

Trends in domestic violence-related stalking and intimidation offences in the criminal justice system: 2012 to 2021

Stephanie Ramsey, Min-Taec Kim and Jackie Fitzgerald

AIM

This paper describes the significant rise in incidents of domestic violence-related stalking and intimidation recorded in NSW over the 10 years to 2021 and their passage through the criminal justice system.

METHOD

Characteristics of stalking/intimidation incidents from 2012 to 2021 were collated from the NSW Police and Criminal Courts databases. We focus on those flagged as 'domestic violence-related'. Additional information about these incidents was obtained through text mining 12,676 police domestic violence-related stalking/intimidation narratives.

RESULTS

Key findings:

- Domestic violence-related stalking/intimidation incidents recorded by NSW Police increased 110 per cent from 2012 to 2021 (from 8,120 to 17,063).
- Police legal proceedings for domestic violence-related stalking/intimidation incidents increased 163.8 per cent from 2012 to 2021 (from 4,469 to 11,789).
- Domestic violence-related 'stalking/intimidation' typically involves threats, intimidation and verbal abuse (not stalking).
- Court appearances including a domestic violence-related stalking/intimidation charge increased 63.8 per cent from 2014 to 2021 (from 3,562 to 5,836).
- Courts consider domestic violence-related stalking/intimidation seriously, with one in eight offenders sentenced to a custodial penalty. The number of custodial sentences increased 96.1% from 2014 to 2021 (from 311 to 610).
- The increase in stalking/intimidation has had a pronounced effect on Aboriginal people who accounted for 28% of court finalisations and 52% of custodial penalties in 2021. The number of Aboriginal people receiving a custodial penalty increased 101% in eight years from 158 in 2014 to 317 in 2021.

CONCLUSION

The substantial increase in stalking/intimidation offences in the criminal justice system seems more likely to reflect changes in the police response to domestic violence rather than a change in criminal behaviour.

KEYWORDS

domestic and family violence

intimate partner violence

intimidation

stalking

INTRODUCTION

Domestic violence is a major health, welfare and criminal justice issue. It is now well acknowledged that domestic violence is considerably broader than physical assault. Domination and control of an intimate partner or family member can occur through physical, verbal or emotional abuse, harassment, stalking, intimidation and other controlling behaviours (ANROWS 2021).

Under NSW law, domestic violence offences include personal violence offences, like assault and murder, as well as offences ‘intended to coerce or control another person ... [or cause] intimidation or fear’ (s11(1)(c) Crimes (Domestic and Personal Violence) Act 2007). A key offence in the latter category is ‘stalking and intimidation’. In NSW a single offence criminalises ‘stalking or intimidating another person with the intention of causing the other person to fear physical or mental harm’ (s13(1)).

The offence of stalking and intimidation is the focus of this report due to both its growing volume in the justice system and the lack of research on this topic. Over the past decade NSW has seen a doubling of the number of stalking/intimidation matters at all stages of the criminal justice system including incidents recorded by police, offences appearing in the courts and the number of people in prison.

Victim survey results give an indication as to how commonly people experience emotional abuse and stalking by current and former intimate partners. In 2016, 23 per cent of women (or 2.2 million women across Australia) reported experiencing emotional abuse, including controlling or threatening behaviours, incessant insults and intimidation, by a current or previous partner since the age of 15. The equivalent figure was 16 per cent for men; or 1.4 million Australian men (ABS, 2017). Stalking, including following/watching the person, maintaining unwanted contact and using social media or electronic devices to follow or track the person, is slightly less common. Seventeen per cent of women (1.6 million) and 6.5 per cent of men (587,000 men) reported an episode of stalking since the age of 15 (ABS, 2017).

The current study

In this paper we focus on the occurrence and operation of stalking and intimidation offences in the NSW justice system. We consider trends in incidents recorded by police and how these matters progress through the courts. Characteristics of victims and offenders are discussed. This study was recommended by the NSW Parliament’s Joint Select Committee on Coercive Control in 2021 to help inform our understanding of justice responses to coercive control in domestic relationships¹. More than half the stalking/intimidation matters in the criminal justice system are domestic violence-related and those matters are the focus of this study.

An important prompt for this work is the substantial increase in the total number of police recorded incidents of stalking and intimidation offences over the last decade. In 2012, NSW Police recorded 15,760 incidents of this nature; by 2021 this had doubled to 31,568 incidents. The total number of people in custody for this offence has also substantially increased, up 180 per cent since 2012 (from 136 to 390).

This paper examines trends and patterns in domestic violence-related stalking and intimidation offences in NSW from 2012 to 2021. The study considers the following aspects of stalking/intimidation:

- Trends in the volume of incidents recorded by police and the legal action rate
- The types of behaviours captured in stalking/intimidation incidents
- Characteristics of victims and offenders including age, gender, relationship status and Aboriginality
- Court volumes, outcomes and sentences

¹ Recommendation 4 in this report called for the NSW Bureau of Crime Statistics and Research (BOCSAR) to release a report on how the NSW Police are “using the stalk and intimidate offence”.

METHOD

Data source

Recorded Crime data were derived from the NSW Police Force's Computerised Operational Policing System (COPS). As such, only incidents reported to, or detected by, police are included. For the purposes of this report, when discussing police data the category stalking/intimidation includes criminal incidents recorded by NSW Police between January 2012 and December 2021 which were classified by police as being either: 'bullying/harassment, intimidation' (99% of incidents) or 'stalking' (1% of incidents)². The division of these police descriptions makes it clear that stalking/intimidation is almost all 'intimidation' and infrequently 'stalking' (a point we return to later). The NSW Police domestic violence-related flag is used to indicate those related to domestic violence.

Criminal Court data were drawn from BOCSAR's Criminal Courts database. In this context stalking/intimidation is indicated by the offence *stalk or intimidate with intent to cause fear of physical or mental harm* Section 13 of the *Crimes (Domestic and Personal Violence) Act 2007*. Since February 2013 stalking/intimidation offences relating to domestic violence have been consistently charged under this section³. As such, this report considers court data over the 8-year period from 2014 to 2021, the period where we can be sure that a consistent definition applies.

Narrative descriptions

A significant gap in our understanding of stalking/intimidation is the particular behaviours that comprise the offence. Fortunately, NSW Police compile a written narrative description of all criminal incidents that come to their attention. In this study we use a mining methodology developed by Karystianis et al (2019) which was expanded to capture coercive control behaviours for Kim, Karystianis and Leung (forthcoming). This allows us to identify 26 pre-determined behaviours in 12,676 police domestic violence-related stalking/intimidation narratives recorded in 2019. To identify these pre-determined behaviours, we used a rule-based method. This approach made use of common language patterns that were observed in police text along with dictionaries that indicated the presence of a behaviour within the text narrative (e.g. "Person A sent threatening and abusive texts to Person B"). The 26 behaviours were grouped into seven categories with the guidance of experts in the area of stalking/intimidations. Appendix 1 includes the full list of behaviours identified under each category.⁴ Note that a limitation of this method is that it might not recognise key behaviours if they are described in language patterns that were not common in police text.

² In April 2017 NSW Police introduced two new offence categories – 'bullying/harassment or intimidation' and 'stalking'. These replaced the previous general offence category – intimidation. For completeness this paper considers all three offence types.

³ Lawpart 64715 - Stalk/intimidate intend fear of physical/mental harm-T2 was repealed. This change meant judicial officers could now only charge a defendant with stalk/intimidate intend fear physical etc harm (domestic)-T2 or stalk/intimidate intend fear physical etc harm (personal)-T2.

⁴ This method is described in more detail in Kim, Karystianis and Leung (forthcoming), which reports the prevalence of these pre-determined behaviours across all domestic violence related narratives from 2009-2020.

RESULTS

Trends in police recorded incidents

The volume of incidents recorded by police

As mentioned, there has been a substantial increase in police recorded incidents of stalking/intimidation offences over the last decade. Figure 1 shows both the number and rate of police recorded incidents of all types of stalking/intimidation from 2012 to 2021. Over the 10 years, recorded incidents doubled from 15,760 in 2012 to 31,568 incidents in 2021 (up 100% or up 8% each year on average). Allowing for population growth over the 10 years the rate per 100,000 also shows substantial growth; up 80 per cent from 215.8 per 100,000 in 2012 to 386.5 in 2021. Figure 1 also shows that both the number and rate of incidents gradually increased from 2012 to 2017, before a rising rapidly from 2018 to 2021.

Figure 1. Number and rate of stalking/intimidation incidents recorded by the NSW Police: 2012 to 2021

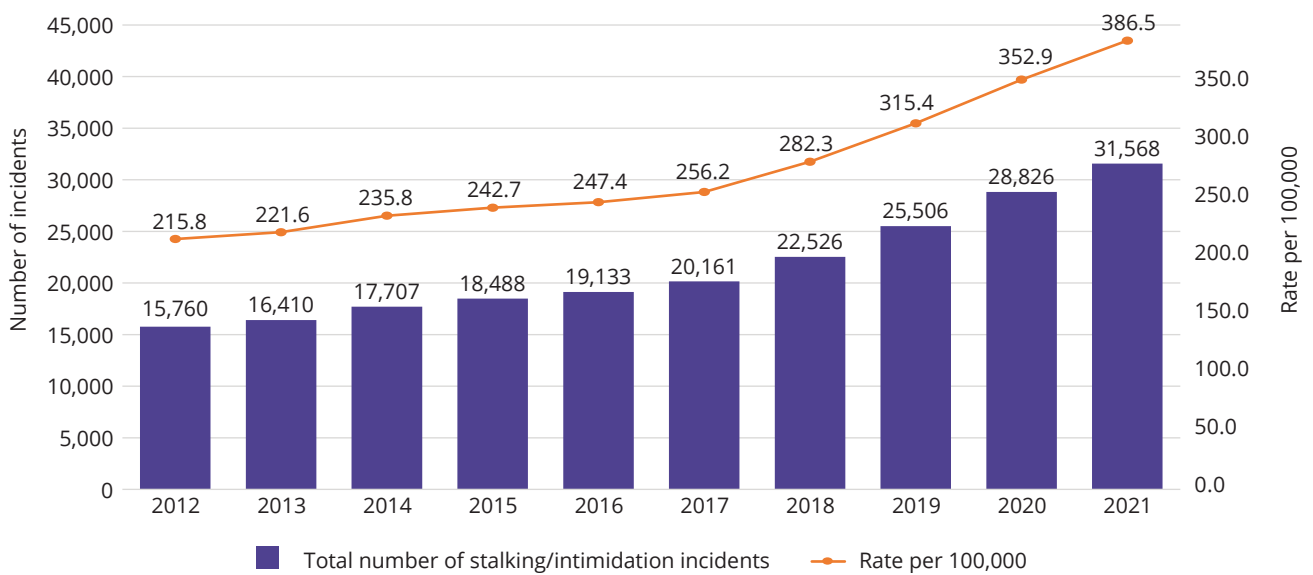


Figure 2. Number of stalking/intimidation incidents recorded by the NSW Police by whether flagged as domestic violence-related or not: 2012 to 2021

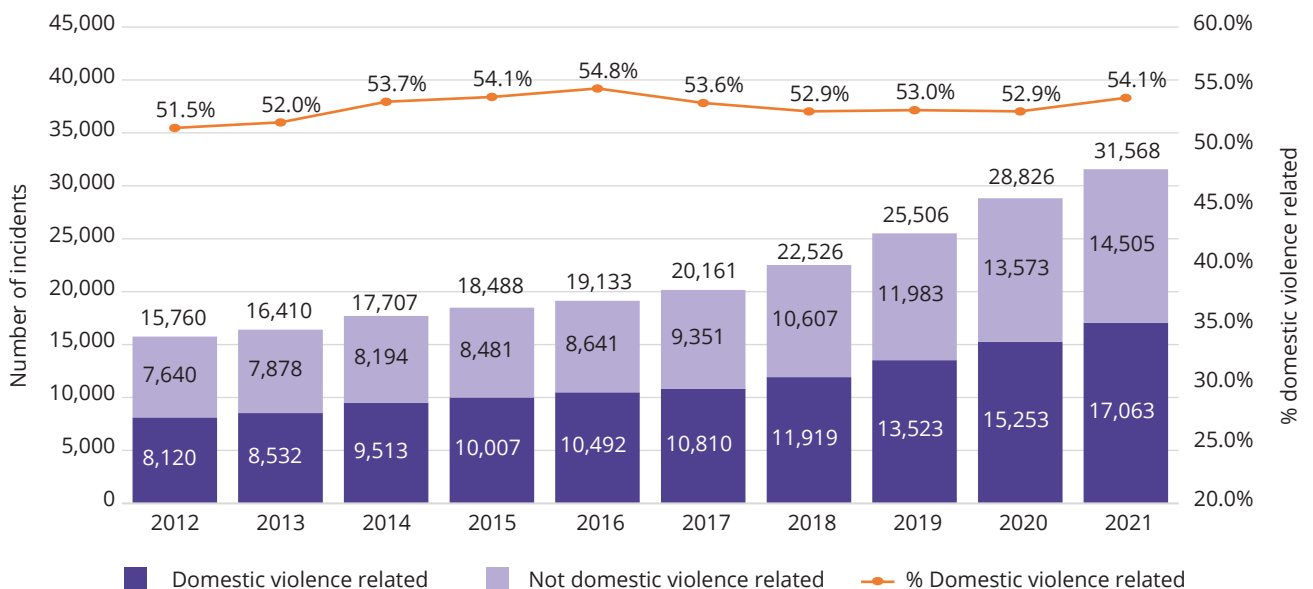


Figure 2 shows the proportion of stalking/intimidation incidents recorded by the NSW Police that relate to domestic violence. Domestic violence forms of the offence include incidents perpetrated by an intimate partner (including ex-partners); a family member, such as sibling, parent or child; or people in other types of domestic relationships, such as flatmates and carers. In each of the last 10 years, domestic violence-related offences have accounted for more than half of all stalking/intimidation incidents recorded by police each year, and that proportion is gradually growing (from 51.5% in 2012 to 54.1% in 2021).

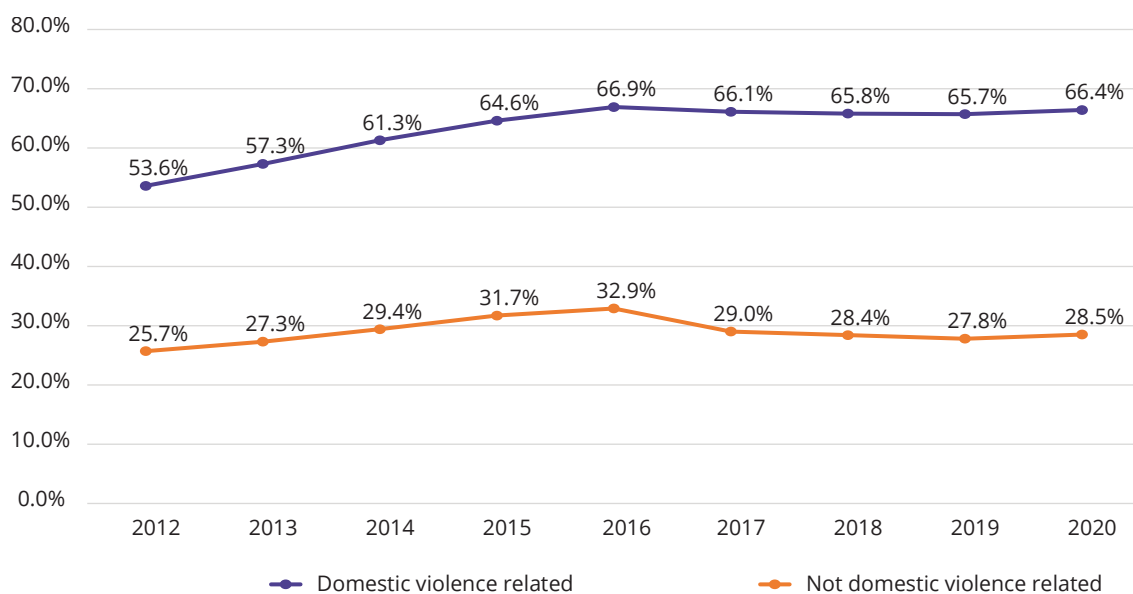
Since 2012, domestic violence-related stalking/intimidation incidents have increased at a faster rate than non-domestic violence-related incidents (up 110% versus 90% respectively). Allowing for population growth over the 10 years, the rate of domestic violence-related incidents increased 88 per cent from 111.2 per 100,000 in 2012 to 208.9 in 2021 (for non-domestic violence-related incidents the increase was 70%, from 104.6 per 100,000 in 2012 to 177.6 in 2021).

Legal action rate

Not all criminal incidents reported to police result in legal action. Figure 3 shows changes in the proportion of stalking/intimidation incidents in which a suspect is charged within 90 days of the offence being reported to police (that is the 90 day clear-up rate)⁵.

The proportion of domestic violence-related stalking/intimidation incidents with legal proceedings has increased, up 23.9 per cent (or 12.8 percentage points, from 53.6% in 2012 to 66.4% in 2020). It is apparent from Figure 3 that this increase occurred between 2012 and 2016. By comparison, the clear-up rates for non-domestic stalking/intimidation incidents are much lower and have remained relatively stable, at around 29.0 per cent each year (this follows a similar pattern to domestic and non-domestic assault, see Holmes & Fitzgerald 2017).

Figure 3. Proportion of stalking/intimidation incidents cleared within 90 days of reporting to NSW Police by whether domestic violence-related or not: 2012 to 2021



⁵ For the purposes of this brief an incident is regarded as cleared when police have taken legal action (viz. proceeded) against at least one person in relation to the incident within 90 days of the incident being reported. Data is only presented for 2012 to 2020 as not all incidents from 2021 would have had 90 days from the date for reporting to be cleared when this report was prepared.

The combination of the doubling in the number of domestic violence-related stalking/intimidation police reports plus the increase in the legal action rate for domestic violence-related stalking/intimidation means a huge increase in court actions. The remainder of the paper will focus specifically on the characteristics of stalking/intimidation related to domestic violence.

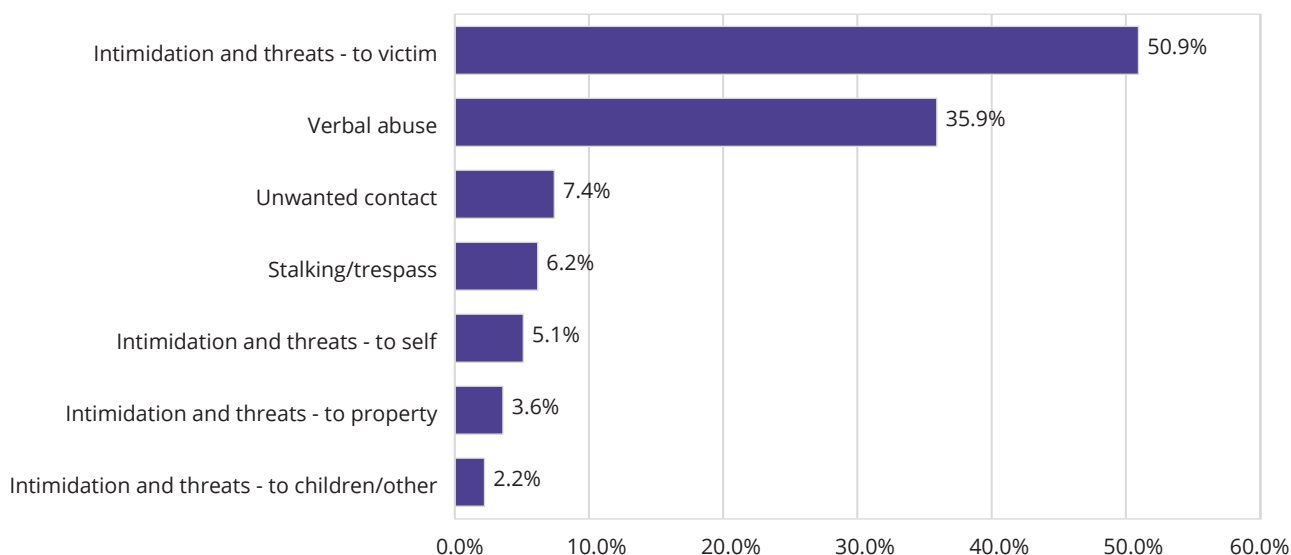
The types of behaviours in stalking/intimidation incidents

Figure 4 shows the behaviours described in domestic violence-related stalking/intimidation narratives as captured by our text mining analysis. Of the more than 12,000 stalking/intimidation narratives reviewed from 2019, 64 per cent were found to include at least one of these behaviours.⁶ The most common behaviour we detected was *intimidation and threats towards the victim* (detected in 50.9% of incidents). These include threats to harm, kill or sexually assault the victim. The next most common behaviour detected was *verbal abuse*, which was identified in just over one-third of incidents (35.9%).

All the other behaviours we looked for were substantially less commonly detected. *Unwanted contact*, including by phone, text message, e-mail, letter or social media was detected in 7.4 per cent of incidents. Among *unwanted contact*, the most common modes of unwanted communication were via phone (51.4% of unwanted contact incidents) or text message (37.8% of unwanted contact incidents). In only 6.2 per cent of incidents was *stalking or trespass* detected; this includes stalking the victim at home, work or following the victim while driving. In 5.1 per cent of incidents the person of interest *threatened suicide or self-harm*. *Property damage threats* were involved in 3.6 per cent of matters. Of the behaviours considered, the least common recorded was *threats to children, other people and animals* which were detected in 2.2 per cent of stalking/intimidation incidents.

These results indicate that the label 'stalking and intimidation' is potentially misleading as 'stalking' behaviours are quite infrequent; instead the offence is dominated by threatening and intimidatory behaviour plus verbal abuse.

Figure 4. Type of stalking/intimidation behaviour detected, 2019



⁶ It is possible that relevant behaviours were observed or reported in other incidents but our text mining approach was not sensitive to their detection.

According to location information recorded by police, the overwhelming majority of domestic violence-related stalking/intimidation incidents occurred at residential premises in 2021 (88.3%). The next most common location was outdoors or in a public place (5.5% of incidents) followed by workplace/retail/commercial premises (2.0% of incidents). One in five incidents were recorded by NSW Police as alcohol-related (18.8%) and five per cent involved a weapon, predominately a knife.

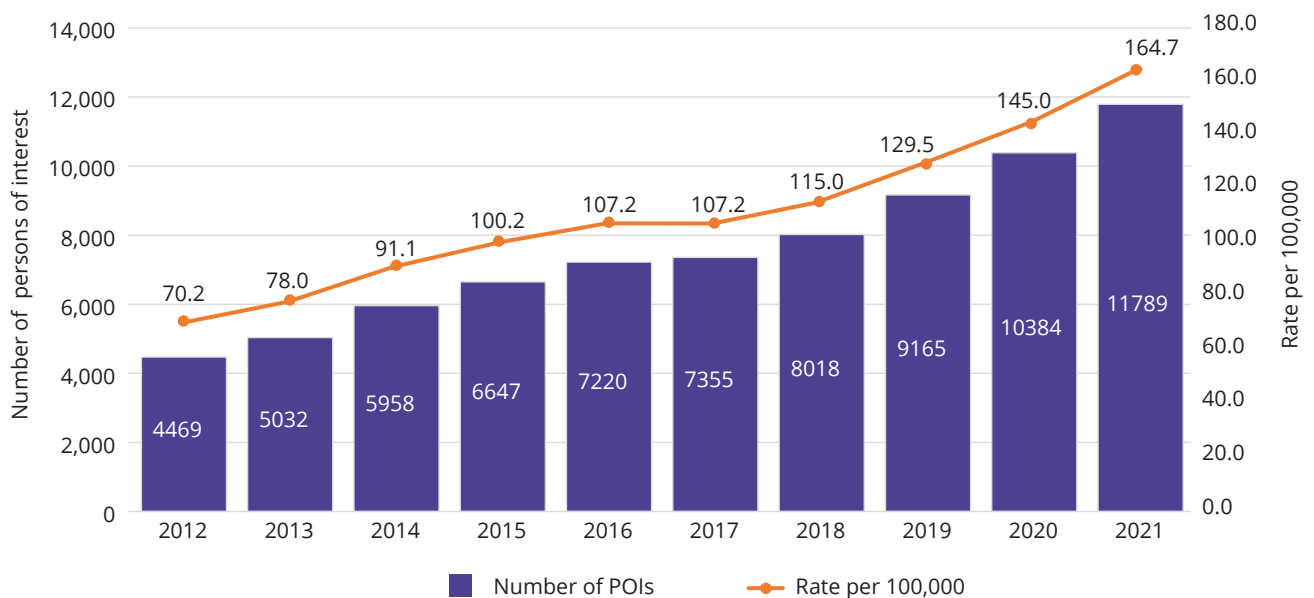
Characteristics of victims and offenders including age, gender, relationship status and Aboriginality

Characteristics of offenders

In 2021, 11,789 persons of interest were proceeded against for domestic violence-related stalking/intimidation by the NSW Police. That is where police commenced legal actions - either to court or by a court diversion, such as a Youth Justice Conference referral or caution under the Young Offenders Act. The number of persons of interest proceeded against for domestic violence-related stalking/intimidation increased 163.8 per cent from 2012 to 2021 (from 4,469 to 11,789). Considering underlying population growth over the 10 years, the rate of proceedings increased 134.6 cent from 70.2 per 100,000 in 2012 to 164.7 in 2021.

The overwhelming majority of people were proceeded against to court (99%). Over the 10-year period to 2021, the number of persons of interest proceeded to court for a domestic violence-related stalking/intimidation offence more than doubled from 4,452 in 2012 to 11,770 in 2021 (up 164.4% or an average of 11.4% each year).

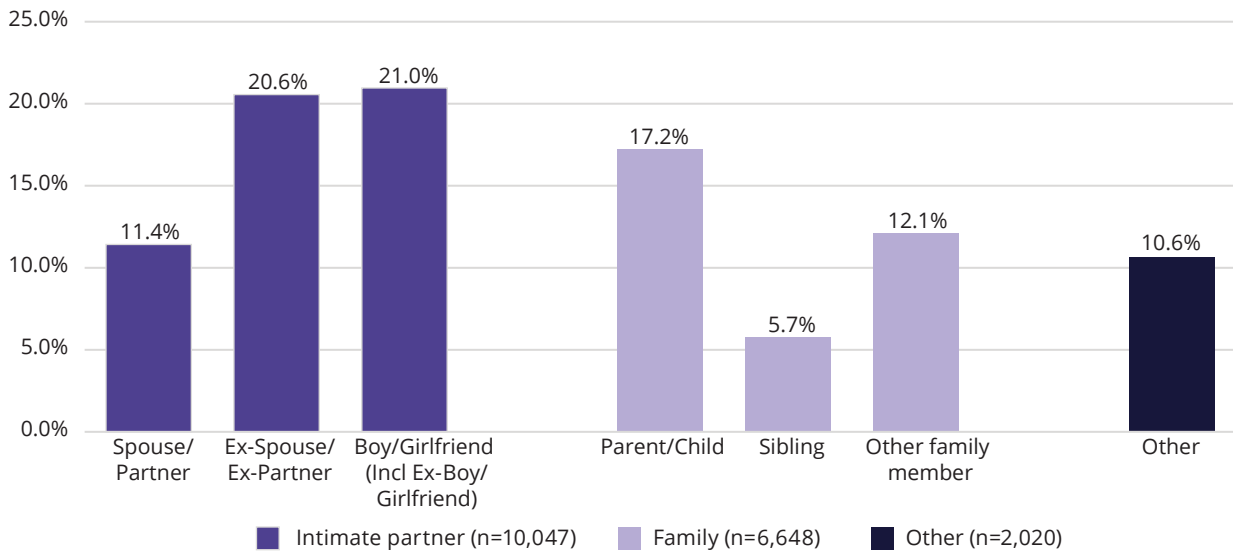
Figure 5. Number and rate of persons of interest proceeded against for domestic violence-related stalking/intimidation incidents recorded by the NSW Police: 2012 to 2021



Relationship between victim and offender

Figure 6 shows the relationship between the victim and the offender in domestic violence-related stalking/intimidation offences. Just over half the incidents in 2021 were committed by a current or former intimate partner (52.9%). Perhaps unsurprisingly, ex-partners were more commonly identified as the person of interest, compared to current partners. Around one-third (35%) of persons of interest were family members, mainly parents/children and siblings. A further one in ten (10.6%) domestic violence-related stalking/intimidation incidents were committed by someone in another type of domestic relationship, mainly flatmates.

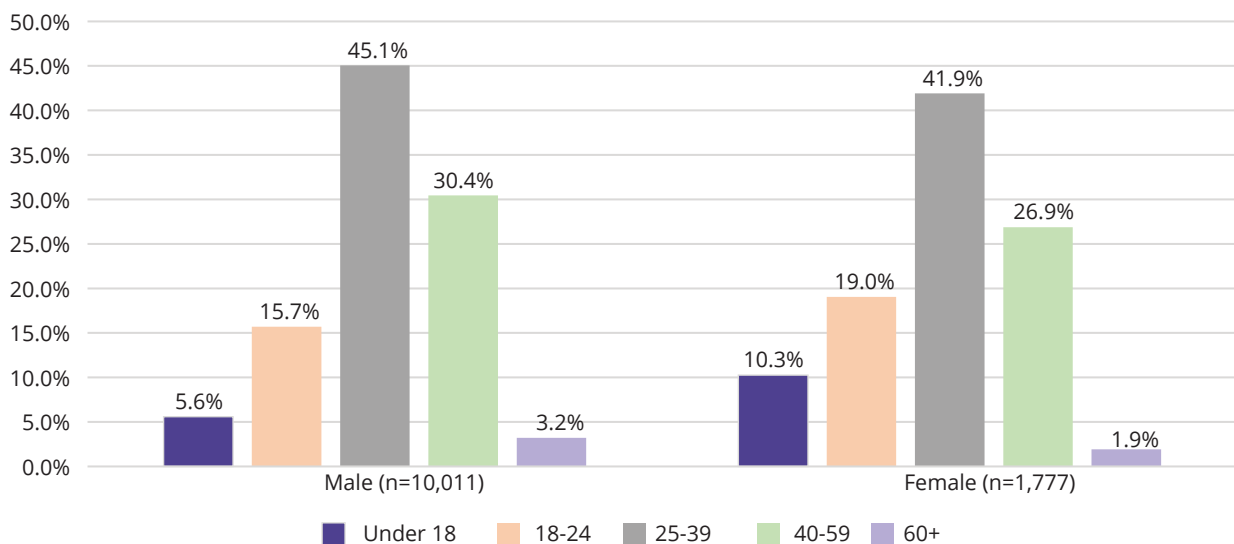
Figure 6. Relationship between victims and persons of interest (POIs) involved in domestic violence-related stalking/intimidation incidents, 2021



Age, gender and Aboriginality of offenders

Of the 11,789 persons of interest proceeded against by NSW Police in 2021 for domestic violence-related stalking/intimidation, males were more often offenders than females (84.8% vs 15.1%). Over 90% of offenders were adults (93.7%), with a similar age distribution for both male and female offenders. Two-thirds (64.1%) of offenders were males aged 20 to 49 years.

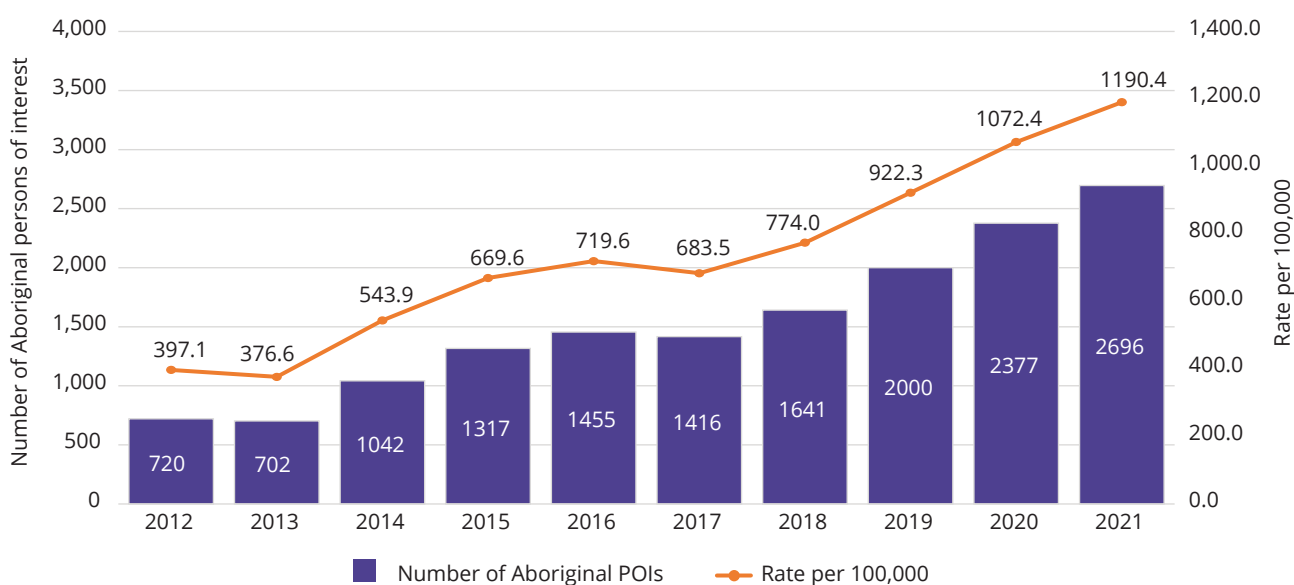
Figure 7. Demographic characteristics of domestic violence-related stalking/intimidation persons of interest, 2021



In 2021, 23 per cent of persons of interest proceeded against for domestic violence-related stalking/intimidation were Aboriginal. Figure 8 shows trends in the number and rate of domestic violence-related stalking/intimidation involving an Aboriginal offenders. The number of Aboriginal persons of interest proceeded against for domestic violence-related stalking/intimidation increased a staggering 274.4 per cent from 2012 to 2021 (from 720 to 2,696). Considering underlying population growth over the 10 years, the rate of domestic violence-related stalking/intimidation incidents for Aboriginal offenders increased 199.8 per cent from 397.1 per 100,000 in 2012 to 1190.4 in 2021. The increase in legal actions against Aboriginal people is considerably higher than the increase among the general population which we saw above rose 134.6 per cent over 10 years.

In 2021, the rate of legal proceedings against Aboriginal people for stalking/intimidation was seven times higher than the equivalent rate for all persons (1190.4 per 100,000 population compared to 164.7). Aboriginal over-representation has always been high for this offence and has increased over the years (in 2012 Aboriginal people were six times as likely to be proceeded against).

Figure 8. Number and rate of Aboriginal persons of interest proceeded against for domestic violence-related stalking/intimidation incidents recorded by the NSW Police: 2012 to 2021

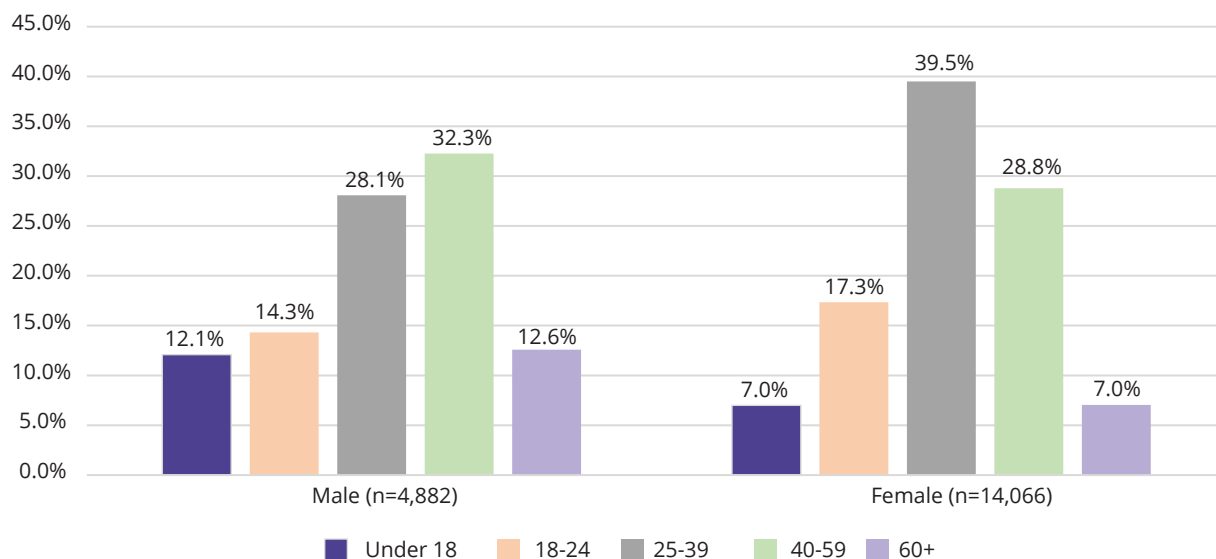


Characteristics of victims

Age, gender and Aboriginality of victims

Of the 18,980 victims recorded by NSW Police in 2021 for domestic violence-related stalking/intimidation, 74.1% were female and 25.7% were male (Figure 9). Two-thirds of victims were aged 25 to 59 years (66.3%), 24.9 per cent were under 25 years and only 8.5 per cent were over 60 years.

Figure 9. Demographic characteristics of domestic violence-related stalking/intimidation victims, 2021



Approximately one in ten victims were Aboriginal (9.1% in 2021), however, 30% of victim records had an unknown Aboriginality. The relationship between Aboriginal domestic violence-related stalking/intimidation victims and their offenders were slightly different to that of general stalking/intimidation victims. Aboriginal victims were more likely to be stalked/intimidated by a family member (50.1% compared to 35.0% for all victims) and less likely to be stalked/intimidated by an intimate partner (43.1% compared to 52.9% for all victims).

Court volumes, outcomes and sentences

Court volumes

We now turn our attention to trends in domestic violence-related stalking/intimidation offences in the courts. This section looks at trends for the 8-year period from 2014 to 2021.

The majority of people appearing in court for domestic violence-related stalking/intimidation are also charged with other domestic violence offences finalised at the same court appearance. In 2021, 70 per cent of appearances with a domestic violence-related stalking/intimidation charge involved at least one additional domestic violence charge. Table 1 shows that approximately two-fifths (43.3%) involved a single additional charge, 21.3% involved two additional charges and 5.4% involved three or more additional charges. In terms of the most common types of additional charges, domestic assault (43.3%), breach ADVO (32.1%) and property damage (22.3%) were the most frequent concurrent offences.

Table 1. Finalised court appearances involving a domestic violence-related stalking/intimidation charge by the number and type of domestic violence co-charges, 2021

No additional charges	30.1%
1 additional charge	43.3%
2 additional charges	21.3%
3+ additional charges	5.4%
Type of additional domestic violence-related charge	
Domestic assault	43.3%
Breach ADVO	32.1%
Property damage	22.3%
Sexual offences	1.4%

Following the substantial increase in both the number of incidents recorded by NSW Police and the number of persons of interest proceeded to court, Figure 10 shows the subsequent increase in finalised court appearances where stalking/intimidation was the most serious offence charged⁷. Over the eight years from 2014 to 2021, the number of finalised court appearances increased 63.8 per cent from 3,562 in 2014 to 5,836 appearances in 2021.

Figure 10. Number of finalised court appearances where the most serious offence was domestic violence-related stalking/intimidation by jurisdiction: 2014 to 2021

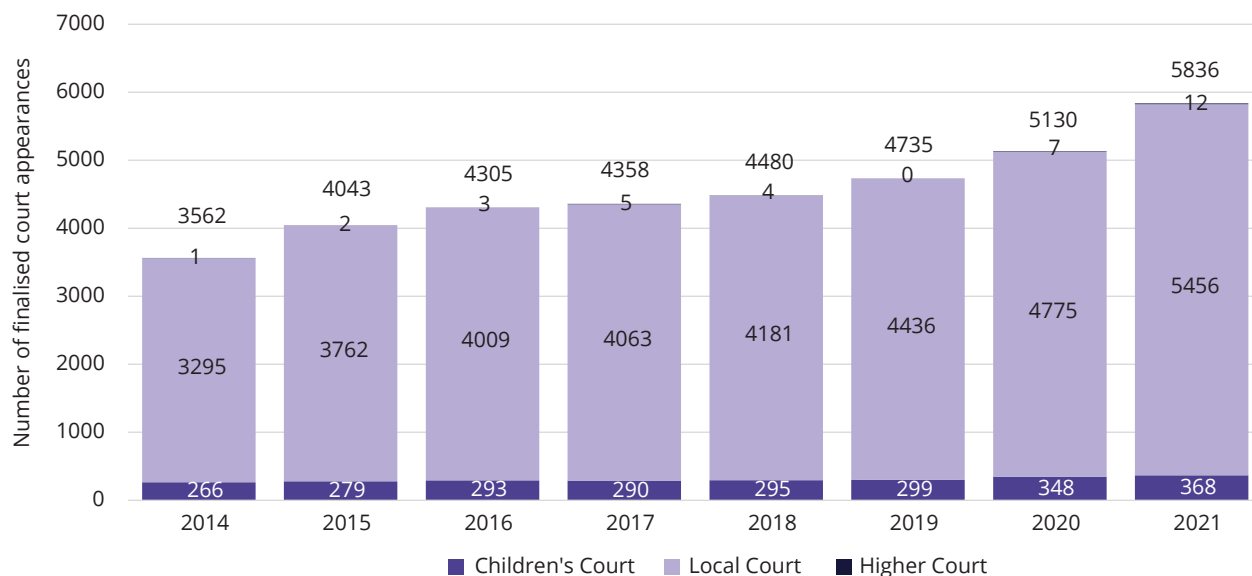


Figure 10 also shows that most domestic violence-related stalking/intimidation appearances are finalised in the Local Court (93.5% in 2021), followed by 6.3 per cent in the Children's Court. Less than one per cent of domestic violence-related stalking/intimidation matters are finalised in the Higher Courts. While the number of appearances finalised in the Children's Court increased by 38.3 per cent from 2014 to 2021, the rate of growth has been greatest in the Local Courts, up 65.6 per cent (from 3,295 in 2014 to 5,456 appearances in 2021). This increase is lower than the increase in police laid charges we saw above (up 164% over ten years); this is due to a slightly shorter timeframe (8 years versus 10 years) and because individual charges relating to a single offender will be grouped into a single court appearance.

Court outcomes

Figure 11 shows the trend in court outcomes for appearances where domestic violence-related stalking/intimidation was the most serious offence. The outcome shown is the outcome of the entire court appearance, not necessarily the specific outcome of the stalking/intimidation offence.

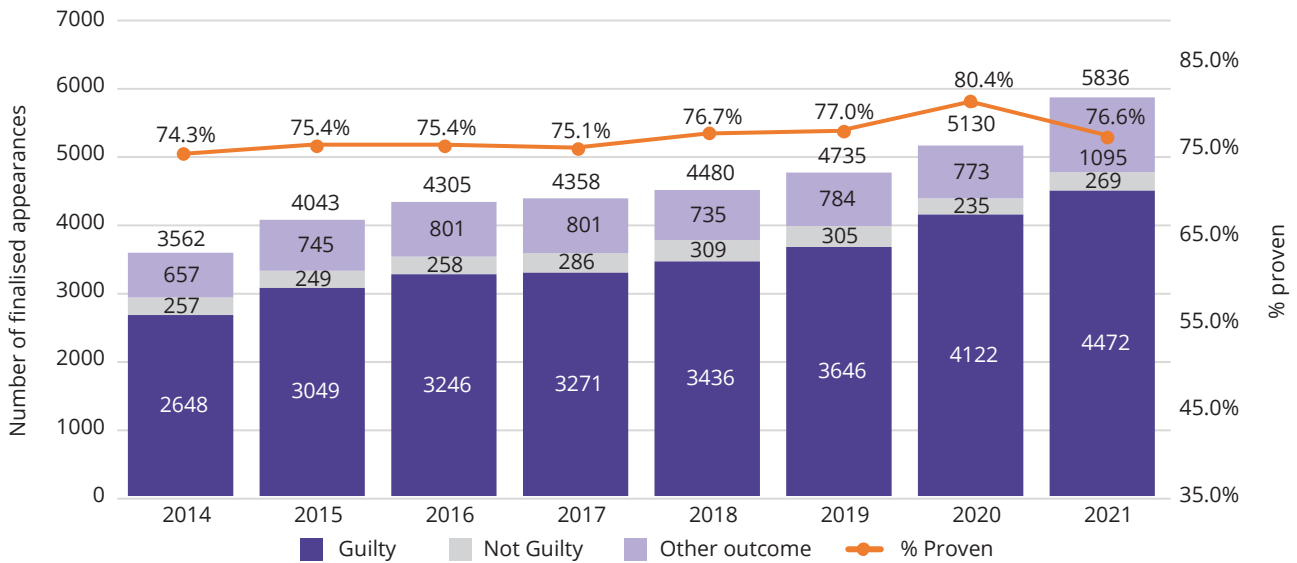
In 2021 more than three-quarters of appearances resulted in a proven or guilty outcome (76.6%). Over the eight years to 2021, the number of proven court appearances increased 68.9 per cent from 2,648 in 2014 to 4,472 appearances in 2021. The proportion of offenders found guilty increased slightly, up from 74.3 per cent in 2014 to 76.6 per cent in 2021, an increase of 2.3 percentage points.

Only a small proportion of court appearances result in a not-guilty outcome; 4.6% in 2021. This proportion declined 2.6 percentage points since 2014 (from 7.2% in 2014 to 4.6% in 2021).

About 18% of domestic violence-related stalking/intimidation court appearances are finalised by some other method. Of these, approximately 60 per cent have the charges withdrawn by the police prosecution, while the remainder are dismissed for mental health reasons. The proportion receiving these *other* outcomes has remained stable.

⁷ Stalking/intimidation is considered more serious than either assault or breach AVO according to the penalty generally received.

Figure 11. Number of finalised court appearances where the most serious offence was domestic violence-related stalking/intimidation by court outcome*: 2014 to 2021



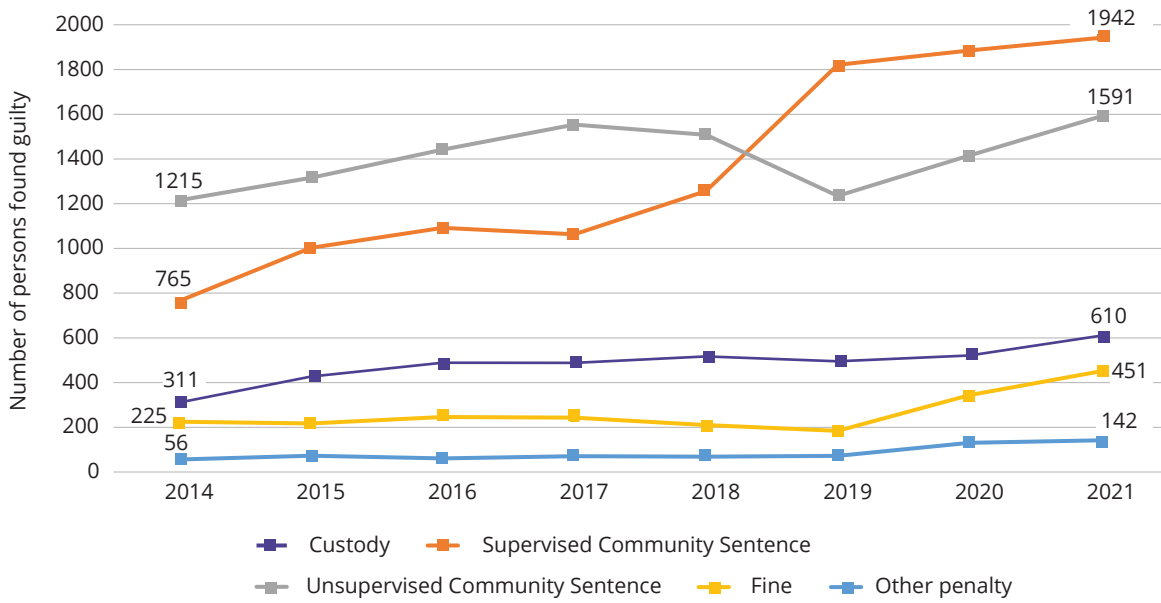
* Court outcome of the entire court appearance, not just the stalking/intimidation offence.

Sentencing

Figure 12 shows the principal penalty imposed on offenders found guilty of domestic violence-related stalking/intimidation as their principal offence over the eight years to 2021.

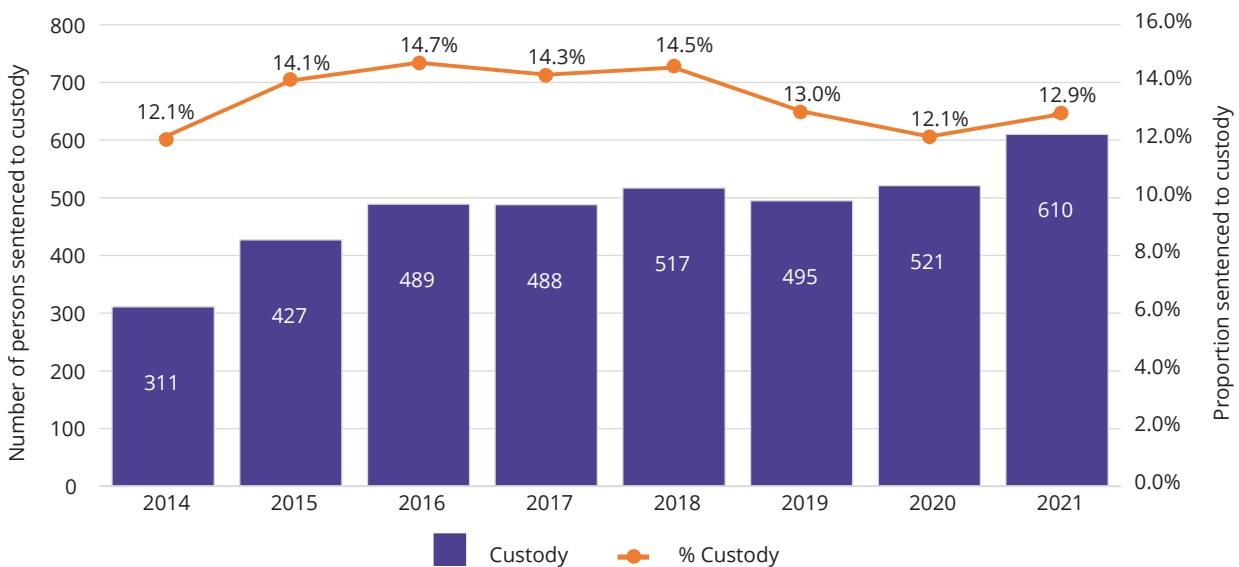
The most common penalty received in 2021 was a supervised community sentence; 41.0 per cent of proven court appearances resulted in this penalty. The main types of supervised orders were a Community Correction Order (69.2% of supervised orders) or an Intensive Corrections Order (19.1% of supervised orders). The number of proven court appearances resulting in a sentence of community supervision increased 153.9 per cent from 765 in 2014 to 1,942 in 2021. The proportion of offenders sentenced to community supervision also increased, up from 29.7 per cent in 2014 to 41.0 per cent in 2021, an increase of 37.9 per cent. The increase was particularly pronounced from October 2018 onwards, aligning with the introduction of Crimes (*Sentencing Procedure*) Amendment (*Sentencing Options*) Act 2017 (2018 sentencing reforms) which aimed to increase the proportion of domestic violence offenders sentenced to supervised community-based orders (see Donnelly 2020). The average length of supervision for these sentences has remained relatively unchanged over the 8-year period, approximately 15 months.

Figure 12. Principal penalty imposed on persons found guilty of domestic violence-related stalking/intimidation: 2014 to 2021



Just under one in eight offenders found guilty of domestic violence-related stalking/intimidation received a custodial penalty (prison or juvenile detention). Figure 13 shows both the number and proportion of offenders sentenced to a custodial penalty from 2014 to 2021. The number of custodial penalties increased 96.2 per cent from 311 in 2014 to 610 in 2021. Figure 13 also shows that the proportion of offenders sentenced to a custodial penalty increased from 2014 to 2016, peaking at 14.7 per cent in 2016, then started to decline after the introduction of 2018 sentencing reforms. The average custodial sentence length (non-parole period) has remained relatively unchanged over the 8-year period, approximately 5.4 months.

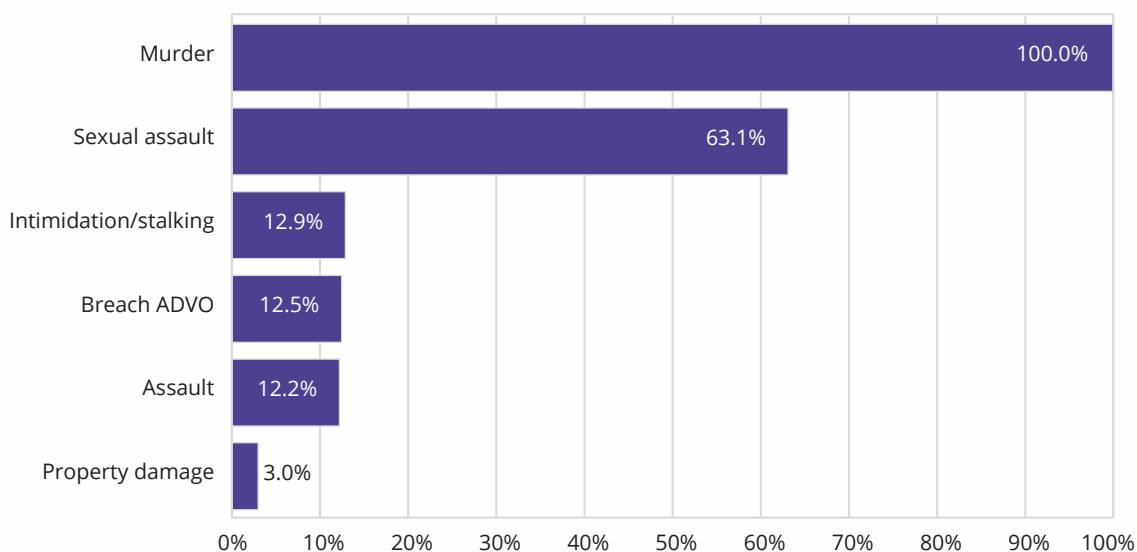
Figure 13. Number and proportion of offenders sentenced to a custodial penalty for a domestic violence-related stalking/intimidation offence: 2014 to 2021



Offence seriousness

We now turn our attention the relative seriousness of sentences for domestic violence-related stalking/intimidation compared with other domestic violence offences. As an indication of offence seriousness, Figure 14 shows the proportion of offenders sentenced to a custodial penalty for major domestic violence-related offences in 2021. Perhaps unsurprisingly, murder and sexual assault offenders had the highest rate of imprisonment (100% and 63.1%, respectively). The proportion of offenders sentenced to a custodial penalty for domestic violence stalking/intimidation was 12.9%, which was slightly higher than an ADVO breach (12.5%) or domestic assault (12.2%).

Figure 14. Proportion of offenders sentenced to a custodial penalty for a domestic violence offence by offence type: 2021



Aboriginal court volumes, outcomes and sentences

We saw above that Aboriginal people account for about a quarter of those proceeded against by police for domestic violence-related stalking/intimidation. The same is true in the courts. In 2021, 28 per cent of domestic violence-related stalking/intimidation court appearances involved an Aboriginal defendant. Here we look at the court process for these people. Table 2 shows three key pieces of information: 1) the number of Aboriginal people appearing in court for domestic violence-related stalking/intimidation, 2) the number and proportion of Aboriginal people found guilty, and 3) penalties imposed on Aboriginal people found guilty.

Over the 8-year period to December 2021, the number of finalised court appearances for Aboriginal people charged with domestic violence-related stalking/intimidation increased 79.6 per cent, from 900 in 2012 to 1,616 appearances in 2021.

Table 2. Finalised court appearances, court outcomes and penalties for Aboriginal persons appearing in court for domestic violence-related stalking/intimidation 2014 to 2021

	2014	2015	2016	2017	2018	2019	2020	2021	% Change 2014 to 2021
Aboriginal persons with a finalised DV stalking/intimidation charge	900	1,024	1,106	1,162	1,119	1,258	1,467	1,616	Up 79.6%
Aboriginal persons with a proven DV stalking/intimidation charge	676	778	828	877	861	988	1,225	1,234	Up 82.6%
% Proven	75.1%	76.0%	74.9%	75.5%	76.9%	78.5%	83.5%	76.4%	Up 1.7%
Penalties									
Custody	158	189	231	229	243	235	258	317	Up 100.6%
Supervised Community Sentence	236	308	356	356	364	557	613	647	Up 174.2%
Unsupervised Community Sentence	251	259	290	317	296	245	317	319	Up 27.1%
Fine	51	50	56	51	46	42	97	125	Up 145.1%
Other penalty	12	16	18	20	19	21	34	35	Up 191.7%
% Sentenced to custody	22.3%	23.0%	24.3%	23.5%	25.1%	21.4%	19.6%	22.0%	Down -1.6%

The most common penalty received by Aboriginal people in 2021 was a supervised community sentence; 44.8 per cent of proven court appearances resulted in this penalty. The number of Aboriginal people receiving community supervision for domestic violence-related stalking/intimidation increased 174.2 per cent from 236 in 2014 to 647 in 2021. The proportion of Aboriginal people sentenced to community supervision also increased, up from 33.3 per cent in 2014 to 44.8 per cent in 2021, an increase of 34.5 per cent.

Approximately one in five Aboriginal people found guilty of domestic violence-related stalking/intimidation were sentenced to a custodial penalty. The number of custodial penalties doubled between 2014 and 2021 from 158 to 317. Table 2 also shows that the proportion of Aboriginal offenders sentenced to a custodial penalty fluctuated over the 8-year period, peaking at 25.1 per cent in 2018, before declining after the introduction of 2018 sentencing reforms.

Summary

This paper describes the significant rise in the number of incidents of domestic violence-related stalking/intimidation recorded in NSW over the last 10 years and the increased demand this offence is placing on all aspects of the criminal justice system. Key points include:

Domestic violence-related stalking/intimidation incidents recorded by NSW Police increased 110% from 2012 to 2021 (from 8,120 to 17,063).

- Over half stalking/intimidation incidents are domestic violence-related and this proportion is slowly increasing (from 51.5% in 2012 to 54.1% in 2021)
- Non-domestic stalking/intimidation incident reports also increased but at a slower rate (up 90% from 2012 to 2021)

Police legal proceedings for domestic violence-related stalking/intimidation incidents increased 164% from 2012 to 2021 (from 4,469 to 11,789).

- This increase is due to both: the increase in the volume of incidents recorded, plus an increase in the legal action rate (up 23.9% from 53.6% in 2012 to 66.4% in 2020).
- The impact on Aboriginal people is particularly pronounced. Legal proceedings against Aboriginal people increased 274.4% from 2012 to 2021 (from 720 to 2,696). In 2021, 23 per cent of people proceeded against for domestic violence-related stalking/intimidation were Aboriginal (up from 16% in 2012).

Domestic violence-related 'stalking/intimidation' typically involves threats, intimidation and verbal abuse (not stalking)

- Domestic violence-related stalking/intimidation is most commonly perpetrated by current or former intimate partners (52.9% in 2021). Perpetrators are mostly adult males.
- Victims are predominantly adult women (74.1%), with two-thirds being women aged between 25 to 59 years (66.3%).

Court volumes for domestic violence-related stalking/intimidation increased 63.8% from 2014 to 2021 (from 3,562 to 5,836)

- Most people appearing in court for domestic violence-related stalking/intimidation were also charged with other domestic violence offences (70%), mainly domestic assault (43.3%), breach ADVO (32.1%) and property damage (22.3%).
- Sentencing outcomes changed as a result of the 2018 sentencing reforms. Both the number and proportion of offenders sentenced to community supervision increased from 2014 to 2021 (from 765 (29.7%) to 1,942 (41.0%)).

Courts consider domestic violence-related stalking/intimidation seriously, with one in eight offenders sentenced to a custodial penalty

- The number of offenders sentenced to a custodial penalty increased 96.1 per cent from 2014 to 2021 (from 311 to 610, or an additional 299 custodial orders).
- Again, the impact on Aboriginal people is especially pronounced. In 2021, one in five (22%) Aboriginal offenders found guilty of domestic violence-related stalking/intimidation received a custodial penalty. Custodial penalties for Aboriginal offenders increased 100.6 per cent from 2014 to 2021 (from 158 to 317).

It is clear that in the ten years to 2021, stalking/intimidation offences increased substantially across all parts of the criminal justice system. What is less clear is why this has occurred. The increase could represent an increase in offending, or a change in the detection and/or response to stalking/intimidation behaviours.

Recent statistics suggest that domestic violence-related assault has remained stable over this period. Freeman (2022) showed that the rate of domestic violence-related assault recorded by police in the 15 years from 2007 to 2021 has been stable; plus pooled victim survey results show no change in self-reported DV victimisation over a similar period.

This suggests that the increase in stalking/intimidation reports and charges are more likely to reflect changes in law enforcement policy or practice rather than criminal behaviour as previously suggested by Weatherburn and Holmes (2017).

Practice changes resulting in increased detection, recording and charging of stalking/intimidation by NSW Police would be consistent with NSW Police's Domestic and Family Violence Policy (2018). This policy includes a commitment to reduce domestic and family violence, acknowledges the seriousness of domestic and family violence in its various forms including stalking and intimidation and commits to thorough investigations and a proactive pro-prosecution response (NSW Police Force, Domestic and Family Violence Policy, 2018).

The increase in stalking/intimidation offences in the justice system has been keenly felt by Aboriginal people. A clear consequence of the substantial increase in Aboriginal people charged with stalking/intimidation, is a dramatic increase in prison numbers. In 2021 there were, on average, 156 Aboriginal people in custody for stalking/intimidation⁸ up from just 56 in 2013⁹, an increase of 179 per cent. This continuing increase clearly adds to the challenge of achieving National Close the Gap targets to reduce the rate of Aboriginal people in prison by 15% by 2031.

The rise in stalking/intimidation charges over the past 10 years appears to reflect a changing appreciation of the seriousness and breadth of domestic and family violence by law enforcement rather than changing behaviours in the community. This paper has shown the clear effect of this on volumes in the criminal justice system. Further research is needed to measure the impact of increased enforcement of stalking/intimidation on women's safety and the prevalence of domestic and family violence.

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⁸ Includes both DV related and non-DV related stalking and intimidation.

⁹ The 2013 average was calculated from 9 months of data from March 2013 to December 2013.

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APPENDIX 1 – TEXT MINING CODING FRAMEWORK

Text mining - Behaviour	Category
call	Unwanted contact
email	Unwanted contact
letter	Unwanted contact
message	Unwanted contact
obsession	Unwanted contact
social media	Unwanted contact
unwanted gift	Unwanted contact
location	Stalking/trespass
stalking car	Stalking/trespass
stalking location	Stalking/trespass
stalking unspecified	Stalking/trespass
trespassing	Stalking/trespass
intimidation to harm	Intimidation and threats - to victim
intimidation to kill stated threats	Intimidation and threats - to victim
intimidation to sa stated threats	Intimidation and threats - to victim
intimidation with object	Intimidation and threats - to victim
stated veiled threats for harm	Intimidation and threats - to victim
selfharm threats	Intimidation and threats - to self
suicide threats	Intimidation and threats - to self
stated threats animals	Intimidation and threats - to others/children
stated threats harm third person	Intimidation and threats - to others/children
threat to harm animals	Intimidation and threats - to others/children
threat to harm others	Intimidation and threats - to others/children
threats taking children away	Intimidation and threats - to others/children
property damage threat	Intimidation and threats - to property
verbal abuse	Verbal abuse