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Dear Ms Turingan,

Responses to Joint Senate Committee on Coercive Control On Notice

Joplin Lawyers appreciates the opportunity to further extend on issues raised during oral submissions to the committee and hope our responses further informs the reform needed in NSW to promote the safety of victims and children.

We have addressed the following points below:

1. Place of perpetrator programs in response to domestic violence and coercive control and the NSW Blueprint.
2. Unattended consequences of coercive control laws

Yours faithfully,
Joplin Lawyers

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Joplin Higgins
Lawyer

1. Place of perpetrator programs in response to domestic violence and coercive control and the NSW Blueprint

More funding and resources are required for all types of domestic and family violence services in Australia. The current funding for government and non-government responses does not match the prevalence of domestic and family violence across all states and territories in Australia.

It is paramount that for any initiative to be effective and promote the safety of victims and children, there needs to be a significant increase in funding for all agencies involved. The responsibility of responding to domestic violence should not only lie with victim and children services. Rather, it is crucial there are some services that have a strong focus on the perpetrator and hold them accountable for the abuse they subject victims and children to. Investing in perpetrator interventions relieves victim services of some of the burden of addressing domestic violence. Interventions need to be engaging with perpetrators as well as men who do not use violence to support sustained change. Prevention work is more likely to be effective when the “whole population is involved and work at all levels of society.”¹ The ‘not all men’ argument “alleviates the majority of men from responsibility.”² Domestic violence can be prevented and requires long-term solutions. Effective programs play an integral role in Australia’s response to domestic violence. Changing perpetrators behaviour can improve circumstances for all members of the family.

There is minimal evidence the current perpetrator programs in Australia address domestic violence and coercive control adequately. There is a gross lack of substantial evaluation of current programs and they are significantly fragmented across states and territories. The average program runs for 12 weeks which is not an adequate time frame to support substantial and long-term change. This is not the case in other countries, where perpetrator programs are yielding much better results. This can be attributed to the greater intensity and length of programs as well as increased funding. Internationally, programs can be court mandated, operate for more than a year, target the specific needs of the perpetrator and delivered in residential facilities. With improvement to programs offered in Australia, we could follow the path of other countries in better addressing the role perpetrators play in the cycle of domestic violence and coercive control. The place of perpetrator programs should not be discounted based on the effectiveness of Australia’s current programs that take a ‘one size fits all approach’ to perpetrators and do not address domestic violence and coercive control

¹ Our Watch, ‘Men in focus: unpacking masculinities and engaging men in the prevention of violence against women’ *Our Watch* (Evidence Review, 2019) 1, 43.

² *Ibid* 81.

thoroughly or holistically. Strategies such as 'focused deterrence' have supported interventions for perpetrators as well as promoted the safety of victims and children and offered support for the victims of perpetrator.

The Australian Crime Commission has recently released a paper on three years of research focusing on the application of focused deterrence in Australia for domestic violence perpetrators.³ Focused deterrence is a criminal justice led response, integrating criminal punishment and key stakeholders of social services and departments in the local area. It has been used in multiple countries to target crime. Focused deterrence utilises the strategic use of the law and offers intensive support to perpetrators who want to change their behaviour. In North Carolina, USA, focused deterrence has been used to reduce domestic violence with substantial results. North Carolina has been the first community to use the strategy to target domestic violence. Perpetrators at risk of killing their partners have been confronted with a strong message "if they didn't stop abusing their partners, police would pursue them relentlessly and impose severe penalties, including long-term prison sentences." The stern threat was additionally met with offers to support these men with whatever they needed to stop their abuse. North Carolina saw a significant reduction in intimate partner homicide and injuries related to domestic violence offences. Jess Hill discusses this approach in her investigative journalism piece '*See What You Made Me Do.*' Focused deterrence could be used to target perpetrators of coercive control if there were adequate supports in place for perpetrators who were motivated to change their behaviour.

We have included a range of international programs that have sustained much better results than the current programs offered in Australia. Any approach considered to address domestic violence and coercive control in Australia should involve targeting perpetrators with evidence-based intervention and additional funding by government rather than drawing from the shallow pool of resources allocated to victim services currently. Whilst criminalising coercive control is a fundamental starting point, to address the risk to victims and children, laws need to be supported by adequate judicial, training and social responses.

USA

Denver, Colorado:

The majority of domestic violence services in Denver, Colorado are located in one building. Multi-disciplinary teams are used to treat perpetrators. Perpetrators are categorised into different levels of risk and the intensity of treatment is matched with the perpetrators risk.

³ Anthony Morgan et al, 'Trends and Issues in Crime and Criminal Justice Policing domestic violence: Would focused deterrence work in Australia?' *Australian Institute of Criminology* (Report, 2020) <https://www.aic.gov.au/publications/tandi/tandi593>

Assessments on the risk of perpetrators are repeated throughout the program and treatment intensity can be changed to coincide with a change in risk. Colorado aim for participants is to meet competencies rather than participating in the program for a set period. On average, level A participants completed 24 weeks, level B completed 35 weeks and level C 37 weeks.

There is a huge importance placed on information sharing and cross-collaboration between disciplines. The treatment is court ordered and the judge makes a sentencing decision once the course is completed. The facilitators of the course are therapists and make the initial assessment. Therapists make recommendations to the judge on the length of time the perpetrator should remain in the program.

The Family Peace Initiative, Kansas:

The Family Peace Initiative, run by Dorthy Stuckey Halley and Steven Halley, offers a trauma-focused batterer intervention program. The program runs for a minimum of 26 weeks, including an initial assessment, orientation class and 24 weekly group sessions. Topics covered within the curriculum include:

- Adverse Childhood Experiences
- The River of Cruelty
- Integrity and Accountability
- The Shadow
- The Golden Shadow
- Negotiation and Fairness
- Trust and Partnership
- Parenting with Respect
- Sexual Respect
- Battering Motive
- Guilt and Shame

A review by court services found that 81 per cent of those who completed the Family Peace Initiative Program in a five-year time frame were not charged with another crime and did not have another protection order placed against them in that county.⁴ In comparison to recidivism rates of other programs, the rate is a high standard.

Scotland:

Scotland's predominant program for domestic violence perpetrators is the Caledonian System. It was developed in response to high imprisonment rate, comparatively to other western nations. It formed part of a government wide strategy to reduce domestic violence and provides

⁴ Shawnee Co. Court Services and the Family Peace Initiative, 2014.

a comprehensive theory manual to ensure consistency across the delivery of the program. The manual was developed utilising contributions from a variety of disciplines. An evaluation of the program indicated key areas for improvement whilst assessing the current outcomes. The system implements an integrated approach to addressing domestic violence, providing a court ordered programme for men and support for women and children that emphasises the effective collaboration and information sharing with other services. Cases could be returned to court if the perpetrator was not suitable for the program. The program takes on an 'ecological' model of behaviour, examining the influence of various factors on domestic violence. This includes social stereotypes about gender roles and individual circumstances in men's lives that may have contributed to abuse such as their own exposure to violence and use of alcohol and drugs.⁵ Regular client liaison meetings typically take place once every three weeks, with the safety of women and children the first priority. The program is targeted at moderate to high-risk perpetrators.

The men's program spans over two years, providing 14 one to one sessions, 26 group sessions and one-on-one sessions repeated post-group work to assist maintenance of the reduction of domestic violence. Assessment and psychometric testing is conducted at the beginning and end of the program.

Many perpetrators (81 per cent) had problems with alcohol when commencing the program.⁶ Post the program, the proportion of participants with alcohol problems reduced by almost half.⁷ Evidence indicated men who completed the program posed a lower risk to partners and children at the end of the program.⁸ Those assessed as high-risk reduced from 26 per cent to 8 per cent and moderate risk fell from 62 per cent to 32 per cent. Participants classed as low risk increased from 12 per cent to 60 per cent.⁹

Norway:

The ATV program in Norway incorporates elements from CBT, emotion focused therapy, trauma focused therapy and psychodynamic therapy. Themes such as power, safety, control and gender stereotypes are incorporated into the program. Similarly, to Scotland, the program considers broader factors that could contribute to domestic violence including depression, anxiety, trauma specific reactions, attachment and substance abuse. There is not a set timeframe for completion of ATV. Rather the length is tailored to the needs of the perpetrator

⁵ Rachel Ormston et al, 'Caledonian System Evaluation: Analysis of a Programme for Tackling Domestic Abuse in Scotland', *Crime and Justice Social Research* (Report, 2016) 2.

⁶ Ibid iv.

⁷ Ibid 48.

⁸ Ibid v.

⁹ Ibid 42.

in collaboration with their individual therapist. On average the participants spend 10 months in treatment.

Research on perpetrators who dropped out of programs in Norway indicated the longer time in treatment enhanced the of positive outcomes.¹⁰ Identifying the reasons for early dropouts is important however difficult to identify.

Israel:

Israel takes a different approach to intervention programs, opting for a residential program for perpetrators. Two studies have been conducted on the therapy provided at the facility Beit Noam, as well as the results from an assessment report. The program coincides with a court order, banning men from their family homes. The program aims to address the core problem of domestic violence, men's behaviour. Sessions are conducted in the evening and men go to work during the day. Men are additionally responsible for the maintenance of the house, challenging gender stereotypes in a practical way. The residential stay allows the behaviour of the men to be observed in a social setting and can assist in targeting interventions.

Six types of groups are conducted including interpersonal relations, cognitive self-control, development of self-awareness, a parenting group addressing the child witnesses of violence and a follow up group.¹¹ The parenting group helps perpetrators address their own experiences of violence as children and their own children's, with many of the participants exposed to violence in childhood.¹² Time within the program could be extended if required to meet the participants needs. To assess outcomes of the program, probation officers were utilised. Victims, practitioners and probation services all reported the program had been successful in dealing with physical violence perpetrated by participants.¹³ Each woman indicated a decrease in violence including "no longer being assaulted or threatened, no longer felt afraid and men made an effort to control their anger."¹⁴ However, women did report the occasional use of verbal abuse. Beit Noam offers an integrative approach to intervention. Having men stay at a designated facility aligned with court orders could be seen to enhance the safety of women and children and minimise disruption by having them remain within the family home.

The *NSW Domestic and Family Violence Blueprint for Reform* offers an opportunity to ensure the criminalisation of coercive control forms part of a coordinated response to domestic and

¹⁰ Ingunn Askeland and Trond Heir, 'Early Dropout in Men Voluntarily undergoing treatment for intimate partner violence in Norway', (2013) 28 (5) *Violence and Victims* 822.

¹¹ Ophra Keynan et al, 'Beit Noam Residential Program for Violent Men', (2008) 7 (1) *Journal of Aggression, Maltreatment and Trauma* 207, 211.

¹² Ibid 217.

¹³ Ibid 234.

¹⁴ Ibid 234.

family violence. Coercive control and the ability to understand, recognise and respond to it needs to operate across all areas of the Blueprint including crisis responses, early intervention, support for victims, training requirements and service delivery. Coercive control, whilst understood by some operating in the domestic violence sector, it does not form part of the knowledge of the general public. This will directly affect reporting of offences and the response to coercive control as a risk factor for partner homicide. If coercive control is criminalised it will need to be carefully integrated into each part of the Blueprint and taken as seriously as other forms of domestic violence.

Joplin Higgins, the director of Joplin Lawyers has completed two papers relevant to coercive control including:

- *Rehabilitating Domestic Violence Perpetrators – An Australian and International Analysis and Evaluation of Men’s Behaviour Change Programs*
- *Consideration of Infidelity as a Factor in Domestic Abuse and Coercive Control in Family Law Proceedings*

These can be provided to the committee for consideration.

1. Unattended consequences of coercive control laws

The criminalisation of coercive control will not only have impacts on the criminal law jurisdiction but also family law. It is important the potential impacts of the laws are carefully considered before they are implemented. It is also important that solely a legal response is not the only response that occurs to domestic violence and coercive control. Criminalising the behaviour cannot be the end point of NSW response to coercive control.

In the Family Law jurisdiction, a key example would be the impact a criminal conviction of coercive control could have on determining the best interests of the child and parental responsibility. Children need to be protected “from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence.” Criminalisation of coercive control would shift the understanding of family violence and impact judgements in family violence cases.