

**Submission
No 76**

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

Organisation: Men and Family Centre

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The Hon Natalie Ward MLC
Chair, Joint Select Committee on Coercive Control
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SUBMISSION REGARDING COERCIVE CONTROL DISCUSSION PAPER

Men and Family Centre is a Northern Rivers-based community organisation that focuses on the prevention of domestic and family violence and building safe, respectful relationships. Our organisation has been recognised as a leader in the provision of Men's Behaviour Change programs, and is the only accredited provider of Men's Behaviour Change services in the Northern River region.

This submission has been developed with the input and expertise of our highly trained and experienced staff.

Introduction

Men and Family Centre recognises and fully supports the need for a broader definition of Domestic and Family Violence (DFV) that moves beyond incidents of physical and sexual violence and encompasses the patterns of behaviour that have been identified as coercive control.

Nationally, there is an increasing view that criminalisation of coercive control could promote a more nuanced understanding of domestic violence, which extends beyond the incidents of violence that usually receive legal attention or result in AVOs or charges. Physical violence is often more visible within the legal system, media, and popular discourse regarding domestic violence and acknowledgment and understanding of the danger of coercive control is a positive advance.

However, experts and activists have identified significant risks associated with criminalising coercive control, particularly the further harm criminalisation is likely to cause victims. Difficulties with definition and investigation can potentially minimise the abuse, or misidentify an aggressor. Contact with the criminal justice system, for example, may not only invalidate a victim's experience but lead to significant trauma and outcomes unrelated to a victim's needs and wants (Fitzgibbon, Walklate & Meyer, 2020). A tremendous cultural shift would need to occur among various actors, particularly first responders such as the police and, most importantly, the judiciary, before victim-survivors are likely to rely on, or associate with, a criminal justice system that has regularly not brought them justice.

Benefits and risks

Below is an outline of the potential benefits and risks of the criminalisation of coercive control, as understood by our organisation:

Potential benefits

- Greater awareness and acceptance of the concept.
- Increased reporting and help-seeking.
- Improved services by practitioners who deal with victims.
- Possibly earlier interventions resulting in enhanced safety.
- If following the "Scotland model", police can charge for 'course of conduct' which reflects increased understanding that domestic violence is not limited to singular incidents, but a pattern of behaviour. (See the development of Scotland's legislation, Stark and Hester, 2019, p. 85).

- It could provide further evidence to support charges of other crimes, to direct juries and to inform sentencing.
- Its inclusion in primary prevention activities could enhance their effectiveness.

Potential risks

- There would be a need for a wider understanding and acceptance of the gendered nature of abuse which underpins the enactment of coercive control (Stark & Hester, 2019, p 85).
- The potential impacts for Indigenous Australians, CALD community members, people living with disabilities, LGBTQIAP+ community members, are largely unknown and are likely to be complex. As already occurs with existing crimes relating to DFV, police officers may draw on oppressive cultural stereotypes when responding to coercive control and further disenfranchise members of diverse communities by minimising or dismissing victim-survivors experiences, misidentifying the primary aggressor, or responding in a harsher way to marginalised offenders.
- Difficulties with the definition of coercive control which may impact upon the operation of the criminal process (Brennan et al, 2019).
- The need for additional expertise and analysis by Police and prosecutors. UK research has identified issues with the operation and understanding of its nature and impact (Barlow 2020).
- The risk of misidentifying the primary aggressor (Stark, 2012).
- Further involvement in the criminal justice system which is already shown to harm victims (see, eg, Meyer 2018, Douglas, 2008). Physical violence is already a crime, yet it still occurs. Making coercive control a crime would surely create some further understanding and recognition, but it will not stop it happening or change the culture. (Leigh Goodmark, 2018).

Summary

The potential benefits of criminalizing coercion control stem largely from increased knowledge and understanding, whether in frontline workers such as police or specialist DFV workers, or the community. Criminalisation is not a prerequisite for any training or public awareness campaigns that would result in increased understanding. Arguably they can be undertaken immediately and indeed, should criminalisation be undertaken in their absence, the associated risks are magnified. Education can mitigate risks, but equally important is the need for close consultation with victims, particularly Aboriginal communities given their disproportionate involvement in and harms done by the system.

Need for further consultation and engagement

Before supporting any legislation to criminalise coercive control, our organisation would need to see genuine and in-depth liaising with Aboriginal communities and stakeholders. First Nations People are over policed in this country, and thus may be disproportionately represented in charges and/or convictions for coercive control, as they are with other crimes, therefore it is of the upmost importance that First Nation perspectives are heard and incorporated into the decision regarding this bill.

There is evidence, particularly from the US, but emerging in other areas, that *criminalisation* of DFV has failed to *mitigate* DFV. Whatever the extent of its success, however, this organisation contends that the narrow focus afforded by the criminal justice response is inadequate and it is time to explore a wider community response to the problem. What might prove more effective are remedies that encompass social services and structures, such as improved housing, public health initiatives, economic security, opportunities for rehabilitation and primary prevention initiatives. Whether or not coercive control is criminalised, a wider response is necessary; it would be shortsighted to imagine criminalisation is a 'silver bullet' for eliminating this complex and deep-seated social problem from our communities.

The criminal justice system does not necessarily provide meaningful justice for victims or meaningful interventions for perpetrators. The question of the provision of justice to victims could be answered by exploring a wider community approach and alternative forms of justice such as restorative or transformational initiatives. To mitigate some of these risks, we would expect there to be close consultation with not only service stakeholders but those most effected by coercive control and domestic violence, that is victim-survivors, both adult and children. If we can learn anything from countries already implementing this criminalisation, it is clear that we must not rush. We should take time to carefully consider and weigh up all of the possible impacts so as to make a very informed, well planned decision. England and Wales moved this legislation more quickly and have had less success, while Scotland spent almost four years (2015-2018) developing the legislation which led to a more successful roll out and a better model overall.

Multifaceted approach

If criminalisation of coercive control is to occur, it is only one aspect of what needs to be a multifaceted strategy. This strategy must include a greater focus on primary prevention, including tackling the established drivers of gendered violence in Australian communities. Our Watch has identified these drivers as:

- The condoning of violence against women;
- Men's control of decision-making and limits to women's independence;
- Stereotyped constructions of masculinity and femininity; and
- Disrespect towards women and male peer relations that emphasise aggression

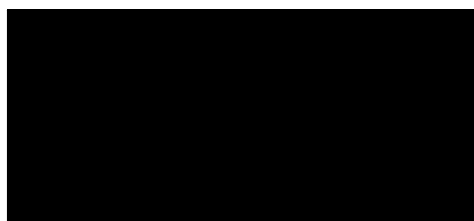
Role of services such as Men and Family Centre

Men and Family Centre contributes to the prevention of gendered violence at a community level by raising awareness and understanding of these drivers, and at an individual level by working directly with men who use forms of violence to address their behaviour. Our ability to perform this role, however, is dependent on adequate and secure funding. At present our core services are funded by the NSW Government, however our two largest funding contracts are both due to expire in the middle of 2021. Furthermore, funding for our Men's Behaviour Change program has been provided by a series of rolling six-month contract extensions.

While we are extremely grateful for the continued support of the NSW Government, the precarious nature of our funding situation makes it extremely difficult to plan ahead. For example, we find it difficult to enter into leases for premises, provide employment certainty for staff, or provide clients with confidence that we will be able to continue supporting them in the long-term. Our situation is far from unique – indeed it is a common issue for all service providers in the broader sector. To that end, we respectfully suggest that greater funding, and *funding security*, must be made available for service providers that engage in primary prevention activities.

Thank you for the opportunity to raise these issues.

Yours sincerely,



Stewart Prins
PRESIDENT