

**Submission
No 128**

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

Organisation: Women's and Girls' Emergency Centre (WAGEC)

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Women's and Girls' Emergency Centre

**Submission to the Parliament of New South
Wales Joint Select Committee
Inquiry into coercive control in domestic
relationships**

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1. Introduction

Women's and Girls' Emergency Centre (WAGEC) does not support the proposed criminalisation of coercive control as a primary strategy to drive systemic, behavioural and attitudinal change, however we do recognise the value of formal mechanisms and strategies to increase awareness, understanding and inclusion of coercive control in community, structural and system settings.

WAGEC therefore proposes that the NSW Government develop a holistic response to coercive control supported by an evidence-based reframing of the causes, manifestations, impacts and responses to gender-based violence.

We recommend a comprehensive 5-year research and codesign process focused on deeply scoping the problem and solutions, including an exploration of the failure of existing justice responses structures and processes in supporting people impacted by violence and vulnerability and with the purpose of contributing to a robust Australian evidence base on the nature, impacts, manifestations and responses to coercive control.

As a parallel process to the research and design of appropriate criminal, civil and alternative justice responses, the NSW Government should develop a whole of population community awareness campaign as well as comprehensive education and training across all levels of the police force and judiciary and non-government support systems with a particular focus on developing targeted, place-based strategies to manage unintended consequences of criminalisation.

2. WAGEC's work and context

Women's and Girls' Emergency Centre (WAGEC) founded in 1977, exists to create safe futures for women and families. We work across the lands of the Gadigal and Wangal people of the Eora Nation in the inner city and inner west of Sydney, New South Wales (NSW) supporting women and families through the provision of accommodation, material aid, biopsychosocial support, crisis responses and case management. We are primarily funded by NSW Department of Communities and Justice to provide specialist homelessness support for women and children impacted by homelessness, domestic violence and social disadvantage. On any given night we support 200 women and children across WAGEC's accommodation services. We build on the existing strength and resilience of our clients to support them to break cycles of violence, intergenerational trauma and social disadvantage. WAGEC's government-funded support provides:

- **Short term accommodation.** Our 3 refuges accommodate single women and women with children who have experienced domestic violence and/or are at risk of homelessness.
- **Medium term accommodation.** Our medium term supported accommodation offers women and families the stability of affordable housing with wraparound support before they move into a more permanent home.
- **Domestic and family violence (DVRE) support.** We provide a specialist after-hours support service for women and children leaving violent situations.
- **Case management.** We provide holistic support to the women and children who are living in our accommodation and in our local communities through outreach.

WAGEC has been well known in inner city communities as a welcoming drop-in service for several decades. Our Redfern shopfront main office provides drop-in support to women including information and referrals, case management, and the distribution of non-perishable food, and emergency material aid to women in crisis.

As a complement to our government funded services, WAGEC also provides tailored programs and integrated supports for women and their children and community engagement activities that are funded through partnerships with generous private donors including:

- **SEED Program.** Working from an integrated, trauma informed service model, SEED addresses the social, educational, emotional and other developmental needs of children and young people impacted by homelessness and/or violence.
- **ACCESS Program.** Developing the economic security and safety of women through mentoring, education and employment opportunities. Access provides women with the tools they need to re-build their economic independence and future.
- **In-house psychological services.** We provide a range of therapeutic and creative programs to help women and families recover from trauma. These include individual and family therapy provided by in-house psychologists, parenting and child attachment programs, occupational therapy, group work, art therapy and trauma informed yoga.

Primary Prevention. WAGEC purposefully places equal importance on leading and driving grassroots and large-scale social change to end gender-based violence in a generation. We partner with organisations, community leaders, businesses, local government and public and private institutions to actively challenge discrimination and gender inequality and collaborate to build safer futures for all.

3. Recommendations

WAGEC recommends a comprehensive 5-year research and codesign process focused on scoping and reframing the problem and solutions to gender-based violence. At a minimum this should include a comprehensive exploration of the gaps in existing structures, responses and processes in supporting victim-survivors of coercive control and contribute to a robust Australian evidence base, with the development of a community awareness campaign complementing comprehensive education and training across all support agencies and the inclusion of targeted strategies within response sectors to manage unintended consequences of criminalisation.

Specifically:

1. That the NSW Department of Communities and Justice lead and resource a five-year process of scoping and codesign to build a robust evidence base on best practice responses and create a suite of victim-survivor centred options that prioritise choice, safety, inclusion and prevention.
2. That the NSW Government resource and undertake a large-scale community campaign to build community awareness of coercive control similar to previous public health campaigns on [consent](#) and [sexual health](#).
3. That adequate time and resources are committed to prepare government and non-government response agencies for the inclusion of coercive control in legislation, including investing in DFV agencies and services outside the justice system.
4. That a commitment and detailed plan to implement ongoing evidence-based education and training across the police force, judiciary and specialist and mainstream response sectors is developed.
5. That respectful, comprehensive, culturally sensitive and well-resourced processes for consultation and co-design of new whole of system responses to coercive control are led by government-funded specialist organisations that work with victim-survivors as their core expertise and community controlled and led services.
6. That alternative justice options sitting outside the criminal or civil justice systems be explored using evidence-based international best practice and with a particular focus on restorative justice, non-carceral options and community accountability.
7. That Aboriginal community-controlled organisations are supported and resourced to take the lead on designing a system that responds to coercive control to ensure that First Nations victim-survivors and perpetrators of violence are not further disenfranchised and disengaged from the justice system.
8. That prior to any reform of the legal system, large scale research aligned with the [NCAS](#) be commissioned by the NSW Government to develop a baseline of NSW community understanding about coercive control and with the purpose of tracking measure medium to long term population level attitudinal change.

4. Methodology and expertise

To inform the responses and recommendations for WAGEC's submission and to explore potential areas for practice improvement, we discussed coercive control in various settings with case managers, service managers, senior leadership team and support teams. Through whole of organisation briefings, a smaller focus group discussion and an online survey sent to all staff, we gathered the data summarised in section 5 of this response.

WAGEC's workforce is comprised of approximately 40 people across 5 inner city Sydney and inner west sites. We are proud of our diverse workforce that includes Tongan, Chinese, Maltese, Italian, Cherokee, Kenyan, South African, Irish and British colleagues. 27% of WAGEC's workforce is bilingual, 6% are Aboriginal, 40% identify as LGBTIQ and approximately half identify primarily as White/Australian. In terms of the profile of respondents to our internal coercive control survey, 50% were from frontline case managers and practice managers (managing teams of case workers), the range of professional sector experience was from 6 months to more than 20 years.

WAGEC is not a legal service and we have therefore left legal specialist colleagues to comment on the details of the adequacy of the current legislation and proposed offences, however WAGEC's workforce includes specialist trauma counsellors, experienced frontline case managers and senior practitioners who have worked across a range of legal and non-legal specialist DFV responses in NSW and internationally and we believe we have valuable insights to contribute to the NSW Inquiry into Coercive Control.

5. Findings and themes

One third of WAGEC respondents supported the criminalisation of coercive control in NSW, the rest were either unsure, opposed or had significant concerns about implementing legislative change without first developing nuanced and evidence-based systems to ensure that women's safety was at the core of system reform.

One respondent summarised the concerns expressed by the majority of WAGEC participants,

"It really depends on the 'whole of systems' approach that needs to be developed and embedded consistently across NSW. Also, we need to make sure everyone involved, from first responders to support systems have a shared language and understanding of what coercive control is, for example, not just seeing one off incidents, understanding how to explore and understand the experience of the behaviour overtime, looking for patterns in behaviour, not just focusing on current incidents but looking at historical context as well, which is why, I am assuming, from a justice perspective (evidence and all) it is hard to show in the court system... Individuals are not educated to recognise the signs of coercive control... so how do they know to be keeping evidence over time as opposed to evidence from one incident and the behaviours in the following weeks from that incident. Furthermore, we need to investigate and think about how we (community, services, systems etc.) holistically [provide] long-term support to all involved. We need the systems and procedures and tools in place first."

The following key themes emerged in WAGEC's consultations with staff.

5.1 Coercive control is serious, widespread, hidden and not well recognised.

Case managers and practice managers stated that the overwhelming majority of WAGEC clients have experienced some form of coercive control but that outside specialist service settings there's a general lack of understanding about non-physical violence. This often means that patterns of cumulative coercion are dismissed or excused by victim-survivors and by support agencies (particularly police). Despite significant improvements in the way that Australians understand gender-based violence over the last decade and in policing practices, our experience and NCAS evidence shows that victim-blaming remains common in NSW¹ and that a hierarchy of violence is still deeply embedded in the Australian psyche. Thus, physical and sexual violence may be perceived to be more harmful or serious or common than other types of coercive abuse. Respondents shared multiple examples of supporting women who had experienced severe and intense coercive control,

"The majority of clients that I have worked with... have lived with years of escalating coercive control. It usually starts with small things and builds over time. I have worked with women who have gone from being fully employed, capable, social, amazing people to anxious, depressed, suicidal, socially withdrawn, unemployed, insecure human beings and their partners have never been physically violent to them or else may have been once in the beginning of the relationship but never after that. The damage was done through persistent attacks on their sense of self."

"Degrading comments to her, such as, "you are crazy", "you are useless", "you can't do that"... If children are involved, doing this in front of the children, using the kids to turn against you. Gaslighting. Pulling her away from family and friends (isolating), controlling who she sees, who she speaks to, such as, checking her phone, checking social media accounts, standing around while she is on phone calls etc. Controlling all manner of things, from what movie they watch, what she should wear if they go out, to big financial and life decisions. He sets most behaviours and thinking up to really play out the stereotypical/traditional gender roles, such as, she is responsible for his cooking, cleaning, household chores... and he is the only one capable of making the big decisions, which leaves her with less experience overtime and therefore confidence at ever feeling able to make those decisions. Sexual coercion, when and how they have sex, without her consent or communicating with each other about the sexual acts and reproductive control."

"Surveillance through social media, controlling behaviour, put downs, socially isolating someone including from their family, gaslighting, control via the children. Individually the acts may look innocent enough. It is the culmination of multiple coercive acts... These may be moving to another city, demanding sex every night, not wanting your partner to work, sulking when they see friends or family, causing fights with partner's family, not liking your partner to wear particular types of clothing, being controlling with money etc the list goes on and on."

"Financial abuse, not allowing a women to work, making a women ask permission before spending money. Making all the decisions in the household e.g. what furniture can be in the house and what can't. humiliation, verbally "dressing down" a women and reducing her worth. Tell a women she is "useless". Controlling who [she] can and can't see, i.e who she can be friends with. Checking women's phone and emails etc."

"belittling - name calling. Checking the phone for phone calls, texts, social media etc. which at times can also include jealous outbursts by the perpetrator and blaming and cycle back around to name calling, for example, "you are a slut", " you are not a good wife... mother" etc. financial control - giving only an allowance, not allowing her to undertake any type of employment or study, due to his beliefs and control of wanting her to care only for the kids. Having her only have a joint account, but he actually has a separate personal account and he has signed many loans etc. under her name or added her to things she is unaware of. Isolation - keeping away from friends and family and in many instances spiritual control, keeping away from connections to community through church and school groups. Physical violence and threatening to harm her, himself and/or others, usually the children. Controlling her daily activities and functioning: she is responsible for maintaining the home, caring for the children and is not allowed out during the week and when she wants to, she has to have it "approved" by him, even what she will wear if she leaves the home."

¹ Parton, C. (2019). *Attitudes towards violence against women and gender equality among people in NSW: Summary findings from the 2017 National Community Attitudes Survey (NCAS)* (ANROWS Insights, Issue 09/2019). Sydney: ANROWS.

5.2 Police, justice, health, child protection and non-government agencies regularly fail to recognise, understand and respond adequately to coercive control despite the inclusion of acts of intimidation and stalking already criminalised in NSW legislation.

In practice, this means that the systems that should be believing and supporting a woman may inadvertently be implicated in perpetuating abuse or doing further harm. Courts, health providers, child protection agencies and financial institutions were all named as regular sites of systems abuse. WAGEC case managers and service managers commented that they often have to educate non-specialist workers about the impacts of non-physical abuse and advocate for clients to ensure that systems are not set up to fail, damage or further stigmatise victim-survivors and their children. One shared an example in which,

'[Due to manipulation and coercive control] my client was diagnosed with paranoia and scheduled... with advocacy she was discharged [from] the mental health facility. [They] did not even believe she had a perp. She in fact did, she was in a FDV relationship with him for nineteen years. They made out she made him and the violence up.'

5.3 That any further reform to provisions relating to domestic violence in NSW's justice system should prioritise safety, support and better access for the most vulnerable people in our communities and that this has to be driven by experienced, specialist, trusted services.

Both survey and focus group respondents (whether in support of criminalisation or not) raised concerns about police responses, a potential increase in police powers, a lack of training and understanding in NSWPF about the causes of violence and appropriate, culturally sensitive responses.

"... A lot of women will still not want to go to the police for a number of reasons. These include distrust both personally and historical and politically, i.e. Aboriginal communities. Women who engage in behavior that is criminalized i.e. drug or people who are in the country "illegally" use may also be hesitant to go to the police. In my work and through feminist organizing outside of work I am already aware of many women who experience violence in forms that is already criminalized i.e. rape and physical assault and do not go to the police because of the violence the police cause in communities. I have had many clients tell me they do not want to go to the police when I have offered that as an option for them. I... also know of numerous women who have gone to the police and have found the experience to be re-traumatizing and resulting in very little material benefit for them. I can think of one client who when the police were call[ed] to her home after a physical assault not by the client themselves but a neighbor the result was community turning on this women because of a community distrust of the police."

5.4 Practical challenges with gathering evidence.

Several respondents discussed the challenges with safely gathering, storing and submitting evidence of coercive control. It was also noted that perpetrators using violence are often highly skilled at disguising abusive behaviour as reasonable, caring and supportive so that even close friends and family members are unsure whether to intervene. WAGEC case managers already work with clients to find ways to safely keep records of abuse - including screenshots of abusive text messages, photographic evidence of damage to property, pets etc but when there's no physical evidence it can be hard to produce enough evidence of an ADVO breach, particularly stalking or intimidation. One worker noted,

"I think a key challenge will be evidence, how will women prove this sort of violence? While some forms of coercive control i.e. financial abuse may have a record ,most clients I speak to do not have any evidence beyond their own personal testimony of the violence they experience."

Another talked about the risk of safety when gathering and storing evidence,

"it might be difficult for them to reach out to seek help worried that their perpetrator might find out. The other would be providing evidence or witnesses when a lot of this behaviour happens unnoticed."

One worker shared how difficult it can be to gather evidence and ask for help when a victim-survivor has fears that she will not be believed and supported, often this is because of previous bad experiences with authorities that she or someone she knows has had but it may also be directly related to the abuse that she's experienced. Coercive control tactics often involve undermining someone's confidence that anyone else will believe them or help and this may make the prospect of proving a difficult crime impossible for some victim-survivors to contemplate.

"I think due to the nature of coercive control and it not being about a one off incident, that the re-telling of a victim's experience may cause re-traumatisation, but also, may feel intimidating as victims may feel that the system will view them from a deficit lens and therefore they might be anxious about being seen as an unfit parent/carer and may have their children taken from them or monitored etc. As opposed to a strengths based lens, exploring how they have survived and kept the children safe. Women may also potentially have the fears of not being believed, gendered bias, that abuse may escalate after/during reporting etc. This idea of criminalising coercive control relies heavily on the police system, which may take time to change beliefs, practice and responses."

5.5 Differing perceptions about what constitutes criminal conduct

Workers were concerned that the criminalisation of coercive conduct would be challenging to implement and explain to victim-survivors, particularly in the absence of a broader public education campaign and significant system reform.

"[I see a challenge in] coming to a consensus about when coercive control becomes a crime - many relationships would display controlling behaviours that may not be ideal but are there - what is the exact criterion going to be? [There must be specific regard for and approaches to] cultural sensitivity - what may be seen as controlling here may be seen as normal in other cultures."

"I think it will be hard for some new migrants to understand coercive control laws especially if they have come from a country where it is normal for a man to control the finances and the physical movements of their wife etc. Clearly there will be legitimate fear that the police may unfairly target particular communities"

5.6 Misidentification of victim-survivors and victim-blaming

A number of respondents in the focus group identified that victim-survivors are already commonly blamed for not being a "perfect victim" and are misidentified as perpetrators of violence, particularly where they engage in behaviour that is criminalised, have complex mental health comorbidities, disability, cultural barriers or issues with police and justice agencies.

There was fear expressed that these women could be further harmed or discouraged from seeking support as a result of the implementation of rushed coercive control legislation without substantial reform in police and justice systems:

"Another issue could be misidentification of the perpetrator; I have read a few articles about this occurring and have concerns especially for migrant and refugee women. (See this article: <https://www.sbs.com.au/news/push-to-criminalise-coercive-control-in-relationships-sparks-concern-for-migrant-and-refugee-women>)

I fundamentally believe that criminalizing does not keep women safe, we can see this in the fact that physical assault and rape are criminalized and yet these acts continue to be committed. A key challenge would be how would we ensure women's safety?"

"There could be underreporting due to mistrust and past negative experiences with police/DCJ which could heighten victim/survivors risk of harm from perpetrators of violence. There could also be higher rates of criminalisation of victim/survivors due to police/DCJ misinterpreting a situation or previous bias."

5.7 Hope and optimism

Broadly, WAGEC staff were hopeful about the potential for positive change and increased community awareness and understanding of the causes and impacts of gender-based violence through public conversations about coercive control. Some believed that with significant investment in specialist non-government and government agency responders and a concerted focus on education, training and cultural shifts in police and justice responses to violence that formal legislative recognition of coercive control would benefit at least some victim-survivors.

Hopefully [there will be a] whole of community cultural shift about gender-based violence. Hopefully a shift from victim responsibility to perpetrator responsibility and victims of coercive control might get a fair and just access to services and that their experiences are heard and validated by all.

One worker talked about the potential it might have to create a social change where people felt more confident to intervene or challenge coercive behaviour,

“[It may result in] cultural shifts about how we view domestic violence and how we respond to it – [there’s] potential for whole... communities to be trained and educated as bystanders.”

6. Conclusions

WAGEC has three overarching concerns about the proposed legislation that have shaped the recommendations we submit in section 3 of this submission.

- I. That criminalisation of coercive control will impact negatively on those who are already being failed and excluded by the system in NSW. That unintended consequences have not been adequately explored in the Australian context and are highly likely to cause serious harm to Aboriginal and Torres Strait Islander people, LGBTIQ populations, people with disability, people from migrant, refugee and culturally diverse communities.
- II. NSW and Australian policing and justice systems and NGO support systems are already overwhelmed and are not prepared, trained or resourced to deal with the intended and unintended impacts of implementing substantial reform.
- III. Meaningful reform will require whole of systems change alongside a substantial reframing of the issue, causes and responses. This will require massive and sustained investment. The investment required for an effective whole of system reframing, reform and community education approach to attitudinal and behaviour change will cost billions of dollars and demands a long-term generational commitment by all political parties and a whole of government approach.

WAGEC is not universally opposed to criminalising coercive control, however, we deem that supporting the proposed legislation at this time would be premature and lacking the necessary structural and systemic reform required.

The Inquiry represents an exciting opportunity for NSW legislators, response agencies and communities to consider new strategies to address the direct and indirect harms caused by gender-based violence. Common, shared, nationally accepted definitions and understandings of violence and coercive control are a prerequisite if we are to respond in a way that gives victim-survivors real choice and access to a range of reparative justice and non-justice options. An effective whole of system approach to addressing gender-based violence will require primary, secondary and tertiary prevention investment comparable to the scale that has occurred in Victoria following the 2016 Royal Commission into Family Violence.