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Jeff Bath
University of Bath

Adrian J. Scott
Edith Cowan University, adrian.scott@ecu.edu.au

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**The Influence of the Sex of and Prior Relationship between the Perpetrator and
Victim on Perceptions of Stalking: A Qualitative Analysis**

Jeff Gavin

Adrian J. Scott

Abstract

The sex of and prior relationship between the perpetrator and victim have been shown to influence perceptions of stalking. To explore the ways in which shared assumptions around these factors interact to shape perceptions of stalking, this study analyses the deliberations of mock juries as they attempt to reach a unanimous verdict on a hypothetical stalking case summary. Twelve mock juries comprising between five and six 'jurors' (n = 64) were presented with one of three versions of a case summary (stranger, acquaintance, and ex-partner) describing a man stalking a woman or a woman stalking a man. Thematic analysis shows that factors mitigating the perpetrator's behaviour and judgements about the victim's behaviour were key themes in all jury deliberations, but played only a minor role in shaping verdict decisions for a woman stalking a man. It is concluded that the boundary between 'normal' relationship behaviour and stalking is positioned differently for male and female perpetrators.

Keywords: stalking; prior relationship; gender; just world hypothesis; mock jury; thematic analysis

Introduction

Defining stalking is a difficult task because it is by nature diffuse and often comprises superficially routine and harmless behaviours (Sheridan & Davies, 2001). Moreover, stalking is often perceived as a gendered phenomenon, invoking different sets of assumptions and expectations regarding male and female perpetrators and victims (Lyndon et al., 2012). Despite these difficulties, stalking generally refers to persistent harassment in which one person repeatedly attempts to impose unwanted communication and/or contact on another (Mullen, Pathe, & Purcell, 2001). In England and Wales, the Protection from Harassment Act (1997) was introduced and later modified by the Protection of Freedoms Act (2012) to provide protection against behaviours associated with stalking. Although the Protection of Freedoms Act lists examples of stalking behaviours and possible adverse effects on the victim, it uses a 'reasonable person' test to determine whether a course of conduct amounts to the criminal offences of 'stalking' and 'stalking involving fear of violence or serious alarm or distress'.

In cases of stalking-related conduct, what is considered 'reasonable' is not a straightforward issue either. Stalking can be conceptualised as a continuum of behaviours, from less aggressive courtship or pursuit practices, such as emailing and exaggerated affection, to more threatening and violent practices, such as assault and property damage (Cupach & Spitzberg, 2000). Thus, there is no clearly defined point at which appropriate courtship behaviours end and stalking begins. This ambiguity is highlighted by research on 'forcible interactions' (Dunn, 1999), such as an unwanted suitor leaving a gift or waiting on the doorstep with flowers. Two thirds of women surveyed found these interactions simultaneously frightening and romantic; similarly,

two thirds found these interactions both annoying and flattering. It is clear then that the distinction between ‘normal’ relationship behaviour and stalking behaviour is open to interpretation.

Research indicates that a number of extralegal factors can influence interpretations of the same behaviour (Dennison, 2007; Dennison & Thomson, 2002; Phillips, Quirk, Rosenthal, & Connor, 2004; Scott, Lloyd, & Gavin, 2010; Scott, Rajakaruna, Sheridan, & Gavin, 2015; Scott & Sheridan, 2011). This study focuses on two of these extra-legal factors: the sex of the perpetrator and the victim, and their prior relationship. These two factors are of particular interest because they have both been shown to influence perceptions of stalking (Cass & Rosay, 2012; Scott et al., 2010; Scott, Rajakaruna, & Sheridan, 2014; Sheridan & Scott, 2010), and because they are relevant to the related areas of courtship and romance. Research to date has not investigated how these extra-legal factors influence perceptions of stalking. The aim of the current study, therefore, is to qualitatively explore the ways in which the sex of and prior relationship between the perpetrator and victim shape perceptions of stalking.

Stalking: Perceptions and Reality

The stereotypical scenario of both courtship (Fine, 1988; Hollway, 1989) and stalking (Yanowitz & Yanowitz, 2012) involve the man as the pursuer and the woman as the person being pursued. Vignette studies in the United Kingdom, the United States, Australia and Canada indicate that this stereotype can influence perceptions of stalking. While research suggests that the sex of the perpetrator and the victim does not influence whether a series of pursuit behaviours constitutes stalking per se (Cass, 2011; Phillips et al., 2004; Scott, Rajakaruna, et al., 2015; Sheridan, Gillet, Davies, Blaauw, & Patel, 2003), it does influence perceptions of criminality (Sheridan & Scott, 2010), with the

perceived likelihood of a police investigation, arrest and conviction all greater in cases involving a male perpetrator and a female victim (Cass & Rosay, 2012). Moreover, behaviour is more likely to be considered serious and require police intervention when the perpetrator is a man and the victim is a woman (Finnegan & Timmons Fritz, 2012; Scott et al., 2015; Sheridan et al., 2003). Part of the reason for these findings may be the perception that male victims of female perpetrators are more responsible for encouraging the perpetrator's behaviour and more capable than their female counterparts of resolving the situation themselves (Sheridan et al., 2003). It is important to unpack the above findings further, as they indicate that lay perceptions of stalking are at odds with the reality of stalking. While it is true that male perpetrators outnumber female perpetrators, women are estimated to represent between 10 and 25% of stalking perpetrators (McEwan, Mullen, & Purcell, 2007; Purcell, Pathe, & Mullen, 2002; Rosenfeld & Harmon, 2002). There are few other reported differences between male and female stalkers, however, in terms of violence, intrusiveness and duration (Meloy & Boyd, 2003; Purcell, Pathe, & Mullen, 2001; Sheridan, North, & Scott, 2014; Strand & McEwan, 2011, 2012). For example, research in a range of clinical and forensic settings indicates that one quarter to one third of stalking victims experience violence regardless of the sex of the perpetrator (Strand & McEwan, 2012). Despite this lack of difference, male victims of female perpetrators report a sense of not being taken seriously by law-enforcement agencies (Purcell et al., 2001).

The prior relationship between the perpetrator and the victim also influences perceptions of stalking. In general, people assume that they face more danger from strangers than somebody already known to them such as an ex-partner or acquaintance (Harris & Miller, 2000), and a study of young college students confirms that lay

perceptions of ‘classic’ stalking cases involve a stranger stalker (Jordan, Wilcox, & Pritchard, 2007). Such a stereotype is reinforced by media reporting and Hollywood depictions of stalkers, which portray stranger-stalkers as the dominant representation (Schultz, Moore, & Spitzberg, 2014; Spitzberg & Cadiz, 2002). Vignette studies in the United Kingdom, the United States and Australia indicate that behaviour is more likely to be perceived as constituting stalking and necessitating police intervention, as well as causing fear, alarm or personal distress, when the perpetrator and the victim are strangers rather than acquaintances or ex-partners (Hills & Taplin, 1998; Scott et al., 2010; Scott, Rajakaruna, & Sheridan, 2014; Scott & Sheridan, 2011; Sheridan et al., 2003). Conversely, victims are perceived to be less responsible for stalking situations when the perpetrator and the victim are strangers rather than acquaintances or ex-partners (Scott et al., 2010; Scott, Rajakaruna, Sheridan, & Sleath, 2014; Scott & Sheridan, 2011; Sheridan et al., 2003).

In contrast to media portrayals and lay perceptions, applied research on actual stalking indicates that perpetrators are more likely to be ex-partners than acquaintances or strangers (Spitzberg & Cadiz, 2002), and that the closer the prior relationship between the perpetrator and the victim was, the more serious the stalking is likely to be in terms of violence and duration. Spitzberg and Cupach’s (2007) meta-analysis indicates that 80% of stalkers are known to their victims, with over half of all stalking cases involving ex-partners. These rates are even higher amongst college students (Spitzberg & Cupach, 2007). Whilst there are few reported differences in terms of the sex of the perpetrator and the victim, applied research reports that the risk of violence increases with the level of closeness in the relationship between the perpetrator and the victim (Purcell et al., 2002; Rosenfeld & Harmon, 2002; Strand & McEwan, 2012).

Furthermore, a British sample of 50 stalking cases indicates that serious violence occurred in 27% of stranger or acquaintance cases, compared to 70% of cases involving an ex-partner (Farnham, James, & Cantrell, 2000). Similarly, applied research reports that the duration of stalking increases with the level of closeness in the relationship between the perpetrator and the victim (Budd & Mattinson, 2000; McEwan, Mullen, & Purcell, 2007; Purcell et al., 2002).

A possible explanation for the mismatch between perceptions of stalking and actual stalking is that perceptions of stalking reflect the workings of the just-world hypothesis (Scott, Gavin, Sleath, & Sheridan, 2014; Scott, Rajakaruna, et al., 2014; Scott & Sheridan, 2011; Sheridan et al., 2003), which states that people need to believe in a just world in which people get what they deserve and deserve what they get (Dalbert, 2009; Lerner & Simmons, 1966). Such a belief allows people to understand their social environment as stable and orderly (Dalbert, 2009) and can serve adaptive functions. For example, research indicates that a belief in a just world can be a healthy coping mechanism, having a positive correlation with life satisfaction and well-being (Lipkus, Dalbert, & Siegler, 1996) and a negative correlation with depression (Ritter, Bensonm, & Snyder, 1990). However, people's desire to believe that they live in a just world can also serve maladaptive functions, particularly when it affects their social perception (Stromwall, Alfredsson, & Landstrom, 2013). In the context of an 'unjust situation', a victim's behaviour and/or attributes may be used to reinterpret an unjust situation so that he or she is perceived as being responsible or to blame for the injustice (Lerner, 1980, 1997).

The relevance of the just-world hypothesis has been demonstrated by several vignette studies. For example, research using quantitative vignette methodologies have

found that the closer the relationship between the perpetrator and the victim, the more responsible victims are perceived to be for encouraging the perpetrator's behaviour (Scott, Rajakaruna, et al., 2014; Scott, Rajakaruna, & Sheridan, 2014; Scott & Sheridan, 2011; Sheridan et al., 2003). In a follow-up study to Scott and Sheridan's (2011) research with the same sample, Scott, Gavin, et al. (2014) used a qualitative vignette methodology to explore the ways in which situations are reinterpreted both to attribute responsibility to the (female) victim and to mitigate the behaviour of the (male) perpetrator. Their thematic analysis of responses to an open question regarding victim responsibility showed that participants' ability to reinterpret the situation depended on their ability to 'fill in the gaps' in the information provided. For example, participants speculated on the behaviour of the victim, and made inferences about her actions and events not included in the vignettes. There was greater scope for speculation and the attribution of responsibility when the perpetrator and victim were ex-partners or acquaintances rather than strangers. Speculation focused on the victim's behaviour prior to the situation in the acquaintance and ex-partner conditions, but focused on the victim's behaviour during the situation in the stranger condition. In all conditions speculation centred on the ways in which the victim encouraged the perpetrator's behaviour (e.g., by answering the phone) and/or failed to discourage the perpetrator's behaviour (e.g., by not immediately phoning the police, by not changing her phone number). The vignettes used in this study, however, all involved a male perpetrator and a female victim and so could not examine the role of the sex of the perpetrator and the victim in perceptions of stalking.

It is important to acknowledge that stalking often occurs in an intimate context as a form of coercive control (Baum, Catalano, Rand, & Rose, 2009; Hall, 1998;

Mullen, Pathe, Purcell, & Stuart, 1999), particularly after rejection by an ex-partner in response to unreciprocated desires for a romantic relationship (Davis, Swan, & Gambone, 2012). Intimate contexts fall within the realms of courtship and romance, and are therefore associated with societal expectations of appropriate or normative masculine and feminine sexuality (Hollway, 1984). Normative feminine sexuality is traditionally constructed as passive and responsive to an active male sexuality (Carpenter, O'Brien, Hayes, & Death, 2014; Gavey & McPhillips, 1999), and associated with the need for romantic love and reproduction (Hollway, 1989; Wetherell & Edley, 2014). Thus, there is little scope for female sexual desire or pursuit (Fine, 1988; Hollway, 1989). Research has found that other forms of intimate aggression, such as interpersonal violence, are both recognised and responded to in terms of societal expectations relating to gender and relational pursuit (Corbally, 2014). Therefore the influence of the sex of and prior relationship between the perpetrator and the victim are likely to be interrelated.

Aims and Rationale

Research has established that the sex of and prior relationship between the perpetrator and victim influence perceptions of stalking. This research is based predominantly on quantitative methodologies which take responses to scale items (such as the extent to which the perpetrator's behaviour constitutes stalking, and necessitates police intervention and criminal charges) or individual judgements (such as guilty/not guilty) as the units of analysis. While highlighting the importance of the sex of and prior relationship between the perpetrator and victim, such studies cannot shed light on the ways in which shared assumptions around these factors interact to shape perceptions of stalking. This study therefore extends previous research by analysing the deliberations

of ‘mock juries’ as they attempt to reach a unanimous verdict in regard to a hypothetical stalking case summary. The aim of this study is to explore the ways in which the sex of and prior relationship between the perpetrator and victim shape perceptions of stalking. The focus of analysis is not on the verdicts per se, but rather on the deliberations themselves – on the shared assumptions drawn upon by participants, and the role they play in shaping perceptions of stalking, perpetrators and victims.

Method

Participants and Design

The present study uses a focus-group methodology. Each focus group acted as a mock jury, deliberating on a hypothetical stalking case summary. The purpose of these focus groups as mock juries was not to draw inferences about the workings of actual juries, but rather to encourage debate between participants and foster the emergence of rich data that would allow exploration of the shared understandings shaping perceptions of this case summary.

There were 12 focus groups, each comprising between 5 and 6 ‘jurors’. In total, there were 64 participants (39 females, 25 males), with a mean age of 22.19 years ($SD = 2.63$). Participants were recruited from a mid-sized United Kingdom university. This student-based sample was chosen because research suggests that students experience high rates of stalking compared to community members (Phillips et al., 2004; Sheridan et al., 2003). Each group received one of six versions of the hypothetical stalking case summary to discuss. Each case summary described the same set of behaviours, but the nature of the sex of the perpetrator and the victim was systematically manipulated (male perpetrator and female victim, female perpetrator and male victim), as was the prior relationship between the perpetrator and victim (stranger, acquaintance, ex-partner).

Procedure and Materials

Undergraduate students undertaking a Research Methods course were asked to disseminate information about the study to peers, housemates, and team mates who attended the university in which the study took place. Through this process, 12 groups comprising pre-existing contacts were formed. The use of pre-existing contacts has the advantage of allowing researchers to see the participants challenge, question, agree, argue, or reach a consensus. Moreover, focus groups comprising people who already know each other enable controversial, sensitive, and distressing topics to be discussed in a way that may not be possible in groups of strangers (Howarth, 2002).

Each group was provided with one of the six versions of a hypothetical stalking case summary and a summary of the Protection from Harassment Act (1997) before being asked to reach unanimous verdicts on whether the perpetrator was guilty of an offence. A hung jury verdict was recorded if participants were unable to agree on a unanimous verdict. Participants were asked to base their verdict decisions on the criteria outlined within Section 1 of the Act, relating to the criminal offence of harassment, as this criteria was used in the relevant published research at the time of data collection (see Appendix 1 for the summary of the Act provided to juries).

The six versions of the case summary varied according to the sex of and prior relationship between the perpetrator and victim, and comprised the following six conditions: a man stalking a woman, where the woman was either a stranger, an acquaintance or an ex-partner, and a woman stalking a man, where the man was either a stranger, an acquaintance or an ex-partner. In the stranger conditions, the perpetrator and the victim met at the estate agents where the perpetrator worked, and the victim declined the perpetrator's invitation to go out for a meal. In the acquaintance conditions,

the perpetrator and victim worked at the same estate agents, and the victim declined the perpetrator's invitation to go out for a meal. In the ex-partner conditions, the perpetrator and victim worked at the same estate agents, and the victim ended a three-month romantic relationship with the perpetrator on the grounds that they wanted different things. After describing the nature of the prior relationship, the six versions of the case summary detailed an identical scenario. The scenario for the male perpetrator and female victim case summary is provided below:

In the days that followed, the defendant (i.e., perpetrator) approached the plaintiff (i.e., victim) on her way to work and also telephoned her at home. The defendant then sent the plaintiff between five and ten text messages a day between 27 June and 3 July; many of these messages asking why she was not interested in him. When the defendant next telephoned the plaintiff on 7 July she asked him when he was going to stop this behaviour and leave her alone. On 8 July, the plaintiff received another telephone call from the defendant in which he apologised for his behaviour and seemed to accept that she wanted him to stop contacting her. The plaintiff did not see or hear from the defendant for about six weeks after this. However, at about 2 a.m. on 11 August, the defendant phoned the plaintiff again. She hung up but he kept ringing back so the plaintiff disconnected the phone. In the morning she found that he had left several messages blaming her for what was happening. At this point the plaintiff contacted the police.

All participants were provided with informed consent forms before and debrief statements after participating in the study. The study received approval from the

university ethics committee and was conducted in accordance with the ethical requirements of the British Psychological Society.

Analysis

The group discussions were transcribed verbatim and thematic analyses were conducted according to the process outlined by Braun and Clarke (2013). This process involved thorough familiarisation with the data and the generation of initial themes. The occurrence of each theme within the deliberations was noted to ensure the data could be clearly linked with the themes emerging from the analysis. Once all of the data had been initially coded, further refinement of the themes (and subthemes) was carried out to identify overarching themes. During this process, themes were continually compared to each other and refined so that individual themes were distinct. A process of constant comparison was employed throughout the analysis, whereby themes were compared across the conditions regarding the sex of and prior relationship between the perpetrator and victim.

Results

Verdicts

Of the 12 groups, eight reached a unanimous guilty verdict, one reached a not guilty verdict, and three did not reach a unanimous decision (i.e., a hung jury). Five of the six groups discussing a female perpetrator found the perpetrator guilty (in both of the stranger and both of the ex-partner conditions and one of the acquaintance conditions) and one was a hung jury (in one of the acquaintance conditions). In contrast, three of the six groups discussing a male perpetrator found the perpetrator guilty (in the two stranger conditions and one of the acquaintance conditions), one found the

perpetrator not guilty (in one of the acquaintance conditions) and two were a hung jury (in both of the ex-partner conditions).

Deliberations

Thematic analysis indicates that factors mitigating the perpetrator's behaviour and judgements about the victim's behaviour were key themes in all 12 mock jury deliberations, but played different roles depending on the sex of the perpetrator and the victim. Gender itself was also an important theme in deliberations, but only in those groups discussing a man stalking a woman.

Mitigation of the perpetrator's behaviour

There were three interconnected sub-themes that could potentially mitigate the perpetrator's behaviour: that the perpetrator was drunk, that the behaviour was reasonable in the context of heterosexual courtship, and that the perpetrator was mentally unstable. One of the most common themes throughout group discussions was that the perpetrator was drunk when he or she made the phone calls:

Juror 1: And that she was probably pissed.

Juror 2: Yeah, I'm sorry but to me 2 a.m. means that... Let's be honest who of us hasn't made drunken phone calls at 2 a.m. in the morning?

(Female perpetrator, Acquaintance, Guilty)

He tried contacting her, you know, no reply and then he realised he's sorry, said that, random drunken behaviour, and from then that could have just been it. You know, he's apologised, full stop, ended it.

(Male perpetrator, Ex-partner, Hung jury)

Here participants were speculating on information that was not contained in the case summaries. Alcohol was not mentioned, yet was raised numerous times in 11 of

the 12 group discussions. This speculation by the participants worked against the victim by mitigating the behaviour of the perpetrator. However, the extent to which it influenced verdict decisions depended on the nature of the prior relationship and the sex of the perpetrator and victim. When the perpetrator was a male acquaintance or ex-partner, groups did not question the legitimacy of the perpetrator's perceived drunkenness as a 'reasonable' excuse for his behaviour. Being drunk was not, however, an acceptable explanation for the male perpetrator's behaviour in cases of stranger stalking:

Yeah, but then does that make a difference? If she, like, unplugged the telephone and he left her several messages, then even if he was drunk, from her perspective, if she's at home on her own as a woman and it's two o'clock in the morning I would feel scared.

(Male perpetrator, Stranger, Guilty)

Well it's not clear cut on the second occasion whether it was just a drunken mistake. Regardless of that, him approaching her on the way to work, him telephoning, sending messages and all that for me qualifies as harassment.

(Male perpetrator, Stranger, Guilty)

In contrast to the male perpetrator, the female perpetrator's perceived drunkenness was challenged as a legitimate form of mitigation regardless of her relationship to the victim:

Juror 1: Actually that would be the only reason I would call them, if by mistake at two o'clock in the morning while drunk.

Juror 2: But either way calling them at two o'clock in the morning is still harassment.

(Female perpetrator, Stranger, Guilty)

Juror 1: Could be drunk, not having full control of what she's doing.

Juror 2: That's not really a defence.

(Female perpetrator, Ex-partner, Guilty)

This pattern of acceptable and unacceptable mitigation can be accounted for by the related sub-theme of courtship and romance. Throughout each acquaintance and ex-partner group discussion, attempts were made to make sense of the events depicted in the scenarios in terms of shared understandings of heterosexual romance. When understood as part of a romantic scenario the range of pursuit behaviours considered 'reasonable' was widened, and the perpetrator was treated more sympathetically. However, the extent to which this approach was successful depended on the sex of the perpetrator, with only the male perpetrator meeting shared expectations of appropriate courtship behaviour. Many aspects of the male perpetrator's behaviour were romanticised during all four acquaintance and ex-partner group discussions:

Maybe he got drunk one night... It sounds like he's infatuated.

(Male perpetrator, Acquaintance, Not guilty)

Some people fall so madly and deeply in love they can't, and then if it ends abruptly they can't stand it.

(Male perpetrator, Ex-partner, Hung jury)

Interpreted in this way, the perpetrator's behaviour was justified as a reasonable response to rejection or a break-up. Understood in the context of a break-up, the perpetrator's behaviour was interpreted positively, as a romantic response from a love-sick suitor:

Surely it's in the nature of the texts 'cause if they're relatively innocent, I mean the nature of the text was like 'Why, why do you not want to go out with me?' as opposed to saying 'Fucking', you know. It's not like he's doing it maliciously...

(Male perpetrator, Acquaintance, Not guilty)

Juror 1: Cause you could explain this in terms of the break up. He's upset and then he gets drunk and calls her one night. To me that's not...

Juror 2: We don't know if he's drunk.

Juror 1: No but I'm just saying that would be another explanation rather than he's just harassing her...

(Male perpetrator, Ex-partner, Hung jury)

When the male perpetrator was an ex-partner of the victim, there was also a shared understanding that the break-up might have affected his emotional state ('He's probably emotionally upset because she broke up with him'), that his behaviour was simply the result of his need for answers ('If you end a relationship and you're still not quite sure what happened, it's reasonable to text a few times'), and that his intention in phoning and texting the victim was well-meaning ('But he was calling to say sorry. You can't hold that against him'). There was a consensus, that the perpetrator was himself suffering, and in need of support:

I would say he needs help rather than punishment though.

(Male perpetrator, Ex-partner, Hung jury)

Regardless of whether it's harassment or not, it's a sign that he actually needs...

You do better rather than getting a restraining order or whatever. He'd be better to promise to go to counselling sessions or self-help class or something.

(Male perpetrator, Ex-partner, Hung jury)

By invoking the theme of romance, groups constructed the male perpetrator's behaviour as not only reasonable, but also sympathetic. The female perpetrator's behaviour was never romanticised in group discussions, therefore closing off this form of mitigation and sympathy. Despite being described identically in the scenarios, the male ex-partner perpetrator's behaviour was consistently understood in terms of romance, while the female ex-partner perpetrator's behaviour was not. Each attempt to romanticise the female ex-partner perpetrator's behaviour was rebuffed by other group members, or treated with sarcasm:

Juror 1: Well she's broken up with him, she's distraught.

Juror 2: Aww sad.

Juror 3: Their relationship was only three months though, its not like it was a long term relationship either.

(Female perpetrator, Ex-partner, Guilty)

Juror 1: Wasn't really a relationship.

Juror 2: It was only three months she's a bit desperate.

(Female perpetrator, Ex-partner, Guilty)

In contrast to the legitimacy afforded the male perpetrator's (perceived) romantic gestures, the same behaviour when performed by the female perpetrator was trivialised.

Yeah, it's almost like a teen crush type thing.

(Female perpetrator, Stranger, Hung jury)

Despite trivialising her behaviour such constructions of the female perpetrator did not serve to reduce her culpability. In fact, the mitigating circumstances that

previously worked in favour of the male perpetrator, did not constitute sufficient mitigating circumstances to warrant a 'not guilty' verdict in relation to the female perpetrator. For example, both of the trivialising statements below were followed by unanimous guilty verdicts:

I don't think she should be guilty, she just needs a boyfriend.

(Female perpetrator, Ex-partner, Guilty)

Isn't she just quite desperate? I don't think she needs to go to jail for that. She just quite fancied him.

(Female perpetrator, Ex-partner, Guilty)

Instead of romanticising the female perpetrator's behaviour, groups tended to pathologise her behaviour. Mental health was a common theme throughout discussions of these cases, and was unique to participants discussing a female perpetrator. The mental stability of the female perpetrator was often called into question as a way of justifying her behaviour: 'She's a crazy bitch', 'She's a moron', and 'She could be literally a psycho, like'. However, these comments were routinely coupled with assertions of her guilt, thereby belying their status as legitimate mitigating factors. Three of the six groups discussing the female perpetrator also raised the possibility that hormones or pregnancy might explain her behaviour towards the male victim. However, despite invoking the possibility of pregnancy, rather than romanticise the perpetrator's actions, the following quotes suggest that these participants were actively de-romanticising them:

Juror 1: But she's 31 years old, so it's not like she's 16 and completely in love or whatever.

Juror 2: Maybe she's just heard her body clock ticking.

(Female perpetrator, Stranger, Hung jury)

What was the thing that was happening? Maybe she was pregnant.

(Female perpetrator, Ex-partner, Guilty)

Blame and belittlement of the victim

A second set of themes in all jury discussions focused on the victim's behaviour both prior and subsequent to the events depicted in the scenario. These themes served either to blame or to belittle the victim, thus further mitigating the perpetrator's behaviour and reducing the perceived need for police intervention. A common theme throughout all group discussions focused on whether the victim might have played a role in causing the perpetrator's problematic behaviour. When the victim was a woman, this theme was expressed through assertions that she was at least partially responsible for the perpetrator's behaviour. When the victim was a man, this theme was expressed by the opposite assertion: that he was not responsible for the perpetrator's behaviour.

Two interconnected sub-themes were drawn upon to construct the female victim as either partially or wholly responsible for her fate: her role in causing the perpetrator's behaviour and her reactions to it. For example, the female victim's perceived lack of effective communication was often drawn upon to explicitly blame her for the perpetrator's behaviour. The male victim, by comparison, was explicitly absolved of any responsibility in terms of causing the perpetrator's behaviour:

Juror 1: And if she hasn't given him a reason.

Juror 2: Then yeah, damn right it is her fault!

(Male perpetrator, Acquaintance, Not guilty)

Juror 1: She certainly comes on quite strongly doesn't she? With what would appear to be little encouragement from him.

Juror 2: Yeah.

Juror 3: There was no encouragement.

(Female perpetrator, Stranger, Guilty)

Moreover, there is an assumption that the female victim might have lead-on the perpetrator in the way she responded to the perpetrator's texts and phone calls:

But we don't know if she's replying to them [the texts] or not.

(Male perpetrator, Ex-partner, Hung jury)

If she's leading him on and saying, you know, replying to the messages.

(Male perpetrator, Ex-partner, Hung jury)

However, in terms of replying to the texts it appears that the female victim was 'damned if she does' and 'damned if she doesn't'. Responding at all was considered leading him on. However, she was also criticised for *not* texting him and for *not* asking him to stop. Indeed, in some discussions it was hypothesised that her (perceived) lack of communication may have initiated the series of unwanted behaviours enacted by the perpetrator:

Maybe he's frustrated because of her lack of communication back. He's just like, that's what I mean, this is just all because you haven't communicated with me.

(Male perpetrator, Acquaintance, Not guilty)

Well he's just trying to get in touch with her and she's not talking back.

(Male perpetrator, Ex-partner, Hung jury)

The male victim, by comparison, was praised for his lack of response. By not responding to the female perpetrator's texts and phone calls, the male victim was sending a clear message that he was not interested:

You might just say that he's never said 'stop it' but he's also never said you know 'come on then let's go out for dinner' or welcomed her or encouraged her in any way

(Female perpetrator, Stranger, Hung jury)

Juror 1: To be honest if he was like ignoring her messages and that he couldn't have really been leading her on.

(Female perpetrator, Acquaintance, Guilty)

On the whole, there was no evidence of victim-blaming when the victim was a man and the perpetrator was a woman. Rather than *blame* the male victim of a female perpetrator, the participants in the current study *belittled* him. All six groups discussing the male victim interpreted his contacting the police as an overreaction. Typical comments included, 'It just seems all a bit petty for him to ring the police', 'I don't think I'd call the police on someone who did that to me' and 'I think it's absolutely ridiculous of him to have called the police'. Moreover, each of these groups perceived this behaviour as gender-inappropriate. Male victims were criticised for involving the police no matter what their prior relationship with the perpetrator. Phoning the police was considered an overreaction in all three relationship conditions, including cases of stranger-stalking:

Yeah, if it was harassment then it would be a very very mild because I'm sure this happens to many, many people and they don't call the police.

(Female perpetrator, Stranger, Hung jury)

Juror 1: I think he was pretty quick to call the police.

Juror 2: Yeah, he could have done other stuff.

Juror 3: Manned up.

(Female perpetrator, Ex-partner, Guilty)

However, even after discussing the male victim's behaviour as an overreaction, the participants nevertheless judged the female perpetrator's behaviour as constituting harassment.

Juror 1: It is a bit annoying... it just seems all a bit petty for him to ring the police like if it had stopped and had just started again, but still.

Juror 2: I guess it's not whether he is petty or not. It's whether in the law it stands as harassment, which I guess according to this [the Act] it does.

(Female perpetrator, Acquaintance, Guilty)

Juror 1: There are so many other steps he could've taken other than calling the police.

Juror 2: Change his phone number.

Juror 3: Literally why didn't he just change his number.

Juror 1: Yeah but I guess she's guilty.

(Female perpetrator, Ex-partner, Guilty)

The above discussions suggest that by not replying to the perpetrator, the female victim is encouraging the perpetrator to persist in trying to contact her. Under identical circumstances, the male victim's lack of response works in his favour. By not responding, the male victim is displaying a clear lack of encouragement to the perpetrator. On the other hand, the male victim, but not the female victim, is criticised for contacting the police. Together, these findings indicate a clear double standard in perceptions of stalking. The same behaviours, whether performed by the victim or the perpetrator, can have different meanings depending on the sex of the person performing them. Indeed, gender itself was another dominant theme throughout group discussions.

Gender

Gender was explicitly raised in all six groups discussing a woman stalking a man. It permeated all key discussion points, and was a factor in each of the above themes and sub-themes. Both the victim's reaction to the perpetrator and the perpetrator's unwanted pursuit of the victim were perceived as gender-inappropriate (e.g. 'Women aren't like that' and 'He should just man up'). Moreover, four of the juries questioned whether they perceived the case in a biased way because of the sex of the perpetrator and victim. For example, one male participant asked: 'Would you guys feel harassed if some dude was calling you?'

These groups, discussed gender in relation to the perpetrator's behaviour, the victim's behaviour, and (self-reflexively) in relation to the act of discussing the scenarios:

Juror 3: But then again we're treating this as if we're treating this very gender-oriented again, aren't we?

Juror 2: Yeah, if it was a guy who was the defendant I'm not sure I'd come to the same conclusion but it's not, so I'm not gonna.

(Female perpetrator, Stranger, Hung jury)

But if you like read this, if you literally read this and he was her, and literally just gender switch-flipped, um yeah, I think you'd probably see it as a lot more serious.

(Female perpetrator, Stranger, Hung jury)

The above comments highlight a set of tensions and contradictions running through group discussions about scenarios involving a woman stalking a man.

Throughout these discussions, the situation was trivialised and the victim was criticised

for contacting the police. Together, these interpretations of the events point to a not guilty verdict. However, that guilty verdicts were reached by 94% of participants discussing a female perpetrator, but only 66% of participants discussing a male perpetrator, suggests that gender did play a role in verdict decisions, despite discussants' awareness of this possibility. That gender was not explicitly mentioned in any discussions of a man stalking a woman highlights that this gender dynamic is taken for granted in cases of stalking. In terms of gender roles, a man stalking a woman is neither problematic nor noteworthy.

Discussion

This study aimed to explore the ways in which the sex of and prior relationship between the perpetrator and victim shape perceptions of stalking. Analysis of the mock jury deliberations indicate that factors mitigating the perpetrator's behaviour and judgements about the victim's behaviour were key themes in all group discussions but played only a minor role in shaping verdict decisions in cases involving a woman stalking a man. When discussing a man stalking a woman, the pattern of verdict decisions indicates that prior relationship plays a role in perceptions of stalking. Thematic analysis illustrated the shared beliefs shaping these decisions. Shared assumptions about both the male perpetrator and the female victim differed depending on the nature of the relationship, and worked to shore up a belief in a just world. The situation was interpreted such that the female victim was responsible for her fate, either actively (e.g., by responding to the perpetrator's texts/calls) or passively (e.g., by not responding to the perpetrator's texts/calls; not changing her daily routine). When juries were discussing a woman stalking a man, assumptions about courtship played a greatly reduced role in jury decisions and there was little evidence of just-world principles

being invoked. Instead, assumptions about gender outweighed any influence of prior relationship or the need to maintain a belief in a just world.

A Man Stalking a Woman

In relation to cases involving a man stalking a woman, the pattern of verdict decisions is consistent with previous research demonstrating that behaviour is more likely to be perceived as stalking when the perpetrator and victim are portrayed as strangers rather than acquaintances or ex-partners (Hills & Taplin, 1998; Phillips et al., 2004; Scott et al., 2010; Scott & Sheridan, 2011). Furthermore, many aspects of the verdict decisions can be accounted for by differing understandings of the situation according to the prior relationship between the perpetrator and victim.

Thematic analysis of mock jury deliberations provide a nuanced understanding of how the shared history between male perpetrators and female victims enable the reinterpretation of stalking situations in a way that favours the perpetrators. The more intimate the prior relationship between the perpetrator and the victim, the greater the repertoire of mitigating factors drawn upon to interpret – and in many cases justify – the male perpetrator’s behaviour. Factors associated with courtship, communication between the perpetrator and victim, and the perpetrator’s emotional state were increasingly available to mitigate the perpetrator’s behaviour with an increasing level of intimacy in the prior relationship. Conversely, the impression of the victim was more negative with an increasing level of intimacy in the prior relationship. For example, the victim was apportioned blame for her role in causing the perpetrator’s behaviour and perceived to be overreacting by contacting the police when the perpetrator was an acquaintance or ex-partner, but not when the perpetrator was a stranger.

Taken together, the above findings are consistent with the low arrest and conviction rates found for ex-partner stalking cases (Harris & Miller, 2000; Pearce & Eastal, 1999). The reduced severity of the male perpetrator's behaviour in conjunction with the increased responsibility of the female victim shaped interpretations of the ex-partner and acquaintance case summaries in such a way that they were perceived in the context of a domestic dispute that could potentially be resolved without police intervention. These findings, however, did not hold when the sex of the perpetrator and the victim were reversed.

A Woman Stalking a Man

When the roles were reversed, verdict decisions could not be accounted for by differing understandings of the situation according to the prior relationship between the perpetrator and victim, nor were they consistent with the workings of the just-world hypothesis. Regardless of the prior relationship, there were fewer mitigating factors discussed in relation to a woman stalking a man than in relation to a man stalking a woman. In discussions of a woman stalking a man, drunkenness, hormones, pregnancy, and mental instability were raised as possible mitigating factors for the female perpetrator's behaviour, but as the overwhelming number of guilty verdicts indicate, she was nevertheless held responsible for her actions. In contrast to perceptions of the male perpetrator, the female perpetrator's actions were never romanticised, and the norms of heterosexual romance did not mitigate her actions. It is clear from group discussions that her behaviour did not fit the stereotype of normative heterosexual pursuit; that is, a man pursuing a woman. In turn, her gender-inappropriate behaviour seems to have closed off the possibility of interpreting stalking cases from the perspective of courtship. This did not mean, however, that the stereotypes had no impact on verdict decisions.

There were two recurring themes unique to discussions of a woman stalking a man: the potential role of gender in biasing judgements of the case and the trivialisation of the perpetrator's behaviour. Though discussed as a possibility, this self-reflection regarding the potential role of gender in biasing judgements of the non-stereotypical cases belies the contradictions inherent in these group discussions. On the one hand participants presented with the female perpetrator and male victim cases justified their verdict decisions on the basis of shared understanding that the perpetrator would have been found guilty had the behaviour been performed by a man. On the other hand, the verdict decisions of participants presented with cases where the behaviour was performed by a man often did not find him guilty, as their judgements were influenced by the workings of the just-world hypothesis. From this perspective, the male perpetrator's behaviour was perceived to be gender-appropriate, depending on his prior relationship with the victim. In contrast, the female perpetrator's behaviour was perceived to be gender-inappropriate, running counter to the traditional feminine role in courtship and romantic practices. The female perpetrator was thus perceived as 'the evil woman' (Crew, 1991), constituted as 'a psycho' and 'a crazy bitch'. Despite questioning her mental state, the female perpetrator was nonetheless deemed responsible for her actions, and therefore guilty; she was both mad and bad. This interpretation is an example of the type of social regulation identified by Carlen (2002), whereby women who either break the law or deviate from informal social rules are pathologised. In contrast, when the male perpetrator's mental state was questioned, he was more likely to be constituted as 'lovesick' rather than mentally unstable; he might be mad, but he is not necessarily bad.

These findings indicate that the extent to which stalking can be understood in relation to courtship and romance depends on the sex of the perpetrator and the victim. As a female perpetrator's actions transgress normative expectations related to courtship and romance, her actions cannot be interpreted within this framework. Her actions cannot therefore be mitigated as a reasonable response to break up or rejection. These findings further indicate that, despite working in favour of the male perpetrator, perceptions of normative masculinity worked against the male victim. Although both male and female victims were criticised for contacting the police, female victims were only criticised when the perpetrator was an acquaintance or ex-partner while male victims were criticised no matter what his prior relationship to the perpetrator. By not dealing with the situation himself, the male victim is perceived to have deviated from normative masculine behaviour. Thus, he should have 'manned-up' and assumed a more gender-appropriate role. These negative impressions of the male victim were further compounded by the trivialisation of the female perpetrator's behaviour by some participants, further reducing the perceived need for police intervention. These findings therefore help to explain why stalking-related behaviour is less likely to be considered serious or to require police intervention when the victim is a man as compared to a woman (Finnegan & Timmons Fitz, 2012; Phillips et al., 2004; Sheridan et al., 2003). While these negative impressions of the male victim had little impact on verdict decisions, further research is needed to investigate whether gendered assumptions about victims of stalking influence perceptions at different stages in the judicial process. Our findings point to a paradox whereby male victims are more likely to be belittled for reporting a female perpetrator, yet if reported female perpetrators are more likely to be found guilty. Further research is therefore needed to disentangle the influence of

perpetrator sex from that of victim sex, as the case summaries used in this study only focused on opposite-sex stalking situations. For example, would a male victim be similarly criticised for contacting the police if his stalker was another man?

Conclusion

Taken together, these findings indicate that the boundary between ‘normal’ relationship behaviour and stalking is not only blurred but also positioned differently for male and female perpetrators. There is greater scope for the behaviour of a man to be perceived as reasonable courtship behaviour, especially if he has previously been in a relationship with the victim. Many of his pursuit behaviours are to be expected of normative masculinity. The space of ‘normal’ behaviour is further extended when perceived as a reasonable reaction to the victim’s actions (or in some instances to her non-actions). In contrast, there is a much narrower band of ‘normal’ behaviour in relation to a female perpetrator. Without recourse to discourses of courtship, the boundary between ‘normal’ and stalking behaviour is more clear-cut. Unwanted phone calls and physical encounters cannot be justified by virtue of having romantic associations; in some cases these behaviours were judged more negatively by participants when interpreted as examples of the female perpetrator’s perceived deviance or mental instability. The present study has demonstrated that the extent to which prior relationship influences perceptions of stalking is contingent on the extent to which the perpetrator’s behaviour can be interpreted within the framework of normative romantic and courtship practices. It is possible to romanticise a male perpetrator’s behaviour, but not if he is a stranger to the victim. On the other hand, it is not possible to romanticise a female perpetrator’s behaviour regardless of her relationship to the

victim. Her behaviour is beyond the realm of normative femininity and therefore beyond the realm of reasonable behaviour.

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Appendix

Summary of the Act provided to juries

We would like each of you to act as a member of the jury in a case brought before the Crown Court in which a woman has been accused of an offence under the Protection from Harassment Act 1997.

According to the Act, a person who pursues a course of conduct in breach of Section 1 is guilty of an offence. Section 1 states that a person must not pursue a course of conduct-

- (a) which amounts to harassment of another, and
- (b) which he knows or ought to know amounts to harassment of another.

For the purposes of this Act, the person whose course of conduct is in question ought to know that this conduct amounts to harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of another. Section 1 of the Act does not apply to a course of conduct if the person who pursued it shows

- (a) that it was pursued for the purpose of preventing or detecting a crime;
- (b) that it was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or
- (c) that in the particular circumstances the pursuit of the course of conduct was reasonable.