

Data snapshot:
Attrition of stalking offence incidents
through the Victorian criminal justice system

October 2022



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Background

This paper presents the Crime Statistics Agency's (CSA) findings from an analysis of the attrition of police-recorded stalking offence incidents through the Victorian justice system (i.e., the number of matters that enter but do not progress through the various stages of the criminal justice system process). This study has been undertaken to inform the [Victorian Law Reform Commission's review of stalking, harassment and similar conduct](#). It identifies the number of incidents that progress through five key stages including whether: a complaint was withdrawn, an offender identified and recorded, any charges were laid, charges were finalised in court and, lastly, charges were proven in court. This paper also provides a snapshot of stalking incident characteristics, offender and victim survivor demographics, and co-occurring non-stalking offending. It includes stalking incidents reported to police between 1 January 2016 to 31 December 2018 to allow sufficient time for police investigations and court proceedings to be finalised and outcome data available for analysis. References to offenders, incidents and offences are alleged rather than proven, except in the case of proven court outcomes. See Appendix A for further details on the methodology used for this analysis.

1.1 Characteristics of stalking incidents

There were 6,515 incidents involving a stalking offence¹ reported to police in the three years from January 2016 to December 2018. Stalking incidents typically involved male offenders and female victim survivors who were most commonly former partners. More than half of stalking incidents were family-violence related (57%) and occurred in residential settings (68%). Incidents involving stalking offences frequently involved other, non-stalking offending such as harassment, threatening behaviour or breaches of family violence orders.

Victim survivor and offender characteristics

Table 1 shows demographic characteristics for those involved in stalking incidents:

- Stalking predominantly involved male offenders (87%) and female victim survivors (82%).
- Offenders were slightly older than victim survivors at the time of the incident: 52 percent were aged 35 or older, compared with 41 percent of victim survivors.
- Just over one-quarter (27%) of victim survivors were aged under 25 years old.
- Two percent of victim survivors were Aboriginal, as were 3.7 percent of offenders.

¹ s 21A of the *Crimes Act 1958* (Vic)

Table 1. Victim survivor and offender demographics for stalking incidents

	Victim survivor		Offenders	
	Number	%	Number	%
Person details recorded				
No	21	0.3	1,193	18.3
Yes	6,494	99.7	5,322	81.7
Total incidents	6,515	100.0	6,515	100.0
Age				
0-9	18	0.3	-	-
10-17	551	8.5	239	4.5
18-24	1,160	17.9	735	13.8
25-34	1,961	30.2	1,570	29.5
35-44	1,415	21.8	1,516	28.5
45-54	836	12.9	896	16.8
55 and older	392	6.0	329	6.2
Unknown	161	2.5	37	0.7
Sex ²				
Male	1,123	17.3	4,646	87.3
Female	5,308	81.7	676	12.7
Unknown	63	1.0	-	-
Aboriginal status				
Aboriginal	144	2.2	198	3.7
Not Aboriginal	5,642	86.9	5,084	95.5
Unknown	708	10.9	40	0.8
Total incidents with person recorded	6,494	100.0	5,322	100.0

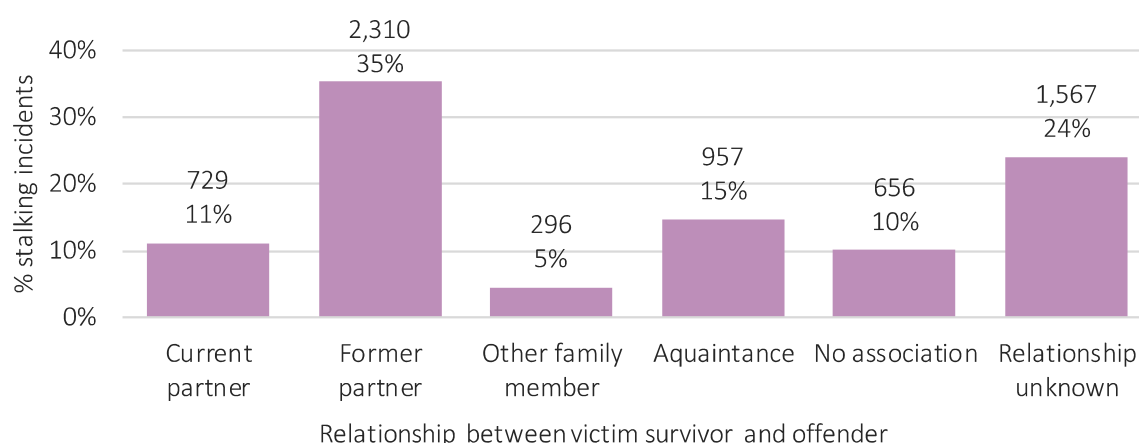
Relationships between victim survivors and offenders

The relationship or association between offender and victim survivor was recorded for three-quarters (76%) of stalking incidents (Figure 1).

- Stalking incidents most commonly involved former partners (35%).
- Fifteen percent involved acquaintances or known non-family such as friends, neighbours or colleagues.
- Eleven percent involved current partners.
- Ten percent involved an offender with no association or relationship with the victim survivor (e.g., stranger stalking), although this and other figures may be higher due to the high number of incidents where the relationship was unknown or not recorded (24%).

² Police record sex (rather than gender) and do not currently record non-binary sex types. This may not accurately represent a person's own gender identity, intersex people or other non-binary people.

Figure 1. Stalking incidents by relationship type



Locations and settings

Just over half of stalking incidents (57%) were recorded by police as being family-violence related. Seventy percent of incidents occurred in metropolitan Melbourne and 30 percent in regional Victoria. Stalking behaviour can involve online or technology-facilitated abuse, however it is not possible to consistently identify such incidents in police-recorded data. Nevertheless, the location type data in Table 2 provides some indication of the settings in which victim survivors experience stalking behaviour. It shows:

- Stalking most commonly occurred in residential settings (68%) which includes homes and surrounding grounds.
- Fifteen percent occurred in community locations, for example streets, schools, parkland or train stations.
- Eight percent occurred in in 'other' settings, for example bars, restaurants, shopping centres or sporting and recreational facilities.

Table 2. Stalking incident location and other characteristics

	Incidents	
	#	%
Family violence related ³		
Yes	3,741	57.4
No	2,774	42.6
Geographic location		
Metropolitan	4,530	69.5
Regional	1,974	30.3
Justice facility	11	0.2
Location type		
Residential	4,417	67.8
Community	977	15.0
Other	529	8.1
Unknown	592	9.1
Total incidents	6,515	100.0

³ Refers to a family incident attended by Victoria Police where a Risk Assessment and Risk Management Report (also known as an L17 form) was completed.

Co-occurring offences

Police recorded a co-occurring offence in 69 percent of stalking incidents. Table 3 shows the most common offences recorded were *Harassment and private nuisance* (28%) and *Breach of family violence order* offences (26%). Just under four percent of incidents involved a *Breach intervention order*, which are breaches of Personal Safety Intervention Orders (PSIOs or non-family violence intervention orders). Six percent of stalking incidents also involved sexual offending.

Table 3. Stalking incidents and common co-occurring offence types

	Incidents	
	#	%
Any co-occurring offences		
No	2,051	31.5
Yes	4,464	68.5
Most common co-occurring offence groups		
A72 Harassment and private nuisance	1,798	27.6
E21 Breach family violence order	1,714	26.3
A73 Threatening behaviour	1,008	15.5
A21 Serious assault	597	9.2
B21 Criminal damage	583	8.9
A23 Common assault	537	8.2
A30 Sexual offences ⁴	422	6.5
E23 Breach bail conditions	274	4.2
E22 Breach intervention order	241	3.7
Total incidents	6,515	100.0

1.2 Attrition of stalking incidents through the criminal justice system

There were 6,515 stalking offence incidents reported to police between January 2016 and December 2018. One in three incidents (31%, n=2,020) ultimately resulted in a conviction or proven outcome for a stalking charge (Figure 2, Figure 3).

Figure 2. Attrition of stalking incidents through the criminal justice system, 2016 – 2018



Attrition was relatively stable during the police investigation stages of the justice system process (see *Police record offender* and *Police charge offender* in Figure 3 below). Police formally identified and recorded an offender for 82 percent of incidents, and they charged 81 percent of those offenders. Overall, one-third (33%) of all incidents that entered the criminal justice system did not progress past the police investigation stage.

Attrition was lowest immediately following the police investigation: 95 percent of incidents where charges were laid by police were finalised in court. Although prosecution data was not included in this study, this

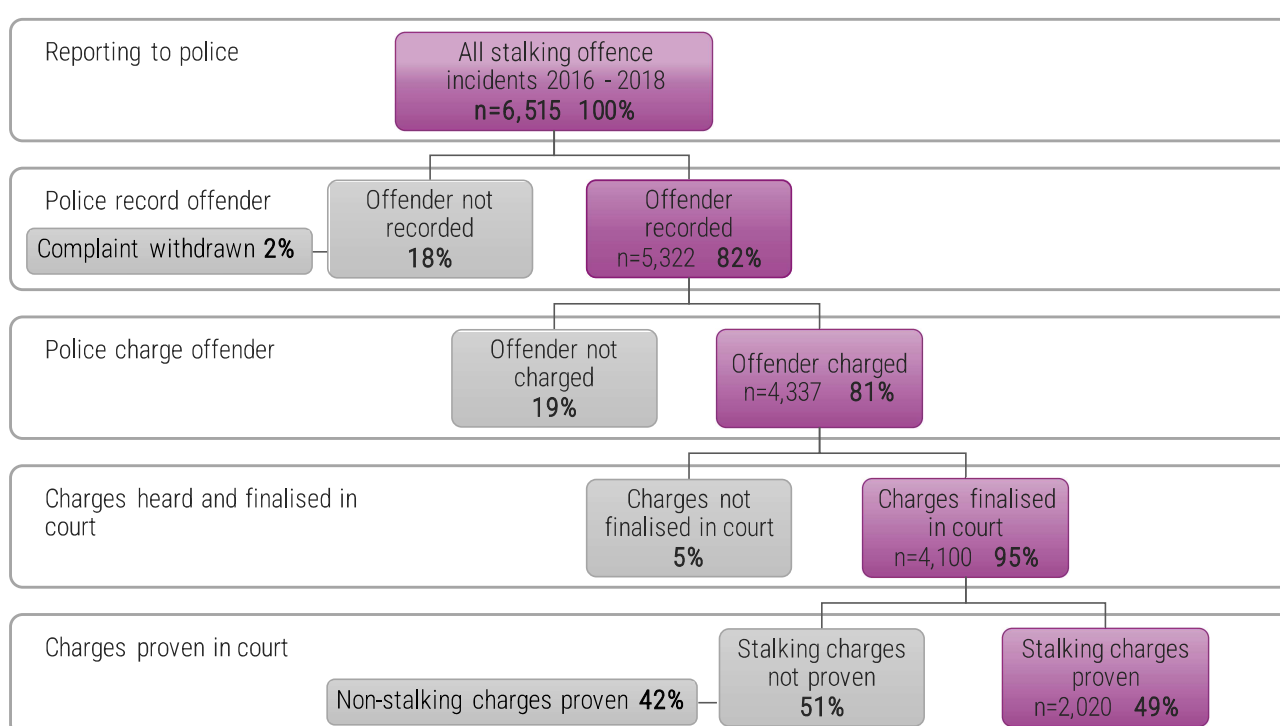
⁴ Includes offence groups A31 Rape, A32 Indecent assault, A33 Incest, A34 Sexual offences against children and A39 Other sexual offences

figure does suggest by proxy, that most matters referred for prosecution do proceed to being heard in court.

For those incidents that progressed to court, half (49%) received a conviction or proven outcome for stalking charges. A further 42 percent received a conviction or proven outcome for a *non-stalking charge in the same court case*. The combined stalking and non-stalking proven rate of 91 percent suggests that most stalking incidents result in proven charges of some kind, although in many cases the stalking charges themselves are withdrawn, struck out or dismissed at court.

Finally, stalking was more likely to attract a non-custodial sentence such as a community corrections order or fine, although 38 percent of proven incidents still resulted in a prison sentence for the stalking charges.

Figure 3. Stalking incident attrition at each stage of the criminal justice system

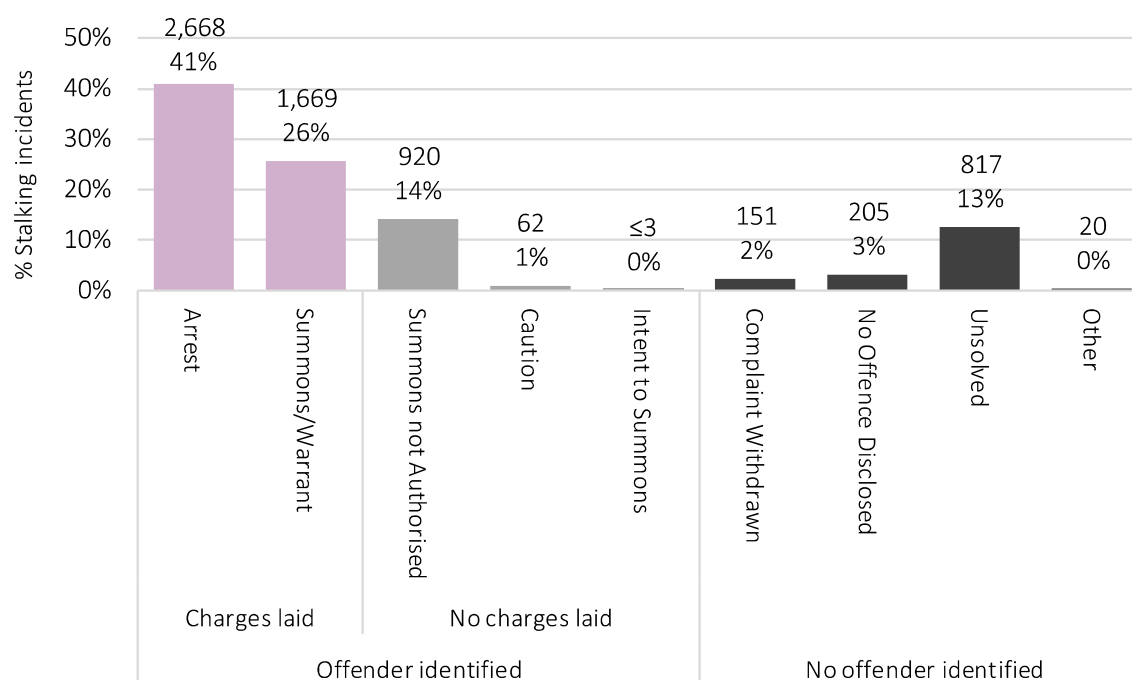


Progression at the police investigation stage

Police laid charges in relation to two-thirds (67%, n=4,337) of stalking incidents. These incidents are considered to have 'progressed' past the police investigation stage (see purple columns in Figure 4 below). For incidents that did not progress, there were five key investigation outcomes:

- An offender was recorded by police but a summons to appear in court was not authorised, meaning the offender was not charged (14% of all incidents). A common reason for this to occur is that police make an assessment that insufficient evidence is available.
- Police investigated the incident but did not 'solve' it (i.e., identify and record an offender, 13%).
- Police investigated and determined that 'no offence was disclosed' (3%). The Victoria Police definition for this outcome is that further information exists to indicate the crime did not occur or the complaint has no foundation.
- Complaints were withdrawn during the initial police investigation stage for two percent of incidents (note this does not include any matters that are withdrawn after police record an offender).
- One percent of incidents involved a caution being issued to the offender.

Figure 4. Police outcomes for stalking incidents

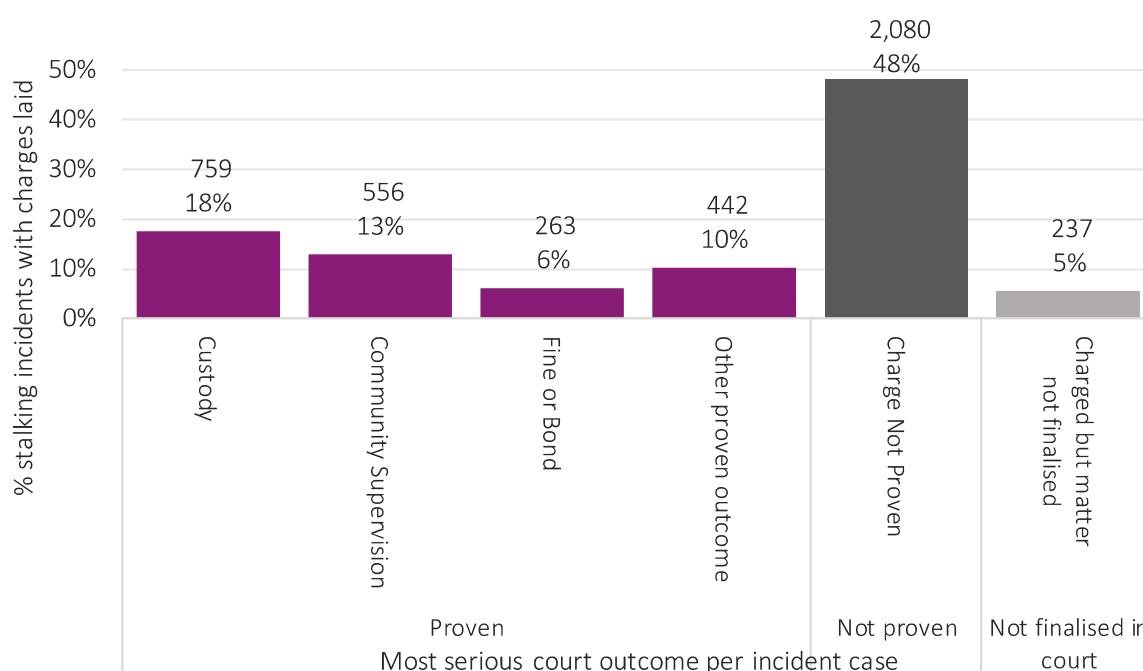


Progression to court and final outcomes

Figure 5 shows court outcomes for the 4,337 incidents for which police laid charges, with the proven outcomes for stalking charges shaded purple. It shows:

- Almost half (47%, n=2,020) resulted in a proven outcome.
 - 38 percent of proven incidents resulted in a custodial sentence (n=759, 18% of charged incidents). Offenders were more likely to receive a non-custodial outcome such as a community corrections order, fine or good behaviour bond.
- Stalking charges were not proven in 48 percent of incidents (n=2,080). They were commonly withdrawn, struck out or there was a matter discontinuance. Less commonly the matter was discharged or dismissed. These incidents are explored further in the next section.
- Five percent did not have corresponding charges finalised in court (n=237). This may indicate charges were dropped by the prosecution before being finalised, or that the charges were still progressing through the court system at the time of this study and may be finalised at a later date.

Figure 5. Court outcomes for stalking incidents where police laid charges



A substantial number of incidents progressed to court and received a proven outcome for *non-stalking charges* in the same court case. Table 4 examines the 4,100 incidents where stalking charges were finalised in court. It shows that although only 49 percent of incidents resulted in proven stalking charges, 91 percent resulted in proven charges of *some kind*. The most common proven charges in stalking cases were breaches of justice procedure offences, including *Breach of family violence order* (42%), *Breach of bail conditions* (28%) and *Breach of other orders* (21%).

Table 4. Court outcomes for incidents with charges finalised in court

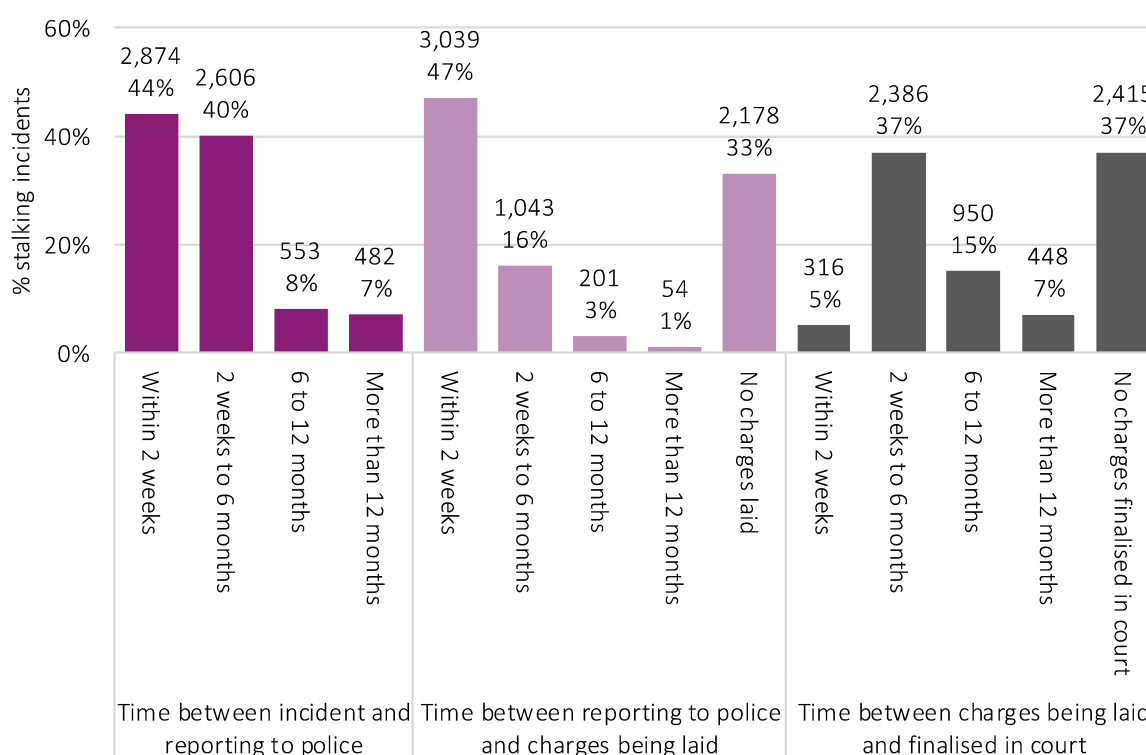
	Incidents	
	#	%
Any charges in case proven		
Yes	3,726	90.9
- <i>Stalking and non-stalking charges</i>	1,645	40.1
- <i>Stalking charges only</i>	375	9.1
- <i>Non-stalking charges only</i>	1,706	41.6
No	374	9.1
Total incidents	4,100	100.0
Most common other proven charge groups in stalking cases		
E21 Breach family violence order	1,717	41.9
E23 Breach bail conditions	1,149	28.0
E29 Breach of other orders	856	20.9
A72 Harassment and private nuisance	792	19.3
A23 Common assault	754	18.4
B21 Criminal damage	695	17.0
A73 Threatening behaviour	647	15.8
A21 Serious assault	508	12.4
A30 Sexual offences	246	6.0

Time taken to progress matters through the criminal justice system

Figure 6 illustrates the time between key points in the justice system process for stalking incidents: the time between the incident occurring and being reported to police, to charges being laid, and finally to the stalking charges being finalised in court.

- Stalking incidents were reported to police relatively quickly after occurring (if they were reported). 44 percent were reported within two weeks of occurring and a further 40 percent within six months.
- Police most commonly laid charges within two weeks of the date the incident was reported to them (if they did lay charges). Forty-seven percent of all incidents (or 70% of charged incidents) had charges laid within two weeks of the incident being reported and a further 16 percent of all incidents (or 24% of charged incidents) within six months.
- For incidents where charges were finalised in court, it most commonly took between two weeks and six months from the charge date to charge finalisation date (37% of all incidents or 58% of incidents finalised in court).

Figure 6. Time to report, lay charges and finalise charges for stalking incidents



Attrition rates by cohort and incident characteristics

Some incident characteristics and cohorts were associated with higher or lower proven rates for stalking charges. Notably, Table 5 shows:

- Incidents with a co-occurring offence had a higher proven rate (41%) than those without (10%).
- Incidents recorded as family violence related had higher proven rates (34%) than other incidents (27%), although non-family violence incidents included those where no offender was recorded.
- Incidents in regional Victoria had a higher proven rate (35%) than those in metropolitan Melbourne (29%).

Table 5. Attrition rates for police-recorded stalking incidents by cohort and characteristic⁵

	Incident reported	Complaint not withdrawn	Offender recorded	Stalking charge laid	Stalking charge finalised in court	Stalking charge proven
All stalking incidents	n=6,515	6,364	5,322	4,337	4,100	2,020
	100%	98%	82%	67%	63%	31%
Cohorts of interest						
Aboriginal victim survivor	n=144	97%	83%	68%	60%	28%
Non-Aboriginal victim survivor	n=5,642	98%	83%	68%	64%	31%
Aboriginal offender	unknown	unknown	n=198 100%	86%	79%	35%
Non-Aboriginal offender	unknown	unknown	n=5,084 100%	81%	77%	38%
Offender is current partner	n=729	99%	92%	80%	74%	33%
Offender is former partner	n=2,310	99%	90%	76%	72%	34%
Offender is other family	n=296	99%	90%	73%	67%	31%
Offender is acquaintance	n=957	97%	83%	62%	58%	32%
Offender is not associated/stranger	n=656	97%	73%	58%	55%	31%
Family violence related	n=3,741	99%	91%	78%	74%	34%
Not family violence related	n=2,774	96%	68%	51%	48%	27%
No co-occurring offences	n=2,051	93%	42%	16%	14%	10%
Co-occurring offences	n=4,464	100%	100%	90%	85%	41%
Incident characteristics						
Metropolitan Melbourne	n=4,530	98%	81%	65%	61%	29%
Regional Victoria	n=1,974	98%	84%	70%	67%	35%
Residential location	n=4,417	98%	81%	66%	63%	32%
Community location	n=977	98%	78%	60%	57%	23%
'Other' location	n=529	96%	78%	61%	59%	30%

⁵ Note these are descriptive statistics and statistical testing has not been conducted to conclusively establish the relationship between attrition and various incident characteristics.

Discussion

There were 6,515 incidents involving a stalking offence reported to police between 2016 and 2018 and this study found almost one in three incidents (31%, n=2,020) led to a conviction or proven outcome for stalking charges.

This study found relatively moderate levels of attrition during the reporting and police investigation stages. Two-thirds (67%) of incidents reported to police resulted in charges being laid, and therefore 'progressing' past the police investigation stage. The most common reason incidents did not progress was that a summons for the alleged offender to appear in court was not authorised (14%), which is often due to insufficient evidence. The other common outcome was 'unsolved' crime, i.e., police were unable to identify and record an offender (13%). Victim survivors were unlikely to withdraw complaints during the initial police investigation stage: just two percent of incident complaints were withdrawn. By way of comparison, a similar study of sexual offence attrition found 19 percent of incident complaints were withdrawn at this stage (Bright et al., 2021).

Most incidents for which charges were laid had corresponding charges finalised in court. In the absence of prosecution data, this study used the difference between the number of incidents with charges finalised in court and those where charges were laid as a proxy measure of prosecution. Less than four percent of incidents 'exited' or dropped out of the criminal justice process at this stage.

For incidents that progressed to court, only half (49%) received a conviction or proven outcome for the stalking charge(s). However, despite this seemingly low proven rate, a further 42 percent received a proven outcome for another, non-stalking charge in the same case. The combined stalking and non-stalking proven rate of 91 percent indicates that alleged stalking offenders are likely to receive some form of judicial penalty or sanction in court, however for many it will not be applied in relation to stalking. Stalking charges that were not proven were predominantly withdrawn, struck out or discontinued. Further research could examine prosecutorial rationales and court judgments to gain further insight, for example, whether evidentiary thresholds for stalking charges are more difficult to meet, or as suggested by the Sentencing Advisory Council (Chalton et al., 2022), defence lawyers focus on pleading out stalking charges due to their high maximum penalty.

This study suggests that many stalking matters are progressing through the courts relatively quickly, however this finding should be interpreted with caution. There were 4,100 incidents with a stalking charge finalised in court, and 66 percent were finalised within six months of police laying charges. However, given that only 49 percent resulted in a proven outcome for stalking charges, it's possible that many stalking charges are finalised quickly due to being withdrawn, struck out or discontinued at an early stage. This study does not examine finalisation times for non-stalking charges in the same case, which means that victim-survivors involved in multi-charge matters may be experiencing longer court proceeding times than this study suggests.

Finally, it is important to understand the emerging role of technology in stalking incidents and their trajectories through the criminal justice system. This study reports physical location types in which stalking occurs (predominantly residential; 68%) but does not identify online environments or technology-facilitated stalking behaviours, for example installing surveillance devices or spyware (Victorian Law Reform Commission, 2021). Currently, this information is not easily identified in police-recorded crime data. A future study – using alternate datasets or methodologies – could examine whether technology-facilitated stalking and associated evidence is associated with higher or lower levels of attrition through the justice system.

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Appendix A: Methodology

This study analyses stalking offence incidents recorded by police between 1 January 2016 and 31 December 2018. A stalking incident is a criminal incident that involved at least one alleged stalking offence under s 21A of the *Crimes Act 1958* (Vic). The study also examines victim survivor and offender characteristics, and court outcomes for charges finalised in the Magistrates', Children's, County and Supreme Courts. References to offenders, incidents and offences are alleged rather than proven. Exceptions to this are where data is provided on proven court outcomes for incidents. All data was extracted from Victoria Police's Law Enforcement Assistance Program (LEAP) database on 18 October 2021.

Reference period

The incident reference period 2016-2018 allows time for matters to progress through court processes, as it can take many years from an incident being reported to police to the matter being finalised in court. This provides the most fulsome court outcome data for analysis.

Counting unit

This study counts 'offender incidents'. For incidents where police recorded more than one alleged offender per incident, each alleged offender is counted separately and their trajectory through the criminal justice system tracked individually. Incidents with no offender recorded are counted as a single incident. Where an incident involved multiple victim survivors, one victim survivor was selected at random.

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