

The rise of technology as a vehicle to domestic and sexual violence against women.

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Outline

 The Impact of Technology on Crime and Legal Responses

 The Intersection of Technology on Domestic and Sexual Violence

Stalking and Technology

Questions





Why is this important?

 Council of Australian Government has flagged this as an emergent issue

"Technology-facilitated abuse encompasses the non-consensual distribution of sexual images, as well as stalking, monitoring of location via car or mobile device GPS systems, harassment and abuse through social media, texts or email and monitoring and tracking of website history of computers or mobile devices"

• Strategies to reduce the increased use of technology to facilitate abuse against women



The impact of technology on crime

The rise of technology has impacted on criminal activity in a number of ways



Movement to the virtual world



Acquisition of new victims



Extension and facilitation of traditional offences



Creation of new offences



A new offence – 'Revenge Porn'

- Has been driven by three factors:
- the ability to create content
- the ability to distribute this content
- the assistance in many cases of facilitators to distribute to a much wider audience
- To be considered revenge porn the following elements usually present
- ✓ Existing or previous relationship
- ✓ Intent to cause harm
- ✓ Unauthorised public release of
- ✓ Intimate images
- √ Technology facilitated



Expansion of the offence

- "revenge porn" term now seems to be used to capture any illegal distribution of an intimate image
- Used for mass victims
- Brisbane and Adelaide examples
- Adelaide release initially consisted of original nude images but then had faked nude images added





Australia

- Specific and non-specific
- Victoria Summary Offences act 1966 sect 41DA - Distribution of intimate image
- A person (A) commits an offence if—
 - A intentionally distributes an intimate image of another person (B) to a person other than B; and
 - the distribution of the image is contrary to community standards of acceptable conduct.
 - 2 years imprisonment
 - Does reference social media
- Additional section covers threats to distribute
- Guided by "community standard" test
- Competition between privacy and freedom of expression



Australia

- Victorian laws similar to South Australian Laws, sections 26B and 26C of the Summary Offences Act 1953 (SA), which created the offence of distributing an invasive image.
- Also Federal laws, using a carriage service to menace, harass or cause offence (Criminal Code Act 1995 (Cth) section 474.17)
- ...reasonable persons would regard as being, in all the circumstances, menacing, harassing or offensive.
- Queensland stalking, Domestic Violence legislation



Overseas - UK



- UK Section 33 of the Criminal Justice and Courts Act 2015
- It is an offence for a person to disclose a private sexual photograph or film if the disclosure is made—
 - (a)without the consent of an individual who appears in the photograph or film, and
 - (b)with the intention of causing that individual distress.
- Does not specifically mention technology based offences



Overseas - the US and Canada

- US Federal law proposed bill to be introduced
- Numerous states have enacted laws
- E.g., Colorado
- Canada amended the Criminal Code section 162.1 Publication etc., of an intimate image without consent





US – Colorado law

- Colorado Revised Statutes, 18-7-107 and 18-7-108 - offence of posting a private image for harassment
- √ 18 years of age
- ✓ He or she posts or distributes through the use of social media or any web site
- ✓ Any photograph, video, or other image displaying the private intimate parts of an identified or identifiable person eighteen years of age or older
- ✓ Intent to harass and inflict serious emotional distress upon the person depicted
- ✓ Without consent of the person
- ✓ When the depicted person would have a reasonable expectation that the image would remain private
- ✓ The conduct results in serious emotional distress of the person depicted

State	Technology specific	Consent element	Intent element	Type of harm	Type of image	
UK	No	Yes	Yes	With the intention of causing that individual distress	A private sexual photograph or film	
Canada	No	Yes	Yes (refers to knowingly or being reckless)	None required	Intimate - in which the person is nude, is exposing his or her genital organs or anal region or her breasts or is engaged in explicit sexual activity	
Colorado	Yes	Yes	Yes	To harass the depicted person and inflict serious emotional distress upon the depicted person and the conduct results in serious emotional distress of the depicted person	Private intimate parts -means external genitalia or the perineum or the anus or the pubes of any person or the breast of a female	
California	No	Yes	Yes	Will cause serious emotional distress, and the person depicted suffers that distress	The image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation	
Idaho	No	Yes	Yes (mentions reckless disregard)	None required	Image or images of the intimate areas of another person or persons	
Virginia	No (but does mention service providers)	Yes (mentions not licenced or authorised)	Yes	To coerce, harass, or intimidate	Any videographic or still image created by any means whatsoever that depicts another person who is totally nude, or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast	



Extension and facilitation of traditional offences

- Queensland Domestic and Family Violence Protection Act 2012
- Meaning of domestic violence s8
- Domestic violence means behaviour by a person (the first person) towards another person (the second person) with whom the first person is in a relevant relationship that—
 - (a) is physically or sexually abusive; or
 - (b) is emotionally or psychologically abusive; or
 - (c) is economically abusive; or
 - (d) is threatening; or
 - (e) is coercive; or
 - (f) in any other way controls or dominates the second person and causes the second person to fear for the second person's safety or wellbeing or that of someone else.
- Does make allowance for unauthorised surveillance of a person by the use of technology;



Extension of DV matters using technology

- Technology now being used to facilitate location of victims of DV
- Use of props, mobile phone apps
- Go card transport information
- Workers in the domestic violence sector believe the use of technology for stalking cannot be stopped and the only defence is education and awareness.

'Stalker apps' and GPS allow domestic violence abusers to discover hidden refuges

By Matt Wordsworth

Updated Sun 28 Jun 2015, 12:59pm

Refuges that house victims of domestic violence are increasingly being discovered by perpetrators using "stalker apps" and GPS locators hidden in their victim's phones, cars and in one case, a child's stuffed toy.

Support workers say victims now face the grim realisation they may always have to look over their shoulders thanks to the array of tracking technology that is cheaply and easily available.

One woman, Diana (not her real name), experienced it first hand after meeting her ex-partner on an access visit for their young daughter.

"He came with a backpack to the changeover and there was a doll in the



PHOTO: A domestic violence victim found a GPS tracker hidden in her daughter's doll. (ABC News)



Death by text





Some of the texts

- □ Shearin: "(expletive), that's it Bree. We are fuming through. Your mincing out next week, you stupid sucking idiot. You are a complete (expletive) moron. I do not want a stupid, dumb, (expletive) (expletive) in my life. Start looking today because you have one week."
- □ "I can't believe how stupid you are. Despite me saying not to, YOU (expletive) STUPID BITCH. This is the last straw.
- □ Shearin: I asked you to do a simple thing and you can't even do that. You are moving into the spare room tonight and I'm looking for someone else to treat me better.
- □ Bree: I love you so much. I hope I can fix us and make you happy.
- ☐ Shearin: You are the worst excuse for a GF that I have ever met.
- ☐ You make things worse and worse every day. You never try and refuse to make it work despite how many times I have ask you to, you refuse to even try. You refuse to ship me any love and you refuse to just hold me and be with me.



Outcome

- Defence argued only 12 texts were offensive, and that the exchange was 50-50
- Shearin pleaded guilty to a single charge of using a carriage service to menace or harass Bree
- Magistrate John Costanzo said Shearin had launched a campaign of "gratuitous harassment" against her and said his controlling ways amounted to domestic violence.
- "It was a continuous and therefore deliberate campaign," Mr Costanzo said. "If you were having difficulties in your relationship, then your actions are those of a coward."
- "The greatest coward can hurt the most ferociously."
- "I can't think of a way for a man to be more of a pig towards a woman."
- Imprisoned for 6 months, 4 months to be suspended.
- If victim was still alive action would have been taken under the Domestic Violence Act.
- Sentence subject to an appeal as a miscarriage of justice





Movement to the virtual world

- Gold Coast Centre against Sexual Violence
- Counsellors noted an increase in the use of technology in SA matters
- 5 main areas identified



<u>facebook</u>

helping stalkers since 2004

WeKnowMemes





Responses to stalking



Are you:

Female?

Over 18 years old?

Living in Australia?

<u>AND</u>

Have been a victim of Stalking at some point in your life?

If you've answered **YES** to all of these and you are interested in completing our online questionnaire, we would love to hear from you. You can find more information on our website at www.surveymonkey.com/s/stalkingresponses or you can e-mail us at stalkingresponses@gmail.com



Premier's ama Award 2014-2015

uzlewski, have in mmon?

> The Queensland Government and Queensland Theatre Company are calling for entries for the Queensland Premier's Drama Award 2014-15.

If you're working on a script, or even if you just have at idea for a show, this is your chance to take it to the next level. If your or peolect is an original work and relevant to Australia today, check out the

ALL these people are celebrity

But it is how everyday victims of stalking deal with the sometimes terrifying harassment that's the subject of a new study by Queens-land academics, who have also helped develop a new anti-stalking

Phone app.

Bond University on the Gold Coast is researching victim responses to stalking in a bid to come up with new strategies to curb the problem.

partners, are more likely to con-University criminologist Dr Wayne Petherick said the study was the first of its kind in Australia and aimed to get a better handle on stalking, which was increasing as social media use exploded

"Studies have shown that as many as one in five people will be

researching how stalking victims ond to stalking and how that ributes to ongoing stalking.

"If we can get a better idea of what stalking victims are doing, it might help change behaviours and reduce the severity of the problem. Dr Petherick said stalking tims typically responded in a flight

"The usual response is to either move towards or move away from the stalker," he said.

front or try to reason or negotiate "Others, like Madonna who ref-

Dr Petherick said Australian

We have had celebrity stalking Gruziewski, but it's more of a

ctims to take part in the study. Dr Petherick is also on a team of

sinologists and security experts solved with a US app dev in creating a new iPhone and iPad The app, the brainchild of Gold

Coast security expert Les Gold generate reports for police. It also stores photos of stalkers, details of court orders against them

and emergency contacts

MailOnline

"The bunny boiler app: Spy software lets you track a partner's movements, listen in on calls and even lock their phone"





- Twitter









What do you feel was the most frightening (i.e., WORST) incident of stalking that you experienced?

- "Having moved to a secure high-rise apartment he gained access and grabbed me around the throat one night after I exited the lifts."
- "I returned to my dorm room, and walked into the bathroom, where he was hiding behind the shower curtain (unsure how he gained access), then when I tried to escape out the door, he held a knife to my throat and told me I was staying with him so we could talk. It was terrifying."
- "when he would send me pictures of places I had been, without knowing he was there, and would talk about things id done"
- "pretending to be someone else on facebook to set up a meeting (I believed it was an old friend trying to get in touch)"

State	Section	Year Introduce d	Stalking Defined as	Criteria	Penalty	Exceptions
ACT	Crimes Act 1900 s34A	1996	Acts engaged in on at least 2 separate occasions, which could be expected to arouse the other person's apprehension or fear.	Offender must intend to cause apprehension or fear of serious harm, or serious harm.	Up to 2 years. Unless behaviour also involves possession of an offensive weapon or contravenes a court order, then up to 5 years	
NT	Criminal Code Act 1986 s189	1994	Acts engaged in on at least 2 separate occasions, which could be reasonable expected to arouse the other person's apprehension or fear.	Offender must intend to cause physical or mental harm or apprehension or fear.	Up to 2 years. Unless behaviour also involves possession of an offensive weapon or contravenes a court order, then up to 5 years.	
NSW	Crimes Act 1900 s562AB	1994	Acts involving the following of a person about or the watching or frequenting of a person's place of residence, business or work or any place that a person frequents.	Offender must intend to cause person to fear mental or physical injury.	Up to five years imprisonment or a fine of 50 points.	
QLD	Criminal Code Act 1899 s359A	1993	Acts engaged in on more than 1 occasion, or on 1 protracted occasion.	Behaviour directed intentionally at a person which would reasonable cause apprehension and fear.	Up to 5 years. Unless behaviour also involves possession of an offensive weapons or contravenes a court order, then up to 7 years.	Industrial, political or public disputes undertaken in the public interest and reasonable conduct engaged in for lawful purposes.
SA	Criminal Law Consolidation Act 1935 s19AA	1994	Acts engaged in on at least 2 separate occasions, which could be reasonably expected to arouse the other person's serious apprehension or fear.	Offender must intend to cause serious physical or mental harm, or serious apprehension or fear.	Up to 3 years. Unless behaviour also involves possession of an offensive weapon or contravenes a court order, then up to 5 years.	A person acquitted or charged of an offence other than stalking-may not be convicted of stalking if the charge arises out of the same set of circumstances.
TAS	Criminal Code Act 1924 s192	1995	Acts engaged in which could be reasonably expected to arouse the other person's apprehension, or fear of physical or mental harm.	Offender must intend to cause apprehension, fear, or physical or mental harm, or have known that their acts would create fear and apprehension.	Up to 21 years.	It is not an offence if behaviour is engaged in when performing his or her official duties for the purposes of (a) the enforcement of the criminal law; (b) the administration of an Act; (c) the enforcement of a law imposing a pecuniary penalty; (d) the execution of a warrant; or € the protection of the public revenue.
VIC	Crimes Act 1958 s21A	1995	Engaging in a course of conduct with the intention to cause physical or mental harm, apprehension or fear.	Offender must intend to cause apprehension, fear, or physical or mental harm (or ought to have understood the results of their actions). The conduct must have the result intended by the offender.	Up to 10 years.	It is not an offence if behaviour is engaged in when performing official duties relating to enforcing the law, the administration of an Act, the execution of a warrant, or the protection of public revenue.
WA	Criminal Code Compilation	1995	The prevention or hindering of another person's lawful actions, compelling a person to commit	Offender must have intent to intimidate or the act does in fact intimidate.	Court of Summary Jurisdictions: Up to 18 months or a \$6,000 fine; a higher court: up to 3 years. Unless behaviour also	If the accused acted with lawful authority or reasonable excuse.



Unlawful Stalking – Chapter 33A QLD Criminal Code 359B (c) What is unlawful stalking?

R v MacDonald [2008] QCA 384 – here, the conduct commenced
after a failed domestic relationship and included over 200 text
messages. Some were threatening, offensive and insulting. The
appellant also <u>deflated the tyres</u> on the stalked person's car.

• In *R v Henderson* [2013] QCA 146, the stalker and the stalked person had not physically met. Contact via social media (e.g., Facebook), telephone, and text messaging, can still constitute stalking.

Matthew Raj, Bond University, 2015



Stalking & the Law

"One such extreme case is demonstrated by a man who was charged and convicted of stalking following the end of a flirtatious text message relationship. After the "victim" sent a message saying she did not want him to contact her again, he sent two text messages. The first stated "you're joking" and when he did not receive a reply, he sent another text in which he accused her profanely of leading him on. Although the message was undeniably offensive, it could not be construed as threatening and he did not attempt to contact her again. Despite having no criminal history, he received a six month prison sentence, suspended for two years. His behaviour technically met the criteria for the offence of stalking in Victoria."

(MacKenzie & James, 2011, p.222)





Cyberstalking



 'Stalking or harassing another person with the use of the Internet, e-mail, or other electronic communication devices"

(Fullerton, 2003; Moriarty & Freiberg, 2008; The National Center for Victims of Crime; U.S. Department of Justice, 1999; Valetk, 2002)

- Fear? (Finn, 2004; Fisher, Cullen, & Turner, 2000; U.S. Department of Justice, 2000)
- Specific 'Cyberstalking' Laws?



(Bocij, 2003; Ogilvie, 2000; U.S. Department of Justice, 1999)



(Sheridan & Grant, 2007; Spitzberg & Hoobler, 2002)



Cyberstalking



UK Police Officers (n=132) reported that advances in technology in the form of mobile phones and the internet had increased the number of stalking reports in the past 5 years and made it easier for offenders to engage in stalking behaviour.

"The increased use of email/internet and mobile phones has made it easier for people to contact people who don't wish to be contacted" (Participant 11)

"not surprising when so many people contact random strangers on the internet— far too easy to get hold of people's personal information then it was in the past" (Participant 191)



(Weller, Hope, & Sheridan, 2012, p.330)



Cyberstalking





'Thus, there appears to be disagreement (or at least confusion) among officers as to whether digital, online or "cyber" stalking represents a separate crime or another form of stalking behaviour entirely.'



(Weller, Hope, & Sheridan, 2012, p.333)



Cyberstalking Research



Stalked via e-mail? (1998, US study (*n*=4,446))



(Fisher, Cullen, & Turner, 2000, National Institute of Justice)

Cyberstalked?

(2009, US study (*n*=65,270))

- Via E-mail (83 per cent)
- Via Instant messaging (35 per cent)





Cyberstalking Research



Received repeated e-mail or Instant Messenger (I-M) messages that "threatened, insulted, or harassed," (2004, US study, (n=339))

(US undergraduate college students) (Finn, 2004)



Received unwanted pornography?





Cyberstalking Research

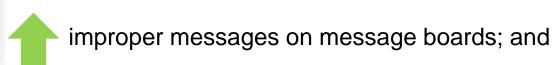


Most common cyberstalking behaviours:

threatening, harassing, or obscene e-mails;

live chat harassment or online verbal abuse;

threatening or obscene calls to a cell phone;



text and instant messaging.





How to Combat Cyberstalking

Situational Crime Prevention to Cyberstalking (Reyns, 2010), 'place managers' such as website administrators or web designers:

- making email addresses unavailable or increasing the effort required to obtain them;
- embedding personal identifiers into sent emails;
- monitoring sites and public boards for misuse;
- providing a clear code of conduct and reminders for users; and
- increasing the effort required to obtain an account.

Individuals/victims could prevent harm by:

- using spam filters;
- not replying to cyberstalkers;
- limiting access to sites;
- limiting exposure, such as not posting personal information or photos;
- changing their online identity if necessary;
- not accepting messages from unknown parties; and
- avoiding problem sites.





Responses to stalking



Are you:

Female?

Over 18 years old?

Living in Australia?

<u>AND</u>

Have been a victim of **Stalking** at some point in your life?

If you've answered **YES** to all of these and you are interested in completing our online questionnaire, we would love to hear from you. You can find more information on our website at www.surveymonkey.com/s/stalkingresponses or you can e-mail us at stalkingresponses@gmail.com



Preliminary Results relating to Technology 2013 – Present Day









Do you know who your stalker is?

Do you know who your stalker is?

Answered: 150 Skipped: 50



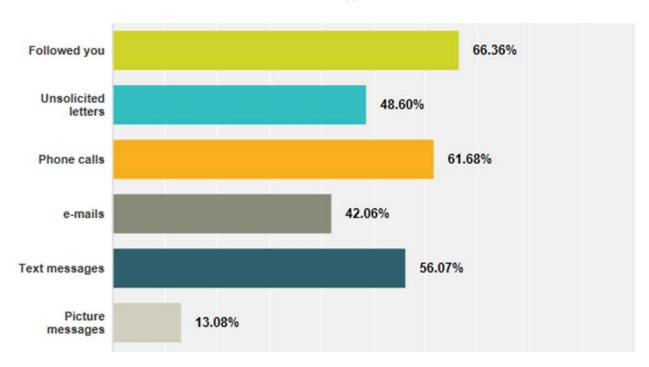
nswer Choices	Responses	is the second se
Yes	84.67%	127
No	15.33%	23
otal	150	



Methods of Stalking

Stalkers harass using an almost endless variety of methods. We have listed the most common methods. Please indicate any you have experienced, and please add any further methods of stalking that we have missed:

Answered: 107 Skipped: 93

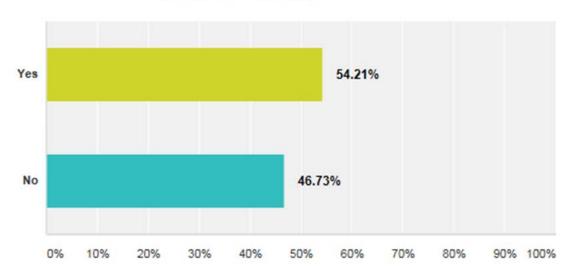




Use of internet to stalk

3.18 Does/did the stalker harass you via the Internet?

Answered: 107 Skipped: 93



Answer Choices	197	Responses	
Yes		54.21%	58
No		46.73%	50

Comments (52)



Contact? The first incident

What was the FIRST incident that made you aware you were being stalked? (e.g., being followed, sent text messages, received note, etc.)

Responses (119) Text Analysis My Categories (0)

A = Showing 28 words and phrases

Answered: 119 Skipped: 81

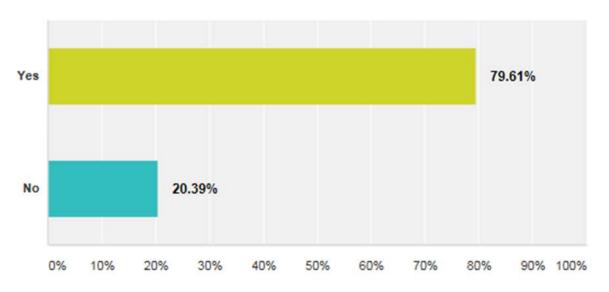
Kept Letter Started Morning Street Train Contact
Social Media Accounts House Blocked Email
Remember Text Messages Stalkers
Followed Outside Phone Calls Public
Stalking Meet Received Walking Aware Address
Facebook Property Turned Notes



Informing the stalker

Did you personally inform the stalker that their behaviour was unwanted?

Answered: 103 Skipped: 97



Answer Choices	Responses	*	
v Yes	79.61%	82	
No	20.39%	21	



Contact - How did you do this?

If yes, how did you inform them of this? (e.g., face to face, phone, text message, personal letter)

Answered: 80 Skipped: 120

Responses (80) Text Analysis My Categories (0)

Showing 10 words and phrases

Called Numerous Email Stop Phone

Text and Telephone Face to Face Door

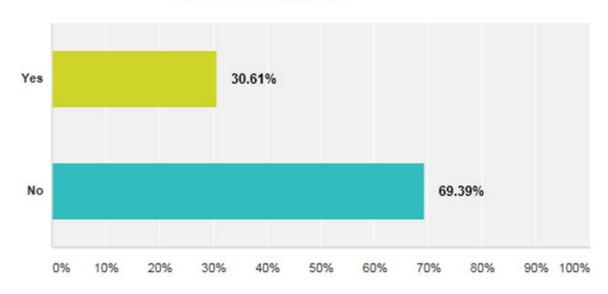
Text Message Facebook



Responses – Mobile Phone

Did you change your mobile/telephone number?

Answered: 98 Skipped: 102



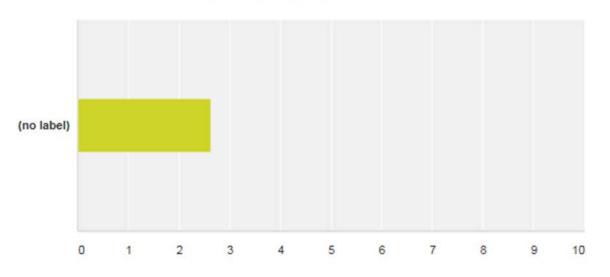
Answer Choices	Responses	~	
Yes	30.61%	30	
No	69.39%	68	



Changing Mobile Phone Number

How helpful in stopping the stalking was this?

Answered: 30 Skipped: 170



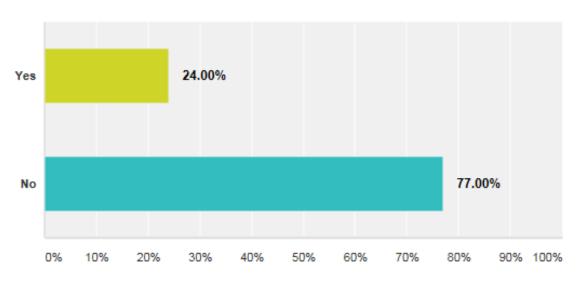
	*	Very Helpful	Helpful =	No Difference	Unhelpful =	Made things ~ worse	Total -	Weighted Average
y	(no label)	10.00% 3	33.33% 10	46.67%	3.33%	6.67%	30	2.63



Responses – E-mail address

Did you change your e-mail address?

Answered: 100 Skipped: 100



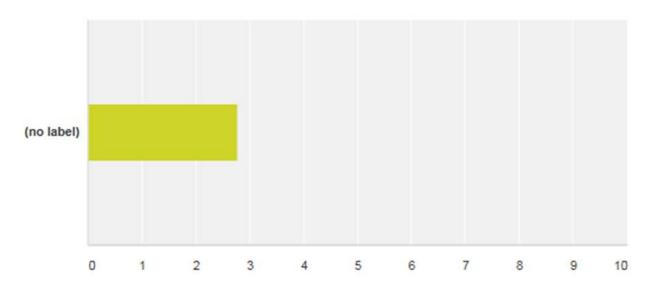
Answer Choices	F	Responses	~
→ Yes	2	24.00%	24
→ No	7	77.00%	77
Total Respondents: 100			



Changing E-mail address

How helpful in stopping the stalking was this?

Answered: 23 Skipped: 177

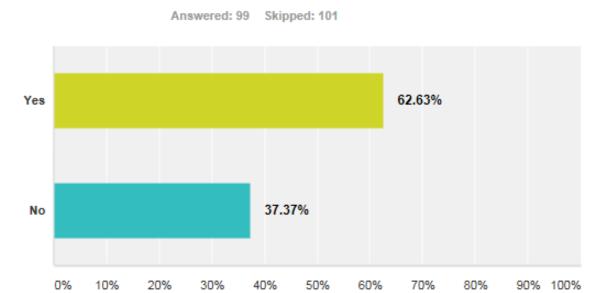


	~	Very Helpful	Helpful -	No Difference	Unhelpful ~	Made things worse	Total -	Weighted Average
w	(no label)	13.04% 3	26.09% 6	43.48% 10	4.35%	13.04% 3	23	2.78



Responses – Online Activity

Did you alter your activity online (i.e., took Facebook down or blocked the stalker)



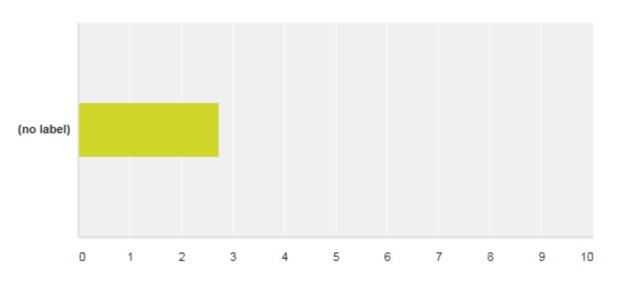
Answer Choices	Responses	~
▼ Yes	62.63%	62
₩ No	37.37%	37
Total Respondents: 99		



Altering Online Activity

How helpful in stopping the stalking was this?

Answered: 61 Skipped: 139



	~	Very Helpful	Helpful 🔻	No Difference	Unhelpful 🔻	Made things w	Total 🔻	Weighted Average
~	(no label)	13.11% 8	27.87% 17	39.34% 24	11.48% 7	8.20% 5	61	2.74



Challenges

- Accepting that harm minimisation and risk mitigation are part of a rational response
- Cross jurisdictional boundaries
- Anonymity
- Intersection between commerce and criminal law
- Lack of specialisation in the law enforcement response
- Governmental co-ordination



Questions





Thank You!

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