalk (Rhiannon Watson and others "Misogyny, racism, and threats to our families: a qualitative study of harassment of female politicians" (2025) *Kotuitui*, 1). Stalking is common in intimate partner violence contexts—both pre and post separation—and there is significant overlap with a pattern of coercive control (Natalie Thorburn and Ang Jury *Relentless, not Romantic: Intimate Partner Stalking in Aotearoa New Zealand* (National Collective of Independent Women's Refuges, 2019). And, as Farzana found, one or two minor interactions with an 'intimacy seeker' can escalate into stalking (Paul E Mullen, Rosemary Purcell and Geoffrey W Stuart "Study of stalkers" (1999) 156(8) *Am J Psychiatry*, 1244).

Logan and Walker provide a conceptual framework of stalking that is consistent with most legal definitions of stalking (TK Logan and R Walker "Stalking: A multidimensional framework for assessment and safety planning" (2017) 18(2) *Trauma, violence & abuse*, 200). They identify three critical components of stalking: (1) An *intentional course of conduct* that causes (2) *reasonable fear or distress* and (3) is *unwanted*. Their framework recognises that the course of conduct goes beyond surveillance and involves actions that intrude on victims' lives in other ways. They use the acronym SLII to capture this: *Surveillance*, such as in-life watching, or monitoring and tracking, which in today's world can involve the use of cameras, tracking devices, drones, hacking into computers, phones, and other devices. *Life invasion*, which

involves unwanted contact with the victim, commonly to such an extent that the victim feels their everyday thinking and living is “invaded” by the stalker. *Intimidation* or threats by any means. Threats can be towards the victim or loved others, or threats to kill the victim, their loved ones or suicidal threats by the stalker. *Interference* or actions designed to sabotage or damage the victim’s reputation or life. These can be actions such as publishing harmful information about or relating to the victim or telling the victim’s employer or other important people or organisations in the victim’s life negative and damaging stories about the victim.

An alternative acronym for this framework is SUTL: Surveillance, Unwanted contact, Threats and Life sabotage. Farzana Yaqubi reported to police Singh’s behaviour across this range: the *surveillance* of being physically followed and monitored through social media, the *unwanted contact* of repetitive, invasive messaging and new social media profiles, the *threats* to throw acid on her face and to kidnap her, the *life sabotage* of befriending her family through social media and stalking her at her workplace and when shopping. Many instances of stalking will involve only some of these dimensions, but viewed through this framework of constant mental invasions the risks to mental health and emotional wellbeing are evident, as is the extension of harmful impacts into a victim’s social, employment and relational spheres of life. Stalking is considered a high-harm crime and has been described by the Prime Minister of the United Kingdom as: “make[ing] life a living hell for the victims—breaking up relationships, forcing the victims to move house, making them feel they are being watched 24 hours of the day.”

What will the new stalking legislation do?

New Zealand’s existing legislation relating to stalking is piecemeal and patchwork and there is currently no dedicated stalking offence. The Harassment Act 1997 provides civil remedies for harassment of those not in a family relationship with the offender and includes a criminal harassment offence. That offence has been identified as having deficiencies when applied to stalking including the definition of the actus reus, the high standard of mens rea required (‘intent’ and ‘fear for safety’), the two-year maximum penalty, and a lack of available defences (*Regulatory Impact Statement: Establishing an offence of stalking* (Ministry of Justice, 26 September 2024)). The Family Violence Act 2018 provides civil protection orders for psychological abuse including harassment of those in a family relationship and criminal sanctions for breaching those orders. The Harmful Digital Communications Act 2015 provides

mediation, civil and criminal processes for addressing any digital communications that could constitute a stalking act. The Crimes Act 1961 makes offences of threats including threatening to kill, to harm a person or property, and threats to intimidate with firearms. [Stalking can also constitute an assault due to the intense fear it causes. In *Reg. v Burstow and Ireland* [1997] UKHL 34 it was held that stalking can cause psychiatric injury, a form of bodily harm]. The Summary Offences Act 1981, s 21 makes an offence of Intimidation, including threats to injure or damage property, following, watching and loitering, stopping or accosting a person in a public place. The Victims of Family Violence (Strengthening Legal Protections) Legislation Act 2025 will come into effect in February 2026 and enables judges to restrict court proceedings if they consider them to constitute litigant abuse, one of a number of actions used by stalkers as life sabotage.

The difficulty with this legislative framework for police is that many of the criminal provisions are situated within civil law, the criminal offences capture only aspects of stalking as a phenomenon, which provision applies to a given incident depends on various factors such as the nature of the relationship between the parties, and the seriousness of the offending is obfuscated. Victims, usually young women, who might not contact the police until they become quite desperate and very fearful, and who might present quite tentatively in the description of the stalking acts, are easily deflected from proceeding when police describe such actions as harassment and suggest they take civil action. As identified in the IPCA investigation into the police response to Farzana Yaqubi's complaint, there may also be cultural or religious factors that influence how victims engage with police (Independent Police Conduct Authority "IPCA investigation into Police response to Farzana Yaqubi's online report prior to her murder" (Media release, 18 April 2024)). Police do not currently have a fit for purpose risk assessment framework, and as appears to have occurred in Farzana's case, might not prioritise investigations when they consider stalking as a minor offence or outside the provisions of the Crimes Act. Similarly, prosecutors might not put adequate time into making a case for prosecution, and factfinders might treat the stalking acts as trivial or the victim as unnecessarily fearful. The outcomes for some victims, however, are tragic, potentially resulting in mental or physical injury or even death.

The proposed legislation introduces a new stalking and harassment offence subpart (sections 216O to 216Q) into Part 9A of the Crimes Act 1961, which deals with crimes against personal privacy. Having dedicated stalking legislation will bring New Zealand in line with all 50 USA States, the United Kingdom and Ireland, all Australian States, and the expectation on all European Union member States. Stalking and harassment is defined in s 216O as engaging in a pattern of behaviour by doing any specified act (set out in s 216P) on at least two separate occasions within 24 months knowing that it is likely to cause fear or distress to the targeted person. The definition includes a Police notice system that creates a presumption of knowledge when after a single act, a constable with reasonable grounds to believe the act has caused fear or distress to a person, gives notice that the acts are, or are likely to, cause fear and that engaging in any other specified acts may amount to the stalking offence. Specific defences are provided for (s 216Q) where the acts have lawful purpose, reasonable excuse (such as victims gathering evidence of being stalked), or is in the public interest (Crimes Legislation (Stalking and Harassment) Amendment Bill 2024 (107-2) (Justice Committee Report)).

There has been debate about the subjective knowledge element of the offence which places a significant burden on the prosecution and may undermine the utility of the offence. Arguably, a recklessness or negligence standard would be more functional—particularly given the defences provided for (Coalition for the Safety of Women and Children “Submission to the Justice Committee on the Crimes Legislation (Stalking and Harassment) Bill”, 6 March 2025). A lower standard would also be consistent with trends in US and European stalking legislation (Suzan van der Aa “New trends in the criminalization of stalking in the EU member states” 24(3) European Journal of Criminal Policy and Research, 315). For example, the 2012 criminal stalking law in England and Wales includes “stalking involving fear of violence or serious alarm or distress,” and a reasonable person standard for fear, alarm or distress (Protection of Freedoms Act (UK) 2012, s 111). A parallel concern is that the police notice system that is intended to ameliorate the difficulties with the high mens rea requirement, defies the evidence that stalking often escalates, rather than diminishes, after legal intervention (*The Model Stalking Code Revisited: Responding to the New Realities of Stalking* (National Center for Victims of Crime, Washington DC, 2017)). Thus, this system could increase the danger to some victims, an outcome that is especially problematic given that there is no requirement on Police to notify victims that they will give, or have given, notice to an alleged stalker.

The maximum sentence for the new offence is imprisonment of up to five years, indicating the seriousness that should be attributed to this crime. This is significantly higher than the two years' imprisonment in the Harassment Act offence that will be repealed, and brings New Zealand law more in line with Australia, the United Kingdom and the USA, where stalking sentences can be up to five- or ten-years imprisonment. Stalking, the Bill signals, cannot be understood to be a trivial offence. The Bill also makes some consequential amendments. It will disqualify a person convicted of stalking from holding a firearms license for 10 years, allow restraining orders under the Harassment Act 1997 or Harmful Digital Communications Act 2015 to be made when a person is convicted of the new offence, allow the court to order disposal or forfeiture of intimate visual recordings obtained as part of the pattern of behaviour that constitutes stalking, expand the definition of psychological abuse in the Family Violence Act 2018 to include stalking, prevent self-represented defendants from being able to personally cross-examine complainants and introduce stalking as an aggravating factor under the Sentencing Act 2002. That aggravating factor may take one of two forms: under s 9(1)(cb) if "the offence was committed while the offender was subject to a restraining order under the Harassment Act 1997 for the protection of the victim of the offence, or under s 9(1)(cc) if "the offence was connected to, or followed, persistent or repetitive behaviour by the offender towards the victim over a prolonged duration that caused, or was likely to cause, fear or distress to the victim".

Law change is, however, only one aspect of an effective criminal justice response to stalking. In consultation with violence specialists, Police are developing guidelines for investigating reports of stalking and prosecuting the new offence. Information resources and specialised education for prosecutors and the judiciary are needed. A public information campaign could improve the effectiveness of the new offence and increase public confidence in the criminal justice system, particularly considering the high-profile nature of cases such as Farzana Yaqubi's killing. As defendants will be entitled to elect a jury trial, it may also contribute to educating potential jurors. There is also a need for identifiable and specialist support services for victims. Stalking is associated with mental illness and personality disorders (PE Mullen, M Pathé and R Purcell *Stalkers and their victims* (Cambridge University Press, 2000)), has very high stalking and violence recidivism rates (AW Eke and others "Predictors of Recidivism by Stalkers: A nine-year

follow-up of police contacts” (2011) 29 Behav. Sci. Law, 271; HC Chan and L Sheridan *Psychocriminological approaches to stalking behaviour* (Wiley, 2020)) and can negatively impact children (M. Laitinen, A Nikupeteri and HC Chan *Ex-partner stalking and children* (Wiley, 2025)) so specialised treatment and rehabilitation services for offenders are vital.

The new criminal offence will not capture all stalking behaviour. This reflects the drafting of the offence, which requires two occasions over a limited timeframe, and stalking does not always follow this pattern. There is also a high occurrence of stalking in intimate partner violence cases, but the overlap with manifestations of psychological abuse including coercive control tends to obscure its recognition and its seriousness to people outside of the relationship. With this in mind, we now turn to discuss the case of *Strange v The King*.

***Strange v The King* [2024] NZCA 673**

In this case, the decision of Judge MA Crosbie in *R v Liam David Strange* [2024] NZDC 24111 to sentence Mr Strange to imprisonment for two years, two months and two weeks on the charge of sexual violation by unlawful sexual connection was overturned. The Court of Appeal sentenced Mr Strange—who had spent two months in prison—to nine months home detention. The Court of Appeal considered that the Judge had erred in his assessment of the six culpability factors he had identified according to *R v AM* (CA27/2009) [2010] NZCA 114): Premeditation, violence and home invasion, vulnerability, harm to the victim, scale of offending and degree of violation, and breach of trust. In the following, we set out the facts of the case, apply Logan and Walker’s SLII framework to them to unpack the place of the stalking in the sexual offending and as a manifestation of intimate partner violence, and then, in light of that analysis, scrutinize the Court of Appeal’s assessment of the culpability factors relevant to determining the sentence starting point.

Mr Strange was in a relationship with the victim for around three years. Five days before the offending, Mr Strange attached a GPS tracking device to the victim’s car without her knowledge. He monitored the device on the evening before the offending, when he located the car at shops opposite a bar, about an hour later when the car was being driven, and again at around 10.30 pm when he located the car outside the victim’s male workmate’s property. At 3 am the next day, he phoned the victim and accused her of having sex with someone else, and said he was

coming to the victim's home. The victim, who was frightened, told him not to come. She woke her flatmate and checked that all the doors were locked. Mr Strange ignored the victim and drove to her house, on his way using his phone to photograph the workmate's car. When he arrived at the victim's home he removed the tracking device from her car, broke into the house and entered the victim's bedroom. He accused her of cheating on him. The victim asked him to leave multiple times before he left. She called the Police, who attended. After the Police left the victim went to sleep.

Five hours later, the victim woke to find Mr Strange standing beside her bed. He had entered the property with a key obtained from the owner. He again accused the victim of cheating on him and wanted to see the messages on her phone. The victim rolled over to get away from him. Mr Strange put his hands down the back of her pants and digitally penetrated her genitalia. The victim asked what he was doing, and he told her that he needed to check to see if she had had sex with someone else. He removed his fingers, smelled them, and said "oh you didn't". He left the house shortly afterwards.

What stalking actions were there?

According to the framework, there are four categories of stalking, though all do not have to be present for stalking to have occurred: Surveillance, life invasion (or unwanted contact), intimidation (or threats), and interference (or life sabotage).

(1) *Surveillance* was present in several forms in this case and is critical to understanding premeditation. Mr Strange bought a tracking device a few days before the offence and installed it on the victim's car. He monitored her actions from place to place through the tracking device on the night before the sexual violation. When driving to her place at around 3 am on the day of the offence he took photos of her workmate's car, indicating further surveillance of someone connected to her, known as proxy stalking. Furthermore, he appeared to be aware that his tracking of her might be incriminating of him, so he removed the tracking device from her car prior to forcibly entering her home, a further act of surveillance of her. After he left, he returned at around 8 am and she awoke to find him standing there, another act of surveillance. He sexually violated her by inserting his fingers into her genitalia. This act of sexual violation was another act of surveillance. He stated that he was carrying out the act to determine whether

she had been unfaithful to him, and on conducting his bodily examination of her he accepted that she had not been.

(2) *Life invasion/Unwanted contact*. There was clearly unwanted contact: Mr Strange phoned the victim at 3 am on the day of the sexual violation, accused her of having sex with someone else; he broke into the victim's house when she had asked him not to come around and had locked all the doors, leaving only after she had asked him to several times; he entered the house again at around 8 am using the owner's key, when the victim had clearly stated that she did not want him there and had informed the Police of his earlier breaking and entering. There was sexual violation of her. All these actions reveal unwanted contact.

(3) *Intimidation/Threats*. The victim clearly felt intimidated and threatened by Mr Strange. At his 3 am phone call to her he stated that he was coming around to her place and he was angry. She told him not to come, and she was frightened. She felt threatened to the extent that she woke her flatmate and checked that all the doors were locked, and she was right to feel threatened and afraid because of his subsequent actions.

(4) *Interference/Life sabotage*. Life sabotage was not a predominant feature described in this case, but it should be considered as a component through the harm done to the victim. (Invasion of her home could be interpreted as an act of life sabotage, though it is also unwanted contact).

Stalking is integral to understanding domestic violence and that is why advocates have pushed for a criminal stalking law in New Zealand. Domestic violence against women or intimate partner violence is not simply the use of physical or sexual violence to subjugate the victim but goes further to involve the employment of tactics of coercive control. Surveillance is an integral part of coercive control because such control is not possible without knowing what the victim is doing at every stage of their day. Surveillance enables the perpetrator of domestic violence to interfere with the victim's contact with others, who might challenge the perpetrator's behaviour and construction of their view of the victim, to have control over what they do in their daily lives and sometimes have control over the victim's very necessities of life. It enables the perpetrator, as Evan Stark stated, to "micro-manage" the victim's life such that she cannot escape his presence (Evan Stark *Coercive control: How men entrap women in personal life* (Oxford University Press, 2007)). Physical or sexual violence and threats are used intermittently to reinforce the coercive control. But it is the coercive control or the psychological violence that

is ever present, and which victims describe as the worst form of violence as it demeans them and diminishes their capacity to think clearly. Stalking, and particularly surveillance and threats, are integral to coercive control. Unwanted contact is commonly part of that surveillance as occurred in this case. Stalking, while commonly present as surveillance within the relationship, enables the domestic violence and coercive control to continue post-separation.

Assessing culpability

Assessing the gravity of the offending, the Court of Appeal disagreed with Judge Crosbie's evaluations of the degree of violation and the level of violence, disagreed that victim vulnerability was present as an aggravating factor, disagreed with the Judge's view that the offending involved premeditation, and disagreed that the offending involved a breach of trust. They held that: "Overall, the degree of sexual violation was low and the violence associated with it only mild. The culpability factors were degradation (to a low degree), invasion of the victim's home and personal space (to a moderate degree) and harm to the victim (to a moderate degree)" (at [28]).

What was the degree of violation?

Judge Crosbie had characterised the sexual violation as having elements of degradation and cruelty. He considered that Mr Strange had treated the victim as a chattel in "an appalling display of power and control" that needed to be seen in the context of the defendant's "tracking". In contrast, the Court of Appeal assessed the degree of violation as minimal and disagreed with the Judge's view that there was an element of cruelty in the sexual offending, saying: "The fleeting nature of the violation speaks for itself" (at [21]). A stalking analysis demonstrates that the degradation went beyond verbal degradation to bodily surveillance and scrutiny of the victim through sexual violation, elevating the degradation to higher level. As the Judge was also seeing, the sexual violation occurred within the context of a relationship of "power and control"; in other words, a relationship involving Mr Strange's domestic violence towards the victim. This act, when performed by a partner or ex-partner as an act of surveillance to determine infidelity, would certainly be constructed as a more than minimally degrading and humiliating act by most women.

What was the level of violence?

There is a constant expression of concern by advocates and women victims of domestic violence about the minimization and trivialization of psychological violence by the courts.

Victims of domestic violence commonly describe psychological violence as the worst of the various forms of violence, and coercive control can be such that it is impossible for the victim to lead a normal life. As the UK Prime Minister stated, stalking “makes life a living hell for victims.” As discussed above, the Court of Appeal disagreed with the Judge that the violence was degrading and demeaning and therefore also disagreed that this factor elevated the level of seriousness to a low to moderate degree. They considered the violence associated with the sexual violation as not more than mild, which the Court had held in *R v AM*, is insufficient to constitute an aggravating factor. In doing so, the Court appear to equate seriousness with physical violence. However, when there is stalking which involves disruptions to the victim’s sleep, unwanted intrusions into the victim’s life including invasion of her home and sexual violation alongside accusations of infidelity, the level of violence must be beyond mild. When stalking moves beyond threats and unwanted contact to physical intrusions into the person’s home and body it is psychological violence of a high level.

Was the victim vulnerable?

Judge Crosbie had assessed victim vulnerability as a present aggravating factor on the basis that she was in a place where she was entitled to feel safe and secure. The Court of Appeal did not consider this a matter of vulnerability, seeing it instead as an aspect of the home invasion which should not be double counted as victim vulnerability. However, beyond home invasion, the Judge was attending to the fact that the victim was in bed and was asleep when the offender entered her house for the second time and appeared at her bedside. Being in bed and asleep prior to the sexual violation is a physically vulnerable position that made her less able to defend herself. There is also the matter of the stalking, and the message that the second home invasion gave to the victim: that Mr Strange was not bound by her call to the Police and would engage in unwanted contact to satisfy his desires to interrogate her further despite her attempt to involve the authorities to stop him. Thus, his earlier victimisation of her increased her vulnerability when she awoke to him standing over her in bed.

Was there premeditation?

The Court of Appeal held: “We disagree with the Judge’s view that there was premeditation to the sexual violation” (at [26]). However, premeditation cannot be safely determined without fully understanding the role of stalking in this case. The above stalking framework clearly demonstrates that the sexual violation involved the surveillance of the victim for sexual infidelity. The sexual violation should be understood as an act of stalking surveillance and part

of a premeditated course of conduct that night to ascertain her sexual faithfulness to Mr Strange. His digital penetration of her genitalia to determine whether she had had sex with another was the last act of that stalking surveillance.

Was there a breach of trust?

The Court of Appeal stated that “We disagree with the Judge’s view that the offending involved a breach of trust.” In making this decision the Court referred to the relationship as “tenuous” and that there was not a “familial” or “other type of trust relationship” between them (at [27]). This analysis is surprising, given that the offender and the victim were described as having been in a relationship for three years and that the Crown was seeking final protection orders only available under the Family Violence Act 2018. Section 194A of the Crimes Act 1961 refers to a family relationship as having the same meaning as that in the Family Violence Act 2018, s 12. In that Act a person is in a family relationship if they have a close personal relationship, or if they are members of the same family, or if they are a spouse or partner, or if they share a household. Under s 14 of that Act a close personal relationship is not limited, and in practice, ex-partners and dating partners are generally included in this definition.

Consideration must also be given to the description of the relationship as tenuous. This was not defined in the judgments but could indicate that the relationship had been ‘on-again and off-again’ one as characterised by Jordan Tomkins, Lisa Tompson and Devon LL Polaschek (“Hiding in plain sight: Identifying partner stalking in intimate partner violence episodes reported to New Zealand Police” (2025) 31(1) *Psychol., Crime & Law*, 91) when researching stalking cases. Usually women make several attempts to leave a relationship where the man has been violent before successfully ending the relationship (see Jennifer Hand and others *Free From Abuse: What women say and what can be done* (Public Health Promotion, Auckland District Health Board, 2002), because the period around separation is the most dangerous time for such victims (Neville Robertson and others *Living at the Cutting Edge: Women's experiences of protection orders. Volume 2: What's to be done? A critical analysis of statutory and practice approaches to domestic violence* (Waikato University, 2007), and where stalking is present victims are commonly at risk for up to two years post separation (Paul E Mullen, Rosemary Purcell and Geoffrey W Stuart “Study of stalkers” (1999) 156(8) *Am J Psychiatry*, 1244). Consequently, the characterisation of some such relationships as on-again and off-again, or ‘tenuous’, could well reflect an intimate relationship featuring chronic abuse, coercive control

and/or stalking that the victim wishes to escape. The Crown's application for final protection orders for this victim also suggests this possibility. Whether the victim was a partner or ex-partner, sexual violation would still be considered a breach of trust. There was insufficient reasoning for the conclusion that this was not a "familial" relationship and therefore the refusal to accept a breach of trust was surprising.

Conclusion:

Our analysis of *Strange* demonstrates how a failure to understand and apply a specific and nuanced stalking framework obscured recognition of the sexual violation as the culmination of a course of stalking surveillance. We contend that this lack of recognition led the Court of Appeal to underestimate the overall seriousness of the offending and to misjudge the presence and degree of the culpability factors relevant to determining the starting point for the sexual violation by unlawful sexual connection charge. A similar conclusion might be drawn in relation to Farzana's Yaqubi's killing—that a failure by Police to recognise the presence and seriousness of stalking meant they did not take actions that might have prevented her death. The stalking legislation is expected to pass its second reading in the House in June 2025, its third by the end of the year, and pass into law in 2026. As it stands, it would have offered greater protection for Farzana and an easier pathway for the police to arrest and prosecute Mr Singh for his stalking of her.

It is unclear whether that legislation would have changed the outcome in the *Strange* case, however. Would the police who attended that night have analysed Mr Strange's installation and removal of the GPS device, monitoring of the victim's movements, and his invasion of her house as (at least) two stalking occasions and that he knew that that pattern of behaviour was likely to cause fear or distress to the victim, and therefore arrested him and potentially prevented the sexual violation? If not, would the sentencing Court have recognised that the sexual violation was offending connected to persistent or repetitive behaviour over a prolonged duration that caused or was likely to cause fear or distress to the victim, and assess the offending as more serious because of that factor? The legislative framing of stalking as repeated occasions over defined timeframes has the potential to continue to obscure recognition of stalking, particularly in a system that presumptively excludes contextual evidence. We hope

that the stalking framework and factual analyses in this article can assist legal professionals to articulate the operation of stalking in criminal offending.