

Following, harassing and monitoring

Domestic and family violence behaviours that involve a perpetrator following, harassing or monitoring the victim are forms of **stalking or surveillance** designed to deprive the victim of privacy, autonomy and a sense of safety. These abusive behaviours may occur while the perpetrator and victim are in an intimate relationship, or they may commence or intensify upon separation [Bagshaw 2000].

The perpetrator's detailed knowledge of the victim's workplace, family, friends, daily routines, regular hangouts, online activities, inclinations, concerns and fears enables the perpetrator to employ an array of abusive tactics that may be overt and intimidating (for example: letting the victim know they are being watched or overheard) or covert and thus difficult for the victim to anticipate, detect or trace (for example: amassing information about the victim's movements that can later be used to monitor, threaten or humiliate the victim [Stark 2007]).

Studies indicate that these abusive behaviours may be accompanied by incidents of theft, trespass and property damage, and are compelling **risk factors** for all other forms of domestic and family violence. Where the perpetrator and victim have children in common, handover occasions may increase the risk of further violence [Mechanic et al 2000] and provide an opportunity to conceal or check tracking and surveillance devices.

Recent research [ReCharge 2015] demonstrates a dangerous prevalence of cyber stalking and cyber surveillance, which use digital information and internet and communication technologies as tools for the perpetration of domestic and family violence, also known as technology-facilitated abuse and stalking. These technologies involve the associated use of computers, smart phones and other communication devices such as global positioning systems (GPS) or satellite navigators, digital cameras and other recording equipment ('digital device'). Increasingly, they are recognised as easy, accessible and instantaneous methods by which a perpetrator can control, monitor, humiliate and shame the victim, and make it more difficult for the victim to leave the abusive relationship or seek help.

These technology-facilitated methods are highlighted in the following examples:

- Monitoring (for example, via Skype) the whereabouts and movements of the victim or children in real time.
- Remotely accessing, taking control over and altering or deleting the software and files on a victim's digital device.
- Sending abusive messages and altering the sender identity information so as render the origin untraceable.
- Visiting offensive websites, and then making contact with the host or bloggers under the guise of the victim, and expressing an interest in violent or abusive pornography or being **raped or sexually assaulted**

- > Sending text messages to the victim communicating threats and verbal abuse.
- > Using social media sites such as Facebook to publicly accuse and blame the victim.
- > Accessing a tracking device in the victim's car via any digital device and repeatedly texting the victim to communicate the perpetrator's knowledge of the victim's whereabouts.
- > **Taking intimate images** [Powell & Henry 2015] of the victim (with or without consent) on any digital device and distributing them or threatening to do so; this includes the non-consensual sharing of intimate images, commonly referred to as 'revenge porn' [Henry et al, 2017].
- > Installing an application or spyware on the victim's digital device that:
 - > allows access to the victim's text messages, emails, social media accounts, camera, call logs, photographs, contacts and browsing history;
 - > enables the recording and receiving of the victim's phone calls [Sun 2015]; or
 - > converts the victim's digital device to a remote listening device.

Due to the seemingly elusive or ambiguous nature of some of these abusive behaviours, a victim may feel a heightened sense of fear and powerlessness, and yet the victim may be the only means by which the police can gather evidence of the behaviours. A significant barrier for victims of technology-facilitated abuse and stalking may be a perception by police or judicial officers that the behaviours are less serious than physical violence and, as a consequence, there may be a tendency to **trivialise the victim's experience** and minimise the harm suffered, leading to inadequate legal responses. It is important in protection order application proceedings where a victim is seeking protection from these forms of abusive behaviours that the **conditions** of the protection order specifically address the behaviours.

In some circumstances victims may use Internet and digital technologies as a safety aid in preventing or escaping domestic and family violence [Hand et al 2009], however this may also leave the victim vulnerable to accusations of stalking or surveillance-like behaviour. For example, a victim may record repeated incidents of violence with the intention of proving a pattern of violence. Such behaviour may be lawful [Recording and surveillance]. It is important therefore to distinguish between behaviours that are protective on the part of the victim, and those that constitute violence by a perpetrator. There are resources available that provide information about how to ensure safety when engaging with technology [Recording and surveillance]. In some cases recording private conversations, and maintaining surveillance, may be legally justifiable. Increasingly private individuals seek to have their recordings of other's private conversations and activities admitted as evidence in legal proceedings in domestic and family violence related cases. Often the recording and surveillance material is collected covertly. Legislative responses to these issues vary across Australia [Recording and surveillance].