

**Submission
No 64**

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

Name: Name suppressed

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Partially
Confidential

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To Whom it May Concern

Thank you for the opportunity to contribute to the NSW Governments inquiry into coercive control associated with domestic violence incidents. (Attachment A)

I have recently witnessed my daughter being assaulted by her husband. The system we now find ourselves a part of is completely flawed. After complaints to government departments and agencies I was invited to contribute to your inquiry from a personal point of view. (Attachment B)

I have provided responses to as many of your proposed questions as I could. Included in my response is an overview of how the system has let my daughter and grandchildren down and has supported, contributed and escalated the ongoing coercive control used by her husband.

From my experience I view the domestic violence system from three different aspects. The aspects are about the involvement with:

1. the police;
2. the domestic violence support services and associated system; and
3. the legal system involved with and supporting the coercive control he is undertaking in a dreadfully flawed environment/legal process.

Thank you again for providing me with this opportunity. Should you have enquiries into my input or require clarification, please feel free to contact me at [REDACTED] or on the below given mobile number.

Yours sincerely

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

1Q. What would be an appropriate definition of coercive control?

1A. A malicious act or a pattern of malicious acts used to:

- control, dominate and create inequality to another person;
- through force, threats, humiliation and intimidation;
- that is used to harm, punish, frighten or cause psychological harm to the victim; or
- a third party associated with that victim such as their children

by someone in an interpersonal relationship with the victim or by using a third party to carry out the abuse and coercion.

Reason behind the thinking.

[Redacted]

2Q. How should it distinguish between behaviours that may be present in ordinary relationships and those which taken together form a pattern of abuse.

2A. By ensuring words that demonstrate pernicious behaviour such a malicious, spiteful, harmful, damaging is used in the definition. A simple word so all levels of education and English skills can understand the difference in mutual decisions in a relationship and dominance.

Recommendation – domestic violence services need to have educational programs especially in cultures where dominance from males is the norm. It is not an Australian culture, and often not Australian law, so education needs to start early from the government funded immigrant groups.

It should also be part of the citizenship test and visa application test so Australian laws and expectations are understood.

To stop the culture in Australia, relationships and mutual decision making must become part of school programs and education delivered by qualified specialists.

3Q. Does existing criminal or civil laws provide the police and the courts with sufficient powers to address domestic violence, including non-physical and physical forms of abuse.

3A. No.

Reason behind the thinking. [REDACTED]

Police aspect: [REDACTED]

The questions are:

1. *What training do the police undertake before attending a domestic violence incident?*
2. *What refresher course do they undertake?*
3. *Why does no part of the police interview mention coercive control or previous domestic violence issues? and*
4. *What is the skill set and experience of the police who attend domestic violence incidents?*

My recommendations are:

1. *Specialist officers and/or teams of officers who handle nothing but domestic violence incidents in all police stations. The teams are supported by other services and have an independent domestic violence advocate attending all incidents and/or interviews.*
2. *Standard forms and SOPs for police to follow when interviewing alleged perpetrators or victims. Questions designed to reveal previous coercion and instant solutions put in place to protect the victim. (Advise in above about advocates would assist in this).*
3. *Specialist training that is not a 'tick the box electronic training' run in most government departments to meet compliance with legislation. It must be a lengthy, highly informative course run over an extended period and refresher courses undertaken at a minim of every two years.*
4. *Officers must attend with a senior officer with more than 10 years' experience. Life skills and experience are very important in decisions about domestic violence.*
5. *All statistical requirements and any timeframes or outcomes around charges must cease. People and the children associated with the family must come first. At present the system is all about outcomes and statistics and is completely failing.*

4Q. Could the current framework be improved to address the patterns of coercive and controlling behaviours? How?

4A. Yes.

Recommendations:

1. *I think there needs to be more standards leaving less room for bias and opinions to enter the decision making. This could be done through a standard interview process for police that includes written questions about coercive behaviour, past and current.*
2. *There needs to be a SOP that is used across all States and Territories. It needs to contain open questions where information is gathered about the coercive relationship without the victim feeling threatened.*
3. *Police should not aim to charge someone immediately. Interim orders can be put in place to keep the victim safe. There needs to a number of reviews and questions to all parties involved*

and the police can make their decision at a later date. Stop the rush decisions that appear statistical, time and outcome based.

4. *All interviews must be undertaken under camera, even from the alleged victim, so an independent domestic violence advocate can review and undertake follow up action. These specialists would be trained in identifying lies and inaccuracies from all parties prior to a decision being made by the police.*
5. *Specialist domestic violence interviewers, rather than the police who attended the scene and may have also arrested the women, should undertake the interview process, under camera, as some women are traumatised by the authority figure who is conducting the interview or asking questions at the scene.*
6. *A trained support person should always attend domestic violence calls with police, they should remain in the car until the incident is over and then come in and deal with the personal side of the incident. The trained support person sits with the women, at home or at the police station and takes them through the process. Police should not be able to interview anyone unless this support is available.*
7. *Questions should be asked about anything that has deprived anyone of their human rights, past or current, and taken into account on what actions are undertaken by the police.*
8. *Changes to Legal Aid to support the middle class or less wealthy part must be made. The family home, that may have a parent and the children residing there should not be included in the assessment for approval. That family home will eventually be split and the parent who remains in the family home should not be penalised for this as keeping the children housed is vital.*

5Q. Does the law provide courts with adequate ways for courts to receive evidence of coercive and controlling behaviours in civil and criminal proceedings?

5A. Absolutely not.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED]

6Q. Does the law currently allow evidence of coercive control to be adequately taken into account in sentence proceedings?

6A. Absolutely not.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The questions are:

1. *Why can he manufacture evidence and the lawyers and courts accept this?*
2. *Why is perjury not addressed?*
3. *Why is there no consequence for lawyers who undertake unlawful actions for their clients?*
4. *Why is the system in favour of the wealthy parent making the other parent give in, in our case seeing all the threats become a reality?*
5. *Why is mediation not mandatory so the system is fair for all parties?*

The recommendations are:

1. There should be mandatory mediation for all aspects of the family law process. At present one party can ask for mediation and the other party can just say no forcing the other party through the expensive legal system. This mediation should involve:
2. A specified case manager for each case as well as the same mediators for all meetings. (Relationships Australia have a good system but it is not mandatory)
3. All discussions done under camera so a detailed account of both parties' willingness to mediate is retained as evidence.

4. Trained counsellors or psychologists, under Medicare, should see the parents at least four times to evaluate honesty, review traits and make an informed decision about their coercive nature and artistic traits.
5. There needs to be guidelines around dates of evidence. All evidence should be prior to the family court proceedings. Not coerced, manufactured evidence to support their lies.
6. A magistrate, panel of mediators or panel of lawyer who are independent of either party, will make recommendations based on a paper audit. Only then, if there is no chance of agreement will the court appoint a lawyer. A decision should then be referred to a legal aid lawyer and only then, if one party wants, they can hire a lawyer of their own choosing.
7. There certainly needs to be guidelines that have severe consequences for legal teams so they are forced to present only honest evidence in a court. The client must be firmly advised of the consequence of perjury and there must be a fine or penalty system in place to stop the lies and false evidence. If evidence shows someone has lied it needs to be dealt with because at present it is supported and the liar with the most money wins.

This should all be about the children, the above will cost money but our future children are worth it, at present they are just bystanders and their needs, wants and even their safety are not thought of through this process. Especially not by the lawyers who are just using the family court system to make money.

7Q. What are the advantages and disadvantages of creating an offence of coercive control?

7A. [REDACTED]

*The **advantages** of creating an offence of coercive control, ensuring it is used correctly by all parties involved in the process up to and including any final sentencing, may reduce this covert action that is hurting so many. It will make repeat offenders accountable.*

*The **disadvantages** are like any policy or law. Someone uses it wrongly to their advantage and it spoils it for all. It may also push the abuser to be more covert in his actions but this needs to be addressed through early education of everyone and then if it is found to be occurring sentencing and prison time rather than a rap on the knuckles. This lack of punishment and detention lets these masters of manipulation grow stronger.*

Recommendations:

1. *As the police are the first point of call, more qualified profilers are required to determine if the complaint is real.*
2. *There needs to be more specialised domestic violence police and the government needs to provide the resources and budget to meet this need.*
3. *At least one police officer attending a domestic violence incident must have domestic violence and coercive control training.*
4. *Police highly trained and educated on coercive control.*
5. *Young police officers must be teamed up with police officers with a minimum of 10 years' service. Life skills and maturity is very important as is buddying with a specialist and experienced police officer.*
6. *Domestic violence and coercive control must be taken seriously with standard process and continued education for police, the first contact, is certainly required.*

8Q. How can the challenges of creating an offence of coercive control be overcome?

8A.

1. *By having sufficient man power in place in all the required areas to ensure it is managed correctly and reviewed early enough to ensure the challenges are overcome.*
2. *To ensure the highly visible support comes from media and the Prime Minister's office.*

3. *To ensure the written policy is simplistic and clear to avoid multiple interpretations.*
4. *Ensure the government put their money where their mouth is and genuinely put the effort, time, money and resources into this cancerous issue of domestic violence.*

9Q. If the offence of coercive control was introduced in NSW, how should the scope of the offence be defined, what behaviours should be included and what other factors should be taken onto account?

9A. Any action, past or current, that deprives anyone of their human rights, their liberties and reduces their ability for action.

As the UK has already succeeded in making coercive control a criminal offence, we don't need to reinvent the wheel. We can learn from their experience and value add so the Australian process improves all aspects of the system associated with coercive control and other aspects of domestic violence.

I believe the below information from a UK website sums up the behaviours and scope.
www.womensaid.org.uk

Coercive control is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

This controlling behaviour is designed to make a person dependent by isolating them from support, exploiting them, depriving them of independence and regulating their everyday behaviour.

Some common examples of coercive behaviour are:

- *Threatening, intimidating or dehumanising actions*
- *Putting someone down as well as telling them they are worthless or hopeless*
- *Judging someones looks in a negative or humiliating way*
- *Isolating someone their family and friends*
- *Depriving someone of basic needs like food and shelter*
- *Monitoring time, communication tools and using spyware*
- *Monitoring and controlling where you go and who you see, what you can wear and when you can undertake activities or aspects of daily life such as showering or sleeping*
- *Controlling finances and depriving you access to funds or knowledge of finances associated with your home or car*
- *Forcing someone to sign financial documents*
- *Forcing someone to undertake actions they do not wish to undertake including sexual acts.*
- *Denying access to social and medical services*

Scope

- *An offence is committed if one person engages in behaviour towards another person that is controlling or coercive, and the behaviour has a pretence to cause serious alarm or distress or has an adverse effect to the victim and their usual day to day activities.*
- *I don't think a number should be given to how many times coercive control is an offence. Depriving someone of their human rights just once should be an offence and action taken under the legal system to stop this behaviour from continuing.*
- *Then a list of behaviours should be added for guidance such as isolating a person, depriving a person of their basic needs and taking control of aspects of daily life as well as assault, torture and sexual violence.*
- *The scope should also include that there does not require proof of intention. Carrying out the behaviours is enough to be deemed as causing pain and suffering to cause pain and suffering.*

15Q. What non legislative activities are needed to improve the identification and response to coercive and controlling behaviours both within the criminal justice system and more broadly?

15A.

1. *Mandatory education for all parties involved in actions and decisions about domestic violence, especially the coercive and controlling behaviours, that must be undertaken every two years to keep the individuals up to date.*
2. *More education provided to different cultures about Australian laws and how they differ to country-of-origin laws.*
3. *Mandatory education courses that must be undertaken by someone found guilty of any domestic violence offence. If courses not completed then prison time is given or community service must be undertaken.*
4. *Standard reporting in a patients file by doctors and hospital departments, if they receive a report of or suspect injuries they have treated may be a result of domestic violence. This forms a trail of evidence that can be used in courts.*
5. *More police trained to specialise in the domestic violence field and all aspects that go with that.*
6. *That any police call to a domestic violence incident have a mature police officer who has been in the police for over 10 years with a younger police officer who usually does not have the life experience to make these most important decisions.*
7. *Increase the amount of money given in the budget to the police and legal aid etc so there is genuinely a sufficient workforce who has the time, resources and are highly trained personnel to address this cancerous act being perpetrated and increasing in Australia.*
8. *Mandatory audits of police officers' decisions in all domestic violence cases. This audit and subsequent file can be undertaken as light work duties for the large amount of police officers who are deemed unfit for normal duties.*
9. *Legal Aid guidelines must change to provide legal aide to all people who claim domestic violence. Free representation is offered to immigrants so should be offered to those residing in Australia. Especially when decisions and outcomes involve the countries most valuable asset, our children. The system must also be improved with quicker response times so urgent cases can progress quickly.*
10. *Less money spent on mens' courses to educate them not to commit domestic violence on a woman. There is something wrong with any human who does this and no amount of education will stop this. Punishment and consequences for their actions is the only way. The education should start at school age and continue though to the end of schooling.*
11. *Mandatory courses for all parties involved in domestic violence cases. For the offender, in the hope of further offences and for the victim in the hope of healing and assisting.*
12. *Mandatory reporting from advocates if they think the police have made an error in arresting one party. This report must be seen by any magistrate involved in decisions and by children's court lawyers.*
13. *More audits of the advocate programs, they are good at listening and offering empathy but past that there is a lot of work required to have them beneficial to a victim's needs. They could be contracted by the government and overseen by a government department to ensure they are meeting requirements.*
14. *Mandatory mediation to stop wealth bleeding legal processes that only let the wealthiest party win. This is for all aspects of the case from child custody to property settlement.*
15. *Revision of Legal Aid guidelines to not include the family home that a parent and children are residing in, in the criteria assessment for qualifying for aid.*

Finally, while I am more than happy to contribute to the NSW Governments inquiry into coercive control, I think it is important that the entire system that involves any domestic violence issue is reviewed. From our experience, to even get the correct or efficient treatment and fairness from the police, from domestic violence services and from the

dreadful legal system was not received and in fact supported the manipulation and coercive behaviours to continue.

I think the question needs to be asked, is it worthwhile spending money on looking into making coercive control a criminal offence, when the current laws are not upheld, and the current system is failing the very people it should protect?

If the current domestic violence guidelines and laws are not providing justice to the people involved in domestic violence offences then would the time and money be better spent on revamping the current system?

There should be a complete review of the police and police prosecution decisions and involvement (as well as approaches to evidence and the perceived culture of needing to solve the case with a mandatory arrest of a party), a complete review of the access and delivery to support services and especially a review of family law lawyers and how all parties can obtain fair legal representation and not just representation for the wealthy only.

Money and time may be better spent on looking at the procedural aspects of the domestic violence system and undertake a holistic approach to improving all aspects. The government must show they are definitely serious about assisting all people who find themselves in the cancerous environment associated with domestic violence and increase funding and training of all parties involved to achieve better outcomes.

In fact, domestic violence and the cost to the Australian economy and collateral damage it causes victims and the children involved needs 100% attention and should not just be a policy associated with government departments. It needs a full time Minister who only looks at aspects associated with domestic violence and a department with sufficient staff and funding to final chop off this snake's head. Anything else is not enough. We must be proactive and work holistically with all parties involved to find a fair and supportive system.

After all, aren't our future generation of Australians worth it?