

**Submission
No 61**

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

Name: The Hon. Emma Hurst

Date Received: 29 January 2021

28 January 2021

Joint Select Committee on Coercive Control
Parliament House
Macquarie Street
Sydney NSW 2000

By email: coercivecontrol@parliament.nsw.gov.au

Dear Ms Ward

Submission to Joint Select Committee on Coercive Control

Thank you for inviting me to make a submission to the Joint Select Committee on Coercive Control.

Domestic and family violence (DFV) is a serious issue. According to the Australian Bureau of Statistics Personal Safety Survey 2016, an estimated one in six women, and one in sixteen men, have experienced partner violence in their lifetime.

Coercive control, which is the focus on this Inquiry, describes a pattern of behaviours including physical, sexual, psychological, financial and emotional abuse and intimidation, which may be used as tactics by a DFV perpetrator to gain power, control and dominance over the victim-survivor.

My submission to the Inquiry will focus on the link between animal abuse and domestic violence, and outline how animal abuse can be a dangerous form of coercive control.

Research on Animal Abuse and Coercive Control

As a former psychologist, I am well aware of the link between domestic violence and animal abuse, which unfortunately is often overlooked.

According to a 2008 Australian study, 50% of women in violent relationships reported that their animals had also been harmed.¹ A more recent survey conducted by Domestic Violence NSW found that 55% of domestic violence workers had worked with victim-survivors whose abusers had also killed an animal or multiple animals.²

Animals can suffer the same terrible injuries as human victims-survivors of DFV. They can be physically injured or even killed by violent perpetrators. They can also develop fear responses, a

¹ Volant, A. M. *et al.* (2008) 'The Relationship Between Domestic Violence and Animal Abuse: An Australian Study', *Journal of Interpersonal Violence*, 23(9), pp. 1277–1295.

² Domestic Violence NSW, 'Animals and People Experiencing Domestic and Family Violence' (November 2020), <https://www.dvnsw.org.au/wp-content/uploads/2020/11/Nov-DVNSW-Report-on-Animals-and-People-Experiencing-Domestic-and-Family-Violence.pdf>

distrust of humans, depression, anxiety, and can also display behavioural changes, such as aggression, as a result of their own suffering or seeing their human guardians suffer.³

Animals provide companionship and emotional support for many Australians. Unfortunately, research has shown that this human-animal bond is sometimes exploited by perpetrators, who may inflict or threaten harm to animals as a strategy to intimidate, coerce or control human victim-survivors. Studies report multiple ways in which perpetrators use animals to achieve this goal, including threats (e.g. to harm or give away the animal), physical abuse (e.g. hitting, kicking or killing the animal) and acts of omission (e.g. prohibiting feeding or obtaining veterinary care for the animal).⁴

Other studies have found that an animal is more likely to be abused where the victim-survivor described the animal as being an important source of emotional support.⁵ This reinforces the idea that animal abuse can be a deliberate method of coercive control used against victim-survivors who are attached to an animal. The goal is to hurt the victim-survivor by attacking someone important to them, and instilling fear.

Another overseas study, which compared perpetrators who did and did not abuse animals, found those that abused animals were more dangerous because they used more forms of violence against their partner and demonstrated more controlling behaviours.⁶

Research also shows that animal abuse as coercive behaviour extends the period for which people stay in violent relationships. 50% of domestic violence workers surveyed said that victim-survivors delayed leaving a perpetrator by more than a year due to concerns about animals and a lack of available resources to leave with animals.⁷

Key Points from Research on Animal Abuse and Coercive Control

In summary, this research highlights two key points:

1. Animals, as sentient beings with the ability to feel pain, can be victims of domestic violence in their own right and should be recognised as such.
2. Animals can be used as a form of coercive control against victim-survivors. Threatened and/or actual violence can be used to manipulate and incite fear, and is a reason why many victim-survivors delay leaving violence.

³ Coorey, Lyla and Coorey-Ewings, Carl, 'Animal Victims of Domestic and Family Violence: Raising Youth Awareness', *Animal Studies Journal*, 7(1), 2018, 1-40, 5-6.

⁴ Hardesty, J. L. et al. (2013) 'Coercive Control and Abused Women's Decisions About Their Pets When Seeking Shelter', *Journal of Interpersonal Violence*, 28(13), pp. 2617–2639, 2619.

⁵ Hardesty, J. L. et al. (2013) 'Coercive Control and Abused Women's Decisions About Their Pets When Seeking Shelter', *Journal of Interpersonal Violence*, 28(13), pp. 2617–2639, 2619.

⁶ Simmons, C. A., & Lehmann, P. (2007). Exploring the link between pet abuse and controlling behaviors in violent relationships. *Journal of Interpersonal Violence*, 22, 1211-1222.

⁷ Domestic Violence NSW, 'Animals and People Experiencing Domestic and Family Violence' (November 2020), <https://www.dvnsw.org.au/wp-content/uploads/2020/11/Nov-DVNSW-Report-on-Animals-and-People-Experiencing-Domestic-and-Family-Violence.pdf>

Recent Reforms re Animal Abuse and Domestic Violence in NSW

I was pleased to work closely with the Attorney General last year to introduce reforms to the *Crimes (Domestic and Personal Violence) Act 2007* which better recognise this link between domestic violence and animal abuse.

The *Stronger Communities Legislation Amendment (Domestic Violence) Bill 2020*:

- Recognises the link between domestic violence and animal abuse in the objects of the Act;
- Expands the definition of "intimidation" to include conduct that causes a reasonable apprehension of harm to an animal that belongs to, or is in the possession of, a protected person; and
- Amends the existing mandatory property order in an apprehended domestic violence order (ADVO) to expressly prohibit a defendant from harming any animal that belongs to, or is in the possession of, a protected person.

These amendments are significant and it is encouraging to see the NSW Government taking this issue seriously. However, there is so much more that needs to be done to reduce the risk of animals becoming victims of DFV, and being used as a form of dangerous coercive control.

Areas for Further Reforms

In early 2020, I convened a roundtable of experts, including the RSPCA, veterinarians, the Tenants' Union, NSW Police, domestic and family violence organisations and survivors of domestic violence to discuss the link between animal abuse and domestic violence, including in the context of coercive control.

The attendees at the roundtable all agreed this was a highly complex and difficult area, with no single solution – but together, they came up with a number of key areas for reform that would make a significant difference in reducing the ability of animal abuse to be used as a form of coercive control. I have outlined some of these reforms below:

Animals & Apprehended Domestic Violence Orders

Despite the recent changes as part of the *Stronger Communities Legislation Amendment (Domestic Violence) Bill 2020* that amended property orders on ADVOs to explicitly include animals, the fact that animals remain as property under the law is problematic, particularly in situations of DFV and coercive control.

As long as animals are still regarded as 'property', they cannot be *directly* protected under an Apprehended Domestic Violence Order in the same way that human victims can. ADVOs can provide some *indirect* protection to animals in their capacity as 'property', but this fails to recognise that animals are victims of DFV in their own right, and allows for situations of continued coercive control after survivors leave a violent partner whereby animals become 'property' disputes in civil courts.

The treatment of animals as 'property' causes problems where an animal subject to abuse, or who is at risk of abuse, is legally 'owned' by the perpetrator, or where ownership is disputed between the perpetrator and victim-survivor. This can result in animals remaining in dangerous situations

and still able to be used as tools of coercion and control, while the dispute about who legally 'owns' the animal is resolved via a protracted civil court case.

For example, one survivor told us about her experience of coercive control and animal abuse. After she left the relationship, her former partner claimed the animals were his, which was easy to do given he had control of the money during the relationship and had therefore paid for the animals' expenses and ongoing care. The survivor took the issue to court in a desperate attempt to regain custody of the animals and ensure their safety. At the time the survivor spoke to us, the court proceedings had been ongoing for over 6 months and had still not come to a conclusion. During this process she remained unaware of the animals condition, or if they were even still alive.

This is just one example of how, even after leaving a violent relationship, the perpetrator was able to continue the abuse against this survivor through coercive control methods, using the animals and the court process, causing her fear, stress and grief.

Relying on the civil courts to resolve these disputes is particularly problematic in the context of DFV. For example, it is well established that violent perpetrators will often take control of their partner's finances as a form of control. But when a civil court is looking at a dispute over an animal, they are focused largely on financial matters, as they would in any other property dispute, including who paid for the adoption fee, vet bills, food and microchip registrations – which may present a skewed picture and cause a court to 'award' the animal to the abuser.

Because animals are considered property, there is also little room for the courts to consider the best interests of the animal or the attachment of either party to the animal. The pets-as-property paradigm fails to recognise the bond between humans and animals, it undermines the value of animals as sentient beings, and fails to recognise the emotional support they provide for survivors of abuse.

The solution to these problems is to legally recognise animals as victims, and explicitly allow for orders to be made for their care and protection as part of the ADVO. In other words, when an application for an ADVO is made, the court should be authorised to consider the best interests of the animal involved – as a victim of DFV in their own right – and make orders about where and with whom the animal should live. This would avoid the situation described above, where animals are often left behind with the abuser or become contested through a civil property dispute, without any consideration of the animals' best interests.

The Animal Defenders Office has argued that animals could be recognised as victims of DFV by amending the *Crimes (Domestic and Personal Violence) Act* to allow for the listing of "animals in need of protection" on ADVOs, in the same way that other "protected persons" are currently listed.⁸ Domestic Violence NSW, making a similar argument, has suggested this change could also be implemented by amending the definition of "person" to include an animal.⁹ In addition, the Court would need to be given explicit power, when issuing an ADVO, to make orders regarding

⁸ Article by Animal Defenders Office, published on Community Legal Centres NSW website, titled 'Animal abuse and domestic violence: action needed to protect the human and animal victims' (August 2020), <https://www.clcnsw.org.au/animal-abuse-and-domestic-violence-action-needed-protect-human-and-animal-victims>

⁹ Domestic Violence NSW, 'Animals and People Experiencing Domestic and Family Violence' (November 2020), <https://www.dvnsw.org.au/wp-content/uploads/2020/11/Nov-DVNSW-Report-on-Animals-and-People-Experiencing-Domestic-and-Family-Violence.pdf>

the custody of an animal. The current law in California could be used as a model, which provides that a court may:

include in a protective order a grant to the petitioner of the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent. The court may order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

This type of reform would follow a notable trend in the United States, where 35 states now allow animals to be included in protective orders in some form.¹⁰

Animal Guardianship

Outside of ADVO applications (which are not obtained in every case of DFV and coercive control), the 'property' status of animals remains fundamentally problematic. The 'pets-as-property' paradigm fails to recognise the fact that animals are family members in the eyes of most Australians, and not mere objects. In particular, it does not give any scope to consider the best interests of the animals involved when two parties are separating and the court is required to make property orders under the *Family Law Act 1975*.

As described above, this can lead to serious issues in DFV situations, where a 'property' dispute over an animal can be dragged through the courts and used as a way to further traumatise and manipulate victim-survivors, and may ultimately lead to a violent perpetrator ending up with the animal. These issues are particularly acute in Family Court property disputes.

In response to these concerns, an increasing number of academics and advocates are arguing animals must be given a different 'status' under the law. In particular, a number of scholars have argued that the relationship between humans and companion animals should be re-envisioned as a 'guardianship' relationship, similar to the legal relationship between child and parent, where the guardian has certain rights and responsibilities in relation to the care of an animal.¹¹ This guardianship model would make it easier for courts to consider the needs of the animal and the attachment of either party to the animal, and remove the ability for perpetrators to claim 'property' rights over an animal as an act of coercive control through the family courts.

This change would need to come from the Commonwealth Government, rather than the NSW Government. However, I believe it is an issue that must be explored as part of this Inquiry, because it has such a significant impact on the people and animals experiencing DFV and coercive control in NSW. As such, I strongly encourage that one of the recommendations of this inquiry be that

¹⁰ Article by Animal Defenders Office, published on Community Legal Centres NSW website, titled 'Animal abuse and domestic violence: action needed to protect the human and animal victims' (August 2020), <https://www.clcnsw.org.au/animal-abuse-and-domestic-violence-action-needed-protect-human-and-animal-victims>

¹¹ For further reading on this topic, see e.g. Favre, David, 'Living Property: A New Status for Animals Within the Legal System' (2010) 93 *Marquette Law Review* 1021: <https://digitalcommons.law.msu.edu/cgi/viewcontent.cgi?article=1143&context=facpubs> and Hallam, Paula, 'Dogs and Divorce: Chattels or Children? Or Somewhere In-between' (2014/15) 17 *Southern Cross University Law Review* 97, <http://classic.austlii.edu.au/au/journals/SCULawRw/2015/6.html>

the Attorney General write to the Commonwealth Government about the issues associated with the property status of animals in the context of coercive control, DFV and the *Family Law Act 1975* (Cth), and encourage the Commonwealth Government to introduce reforms which would move Australia closer towards an animal ‘guardianship’ model.

Animal-Friendly Accommodation:

As noted above, a significant portion of victim-survivors report that they delayed leaving a violent situation due to concern about companion animals and how they are going to take these animals with them to ensure their safety. As such, there was strong feedback at the roundtable that there needs to be greater short and long term housing options for victims who flee violence with animals, including animal-friendly shelters and greater access to safe, affordable long-term accommodation with animals.

I note the NSW Government has recently announced some funding to support shelters and refuges to become more animal-friendly, which is an excellent step in the right direction. However, there is still great need for more ongoing funding in this space, to ensure all victims fleeing domestic violence are able to find crisis accommodation together. The more difficult it is to leave a violent relationship with animals, the easier it is for perpetrators to continue use animals as a tool of manipulation and coercive control.

In addition more funding is needed to expand the NSW Government's Staying Home Leaving Violence program – which allows victim-survivors to remain in their own home, and have their perpetrator excluded. This program is particularly important for victim-survivors in regional and rural areas. The Women’s Safety NSW Report on ‘Animal Abuse and Domestic and Family Violence’ found that women in regional and rural areas face specific, additional barriers to leaving violence with animals. This includes a lack of local crisis accommodation and a lack of suitable accommodation for their animals, which in a regional and rural setting, may include large animals (such as horses, sheep and cows) and/or a large number of animals that are unable to be left unattended for an extended period of time.¹² It is often not practical for victim-survivors in these situations to simply ‘pick up and leave’, making it even more difficult to escape a DFV situation. That is why it is so important to fund programs which enable victim-survivors to escape violence without actually leaving their home, their property and any animals.

In addition, legislative changes are urgently needed to make longer-term accommodation (for example, strata apartments and rental properties) more animal friendly for both owners and renters. This would significantly reduce the barriers for anyone wanting to leave a violent situation who wants to take companion animals with them to ensure the animal’s safety. This is particularly important for people leaving violence who have had animals also abused, or used as a means of coercive control. If they are forced to leave the animals behind because they cannot secure long-term accommodation, the coercive behaviour may be allowed to continue, the animals can remain as victims of abuse, and the survivor remains a victim of ongoing violence and control through the animal abuse.

¹² Women’s Safety NSW, ‘Animal Abuse and Domestic and Family Violence’ (August 2020), https://www.womenssafetynewsw.org.au/wp-content/uploads/2020/08/Womens-Safety-NSW-Animal-Abuse-and-Domestic-and-Family-Violence-Report_FINAL.pdf

Increased Penalties & Enforcement for Animal Abuse Offences:

If we are going to take the link between animal abuse and DFV seriously, then it is essential that the NSW Government introduce tougher penalties for animal abuse, and greater funding for the enforcement of animal cruelty offences. Currently, NSW has some of the lowest penalties of animal abuse in Australia, with a maximum of just \$5,500 and 6 months imprisonment for an animal cruelty offence.

While consulting with experts on the link between DFV and animal abuse, I heard a number of people raise concerns that perpetrators may be choosing to abuse animals as their form of coercive violence, as a means of threatening and controlling their human victims, because they know that the risk of prosecution is much lower and the penalties are weak.

Even where very serious DFV is involved, animal abusers in NSW still receive disturbingly low sentences. For example, in 2020, the RSPCA became involved in a case after a man sent his ex-girlfriend a video of himself viciously beating a dog, Eiffel. The man said he had done it as an act of revenge, after finding out that the ex-girlfriend had joined a dating site. Eiffel was found by the RSPCA with serious injuries, lying in a pool of his own diarrhoea. The perpetrator was subsequently charged with animal cruelty but was given no fine and, after an appeal, received a community corrections order and animal ban of just 11 months.¹³ This sentence was manifestly inadequate. It failed to reflect the potential danger this perpetrator poses to both humans and animals, and it did not do justice to Eiffel and the ex-girlfriend, both of which are victims of DFV. And, sadly, there are so many other cases just like this.

Part of the problem is that the enforcement of our animal cruelty laws is left primarily to two animal charities – RSPCA NSW and the Animal Welfare League NSW – who are forced to fundraise from the public in order to fund their investigation and prosecution of animal abusers. The NSW Government currently only provides 6% of the total budget for the RSPCA NSW, which is the lowest of any State or Territory in Australia.¹⁴

This lack of resourcing means that many instances of animal abuse are left un-investigated. This not only leaves animals at risk of harm, but also means that potential opportunities for authorities to identify instances of coercive DFV and intervene are missed, as discussed further below.

Linking Animal Abuse and DFV Enforcement Agencies:

Many attendees at the roundtable argued that there needs to be greater cross-reporting information sharing, training and cooperation between RSPCA NSW, Animal Welfare League NSW and NSW Police.

Right now, there is a significant separation between the roles of the private charities that enforce animal cruelty laws, on the one hand, and the NSW Police who deal with issues of DFV. In light of the significant evidence of the link between animal abuse and domestic violence – including in

¹³ <https://www.youngwitness.com.au/story/6972594/mp-condemns-nsw-dog-bashers-appeal-win/?cs=4195>

¹⁴ NSW Parliament Inquiry Report, 'Animal Cruelty Laws in NSW, page 34:
<https://www.parliament.nsw.gov.au/lcdocs/inquiries/2550/Report%20No%201%20-%20Select%20Committee%20on%20Animal%20Cruelty%20Laws%20in%20New%20South%20Wales%20-%2004%20June%202020.pdf>

cases like Eiffel's, described above - there needs to be greater cooperation and cross-reporting between these agencies.

For example, one victim-survivor at the roundtable, whose animals had been abused, expressed frustration that the animal charity responsible for prosecuting her animal cruelty offences never advised her that this conduct could be considered a domestic violence offence, and never encouraged her to seek help from the NSW Police. This was a missed opportunity to intervene in a serious violent situation, and no doubt there are many others like this.

Part of the problem is that the RSPCA, Animal Welfare League and NSW Police each use different operating systems to record their day to day investigations and activities. After consulting with these agencies, it appears that the RSPCA and Animal Welfare League do not have access to the 'COPS' system used by NSW Police due to privacy and other security concerns. Further, it would be too costly for RSPCA and Animal Welfare League to upgrade their system to be able to integrate with the 'COPS' system, which means that NSW Police do not have ready access to information and investigations obtained by the animal enforcement agencies.

This means that all three enforcement agencies are missing out on critical information on a daily basis. For example, the NSW Police may be unknowingly going into a dangerous DFV situation, because the person involved has no prior record – but unbeknownst to them, the RSPCA may have been called out to that home on suspected animal abuse on a number of occasions. Given the research on the link between DFV and animal abuse, this could be very useful information prior to entry and in also understanding the violent tendencies of a person.

A database of people convicted of animal abuse (accessible only to the three enforcement agencies) might be a useful way to ensure NSW Police are aware of individuals who should be 'red-flagged', in light of the link between animal and human violence and the use of animals in coercive control, and to identify patterns and connections between animal abuse and other offences in NSW. This would follow the example of the United States, where the FBI is now collecting data on animal abuse offences to monitor patterns and connections with violent offences against humans.¹⁵

It is also important that RSPCA and Animal Welfare League inspectors are trained to identify signs of DFV and coercive control, and have systems in place to report such conduct to the NSW Police. At the same time, NSW Police should receive specific training on signs of animal abuse and ensure that any animals found to be suffering or mistreated are rehomed and protected from further harm.

Coercive Control Offence Must Include Animals

Finally, I note that a significant focus of this Inquiry will be to determine whether a specific offence of 'coercive control' should be introduced in NSW, as it has in other jurisdictions around the world.

It is clear from the research outlined above that, if such an offence is introduced, it must take into account the role that animal abuse can play in a perpetrator exerting power, control and dominance and allow for such conduct to be considered a form of 'coercive control'. This is particularly important given the evidence that the involvement of animal abuse can significantly

¹⁵ <https://www.fbi.gov/news/stories/-tracking-animal-cruelty>

delay victim-survivors from fleeing violence, and signal that a perpetrator is particularly dangerous.

Summary of Key Recommendations

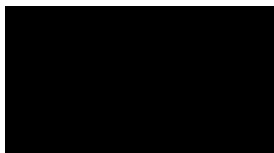
To summarise my submission, I strongly recommend that the NSW Government implement the following reforms, which I believe would reduce the ability of perpetrators to use animals as tools of coercive control:

1. Formally recognise animals as victims of DFV on ADVOs, and allow courts to make protective custody orders which enable animals to stay with their family members leaving violence, so they do not become victims of coercive control
2. Write to the Commonwealth Government to highlight the issues in considering companion animals as 'property' in disputes under the *Family Law Act 1975 (Cth)*, particularly for people in DFV and coercive control situations, and encourage the Commonwealth Government to consider reforms which will allow courts to consider the best interests of the animals and their guardians
3. Address the barriers associated with victim-survivors of DFV accessing short, medium and long term accommodation with animals and ensure that concerns about where animals will be accommodated are no-longer a reason that victim-survivors feel they need to stay in a situation of DFV and coercive control. Having better accommodation options for victim-survivors and animals fleeing violence will also lessen the ability of perpetrators to use animals as tools of coercive control in the first place. In particular, the NSW Government should:
 - a. Provide greater, ongoing funding for refuges and shelters to accommodate animals with their human families
 - b. Provide greater, ongoing funding for programs such as 'Staying Home, Leaving Violence' which are critical to enable those in rural and regional areas with large animals and/or a large number of animals in their care to leave a violent relationship without leaving their property
 - c. Introduce legislative reforms which make it easier to secure affordable, long term accommodation with animals, whether renting or buying
4. Overhaul animal cruelty laws in NSW, including introducing tougher penalties and increasing funding for enforcement agencies, to ensure that all reports of animal cruelty can be properly investigated and used as another opportunity to identify the abuse of animals as a form of coercive control
5. Consider measures to increase information-sharing, cross-reporting, training and cooperation between RSPCA NSW, Animal Welfare League NSW and NSW Police to ensure each agency understands the link between DFV, coercive control and animal abuse, and is equipped to identify and respond to signs of this behaviour so that there can be earlier intervention in situations of coercive control

6. Ensure that any new coercive control offence takes into account the link between DFV and animal abuse

If the Committee requires any further information on the matters raised in this submission, I would be happy to assist.

Kind regards,



The Hon. Emma Hurst MLC
Animal Justice Party

A Parliament House, Macquarie Street, SYDNEY NSW 2000
P 02 9230 3462
E emma.hurst@parliament.nsw.gov.au

www.emmahurstmp.com

 facebook.com/EmmaHurstMP
 twitter.com/mlchurst

