



# Submission on the Crimes Legislation (Stalking and Harassment) Amendment Bill

## Hohou Te Rongo Kahukura – Outing Violence

Date: 12 February 2025

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### About us: Hohou Te Rongo Kahukura – Outing Violence

[Hohou Te Rongo Kahukura](#) is a charitable trust focused on preventing and addressing violence experienced by Takatāpui and Rainbow people, including structural, institutional and interpersonal violence including sexual and partner violence. Our work is underpinned by an acknowledgment of Te Tiriti o Waitangi and the impact of colonisation on understandings of sex, sexuality and gender diversity in Aotearoa New Zealand.

We operate with a Te Tiriti structure, are survivor-led, and include people with many different sexualities, genders, ethnicities, class and disability belongings, including allies. We take a community development and research-based approach to prevent violence, improve responses after people have experienced violence, and promote wellbeing for people in Takatāpui and Rainbow communities across the lifespan. This includes:

- support and recovery services for Takatāpui and Rainbow survivors of sexual harm, where our identities are treated as the taonga they are, and sexual harm is understood within our community contexts. This ACC Sensitive Claims service opened in December 2024 and is the first of its kind in Aotearoa
- the only social work role in Aotearoa with a focus on family violence in Takatāpui and Rainbow communities, via the Integrated Safety Response in the Waikato. We accept referrals to this role solely from New Zealand Police family violence callouts
- the Rainbow Wellbeing Network, which brings together kaimahi, volunteers, and researchers with an interest in the Takatāpui and Rainbow wellbeing for peer support, to increase knowledge of services and gaps and grow shared understandings of violence towards Takatāpui and Rainbow communities
- Club Kahukura, a healthy relationships programme for adults who are newly questioning their gender or sexuality, or new to Rainbow community
- advisory roles in relation to family, partner, and sexual violence and elder abuse
- resources for parents and caregivers of Takatāpui and Rainbow children and young people to support safe families and whānau
- offering online and in-person training on supporting older Takatāpui and Rainbow people (**Rainbow Ready**) and survivors of family and sexual violence (**Rainbow Safe**)

Over 12 months in a one-off contract with MSD in 2023/24, we trained nearly 400 kaimahi working for more than 40 different specialist family violence and sexual violence response services around Aotearoa. We developed **Rainbow Safe** in response to requests from services seeking to improve their responsiveness to Takatāpui and Rainbow communities. However, with the discontinuation of MSD funding, Rainbow Safe is available only with a fee for service, significantly reducing uptake from agencies.

This submission is informed by:

- direct contact with stalking victims in our communities, including explicitly for the purposes of informing this submission
- our violence prevention and response work inside our communities
- our research programme, which explores the causes and experiences of violence within Takatāpui and Rainbow communities
- our training experiences, working with family and sexual violence services

**Our language: Takatāpui** is an ancient Māori term to embrace culture, spirituality, and connection to whakapapa. It has many meanings for iwi and hapū, traditionally meaning “intimate partner of the same sex.” In contemporary times Takatāpui has been reclaimed to denote all those with diverse sex characteristics, gender identities and expressions and sexualities as well as Tangata Whenua identity.

**Rainbow** is the umbrella term we use for sex, sexuality and gender diversity. We use Rainbow because it is recognised inside our communities, avoids listing English initials which leave out some identities, and allows for fluid diversity. In Aotearoa it can be inclusive of Māori, Pacific and ethnic identities.

## Summary

We **support** the intent of the **Crimes Legislation (Stalking and Harassment) Amendment Bill**. We would like to see improvements to strengthen the existing Bill’s protections, particularly for Takatāpui and Rainbow stalking victims who are likely to experience stalking at higher rates than other New Zealanders and experience unique forms of stalking related to discrimination, exclusion and stigma.

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*“There is a risk that a lack of funding for specialised training, support services or public information campaigns may limit the effectiveness of the offence and therefore reduce its impact on public confidence.”<sup>1</sup>*

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We **agree** with this statement from the Regulatory Impact Statement from the Ministry of Justice and will raise concerns over implementation of this Bill without adequate shifts in particularly NZ Police responsiveness to people in Takatāpui and Rainbow communities experiencing violence.

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<sup>1</sup> Regulatory Impact Statement, Ministry of Justice, Establishing an offence of stalking, 26 September 2024.

## Evidence of scale of stalking

Although we are without robust, population level data about stalking activities in Aotearoa, the NZ Crime and Victimization Survey allows reporting on rates of interpersonal violence across several key demographics. Interpersonal violence includes sexual assault, other assault, robbery, harassment, threatening behaviour, or property damage from a known offender. Many of these activities could be part of stalking behaviour. In the absence of specific research, they are an indicative proxy.

Pooled data across the five cycles allows us to further explore how much more likely Takatāpui and Rainbow communities are to be targeted for interpersonal violence, interpersonal violence from family members, and sexual assault. For every measure, bisexual people report the highest rates of violence, between 4.4 and 8.1 times as likely as non-LGBT+ people.<sup>2</sup>

**Table 1: Pooled data: Interpersonal violence across five cycles**

Demographic group	Percentage across five cycles
Non-LGBT+	6.5%
Cisgender people	7.0%
Bisexual people	<b>28.7% (4.4 times as likely)</b>
Transgender people	13%
Lesbians and gay men	10.2%
LGBT+ people	20.2%

**Table 2: Pooled data: Interpersonal violence from family member**

Demographic group	Percentage across five cycles
Non-LGBT+	0.8%
Bisexual people	<b>3.5% (4.4 times as likely)</b>
LGBT+ people	1.0%

**Table 3: Pooled data: Sexual assault**

Demographic group	Percentage across five cycles
Non-LGBT+	1.6%
Bisexual people	<b>13.0% (8.1 times as likely)</b>
LGBT+ people	5.6%

While this population level data is extremely valuable in demonstrating the high rates of violence towards Takatāpui and Rainbow populations, it does not break down these experiences by gender, a major shortcoming given the fact all forms of interpersonal

<sup>2</sup> 5 years of insights on crime and victimisation in Aotearoa, Ministry of Justice; The New Zealand Crime and Victims Survey: Key Findings Booklet Cycle 5 November 2021 - November 2022, Ministry of Justice; Plum, A. & Zhuge, L. (2024). *New Zealand Crime and Victims Research: The burden of crime victimisation among the LGBTQ+ population in Aotearoa*. New Zealand Policy Research Institute, Auckland. Cycle 5 includes trans people for the first time. Numbers are still too small to provide robust statistical comparison with non-trans people for most measures. LGBT+ includes trans people and those who identified as gay, lesbian, bisexual or having another sexual identity.

violence are gendered in terms of perpetration, victimisation and severity of victimisation.<sup>3</sup> However, within Takatāpui and Rainbow populations, as with other marginalized groups, gender differences in experiences of violence intersects with other forms of discrimination, stigma and exclusion, notably homophobia, biphobia and transphobia.

Simply put, Takatāpui, gay, bisexual and other queer men and trans men are not as safe in the world as cis, straight men, including from stalking.

While we do not, yet, have useful data about this in Aotearoa, the US has produced population level data, specific to stalking, across sexualities and genders. As well as highlighting the elevated likelihood of particularly bisexual women to be targeted for stalking, this research shows that lesbians and gay and bisexual men experience stalking at rates close to heterosexual women.<sup>4</sup>

**Table 4: US population level data for stalking by sexuality and gender**

Demographic	Stalking experience in lifetime
<b>Bisexual women</b>	54%
<b>Lesbians</b>	35%
<b>Heterosexual women</b>	30%
<b>Men</b>	
<b>Gay men</b>	27%
<b>Bisexual men</b>	26%
<b>Heterosexual men</b>	16%

All groups of women experience higher rates of stalking than all groups of men. In addition, this research demonstrates why male survivor services must be safe for Takatāpui and Rainbow men.

We are aware, whenever we train services or provide policy advice to government, that these statistics about violence surprise people, because the dominant discourse about all forms of partner, sexual and family violence has highlighted the gendered nature of violence: specifically, (straight, cis) men’s violence towards (straight, cis) women.

In both the NZCVS data and the US based population data, rates of violence towards trans and non-binary people are not reported at population levels. However, all indications from community research suggest trans and non-binary people are likely to experience higher rates of stalking based on their experiences of related and proxy forms of violence.<sup>5</sup>

<sup>3</sup> We also do not have data on other intersections, including ethnicity and Takatāpui and Rainbow people and disability and Takatāpui and Rainbow people.

<sup>4</sup> Chen, J., Khatiwada, S., Chen, M. S., Smith, S. G., Leemis, R. W., Friar, N., Basile, K. C., & Kresnow, M. (2023). The National Intimate Partner and Sexual Violence Survey (NISVS) 2016/2017: Report on Victimization by Sexual Identity. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. This report did not explore trans and non-binary people’s experiences of violence.

<sup>5</sup> Dickson, S. (2017), Trans and Gender Diverse Responses: Building Rainbow communities free of partner and sexual violence. Hohou Te Rongo Kahukura; Veale, J., Byrne, J., Tan, K., Guy, S., Yee, A., Nopera, T., & Bentham, R. (2019). Counting ourselves: The health and wellbeing of trans and non-binary people in Aotearoa New Zealand. Transgender

The population level findings in the US are so high for Takatāpui and Rainbow populations because we experience some unique forms of stalking, as well as the same forms of stalking as everyone else.<sup>6</sup>

## Stalking and intimate partner violence

The US population research referenced above asked participants whether stalking had been perpetrated by current/ex-partners or acquaintances. Bisexual women were the only demographic group experiencing intimate partner stalking at higher rates than heterosexual women, but one in three lesbians and gay men also reported this form of stalking.<sup>7</sup>

**Table 5: US population level data for intimate partner stalking**

Demographic	Stalking from current/ex-partners
Bisexual women	52%
Lesbians	32%
Heterosexual women	43%
Gay men	36%
Bisexual men	Insufficient data

We note the excellent 2019 research from the National Collective of Independent Women’s Refuges (NCIWR) suggests four domains of stalking as part of intimate partner violence – intrusive contact; intimidation and violence; monitoring/surveillance and life sabotage.<sup>8</sup>

In this research, 31% of participants were not heterosexual/straight (bisexual, pansexual, asexual, queer, lesbian/gay, questioning, unsure or Takatāpui) and 2% transgender. Noting the overall sample is predominantly women and the sample of transgender people is small, NCIWR found no significant difference in stalking tactics or reporting to police between transgender and non-transgender people or sexuality diverse people and straight people.

Health Research Lab, University of Waikato; Edwards, K., Camp, E., Lim, S., Logan, T. Shorey, R. and Babchuk, W. (2022). Stalking among sexual and gender minorities: A systematic literature review. *Aggression and Violent Behavior* 66 and SPARC Stalking Prevention, Awareness and Resource Center, (2024), *Stalking & LGBTQ+ Individuals*.

<sup>6</sup> Harvey, S. Mitchell, M., Keeble, J., McNaughton Nicholls, C., and Rahim, N. (2014). Barriers faced by Lesbian, Gay, Bisexual and Transgender People in Accessing Domestic Abuse, Stalking, Harassment and Sexual Violence Services, Welsh Government Social Research; Langenderfer-Magruder, L., Walls, N. E., Whitfield, D. L., Kattari, S. K., & Ramos, D. (2020). Stalking victimization in LGBTQ adults: A brief report [Article]. *Journal of Interpersonal Violence*, 35(5/6), 1442–1453 and Edwards, K. et al. (2022). Stalking among sexual and gender minorities: A systematic literature review. *Aggression and Violent Behavior* 66.

<sup>7</sup> Stalking from acquaintances will be explored in the following sections. Figures from: Chen, J. et al. (2023). The National Intimate Partner and Sexual Violence Survey (NISVS) 2016/2017: Report on Victimization by Sexual Identity. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

<sup>8</sup> Thorburn, N. and Jury, A. (2019). Relentless, not Romantic: Intimate Partner Stalking in Aotearoa New Zealand. National Collective of Independent Women’s Refuge.

Our experience is that stalking from partners and ex-partners in Takatāpui and Rainbow communities includes all the activities named by NCIWR and more.<sup>9</sup> Outing, or threatening to share someone’s sexuality or gender when that might not be safe for them, is a frequent tactic, and may be more dangerous within communities which pathologise sexuality and gender diversity.<sup>10</sup>

We heard from many people whose workplaces were repeatedly contacted, with the implicit or explicit threat of outing the stalking victim, as well as to locate stalking victims. This is effective because of historical and ongoing identity-based discrimination towards Takatāpui and Rainbow people for being who we are. We heard from stalking victims who had been forced to come out; ask workplaces to change their location; change their office phone numbers; or even to leave their job to create distance from the stalker.

Stalking from partners and ex-partners in Takatāpui and Rainbow communities commonly uses Rainbow community groups and networks to obtain information about someone’s activities. This is effective because our communities are small; there is low recognition of partner violence and stalking, and Rainbow community groups and networks are important to wider wellbeing.<sup>11</sup> It is particularly effective when stalkers are in community leadership positions, because they have control over inclusion/exclusion, and the threat of exclusion is very powerful when you don’t feel safe in the wider world. We see these dynamics utilised to try to force stalking victims to return or stay in abusive relationships, and they often lead to stalking victims being forced to give up connections that are deeply important to their wellbeing if they wish to escape the stalker.

We hear from stalking victims in our communities that playing on vulnerabilities associated with self-harm and suicidality is common. Stalkers essentially threaten to harm themselves, and sometimes do harm themselves, telling their victims that they can’t live without them. This threat is effective in our communities because our rates of self-harm and suicidality are so high.<sup>12</sup>

Finally, we also see especially Takatāpui and Rainbow men being targeted for stalking via dating apps such as Grindr, which offer location information. We have heard from men who have met up with someone on Grindr, only to find it’s an ex-partner they are trying to avoid who has pretended to be someone else. One man told us that an abusive ex-partner did this to him on multiple occasions.

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<sup>9</sup> See also Harvey, S. et al. (2014). Barriers faced by Lesbian, Gay, Bisexual and Transgender People in Accessing Domestic Abuse, Stalking, Harassment and Sexual Violence Services, Welsh Government Social Research; Sheridan, L., Scott, A., and Campbell, A. (2019). Perceptions and Experiences of Intrusive Behavior and Stalking: Comparing LGBTIQ and Heterosexual Groups. *Journal of Interpersonal Violence* 2019, Vol. 34(7) 1388–1409; Langenderfer-Magruder, L. et al. (2020). Stalking victimization in LGBTQ adults: A brief report [Article]. *Journal of Interpersonal Violence*, 35(5/6), 1442–1453.

<sup>10</sup> Bal, V., and Divakalala, C. (2022). Community is Where the Knowledge is: the Adhikaar Report, Adhikaar Aotearoa.

<sup>11</sup> See for example Kurbatfinski, S., Nixon, K., Marshall, S., Novick, J., McBride, D., and Letourneau, N. (2024), “That was terrifying!”: When 2SLGBTQQ+ individuals and rural women experiencing intimate partner violence are stalked. *AIMS Medical Science*, 11(3): 265–291.

<sup>12</sup> Dickson S., (2016), Building Rainbow communities free of partner and sexual violence, Hohou Te Rongo Kahukura.

### Case study 1: Intimate partner stalking: E

E is a Takatāpui person in their fifties who left an abusive female partner, only to be stalked for three years. Their ex-partner contacted their workplace, asking where they were working on multiple occasions, and told Rainbow community members in their small town to shun E. On one occasion, E was assaulted by a family member of their ex-partner at a Rainbow event and E was subsequently told by the organisers not to come back. E's ex-partner regularly drove past their new home, and E's emails disappear from an account that their ex-partner had access to, which E could not change by themselves.

The impacts for E, include physical injuries from the assault, and increasing isolation and feelings of hopelessness. From being an active member of local Rainbow community events, they no longer participate at all.

## Sexualised stalking by acquaintances

One of the unique forms of stalking that Takatāpui and Rainbow people experience is related to the overt sexualisation of our identities by people around us, particularly those with whom there is no reciprocal relationship. Gay men, bisexual people and trans women in particular are seen as hypersexual, promiscuous and available for sex at any time, with anyone. Takatāpui and Rainbow people generally, and men and trans women in particular, are also seen as predatory, regardless of how we actually behave.

This starts when we are young, with children who are Takatāpui or Rainbow being assumed to be more sexual, or too sexual. Takatāpui and Rainbow secondary school students report being hypersexualised, or stereotyped as sexually available, by other students, particularly when they come out.<sup>13</sup> In a large sample of nearly 8000 secondary school students in Aotearoa, unwanted sexual contact was reported at considerably higher rates for sexuality diverse students and transgender and gender diverse students than cis, heterosexual students.

**Table 6: Youth 2000 Survey Series: Ever been touched in a sexual way or made to do unwanted sexual things<sup>14</sup>**

Demographic group	Percentage across five cycles
Cis heterosexual students	16.1%
Same sex and Multiple sex attracted students	34.6%
Transgender and gender diverse students	44.7%

<sup>13</sup> Dickson, S., Fraser, B. and Bramwell, N. (2021) Healthy Relationships and Consent: Through the lens of Rainbow identifying youth, Waikato Queer Youth and Hohou Te Rongo Kahukura.

<sup>14</sup> Fenaughty, J., Clark, T., Choo, W.L., Lucassen, M., Greaves, L., Sutcliffe, K., Ball, J., Ker, A., & Fleming, T. (2021). *Te āniwaniwa takatāpui whānui: Te aronga taera mō ngā rangatahi | Sexual attraction and young people's wellbeing in Youth19*. Youth19 Research Group, The University of Auckland and Victoria University of Wellington, New Zealand and Fenaughty, J., Fleming, T., Bavin, L., Choo, W.L., Ker, A., Lucassen, M., Ball, J., Greaves, L., Drayton, B., King-Finau, T., & Clark, T. (2023). *Te āniwaniwa takatāpui whānui: te irawhiti me te ira huhua mō ngā rangatahi | Gender Identity and young people's wellbeing in Youth19*. Youth19 Research Group, The University of Auckland and Victoria University of Wellington, New Zealand.

Overt sexualisation of our identities is the context in which many Takatāpui and Rainbow people are stalked and pressured by acquaintances in all kinds of contexts to be sexual, both online and in person. Often these experiences are framed as ‘jokes’ or things someone has taken the wrong way, but they can be relentless and at times dangerous. They are often accompanied by overtly sexual references to the stalking victim, including, for lesbians and bisexual women, being told that they ‘just need a good f\*\*k’. Repeatedly being sent unsolicited ‘dick pics’; repeatedly being asked about sexual practices, including in workplaces; repeatedly being asked to be sexual when the stalking victim has made their lack of interest clear, as well as unwanted sexual touching or sexual assault are all common experiences.

### Case study 2: Identity based stalking: A

A is a young trans man living in his first flat with other young people. Recently, one of his male flatmates has started saying he thinks he wants to explore his sexuality. The flatmate asked A if he would hook up with him. A had no interest in his flatmate and said no.

Over a period of a few weeks, the male flatmate asked A to hook up several other times, with the same response. Each time, the stalking activity was excused afterwards as a joke, or a drunken mistake. Then the flatmate sent A a picture of his penis, again claiming afterwards that it was a mistake.

The final straw for A was another text, asking ‘can you just give me a handjob then?’ A has reported these events to the police and awaits their decision to act. The landlord says he is not able to give notice to the stalker, so A is depending on police involvement to make sure his home feels safe for him.

Acquaintance stalking experiences based on sexualising our identities is so ubiquitous we have slang terminology for them inside our communities. **‘Unicorn hunting’** refers to pressures on bisexual women to have threesomes with a couple involving a man and woman. Being asked to be a couple’s ‘unicorn’ is a near universal experience for bisexual women on dating apps, and a common experience in ‘real’ life.<sup>15</sup> ‘Unicorn hunting’ can include repeated requests and significant pressure to be sexual; requests for sexual images; being sent unsolicited sexual images and unwanted touching, including sexual assault. **‘Chaser’** is usually a term for men who actively seek trans people for sexual encounters solely because they are trans. Usually used in reference to straight cis men and trans women, ‘chasing’ can include repeated requests and significant pressure to be sexual; requests for sexual images; unsolicited dick pics; unsolicited live masturbation; unwanted touching and threats to out trans women. ‘Chasing’ can also be perpetrated by other genders and also be directed at trans men and non-binary people. ‘Chasing’ can include sexual assault.

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<sup>15</sup> Pond, T. (2020). “It’s almost like an ownership of my body”: negotiating identity and marginalisation in the lives of bisexual and other plurisexual women, Auckland University of Technology.



## Hate based stalking

The US population research referenced earlier produced data about stalking from acquaintances. For Takatāpui and Rainbow people, stalking from acquaintances may include the sexualised stalking discussed immediately above, as well as hate-based stalking.

Lesbians experience the highest rates of stalking from acquaintances. Bisexual women, bisexual men and gay men all experience stalking from acquaintances at as least as high rates as heterosexual women, with differences small between these groups.<sup>16</sup>

**Table 7: US population level data for acquaintance stalking by sexuality and gender**

Demographic	Stalking from current/ex-partners
Bisexual women	43%
Lesbians	56%
Heterosexual women	40%
Gay men	41%
Bisexual men	44%

Hate-based stalking appears to be strongly linked to current events and wider views about Takatāpui and Rainbow people within societies. For example, before, during and immediately following the visit of British anti-trans activist Posie Parker in 2023, there was a measurable rise in volume and tone of anti-trans content in New Zealand’s social media. Researchers described this content as the ‘language of genocide’, denying that trans people, especially women, have a right to exist, or even exist at all, and it was often targeted at specific individuals, particularly those involved in advocacy.<sup>17</sup>

This kind of hate-based stalking includes death threats, explicit threats of sexual violence, often with suggestions that a stalking victim’s sexuality or gender identity could be ‘fixed’ or changed via rape, overt sexualisation of identities, doxing or the sharing of the stalking victim’s personal details online to encourage in-person harassment, threats to out someone, contacting workplaces and other connections a stalking victim may have, and attacks in person. The most common slur is to call us ‘groomers’ or ‘paedophiles’ and suggest we are attempting to recruit children. High profile Takatāpui and Rainbow people face these specific risks of hate-based stalking simply for being who we are in the public sphere.

The involvement of multiple stalkers increases the scale of especially online hate-based stalking for many in our communities.

<sup>16</sup> Chen, J. et al. (2023). The National Intimate Partner and Sexual Violence Survey (NISVS) 2016/2017: Report on Victimization by Sexual Identity. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

<sup>17</sup> Hattotuwa, S., Hannah, K., and Taylor, K. (2023), Transgressive transitions: Transphobia, community building, bridging, and bonding within Aotearoa New Zealand’s disinformation ecologies March-April 2023, The Disinformation Project.

### Case study 3: Hate based stalking: Lexie Matheson

Lexie Matheson (ONZM) is a trans woman in her 70s who has been active in human rights and Takatāpui and Rainbow community organising for more than twenty years. She has been nominated for Senior New Zealander of the year in 2019, 2020 and 2021, being runner up in 2020.

Lexie experiences both sexualised and hate based stalking from acquaintances on a daily basis, particularly although not only online. She notices this increases whenever trans people's lives are discussed without dignity or respect in mainstream media. Some stalkers create multiple identities online to stalk Lexie, question her right to exist and her gender. Others have created fake profiles for Lexie in various media platforms to post content which undermines her. She is continually referred to as a man in all of these hate-based attacks.

Stalkers have repeatedly contacted Lexie's past workplaces, especially after she wins an award or is quoted in the media. Stalkers have repeatedly contacted Lexie's awarding groups, to try and undermine her suitability to receive awards. These attacks, and those directed towards Lexie directly, refer to her as a paedophile; a groomer; someone destroying women's safety; someone damaging children. They suggest she should kill herself. Doxing articles have been written and shared to undermine Lexie's credibility, suggesting she is a sexual predator and publishing details of her life and family. She is aware one such article has been shared tens of thousands of times.

Lexie receives death threats from people online at least monthly and has done for twenty years. She and her wife and child are physically threatened. She frequently reports death threats and physical threats to the police, who are supportive within the limits of current legislation.

Hate-based stalking in public life is strongly linked to misogyny, with wahine Māori, women of colour, Takatāpui and Rainbow women, visible religious and ethnic minorities and trans and non-binary people experiencing both more frequent and more violent stalking and harassment.<sup>18</sup> One recurring feature of hate-based stalking towards Takatāpui and Rainbow people is that it often appears to be organised or co-ordinated, especially by far-right groups or those who deny the human rights of Takatāpui and Rainbow people. For example, organisations such as Destiny Church have been implicated in organising the stalking or harassment of drag queens.<sup>19</sup>

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<sup>18</sup> Hattotuwa, S., Hannah, K., and Taylor, K. (2022), Dangerous speech, misogyny, and democracy: A review of the impacts of dangerous speech since the end of the Parliament Protest, The Disinformation Project.

<sup>19</sup> See for example: <https://www.rnz.co.nz/news/national/520687/drag-performers-sue-tamaki-destiny-church-seeking-2m-for-defamation>

#### Case study 4: Hate based stalking: O

O experienced workplace discrimination based on their sexuality and gender identity. After an investigation report confirmed the discrimination, referring to Human Rights Act provisions, O left the workplace.

After several months, O realised they were the subject of an ongoing campaign of harassment involving misinformation and efforts to discredit their conduct and professional skills. Specifically, other organisations expressed concerns to O about their ability to work 'safely' with others.

O wrote to their former employer to raise concerns. Their personal information and the investigator's report, including details of their sexuality and gender identity, were then shared online, to right-wing and conservative trolls, leading to threats of rape and assault. The doxing information was viewed 8000 times in 24 hours and shared widely through online chat spaces and some blogs. It used O's LinkedIn profile picture, and a shareable dossier of personal photos of O's involvement in Rainbow communities and family life. The photos were from O's personal social media, of their own children and family, and spanned a considerable length of time.

Over months, O faced hate-based stalking and harassment via screenshots and ongoing doxing. This included slurs about sexuality, gender identity and sexual behaviour, allegations of depravity and predatory behaviour and statements that O could be 'fixed' by violence including rape, drowning or being hit by a truck. O says the stalking 'will never go away. There are constant reminders.'

Takatāpui and Rainbow men also report hate-based stalking, including targeted attacks on drag queens reading stories in libraries.<sup>20</sup> This has escalated in the last 12 months, but these stalking activities go further back, and include online based stalking describing drag queens as paedophiles on library and city council websites; email campaigns to city councillors, library staff and others describing drag queens as paedophiles and suggesting these events are 'recruiting for the Rainbow community'; and specific actions at community events involving shouting abuse, holding up banners with sexualised slurs (groomer, paedophile) and actual physical violence, sometimes across multiple sites. In the main, these activities have been excused as 'differing community views' and little to no criminal justice response has been provided even though the attacks have led to events being shut down all over the country.

<sup>20</sup> See for example: <sup>20</sup> <https://www.nzherald.co.nz/nz/unhinged-conspiracy-theorists-auckland-drag-queen-targeted-in-avondale-library-protest-speaks-out/TE6BFUOXVJC6VFYMU4VAUAERTQ/>; <https://www.rnz.co.nz/news/ldr/516550/abuse-and-threats-inside-the-decision-to-cancel-drag-queen-library-event>; <https://www.rnz.co.nz/news/national/468997/online-backlash-to-drag-performers-shocks-community-we-still-have-a-long-way-to-go>; <https://www.rnz.co.nz/news/national/369223/wellington-drag-queen-says-he-s-been-stalked-and-harassed>.

## Case study 5: Hate based stalking: Sophie Labelle and audience

In early 2024, Hohou Te Rongo Kahukura hosted trans artist Sophie Labelle for a reading night at Hamilton City Library. In preparation, we contacted both our local NZ Police Diversity Liaison Officers and the national DLO lead, and asked for their visible support, due to hostile and dangerous rhetoric about Takatāpui and Rainbow communities, and particularly trans women. We met with police twice and made a plan for at least two police officers to be present before the event began. Hamilton City Library staff also contacted the City Safety team and arranged for them to attend.

The day of the event, we received an email from "Kiwi Warlord", saying Sophie was a paedophile and we should not host her. The email was passed onto the police, and library staff informed. They had received a similar email.

On the night, two police officers stood near the library entrance with two City Safety team members. As the crowd of sixty including children as young as five was gathering, a group of young men dressed in black came into the library and joined the audience. As soon as the event started, two of these men jumped up and started shouting anti-trans abuse, calling Ms Labelle a paedophile and filming audience members, including children, while continuing to shout about genital mutilation and child abuse. The remaining men also began shouting abuse and trying to unfurl a banner.

The men were removed by police and City Safety officers. They gathered outside the front of the library, shouting, holding their banner which called trans people paedophiles with the police and City Safety team guarding the library.

The audience was visibly distressed by this violent intrusion. At the completion of the event, three hours later, the men who had left for about an hour, came back and began filming people as they were leaving at the front of the library. The library staff opened the back entrance, and we asked people to leave there, which happened in small groups over the next half hour.

At about 8pm, the men realised and came around the back exit, again filming people and shouting abuse as they were leaving. The police moved to the back of the building and monitored, but said they couldn't intervene. This was terrifying for people leaving and for people inside.

After these events, video footage from the two men filming inside the library was uploaded onto far-right group Action Zealandia's social media feeds. Sophie Labelle, children, parents and other members of the audience including Hohou Te Rongo Kahukura kaimahi and volunteers were clearly visible throughout.

None of these activities resulted in charges for the men involved, despite four of them being identified via CCTV footage and their own social media posts, sharing and bragging about their actions. All information was shared with the police.

Our final case study is a horrifying example of organized hate-based stalking, and continued throughout the rest of Ms Labelle's tour of New Zealand, with other attempts to shut down her readings. The target was ostensibly Ms Labelle, yet audience members including children were also exposed to verbal abuse and slurs, filmed without their consent and had these videos shared on far-right social media channels. As with other kinds of hate-based stalking, there were multiple perpetrators, multiple acts, online and in person activities, and the perpetrators did not know anyone involved, but they held beliefs about trans and non-binary people that, in their minds, justified their violence.

Under current legislation, this led to no consequences for these men. The Bill must offer protections for this kind of stalking too.

## Concerns with help-seeking

The previous sections highlight that Takatāpui and Rainbow people experience:

- higher levels of stalking based on available evidence
- similar and unique stalking activities as part of intimate partner violence stalking
- and unique and elevated levels of acquaintance stalking and hate-based stalking that leverage off existing discrimination, exclusion and stigma

The new Bill therefore offers important potential protections for Takatāpui and Rainbow people. However, these protections will not be realised without significant structural improvements in NZ Police responses to us; specific service expertise; increased access to training and cultural supports for other service providers working with our communities; and specific resources for Takatāpui and Rainbow communities.

These comments echo broader gaps in our violence response systems identified by both MSD and Hohou Te Rongo Kahukura in recent publications, and most are outside the scope of this submission.<sup>21</sup>

However, the Justice Regulatory Impact Statement clearly describes their concerns over implementation of this Bill, noting responsibility for implementation of the proposed new protections will predominantly sit with Justice, NZ Police and Department of Corrections.<sup>22</sup> Of these, NZ Police are essentially the first gatekeepers for whether this Bill will succeed in holding stalkers accountable.

We are concerned that without significant shifts, NZ Police will be unable to effectively respond to stalking in our communities.

In research released last year, The Backbone Collective and Hohou Te Rongo Kahukura heard from 599 trans and non-binary and women victim-survivors of family, partner

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<sup>21</sup> Ministry of Social Development, A report outlining family violence and sexual violence service gaps in Aotearoa, April 2024 and [Report card for the NZ government, July 2024, Hohou Te Rongo Kahukura](#).

<sup>22</sup> Regulatory Impact Statement, Ministry of Justice, Establishing an offence of stalking, 26 September 2024.

and/or sexual violence about their experiences with NZ Police, including those who chose not to contact NZ Police.<sup>23</sup>

Sexuality diverse women and trans and non-binary people who did not contact the police after violence were worried police contact would make their situation worse and/or less safe. Many, particularly trans and non-binary people, expressed specific concerns about how the police would treat them.

Unfortunately, these fears of mistreatment were largely substantiated. More than a third of trans and non-binary people and over a quarter of sexuality diverse women rated their first contact with police as very poor.

When asked about police first response, the most common theme for victim-survivors in the HTRK sample was the feeling that the police were not interested or blamed them for violence they had experienced.

*I was told that I'd made my bed and I had to lie in it, in regards to having an ex partner that was a gang member. **Māori asexual woman***

Many victim-survivors in the HTRK sample reported the police supported the person causing violence, rather than the victim-survivor.

*I went to police to report being strangled, and was told they would follow up. They did, then told me my husband was handsome, charming and didn't believe me. **Pākehā bisexual woman***

The first contact with police was actively disrespectful in many ways for many trans and non-binary people and sexuality diverse women, including poor responses to their distress. Others were forced to report violence in public, essentially forcing them to come out.

*I had no privacy. I had to tell the Police in front of other people waiting to be seen. I already felt very ashamed and having other people (who were also Māori) over hear what had happened to me caused me more shame and made me feel afraid of being outed if seen again by them. **Māori Takatāpui person***

Many victim-survivors also reported disrespect related to their gender, including overt transphobia and being misgendered while trying to report violence.<sup>24</sup>

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<sup>23</sup> The Backbone Collective and Hohou Te Rongo Kahukura Make it about us: Victim-survivors' recommendations for building a safer police response to intimate partner violence, family violence and sexual violence in Aotearoa New Zealand (March 2024). Of the 599 total participants, 215 were sexuality diverse women or trans and non-binary people (the HTRK sample). The Backbone Collective sample included 371 women who described themselves as 'Straight (heterosexual)' and 13 women who did not provide their sexuality.

<sup>24</sup> One of the most common forms of discrimination towards trans and non-binary people is misgendering or referring to a trans person using an incorrect name, title or pronoun. Using someone's old name is called deadnaming. For example, trans women being referred to as men, mister or he; trans men being referred to as women, miss or she; and non-binary people being referred to in binary gendered ways rather than non-binary and the pronoun of their choice. Being consistently misgendered is harmful for trans and non-binary people's sense of themselves and has significant negative impacts on mental health. In the context of responses to violence and abuse, it may also mean trans women are stopped from accessing protections and services available for other women.

*They laughed at me for trying to report. Deliberately refused to file my report. Deliberately used male pronouns even when corrected. Told me it was my fault I got raped because it's what trans freaks like me deserve. **Pākehā asexual trans woman***

These poor first responses stopped 40% of trans and non-binary people and 32% of sexuality diverse women contacting the police again.

Nearly four out of five trans people (79%) and almost two thirds of sexuality diverse women (60%) said they had experienced bias or mistreatment in their most recent or significant police contact.

Trans and non-binary participants were three times as likely to say police made fun of them and much more likely to say that police involvement made them feel less safe and made their situation worse. More than a third (38%) of trans and non-binary participants said they were misgendered by the police when they tried to report family or sexual violence.

Other harmful actions from NZ Police were common. Many sexuality diverse women and trans and non-binary people said they were treated as the one who had been violent, and some were given a warning. Six percent of trans and non-binary victim-survivors were arrested instead of the abuser.

*He treated it like a sibling spat and said he would be "Disappointed" if his daughters "resorted to violence", as if I was just as bad as the person who attacked me. He even told me off because he said he couldn't find the address. He didn't even take a statement. **Pākehā bisexual woman***

Disabled participants in the HTRK sample were much more likely to say police minimized violence and abuse, and three times more likely to be accused of being mentally unwell by police than non-disabled participants.

Māori and Pasifika victim-survivors in the HTRK sample said they were racially profiled, experienced the use of racist language or attitudes, or that police ignored or failed to understand their ethnicity and culture.

Of great concern was that just under a third of sexuality diverse women and half of trans and non-binary people said police involvement made them less safe. Over two-thirds of sexuality diverse women and nearly all trans and non-binary people (90%) who said police involvement had made things worse for them said they were more frightened after contact with the police.

In addition to the extensive concerns with police treatment of trans and non-binary victim-survivors of family and sexual violence discussed above, systemic concerns about police treatment of transgender and non-binary people have been raised more broadly, including by Te Kāhui Tika Tangata Human Rights Commission.<sup>25</sup> Both community research and the IPCA have described poor police treatment, including, on

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<sup>25</sup> <https://www.rnz.co.nz/news/national/470865/human-rights-commission-urges-police-to-address-treatment-of-transgender-people>

one occasion, a trans woman detainee whose ankle was broken when she was forced to the floor by a police officer.<sup>26</sup>

It is clear that existing NZ Police practices in relation to responding to family violence and sexual violence within Takatāpui and Rainbow communities are unsafe, inadequate and concerning. For this Bill to succeed, NZ Police **must** improve their competency in responding to violence inside Takatāpui and Rainbow communities, including introducing appropriate training, policy guidance, data collection and community liaison to reduce stalking and other forms of violent offending; improve police practice at the front line; and substantially increase the confidence that Takatāpui and Rainbow victim-survivors can have in reporting stalking offences to NZ Police.

## Recommendations

**1. We support the Bill placing stalking within the Crimes Act** and hope that this means the state will begin gathering population level data to establish the scale and severity of stalking towards New Zealanders, particularly Takatāpui and Rainbow communities.

**2. We support the inclusion of all stalking activities in section 216P and welcome the recognition of stalking as a pattern of behaviour but would like the following additions.** We do not believe the threat to out or actual outing of someone's sexuality or gender to cause distress and helplessness is adequately covered by the existing activities, so recommend adding (to replace "damaging or undermining person B's reputation, opportunities, or relationships"):

- **damaging or undermining or attempting to damage or undermine, person B's reputation, opportunities, or relationships, including through sharing information Person B does not want shared with others**

We are unsure if "recording or tracking Person B" will adequately address the kinds of mining of publicly available information (social media photos and other material) for the purpose of stalking, misinformation and attempted humiliation we have described as part of hate-based stalking. If not, we would like this activity to be strengthened to ensure those behaviours are adequately covered.

There is considerable overlap between Takatāpui and Rainbow and disabled communities. We support VisAble's suggestion to better protect the needs of disabled people by recognising intersections of stalking and disability and adding:

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<sup>26</sup> <https://www.rnz.co.nz/news/national/470778/officer-who-broke-detainee-s-ankle-used-excessive-force-ipca-rules> See also Veale, J. et al. (2019). Counting ourselves: The health and wellbeing of trans and non-binary people in Aotearoa New Zealand. Transgender Health Research Lab, University of Waikato.



- **using or manipulating a person’s care and support needs, their impairment or the impairment of their children in a way that causes fear, distress and/or confusion**
- **misusing or manipulating a person’s lack of capacity to cause fear, distress and/or confusion**

We agree with NCIWR’s suggestion to add:

- **Giving unwanted or offensive material to that person or leaving it where it will be found by, given to, or brought to the attention of that person, including in any electronic media**

Unsolicited gifts are a common form of stalking; as is, in our communities, the sending or offering of unwanted sexual images and other sexualised interactions.

The **Sentencing Act 2002** section 9(1)(h) allows the sentencing judge to consider, as an aggravating or mitigating factor, whether offending was partly or wholly informed by an offender’s beliefs about people with an enduring common characteristic such as race, colour, nationality, religion, gender identity, sexual orientation, age, or disability, when an offender believed a victim to have that characteristic. We would like to see the Bill recognise social context in similar ways, as we understand stalking to be entirely contextual, and enabled, for Takatāpui and Rainbow people, by social inequities and marginalisation. Therefore, particularly relevant to hate-based stalking towards Takatāpui and Rainbow people and women in the public sphere, we suggest adding:

- **acts of any kind that involve abuse directed at a person’s identity, or an offender’s beliefs about a person’s identity**

We welcome the futureproofing that is necessary, given online and digital based stalking and harassment is likely to change shape with changes in technology.

**3. We recommend strengthening the last specified act listed in the draft Bill by replacing “reasonable person” with “someone in the social context and circumstances of Person B”.** The phrase “acting in any way that would cause fear or distress to a reasonable person” should act as a kind of catch all. However, echoing the point made above, ‘reasonable person’ defeats this purpose.

The impacts of stalking depend entirely on context. To give an obvious example, stalking a straight person and threatening to out them in their workplace is unlikely to provoke any distress or fear, because there will be no negative consequences. Yet for Takatāpui and Rainbow people, outing or threatening to out someone is extremely distressing because of potential and actual negative consequences.

‘Reasonable person’ is entirely open to interpretation, and assumes we all understand everyone else’s social context, which is impossible. It invisibilises power differences, social inequities and marginalisation.

**4. We recommend the definition align with criminal harassment legislation to two of the specified acts, and that the time restriction is removed.** The current suggestions are artificial limitations that do not reflect stalking experiences for people in our communities who may be targeted by intimate partners at anniversaries, or experience hate-based stalking escalating exponentially if perpetrated by many people. The reality is, every stalking activity causes harm, and the sooner it can be responded to, the better. One person we supported was not stalked when her partner left the country, but the stalking continued when she returned. Restrictive time frames protect stalkers. The most pernicious possibility with the existing framing is a stalker who waits to act in abusive and harmful ways until they know they cannot be prosecuted – every thirteen months say.

**5. We recommend adding (in italics) that a stalker ‘knows or should know’ their stalking activities are likely to cause fear or distress.** This aligns our legislation with improvements to legislation elsewhere,<sup>27</sup> and is more effective against sexualised stalking of Takatāpui and Rainbow people by acquaintances, which is often excused or framed as a compliment or a joke. It also may assist dealing with stalkers who pretend they do not realise that outing someone will cause distress.

**6. We recommend two additions to the section immediately after the specified acts referring to acts done to third-party people connected with the primary victim and acts through third-parties.** Both of the existing definitions are too narrow for the ways stalking is carried out towards Takatāpui and Rainbow people. Acts done towards third parties in ‘family relationship with person B’ should also cover chosen family and those supporting people experiencing stalking or other forms of violence. “Chosen family” has specific importance inside Takatāpui and Rainbow communities, due to historical discrimination, including in failing to recognise partners as “family” in legal, healthcare and other settings. It means a group of people who deliberately choose one another to play significant roles in each other’s lives; people “like family” even though you are not biologically or legally related. Chosen families are often intentionally created because many Takatāpui and Rainbow people cannot rely on biological families in ways others might be able to.

Additionally, kaimahi at Hohou Te Rongo Kahukura have experienced a range of harmful acts precisely because we support survivors of violence – and we are often the only supporters of survivors of violence in our communities, so attempts to undermine us seem to be aimed at isolating survivors completely. This has included being monitored, attempts to damage or undermine the reputation and professional standing of our roopū members by perpetrators and those supporting perpetrators, and repeated posting of personal details on social media by perpetrators and those supporting perpetrators.

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<sup>27</sup> See for example discussions of improvements in stalking codes over time in the United States in Langenderfer-Magruder, L. et al. (2020). Stalking victimization in LGBTQ adults: A brief report [Article]. *Journal of Interpersonal Violence*, 35(5/6), 1442–1453.

Therefore, we recommend family relationship is broadened to:

- **anyone targeted by specified acts who has a close relationship like family with person B, is supporting or in a care relationship with person B, or is someone important to person B**

We question whether audience members in our last case study will be covered and ask the select committee to consider this situation in particular.

**7. We support the Bill's definition of 'specified acts' including acts perpetrated through any third-party individual, institution or organisation,** and suggest the words 'communities of belonging' are also added. As discussed in our submission, stalkers in our communities often use Rainbow community networks to monitor, punish and isolate stalking victims. We do not believe Takatāpui and Rainbow communities are covered by the existing phrase.

**8. We support the Bill enabling NZ Police to warn a person after they have perpetrated one act of stalking.** We believe this defends against stalkers who defend stalking acts by claiming they were unaware of harm they were causing, and may be particularly effective in our communities, with low recognition rates of partner violence and stalking behaviours. We support warnings requiring the explicit permission of victims however, to ensure further harm is not caused.

We also question whether this tactic will be as effective in hate-based stalking contexts and would like to see explicit monitoring of consequences of warnings which considers type of stalking and number of stalking perpetrators as data variables.

**9. We recommend removing "with a reasonable excuse" from the defences for stalking.** We suspect, if this is allowed, it will operate in a similar fashion to the now defunct 'provocation' defense, used by Clayton Weatherston and in other murder cases to excuse killing Takatāpui, gay and bisexual men. There is no reasonable excuse for stalking. For example, the hate-based stalking towards drag queens and Sophie Labelle we have discussed in this submission would be excused by stalkers, with the existing framing, as taking place to protect children, which is absurd.

**10. We recommend the Bill allows NZ Police to suspend firearms licenses for those charged with a stalking offence immediately, to protect victims and ensure delays in court processes do not negatively impact victim safety.** This would replace prohibiting convicted stalkers from owning a gun for ten years, in the current Bill.

**11. We wish to ensure that this Bill complements and strengthens existing protections for family violence victims within the Family Violence Act 2018 through including stalking and harassment in the definition of psychological abuse.** We also wish to make sure that stalking protections are understood within the context of family violence. For example, we would not want to see a perpetrator able to choose how the justice system will respond to them (via Family Court or criminal court) to **reduce** consequences for themselves, including through pressuring stalking victims with protection orders. There is ample evidence that existing schisms between Family Court

and criminal courts leave many women in unsafe custody situations with abusive men. There is a distinct lack of evidence of how these schisms impact on Takatāpui and Rainbow communities; however, for bisexual, asexual and trans women in relationships with men, we are aware of similar concerns.

**12. We recommend including in the Bill a mandate for courts to consider and monitor appropriate rehabilitation for people convicted of intimate partner stalking.** For Takatāpui and Rainbow victims, concerns about how unsafe prisons are for our communities acts as a significant deterrent for reporting all forms of violence. We are aware that most existing programmes approved and funded by the Ministry of Justice and Department of Corrections are not culturally relevant or safe for perpetrators inside Takatāpui and Rainbow communities. Many providers ‘get around’ this by attempting to work with perpetrators one on one, but there is no evidence of this working, and substantial evidence from personal communications and supervision with providers that this a satisfactory solution. There is a need for resourcing to develop evidence based, culturally appropriate interventions for people in our communities perpetrating violence, and for existing programmes to improve their expertise in working with our communities.

**13. We recommend existing evidence-based training and policy recommendations are implemented by NZ Police.**<sup>28</sup> For this Bill to succeed, NZ Police **must** improve their competency in responding to violence inside Takatāpui and Rainbow communities, including introducing appropriate training, policy guidance, data collection and community liaison to reduce stalking and other forms of violent offending; improve police practice at the front line; and substantially increase the confidence that Takatāpui and Rainbow victim-survivors can have in reporting stalking offences to NZ Police.

## Conclusion

We suspect the scale and severity of stalking, particularly hate-based stalking, faced by especially those with significant public profiles within Takatāpui and Rainbow communities is under recognised by most people outside our communities. We would welcome further discussion on the issues we have raised with the Select Committee on this and any other matters.

We can be reached via [projects@kahukura.co.nz](mailto:projects@kahukura.co.nz)

We strongly support the evidence-based submissions from other specialist violence organisations and coalitions: The Coalition for the Safety of Women and Children, National Collective of Independent Women’s Refuges, the Backbone Collective, SHINE and VisAble.

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<sup>28</sup> The Backbone Collective and Hohou Te Rongo Kahukura Make it about us: Victim-survivors’ recommendations for building a safer police response to intimate partner violence, family violence and sexual violence in Aotearoa New Zealand (March 2024).