

**Submission  
No 132**

## **COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS**

**Organisation:** Domestic Violence NSW

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Submission to the Parliament of New South Wales Joint  
Select Committee on Coercive Control inquiry into  
coercive control in domestic relationships


Domestic Violence NSW

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## About Domestic Violence NSW

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Domestic Violence NSW (DVNSW) is the **peak body for specialist domestic and family violence services in NSW**. We have over 80 member organisations across NSW. We work to improve policy, legislative and program responses to DFV (DFV) and to eliminate DFVDFV through advocacy, partnerships and promoting good practice.

DVNSW members represent the diversity of specialist services working in NSW to support women, families and communities impacted by DFV. They are non-government-funded organisations. Our member organisations include: crisis and refuge services, transitional accommodation and community housing providers, family support services, Aboriginal controlled organisations and specialist CALD organisations, specialist homelessness service providers, men's behaviour change programs and networks, community organisations working with high risk communities, specialist women's legal support services, women and children's support services, and Safe at Home programs.

DVNSW acknowledges the Gadigal people of the Eora Nation upon whose lands DVNSW works. We pay respects to elders, past, present and emerging.

## Executive summary

Domestic Violence NSW (DVNSW) welcomes the opportunity to respond to the Parliament of New South Wales (NSW) Joint Select Committee on Coercive Control's inquiry into coercive control in domestic relationships, broadly addresses the Terms of Reference for the inquiry.

DVNSW is of the opinion that the proposed introduction of a separate offence of coercive control presents an important opportunity to improve the safety and wellbeing of victim-survivors in NSW, **provided** it is enacted following **comprehensive consultation**; alongside a well-resourced, whole-of-government and community implementation plan and an extensive and **meaningful investment in the domestic violence prevention and response sector**. DVNSW recommends **amending the civil protection order legislation in the short term** to improve immediate safety for victim-survivors whilst broader consultation is undertaken regarding the criminalisation of coercive control and **a cohesive, whole-of-system response** to DFV.

This submission presents the policy position of DVNSW regarding appropriate legislative and non-legislative approaches to addressing coercive control. It also collates the **exceedingly varied opinions** of the DVNSW membership and victim-survivors of family violence. Members and victim-survivors alike attest that **the current system is not safe**, nor is it adequately responding to DFV, including coercive controlling forms of abuse; and that people from marginalised groups are more likely to experience negative responses from the criminal justice system. **The majority of DVNSW members and victim-survivors only support criminalising coercive control if there is a thorough consultation process with the specialist DFV sector and people with lived experience, suitable training and adequate resourcing for the sector, and training for police and the judiciary.**

DVNSW concurs with Women's Legal Service Victoria (WLS Vic) that the issue to be debated is not whether to criminalise coercive control, but **how and where to criminalise it** (WLS Vic, 2020). It is almost universally agreed that change is necessary to adequately respond to DFV. However, it is critical that experts and experts by experience are consulted within and **beyond this Inquiry** in order to introduce measures that are successful when implemented and achieve their aim of addressing safety concerns and reducing risk of harm and death.

If the above recommendations are not implemented, DVNSW is of the opinion that it would be unwise, harmful and potentially dangerous to introduce proposed legislation, for example, Preethi's Law.

Domestic and family violence specialist services continue to provide holistic responses to victim-survivors without the resources required to ensure safety and redress, nor to respond to all requests for support. **The adequate funding of specialist services is of immediate concern** to DVNSW and must be prioritised alongside any proposed new or modified legislation. We also support **substantially resourcing early intervention and primary prevention initiatives** in order to address the root of the social issue of DFV.

**DVNSW recommends that the NSW Government:**

- 1) **Increase funding to the specialist DFV sector** to ensure that women, children and sex and gender diverse people impacted by DFV receive effective specialist support (including those who do not choose to seek redress via the criminal justice system).
- 2) **Prioritise the funding of DFV primary prevention and early intervention programs**, services and education campaigns to stop the violence before it begins, and to change the culture of gendered violence in NSW.
- 3) Place an immediate priority on **working collaboratively with Aboriginal and Torres Strait Islander people and organisations in addressing the devastating impact of DFV on Aboriginal and Torres Strait Islander communities in NSW.**
- 4) **Substantially increase investment in the ongoing education and training of police and the judiciary** in how to effectively and appropriately police and prosecute DFV crimes, including non-physical abuse.
- 5) **Prioritise a thorough consultation** process with the specialist DFV sector, leaders and leading organisations representing marginalised groups and people with lived expertise, **prior to adding a separate offence of coercive control to the criminal act.**
- 6) **Implement changes to Apprehended Domestic Violence Order (ADVO) legislation** to provide immediate protections to victim-survivors, such as defining DFV more extensively to include the breadth of coercive controlling behaviours, whilst consultation continues regarding criminalisation.

7) Develop a **whole-of-government approach to responding to and preventing DFV** in NSW in consultation with the specialist DFV sector, experts and experts with lived experience, which is sufficiently resourced, reviewed, monitored and evaluated.

**In Part I** of the submission, we address the **need to fund specialist DFV services and crisis response services**.

**In Part II**, we outline the urgent priority of **funding DFV prevention and early intervention** programs, services and education campaigns to stop the violence before it begins, and to change the culture of gendered violence in NSW.

**In Part III**, we advocate for the need to **address the devastating impact of DFV on Aboriginal and Torres Strait Islander communities**.

**In Part IV**, we outline the need to **invest in the ongoing education and training of police and the judiciary**.

**In Part V**, we discuss the importance of a thorough consultation process with the specialist DFV sector and outline our recommendations to **implement changes to ADVO legislation**.

**In Part VII**, we **respond to the Terms of Reference set out in this inquiry**.

**In Part VIII**, we take a detailed look at **how our member organisations and victim-survivors responded** to two DVNSW surveys on coercive control and proposed legislation.

## Endorsements and thanks

Domestic Violence NSW endorses the submissions of:

- The Australian Women Against Violence Alliance – provides leadership and advocacy at the national level, regarding all aspects of violence against women and girls.
- Muslim Women Australia – a specialist provider of DFV services for Culturally and Linguistically Diverse and faith-based communities.
- South West Sydney Legal Centre – one of the largest DFV providers in the state.
- Women’s Legal Service NSW – a community legal centre providing women across NSW with a range of free legal services.
- Youth Action – the peak organisation for young people in NSW and the youth services that support them.

**We would like to thank the DVNSW members, frontline workers, people with lived expertise, and organisations** who gave their time and expertise to our interviews and participated in our survey.

**We would like to thank the DVNSW Aboriginal and Torres Strait Islander Women’s Steering Committee** who shared with us their expertise and knowledge as well as their time.

**We would like to thank law firm Hall & Wilcox** for their generous pro-bono contributions to the legal issues addressed in this submission.

**We would especially like to recognise the people with lived expertise** who responded to our survey and provided their stories for our case studies – we hope your words will be the catalyst for positive and meaningful change.



**Recommendation 1:**

**That the NSW Government recognise the impact of DFV on women, children, and sex and gender diverse people and increase the funding to services and organisations that meet the minimum requirements of a quality DFV specialist service (as outlined in the DVNSW [Good Practice Guidelines for the DFV Sector in NSW](#))<sup>1</sup>, to ensure victim-survivors have access to immediate, specialist and effective support.**

It is well accepted that DFV is widespread and causes significant damage to families and communities across Australia. We know that one in three women in Australia have experienced some kind of physical violence in their lifetime, one in six adult women have experienced physical or sexual violence by a current or former partner, and one in four women have experienced emotional abuse by a current or former partner (Our Watch, 2016). Further and tragically, 55 women were killed in 2020 equating to nearly one woman every week (Destroy the Joint, 2020). DFV is the single largest driver of homelessness for women, a common factor in many child protection notifications, and results in a police callout, on average, of once every two minutes across the country (Australian Institute of Health and Welfare, 2012).

**The serious and widespread nature of DFV within our state places significant pressure on services responding to DFV.** DVNSW members consistently speak of how underresourced their services are to respond to the multitude of requests. DVNSW members speak of new case workers who have full case loads within weeks, referral services which have waitlists that exceed 3 months and the delivery of services which goes above and beyond funded KPIs. **With less than one in 10 victim-survivors choosing not to engage with the criminal justice system (ANROWS, 2020), it is imperative that the DFV specialist services are thoroughly resourced so as to provide safe support options for the majority of victim-survivors.**

In preparing for this Inquiry, DVNSW surveyed members as well as people with lived expertise. 38 members completed the survey, and 179 people with lived expertise. The full details on both surveys

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<sup>1</sup> In consultation with the sector, DVNSW developed the [Good Practice Guidelines for the DFV Sector in NSW](#). The Guidelines provide a framework to support the delivery of high quality, consistent responses to victim-survivors across the DFV sector in NSW. The Guidelines define what makes working with victim-survivors of DFV different to working with other clients, and provides generalist services with information regarding around DFV specialisation.

can be found in Appendix A and B. Lack of funding is frequently noted in the DVNSW member survey.

**“Increase funding to women's health, women's refuges, community legal centres, mediation services, children's contact centres etc. so that women have a real choice about whether or not to leave an abusive relationship. If all of these services are underfunded, women's options are severely curtailed.”**

**DVNSW member**

Victim-survivors seeking assistance require high quality services from appropriately skilled workers regardless of their sexuality, gender, socio-economic status or location. The DVNSW Good Practice Guidelines offer services a framework for offering an appropriate level of quality service delivery. **DFV workers require appropriate and ongoing training to ensure they are able to practice quality and safe work.** For example, DFV workers need to be informed, skilled and trained in the unique risks and symptoms of DFV, such as the link between homicide and strangulation; the risks associated with obtaining an acquired brain injury; the impact DFV can have on a child's development; the increased risk of substance misuse; culturally safe practice and the risk of suffering from post-traumatic stress disorder. Unfortunately this ongoing training and development is not occurring in a systemic manner across NSW due to inadequate resourcing.

The links between DFV, children's wellbeing and child protection are well known and the need for improved integration across these service systems is widely acknowledged (Hooker, Kaspiew, & Taft, 2016). Refuge workers and DVNSW's predecessor, the NSW Women's Refuge Movement, were among the first in NSW to recognise the impact of DFV on children as clients' in their own right. They also advocated for improved legislative, policy and practice responses to children impacted by DFV. Since the Going Home Staying Home reforms in NSW, specialist children's workers have no longer been a consistently funded feature in NSW refuges and DFV services, which is of significant concern to the wellbeing of children fleeing DFV. It is widely accepted that infants, children and adolescents who witness or experience DFV can experience significant, lifelong impacts, including psychological and behavioural issues, child abuse, health issues and other effects on wellbeing and development (KPMG, 2016). Exposure to violence may include experiences of physical injury because of assault or as an indirect consequence of an assault against their mother. Children who are exposed to violence in the family context experience significant trauma and are at high risk of suffering psychological and emotional trauma (Bee, 2000; Laing, 2000). However, this **trauma can be significantly reduced when appropriate supports and responses are implemented** (Hooker et al., 2016).

**Recommendation 2:**

**That the NSW Government:**

- a) **Prioritise the funding of DFV prevention and early intervention programs, services and education campaigns to stop the violence before it begins, and to change the culture of gendered violence in NSW,**
- b) **Fund primary prevention initiatives in NSW which align with [Changing the picture: A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children](#) (Our Watch, 2018).**

**Sexual, domestic and family violence is preventable**, and primary prevention initiatives are an integral part of the holistic efforts to end sexual and gender-based violence against women. DVNSW recognises the need to change the culture of gendered violence in NSW. We strongly support the work of Our Watch in bringing together the international research, and nationwide experience, on what works to prevent violence against women and children.

**Coercive and controlling behaviour is a symptom of wider gendered inequality** (Brennan, et al., 2019, p. 637), and efforts to eliminate this form of abuse should be paired with primary prevention techniques that simultaneously foster gender equality (Our Watch, 2018). **Community awareness about what constitutes violence, as well as the existence and scope of legal provisions, is critical** in order for laws regarding DFV to have the necessary levels of uptake and to be effective. This increase in community awareness is a key component of calls to criminalise coercive control. At DVNSW, we seek to make material, community wide changes, including community driven and led initiatives, which address gendered violence in the community. Any legislative changes must be underpinned by thorough investment in evidence based primary prevention strategies.

DVNSW encourage the NSW Government to develop its own appropriate policies, strategies and programs to prevent violence against women using the shared understanding of the evidence and principles of effective prevention outlined in [Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia](#) (Our Watch, 2015), and in consultation with the specialist DFV sector in NSW.

Funding primary prevention initiatives specific to the Aboriginal and Torres Strait Islander community

In 2018, Our Watch released *Changing the picture: A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children*. This resource is a solution-focused practice framework for the primary prevention of violence against Aboriginal and Torres Strait Islander women. It outlines how violence against Aboriginal and Torres Strait Islander women can be prevented, describing the essential actions that are needed to address and shift the drivers of this violence. It considers not only what needs to be done but also how this prevention work should be undertaken, and by whom.

It points to actions that are most appropriately undertaken by Aboriginal and Torres Strait Islander people and organisations, and actions that should be the responsibility of non-Indigenous people and organisations, and of governments. It also presents a set of principles that should guide this prevention work. NSW requires a strong, well-resourced primary prevention response to DFV in order to address the root causes of violence in communities, inter-generational trauma, children experiencing trauma, and high levels of children in Out Of Home Care.

DVNSW recommends that the NSW Government fund a comprehensive primary prevention strategy that aligns with [\*Changing the picture: A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children\*](#) (Our Watch, 2018) as a key step in preventing violence against Aboriginal and Torres Strait Islander women and their children.

**Recommendation 3:**

**That the NSW Government place an immediate priority on working collaboratively with Aboriginal and Torres Strait Islander people and organisations in addressing the devastating impact of DFV on Aboriginal and Torres Strait Islander communities, including:**

- a. Investing in culturally appropriate responses to DFV, which are developed in partnership with Aboriginal and Torres Strait Islander communities, and include initiatives run by and for Aboriginal and Torres Strait Islander communities;
- b. Providing sector wide training (including the police and judiciary) on culturally responsive approaches to DFV;
- c. Ensuring guidelines and protocols regarding Aboriginal and Torres Strait Islander people and communities are followed by police officers and the judiciary;
- d. Ensuring that there is thorough, culturally safe, consultation with Aboriginal and Torres Strait Islander individuals, specialist workers and organisations prior to considering legislative changes regarding coercive control;
- e. Inviting members of the [DVNSW Aboriginal and Torres Strait Islander Women’s Steering Committee](#) to a hearing of the Joint Select Committee on Coercive Control to provide evidence on the impact of coercive control legislation on their communities.

Sexual, domestic and family violence is a serious issue for Aboriginal and Torres Strait Islander peoples in Australia which must be taken seriously and addressed as a priority by the NSW Government. **Considerable evidence exists which verifies that Aboriginal and Torres Strait Islander women are far more likely to be victim-survivors of sexual, DFV than non-Aboriginal women** (Australian Institute of Health and Welfare (AIHW), 2019; Putt, Holder & O’Leary, 2015; Olsen & Lovett, 2016). In 2016–17, Indigenous women aged 15 and over were 34 times more likely to be hospitalised for family violence compared to non-Indigenous women (AIHW, 2019), demonstrating that severity of injury is much higher than for non-Aboriginal counterparts.

It is challenging to quantify the full extent to which Aboriginal women experience violence due to the array of barriers that lead to the underreporting of violence and reduced help-seeking in Aboriginal communities, however estimates suggest about 90% of gendered violence may go unreported (ANROWS, 2020). The rate of family violence within Aboriginal and Torres Strait Islander families must be understood in the context of the historical, political, social and cultural environments in which it

occurs (AIHW, 2009; Putt, Holder & O’Leary, 2015). The high rates of sexual, DFV in Aboriginal and Torres Strait Islander communities must be seen in the context of colonisation, genocide, oppression, racism and marginalisation. Experiences of gendered violence in Aboriginal communities and access to services for this are nuanced, as are the experiences of coercive control.

#### Partnerships with the Aboriginal and Torres Strait Islander community

To support self-determination and enfranchisement, **solutions for Aboriginal and Torres Strait Islander communities should be co-designed and led by and for communities.** Due to the unique experiences of coercive control by Aboriginal and Torres Strait Islander peoples, and the high rates of DFV which require attention, thorough consultation with the Aboriginal and Torres Strait Islander community is necessary to ensure that any potential changes to legislation has a positive impact on Aboriginal communities and act to decrease the current high rates of violence. Best practice responses to coercive control must reflect the views, involvement, ownership and diversity of Aboriginal and Torres Strait Islander peoples in urban, rural and remote communities. Community-driven and responsive programs are more likely to experience greater engagement from local Aboriginal people, and show respect for the rights of Aboriginal peoples to self-determination (AIHW, 2013).

DVNSW believes that the membership of the DVNSW Aboriginal and Torres Strait Islander Women’s Steering Committee has extensive expertise in the area of DFV and should be in direct consultation with the NSW Government regarding systemic changes to DFV legislation and policy. **We ask that members of the DVNSW Aboriginal and Torres Strait Islander Women’s Steering Committee be selected to provide evidence on the impact of coercive control legislation at an upcoming hearing of the Joint Select Committee on Coercive Control.**

#### Investing in culturally appropriate responses

There are numerous barriers that hinder Aboriginal women’s use of mainstream services when seeking support for DFV (ANROWS, 2020). These include but are not limited to:

- intergenerational trauma and distrust towards non-Aboriginal people;
- fear of removal of children;
- fear of experiencing homelessness;
- concern of retaliation or alienation from kinship community;

- lack of accurate information and awareness of services;
- lack of local service with capacity/expertise to assist; and
- lack of culturally competent service providers.

Seeking support can sometimes seem like a continuation of abuse, when services such as the police, courts, child protection systems and housing services demonstrate unsafe and controlling responses.

For Aboriginal victim-survivors, there is also often a fear of what will happen to the perpetrator if legal action is taken against them due to a variety of reasons including institutionalised racism and high numbers of Black deaths in custody.

**To adequately respond to coercive control experienced by Aboriginal and Torres Strait Islander peoples, those working within the DFV system need regular training to understand the ongoing impacts of colonial policies such as invasion, slavery, child removals, assimilation and forced integration of diverse communities of Aboriginal and Torres Strait Islander peoples, and to work respectfully with Aboriginal and Torres Strait Islander families and communities.**

The *UN Declaration on the Rights of Indigenous Peoples* (UN General Assembly, 2007) – supported by Australia – provides an international articulation of best practice expected in engaging with Indigenous people. The Declaration reinforces Indigenous peoples’ right to self-determination.

*Article 18: Indigenous peoples have the right to participate in decision making in matters, which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision making institutions.*

*Article 19: States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them (UN General Assembly, 2007).*

The NSW Government should be guided by the *UN Declaration on the Rights of Indigenous Peoples* when engaging with the Aboriginal and Torres Strait Islander community on proposed legislation, including coercive control.

Mainstream services should strive to support and collaborate with Aboriginal and Torres Strait Islander organisations in providing responses to DFV within the local community and to hire Aboriginal workers. Aboriginal services are well positioned as leaders and spaces that foster cultural resilience and healing in Aboriginal communities.

Holistic approaches to programs and services should be developed by and/or with Aboriginal and Torres Strait Islander people, should foster social and emotional well-being, and would do well to incorporate culturally appropriate healing practices. **Ideally, all services and government agencies should have Aboriginal and Torres Strait Islander workers and have strong working relationships with Aboriginal services.** In addition, services and government agencies should be careful to ensure that Aboriginal and Torres Strait Islander staff are adequately supported and mentored.

NSW Government must ensure that organisations working with people experiencing coercive control have the resources, appropriate skills and ongoing training to work effectively with Aboriginal and Torres Strait Islander people and offer culturally competent practices and culturally-safe spaces. **Cultural competency training must be mandatory and ongoing.**

Following protocols regarding Aboriginal and Torres Strait Islander people and communities

**Ensuring guidelines and protocols regarding Aboriginal and Torres Strait Islander people and communities are followed by police officers and the judiciary.**

Currently, DVNSW members report that the NSW Government guidelines and protocols are being routinely ignored, for example not using Aboriginal Liaison Officers and not utilising Aboriginal case managers in child protection in cases where Aboriginal workers would be preferred. If barriers exist, such as the number of Aboriginal staff, the NSW Government must pro-actively work to resolve these issues. It is difficult for DVNSW to hold confidence that guidelines will be followed in regards to the safety and wellbeing of Aboriginal and Torres Strait Islander people under new legislation, if current procedures and guidelines are not followed.



**Recommendation 4:**

**That the NSW Government:**

- a) **Substantially increase investment in the ongoing education and training of police and the judiciary on how to effectively and appropriately police and prosecute DFV crimes, including those that could be classified as ‘coercive control’.**
- b) **Pilot and evaluate co-responder models.**

Improvements to how police and judiciary respond to DFV crimes has been consistently cited by DVNSW members as a much needed systemic change, regardless of whether coercive control is criminalised or not. It has also been named as a necessary precondition to the effective operation of any such legislation (McGorrery & McMahon, 2019).

**“Specialist training, trauma-informed training and practice, a total change to the way they frame victims and an understanding of long-term effects of coercive control”**

**DVNSW**

**Member**

Concerns regarding policing of coercive control in other jurisdictions

A key concern in criminalising coercive control is whether creating a new offence addresses the complex issues that would arise with implementation in practice (Wangmann, 2020). It is too early to properly evaluate the coercive control offence introduced in England and Wales in December 2015, early information suggests long-standing concerns about practice that have continued. For example, **there appears to be a haphazard implementation with some police forces** laying very few charges since the offence was introduced (McClenaghan & Boutard 2017; Walklate et al. 2018, in Wangmann, 2020, p. 118), and a lack of dedicated training for police with only eight of the 43 police forces in the UK having been provided with training about the new offence two years after its introduction (Travis, 2017, in Wangmann, 2020). Johnson and Barlow (2018, in Wangmann, 2020) also uncovered critical gaps in practice— low levels of charging, even lower levels of decisions to prosecute, ‘missed opportunities for using’ the new offence, and calls to police about coercive control were ‘given a lower priority’ than other domestic abuse-related crimes by ‘call handlers’. In this context, Walklate and colleagues have asked whether ‘general frontline police officers can, and should be expected to

understand the complexities of coercive control as a form of abuse' (Walklate et. Al., 2018, in Wangmann, 2020, p.121).

The centrality of this question is confirmed in a recent report by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (2017) on the 'police response to domestic abuse' which found that an 'understanding of victim/perpetrator dynamics (techniques of coercive and controlling behaviours)' remained the top competency identified as 'requiring improvement among frontline officers and specialist officers/investigators' by 'domestic violence practitioners' (p. 28 in Wangmann, 2020). Similar problems have been seen in Tasmania, where there have been few prosecutions of coercive control offences. Karryne Barwick and colleagues (Chapter 7 in Wangmann, 2020) detail that by the end of 2017, some 12 years after the offences commenced operation, only 73 charges were finalised; involving 34 guilty pleas, six charges proven by the court, two dismissals and 31 withdrawals. **The Tasmanian figures are perhaps the most troubling given how long they have been available, as they are perhaps indicative of more deep-seated problems with the use of the criminal law** (Wangmann, 2020).

#### Training in DFV for Police

Successful operation of an offence of coercive control rests heavily upon victim-survivors and the police being willing and able to work collaboratively with one another – a relationship that is often problematic (Monash Gender and Family Violence Prevention Centre, 2020). This requires that **officers are well educated on the gender dynamics of violence; are free from prejudice against marginalised groups; and move away from assessing an isolated 'incident' and rather interpret abuse as a series of interrelated events** (Monash Gender and Family Violence Prevention Centre, 2020). This work would inevitably be time intensive, and nuanced, and would require intensive training as well as whole-of-police cultural change.

The success of legislative reform is contingent upon successful implementation, and based upon member experiences and experiences of people with lived expertise in the DVNSW surveys conducted for this inquiry, **the current NSW police force requires substantial support to be able to successfully enact proposed changes.**

**“Police absolutely need more DFV training, so that even if they can't do something they can respond appropriately so victims at least feel heard”**

**DVNSW Member**

Victim-survivors across NSW should be able to access a similar, high quality justice response to gendered violence across NSW; however, we know that this is not the case.

**“[Successful convictions of DFV are] dependent on the magistrate, prosecutor and individual officer in charge and their knowledge of DFV and willingness to proceed.”**

**DVNSW Member**

Although we acknowledge the important work of many individual police officers, we recognise that systemically, significant changes are necessary. Most DVNSW members and victim-survivors who responded to surveys regarding this Inquiry noted that the NSW police to undertake in order to adequately respond to crimes of DFV. For example, in response to the question ‘do police generally act diligently regarding DFV, including non-physical forms of violence?’, only 8% of DVNSW members responded ‘yes’. (n=3). 40% of members said police do not act diligently (n=15), 39% said that they sometimes act diligently (n=14), and 11% said that they mostly act diligently (n=4).

In response to the same question, only 3% of people (n=3) with lived expertise of DFV, believed that police generally act diligently regarding DFV cases. 50% said police do not act diligently (n=51). 23% said that they sometimes act diligently (n=23), and 6% said that they mostly act diligently (n=6).

More in depth and compulsory ongoing training in DFV is commonly requested by DVNSW members as a key way to improve responses.

**“Much more training on domestic violence, mutualising language, primary aggressor determination. Ongoing, in-depth training at a percentage that reflects their contact with domestic violence e.g. if 80% of work in particular LAC's [Local Area Commands] is domestic violence then 80% of their training should be about domestic violence.”**

**DVNSW Member**

As well as training, substantive work could be done to look at the tools used by police to assess coercive control. Although many first responders – such as the police – find it challenging to identify the primary aggressor, DFV specialists have little difficulty identifying coercive controlling behaviour and the primary aggressor. DVNSW suggests investigating the practical assessment tools used by police. The child protection assessment tools developed by the Safe and Together Institute, or the

work of Allan Wade and Linda Coates in using clear and consistent language and interviewing skills to develop responses that uphold dignity and build on safety may be beneficial. In addition, the ability of the Domestic Violence Safety Assessment Tool (DVSAT) requires review in its' ability to assess for coercive control. DVNSW supports the NSW Government's current review of the DVSAT tool.

#### Co-response models

A thorough consultation process could investigate the effectiveness of the police response and whether alternative reforms could have a greater impact, such as piloting women's police stations or specialist domestic and family violence services co-located in police stations. See the work of Carrington, Sozzo, Guala and Puyol on the efficacy of women's police stations in successfully addressing gendered violence in Latin America (Carrington, Sozzo, Guala & Puyol, 2020). **DVNSW endorse recommendations made to this inquiry by Women's Legal Service NSW regarding co-response models.**

**“Remove police from the process altogether.” Victim-survivor of domestic violence**

#### Training in Domestic Violence for the Judiciary

Whilst training about any legislative changes is critical, the need for training and education of key professionals working in the legal system is a more far-reaching one. Recommendations calling for further education and training of professionals working within the criminal justice system, and the legal system more broadly, points to greater challenges with the adequacy of responses to IPV than can be satisfied through implementing a single offence and training about that offence. Whilst some of these recommendations are specific, relating to particular legislative provisions and procedures, a number are directed at a more conceptual level (see, e.g. Research, including self-assessment from members of the judiciary, evidences that substantial training and development is necessary to improve judicial responses to DFV cases (Wakefield & Taylor, 2015).

Effectively educating frontline police, the legal profession and the judiciary on DFV will require a long-term commitment to specialist training, recruitment and supporting champions from within both professions. It also represents an overhaul of police and judicial culture. DVNSW welcomes the opportunity to work alongside the police and judiciary to ensure a holistic understanding of DFV is fostered, and that a thorough understanding of coercive control and what constitutes a DFV crime is comprehensively understood.

**Recommendation 5:**

**Prioritise a thorough consultation process with the specialist DFV sector, leaders and leading organisations representing marginalised groups and people with lived expertise through mechanisms beyond this Inquiry, prior to criminalising coercive control.**

We attest that to comprehensively understand the possible impact of coercive control legislation, **an extensive consultation with the specialist DFV sector and people with lived expertise is required.** This would enable and support a thorough review of any legislative reforms necessary to improve the NSW Government's protections for crimes of DFV.

**Leaders** and leading organisations representing marginalised groups must be meaningfully consulted to ensure that proposed legislation does not inadvertently impose negative consequences on people who already experience substantial barriers to accessing the justice system. This is especially pertinent for Aboriginal and Torres Strait Islander women, women with disability, children and young people, regional and rural women, sex and gender diverse people, culturally and linguistically diverse women, women on temporary visas, criminalised women, sex workers and older women. Each of these groups face unique challenges, requiring careful consideration.

Experts in Scotland frequently noted that the success of coercive control legislation occurred through a long and thorough consultation process, and **collaborative work with sector experts and people with lived expertise** (Global Rights for Women, 2020). The legislative framework, before the introduction of a coercive control offence was very different to the Australian context, we agree that cultural change in law enforcement and efforts to correctly draft the legislation through thorough consultation are necessary requirements. One may compare the offence in Tasmania with that in Scotland shows the impact of successful drafting and thorough consultation.

DVNSW shares concerns with other organisations including South West Sydney Legal Centre, that the submission period for this inquiry although not short, covered the 16 days of action, Christmas and New year period- three of the busiest for the DFV sector. DVNSW recommends that further consultation is held including varied and interactive methods such as roundtables.

**Recommendation 6:**

**Implement changes to Apprehended Domestic Violence Order (ADVO) legislation to provide immediate protections to victim-survivors, such as defining DFV more extensively to cover the breadth of coercive controlling behaviours, whilst consultation continues regarding criminalisation.**

Civil legislation is the most broadly-used mechanism to address DFV in the justice system. Due to the complexities of the legislation and the need for thorough consultation and well-resourced implementation, DVNSW recommends that **initial and immediate changes are made to the ADVO legislation to increase access to safety and justice for people who have experienced DFV.** (Comprehensive detail is available under TOR 3)

**Recommendation 7:**

- a) **Develop a whole-of-government approach to responding to and preventing DFV in consultation with experts and experts by experience, that is sufficiently resourced, monitored and evaluated.**
- b) **Respond to, and fund the recommendations of [A Safe State](#).**

DVNSW recommends that introducing specific coercive control legislation only occur alongside a **sufficiently resourced, whole-of-government implementation plan**. Further, we believe that there are significant changes needed to DFV legislation as well as to the efficacy of all first responses to family and domestic violence in NSW (Australian Law Reform Commission 2010; Domestic Violence Death Review Team, 2020).

Evan Stark notes that for a legal framework of coercive control to be successful, there are a ‘confluence of related factors’, namely **‘a coherent national strategic framework; an articulation of the dilemma facing the justice system; centralised coordination by justice professionals; activist pressure from Women’s Aid; and exhibitions of political will’** (Stark, 2020, p. 33). While Stark favours creating a criminal offence of coercive control (2007, p. 365) to address Intimate Partner Violence (IPV), this is only part of his strategy to change how we conceive of and respond to domestic relationships. Stark notes that while many professionals have already adopted a definition of DFV that recognises coercive control, practice remains focused on ‘documenting individual acts without identifying their political

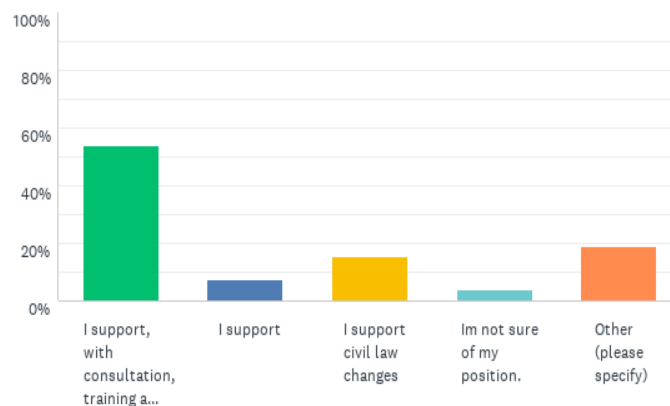
context or consequence, once again depicting the bars without grasping that they are part of a cage’ (2007, p. 366).

2021 marks five years since the Victorian Royal Commission into Family Violence and the Government’s adoption of the 227 recommendations. This comprehensive, sufficiently resourced approach is the political leadership required in NSW in order to stop preventable harm and death.

### Survey responses

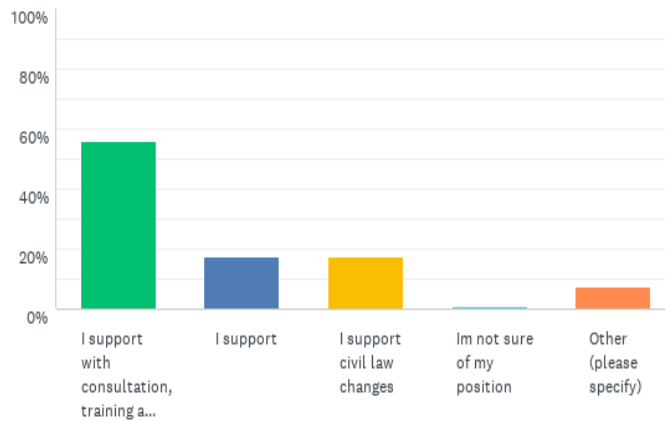
Consultation with DVNSW members and people with lived expertise strongly noted the importance of introducing any possible legislation in a thorough, well resourced and well planned manner. When asked for their stance on criminalising coercive control, the majority of DVNSW members (53%) answering this question supported legislative changes **only if they occur with thorough consultation, adequate training and resourcing for the DFV sector** (N=14).

#### Q14 Please indicate your stance on criminalizing coercive control:



When asked the same question, the vast majority of people with lived expertise (56%) supported legislative changes only if they occur with thorough consultation, adequate training and resourcing for the DFV sector (N=51).

Q10 Please indicate your stance on criminalizing coercive control:



Contributing towards a whole-of-government approach, DVNSW draws the committee’s attention to the NSW Women’s Alliance’ [A Safe State](#) policy platform which makes 49 recommendations calling on the NSW Government to improve responses to family and domestic violence. The policy platform demonstrates that a broad range of policy changes are necessary, with a substantial investment by the NSW Government, if we are to aptly respond to the high levels of violence in our state. The recommendations of A Safe State are foundational to how NSW should be responding to, and preventing, DFV in NSW.



## Part VII – Responding to the Terms of Reference

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

For questions related to the scope of any proposed offence of coercive control, please see TOR 9.

Experts in Scotland see the success of coercive control legislation as occurring through the **development of a definition collaboratively with sector experts and people with lived expertise** (Global Rights for Women, 2020). We refer members of the committee to Recommendation 5 of this submission, that thorough consultation is undertaken before an offence is introduced.

#### Towards a unified definition

Across NSW and Australia, there are varieties of DFV, only some of which include coercive control. The lack of unity creates particular issues for victim-survivors who are engaged in systems across state and federal jurisdictions, or in multiple states and territories. Many reports have pointed towards the need for, ‘a common interpretative framework, core guiding principles and objects, and a better and shared understanding of the meaning, nature and dynamics of family violence that may permeate through the various laws involved when issues of family violence arise’ (Australian Law Reform Commission, 2010). As recommended by the Australian Women against Violence Alliance 2020 submission to this Inquiry, DVNSW similarly recommends that a universally agreed upon definition would be worth the substantial effort to create it, and should be a focus of the Second National Plan.

#### **Recommendation:**

**That the Australian, State and Territory Governments, in consultation with specialist women’s and family violence services, establish a consistent national definition of family and domestic violence, in which coercive control is recognised as a pattern of abuse as part of the development of the Second National Plan to Reduce Violence against Women and their Children**

**(AWAVA submission to this Inquiry, 2020).**

#### Defining Coercive Control

**“When someone uses coercion to control, manipulate, disempower, shame and humiliate to gain advantage that is abuse.”**

**Victim-Survivor of Domestic Violence**

The cumulative effect of a pattern of coercive and controlling behaviour is the most prevalent and nuanced form of domestic abuse experienced by women and sex and gender diverse people. Research indicates that the, 'coercive and controlling aspects of abuse have the most pervasive and destructive consequences for victims' (Brennan, et al., 2019, p. 637). The harm is severe and enduring. For some it can be more pervasive and insidious than physical abuse. A large, well-designed International study showed that the level of control in an abusive relationship increased the risk of a fatality by a factor of nine (Glass, Glass, Manganello & Campbell, 2004).

**“It has taken me many years of being out of the abusive marriage to understand that I experienced coercive control. Because there was no physical evidence it was like it didn't happen. However, in dealing with the psychological affects I experience I have come to understand how bad it was, and how deeply I was and am still affected.”**

#### **Victim-Survivor of Domestic Violence**

Stark describes coercive controlling violence as, 'a strategic course of oppressive behaviour designed to secure and expand gender based privilege by depriving women of their rights and liberties and establishing a regime of domination in personal life' (Stark, 2012, p.16). Stark describes the concept of coercive control as three-pronged and reliant upon the **repetitive use of intimidation, isolation and control by the perpetrator** (Stark, 2007). Coercive control is conceptualised as a 'liberty crime' (Stark, 2007, p. 13), having the intentional effect of, 'stripping away a victim's sense of self and .... violating their human rights' (Brennan, et al., 2019, p. 637).

'Coercive control has identifiable temporal and spatial dimensions, typical dynamics and predictable consequences. For the purposes of assessment, these may be subdivided into tactics deployed to hurt and intimidate victims (coercion) and those designed to isolate and regulate them (control).'

(Stark 2012, p.8)

The methods of abuse employed by the perpetrator are tailored to achieve maximum impact on the individual victim-survivor. They are nuanced and reflective of the idiosyncrasies of that particular relationship, and factors such as disability, gender and race, which are reinforced as vulnerabilities due to societal discrimination. They feed on pre-existing power dynamics and can include 'coercion, threats (to the victim, children, and pets), intimidation, financial abuse (money for essential items such as food or petrol is restricted/withheld), reinforcing invisibility, and isolation' (Brennan, et al., 2019, p. 638).

A core cyclical factor, both feeding and being generated by coercive control is fear: fear of the person with whom they are in a domestic relationship, fear of ‘the system’ and ‘fear of what they might lose by exposing themselves to the criminal justice process (e.g., their role as mothers to their children)’ (Walklate & Fitz-Gibbon, 2019, p. 102). It is also possible in a minority of cases that patterns of abuse exist and cause harm without the presence of fear.

**“It creates invisible chains and a sense of fear that pervades all elements of a victim’s life. Isolating you from friends, family, colleagues, and spiritual supports. Depriving you of basic needs, such as food. Monitoring your time. Monitoring you via online communication tools or spyware. Dictating all aspects of your everyday life, such as where you can go, who you can see, what you can wear and when you can sleep. Preventing you from accessing support services, such as medical services. Constantly belittling you e.g. saying you’re worthless. Humiliating, degrading or dehumanising you. Financial control. Threats and intimidation - particularly subtle [ones], psychological [abuse]”**

**DVNSW member**

Systems abuse is a form of abuse, which aims to assert control over the victim-survivor, as well as to harass and intimidate them. Perpetrators of violence are well known to use a variety of government and non-government systems to further harm towards victim-survivors, in particular after they have separated (Parliament of Victoria, 2008). It is worth noting that **systemic abuse by organisations and government departments is sometimes named by victim-survivors to be coercive control**. This form of systems abuse is well documented within the legal system, with perpetrators causing harm through tactics, which include submitting illegitimate cross-applications, failing to appear in court, calling irrelevant witnesses, personally cross-examining victim-survivors, requesting frequent adjournments or otherwise increasing the length and cost of proceedings (Douglas, 2018).

2. How should the offence distinguish between behaviours that may be present in ordinary relationships with those that taken together form a pattern of abuse?

One of the challenges in defining coercive control, and the reason for requiring thorough consultation prior to introducing such legislation, is that the **relevant behaviours are varied and contextual**. The triggers of fear and intimidation enabling control may be so frequent and subtle that they are not evident from outside the relationship (Bishop & Bettinson, 2018). Additionally, the demarcation between coercive and controlling behaviours on the one hand and voluntary choices in a relationship

on the other hand, may in some cases be difficult to determine. **For example, one indicator of coercive control may be that one individual controls the finances of the household. In some relationships, this could be indicative of a pattern of oppression or exploitation, whereas in others it could indicate a consensual position between the individuals** (NSW Government Discussion Paper, 2020). Although in one situation, this is consensual and in another, a victim-survivor experiences fear or intimidation from the impact of this financial abuse, the evidence is the same in both cases. It is also worth noting that this behaviours and impacts will vary significantly depending on the type of relationship, for example heterosexual, parent-child, gay or lesbian or person with a disability-carer.

**‘A related challenge is how to distinguish the ‘coercive’ element from the normative ways in which men micro-manage women’s enactment of gender roles (such as how they cook or clean) by default, simply because they are women.’**

Bishop & Bettinson, 2018, in Stark and Hester, 2019, p. 87.

Some legislation provides a defence of reasonableness to coercive control (in conjunction to conduct being in the victim-survivor’s best interests, in the Scottish, English and Welsh legislation). This may avoid legislative overreach between criminalising coercive control and ordinary relationships, however there may be people from marginalised communities who are negatively impacted. For example, there have been concerns in the UK about the impacts on women with disability, whose abuser is their carer using this defence (McVeigh, 2015). 212). There have not been any cases on this point in the various legal systems, so it is difficult to know if this inhibits decisions. Since the crime itself requires a substantial adverse effect to the victim-survivor or an abusive purpose (as defined in the English and Welsh offence), such defences may be redundant (Bettinson, 2020, p. 213). For example, a negative effect on the victim would rarely be born out from behaviour that is reasonable and thought to be in the best interests of the victim-survivor.

Consultation should be conducted on how relationships involving people with disability and their carers should be best captured, as well as kinship relationships for Aboriginal and Torres Strait Islander families, and specific relationship dynamics for sex and gender diverse people.

**Implementation of a legislative offence will need to avoid legislative encroachment, such as on consensual relationships, or ordinary behaviour within relationships or parental relationships.** For example, it is important that ‘protective parents’ are not deemed to be coercively controlling. An example, be to include a specific provision that protects where there is reasonable risk of harm to a child. For example provisions, see section 20B(3) of the *Criminal Law Consolidation (Domestic Abuse) Amendment Bill 2020 (SA)* and section 76(8) of the *Serious Crimes Act 2015 (England and Wales)*.

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

In NSW, in short, no.

**DVNSW recommends to implement changes to Apprehended Domestic Violence Order (ADVO) legislation to provide immediate protections to victim-survivors. This includes defining DFV more extensively to cover the breadth of coercive controlling behaviours, whilst consultation continues regarding the introduction of a separate, coercive control offence.**

The criminal justice system remains a powerful tool in addressing domestic violence, however, it requires sharpening to ensure the ability of victim-survivors to access redress for abuse they have experienced is significantly increased (see TOR 14). Although NSW criminal and civil domestic and family violence legislation itself requires substantial reform, it is also important to note that the implementation of the legislation is a continual issue, with DVNSW members noting consistent complaints of discrimination, varied implementation and lack of training. The instrument of the justice system will only be as useful as those who implement it (see further concerns regarding police implementation in Part IV).

**“The poor quality of many complaint narratives raises questions about the understanding of IPV [Intimate Partner Violence] that is conveyed to, and in turn, underpins the ADVO system. The absence of in-depth, detailed accounts that portray the context of violence means that key professionals have insufficient information when making decisions about claims for protection. This has implications not only for the administration of the ADVO system but also for related legal proceedings.”**

(Wangman, 2012)

When a civil order is breached it becomes a criminal offence, yet DVNSW members continuously report that breaches are not taken seriously by police officers. This is also substantiated by research (NSW Domestic Violence Death Review Team, DVDRT, 2020; Wangman 2020). DVNSW members also attest that non-physical forms of abuse are less likely to be investigated by police, including financial abuse, tech-facilitated abuse, harassment, stalking and intimidation.

#### Criminal and civil response

All Australian states and territories currently have domestic violence protection order regimes, which criminalise a broad spectrum of abuse upon the enforcing of a breach occurring, and which aim to protect against future abuse. It is worth noting that these were introduced due to widespread pushes

for reform from women and the women's sector to enable a flexible response to incidences as well as patterns of abuse (Murray & Powell, 2011). **Two large-scale reviews of Australian responses to DFV in Queensland and Victoria<sup>2</sup> did not make the recommendation of criminalising coercive control** due in part to the mechanisms available in their civil responses to adequately respond to a broad range of abusive behaviours. The Victorian Government noted:

'There is a risk that a new offence criminalising family violence will be interpreted to include conduct which is difficult to prove to a criminal standard, or conduct which may not warrant criminalisation. There is also a related risk that prosecutors would not make sufficient or consistent use of any new offences.' (Victorian Government Printer, March 2016, p. 228).

The Apprehended Domestic Violence Order (ADVO) legislation in both Queensland and Victoria includes clearer definitions of DFV, which include coercive and controlling behaviours.

DVNSW refers to the recommendations from Women's Legal Service NSW to this inquiry as well as to recommendation 5.4 from the Australian Law Reform Commission (ALRC, 2010), that the governments of NSW and the ACT should **review the offences categorised as 'domestic violence offences'** in their respective family violence legislation **with a view to ensuring that the classification falls within the proposed definition of family violence in Rec 5–1 (see below).**

Recommendation 5–1 of the same review (ALRC, 2010) recommends that, 'State and territory family violence legislation should provide that family violence is violent or threatening behaviour, or any other form of behaviour, that coerces or controls a family member or causes that family member to be fearful. Such behaviour may include but is not limited to:

- (a) physical violence;
- (b) sexual assault and other sexually abusive behaviour;
- (c) economic abuse;
- (d) emotional or psychological abuse;
- (e) stalking;
- (f) kidnapping or deprivation of liberty;
- (g) damage to property, irrespective of whether the victim owns the property;

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<sup>2</sup> The Queensland Special Taskforce (2015) and the Victorian Royal Commission into Family Violence (2016)

(h) causing injury or death to an animal irrespective of whether the victim owns the animal; and

(i) behaviour by the person using violence that causes a child to be exposed to the effects of behaviour referred to in (a)–(h) above.’

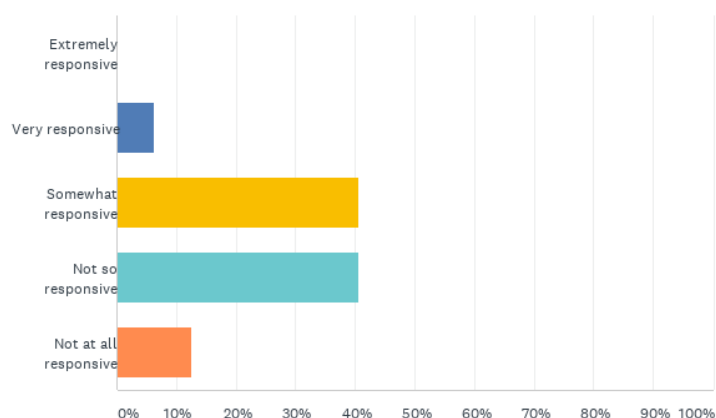
### Stalk and intimidate offences

All Australian jurisdictions have enacted criminal legislation prohibiting stalking<sup>3</sup>. Stalking is an offence that can be constituted by a protracted pattern of behaviour or course of conduct, rather than an individual instance. Although stalking offences vary between States and Territories, they include some forms of coercive control, but not all.

DVNSW member and lived expertise surveys highlighted that both groups do not believe that police are successfully implementing stalking and intimidation offences. DVNSW are concerned about the possible introduction of additional offences displaying a pattern of abuse, without the systemic changes necessary to successfully implement them (See section IV regarding policing; and section VI regarding system reform).

DVNSW Members:

### Q8 How do you believe the current NSW justice system is dealing with course of conduct offences such as stalking and intimidation?

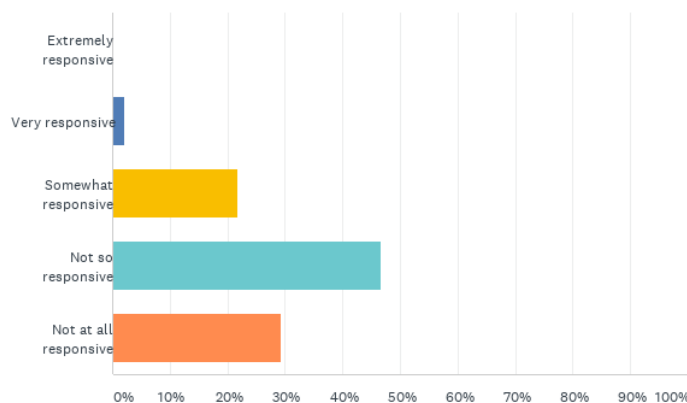


<sup>3</sup> Crimes Act 1900 (ACT) s 35; Crimes (Domestic and Personal Violence) Act 2007 (NSW) s 13; Criminal Code Act 1983 (NT) sch 1 s 189; Criminal Law Consolidation Act 1935 (SA) s 19AA; Criminal Code Act 1924 (Tas) sch 1 s 192; Crimes Act 1958 (Vic) s 21A; Criminal Code Act Compilation Act 1913 (WA) sch 1 s 338E, Criminal Code Act 1899 (Qld) sch 1 ch 33A.

No DVNSW members found police to be very responsive and only 6% (n=2) of members thought that police were 'very responsive' to course of conduct offences. 40% of members thought police were somewhat responsive (n=13), 40% not so responsive (n=13) and 12% not at all responsive (n=4).

Lived expertise survey:

**Q8 How do you think the current NSW justice system is dealing with "course of conduct offences" such as stalking and intimidation?**



The data from the lived expertise survey had a more scathing opinion of police responses. Filtered to only people who had experienced this form of abuse- 92 people responded to this question. No people with lived expertise noted that police were very responsive and only 2% (n=2) thought that police were 'very responsive' to course of conduct offences. The majority of people with lived expertise (47%, n=43) thought police were not so responsive. 22% thought that police were somewhat responsive (n=22%) and 29% not at all responsive (n=27).

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

See Parts IV and VI regarding training of police and judiciary, and the need for a whole-of-government response. See TOR 3 regarding recommended changes to ADVO legislation.

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

Nil response.



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

Nil response.

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

The advantages of criminalising coercive control

Recognition of patterns of abuse

The introduction of coercive control legislation can fill the gap in existing criminal law firstly, by ensuring that DFV is jurisprudentially re-framed by a 'course of conduct' rather than a specific incident. Secondly, it could expand the scope of the law to capture non-physical abusive behaviours.

**“Coercive control was a huge part of what was happening prior to the first physical assault but despite knowing it wasn’t right there was nothing I could do and if it’s not considered illegal it’s again just another tactic to tell me I’m imagining things or things aren’t so bad or I’ve never hit you...I didn’t know until after I left that these things where all part of the DV cycle.”**

**Victim-survivor of domestic violence**

Presently, **NSW criminal law offences such as assault, stalk/intimidation, and damage to property do not capture the full range of behaviours that would otherwise be the subject of a coercive control offence.** Although the legal definition of assault has slowly grown to include psychological harm (usually in the form of a serious diagnosable psychological injury), the definition has been construed narrowly. The effect is that fewer cases fall within the recognised ambit of non-physical assault.

Coercive control legislation shifts the focus away from responding to victims in an individual incident-led approach focused on physical abuse to a pattern based approach that addresses the cumulative effect of harm (Walklate & Fitz-Gibbon, 2019). The reframing DFV as a liberty crime recognises that it is a:

**‘Course of conduct that subordinates women to an alien will by violating their physical integrity (domestic violence), denying them respect and autonomy (intimidation), depriving**

them of social connectedness (isolation) and appropriating or denying them access to the resources required for personhood and citizenship (control).’ (Tolmie, 2018, p. 52)

Criminalising coercive control may perform an educative function by enhancing community recognition of DFV, as well as assisting victims to better understand the abuse they have experienced (Youngs, 2014).

**‘Feminist law reformers have also drawn attention to the human rights abuse that can result from controlling another person by restricting their freedom of movement, limiting their access to family members or curtailing their social activities. These harms have not been readily captured by the criminal law, and this has underpinned support for the criminalisation of conduct that causes psychological harm to another.’**

(McMahon & McGorrey, 2016, p.3)

**Due to the complexity of the issue, DVNSW recommends that patterns of coercive control would be introduced in the NSW civil legislation prior to the criminal act (See TOR 3).**

Increased ability to access further supports

If coercive control is implemented successfully, following a thorough implementation plan, more victim-survivors will be able to access victim’s compensation and other supports, which are only available to people who have participated in the criminal justice system.

**“They will be able to seek protraction as well as compensation if their abuse is recognized by the law uses coercion to control, manipulate, disempower, shame and humiliate to gain advantage that is abuse.”**

**DVNSW Member**

Recognition of the prevalence of coercive control

Reframing DFV as a liberty crime rather than an assault crime has created the space for different criminal law interventions internationally. Potential uses of coercive control legislation range from the use of coercive control in expert testimony in court proceedings to its use as a specific defence for action taken (e.g. homicide), as a constituent element of specific offenses and as a specific criminal offence in its own right (Walklate & Fitz-Gibbon, 2019).

Supporters of criminalisation argue that it assists police officers in responding to cases that are potentially lethal due to high levels of psychological abuse, but where there is no overt physical abuse

or cases of repetitive 'low level' physical offending (Tolmie, 2018), however further evidence is required to establish whether crimes are committed in such a linear format.

**Criminalising coercive control has the advantage of making the broader context of the relationship evidentially relevant in criminal proceedings** (Hanna, 2009). With the focus on physical violence, courts do not hear the victim's full story; broader accounts of the perpetrator's behaviour may add to the victim's credibility and provide clear evidence of the perpetrator's motives (Tolmie, 2018). An offence of coercive control may capture the full breadth of DFV, allowing the court to make better assessments of what is going on, and ensure sentencing responses accurately reflect the harm of the offending (Youngs, 2014).

Shifting attention from victim-survivor safety to offender accountability

Unlike laws in England and Wales, Scotland's *Domestic Abuse Act* puts the focus on perpetrators, not victims: prosecutors must demonstrate a person has engaged in an abusive course of behaviour intended to cause harm, not necessarily that the victim was seriously affected by it (Bettinson, 2020).

**'Giving justice professionals a robust legal tool could relieve their frustration with 'failed' intervention, help shift their attention from victim safety to offender accountability, and so remove an important context for victim-blaming.** The new law would also facilitate a corresponding shift among community-based services from 'safety work' to 'empowerment'.'

(Stark & Hester, 2019, p. 86)

The disadvantages of criminalising coercive control

The issue of how best to combat coercion and control, and whether new legislation would achieve the desired result was considered in various inquiries, including by the Australian Law Reform Commission (2010); Queensland's Special Taskforce (2015); and the Victorian Royal Commission (2016). All of these inquiries recommended *against* the introduction of a new offence, despite the overwhelming deficiencies in the existing legislation. Additionally the most recent NSW DVDRT report does not recommend criminalising coercive control (2020).

Difficulty proving coercive control

'There is a risk that a new offence criminalising family violence will be interpreted to include conduct which is difficult to prove to a criminal standard, or conduct which may not warrant

criminalisation. There is also a related risk that prosecutors would not make sufficient or consistent use of any new offences.’ (Victorian Government Printer, March 2016, p p. 228)

Many victim-survivors already find it challenging to meet a standard of criminal proof for abuse perpetrated against them. DVNSW members as well as victim-survivors raised concerns regarding the ability to meet a standard of proof at a criminal level.

**“[There is a] risk of protracted engagement with the legal system. Difficulty articulating and proving the type of coercive control abuse they have experienced. If men are charged but found 'not guilty' will this empower them even more to continue their abuse?”**

**DVNSW Member**

What is psychological harm?

The concept of ‘purely psychological harm as a type of 'injury' that the criminal law should concern itself with is still novel. Its boundaries are still undefined and its legitimacy questioned’ (McMahon & McGorrey, 2016, p.15).

For example, the Tasmanian *Family Violence Act* criminalises conduct that the perpetrator knew or ought to have known would unreasonably cause ‘mental harm, apprehension or fear’. The term ‘mental harm’ is not defined in the *Family Violence Act*, and there is no case law purporting to define it. Either it could be interpreted broadly to include ‘emotional harm’, or it could be narrowly constructed to mean ‘psychological harm’.

Historically, psychological harm has been constructed to exclude emotional harms such as grief, distress or anger and to require an ‘identifiable clinical condition’<sup>4</sup>. With respect to offences such as assault, an offence could have been committed if there is a serious psychological injury and the injury goes ‘beyond merely transient emotions, feelings and states of mind’ (Reeves v R; R v Reeves [2013] NSW Court of Criminal Appeal 34 (21 February 2013), para. 58, 132 & 137). Researchers have commented that there is an ‘historical reluctance of the criminal law to consider 'mere' emotional harm as serious enough to warrant the criminal law's attention’ (McMahon & McGorrey, 2016, p.17).

‘While neither supporting nor opposing new offences, National Legal Aid cited the difficulty in distinguishing between merely frugal or greedy and coercive and controlling conduct as a

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<sup>4</sup> See UK Case Law as follows, common themes are found in Australian Case law: R v Chan Fook (1994) 99 Cr App R 147, 152; R v Dhaliwal [2006] EWCA Crim 1139 (16 May 2006); R v Ireland; R v Burstow [1997] UKHL 34 (24 July 1997).

potential problem in defining an economic abuse offence, rather than as a protection against inappropriate use.’ (ALRC report 114, 2010)

If psychological harm extends to emotional harm, how is it proven beyond reasonable doubt?

There are concerns that less urgent instances of emotional harm, that are experienced solely subjectively, would be difficult to prove.

‘The Australian Law Reform Commission noted in its 2010 Consultation Paper, Family Violence—Improving Legal Frameworks, that policing an offence such as economic or emotional abuse is ‘fraught with difficulties’ and ‘each element of such offences has to be proved beyond reasonable doubt and there may be significant evidentiary challenges to meet this standard.’ (Victorian Government Printer, March 2016, p. 213)

#### Over-criminalisation

Criminalising the infliction of psychological harm also raises the possibility of over-criminalisation, the phenomenon whereby the criminal law, is utilised excessively, unjustifiably or unnecessarily. This is particularly poignant to communities who are already over-policed and over-criminalised, such as Aboriginal and Torres Strait islander communities and migrant communities (ABS, 2020).

**‘Changes to the law must be avoided which, while superficially or symbolically attractive, do not actually advance the safety of victims and the community, or the accountability of perpetrators...** In addition, in the absence of comprehensive sentencing data, we do not have a clear sense of whether sentences for family violence offences are more or less severe than sentences imposed in other cases. Before contemplating new laws, we must ensure that they are necessary, and that we are making the best use of the laws already in place.’

(Victorian Government Printer, March 2016, p. 224)

If psychological harm is defined in a broad manner, including emotional harms, there is concern amongst policy makers that ‘it could lead to over-criminalisation, over-regulating human interactions by trying to stop us from hurting each other's feelings’ (Horder, 1994, p. 349, in McMahon & McGorrey 2016, p.17).

The women’s prison population represents a vulnerable group that faces a high number and complexity of barriers, as well as high risk of further victimisation and lack of support services when leaving prison. DVNSW endorses the submission and recommendations of the Australian Women

Against Violence Alliance (AWAVA) to this term. AWAVA (2020) highlights the need in particular for an examination of the over-representation of Aboriginal and Torres Strait Islander women in the Australian criminal justice system, which needs:

‘To involve an analysis of the historical processes and structural conditions of colonisation, social and economic marginalisation, systemic racism, and specific practices of criminal justice agencies. There is also a pressing need for research to be conducted on the viability of alternatives to incarceration for Aboriginal and Torres Strait Islander women.’ (AWAVA, 2020)

**DVNSW emphasises the importance of consulting with Aboriginal controlled organisations in the design of coercive control legislation** to ensure legal system injustices are not perpetuated for Aboriginal and Torres Strait Islander women.

Some coercive control legislation does not include perpetrators who are not current intimate partners

A significant limitation of the UK legislation concerns relationships that have ended, as it extends only to former intimate partners where they continue to live together (Bettinson, 2020). Once the relationship ends in England and Wales, the expectation is that the offences under the *Protection from Harassment Act 1997* (UK) will apply to behaviour that amounts to a course of conduct that causes harassment (s 2), stalking (s 2A) or puts a person in fear of violence (s 4) (Home Office 2015). This provides a degree of protection at what is a particularly dangerous time for victim-survivors of domestic abuse, it creates confusion in the criminal law about what abusive behaviour is and wrongly focuses on the location of the harm rather than the relationship it takes place within (Bettinson, 2020).

Potential for legal systems abuse and reliance on a victim-survivor’s engagement with police

The successful operation of an offence of coercive control would rely upon victim-survivors being willing and able to involve police. This is problematic. Research has consistently documented the many reasons why **women victim-survivors of intimate partner violence are hesitant to engage police**. They fear gender bias, discrimination, not being believed, that the abuse will escalate following police intervention, or that they will be blamed for the abuse committed against them. For women within a coercively controlled relationship, these barriers to seeking help are particularly insurmountable. Women who have been coercively controlled are more likely to experience isolation and to lack social

support networks and independent decision-making skills (Stark, 2009). The introduction of a new offence alone is unlikely to reduce the reluctance of women victim-survivors to engage the police.

Issues with access to justice already exist for women. Criminalising coercive control, could be seen as a flawed solution that lives within a gender-biased criminal justice system:

‘The creation of any new offence in this field places women squarely within the domain of criminal justice. Yet, the difficulties faced by women in dealing with criminal justice systems are both well known and profound. ....[T]he more the criminal law tries to intervene on behalf of women, the more challenges it poses for them. From the point of contact with a frontline police officer, to presenting evidence at court, to dispositions by the court—whether criminal or civil—all present a range of hurdles for women to negotiate. The nature of these experiences can be contingent on a wide range of variables, including class, ethnicity and cultural background.’

(Walklate & Fitz-Gibbon, 2019, p 101)

**In particular, the creation of a new offence does not deal with any of the well-documented concerns women have for not engaging with the criminal justice process** and, as Douglas and Fitzgerald have observed, may also create new opportunities for ‘legal systems abuse’: perpetrators using the legal system to further assert control over their partners (Douglas & Fitzgerald 2018; Douglas & Nancarrow, 2014). Additionally, such abuse can also contribute to the criminalisation of women, adding to their concerns about engagement with legal processes at all (see further Tolmie 2018; Walklate & Fitz-Gibbon 2019, p 102).

#### Challenges with policing and implementation

It is unsurprising that coercive control is not always easily identifiable by first responders and/or victim-survivors themselves. It can assume a variety of forms and does not always leave physical evidence (Myhill & Hohl, 2016). Being able to identify a pattern of coercive control, being a course of conduct rather than an individual act or a series of independent acts, requires, ‘an appreciation of the wider gendered context of power relations in intimate partnerships, the availability of historical information, and a readiness to link a diverse range of abusive behaviours’ (Brennan, Burton, Gormally & O’Leary, 2019, p. 637).

‘The particularity of coercive control, the strategic ways in which a specific abuser individualizes his abuse based on his privileged access to personal information about his partner, could also prove elusive for policing.’ (Stark & Hester, 2019, p. 87)

Victim-survivors who do contact the police are likely to come up against additional barriers to justice. For example, implementing this **offence relies on a police officer's ability to identify the potential presence of coercive and controlling behaviour, elicit information from the victim-survivor and correctly assess that pattern of behaviour.** This requires that officers move away from assessing a particular 'incident' and instead interpret a series of interrelated events and the harm that flows from these. Effectively educating frontline police on the gender dynamics at play in coercive control situations and enhancing their ability to identify such behaviour will require a long-term commitment to specialist training. This has yet to happen across Australia.

**“It is not that there are disadvantages of criminalising coercive control per se. Rather, that there are risks that the provisions are not drafted in a manner which prevent systems abuse by the primary aggressor, and that the law change is not accompanied by the required investment in system reforms and community education, which may lead to an underutilisation of the new laws.”**

**DVNSW Member**

#### Re-traumatisation of victims and misconstrued credibility issues

Proving subjective elements will likely require more experience based testimony from victim-survivors. For cases that proceed beyond the policing stage and into the criminal courtroom, a key issue is how to prove coercion. **The difficulties women victim-survivors face in documenting their abuse should not be overlooked.** The offence of coercive control focuses on a pattern of abusive behaviour. This may involve unremarkable acts that, when viewed in isolation, are not criminal. Rather, it is about analysing behaviour that forms a pattern of abuse. As such, the very same barriers that have traditionally hindered women's access to justice are likely to persist, despite the existence of a new offence.

‘Critics warned that evidencing the less tangible elements of coercive control would push police and the justice system more generally outside their comfort zone while requiring even more experience based testimony from victims than before.’

(Tolmie, 2018, in Stark & Hester, 2019, p. 87)

For traumatised witnesses, the process of giving evidence in court may trigger a traumatic flashback, panic attack or episode of dissociation where the brain becomes foggy, perceptions are distorted and they become confused and disorientated. Without information on trauma, the shaking, confusion, disorientation and an inability to maintain eye-contact which often result from these reactions may lead magistrates, judges and the jury to doubt the credibility and veracity of her testimony. The



reactions may also be seized upon by the defence barrister and portrayed as suspicious in an attempt to undermine witness credibility. In addition, a witness is required to provide a coherent account in court, but a traumatic experience commonly cannot be recalled as a cohesive memory due to the impact trauma has on the brain's memory processes. Again, this is likely to affect perceptions of credibility.

Unintended consequences: risks for vulnerable groups <sup>5</sup>

Acknowledging that opinion regarding criminalisation is diverse, it is important to acknowledge concerns raised by individuals and groups regarding the possible negative impacts on people from marginalised groups . **It is essential to ensure that any efforts to improve safety for the majority of people does not negatively affect those already experiencing barriers to access support.**

Marginalised groups, such as Aboriginal and Torres Strait Islander people and culturally and linguistically diverse people, overwhelmingly experience systemic racism through the justice system (DVNSW, 2020).

‘There is sufficient evidence pointing to the unintended consequences of harnessing the law in this way—particularly for those whom it is believed might be protected by the law (see, e.g., Douglas 2018; Tolmie 2018)—with protection from the law being additionally problematic for Indigenous women (Blagg 2016), women with disabilities (Thiara, Hague and Mullender, 2011) and those from ethnic minorities (Gill and Harrison 2017). This evidence is multifaceted and multilayered, ranging from the specific consequences associated with particular legal strategies to the more general question of what response women (in violent relationships) might want from a criminal justice system and what they might receive in reality. The criminalisation of coercive control has drawn comment along all these dimensions.’

(Walklate & Fitzgibbon, 2019)

Future reform should focus on the substantial barriers in the legal system that unfairly disadvantage Aboriginal and Torres Strait Islander and culturally and linguistically diverse communities. Please see the submission of Muslim Women's Association and AWAVA for additional details.

The reports *Improving the family law system for Aboriginal and Torres Strait Islander clients* and *Improving the family law system for clients from culturally and linguistically diverse backgrounds*, by the Family Law Council (2012), extensively explore how the family law system could be improved for

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<sup>5</sup> See part III of this submission for more detail regarding Aboriginal and Torres Strait Islander communities

Aboriginal and Torres Strait Islander and Culturally and Linguistically Diverse clients. DVNSW members' submissions consistently echo the barriers to accessing the system as well as the specific challenges these groups face, once they are engaged in the system, including:

- Lack of access to safe services, including police officers, that meet their needs and are trusted;
- Lack of culturally diverse and culturally sensitive responders;
- The complexity of language used within courts; and
- A lack of gender and cultural safety throughout the system.

DVNSW hold concerns that if the above issues are not addressed through systemic reforms, coercive control legislation could negatively impact the above cohorts.

**“[There is a] Risk of protracted engagement with the legal system. Difficulty articulating and proving the type of coercive control abuse they have experienced. If men are charged but found 'not guilty' will this empower them even more to continue their abuse?”**

**DVNSW Member**

Unintended consequences: possible impact on family law proceedings

DVNSW wishes to highlight the importance of examining the impact that introducing an offence of coercive control may have on related family law proceedings (whether those family law proceedings are concurrent with, or commenced after, any criminal proceedings concerning a charge of coercive control).

**“The legislation is likely to be used to prosecute many women who are attempting to defend themselves and their children from male abusive behaviour.”**

**DVNSW Member**

DVNSW asks that careful consideration be given to the potential risks and benefits of the overlap between criminal proceedings involving a charge of coercive control and family law proceedings, including:

- Whether the definition of 'family violence' under section 4AB of the *Family Law Act 1975* (Cth) should be amended to include behaviour which is proposed to be criminalised under Preethi's Law, including conduct which has the effect of making the victim dependent on, or subordinate to, the offender, controlling behaviour or monitoring, and any behaviour which humiliates or degrades (noting that the *Family Law Act 1975* (Cth) identifies 'repeated derogatory taunts' as family violence but does not identify any other behaviour which might humiliate or degrade a victim). DVNSW is particularly concerned to ensure consistency

between the definition of family violence under the *Family Law Act 1975* (Cth) and any proposed offence of coercive control.

- Whether it is proposed that family law courts will have the power to issue a civil protection order in respect of behaviour constituting coercive control.
- Whether the proposed offence of coercive control may unintentionally capture behaviour by victims seeking to protect their family (for example, where a mother prevents a father's access to their child).
- How the Family Court might take into consideration a successful or failed prosecution of a charge of coercive control, including in relation to property distribution and parenting orders:
  - Whether the Family Court will accept consent orders on their face and make such orders in circumstances where there has been allegations of coercive control or a conviction of a charge of coercive control (DVNSW considers this question is particularly important where a potential victim is self-represented or receives limited legal representation). Similar concerns have been raised by Federal Parliament in its inquiry into the interaction between the family law system and family violence (Cth of Australia, 2017).

**“If coercive control is prosecuted and dismissed at the state level the Family Court will be bound to take this into account this could have unintended consequences in considering parenting arrangements.”**

**DVNSW Member**

## 8. How might the challenges of creating an offence of coercive control be overcome?

DVNSW would aspire to a ‘do no harm’ approach, where we ensure there are adequate protections in place to mitigate any potential negative consequences of criminalising coercive control. This includes minimising potential negative impacts on marginalised communities.

DVNSW draws the Inquiry to the following recommendations:

**Recommendation 6: Implement changes to ADVO legislation** to provide more immediate protections to victim-survivors and to further cover the breadth of coercively controlling behaviours whilst consultation continues regarding criminalisation.

**Recommendation 7: Develop a whole-of-government approach to responding to and preventing DFV** in consultation with experts and experts by experience, that is sufficiently resourced, monitored and evaluated.

9. If an offence of coercive control were introduced in NSW, how should the scope of the offence be defined, what behaviours should it include and what other factors should be taken into account?

Regardless whether a new offence, a definition of family and domestic violence is sorely needed within criminal and civil legislation in NSW, as well as a broader, nationally agreed upon definition.

DVNSW notes the recommendations from the ALRC report 114 (2010), described in full in Part 3 of this submission, which note a full description of domestic and family violence that any amended legislation should fall within.

Scotland and the UK

Since 2015, England has had a ‘cross-governmental response’ with a ‘working definition’ of coercive control that includes, ‘any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality’ (Stark, 2020, p. 34). Behaviour that has as its purpose, or would be likely, when directed at a person, to:

- Make them dependent or subordinate
- Isolate them
- Control, regulate, monitor their activities
- Deprive them or restrict freedom of action
- Frighten, humiliate, punish or degrade them (*Domestic Abuse Act, Scotland, 2018*).

Furthermore, ‘it is appropriate and important for state and territory family violence legislation to contain a provision that explains the features and dynamics of family violence, including that while anyone can be a victim of family violence or use family violence it is predominantly committed by men’ (ALRC, 2010, 5.163).

DVNSW considers that any offence of coercive and controlling behaviour ultimately enacted must be carefully designed to ensure that it successfully achieves three goals, being:

1. addressing gaps in the law regarding coercive control;
2. effectively captures behaviour which constitutes coercive control;
3. sufficiently consulted upon and tested so as not to cause potential harm to victim-survivors.

Those goals should guide the scope and design of the offence.

Lessons from other jurisdictions: Defining the behaviour covered by the offence: focussing on the effect of the behaviour rather than the type of behaviour

DVNSW considers that the approach taken by England and Wales, Scotland, and Ireland, by leaving open the category of behaviours that will constitute coercive control, has been helpful. DVNSW and its members have found that coercive and controlling behaviour can manifest in a multitude of ways (See TOR 1). Any attempt to limit the types of behaviour that will constitute coercive control runs the risk of excluding victims from the protection of the law where the perpetrator uses unusual or creative means to control the victim. In this regard, DVNSW notes that the draft of Preethi's Law proposes to limit the scope of coercive and controlling behaviour by the effect of this behaviour.

Many victim-survivors raised concerns in the DVNSW lived expertise survey regarding the burden of proof, noting both the need to ensure any legislative changes are carefully implemented as well as directing DVNSW to amendments necessary in the civil legislation (see TOR 3).

**“The same as physical abuse, it's all so hard to prove. It's hard enough proving physical abuse especially if you didn't report until after leaving the relationship or during leaving the relationship.”**

**Victim-survivor of domestic violence**

Recognising that coercive and controlling behaviour occurs not just between domestic partners: protecting all victims of coercive and controlling behaviour

DVNSW notes that some jurisdictions exclude children and parents from the scope of coercive control offences. For example, the Scottish offence is expressly limited to abuse of a partner or ex-partner, consistent with existing definitions of domestic violence in Scotland. Similarly, the Tasmanian offence is limited to spouses and partners. In contrast to the Scottish and Tasmanian position, the English and Welsh offence applies whenever the offender and victim-survivor are personally connected (including parental relationships, such as parents-in-law and children).

DVNSW considers that the Scottish and Tasmanian approaches are unnecessarily limited, and do not reflect the true impact and scope of coercive and controlling behaviour as it occurs in a range of domestic relationships. DVNSW supports an expanded definition of coercive control, which acknowledges that the behaviour occurs in a range of domestic relationships, including parent/child, co-habiting individuals, relatives, and extended kinship ties. (See TOR 2).

#### Defence of reasonableness

DVNSW notes that the approach in Scotland, England and Wales has been to enact a defence of reasonableness, which puts an evidentiary burden on the accused person only (i.e. once evidence is adduced which raises the issue of the defence, the burden of disproving the defence beyond a reasonable doubt shifts to the prosecution).

DVNSW considers that defences framed in this way carry the risk of imposing a significant burden on the prosecution. DVNSW considers that a defence framed in this way may cause many prosecutions to fail simply because of an evidentiary issue - that is, the prosecutor cannot demonstrate, beyond a reasonable doubt, that the behaviour was not reasonable. This is particularly the case where the defendant may be in a better position to adduce evidence regarding whether or not the conduct was reasonable in the circumstances. DVNSW also considers that a defence framed in this way may present a vehicle for perpetrators of coercive and controlling behaviour to use the judicial system as a further means of engaging in harmful behaviour - for example, by further traumatising or 'gas lighting' the victim by suggesting that their conduct was reasonable, and leaving the victim to gather evidence to demonstrate that it was not. Where coercive and controlling behaviour is actually occurring, and the prosecution fails simply because of a failure of the prosecution to lead evidence on the question of reasonableness of the behaviour, the result could be catastrophic for the victim's sense of self and confidence in their own personal judgment about their circumstances.

DVNSW considers that the burden of proof in disproving a defence of reasonableness should lie with the defendant.

#### Carer's defences in the UK

Ensuring that any introduced offence captures all behaviour, which constitutes coercive control, including degradation of an individual's sense of worth, and personal autonomy is essential. The psychological harm suffered by victim-survivors of coercive and controlling behaviour manifests not only in alarm, distress, or fear of physical harm in the victim-survivor (reflected in the offences

introduced in Scotland, England and Wales), but includes the degradation or destruction of the victim-survivor's personal sense of identity, autonomy and self-esteem.

A victim-survivor of coercive and controlling behaviour may not feel alarm or distress, but may simply over time experience degradation of their own personal autonomy (for example, in circumstances of financial abuse or micro-management of a victim-survivor's behaviour).

DVNSW considers that the proposed legislation should address and criminalise behaviour that causes mental harm to a victim-survivor, even when the victim is not necessarily fearful or distressed. These include circumstances where a victim's sense of identity, self-worth or autonomy are challenged.

The nature of coercive control poses several challenges for lawmakers when seeking to frame a criminal offence, which captures the behaviour, because of:

- the varied nature of the individual experience of coercive control;
- the subtleties of the behaviour (i.e. the abuse can be expressed in subtle, yet powerful, ways including a look, or silence, or a couple of words); and
- the difficulties in establishing harm, in circumstances where the harm is often not visible to the naked eye (cf. physical harm).

Given these difficulties, DVNSW supports thorough consultation based on the open-ended definition of coercive control proposed in subsection 14A(2) of the proposed Preethi's Law and a further limb in subsection 14A(2) of the proposed legislation, which targets behaviour that has the effect of substantially diminishing an individual's sense of identity, autonomy and self-esteem.

#### Protection of children

DVNSW notes that coercive control can affect children's development, and often children have difficulties identifying that they are being subject to coercive and controlling behaviour. Even if they do, they are often without power to stop or avoid the behaviour (Hooker et al., 2016). The effects of coercive and controlling behaviour can damage the emotional and psychological development of a child, with the effects felt well into adulthood (Hooker et al., 2016). It is imperative that children are recognised and protected under any new legislation. DVNSW welcomes proposed clause 14B of Preethi's Law which creates an offence of aggravated coercive control where that conduct is directed at, makes use of, or takes place in the presence of, a child.

**“It is essential that there be specific protections for protective parents taking reasonable action to protect their child(ren) from abuse. This may be in the form of a specific defence, guidance in the form of a statutory guidance document or explanatory memorandum, or alternatively an explicit carving out of any matters relating to child contact which may be dealt with under the federal Family Law Act 1975 (Cth).”** **DVNSW Member**

#### DVNSW member survey

The following are **elements of a coercive control offence** that DVNSW members submitted should be included in any potential legislation (responses are copied directly from member responses):

- Power over, control, manipulation.
- Electronic stalking, using children and animals as threat to elicit compliance, sustained pattern of depriving victim survivor of exercising their human rights and instilling fear or any sort.
- Definitely something around the children being used.
- Extent of coercive control, long term impact and the different behaviours it includes as some of those are still very prevalent in traditional societies [sic].
- Common behaviours exhibited by the perpetrator once a relationship has ended. Stalking, threats against victim and family and friends.
- Prioritising the victim’s view of if it was dangerous.
- Loss of liberty and as specific as possible.
- Abuse or threat of abuse to animals (note: not constrained by a definition as the property of the subject persons). Treatment of animals including care offered or refused and contact with animals as a means of punishing or controlling another person.
- Violent, menacing or intimidating behaviours towards the victim (including such behaviour directed towards a child, relative or animal), controlling, regulating or monitoring the victim's day to day activities (includes financial and spiritual abuse), frightening, humiliating, degrading, or punishing the victim (including e.g. threats of self-harm or suicide, threats to withdraw support for a partner visa etc.), depriving or restricting the victim's freedom of action, isolating the victim from their friends, relatives or other sources of support, and making the victim dependant or subordinate (includes inducing drug dependency).
- All of the pillars of control – psychological, financial, isolation, threats - everything we’ve spent the last decade educating the community about.
- The mind games. The conditioning. Pattern of behaviour. The red flags. The way that the victim is blamed in how perpetrators report. The language that is used. Stalking, controlling,



using children to continue the abuse, using animals to further abuse and control victims and their children. Exposure to violence or sexually explicit acts for children, Trauma responses from victims.

- Threats of violence (lashing out with fist without actually connecting), unreasonable rules that women must follow.
- Gas lighting – continually changing stories/information to the victim in order to create confusion, take away confidence and self-esteem. Isolation – isolating the victim from loved ones, support network. Monitoring.
- Allegations that mother has a mental illness when she doesn't, active isolation from friends and family, gas lighting, financial abuse, use of court procedures and vexatious litigation especially lying in affidavits should be recognised as a serious offence and evidence of controlling behaviour, alienation of children, digital stalking
- Matters relating to blackmail regarding children or mistreatment of children; Pattern of behaviour; Control exerted over every day, mundane behaviour/ responses/ tasks; Gas lighting.
- It should apply specifically to male violence against females.
- Ongoing harassment. Multiple phone calls. Driving past their home. Intimidation.
- I would love to see that perpetrators who use the Family Court, Child Support, Centrelink as a tool to continue their abuse are held to account whenever possible.
- The full spectrum of abusive behaviours, underpinned by the overarching principals of a course of conduct a reasonable person would consider as instilling fear, compliance and isolation in victims.
- Financial control, asset control, emotional blackmail by threatening public, workplace and extended family humiliation.

10. Could the current legislative regime governing ADVOs better address coercive and controlling behaviour? How?

Improvements to the current legislative regime governing ADVOs are necessary, and DVNSW recommends that they are amended as a priority, whilst consultation for a whole-of-government approach to addressing DFV is conducted (see Section IV).

Lesley Laing's qualitative research into the process of obtaining an ADVO in NSW offers extensive evidence of the multiple and compounded barriers that women face when accessing the NSW justice

system to seek and ADVO (Laing, 2013). We draw the Inquiry's attention to section IV regarding the implementation of current legislation, where substantial improvements are required. This includes challenges for female defendants who are incorrectly identified as the perpetrator of crime.

**"I have a significant case load dealing with women as defendants in AVO's who are wrongly labelled as perpetrators. It takes a lot of my time and many others writing representations to Police to ultimately explain they are the victim and the AVO is withdrawn. If these women now have a criminal charge against them then it will be a lot of wasted taxpayer money on Legal Aid defending these charges for those that are eligible. For those victims that are not eligible they will either have to represent themselves against the Police and the perpetrator or pay for representation to prove they have been wrongly labelled the perpetrator. Big waste of court time."**

**DVNSW Member**

The DVNSW lived expertise survey conducted as part of this submission also offers a plethora of examples of people who had insufficient responses when attempting to access ADVOs.

**It has been suggested (Wangmann, 2012) that the critical failure of the ADVO system is the failure to look past an event- and incident-based criteria for determining when ADVOs should be finalised.** In determining the appropriate amendments, the Inquiry is directed towards the Queensland and Victorian protection order legislation, as well recommendations made by the ALRC/NSWLRC (2010) which vary from the above jurisdictions. **Wangmann suggests that coercion and control could helpfully be included in the definition of domestic violence and used as a criterion for ADVO assessment** (Wangman, 2012, p.718). DVNSW considers that Wangmann's proposal should be adopted by NSW.

11. Should the common law with respect to context and relationship evidence be codified within the CPA (or other relevant NSW legislation) to specifically govern its admissibility in criminal proceedings concerning DFV offences?

**No.** Context evidence refers to evidence, which is adduced for the purposes of helping the jury to understand other evidence that might (without context) appear implausible, misleading or disjointed. Context evidence may include evidence of uncharged acts and evidence of bad character (Chhabra 2016, p. 1). Relationship evidence is background evidence, which 'explain[s] the nature of the relationship between the complainant and the defendant' (ALRC 2010, p. 27.263). Given the variety

of situations and relationships in which DFV can occur, such evidence can be an essential component of criminal proceedings for offences of this nature. For example, it could be used to provide context as to how an offence occurred or why a victim-survivor remained in an abusive relationship.

As described in the Discussion Paper, context and relationship evidence is already admissible in criminal proceedings concerning DFV offences (NSW Government 2020, p. 32 [8.8] & p. 22), subject to passing the threshold tests under the *Evidence Act 1995* of being both relevant and of a probative value that outweighs its prejudice to the defendant. Evidence law is notoriously difficult to codify, perhaps best exemplified through the process of endeavouring to create and universally adopt the uniform evidence law (see generally ALRC 2006 Report 102).

Taking into account the difficulties associated with codification, and the already well-established common law authority, DVNSW do not consider that the common law with respect to context and relationship evidence needs to be codified, particularly when regard is had to the problems such codification might inadvertently create.

In 2010 the Australian Law Reform Commission determined that there is, 'no need for further provisions to deal specifically with relationship evidence, ...beyond the general relevance test and other rules set out in the uniform Evidence Acts' (ALRC 2010 pp. 27.277-27.278). The ALRC goes further to suggest that an attempt at codification would be 'problematic' and complex, given the organic nature of the common law rules.

12. Would jury directions specifically addressing DFV be of assistance in criminal proceedings? If so, what should a proposed jury direction seek to address?

**Yes.** DVNSW has drawn the conclusion that where offences occur in the context of DFV, the use of jury directions would be useful and instructive in contesting rape myths and victim blaming, and to enable the explanation of coercion and the abuse of power in intimate partner relationships. In relation to sexual offences, it is important to offer context to the frequency and co-occurrence of sexualized violence within a DFV context.

In relation to family and domestic violence, juries may need a more thorough going definition and explanation of the impact of coercion and controlling behaviour, noting further that the threat of harm, or the fear of the threat of harm, need neither be made nor felt immediately before or during the sexual activity, but ought to be recognised as an ongoing and omnipresent characteristic of domestic violence.

The implementation and use of jury directions should be incorporated into any review mechanism and that an appropriately independent research organisation, such as ANROWS or the Gendered Violence Research Unit, UNSW, undertake research on such directions to ensure they are operating efficiently and as intended.

Importantly, jury directions should not add to the complexity and length of the trial.

Comparing the current state of NSW and Victorian legislation/Bench Book guidance is a particularly effective analysis. It sheds light on the unwillingness of the NSW legislature to use jury directions as a means of addressing misconceptions around domestic violence.

Take for example the jury directions surrounding self-defence and duress. The NSW Bench Book provides a suggested wording for directions to jurors who have been asked to deliberate on a matter where either self-defence or duress has become a live issue (Judicial Commission of NSW 2020, section 6-460). The wording is lengthy, complex and focused on explaining the legal elements of establishing self-defence. There is no mention of the potential need to raise domestic violence as a contextual issue, nor is there an attempt to explain that domestic violence occurs in a variety of forms. The direction is completely silent on the issue of domestic violence. It is then for an astute defence counsel to seek to raise either relationship or background evidence in an attempt to remedy the vacuum. However, the admission of relationship or background evidence also requires its own warnings to the jury in order to avoid tendency bias. Therefore, attempting to correct misconceptions held by jurors about domestic violence is a complex and tedious task, both for the advocates running the case and also for the jurors who are required to understand and take on the substance of the directions.

Victoria's approach has been markedly different. Victorian legislation allows defence counsel to seek specific family violence related jury directions in circumstances where self-defence or duress is a legal issue in the trial (Jury Directions Act 2015 (VIC), pt. 6). There is no necessity to attempt to introduce the evidence via a separate category. The judge is bound to provide the direction unless 'there are good reasons for not doing so' (Jury Directions Act 2015 (VIC), s.58 (2)). Subsection 58(3) provides that in the event that the defendant is self-represented, the judge does not need to wait for a request to direct the jury.

The NSW Government should consider drafting a proposed direction regarding family violence, similar to that already enacted in Victoria.

A substantial amount of research has already been conducted regarding the public's misconceptions surrounding coercive control, and all other non-physical forms of domestic violence. DVNSW does not

encourage the further carrying out of duplicitous research, however, would welcome research of the development of appropriate legal responses.

14. Are there any other potential avenues for reform that are not outlined or included in the questions above?

Overwhelmingly, victim-survivor survey responses to the DVNSW survey for this Inquiry called to be believed, for urgent action to improve systems and provide suitable options for redress. Some DVNSW members noted the absence of redress options for people experiencing violence beyond the current civil and criminal acts. Many victim-survivors say that they do not want the offender to be prosecuted for a criminal offence, they want the violence to stop, the offender to get help to reduce recidivism and to have some element of healing/reparation. To that end, DVNSW recommends the piloting of restorative justice initiatives for DFV matters. There is substantial evidence to suggest that **restorative justice initiatives have been successful in reducing crime rates and can deliver high levels of victim-survivor satisfaction in contrast to the criminal legal system and when delivered safely** (Strang, Sherman, Mayo-Wilson, Woods & Ariel, 2013).

Goodmark (2018) presents a variety of alternative options to criminalisation which according to her research, would reduce violence including addressing the socio-economic issues faced by communities experiencing high levels of violence and provide restorative options.

**“Fund housing, health, employment, childcare and other social measures.”**

**DVNSW Member**

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

See Parts I, II, III and IV of this submission.

It is critical to contextualise that **the majority of people experiencing violence do not access the criminal justice system**, for various reasons outlined earlier in this submission. It is integral to hold

these people in sight to ensure that there are justice based and non-justice based solutions to all victim-survivors in NSW that offer redress and safety.

In consultation with members, suggestions for non-legislative approaches have included:

- Additional funding for DFV sector to better respond to sexual, DFV.
- Thorough training in DFV, trauma-informed care and cultural awareness and competency for all first responders, including police, health and education staff.
- Using a gendered approach to address DFV.
- Substantial investment in primary prevention.
- Community awareness campaigns about coercive control and non-physical forms of DFV.
- Additional regulations, measures and safeguards from tech companies and banks to address tech-facilitated abuse [and financial abuse].
- Reframing the system to adopt a framework of perpetrator accountability, and healing/reparation to the victim-survivor by using experts trained in IPV and restorative justice.
- Investment in community bystander training, noting that the majority of victim-survivors do not report violence to the police.

## Part VIII – Lived and practice expertise: the DVNSW member and victim-survivors survey findings

### **DVNSW surveys on coercive control**

To formulate this submission, DVNSW conducted two surveys on coercive control:

- Survey One: with DVNSW member organisations on how services operating with the DFV sector view potential coercive control legislation (Appendix A); and
- Survey Two: with victim-survivors with lived expertise of domestic abuse to hear directly their views (Appendix B).

### **Respondents**

DVNSW received:

- 38 responses from a broad range of DVNSW member organisations (Survey 1); and
- 179 responses from victim-survivors who self-identified as having lived expertise of domestic and or family violence (Survey 2).

Both surveys showed a range of responses and opinions as included throughout this submission. The most common response from both DVNSW members and victim-survivors was that **coercive control legislation should only be implemented if there is a strong implementation plan including thorough training for police and the judiciary, community education and additional resourcing for the response sector.**





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**Survey 1 findings – domestic and family violence services**

Survey conducted December 2020- January 2021 via Survey Monkey.  
38 responses from a broad range of DVNSW member organisations

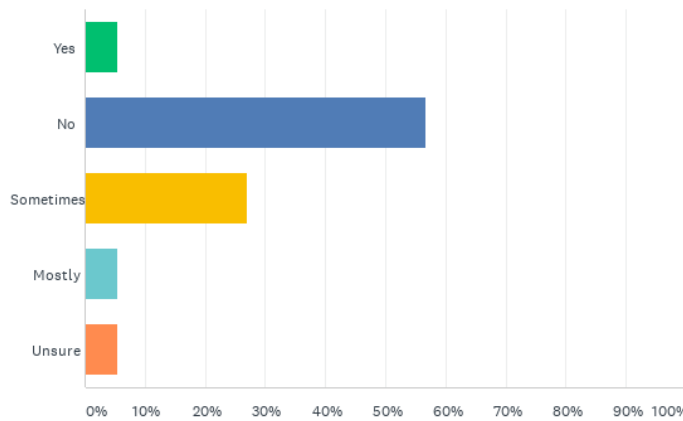
**1. What type of DFV sector service do you identify as?**

Q1 What type of DFV sector service do you identify as?



**2. Location of services**

Q3 Does existing criminal and civil law provide NSW police and courts with sufficient powers to address domestic and family violence, including non-physical and physical forms of abuse?



**4&5. Could the current justice framework be improved to better address patterns of coercive and controlling behaviour? If so, how?**

- It doesn't recognise behavioural patterns sufficiently – legislation on coercive control would assist, with effective safe guards
- yes- increase consequences and penalties for persistent breaches; change bail conditions for persistent breaches; referral to support services and demonstrated take up of same by

perpetrator where breached AVO ;shift onus of proof onto perpetrator to demonstrate not breached where evidence of past persistent breaches and repeat offenders

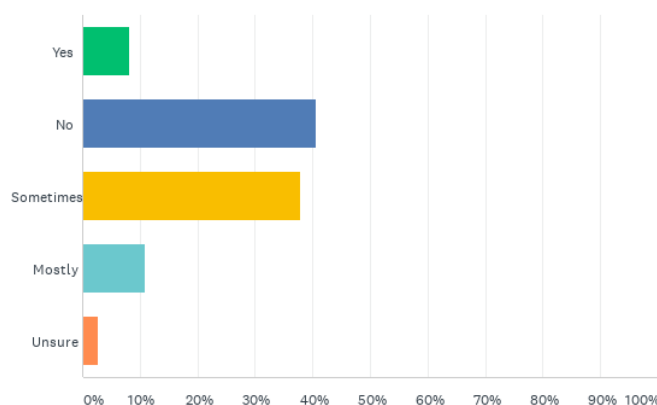
- Yes, not sure how.
- Definitely, but the difficulty is with enforcing as well as well as documenting Coercive and controlling behaviours. They are hard to prove outside of the client's narrative.
- Yes, recognition
- Yes most definitely. If they adopted they legislation current in Scotland this would make a huge difference. If you look at their statistics for the number of charges and convictions following the implementation of that legislation you can clearly see it works. However, like most legislation, it will be dependent on the willingness of the officers on the ground to utilise the current, and hopefully future legislation.
- Police are going to need significant training to understand coercive control. I find they don't understand domestic and family violence as it is.
- Yes, by giving Police more discretion to investigate who is the primary aggressor rather than remove all their discretion and have them apply for AVO's against female victims who have had allegations levelled at them by the perpetrator. This does not require a change in law just policy.
- The current justice framework relies on punitive measures to deter violence – this is ineffective and also harmful. If the justice framework was more informed by victim-survivors needs, including holding perpetrators accountable through restorative justice processes we could start to see long-lasting change, victims needs being met and perpetrators making long-lasting behaviour change. There needs to be greater investment in alternatives to imprisoning people. Utilising current processes such as family dispute resolution with the added dimension of restorative justice principles (as they are doing in ACT) to address needs and harms would mean that many families could begin to break the cycle. Ongoing support for both the victim and perpetrator outside of the justice system by trained individuals such as No To Violence or Men and Family Centre (north coast) will assist with accountability.
- Legal provisions, which recognise animal abuse as means of exerting coercive control. Need to recognise "animals" more broadly outside the paradigm of property ownership (for example, harm to wildlife, feral animals, threats to animals possessed by other people, animals designated for slaughter). Central sharing of information between animal cruelty law enforcers and Police to offer a more thorough insight into coercive control and animal abuse which may have been present in the home prior to a criminal or other domestic and family violence offence reported to Police.
- Yes

- Yes, be able to implement early interventions without having to have the victim beaten and bruised as proof.
- There is little to no scope for Police to be able to take action against psychological abuse/coercive/controlling behaviour. This then makes victims feel that these behaviours aren't really domestic violence as police only take action on physical behaviours such as assault and malicious damage or threats to kill/intimidation. This then minimises the impact that coercive control has on victims and also gives perpetrators more power, and excuses for their behaviour.
- Yes. Law reform (with carefully drafted provisions to criminalise coercive control), the development of new tools, resources, guidelines and bench books for police, court and related agencies to reflect the change, comprehensive training and professional development of police, judiciary and related agency personnel, specialisation of police and courts, and a widespread community education and awareness campaign with both state-wide and localised delivery.
- No. It doesn't capture enough of coercion be control.
- There needs to be a reporting system where victims can report incidents without having to follow through legal proceedings until they are ready so that a pattern of behaviour can be established and evidence can be visible of coercive control
- Inclusion of coercive control in ADVOs so that coercive control behaviour is grounds for a breach of the ADVO.
- Yes definitely, this behaviour is quite often the 'silent' behaviour that happens behind closed doors and is often the most dangerous as it can lead to mental health issues in the victim and also leaves them feeling very isolated and 'lost.' It also gives the perpetrator all of the power. I feel that these patterns could be better addressed in the justice framework by making it more simplified for victims living in these situations to seek protection, in order for someone to get an AVO currently who is living in a situation like this the process is torture, they need to establish a pattern of behaviour and it is so hard for them to produce 'evidence.'
- Yes, to make it so controlling behaviours are seen as a criminal offence, for example, when a man makes threats to take the children that it's seen for what it is rather than minimised.
- Yes, 1 ) especially considering where there are cross applications of AVOs or questionable AVOs on women whether there is a pattern of controlling behaviour which might mitigate an AVO charge. 2) patterns of behaviour including initiation of vexatious litigation, non-payment of Child Support and stalking especially online stalking be key indicators of coercive control and a context of control that are underplayed by the courts.
- Yes. Need more time to consider.
- Focus on the pattern of behaviours rather than particular events.



- Yes, ensuring police are trained and equipped to understand incidences as a part of a wider network and pattern of abusive behaviour, rather than the existing, traditional 'step up' model.
- Yes but as this is not my area of expertise, I am unable to provide a suggestion
- Police trained and resourced to have an understanding of coercive behaviour. Coercive behaviours added to the DVSAT. Court justice system trained in responding to coercive behaviours.
- More collaboration with services.
- Yes. There are many changes required. Legislation must be specific to the protection of women, so that it cannot be weaponised for use against them by men. They only prioritize physical abuse and property damage.
- Recognising that coercive control is sometimes more detrimental to women and children than physical abuse. Justice system protection required desperately.
- Yes. We need specific legislation that protects women from experiencing coercive and controlling behaviour from partners and family members.
- Yes, make it a criminal offence.
- Better communication around release from custody, better enforcement of AVOs generally, but on the whole, we need a separate offence.
- Yes.

Q5 In your experience do police generally act diligently regarding domestic and family violence (DFV), including non-physical forms of violence?



**5. What improvements could be made to policing of domestic and family violence from your experience?**

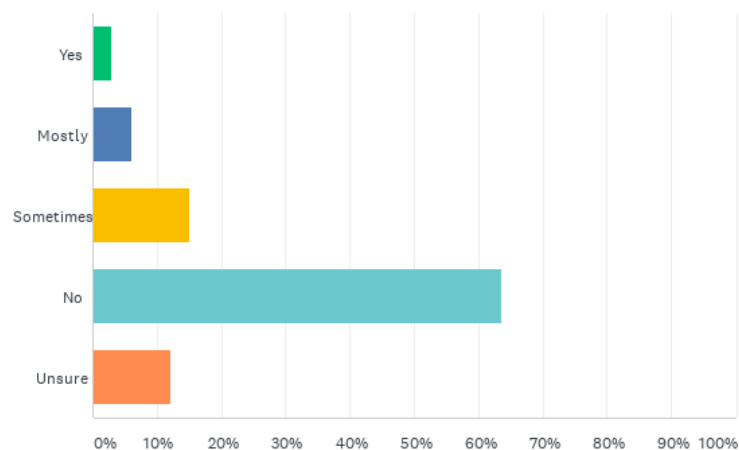
- For police to understand domestic and family violence better and respond with this understanding

- Must move away from seeing single incidences only, police is reluctant to get involved unless there is evidence of physical assault
- Sometimes- police responses remain very mixed across NSW; there are well trained Police and then there are Police who need much more training and change of attitude. Generally, current Policing is almost entirely incident based with very little inquiry into and recording of patterns of abuse nor of non- physical forms of violence Improvements: Reducing the rate of re-offending has been one of the Premier’s Priorities for the past three years however the resources needed to meet this goal have not been inadequate. given that domestic and family violence makes up approximately 60% police responses (and resources), is the leading cause of homelessness and is a factor in up to 80% of child protection matters resulting in referral to family support services, with an extraordinary impact on productivity and at a huge economic cost across NSW we need a public health approach with an extensive campaign similar to approach taken with cigarette smoking; wearing of seatbelts; COVID 19 more understanding and compassion and validating of people experiencing domestic and family violence
- I think that as long as the onus of prof is remains so stringent it would be hard for the police to act as even the DVLO's don't have the training to do so, let alone regular duty police. It is up to government to legislate it, so it can be acted upon and enforced.
- It should not matter which officer is on duty, there should be a uniformed response recognising all forms of control.
- More in depth and compulsory ongoing training in domestic and family violence. Many experienced officers I have spoken with have indicated they did not fully understand domestic violence, which tended to colour their responses.
- Significantly more training. More than online modules. An intensive (even post grad) level course for offices who respond.
- Much more training on domestic violence, mutualising language, primary aggressor determination. Ongoing in depth training at a percentage that reflects their contact with domestic violence e.g. if 80% of work in particular LAS's is domestic violence then 80% of their training should be about domestic violence.
- Re-directing policing resources to fund housing, health, employment, childcare and other social measures.
- Sharing of information through a central database with RSPCA/AWL.

- Being able to act on stalking behaviour, not waiting until something happens to bring about an ADVO, greater police awareness of the dynamics of domestic and family violence, move DVLOs.
- I used to work in both Lake Illawarra and Nowra police stations as a social worker for domestic violence victims. There needs to be social workers in every station to assist police and victims of domestic violence.
- A law change to shift the emphasis from physical incidents to a pattern of abusive behaviours over time, the updating of tools, resources, operating procedures and guidelines, more investment in training and professional development in relation to policing domestic abuse, including cultural and attitudinal change components and managing vicarious trauma. Police responses to domestic and family violence would also be improved if there were more independent oversight of complaints. Further, all police prosecutors dealing with domestic and family violence matters should be highly specialised.
- It's varied responses and inconsistencies that are the problem. It needs to be a bedrock and extensive part of police training.
- Specialist training, trauma-informed training and practice, a total change to the way they frame victims and an understanding of long-term effects of coercive control
- Currently when police don't have sufficient evidence of criminal behaviour, they are unable to take any action to protect victim-survivors or curtail perpetrators behaviour.
- I think that slowly it is improving, possibly continued education among the force, old and new, not only in the legislation relevant to them but also in the different forms of abuse and how to better relate to the victim.
- Police absolutely need more domestic and family violence training, so that even if they can't do something they can respond appropriately so victims at least feel heard
- 1) I think the idea that perpetrator has to disprove coercive control is a good one - shifting balance of proof. 2) Police must be able to access records across cases. Many perpetrators have multiple charges and multiple victims. This is not used enough. I find many coercive controllers use a pattern of going to the police and reporting first before the woman has had a chance to report. 3) This comes straight from a client - there is a register of sexual assault incidents at Mascot Police, which was a register only. My client suggests that a register of coercive control be kept that can later be drawn on to create evidence.
- Education and training at all levels.
- More DVLO's available to assist women with statements, as they do not feel comfortable with male officers.

- More trauma-informed training. Have more nuanced understanding of incidences where it appears the female is the aggressor.
- More empathy and compassion for the victim when the law is unable to support the person, not being dismissive of their experience, validating what they are going through, privacy and confidentiality when speaking to the victim
- They need to weed out the Men’s Rights Activists and perpetrators in their ranks. Major cultural change required. Women's police stations staffed by feminists should be introduced.
- AVO's not just based on one incident. AVO's last more than two years.
- Training to the aspects of domestic and family violence
- Better training.
- Greater understanding, more training, collaborations.
- Taking concerns seriously, not immediately concluding that Family Law involvement means 'hands off' allegations of violence or abuse.

**Q6 Does NSW civil and criminal law currently provide adequate ways for courts to receive evidence of coercive and controlling behaviours?**



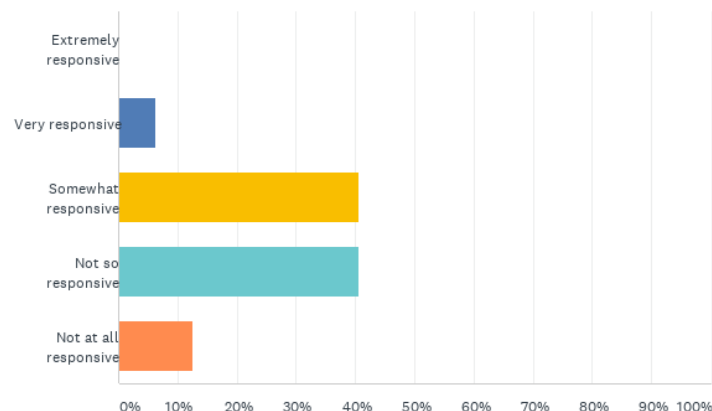
**7. How could the NSW law be improved to ensure the evidence regarding DFV is admissible and is given adequate weight in civil and/or criminal proceedings?**

- Being able to produce ongoing evidence and look at how the system can be used within the control of domestic and family violence.
- They need a stronger focus on pattern identification, intent of harm and statements of victim survivors.

- Continue to improved recording of contemporaneous incidents; improve interviewing for and recording patterns of behaviour and the impact of same that = coercive control; Roll out of training to all frontline services working with victims; admission of evidence from frontline service providers who are working with victims.
- Currently it often depends on the Magistrate and his understanding of domestic and family violence and their willingness to impose sentences that reflect the offending. Like sexual assault, it is often one person's word against the others'. I think there has to be the scope to have something similar to the Moorov doctrine where similar facts evidence was accepted re a course of behaviour.
- Training of magistrates.
- I can't answer regarding criminal proceedings. In relation to civil proceedings, such as AVO's evidence can be heard about previous domestic and family violence including coercive and controlling behaviours as the test is are the fears of the protected person reasonable? Therefore, context needs to be admitted to explain current fear. This is not an issue in AVO proceedings so long as the Police (who are the main applicant in AVO proceedings) take a full and thorough history and have the knowledge, empathy and rapport to ask the appropriate questions.
- I don't think this is possible given the incident-based nature of the system and lack of understanding of coercive control, the blurry lines, as well as other structural issues.
- Law reform (with carefully drafted provisions to criminalise coercive control), and training and specialisation of police and the judiciary. This is of particular importance as the admissibility of context and relationship evidence is largely at the discretion of the court. Coercive control should also be explicitly recognised as an aggravating factor in sentencing to recognise the seriousness of an offence committed within that context, rather than merely being a factor, which may be taken into account, based on case law.
- We need a separate offence and better integration of state criminal law and the Federal Family Law system.
- It should never be treated as a past history that cannot be brought into the current situation. All evidence of their behaviour needs to be accounted for in civil and criminal proceedings. A pattern of behaviour is important to establish as it also gives motive to why women might finally respond in a violent act. Too many laws are around men being able to get away with things and being protected it needs to be around the victim, understanding the crimes and patterns of behaviour
- Not sure, but improvements are needed.

- Change of requirements as to what is actually required.
- Allowing audio and video recordings to be admissible more as a matter of course as they often give the tone and intimidation tactics are more evident. In cases where women have taken, the risk to use this it has been successful but it is still tricky to submit this type of evidence.
- History.
- Specialised legal representation.
- The justice system to be trained and act on patterns of coercive behaviour rather than dismiss it as vexatious behaviour or argue that there is no evidence.
- It is very difficult to get the courts to admit and give weight to contextual factors such as long-term patterns of abuse and power imbalances within the relationship. The magistrates need to be directed to take account of these factors.
- Ensuring mobile messages SMS and voice mail are easily accepted as evidence of harassing and controlling behaviours not just threats
- Taking the impact it has on the victim into account
- Create a new offence and allow 'course of conduct' evidence to be considered. Also, training of judicial officers and huge training for police.
- Extension of evidence guidelines. Use of video interviews that enable the client to not have to attend the court. Reinstatement of Women's Domestic Violence Court Advocacy Service workers onsite at police stations.

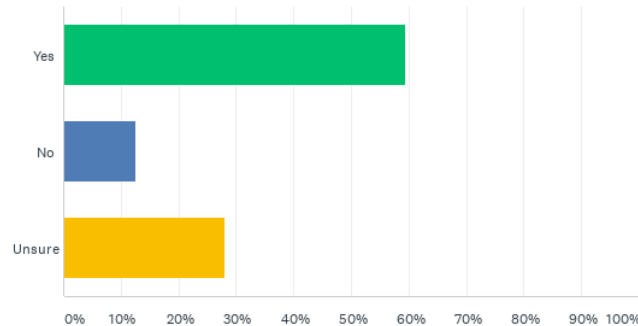
**Q8 How do you believe the current NSW justice system is dealing with course of conduct offences such as stalking and intimidation?**



- Where there is persistent breach of AVO it is very difficult to get Police to charge for breach or for other course of conduct offences such as stalking and intimidation e- course of conduct much more difficult than incident and incidents. Even where there is an AVO in place and stalking is reported contemporaneously and there are witnesses difficult to get a Police response.
- Again it is dependent on the magistrate, prosecutor and individual Officer in Charge and their knowledge of domestic and family violence and willingness to proceed
- This is a knowledge gap in the police – if it's not black and white and "breachable" it doesn't get pursued. Too much concern over if it would "stand up" in court.
- I do not see many victims with stalking and intimidation charges against the offender where the victim has clearly been intimidated and harassed.
- Often condition 6 on ADVOs is used where children are involved. This is then used by police to dismiss complaints of stalking and intimidation
- It takes some time for law enforcement agencies to fully utilise new provisions to the best of their ability. It requires an investment in training and professional development as well as monitoring and evaluation. Over time, police responses to stalking and intimidation is improving.
- When most police officers are men or patriarchal they protect men and minimise women. The impacts of these acts are not seen to their full extent and need to be addressed appropriately
- Depends on Person In Need Of Protection (PINOP), who they are.
- Many of my clients are not being taken seriously when reporting stalking and intimidation to the police and being dismissive to them
- I have rarely seen these charges being used.
- Training will be critical to the success of the new offence.
- System is not currently adequately responsive and or safe for victims.

**9. Do you perceive any risks for vulnerable groups of women if coercive control is criminalized? E.g. Aboriginal and Torres Strait Islander women, women incarcerated, women with disability, women on temporary visas, older women. What are the risks?**

Q9 Do you perceive any risks for vulnerable groups of women if coercive control is criminalized? Eg Aboriginal and Torres Strait Islander women, women incarcerated, women with disability, women on temporary visas, older women.



- lack of community education, the law not understanding cultural ways
- There is the issue of misidentification of victim survivors, but a perpetrator can build a pattern of coercive control that he (mostly) might use as a case against a temporary visa holder for example to threaten or evoke them not getting a permanent visa. The state in cases of temporary visas contributed to coercive control
- Yes- currently there are incidents where wrong person is identified as the perpetrator. This risk will remain if coercive control is criminalised and there will be perpetrators who manipulate the law to seek an advantage. These risks increase whenever the subjects do not conform with heteronormative and racial assumptions as individuals in minority group or vulnerable groups are much more likely to be stereotyped in terms of behaviours or interpretation of behaviours by Police, Judiciary and service providers. Again very important resources for good training is provided and recognise high level of skill required in interviewing and documenting.
- The usual risks that making formal complaint to police carry for them already as well as escalation to other forms of violence
- The women will learn nothing will happen, they will feel powerless, trapped. I feel there is an increased risk of death/suicide.
- Women in many of the vulnerable groups as listed are in my experience more likely to raise their voice, argue, swear or use colourful descriptions, which can be misused by perpetrators and Police as coercive control.
- As per ANROWS research there is already a huge issue regarding these groups being misidentified as primary aggressors.



- Less likely to be believed
- It is my view that the criminalisation of coercive control (carefully drafted and with investment in system reforms and community education) will in fact improve police and court responses to Aboriginal and Torres Strait Islander women, women incarcerated, women with disability, women on temporary visas, older women. This is because their evidence of coercive and controlling behaviours on behalf of their abuser will become directly relevant to any domestic violence offence, facilitating greater context of power and control dynamics, and they will be less likely to be inadvertently criminalised as a result of resistance violence. It is important, however, that each of these groups be expressly consulted in the development of the provisions and accompanying system reforms, as well as community education and awareness activities. There are many other reforms, which need to be effected to reduce the risk of criminalising vulnerable and/or marginalised populations. E.g. safeguards in relation to the exercise of warrants for arrest in the event of a report of domestic abuse. However, such necessary reforms are not particular to an offence of coercive control.
- There is further exploration to be done, and we need to consult. But this should not stop the push to criminalise.
- Perpetrators always flip back the crime onto the victim and they are exceptionally good at this, which the system allows them to do it. It needs to be highly visible how these men behave and other perpetrators so that all victims of crime can be protected and women who are victims are not charged or gaoled.
- Concerns re: misidentification of the predominant aggressor, and sentencing- referrals for treatment should be prioritised over jail terms in the first instance. Placing men on a good behaviour bond in the absence of any treatment is not sufficient.
- Lack of awareness and an inability to report and protect themselves
- Women whose perpetrator understands coercive control and can create evidence of it. Given perpetrators lie routinely in affidavits, often facilitated by unscrupulous lawyers, there is some risk with this legislation.
- Risks would include not being able to identify who the Person In Need Of Protection is.
- There is a high risk these provisions will be used against women by male perpetrators. Men are likely to attempt to have women prosecuted who impede their access to children and in this way circumvent the family court.
- Burden of proof too high for women with intellectual disability
- Repercussions from the perpetrator

- I don't believe the risks are amplified, because cases that have come to prosecution in England and Scotland have overwhelming been men (around 95%), so offences of this nature are clearly able to show that coercive controlling behaviours are a gendered issue. Of course there are additional concerns in Australia with the impacts of colonisation on Aboriginal and Torres Strait Islander people and rates of incarceration of indigenous men are high. However, safety for women and children and freedom from being murdered and assaulted must come first.
- Not safe to attend the police station or courthouse not feeling heard or acknowledged fear of child removal.

**10. Sexualised violence is often part of coercive control behaviours. How can this be better recognised to lead to just outcomes?**

- Including consent and all forms of gender inequality into the frameworks.
- It should be considered sexual assault in its own right.
- Women to be believed.
- Education. People need to understand what "sexualised violence" is.
- Better training for those officers involved from the start. Ensuring the victim is linked in with an appropriate service who can advocate and hold their hand on the arduous journey.
- Police and magistrate training.
- Police could ask about times you felt pressured to do things sexually that you didn't want to do rather than labels such as sexual assault.
- Use of restorative justice principles to understand the needs of victim-survivors while holding perpetrators to account.
- It is our view that criminalising coercive control will make it more accessible for victim-survivors to access protection and justice in relation to sexualised violence.
- Including it as part of a course of conduct offence.
- There needs to be more education in every area to understand coercive control and the power that man exhibits other perpetrators especially in sexual violence. The problem is it's seen as one individual act rather than part of a whole criminal way of being towards the victim.
- Pressure or coercion for sex should be included and reproductive coercion.
- More awareness and reduced stigma.
- Training, questioning.
- Including sexualised violence as an indicator of coercive control.
- That when a Person Of Interest says it is just rough play gone wrong, that police do not take it as fact.

- We need more feminist police and magistrates. Unfortunately, there is a strong sense of male entitlement operating in the minds of many men in authority that impedes their judgement in this area.
- More forensic support to document sexual abuse. There is usually no other person who witnesses this type of abuse so proving it is difficult - his word against hers
- Recognition in a course of conduct offense that sexual violence may be one of the pillars used in a particular relationship.
- Sexual violence requires the same level of attention as domestic violence.

#### **11. What are some advantages for victim-survivors in criminalizing coercive control?**

- For the abuse to be seen within the law and acted upon
- They don't need to wait until they are physically assaulted to come forward, provided the police is able to recognise coercive control patterns.
- Recognition of the nature of domestic and family violence; benefits of a strong education campaign; strong statement that this behaviour is unacceptable; opportunity for greater empowerment
- They could feel validated, supported, and protected.
- They will be able to seek protraction as well as compensation if their abuse is recognized by the law.
- The control is then recognised as domestic and family violence. The possible escalation towards murder may be eliminated.
- Validation they are not crazy and that there will be consequences for the offending behaviour  
Knowing that they were the victim of a crime but have survived and can be a strong role model for other potential victims, e.g. children, friends, neighbours, colleagues
- They will have their most damaging tactic recognised for the harm it causes. Men could be diverted into more programs (subject to funding).
- I can't see any at this point as the system is not sophisticated enough to properly apply them. We need to focus on skilling up Police rather than bringing in new laws that will also be misapplied.
- Not having to wait for a violent assault. Recognition that animal abuse as a form of coercive control is an indicator of most at risk victims/ dangerous perpetrator and offering some remedy prior to violent assault.
- It would: validate the experiences of victim-survivors and afford a language through which to describe their experiences, increase community and public awareness of domestic abuse having a primary prevention effect, catch abusive behaviours that are currently outside the scope of the law, lead to improved police, court and service responses to domestic and family violence across the board, lead to the law more accurately reflecting the experiences of victim-survivors, send a

message to abusers that the behaviour will not be tolerated by society having a deterrence effect, make it easier for victim-survivors to reach out for help, lead to evidence of coercive and controlling behaviours being directly relevant and thus admissible in court, make it easier for victim-survivors to access the protection of the law, reduce the likelihood of victim-survivors being misidentified as primary aggressors (due to the context of the relationship being taken into account), provide for greater recognition of the seriousness of such an offence in sentencing, and could assist in earlier diversion of abusers to rehabilitation and behaviour change programs.

- A truer reflection of their experience. Better evidence for family law matters. Better protection for AVOs and breaches
- It establishes a pattern of behaviour. There's a way to collect evidence that could lead to conviction. More within might come forward because it's the undefinable Crime been given a voice. Women just knowing that this is criminal might help in power them or too.
- Recognition that coercive control is harmful and not an acceptable behaviour in our society.
- I think it will add to some victims feeling an increased sense of safety and also an ability to gain a sense of self-back.
- Women who are in the family court or parenting post separation are often experiencing coercive control only and it is overwhelming so giving a language to this concept will help understand the landscape of post separation abuse. I'd really like to see the documentation of fathers who fight hard for access to their children in the family court then drop all responsibility after court and never took any responsibility before the family court proceedings. This is coercive control and needs to be documented more.
- Safety and protection. Mental health.
- Improvement in mental health and wellbeing as their experience is validated and they will feel safer.
- It can be significant in the healing process to have a formal and external acknowledgement of the destructive nature of coercive control, as this is something victim-survivors intuitively know, or come to learn about through counselling/ other therapeutic support. Hopefully it will start to shift public awareness of the warning signs
- Stopping escalating behaviours of Person Of Interest. The mental well-being of women and children. Saving lives.
- There are many women who are trapped in coercive controlling relationships where there is no overt violence and this would provide them with some avenue of recourse.
- The trauma experienced by this type of abuse will be recognised and the woman will feel validated (not feeling ashamed that her abuse is less than physical abuse. If penalties are made against a

perpetrator, there is recognition that the Just System and the Community in general will not accept it!

- A proper reflection of their actual experience. Incident based prosecutions and views do not capture the full reality of living in a coercively controlling relationship, and often don't capture what many describe as the 'worst part' of their experience - the isolation, the surveillance, the curtailment of freedoms and the constant walking on eggshells.
- Apprehended violence orders for coercive control offenders

## **12. What are some disadvantages for victim-survivors in criminalizing coercive control?**

- for their own mental health behaviours to be seen as a criminal act
- The issue of misidentification of which party is the perpetrator
- Risk of wrong person being identified as primary perpetrator; without resources to match risk that system becomes even more overburdened.
- I don't foresee any.
- Escalation of abuse or using other forms of abuse not yet recognized or more difficult to prove.
- Breakup of the family. Blame from those around them that what happened was normal and they are being overly dramatic. In some cases where women are from other patriarchal cultures this can have ramifications for them and their extended family. It can also mean they have the fear of being sent back to a country where they will be ostracised.
- Police mishandling the cases and investigations.
- I have a significant caseload dealing with women as defendants in AVO's who are wrongly labelled as perpetrators. It takes a lot of my time and many others writing representations to Police to ultimately explain they are the victim and the AVO is withdrawn. If these women now have a criminal charge against them then it will be a lot of wasted taxpayer money on Legal Aid defending these charges for those that are eligible. For those victims that are not eligible they will either have to represent themselves against the Police and the perpetrator or pay representation to prove they have been wrongly labelled the perpetrator. Big waste of court time.
- Again, the emphasis will be on victims having to re-tell their stories many times, being re-traumatised and accused of lying if it ends up in court. There is also a risk of normalising coercive control behaviours – the line between normal relationship difficulties and coercive control is in fact very blurry.
- Burden of proof through the court system. Lack of community understanding about what coercive control is and how dangerous it is.

- It is not so much that there are disadvantages of criminalising coercive control per se. Rather, that there are risks that the provisions are not drafted in a manner which prevent systems abuse by the primary aggressor, and that the law change is not accompanied by the required investment in system reforms and community education, which may lead to an underutilisation of the new laws.
- None.
- The perpetrator will try and use the same pattern against the victim but they already do this. But if it's not policed properly, they will continue to get away with that behaviour.
- Risk of protracted engagement with the legal system. Difficulty articulating and proving the type of coercive control abuse they have experienced. If men are charged but found 'not guilty' will this empower them even more to continue their abuse?
- More demand on them to report and provide evidence.
- Perpetrators adapting and using the same claim.
- Some would not want behaviour criminalised. Identifying perpetrator.
- Burden of documenting incidences and evidence for the police.
- The legislation is likely to be used to prosecute many women who are attempting to defend themselves and their children from male abusive behaviour.
- Repercussions from the perpetrator. Proving the abuse with little evidence. Police saying 'but he hasn't hit you'
- None that I can see.
- Retribution from the offender and use of areas such as family law and abuse of extended family and animals.

**13. What are some elements/behaviours of coercive control that would be important to ensure are included in any definition of the offence?**

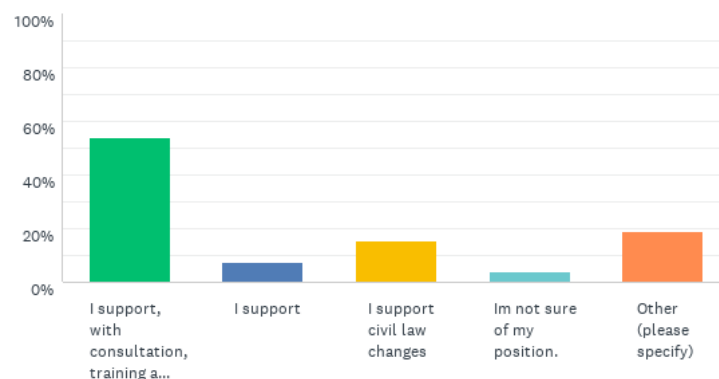
- Power over, control, manipulation.
- Electronic stalking, using children and animals as threat to elicit compliance, sustained pattern of depriving victim survivor of exercising their human rights and instilling fear or any sort.
- Clear definition of meaning; and forms of evidence that can be evidence that can be put forward to demonstrate the pattern of behaviour; clear spelling out of penalties for convictions.
- Definitely something around the children being used.
- Extant of coercive control, long term impact and the different behaviours it includes as some of those are still very prevalent in traditional societies.
- Common behaviours exhibited by the perpetrator once a relationship has ended. Stalking, threats against victim, family, and friends.

- It creates invisible chains and a sense of fear that pervades all elements of a victim's life. Isolating you from friends, family, colleagues, and spiritual supports. Depriving you of basic needs, such as food. Monitoring your time. Monitoring you via online communication tools or spyware. Dictating all aspects of your everyday life, such as where you can go, who you can see, what you can wear and when you can sleep. Preventing you from accessing support services, such as medical services. Constantly belittling you e.g. saying you're worthless. Humiliating, degrading or dehumanising you. Financial control. Threats and intimidation - particularly subtle, psychological.
- Prioritising the victim's view of if it was dangerous.
- I don't think we are ready nor need another offence.
- Loss of liberty and as specific as possible.
- Abuse or threat of abuse to animals (note: not constrained by a definition as the property of the subject persons). Treatment of animals including care offered or refused and contact with animals as a means of punishing or controlling another person.
- Violent, menacing or intimidating behaviours towards the victim (including such behaviour directed towards a child, relative or animal), controlling, regulating or monitoring the victim's day to day activities (includes financial and spiritual abuse), frightening, humiliating, degrading, or punishing the victim (including e.g. threats of self-harm or suicide, threats to withdraw support for a partner visa etc.), depriving or restricting the victim's freedom of action, isolating the victim from their friends, relatives or other sources of support, and making the victim dependant or subordinate (includes inducing drug dependency).
- All of the pillars of control – psychological, financial, isolation, threats - everything we've spent the last decade educating the community about.
- The mind games. The conditioning. Pattern of behaviour. The red flags. The way that the victim is blamed in how perpetrators report. The language that is used. Stalking, controlling, using children to continue the abuse, using animals to further abuse and control victims and their children. Exposure to violence or sexually explicit acts for children, Trauma responses from victims
- Threats of violence (lashing out with fist without actually connecting), unreasonable rules that women must follow.
- Gas lighting – continually changing stories/information to the victim in order to create confusion, take away confidence and self-esteem. Isolation – isolating the victim from loved ones, support network. Monitoring.
- Allegations that mother has a mental illness when she doesn't, active isolation from friends and family, gas lighting, financial abuse, use of court procedures and vexatious litigation especially lying

in affidavits should be recognised as a serious offence and evidence of controlling behaviour, alienation of children, digital stalking

- Matters relating to blackmail regarding children or mistreatment of children; Pattern of behaviour; Control exerted over every day, mundane behaviour/ responses/ tasks; Gas lighting.
- It should apply specifically to male violence against females.
- Ongoing harassment. Multiple phone calls. Driving past their home. Intimidation. I would love to see that perpetrators who use the Family Court, Child Support, Centrelink as a tool to continue their abuse are held to account whenever possible.
- The full spectrum of abusive behaviours, underpinned by the overarching principals of a course of conduct a reasonable person would consider as instilling fear, compliance and isolation in victims.
- Financial control, asset control, emotional blackmail by threatening public, workplace and extended family humiliation.

**Q14 Please indicate your stance on criminalizing coercive control:**



- I don't support it as I don't believe it will make any improvements - I think it is being used as political point scoring, no amount of training will address the issues as it is too nuanced and complex.
- I support criminalisation with training for the whole sector – including police and judicial officers.
- I think it should be made a criminal offence and we need to have proper training consultation and resources for the whole sector including police officers courts, judges, staff basically everyone.
- I think either 10 or 3) above or good solutions but I'm not sure which one
- I support it as a criminal offence and grounds for an ADVO providing it cannot be used against women.

**15.If coercive control legislation is introduced, how can the NSW government introduce coercive control legislation safely?**

- Community education and support



- Long lead in time with proper education and resources for the Multicultural sector, the domestic and family violence sector is not sufficient
- Further consultation and research needed in terms of how done in other countries/States and lessons learnt. Resource effective implementation strategies and evaluation.
- With lots of training for the police!!
- Not qualified to answer this.
- Follow Scotland's lead
- Training for police/magistrates, more Men's Behaviour Change funding.
- Invest a ton on money in training the Police, changing the culture of most Police stations and improving the rank of DVLO and authority of DVLO's to make other officers accountable for their inaction or misjudgement regarding domestic violence.
- By genuine consultation with a wide range of groups - including releasing a draft bill for consultation focus on loss of liberty.
- Yes. Law reform (with carefully drafted provisions to criminalise coercive control), the development of new tools, resources, guidelines and bench books for police, court and related agencies to reflect the change, comprehensive training and professional development of police, judiciary and related agency personnel, specialisation of police and courts, and a widespread community education and awareness campaign with both state-wide and localised delivery. It would be good to see a reasonable lead in time once the legislation is passed to allow for the system reforms and community education to take place. This should not be too short so as to make it unachievable, but not too long as to cause inertia. Twelve months would be a good time frame.
- With strong consultation with the women's sector as per the Scottish model.
- With training, awareness, trauma-informed training to every staff member, media coverage that is accurate and responsive, organisational training, business training etc.
- Do it slowly. Spend a significant period of time raising awareness in the community, and in police and legal professionals before implementing the legislation. Trial implementation in some Local Government Areas before a broader implementation across the state.
- Legal practitioners must be trained especially Independent Children's Lawyers (ICLs). Right now it is frightening how dangerous ICLs have become, often acting without sufficient training in the pattern of domestic and family violence. I'd be willing to participate in that training. The legal profession seem to be the biggest part of the problem and I say that as an ex lawyer now domestic violence counsellor. The John Edwards case raised that but I've seen frightening

examples over and over again in ten years of practice on the front line. I agree with Liz Snell in her commentary that the system must be trained or the legislation could be dangerous.

- Must have effective training law enforcement, particularly any officers with face-to-face interactions with the local community.
- Ensure it cannot be used against women by male perpetrators.
- Not sure – but widely advertising this type of behaviour is now an offence and has repercussions for a perpetrator. That the justice system and the community will no longer accept this behaviour
- Training, training, training – for police and judicial officers. For the NSW Government to work closely with sector peaks and women's services to implement and develop safely, as they did in Scotland.
- Research and reference to states and countries where it is used and assessed as effective.

**16. Do you see any other potential avenues for reform beyond criminalising coercive control that would increase the safety of people experiencing DFV?**

- Even without the legislation, the police and other enforcement agencies could be more proactive. Movements of perpetrators should be monitored to enforce AVOs.
- yes- training for frontline services and Judiciary; extensive public health campaign; changes to bail act where persistent breaches; use of satellite bracelet to monitor movements of persistent and repeat offenders
- Women only Temporary Accommodation
- Not really as people engaging in these behaviours often will not see anything they are doing wrong, unless they are specifically told it is against the law.
- No it has to be a criminal offence but those who are responsible for implementing the law need to be committed / motivated to prosecute.
- More MBC programs on an individual level (not groups) - coercive control could be a way to divert men to consider their behaviours.
- Yes. Increase funding to women's health, women's refuges, community legal centres, mediation services, children's contact centres etc. so that women have a real choice about whether or not to leave an abusive relationship. If all of these services are underfunded, women's options are severely curtailed.
- Restorative Justice processes

- Offering support for people with their animals and support for animals to people who require it in order to find a safe life for themselves and their family
- Some of these include: Increased funding to ensure adult and child victim-survivors have universal access to specialist and culturally appropriate crisis, legal and case management support as well as income and accommodation solutions to achieve lasting safety and recovery, expansion of the Safer Pathway model to extend referral pathways from health, family, legal, disability, youth, ageing and Indigenous and CALD culturally-specific services, reform to the ADVO form to close the loophole whereby contact may continue with a victim-survivor in accordance with an agreement in writing pertaining to child access, reform to the family law system to shift the focus to child and adult victim-survivor safety (and way from inherent parental rights to child contact) and to ensure domestic abuse is explicitly recognised as negative contributing factor in property matters, and funding to support a comprehensive state-wide but localised primary prevention strategy.
- Reform of the Family Law system.
- We need reforms to policing; we need a specialist domestic violence branch of both civil and criminal courts. We need specialist training across the board. No one can engage with domestic and family violence without actually having training and understanding trauma
- Uniformed service delivery and Education programs rolled out through all schools nationwide.
- Yes
- Restorative justice.
- Yes, provide resources to enable women to more readily bring private ADVO applications and closely monitor police and judiciary for signs of systemic bias against women and remove those responsible as a matter of urgent priority.
- Not presently.
- Increased funding to local domestic violence service providers

**17. Do you have any comments about the interactions between the family court and NSW civil and criminal law that are to be considered in the possible introduction of coercive control legislation?**

- There is a place for civil law actions first and then an escalation to criminal law. The family law needs to take into account restrictions related to domestic and family violence.
- As the family court is a federal entity I am not sure what influence NSW civil and criminal courts have on it.
- It will not work well.

- Yes if this were to go ahead, it would undoubtedly be used by perpetrators to suggest that Mothers are just as abusive as they are because they also have an AVO against them or even a charge.
- The Family Court recognises coercive control but often does it is not taken into account in a way that will bring about workable, safe arrangements for children. Lawyers often work very hard over a lengthy period of time documenting the coercive control behaviours - this confidential relationship is based on trust. In criminal law victims role is only as a witness, and the reliance is on Police to gather the evidence and present it to the court. Police do not have a fiduciary duty around confidentiality nor do many victims find the police trustworthy. If coercive control is prosecuted and dismissed at the state level the Family Court will be bound to take this into account this could have unintended consequences in considering parenting arrangements.
- It is essential that there be specific protections for protective parents taking reasonable action to protect their child(ren) from abuse. This may be in the form of a specific defence, guidance in the form of a statutory guidance document or explanatory memorandum, or alternatively an explicit carving out of any matters relating to child contact which may be dealt with under the federal *Family Law Act 1975* (Cth).
- Plenty - too many for a brief survey - but the Family Court also needs to be educated and reformed to properly understand domestic and family violence and risk.
- The courts need to understand domestic and family violence and not isolate issues out these. The family law court is important and it needs to be there as a specialist service but it cannot operate without a specialist TV service as part of it. Likewise, in the criminal court we need to have a specialist domestic and family violence arm. Maybe we even need a specialist domestic and family violence court but it feels crazy to set up another one when they should be an adjunct to what's already there
- I feel that there could be better cohesion between the two court systems and when there is coercive control or any domestic and family violence for that matter when there is a Family Law matter that the interaction between the parties is limited, perpetrators of coercive control are master manipulators and game players and will use every means possible to get to the victim even if that means playing games with the innocent lives of children.
- Women with children are routinely being refused protection by the police and courts. There is concern that coercive control legislation may be used by male perpetrators to circumvent the family law and instigate prosecutions against mothers who attempt to protect their children by impeding their contact.

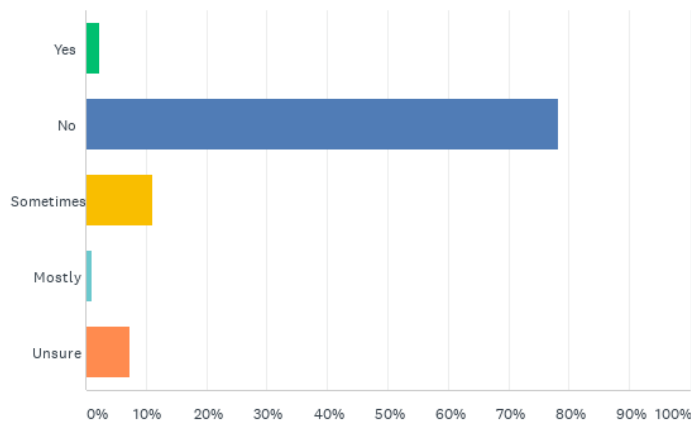
- Evidence of coercive control in criminal matters and AVOs should lend weight to family court matters. Australia's federal system is unique in that it is dealt with at separate levels. COAG should look at how this can be harmonised.
- Family law needs to acknowledge and consider the use of domestic and family violence and coercive control as a form of manipulation in the Family Law Court.

**Appendix Two – DVNSW lived experience survey**

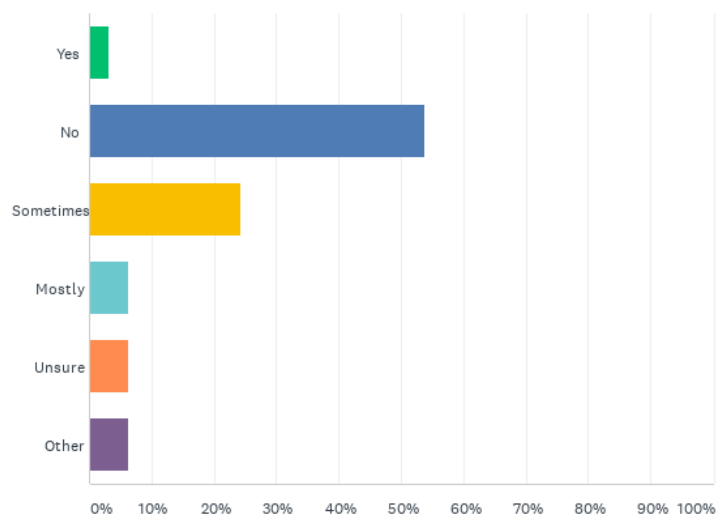
Survey conducted in January 2021, with 179 responses from victim-survivors who self-identified as having lived expertise of domestic and/or family violence. Note- only open-ended responses are shared where consent was recorded.

**1. This is for people with lived experience of domestic violence. Is this your experience?**

**Q2 In your opinion, does existing criminal and civil law provide NSW police and courts with sufficient powers to address domestic and family violence, including non-physical and physical forms of abuse?**



**Q3 In your experience do police generally act diligently regarding domestic and family violence (DFV), including non-physical forms of violence?**



**4. What improvements could be made to policing of coercive control in DFV from your experience?**

- I think police do respond well when they do respond, in most cases, but the problem is that they often only respond when DFV has escalated to a point at which it is physical or that it is so public that it can't be ignored, the response is reactive and respond to certain types of violence or crisis situations only but there isn't mechanisms in place to respond to all other forms.
- Very extensive rollout of community education, plus training of the police force, with oversight and enforceable standards. Unfortunately, it is known to be a frequent occurrence that police engage in victim blaming which can result in criminalising the victim rather than the perpetrator.
- DV education and compliance, to show why actual violence is not needed by a domestic terrorist.
- Specialised training **MUST** be given to frontline workers. Abusers are manipulative and are well versed in ways to hide their abuse and make the victims seem unstable. Many women who experience coercive control do not realise that is what they are going through. In my case, it went on for 14 years and I did not understand I was in a Coercive control situation. It was horrendous and ended with me having to flee with my daughter.
- Most police seem to be quick to the attack, not willing to do what is right that I have witnessed. I saw a 16-year-old boy dumped by his parents then put in a situation he couldn't avoid because the parents suck and the kid with charged with violations because the father played his mental health card and knows exactly what to say to get out of trouble. POLICE need to be taught how to better communicate with people and to deescalate situations. They need to be trained better in how they approach people of the community, THERE IS no trust or faith in police these days.
- There needs to be more interaction with the community on a level of understanding and respect, even for dipshit parents who need help for their issues so their children can stop suffering for it.
- Police were called several times, but because he never physically threatened me, they couldn't help, despite my mental state being so degenerated I was convinced he was going to kill me. They were understanding, and it's tough without physical proof, but perhaps psych evaluations could be undertaken when these reports come in to ascertain if someone is in trouble

**5. What are some advantages for victim-survivors in criminalizing coercive control?**

- Non physically violent forms of DV are more likely to be recognised, and acted upon by the police, and legal/justice system. Community recognition and understanding will increase. Victim and perpetrator understanding will increase.
- Recognition that coercive control even exists.
- Help, feeling respected and listening to, safety, support. Hopefully change.

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- That it makes it harder for the perpetrator to continue their abuse after leaving the relationship. Also that they cannot agree to an AVO “without admissions” and it is a more serious charge with implications that might make the financial and family legal separation process easier
- Making it a definitive crime enables survivors to firstly recognise this behaviour as abuse to control one’s life. As a victim/survivor calling perpetrators out for what they are when they engage in such conduct as criminal helps remove a lot of the displaced guilt.
- It will articulate what we are going through. It's not a single incident but a series of incidents and manipulation
- It's a step in the right direction towards wider social change, it recognises that coercive control is real, naming and labelling behaviours that are the foundation of the power imbalance that underpins DFV validates the victim-survivors experience, and it places responsibility where it should be placed i.e. with the perpetrator, it can contribute to greater education and recognition in the community of the signs of a violent relationship, and as mentioned hopefully contribute to wider social change. For the perpetrator to it is also a clear signal that although they may try, they are going to be held accountable by a society that has ensured there are appropriate consequences for such behaviour, and one that will come to the aid of the victim-survivor if these behaviours continue. The victim-survivor may not be able to stand up and respond to their perpetrator, it may not be safe to do so, but criminalising coercive control sends a clear message that the law will stand up to them
- The ability to take some control of finances and decision making. A fair settlement of finances possibly.
- It would give power back to the victim and children in these situations by allowing courts to remove children, or limit time spent with children by violent people.
- Protection from manipulation
- Being able to seek protection from this type of abuse and consequences for the perpetrator to prevent them from doing the same thing to someone else
- Open-Ended Response
- Better responses from police services or judicial decisions on continuous patterns of harmful behaviour, even if physical violence is only occasionally the tool used for abuse and control.
- Recognition of abuse which might go unnoticed by victims and Early intervention
- It will stop the diminishing of women’s mental health and living under the conditions of constant fear. It will assist in identifying post separation abuse and alienation of children from their mother and assist in women’s voices being validated and in the family court. It will identify systems abuse by



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men who use courts, threats of reporting women to child protection, police, Centrelink etc. as a form of punishment or reprisals in their attempts to leave a violent relationship

- To receive proper help! I had to keep fighting on my own and almost took my life many times, as it was all too hard!!! We need protecting and no one could protect us! The perpetrators need to be held accountable. They know nobody can stop them, they believe they are above the law because law enforcement cannot do anything unless they lay a hand on you or use the words to the effect of "I will kill you". These people are smarter than that; they will get to you in other ways.
- There are many reasons but the main one is bringing awareness to the nature of coercive control. For example, an abuser could brag how he never touched the victim but a victim suffering from psychological abuse could be driven to suicide - a most violent form of physical violence. Coercive control needs to be named and then followed-up with laws and support mechanisms to protect victims. Psychological injuries are just as debilitating as physical injuries caused by coercive abuse. Once this is criminalised, victims would feel better empowered because they know that the law supports them.
- This form of abuse has previously not been recognised. It is bad enough in itself but is often a precursor to other forms of abuse. Stopping abuse at this point may save some physical abuse. It also allows victims to better understand that the abuse is not okay and not normal.
- It will be not only better recognized by people involved in domestic violence field, but also by the general public
- Some advantages would be the following 1. Stopping and preventing the cycle of domestic violence. 2. Saving lives before women and children are killed or left seriously injured both physically and mentally. 3. Allowing the rights of women and children to live in the community safe from violence and harm. 4. The perpetrators whether male or female could seek assistance and treatment to address their behaviour in the hope of rehabilitation before ongoing damage harm and death occur to their victims.
- Getting an AVO sooner
- Recognising that it is a part of the pattern. When someone uses coercion to control, manipulate, disempower, shame and humiliate to gain advantage that is abuse. Criminalising it holds the abuser to account and recognises the long-term impact on the victim.
- Having coercive control, which is the core of DFV, recognised and punished. At present, law enforcement utilises a very narrow understanding of DFV that is limited to physical incidents of violence. The entire gamut of emotional, financial, psychological, and social abuse is invisible to them.

- Victims will feel safe and be able to move forward
- Hopefully perps will be charged and convicted but I have no faith in police or courts to enforce it.
- Coercive control was a huge part of what was happening prior to the first physical assault but despite knowing it wasn't right there was nothing I could do and if it's not considered illegal it's again just another tactic to tell me I'm imagining things or things aren't so bad or I've never hit you...I didn't know until after I left that these things were all part of the DV cycle
- Awareness in the community
- Validation, perp held accountable, the community will see it's a crime and gain a better understanding of what coercive control looks like,
- Protection from this life crippling practice and consequences for perpetrators
- Long-term safety. Personality traits that use violence as a way to control evolve into manipulative ways long term, especially when children are involved.
- Better understanding of complexities, behaviours, no line between bad enough, e.g. violence, fear of proceeding with charges and limitations and generic unfairness towards victims, in and of criminal law
- With coercive control, a victim has no physical evidence. How can police do anything if no law has been broken?
- I have lived a life of fear, sadness, grief and terror where I felt I was walking on eggshells for 14 years. I did everything I could to protect my daughter but we are BOTH scarred from years of cruelty and intimidation. We are both absolutely traumatised. Getting away from living with a controlling sociopath was a hugely important step but as a mother I now face the sickening prospect of sending my daughter, unsupervised, to him for custody thanks to the law automatically granting 50/50 custody without any recognition of what we have been through whatsoever or any acknowledgement of his violent, dangerous behaviour. He is now exhibiting coercive controlling behaviours towards my 6-year-old daughter. The law has done nothing to protect us. If Coercive control is criminalised it would mean his behaviour will be recognised and he may have to do a course/undertake counselling (which he otherwise refused to do) to recognise his many health issues and finally begin to address them. Instead, it is guaranteed he will go on to perpetrate this violence with others in his life, including his daughter. I hope it would also mean that custody is NOT automatically granted to people who exhibit such violent, manipulating and deeply disturbing behaviour. If it were criminalised, we may again begin to feel safe and heard and our struggles acknowledged instead of completely ignored.

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- Too late once they've survived it. They need it when they're in the situation. I guess it might help stop it from happening to anyone else. But they are so devious and secretive. I'm guessing only long time education for generations would change anything. It starts in the cradle.
- Feeling safe and protected
- The recognition that domestic abuse is far more than physical abuse.
- A greater understanding of this hidden form of abuse - it identifies and labels abuse
- In my opinion, the biggest benefit to the above would be the awareness that such a law would provide. Victims (and families/friends etc.) would be aware of coercive behaviour being a criminal activity and would possibly seek help sooner. Then of course, there is the obvious answers such as accountability for behaviour, no immediate fear of reprisal etc.
- Safety, retribution, acknowledgment
- It might make the harassment, bullying and intimidation stop. It might get coercive control recognised as child abuse and acknowledged in the family court.
- Greater safety; freedom from abuse, intimidation, bullying and control; greater safety for children; consequences for the perpetrator.
- It will provide real consequences for people who use coercive control. It will also acknowledge the terrible impacts it has on victim/survivors.
- Acknowledging it is a crime. & validating their experiences instead of being written off. Transparency of risks & tactics in parenting and leaving. Clarity that it is not okay
- Hopefully it can stop the perpetrators dragging their victim-survivors through family court & being abused further by the system. Change the police culture & how they assist victim-survivors of DV & coercive control. Educating the public on coercive control, having a wider spread understanding.
- Helps identify a pattern of behaviour that increases risk of imminent harm. Recognises psychological terrorism as a criminal offence
- It would force police to look at "patterns of behaviour" rather than looking at events in isolation of each other. This would result in higher rates of charges and convictions (therefore accountability and consequences). It would help victims to stop the perpetrators abuse and obtain safety.
- It has taken me many years of being out of the abusive marriage to understand that I experienced coercive control. Because there was no physical, evidence it was like it didn't happen. However in dealing with the psychological affects I experience I have come to understand how bad it was, and how deeply I was and am still affected. So for me an advantage would be to have the abuse acknowledged and recognised as a crime, the same way physical injuries are.

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- Earlier intervention Preventing complete disablement of partners and possibly children to the perpetrator prior to other physical and life threatening forms of abuse Permitting independence of the survivor and acknowledging the importance of independence
- Currently not a crime, no help from police escaping that kind of abuse. Turns you into a nervous wreck and has an impact on all areas of your life. Maybe it will stop some men behaving this way.
- Protection and holding abusers accountable
- Police and the judiciary only count if you are black and blue on the outside they don't care if you are black and blue on the inside. Criminalising coercive control will capture the most insidious form of dv where you are controlled to the nth degree and you have lost who you are and you become a shell of a person unable to think for yourself or make decisions. If it was criminalised the police and judiciary would have to take it seriously and do their jobs instead of sweeping it under the carpet like they do now. Perpetrators would also be given a clear warning that their abuse will not be tolerated and it will mean that survivors will have a better chance of healing and moving forward instead of still being stuck in a coercive controlling relationship many years after separation as the Family Court aids and abets the perpetrator by giving them the power to still control you. Too many victims are constantly victimised by not only the perps but by the police and the judiciary. We deserve basic human rights to be free from fear and torture.
- Builds a picture of the pattern of abuse. May help some victims to realise that they are being abused.
- Another charge that may be laid to protect victims.
- It allows women and children to report abuse. When I wanted to let the phone company that I hadn't been living at that address because I was escaping abuse I was asked if I had a police report. I replied no I don't because I don't know how to report emotional and psychological abuse.
- Victims will realise it is domestic violence. Campaigns will educate everyone so they know how insidious and traumatic it is.
- Escape. Helping protect the next victim.
- It's good to have these negative behaviours called out and legislated against. But as always policy is only as effective and the understanding of the people who administer it
- An ability to take back control of their lives by having an option to press charges - not just fight through lawyers
- Makes it clear that it's wrong and seriously damaging to the victim(s).
- It would help protect victims from this, help to stop perpetrators from doing it
- Validated the survivors' experience. Helps them see future red flags.

- Identify the behaviour protect the children women elderly.
- It's hard to criminalize something that was normal for years. In all reality, it's only been the last 10 years if not less than it's not been ok to hit your spouse or abuse them in no physical manor. We need the education to start in schools; the advantages would be for the victim realizing these things are not allowed from either partner. It would allow a woman or man to feel safer about coming forward.
- Being heard and believed so they can start to heal.
- Being heard, acknowledged, feeling more protected. Which leads to feeling safer. Feeling like they are believed, when they speak their truth. Educating society, so those know when it is happening to them or those around them and what can be done to stop it.
- Will help to identify abusers before they become physically violent, and identify victims so that they can be helped.
- Victims may be taken seriously, and helped at early stages.
- Validation and protection, legal punishment for abusive behaviour.
- Being able to go to someone when you are being held in a home that isn't safe because they know how to make your life hell if you don't do what they want when they want it.
- Protection. It would assist in family law proceedings where desperate victims are trying to protect their children from their abuser. Perpetrators may actually start to recognise their behaviour is unacceptable.
- They would have more power to protect themselves in advance before it gets to the point of physical violence
- Raising awareness of this form of abuse - more likely to receive help and support. Validates their experience by acknowledging the damaging impact of this type of abuse.
- Would need to know the details.
- The victim and children will feel validated of their experiences. Knowing that there are severe charges for the perpetrator. Feeling more safe and not feeling fear
- Helps in making the controller accountable for their actions. Helps the survivor gain strength in being herd. Helps us move forward and believed. Help to have a record of incidents, which have occurred.
- The abuse can be Insidious and the victim is left with trauma to heal. Prevention and early intervention would help
- Firstly recognition that it unacceptable behaviour! With recognition, there could then be a pathway to counsellors who may be able to help educate the general population as well as the perpetrators &

maybe just maybe prevent behaviour then escalating into what can become life threatening for the victims of coercive control.

- Knowing that the perpetrator has been dealt with appropriately would assist the victim regaining self-confidence and feel safe.
- Understanding by police and justice system of the damage and danger
- Would criminalise non-violent abuse and aid in survivors being able to come forward and seek help, rather than thinking they cannot seek help due to “not having enough evidence” like bruises, scratches, etc. It would also destigmatise lived experiences of DV/GBV.
- Current laws allow abusers to continue to abuse. Only criminalising physical abuse is out dated. The worst damage is already done by that stage.
- Common tactics of that are in the most hidden from others and this gives another chance to identify abusive behaviour. Hard to imagine the police will get it when they already don’t e.g. telling women text messages are not proof. (Liverpool police)
- People will have clear understanding that these behaviours are not ok. Protection for victims potentially before physical violence occurs
- If done properly, reduced rates of victims being misidentified, and potentially charged and convicted.
- It would acknowledge there is a range of DV controls, not just physical violence, including entrapment, making out the woman is crazy by using gas lighting tactics, setting up the woman so that the Police take out an AVO against her, despite in my case me being physically hosed down by my partner, the Police choosing not to do anything about this & there was no case that my partner was actually in fear of his safety or in danger. He had threatened on many occasions to take out an ADVO against me. After I announced I was leaving, my partner would not cooperate with taking any responsibility for how we would move forward, another form of control e.g. refused to move out of the marital bedroom, not giving any options for living separately so I was forced to live under the same roof for 7 months before I moved out while he continued to live in “our” house, with much financial disadvantage to me. He also got away with delaying the settlement process & it took 14 months before we agreed to consent orders, again with all my assets in the house being withheld from me. Hopefully it would lead to much better training of Police, the current theory of their response is not reflected in their actions, a 22 year old Constable should not be making decisions about taking out an AVO when they clearly have no idea of any DV issues, and are not prepared to investigate the whole story despite my numerous attempts to do so, and I got no support from the DV liaison officers.

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- That the behaviour is recognised as abusive. That when dragged through federal court proceedings for custody and parenting issues relating to the abusive partner, that this is recognised and considered abuse also when it is done to the children or the children witness this behaviour as it is extremely damaging.
- Hopefully people who exercise coercive control will think twice knowing they will be held accountable
- That their experiences are not isolate events of anger but part of an overall pattern
- It gives women other avenues for women to prosecute if they want. It opens up a broader discussion in the community and police and courts. Gives a way to report a pattern of behaviour and create evidence against the perpetrator. Gives an opportunity to educate the whole of society on the pre-cursors to violent acts. It has a chance to arrest the process before women are killed. Gives women more power. It shows that their experience is real and valid and criminal. It gives courts police and other people involved a broader picture of what domestic and family violence is.
- The non-physical behaviours that constitute abuse are understood. For Police and Courts to really understand abuse, they need to understand all the behaviours and how coercive control strip a person of their self-worth and ultimately brainwashes them. The woman is living in a constant state of fear and terror. Education on coercive control will also help with the judgement and stigma that women face and why they often go back
- The police will ask questions about ALL the abusive behaviours and not just the ones in the DSAT. It's easier to prove coercive control because it is ongoing
- It shows that government considers this to be an important aspect of domestic violence that needs to be addressed.
- Police have powers to act when abuse is non-physical.
- There appears (anecdotally) to be a lot of mail coercive behaviour in Australia, which needs addressing.
- Safety for victims & children
- Getting the cyclical controlling demeaning behaviour to stop hopefully. Safety and Peace. Time to stop the rollercoaster and get your life back. Once just 1 of them are jailed, the rest will think twice as they know they can get away with it now.
- Protection. They don't have to psychically threaten for a victim to be terrified.
- Recognition and validation of their suffering, and a sense of justice. Potentially.
- Protection for women and their children hopefully

- We walked away from his violence and abuse in 2012 and cut him from our lives in 2016 yet he still holds control over how we live to this day. I have had to sell my car to avoid him stalking me. I have had to sustain two jobs at the cost of mine and my children's physical and mental health whilst he avoids paying child support. My children and I have to face the anxiety of dealing with his actions because his threats are not clear threats yet they make us feel unsafe. If he could be charged with coercive control, we could finally feel like we have come out of the situation and maybe then begin to survive and recover.
- It will move the dial where domestic violence is still equated with physical violence

#### **6. What are some disadvantages for victim-survivors in criminalizing coercive control?**

- What are some disadvantages for victim-survivors in criminalizing coercive control?
- Perpetrators will further abuse their victims by claiming that they are in fact the victims of violence. How will the victims be able to prove that they are being coercively controlled and abused, without being further traumatised or placed at risk?
- Lack of understanding of what it entails, with most commonly the remark, 'why do they stay?' showing a need for more education.
- Trying to figure out how to have proof
- In my experience, perpetrators are master manipulators. Gaslighting which in itself is a form of coercive control can be flipped by these individuals who have mastered the craft to turn victims into criminals.
- I don't see any disadvantages but I would note that in criminalising it there then needs to be mechanisms put in place to effectively identify and charge perpetrators, criminalising coercive control can't be a tokenistic gesture it needs to be followed through with actions
- Fear of retaliation in some form
- Can't think of any disadvantages - possibly greater danger when the perpetrator gets apprehended and they try to come after the victim
- Specific or isolating language to represent this behaviour may prevent judicial discretion in determining what behaviours meet the criminal standard
- The Australian Brotherhood of Men is planning to block the legislation to keep violent and abusive men to maintain control women's lives and deny their right to live free from violence in all forms
- Coercive control can be difficult to identify. Sometimes it is cumulative and therefore, when someone is abused already, it's difficult to have a clarity about what's happening to them and to identify the actions of the abuser as abuse. For example, financial abuse can be camouflaged as



"caring" on the surface of it with the claims by the abuser that they are just wanting to un-burden the victim with worries about finances. That's just one example. There are ways to address this difficulty but it needs to be intrinsic to the process.

- I'm not sure. Perhaps it could be abused
- The abuser will become increasingly covert and find ways to exert control.
- As mentioned above, police are prone to engage in victim-blaming and have been known to apprehend the victim while sheltering the perpetrator. This information is documented in the public domain. It has also been documented that perpetrators of DFV are present within the ranks of police, without any disciplinary action being taken.
- Perps are really really good at playing the victim and manipulating the system. They will lie and make the victim appear to be the perpetrator. I can foresee victims being arrested charged and convicted. Also the police and courts side with men.
- The perp could use the family law system to continue the coercive control and or use other methods to manipulate and control
- Possibility of it being used against victims unjustly
- Women often resort to lashing out verbally or even physically to provocation, riskinh0 becoming the PINOP. Also, the impact on children of coercive control techniques is poorly managed, and the protective mum can easily be seen to be oppositional rather than protective. Especially in Fam Court. Currently, we services set too many DV victims up to fail. A big disadvantage is the system itself, with inadequate preparation for ignorant victims. Also, financial infidelity, fraud and rorts is the glue that sustains perpetrators of DV
- The only disadvantage I can see is if the perpetrator tried to use this in reverse but I doubt that would be effective as the people trained in this area would quickly recognise the truth of the situation. Some women may fear the perpetrator would be unable to work and continue to provide income for supporting children (particularly if the abuse meant the woman could not or was 'not allowed' to work). Some women may fear their spouse/partner might be gaoled. Many would fear repercussions from their violent partners.
- It's going to take time for understanding and expertise to be developed across all communities and sectors - especially police, courts, support services etc and therefore there will be some errors, misses etc, but this should not deter criminalising coercive control.
- Look at the statistics in regards to women being murdered at the hands of a partner or former parter. Victims are most likely to be killed when they leave. Without adequate safe havens (and

police that take such matters seriously) women could be in danger if such laws encourage them to leave. Could potentially be difficult to prove and will likely lead to victim blaming.

- Potentially having to deal with the perpetrator through the legal system.
- It may be had to prove and get a conviction without evidence.
- Not being taken seriously by the courts. Gathering enough proof is even more demeaning than physical assault
- The risk of the legislation, if not well developed, being weaponised and used against women. If we take current family law legislation, this is already weaponised and used against women with police frequently misidentifying the victim a perpetrator, causing significantly more harm and trauma to the victim.
- Having to re-live the trauma in telling my story
- For victim-survivors there may be the stigma of overreacting.
- The disadvantages I see come from my experience with Family Court. The 2012 Family Law Amendments were made to protect victims of dv. Instead it was used to further abuse the victims by saying they are psychologically abusing the children by trying to protect them from the abuser. My concern is that the police dont take family violence seriously, a large portion of police are perpetrators themselves and without proper training and education that the victims will be the ones charged instead of the perpetrator.
- Often very hard to prove, because the perpetrators are completely different behind closed doors while appearing to be model citizens in public.
- Not sure if the police and legal professions will take it seriously. Whilst the laws maye exits , whether they are upheld is another matter. It also needs to be promoted, if nobody knows about it there is not point.
- Provoking the perpetrator.
- There needs to be a large education piece and the victim survivors experience must be valued.
- Generally this is a form of gender abuse towards women and as our legal system has been developed from a patriarchal society this basic flaw will mean that ultimately protecting male privilege will prevail. So it will go some way to help but never really address the inequity that underpins the crime in the first place.
- The victim is often framed by the perpetrator. The victim doesn't know until they're running for help.

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- The disadvantage it is something that would have to be proven because you will get people trying just to get their spouse in trouble for whatever issues they have. Then you have the difficulty of proving such things as they are not always noticeable.
- Being called a liar.
- Perpetrator will attack again. Hold grudges and get back at you. And use it against you in their form of manipulation and intimidation, embarrass you, so you won't report it again.
- Possibly make the aggressor angry and seek revenge.
- Victims may get even more backlash from their perpetrators
- The abuser could escalate/intimidate to avoid being reported.
- Not being able to get to somebody to help you get out of the situation if they monitor where you are at all times check your phone calls and messages on phone and emails to see who you are in contact with.
- Difficulty proving that it's actually happening - could be frustrating or demoralising.
- Still so hard to prove, as most is he said she said. Could worsen the situation and the victim become more fearful
- The perpetrators are very manipulative and the wrong person could be charged
- It will depend on how it is responded to & put into place by the authorities, for example what 'proof' is required because how things currently stand when it comes to family violence the victim's truth is often downplayed by authorities disregarding witnesses that are relatives & need witnesses that aren't related to the victim in anyway.
- There may be different interpretations of what coercive control is. This could lead to some survivors not receiving the help they need from law enforcement or their victim statements being undermined.
- Increase systems abuse and misidentification of victims.
- Don't think there are many disadvantages for the victim, though there may be longer delays in getting a resolution in the court system & the issue would be what the consequences would be. Women aren't really protected from violence even if ADVO's are made, so coercive controls would be harder to monitor.
- The same as physical abuse, it's all so hard to prove. It's hard enough proving physical abuse especially if you didn't report until after leaving the relationship or during leaving the relationship.
- It may get blown out of proportion and could be hard to prove
- No understanding of above type of relationships. Physical impact is only one part of the story - in my care - very small part - but was so hard to articulate the type of relationship i was in - it was like

being in a hostage situation. When i did have bruises i was glad only because their was evidence. Yet the attention received didn't correlate with how little this part of the relationship it formed.

- If the sector/police & courts don't act it will reinforce that they are alone. If the sector is not educated including police and courts nothing will happen. Some women may have the behaviour label before they're ready to comprehend it. Though this already does happen.
- Police need education. There are issues with Police enforcing current AVOs and following up breaches of AVOs and enforcing them
- Actually being able to meet the standard of proof - beyond reasonable doubt in criminal cases and on the balance of probabilities in civil cases. I would worry that like so many cases of abuse, these standards are very difficult to reach and therefore they are not acted upon, or there process of going through the system is one where the system considers too anise the victim..
- They perpetrators can turn it around so they look like the victim.
- In the community I am from, women use coercive behaviour as a control and power tool over children (and sometimes me) , as their own lives lack power and control. Suicide threats, locking children out of home, refusing to speak to or acknowledge children.
- Repercussions from perpetrator. Maybe more exposure to violence if perpetrator still living u der same roof or 'contacting via parental perpetrator visits.
- Nothing. It has to happen. I was physically abused as a child, before support was there the way it is now. And now, as a 49yo woman, I've fallen victim to coercive control and once again, there's no support or understanding
- Going through the criminal justice system processes.
- It will depend on the definition. Coercive control could be anything, but does have characteristics in common with child abuse etc.

#### **6.What difference could this have made for you, if any?**

- I could potentially have left, with both of my children, years ago. And sought actual justice, rather than the ineffective merry-go-round with trying to prove the ongoing stalking, harassment, threats, and coercive control that he has gotten away with since.
- Saved me from having to recover from complex post traumatic stress, and the time it took to understand what was happening.
- Massive difference in safety and more support in the legal system. Especially because my matter has been on going for 11years and it's all about control and hurting.

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- My ex would have had his criminal intimidation charges more likely heard in court rather than them becoming a bargaining tool for his lawyer
- It would allow me the freedom to disassociate myself entirely from the perpetrator. Particularly when there is children involved. Lawyers use these strategies to sway favour. An empathetic person can not cope where the narcissist thrives. Calling it out for what it is in the very early stages with zero tolerance would make a difference. To terrorise someone mind, control and financially abuse someone to the point of destitution and ruin - it would just metaphorically throw me a life line.
- I could have taken out an AVO on my husband but because I was not physically hurt, nothing could be done
- Honestly if I had the awareness and education from the beginning that what was happening to me was actually recognised by the law as illegal then I probably would have had greater insight into the situation I was in and I wouldn't have stayed in the relationship long enough for it to get to a point where the violence did become physical. I probably would have accessed supports and services sooner because I would have been able to name what was happening to me as 'coercive control'. It would have also made a difference because I would have had the backing of a society that recognised that what was happening to me was wrong even if I didn't recognise it for myself at first.
- It may put a stop to ongoing erosion of capital and deepening of dependence on the partner who is controlling things.
- My former husband was physically and mentally abusive. The mental abuse was worse than the physical abuse. Had coercive control been recognised, more elements of violence would have been taken seriously.
- Not much. You're in denial. You don't want to admit you're vulnerable, or being abused.
- The abuse I experienced would have been identified as a criminal offense rather than the perpetrator just getting away with it and it being dismissed by police/legal system as not having any impact on me and my child
- Easier explanation of the reasons behind my need for a protective order beyond just the physical assault
- It may have helped me to identify the abuse before it got out of control
- I would of been believed instead of been seen as crazy, vindictive and bitter when speaking to police and the courts
- 16 years of my life wouldn't have been as hard as they were. It would have changed not only my life, but my children who now have PTSD and ongoing psychological issues because noone could protect us.

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- Coercive control is the most insidious and damaging form of DV because it's amorphous. Having it named and identified gives some power back to the victim. It gives it shape. Unlike physical violence, the bruises are invisible and so criminalising coercive abuse allows the victims to be aware of it, to name it and to take action like walking away and reporting it. In my case, I would've been able to call it what it is rather than internalising the injuries (gaslighting me, alienating the children from me and calling me names are just one example). I would've left the abuser and stopped hurting much earlier. I would've attended to healing so I could lead a more normal life and supporting my children in a healthy way. It took me 10 years to get here. If coercive control laws are there, it would've taken me a lot less time to work out what's been happening to me.
- Could have allowed me to realise earlier that I was in an abusive relationship. Could have given me grounds for protection by the police. Could have saved me later physical abuse. Could have given me years of my life being free.
- I would've received better understanding and support from family and friends after I left my husband
- This could have made a lot of difference to the suffering as a victim sexually mentally psychologically financially as I ended up with multiple injuries almost killed and my friend was murdered by the perpetrator. I am now on the DSP with PTSD had several suicide attempts. My family friends and my little girls lives have all been affected by the violence it has caused them emotional harm and distress to their lives. I felt like a sex slave and war prisoner the perpetrator was an extreme narcissist who terrorised me 24/7 while I was attempting to simply live my life and my children lives in peace and quiet. We were subjected to non-stop tirades and never ending tirades of violent attacks and abuse from all sorts of mentally deranged behaviour including spyware on phones to monitor and track, to complete isolation, all money taken I earned, not allowed family friends literally couldn't even move freely in the home from room to room to carry out daily activities like shower eat or use the toilet or feed the pets. It was all when he said all his way and attacked me for not following his orders. I would be physically and emotionally healthier today and my friend a male wouldn't have been murdered by the attacker. Which is what I refer to the person as because it isn't a relationship it is a hostageship and I never knew this person before in my life so there was no prior relationship history of anything. Attacked from the start all the way until I eventually escaped. And anyone who says they are going to kill you isn't a boyfriend or partner I think it's important to listen to their words because they are already telling you how they feel about you and what they plan to do with you. They are narcissists and they just want to attack your life sexually physically and mentally and financially the tiny moments of breadcrumbs of kindness, fake tears and I love you are

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simply what they are manipulation lies to gain control over you so they can keep carrying on as they please. It's a cluster B personality disorder most of the research shows this and it's time it was recognised as it truly is. These are not partners or boyfriends they are criminals simply working in an insidious way and that is why in the end it always explodes into a such horrors as they cannot keep maintaining the MASK as it drops off hiding who they really are liars, thieves, violent and sexually abusive people. They know very well exactly what they are doing they do my care they are mentally sick and looking for a HOST like a parasite to feed off otherwise they would go and attack rape and rob a person in the street but why would they do that when they can be insidious about it trying to play under the radar pushing people's boundaries and getting it all their way another way . Which is this simply. Their actions do not match up with their words. There is a reason why their actions never match up to their words they are criminals working in another way to get what they want otherwise if they couldn't they would do it another way. People do what they think they can and are getting away with they are boyfriends or partners that word is BRAINWASHING and you know it when your there living it the horrific abuse and then hear them say girlfriend or partner and you FEEL physically sick because you know THAT is not how boyfriends and partners treat each other and you know those words are lies you know those words don't match their actions. The cycle of narcissist harm goes from harming to soothing and back to harming again and repeats. And domestic violence is no difference harming to soothing to harming again. I'm going to kill you to I love you I'm going to kill you to I'm so sorry I'm going to kill you to it won't happen again. Seriously I've read enough information and experience enough to get the message loud and fucking clear. These people are not partners they are attackers trying to attack under the radar and deserve to be recognised for what they are instead of being glorified with the words 1.Husband 2.Partner 3.Boyfriend These are words that don't match actions if you believe then you are fucking DELUSIONAL and need to be put into a mental ward and on medication. Manipulation by a parasite who doesn't deserve 1 minute of any good human beings time they are predators and groom like paedophiles grooming their victims through insidious ways they are fooling everyone are them until the MASK drops off .

- My mother could have left the house sooner and maybe even realised sooner that what she was living in her household wasn't normal. We also need more government funding to raise awareness of this issue.
- My fear was real. Just because I couldn't show visible injuries didn't mean I wasn't being abused
- If it were properly enforced, I could have reported my family members for their pattern of severe coercive violence towards me. Additionally Ive experienced financial and emotional abuse from

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former partners and even housemates, and when I reported to police was handled with total dismissiveness. However, that is a big 'if' because police have given every indication that they wouldn't properly enforce coercive control laws. It would take an enormous shift on their part to recognise patterns of coercive control.

- I've lived my whole 24 years of life constantly running from an abusive family member. Even with the many AVOs and PVOs, she's still able to harass, stalk and intimidate as she pleases because a "threat" isn't enough. Even though it has had a huge physiological impact
- None as the cops and courts would not have enforced it. I had a protection order. My abuser breached it lots of times and the cops and courts didn't enforce it. They blamed me and treated me like the criminal
- To know that the things that felt wrong, and scary were behaviours of abuse prior to the first physical incident.
- It would have been a red flag
- The abuse would have a name which provides validation and maybe the perp would have been held accountable
- Consequences for perpetrator and incentive for him to cease, reassess and reform
- I wouldn't have lost my daughter to a manipulative biological father. I was turned away from the police when seeking help as there were no laws to cover coercive controlling behaviour.
- Understanding the process- not feeling betrayed by the system I was forced to seek help from. Theft was never factored in. Control of all aspects, not factored in. Perp gets representation, I get nothing. I'm called to recall every word, he sits silent. I would not have spent the next 25 years recovering, trying to survive, financially ruined, with children who were manipulated by his version of court. Of course, 25 years helping others was a great outcome, and fighting the system and educating it.
- It would have changed my life. Even now when I am out of the situation and struggling with symptoms of PTSD, psychologists deny my diagnosis because my physical life was not threatened.
- I would have realised earlier on that his behaviour was unacceptable as there would be AWARENESS raised around coercive control and the horror of living in that situation would be alleviated. It may have prevented the coercive control entirely! I would not have to fear for mine and my daughter's safety. Coercive controlling behaviour leads to ongoing trauma, fear, nightmares, inability to work/cope with everyday experiences, mental health issues such as severe anxiety, depression, low self worth, guilt, fear of relationships, trust issues, ongoing health issues, flashbacks, sadness and so



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much more. If Coercive control is criminalised, we would not have to live in fear any more. We would feel heard and respected instead of ashamed and constantly afraid.

- Wow, if it was a crime, perhaps it wouldn't have happened! I'm suffering life long effects. It's too late for me.
- Months of feeling scared and anxious may have been prevented if he knew he could face charges and time spent trying to get avo not needed.
- I may have had more support from those around me. I may have been able to escape my situation earlier
- It would have helped me label what was happening, and earlier, so I didn't carry and continue to carry the shame of leaving my husband and father of my daughter 30 years ago.
- Personally, such legislation may have enabled me to see red flags that I was naive to. It would also be good to see some form of accountability and consequences for my abuser. Likely the biggest impact would be that such control might be able to be mitigated in future. It would mean that my daughter might not be forced to spend 5 nights a fortnight with my abuser, her father, also being abused because the court would have seen this 'wasn't in her best interests' But ultimately that is reliant on police training and attitudes, judges (an old, white, upper class male judge whom has his job as a result of his tennis matches with Tony Abbott is not going to help anyone aside from his own bank balance) and an actual conviction. Not to mention any kind of jail time for coercive control seems unlikely when I was choked unconscious and it didn't even warrant an arrest.
- It can help me right now
- I got the courage to leave a coercive control abusive relationship 3 years ago. I am still being bullied, harassed and intimidated. My 6 year old daughter has to keep going back into the home of the abuser where she is bullied, intimidated and learns that she has no power, no voice and no worth beyond what that parent can take from her. This sets a child up to become a victim in her adult relationships. If coercive control were criminalised, there would be a chance of harm minimisation for her.
- Less damage to the child. Less trauma. Less of a feeling of injustice, despair and frustration resulting from the person's pattern of abuse being invisible/minimised by others (family, friends, police, lawyers, counsellor).
- It may give police more power to take out a DVO on your behalf and purse a conviction. It may also help keep our children safer.
- Maybe made him more aware that his behavior was unacceptable. Maybe made the police more curious or insightful when they respond to a woman's fighting back

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- Possibly prevented me being dragged through family court. Decreasing stress & trauma in my children's lives.
- Huge difference particularly in how coercive control used to intimidate and put children at harm/ used as object of control in family court.
- I have only ever experienced psychological abuse and coercive control. The Family Court Judge literally mocked family violence. Having coercive control legislation would have prevented him from doing this. I have been in the Magistrate's Court every year for seven years, applying and re-applying for IVO's because Magistrate's do not get coercive control. They fail to see the pattern of behaviour, looking at things in isolation some of the behaviour can 'appear' minor and 'pathetic' - it's only when you put all these behaviours together that you see how crazy making, abusive and soul destroying they are.
- Hard to say. I would have removed years of self doubt, self blame, low self esteem.
- I personally was only 16 so possibly wouldn't have changed anything. However, there would have been more clarity that the pre-violence abuse was also unacceptable and maybe helped on reflection for an adult me to come to terms with that component on reflection.
- Currently still being abused by this man. He is now using the family court to keep control over me and my daughter. His controlling was extreme and he could have potentially been stopped and not have access to me.
- It would send a strong message to society that this isn't acceptable
- I have had hundreds and hundreds and hundreds of breaches of my Protection Orders. If this law was in force my ex would have gone to gaol and I could have had some peace and freedom and not live in fear all the time. My life is a living hell thanks to him and the Family Court so if he went to gaol instead of Family Court the kids would be safe and I wouldn't be subjected to dv from my own children from their ongoing exposure to him. My oldest would have an education instead of extreme behavioural problems because of Complex Trauma and PTSD
- It would have highlighted that the way I was treated was abuse. Police may have been able to act without waiting for a violent attack to occur.
- If I was aware of what coercive control was I would have understood the abuse I was experiencing a lot earlier.
- I would have understood that gaslighting and manipulation and kicking me out of my home are forms of domestic violence. I would have not been homeless for two years.
- I would have known it was domestic abuse and my partner would have realised it is not ok and there were consequences. It would have helped give words to my feelings and made me realise it was not

my fault for feeling nervous about doing things I should have felt comfortable doing, eg. organising a coffee with a friend, wearing clothes I wanted to wear.

- Police may have acted differently.
- Maybe rose bay police wouldn't have looked at me at 6'1 and said "you look like you can handle yourself" after my partner had threatened my life
- It would mean I have options - could go to police and behaviour and the effects of it would be understood and there would be a legal avenue available to me. Currently I am needing to fight through lawyers to gain back control - relying heavily on my parents for financial support, even though my ex husband is a wealthy man. I have no other way of ending the marriage. And he still has control over me. Criminalising it would mean there would be another option for me, and a deterrent to him.
- It would have made it harder for my Daddy to get away scot free with repeated rape and torture of me as a young child. Furthermore I don't think he would have got way with isolating me, and asking me why he should support me, when I was 15.
- It could have made it easier to leave my domestic violence situation. The coercive control meant I couldn't leave financially and feared for my life.
- A lot, I was only given an AVO and advise to flee the state. He murdered a year later
- I would of been able to get support and advocacy. My children and mother would of been safe. I wouldn't be held hostage by highly abusive manipulator, incurring huge debt homeless unable to get support. Isolated. Misconduct from police which was preventable. I'm lucky to be alive. Many women die or end up in prison. Children abused mother abused.
- My father was abusive so when my partner started being I figured it was just how life was meant to be. I feel that if someone had helped me when I was younger, my life would be very different for me and my kids now. I believe that knowledge is power, Its no use brining in these laws if we are not going to change the schooling to teach them. We need sex education to include relationships, What is a healthy relationship, How to maintain a healthy relationship and sex life as you get older. KNOWLEDGE is power. Teach our boys from a young age and our girls. How to respect each other, Not to be racists and that no matter your sex we are all equals.
- Justice for the lost years.
- Comfort. Safe. Trust the system
- I didn't experience DV personally, but my daughters did. It would have exposed the abusive behaviors earlier and maybe prevented some of the abuse.

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- If the courts recognise non-physical violence, financial abuse, emotional abuse or narcissistic or controlling personalities, then victims would have more support. They would not be able to charm the courts, and lie through their teeth. If they had independent psychologist that could advice the courts on family matters that would help the victims. It would make a huge difference. The courts would awards victims more financially so they are do not suffer and be in worse condition after they leave the marriage.
- Validation that what was happening was grossly abhorrent and illegal. Empowered that the state could protect me from extensive abuse that was devastating, that eroded me to the core that wasn't physical violence.
- A lot I would of gotten out of my situation a lot sooner and would have had back up for when he got nasty when I didn't do ehat he wanted
- A lot. Coercive control is insidious. It has life long impacts on the mental health of victims. My children would have been much better off if this was a criminal offence.
- The police would have had more power to charge and protect. I wouldnt have to hear the phrase “we believe you but there is nothing we can do.” Numerous times
- Awareness that what happened was abusive/unacceptable may have helped me leave the situation earlier.
- Not sure. Neighbours weren’t helpful.
- Not feeling like I made the abuse up even though I kept diaries and a feeling of having to prove to the courts my children’s and my experiences of severe dv.
- Huge difference, accountability is a big one for me, being herd and understood. I had a young son at the time and fearful for both of our lives but the system, police etc allowed the controller more control as the controller new exactly how to play the victim and talk there way out of everything. I had no services available to help me, only a counsellor to aid in my mental health and recovery, not the legal system.
- It could’ve saved my children from suffering for so long at the hands of their other parent. It could’ve prevented me from ending up in the psychiatric ward.
- To have action taken more swiftly from authorities from the onset of the torture I had to endure for years would have a massive impact on the safety of my children, my personal safety, my well being , my health related issues brought on by suffering from extensive trauma & stress.
- If I had known that I could escape the relationship with the appropriate support and action from police I would of done sooner- my children would not have had to live in such a volatile household.
- Would have given me the language to ask for help

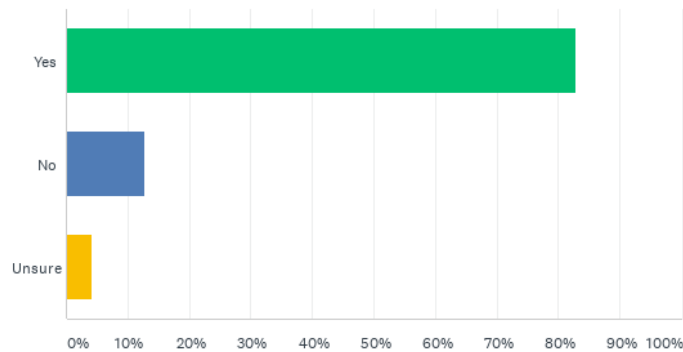
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- I would not have been afraid to come forward and seek help. If coercive control was criminalised, I would have felt like I had the evidence required.
- It could have saved me a lot earlier. Years of absurd and coercive control kept me stuck. It also put my child at risk
- Hard to see backwards
- Coercive behaviour was not recognised and if it had been I may not have endured years of physical, financial, emotional and social abuse
- Stop post separation coercive control, including systems abuse through Family Courts.
- If the Police were properly trained I would not be still waiting for the matter to be heard in court 10 months after the incident & be financially disadvantaged to be represented legally - probably \$6,000 in total.
- It would have proved everything I said and told my lawyer would happen. My daughter suffered years of extreme psychological, emotional abuse with coercive control to the point she became suicidal. No one listened enough to me, court psychologist even said that they were not sure the custody arrangements provided enough safety when supervised visits were lifted. It was about his rights, not our child's rights to be safe at visits.
- It would have added extra charges to my abuser to have him be more to be accountable for
- The DV relationship I was in was like being kidnapped and held hostage. Due to the systemic abuse from anyone I engage with and lack of understanding about Coercive control, I over the year stopped engaging with authorities. Also because when I did they were like a bull in a glassware shop - not getting the underbelly of the relationship with my terroriser
- I would've been able to report each incident there could've been a record of a pattern of behaviour. Could've reported my parents and take out an advo. Their behaviour would have been seen as stalking and intimidation rather than nice gifts. It would've felt like someone was listening and not waiting for me to die to act. I just think I would've known so much more about the behaviour I was experiencing before I left and maybe I could've even have left earlier. I would've also understood the impacts of coercive control of my animals. If it was in place when I was a child maybe I wouldn't have had to endure such abuse and witness such abuse. Really I do think it would be life changing...Especially if it was policed and went through the courts properly. The thought that my perpetrators could actually pay for what they've done would've been incredible for me. I hate that I couldn't do legal processes because it would've been worse for me to do that because of what exists right now.

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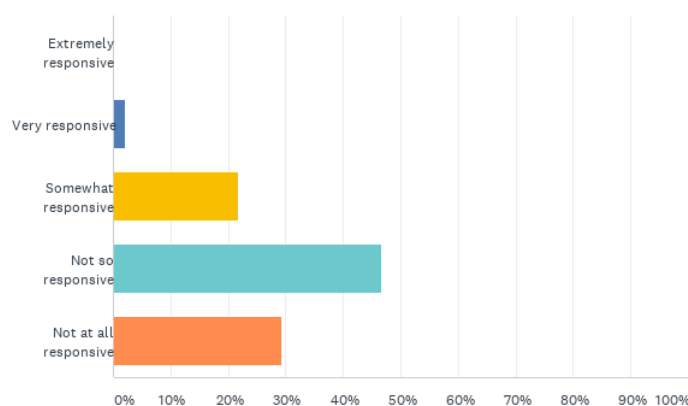
- none. My AVOs were constantly breached and not enforced. This was for physical violence, damage to property, threats to kill and stalking. I believe that the police did not act on physical threats and breaches of my AVO so there would have been no way that would have understood or enforced a coercive control law.
- I would have realised earlier when it was going on.
- I don't think it would have made a difference.
- I don't think there is enough conversation being had about the ways in which some women from non-mainstream backgrounds use coercive control to gain back some power, in particular in relationships with children.
- NONE.- as State Laws & Federal Family Laws implementation differ.????.: in my opinion and experience ABUSE OF POWER , ABUSE IN GENERAL when proven and charged its a CRIME and need to be considered no matter which Court or Jurisdiction within Australia the person is. ,
- Stopping him earlier on - my health would not have suffered so much that I had a heart attack (age 39 years) from the levels of stress of being controlled, stalked, abused, courted through the legal system for 10 years. I now have bone degeneration of the spine due to the stress hormones targeting the weak area in my body so long term I'll be in a wheel chair! Our son would not have had suicidal thoughts from age 5 to attempting it at age 9.
- Stop him doing it to future victims (ie every person he's been in a relationship with), and help him see that what he is doing is wrong
- My abuser would have been held accountable for the damage he did to me, it would have helped my healing.
- If my ex was prosecuted for his control behaviour and got charged me and my child would be protected now. New law has to be recognised not only in criminal but also in family court.
- As mentioned above it would finally give me the chance to actually survive the past and the opportunity to recover from the effects my past had on me.. we could stop checking over our shoulders and feel safe in our lives again
- The police may have acted. I was emotionally and financially abused, as were my children. Not being physically abused was a form of coercive control cause my husband relied on that for the police not to act. I was made the unstable one

**Q7 Have you experienced stalking or a pattern of intimidation?**



**Q8 was filtered to include only people with lived experience of stalking and intimidation offences**

**Q8 How do you think the current NSW justice system is dealing with "course of conduct offences" such as stalking and intimidation?**



*Any additional comments?*

- The police awareness and assistance doesn't currently enable them to act upon most cases of stalking and intimidation without a physical violence component, or video/photographic evidence.
- They always want proof which can be hard. Eg how do you prove who slashed your tyres repeatedly or is tampering with your emails and technology
- The fact that someone could be doing laps around the block of your house or stand at the front of it and claim they're just on the phone and get away with it is mind boggling.
- An AVO that states the perpetrator is not to stalk, harass or intimidate is not enough. There are many other forms of DFV that continue through the perpetrators behaviors and it is not something that can effectively recongnise the underlying dynamics of power and control even if the person abides by it.

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- Police advised me that saving messages that breached the protective order was "inviting" or "allowing" the abuser to continue contacting me, even if I did not respond or only demanded that the message stop. Messages were not from primary accounts or phone numbers either, multiple accounts were made each time one was blocked but the only advice from police was to keep blocking and ignoring, they would do nothing about the repeated breaches.
- Each case is different. Since I was a minor at the time my case was taken more seriously
- Police twice put an avo application in however was rejected. If the police believe it requires an AVO the court system should support this! Both times an avo was not put into place.
- My experiences were many years ago now but I saw how police and the courts found this hard to prove. Many excuses can be made for being in the same vicinity.
- Sometimes getting more evidence to report is a matter of life or death
- Unless there is physical evidence they don't think it's worth taking seriously
- It is belittled and dismissed
- I was in an incident where I had a phone call and became very frightened and when I rang the local police station they said there was nothing they can do unless a physical crime is committed
- So let down and traumatised by the police and courts
- I have literally been told these is nothing we can do, prior to the physical threats/ then assaults. Told to document but that nothing could be done.
- General duties police need more education
- Too much evidence was required.
- Simplistically responsive.
- The nature of Coercive control is that it is careful and hidden. It is difficult to prove without the criminalisation of coercive control because so many things are glossed over or passed off as nothing at all!
- No idea. It's all over for me. Thank God.
- I had to try and find a "threat" in something he said before I was able to get helps though I had hundreds of emails/ texts sedans he was stalking and harassing me.
- He has to be stopped before it escalates to violence
- My experience was that the (male) police officers without fail deflected, advised that I should go somewhere else to report it or that I may also have to face court. The intimidating behaviour was minimised and I felt they thought it was nothing so why should I be complaining? The one female police officer I dealt with took a statement and the perpetrator was charged.



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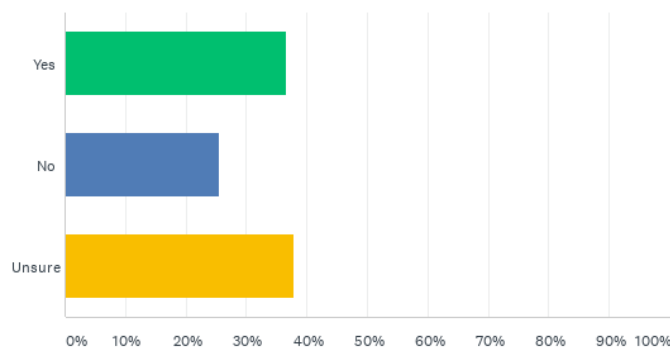
- Long term patterns need to be established - in the mean time women live in fear of harassment a stalking and wondering what's coming next. Courts are lax to take it seriously and the punishment of any often doesn't match the emotional toll
- Many officers don't really understand
- No matter how much evidence you have (ie independent witnesses or CCTV footage) no amount of evidence is enough to prove stalking.
- They dont take it seriously until you are dead or nearly dead after they have attempted to kill you
- Breaches of AVOs not prosecuted despite causing me distress and fear. Police reluctant to act.
- Charges can't be laid without proving beyond reasonable doubt. Very hard to do.
- I think there are still too many grey areas to offer victim survivors real assurance
- AVOs help, but as soon as they end the behaviour starts again.
- Misrepresented in court. Police allowed the abusive partner to install an app on my iphone. He used my email, Facebook, text messages. Contacted and sent emails to my high school children's parents friends doctors. These emails contained recording a of me being provoked and abused. These emails included list of pornography about sex with the father. This information was given to my daughters teacher's school and friends. We had moved to the country. Multiple police have said that he was allowed to do this. Claiming I was diagnosed paranoid schizophrenic bipolar etc. which I wasn't. Women being crazy was an acceptable for police. He got an avo and it stated he had downloaded an app to secretly record me. I was provoked taunted and baited and threatened. Once the police are involved the system does not support the victim.
- the system is too slow
- I am unsure, I never called the police about my stalker, I didn't think they would do anything.
- They say stalking is when it happens everyday. What if it happens periodically? It's not classed as stalking then. But stalking is stalking, no matter how often it happens, it is still stalking and it still makes a victim feel unsafe, every single day.
- Need more research and from that maybe a tightening of new laws.
- I was told that unless they strike me or I had evidence or marks on my body, there was nothing they can do.
- I haven't had to deal with this for a couple of years but when I did the person would jump a fence into his yard and as he was not on my property any more they couldn't do anything
- A murderer has the benefit of 'innocent until proven guilty'. A victim of these offences is a liar until they can prove it.
- Unsure. It wasn't reported due to fear.

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- Police took forever to come to my house planter my x partner turned up and then asked me standard question about if I felt threatened or unsafe. The police should look up my personal details and read the reports. It was very re-traumatising to have to answer the questions. My x partner only received a warning.
- Intimidation was a big one for me once I gained the courage to finally leave the abuse, I assumed it would be better, but it made him even worse and the police, that I contacted did not do anything. I recorded everything and when we finally headed to court it was not even taken into account, where if it was recorded and documented through the system, they could be accountable.
- Sometimes the evidence is hard to provide when it come from an expert manipulator
- AVO's that are issued after numerous reports of harassment m Mmmm, stalking & intimidation are in the end pieces of paper that don't protect the victim, when they are breached it is back to the standard line of questioning of the victim & the need of proof. There needs to be harsher penalties for perpetrators who are placed on AVO's & not only monetary, perhaps if there were jail time attached especially for repeat offenders it may help to deter the disgraceful behaviour of the perpetrators.
- The penalties for these behaviours are no where near enough. It's not until you are hurt that people take the behaviour your being subjected to seriously.
- Stalking can by physical or via financial attacks
- They recognise it to some extent, if they are pushed to see what's happening, but they still call it "tit for tat", and "he said she said", and do not want to be involved if there are children.
- Reported many times, was told there was no evidence. Endured years if knock and runs and hang up calls, even him in the driveway. My mum witnessed this. We ended up getting a camera and he was caught on it, the video wasn't clear enough to take to police. It stopped after that. Then it took another firm just recently, with our daughter being sent letters from companies. She is 17. We know it will never end.
- I think we still minimise the behaviour and blame the victim. We don't see the full picture especially when the stalking is done in covert "friendly ways"
- I was asked to prove I was being stalked and watched. I was made to feel like I was over anxious and paranoid. When I eventually recorded my ex stalking, threatening me, It took a woman from Staying home and leaving violence to attend the police station with me and tell the police how much danger I was in before they took me seriously
- Police don't necessarily believe you or want to investigate as they see it as a domestic spat
- I had the worst experience with "justice system "

- He can stalk my car find me at my mums enter my mums house uninvited tell my child he had just assaulted his God father..and because this is not a direct threat and it is not my house we are unable to be protected so we revert to our known behaviour and allow him to dominate us while we become the submissive victims again.

Q9 Do you perceive any risks for vulnerable groups of women if coercive control is criminalized? Eg Aboriginal and Torres Strait Islander women, women incarcerated, women with disability, women on temporary visas, older women.



*What do you think the risks could be?*

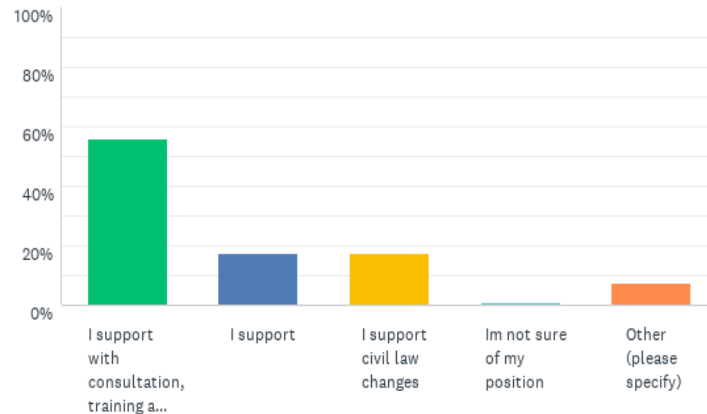
- Due to the nature of coercive control, it's often difficult for the victim(s) to identify it themselves, if there are added cultural, disadvantaged, disengagement issues around reporting, accessing police, social and DV services, or perceptions around 'allowable' levels of violence, coupled with a manipulative and gaslighting perpetrator, then we could see the rates of incorrectly identified aggressors vs victims increase.
- There are always risks for the vulnerable
- Not having access to information on ways to prove what is happening
- inability to identify abuse, (I have Autism)
- Some woman put up with this type of abuse because they are unable to support themselves. Homelessness could become a risk. Separation from children
- I don't think there would be risks
- Sometimes vulnerable women are dependent on their abuser financially so these women would be at risk. So, laws need to protect these women at the same time.
- Further abuse because the partner is likely to deny they cohesive control
- Racism, classism, ablism — they have no privilege and mostly fear authorities

- As noted above, victims being apprehended instead of perpetrators. Plus the additional risk of extra-judicial violence towards vulnerable groups (as widely documented for Aboriginal people eg Deaths in Custody).
- Another reason to lock up vulnerable women on false charges. Another way for perps, and abusive cops to get back at women
- There are risks to all changes in legislation but I expect the Expert DV specialist will be in contact with all these groups and the risks will be mitigated with the groups input.
- Until we fix the misogynistic system, all women are vulnerable
- Only if the women are not taken seriously.
- Repercussions from perpetrator/perpetrator's connections in small communities.
- It may cause the situation to escalate and put the victims in more danger.
- Maybe women on visas might have even less chance to report and be scared to report. Aboriginal women might be more worried about calling the police in early for fear of outcomes. Older women who hold older men accountable might be more at risk of homelessness
- It is harder for these women to know their rights or how to get assistance. They already experience various biases against them and services for them are limited as well.
- I think possibly for indigenous women given the police and the race are at a certain war. Indigenous women may be marginalised for speaking out against their partner. Similarly with temp visa holders, the reporting of the crime may result in more negative consequences
- Lack of cultural understanding
- The risks are those that already embedded in our system, challenges with language, access to legal help, financial constraints, cultural differences. Our legal system privileges our dominant culture of male, white and wealthy.
- The risks are that perpetrators of coercive control are able to bait manipulate the victim without support these women end up in jail homeless. Most victims cannot identify or have the words for what is happening.
- I don't think there would be risks unless their partner suspects they are going to say something, then like with all there is risk. BUT there is an even bigger risk if left unfixed.
- All victims of coercive control are vulnerable.
- Victims living under the same roof with the offender, or the offender knowing where they reside.
- The perpetrators will be even more violent
- The control could escalate to prevent women coming forward. More advanced safe accesses and education of outlets to safety must be provided.

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- If like my ex he knew the law he would make sure that he made his threats when nobody else was around so there is going to be a work around for those that are the offernders
- It depends on the controlling person. They could come back to harm the woman.
- I feel all women are vulnerable and could become a risk, but I still feel strongly it needs to be recorded
- Inability of services to understand the complexities of the disadvantage she faces, her deciding it's too hard
- The tendency of a lot of Autistic people to be trusting, as well as truthful, is a risk factor in a society that does not recognise the many ways coercive control has cumulative harm. Some Autistic traits are misread as red flags for abuse traits, meaning people make assumptions. I am black, and a lesbian, and these have both also contributed.
- They don't have the support or resources to speak up, get help, & be treated with respect by the Police. It is also harder for them to leave these situations often for financial reasons, but also due to a history of DV in their families or communities.
- More risk of homelessness and being put into a role of sole provider and parent with little or no support. People with disabilities may lose the only support person they have as abusers often isolate us from any support service, family or friends
- Fear of reprisals and also now what. Without adequate wrap around support it can be more dangerous plus force them into more at risk
- Victim blaming that this already exists. Women with disabilities might be left without any supports or carers if they're taken away. But the system doesn't support any of these groups and there is not enough funding to support them. Women on temporary visas could be deported three no fault of their own.
- Criminalisation of certain women - for instance those who use coercive control. For example my Fundamentalist Christian community. Are we prepared for more women with criminal records, and more women in jails?
- Increasing intimidation & further safety risks if victim continued living under same roof.-i
- All groups of women are at risk as coercive control is not criminalised yet
- The fear is always a risk but if we didn't have to revert to our submissive fearful selfs and the shame and stigma was lifted we would only become stronger

Q10 Please indicate your stance on criminalizing coercive control:



*Other (please specify)*

**11.If coercive control legislation is introduced, how can the NSW government make sure it is introduced safely?**

- If coercive control legislation is introduced, how can the NSW government make sure it is introduced safely?
- By ensuring that police, DV associated services, and the courts - particularly the judges/magistrates are trained by experts in the area of coercive control so that it has the best possible chance of being enacted successfully and positively. Every single police station needs a specialist DV unit, with specifically trained officers and sergeants, etc. There is no point in changing the legislation if the frontline officers are not trained, educated, on-board, and have the resources to put it in place effectively.
- They need to create a trauma informed environment where police, lawyers and everyone involved in DV is trained in understanding coercive control
- Firstly, we need the 0 tolerance ads back. Further law makers are not specialists in this area and so the definition of cc needs to be definitive clear about the conduct that describes cc. It should not be an adversarial system involving the witness. Court appointed DV specialists provide reports and analysis of witness statements and evidence- expert witnesses in DV for a fair trial for both parties concerned. Early intervention and protection- safe homes. Whilst counselling is validating to victims. I think there needs to be education in schools about identifying DV in the curriculum, counselling for

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perpetrators. Perpetrators thrive on victims getting counselling as a result of their actions as a trophy and to further their argument and torment of undermining their victims state of mind.

- Look at other successes eg Scotland
- By not leaving vulnerable people in vulnerable situations.
- There needs to be a proper education program for law enforcement staff as well as the public
- Open-Ended Response
- Proper educational procedures for police, solicitors, magistrates and other participating members of the judicial process or domestic violence support. There should be no ambiguity or uncertainty around what is now criminal behaviour that would allow abusers to escape justice.
- Through training police, lawyers and magistrates
- By promoting it in all languages, and through the proper channels through the communities themselves. From ads on TV to community group education in remote Australia. Schools too could play a role in educating their communities by having parent education nights etc.
- Education, a media campaign explaining coercive control, men teaching men.
- Introduced safely? Introduce it immediately that is introducing it safely That is the thing with DV it's the perpetrator always doing the what I call the DRAW OUT. Meaning you keep trying to leave and they do this stunt or set up similar to a person trying to extend and keep extending the relationship by means of ways to draw it out. If I have of left sooner.... Why doesn't she just leave..... Why has she gone back..... Staying for the kids sake..... Draw outs cost LIVES it must be introduced immediately these women victims have been brainwashed over a long period of time groomed in insidious ways and the conditioned into accepting the behaviour to occur believe it is their fault and even worse to think it's OK and even normal it's brainwashing
- Just follow Adam Bandt and his team, they seem to know what to do regarding this situation
- See above re massive community education, plus training/reform of police culture and oversight
- Teaching police and magistrates.
- Education for all in DV sector especially with specific at risk groups . Public campaigns.
- Safely? How could it ever be unsafe to criminalise a form of abuse! Just introduce it and start enforcing or convicting perpetrators. It's a form of blackmail
- Education for police, the courts, magistrates, judges, legal fraternity, DVF services , all community welfare organisations
- Consultation with DFV sector
- Needs a root and branch culling of old laws,

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- The best solution would be specially trained mainly female units, perhaps close by or separate to existing police stations.
- Open Women's Crisis Centres in every state and city. Make it easy to access support. Specially trained frontline workers. Educate about Coercive control in schools!
- I doubt you can! Abusers will laugh at you and do what they like anyway. Because they can. It's all done behind closed doors. How will anyone know what's going on?
- Training and education
- Be very clear in the definition of coercive control Recognize that many men still think that 'controlling their woman' is acceptable behavior NB the use of possession
- Extensive consultation with peak organisations and follow their advice.
- This is always difficult. Look at the boots Annie pilot in the UK This is how people need help. They need to be sneaky because they know their lives are in danger if they're not.
- Anonymity
- Training of police and legal practitioners (including family law practitioners).
- Provide adequate training to police, legal practitioners (especially family lawyers), child protection and counsellors.
- To have mandatory training for all respondents in the DFV sector.
- With clear information about what it is, and clear & effectively resourced strategy to support women and intervene with men. There is no point criminalizing it if nothing changes, there are no services for women or men and it just feeds an ongoing rhetoric about DV
- Train police thoroughly.
- It must involve intense training of police and Magistrate's and Judges. It must involve a 'feedback system' for victims to report back problems.
- Education of the general population as well as Police. Listening to people who have lived expertise of DV.
- Consultation with DV service providers and law experts. They are the main consultation groups given their expertise.
- Can't be any worse than current situation. Women are unsafe without coercive control laws.
- By making sure police and the judiciary are made to attend mandatory training in it every 12 months. By setting up an Independent Oversight Committee that the public can go to when police and the judiciary don't do their jobs.
- Police attitudes to DV have to change.



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- Mandatory training to educate police officers, prosecutors, solicitors and Magistrates about what coercive control actually is. For people who haven't experienced it, they have no idea.
- Proper sector based education- with program content co designed with victim survivors
- Awareness - ad campaigns, get the public on board - it needs to be explained
- Educating legal professionals including from judicial roles, police, dfv roles and all with a duty of care.
- Unless you've experienced it you can't identify it. There is very little to no support for victims and their children. The government ought to go in hard. Create a vocabulary to identify toxic behaviour. An escape strategy and safety planning for the victim and children. The victim is left in poverty so they have no resources for lawyers. Touching assets or money is dangerous for the victim. The abuser will hurt the children pets elderly use the system do whatever it takes. Many women die or end up in jail. Some end up having to go back because the abuser contacts housing lawyers and support. Once the a police officer is manipulated there is not much hope. Lawyers won't help you can't report the police and other stations protect each other. Creating a knock on effect isolates the victim. Court psychiatrists, lawyers, are ineffective to help these women. The children are forced to protect the abuser as they experience the abuse behind closed doors. My daughters tried to fight and they were abused at home by the father and then the system. The child said dads gone mad and the father said the kid is crazy. A white male IT professional. The other child said mums not crazy she is normal. The police told the child that's her disease. Without ever speaking to the victim. I was lured back to the home and the police were waiting. The police have never met me. We were getting a divorce and he said he would leave the house. I was told. The police are not what you think they are. To not mention the police. I would not be in this situation if the police had done their job. The police require seduction to help a victim. The abuser uses pow style techniques, sleep deprivation until the victim turns up scattered. The police have their cages rattled by the abuser. In my situation it was inter generational violence. The police don't stand a chance to coercive control. The DVLO to detective failed me. I had to educate myself even my daughters fought. I had to let go because I feared for my children's life. I was lucky to have identified the very real danger. I was helped and supported by ethical trained clinicians. But that was not enough. There is no support legally to protect the children and the vulnerable. It's really important to criminalise the behaviour it allows the victim to escape.
- WITH TRAINING, appropriate education and Making sure people who are dealing with it are well trained.
- Identify corrupt police who help their brother. !

- Same way they advertise Domestic violence, maybe.
- Better protection for victims. Training for Police and Judges and our legal system. More specialised Dv services on offer. Short & long term affordable housing for victims safety.
- Women and children must be protected from revengeful attacks that may occur from the offender being reported.
- I'm not sure. It is always dangerous to get out of a DV situation. I had to play nice the whole time, until I can get out safely. Then he came down on me with lawyers and pummeled me in court. I couldn't afford to go on in court, so I had to agree with the asset split and now I'm worse off. But I felt the court system was so unfair to people that had no money to defend themselves. I have nothing now. But I got out. It shouldn't be like this. The courts should ensure they protect the vulnerable.
- Education education education. Finding access points to inform and educate victims with clear safe exit opportunities.
- Not sure as people who do this behaviour need to be educated on why they shouldn't do it
- Education and advertising.
- Training and auditing
- Education for all working in relevant sectors - family support, health, policing etc. Public education about coercive control. Training for Police in responding to DFV that isn't physical.
- Nothing is 100% safe.
- Offenders need to attend mandatory classes to gain an understanding of what the law is and the Penalties if the law gets broken.
- I feel it will be tricky, but given time it will be understood, a lot more people are becoming aware of DV, coercion, intimidation, belittling etc I feel it would be better to drum it into the controllers, the consequences they may receive if they are charged. Attempt to but the fear of exposure to them, as we already know the consequences as the victim, it's up to us to find the strength then to press the charges.
- Proper training for staff Especially the staff on the front line.
- Speak to DV workers and adovocates. Particularly women of colour and lgbtiq women
- Consult with DV field experts and police.
- Awareness and education
- Training for all workers and public campaigns
- Education campaign targeting all people not just criminals. Young people are also very vulnerable when it comes to this behaviour.

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- Wide spread training in the safe and together model. Consultation with other states and territories, as well as federal, to prevent cross jurisdiction cracks for adult and child victims to fall into.
- Needs to be bi-partisan support with the commitment to saving women & children's lives from all forms of DV, as coercive control is always a factor in eventual physical acts of violence. There needs to be extensive education & training in the community, with first responders, Police & legal systems. There would need to be a willingness by Police & the legal system to actually prosecute. The NSW government should consult widely, with all sectors involved in DV & family violence, including those with lived experience.
- By retraining everyone on this issue, police, judges, counsellors, court psychologists, court family evaluators.
- Make parallel changes to other legislation or at least look into this impact across the board so. Revise all the material out there that start to see DV far more than 'conflict'
- Consultation, education, training. Waiting out those who use coercive control already in law, police, courts and supports. Making sure that it is a nationwide education on coercive control and that we stamp it out of every part of our lives.
- Educating Police. Educating judges Specialist Domestic Violence Courts Police Prosecutors that have specialist Domestic Violence training. Police Prosecutors need to meet with Victims prior to the court date and discuss issues and put a proper plan in place when representing victims rather than just reading about the case on the day. I have lost 2 cases due to poorly trained police prosecutors who clearly did not understand what constitutes Domestic Abuse or know the severity of my history of being abused Specialist Coersive control police units that are part of or work alongside Specialist Domestic Violence Care and referral pathways Support services for victims Safe housing and supports for victims
- There is a dire need for professionals in the court system and the police to be trained in trauma add well as in DV. It requires a whole of government approach, including in education, as well as health and policing.
- Enough funding to train police and organizations involved.
- Training about all non-mainstream women and how coercive control can (is) used by women to take back some power. Training to police and agencies. Also conversations with women IN non-mainstream communities about what coercive control is, and why its not something they should participate in - because its often the only power they have. Many women from non-mainstream backgrounds dont realise their behaviour has a name. How are you going to reach those communities to have those discussions? For instance there is no formal liasion into Fundamentalist

christian communities - such as JW's, Mormans, The Truth, Brethren - so how would you even start that conversation?

- By having well trained and competent staff in the area of Domestic Violence . By using DV victim's- survivors lived experiences as part of their training/ workshops.
- Pilot it in a couple of the regional courts like Lismore or Tweed Heads
- It's not safe for us now, because it isn't. I've lost everything to him - my career, all my money, my confidence, my self-esteem... everything taken and he's playing victim and lying on his affidavits for court. Psychological evaluations for both parties should be a given because they're damn good liars
- Consultation with services like DVNSW, survivor advocates, thorough training for agencies involved in responding to DV.
- With Straight introducing harsh penalties for perpetrators! Only a strong criminal response will ensure safety for women and children.
- Training throughout all fields and stronger punishment for those who breach avos

**Do you have any comments about the interactions between the family court and NSW civil and criminal law that are to be considered in the possible introduction of coercive control legislation?**

- Do you have any comments about the interactions between the family court and NSW civil and criminal law that are to be considered in the possible introduction of coercive control legislation?
- Yes, the Family Law, courts, Judges and Magistrates, and associated lawyers/court staff all need to have similar training and education from experts in the field of DV, and particularly on how to recognise cases of DV - regardless of the levels of coercion, and how to identify parents/partners who are attempting to use alienation tactics and keep their children from the protective parent. The Family Court system as a whole needs a complete overhaul, which would start with recognising the impact that DV, and all forms of violence have on the health, safety, well-being and development of children. Currently, children are thrown in with both parents, regardless of the presence of violence, and other damaging tactics, behaviours, and outcomes. It's unacceptable.
- I have been taking to family court for the last 11years and still on going. I'm devastated that the courts see that it's control and abuse but continue. The system is broken and people use the system to hurt and wreck people and children.
- Yes-I'm the FL- contraventions of the court/contempt of court orders be dealt with more severely. Lawyers accountability and responsibility to not enable this conduct because of the financial interests in having a matter drag through court financially burdening families I was x examined by my ex. This should never have happened. Even if there is no current AVO in place if there is a history

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of DV no one should be placed in that position. FL parties who have been subjected to DV should not be present together in the court room. Police are busy, they're not lawyers and I say that respectfully. In my experience they have been disorganised, the equipment been faulty when providing evidence or a lack of legal knowledge. My ex barrister cross examined me in my Family law affidavit a breach of S 21 of the Family Law Act. Magistrates in the district courts lack the same qualifications. Victims of DV need appropriate and competent representation.

- The family court needs an overhaul as well!
- There \*also\* needs to be protection from liars who abuse the system/ process.
- They need to work together. If the family courts see coercive control behaviour within their cases it needs to be reported.
- My own experience with the family court was awful. The counselor was enamoured by my charming, abusive husband and did everything possible to get him whatever he wanted. Human rights for all must be the priority.
- Yes. If a parent is using coercive control with the other parent that should override their rights in the Family court..
- They currently dont interact at all. Family courts order children to live with fathers who are violent to them and who have protection orders. Its a fucking joke. Family courts make orders that contradict protection orders.
- To start with, vet all judges and magistrates for their knowledge, ethics and morals. Recognise that DV perps and pedophiles manipulate the family law system
- Criminal consequences are required to prevent perpetrators
- Definite inclusion required. Perpetrators of Domestic Violence use the Family Court to continue their power and control behaviour patterns which leads to further abuse and devastating consequences for victims of DV.
- Consistency between layers, DV, Victims of crime, child protection, family law, education facilities. Criminal law is a sick joke. Read Louise .Milligan's "Witness". How lawyers ignore current issues like trauma, royal commissions recommendations etc.
- Those women I know who have had to fight to minimise custody of abusers are beaten down by the experience of being dragged through court. They should not have to endure character assassination from the perpetrator's lawyers. They should not have to be forced to sit in the same room as these criminals who made their lives a living hell AND CONTINUE TO DO SO. They should not have to deliver their children to them for unsupervised visitation, let alone 50 percent custody. It is heartbreaking to see these women further traumatised in the process of trying to get help and be

heard. I have no faith whatsoever that the law would support myself and my daughter and protect us.

- Make sure they are on the same page and don't provide loopholes
- Truly, the family court system is a National disgrace. My daughter is planning to study law and become an ICL just so she can help other children going through the same hell that she is. Stop forcing kids to have a relationship with an abuser!
- Family court seems only to consider a parent an abuser if there is visible physical evidence of abuse. Abuse inherent in coercive control is just as damaging and maybe even more so in terms of the impact on children's psychological development and the length of time it takes to heal.
- It is unjust that parenting orders override domestic/family violence orders and that children are forced, through parenting orders, to spend time with perpetrators of d/fv. The children are used by the perpetrator to maintain power and control over the survivor. The children also become a target for the perpetrator's coercive control - the damage happens through repeated exposure to the perpetrator's abuse, over time and it seems that unless the violence is physical, police/child protection/counsellors/lawyers aren't interested/don't see it and the child has no choice but to keep being returned to the abuser for access/care. Heart breaking.
- It is vital that family court take on the seriousness of the impacts that a perpetrator of coercive control has on children's their parents psychological wellbeing. And that someone who is convicted of coercive control is not suitable to have responsibility for their children. E.g. only supervised contact if any at all. Continuing to allow perpetrators to have responsibility for their children will just allow to cycle to continue. It also send the wrong message to our children. It is teaching them that if you use coercive control there will be no legal consequences for your actions. It also tells our children that they should accept this type of behaviour in our lives and don't have choice about it. The impacts of coercive control are so destructive it is vital that we call out this behaviour and send a strong message to our children that it is not ok and leave a better legacy for future generations.
- It should be screened by DV qualified practitioners in EVERY family law case and clear definition so it can't be refuted by well paid solicitors
- Yes the system is very confusing and the family law does not assess coercive control accurately
- Any legislation created need to be consistent between State & Federal Courts and this is where Family Court Judges need to be intensely trained to ensure they do not minimise Coercive Control charges, like they currently do with AVOs.
- Judges need to support victims and children suffering coercive control and not force contact with perpetrators.

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- It is quite simple, if you are an abuser you get no contact. It is automatic no contact and sole parental responsibility without the need to go through Family Court. Immunity needs to be removed from. Judges in Family Court. There needs to be an Independent Oversight Committee. The Family Law Family Violence Inquiry found that the Family Court ignores all evidence of dv and fv so those matters should not be there in the first place. Children's Court should be open to parents to take their matter through there when there is dv and fv. The problem I see is no matter how much you legislate something the ingrained culture and systemic belief that all women are vindictive liars just out to get their poor ex-husband instead of victims that have said enough is enough no more dv.
- Abusive parents need to stop being given access to their children. Victims need to be listened to more.
- The family court needs a complete overhaul. There are too many paedophiles and child abusers employed by it to be of any benefit to the safety and wellbeing of children.
- The interactions need to be more fluid and comprehensive. Coercive control needs to be accepted and included in family law. Perpetrators need to be rehabilitated before engaging in co-parenting. Coercive control is not only victimising a partner but also the children.
- As above I have no legal support or resources. The amount of abuse to my children, my elderly mother and myself. The damage is huge. No lawyer goes against police misconduct and a mountain of false allegations the abuser total control of all assets finances. There are no words that can describe this. Institutional abuse? I was running for my life seeking support unable to get any because perhaps I don't have the words to pinpoint the behaviour. No one sees the very real danger.
- Yes, who is going to support the families for this because the government already has underpaid and overworked caseworkers, Legal aid and judicial system? Will this open more jobs for people like me Who are trained but can't get a foot in the door because I don't have 2 years paid experience but I have 20 years of parenting children I am now trained to help.
- Only that they should all work together in consultation.
- Family courts do not understand the narcissistic personality of abusers. They need to be educated and consult external psychiatrist to be able to be equipped and deal with these "showman". My ex fooled the courts so well, I was to be blamed for everything just as I was in our marriage. Because I choose to leave and break up the family. My children was interviewed and it didn't make any difference. Police had incidence reports and none was used. I felt like he used the courts to abuse me even more. With lawyers and fought to not letting me have any money at all. It was a disappointing outcome. But I'm glad I'm free now.

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- Educate every key player, lawyers, judges, advocated to clearly and compassionately create safe language that communicates that the victim is whole and equal as human being and worthy of respect rather than judgement or pity and that the behavior of the abuser is not a maybe or he said she said but criminally reprehensible. That the victim is believe.
- Family law MUST catch up with understanding the impact of perpetrators. They are breaking children and causing life long trauma. Children's rights to be safe must override a parent's rights to have the privilege of sharing a child's time. The family law system is used to coerce and control. It is designed to allow perpetrators to continue their abuse. Allowing children to be dragged through the system at the will of perpetrators is continuing their abuse and trauma.
- No Would need to know more. I did a DV Alert course. I had to leave the home & my work as we had a home based business.
- They all need to work together, all records for each division should be accessible and taken into account. Help paint the bigger picture. A lot of the times they are clever (well think they are!) and always get away with everything, could be DV, weapon charges etc so they may have never be charged
- It would be good if the 2 systems worked together a bit better when it comes to family abuse.
- Minimising the effect on children needs to be paramount; they are affected just as equally.
- Family law court is a joke. It's for the parents, not the children. It allows abusive people full access to innocent children.
- Family court needs overhaul it is failing women and children and has issues when abuse is present let alone including new more complex options...Overhaul all
- If the Safe and Together model was used, and all systems were partnering with survivors, applications to the family court would drop dramatically as victims would not need to make applications, and perpetrators would not be able to use it as a source of abuse. This would give the Family Court the resources to concentrate on cases that truly need their time and attention.
- Yes, both need to be included in family law cases and this needs to be taken seriously. The consequences for children are dire and in many cases life altering mental health issues for life.. Also child services need to be heavily involved with the abusive parent like a case worker, parenting programmes, drug and alcohol rehabilitation program attendance if that is also an issue. As well as 3 monthly psychological assessments and drug tests.
- The family court process, and all the players in it - court, judges, police, lawyers - and pre court - marymead, relationship australia are all enablers and the ongoing focus on the premise of 'conflict'



in these type of relationship is horrific on the outcomes for women and children developing parenting plans/orders. (please also edit my comments as needed with t

- There needs to be a specialist domestic and family violence arm in both of these courts and they need to all have proper training. The family court was set up for a reason and should not be abolished but it should be allowed to deal with family court issues with a separate section within the family court to deal with the more complex nature of domestic and family violence. We also need to eliminate the patriarchal systems that protect men and perpetrators. We also have to have the latest technology so that information is instantly shared between the courts and the police so that perpetrators cannot have easy access because of failures of sharing information.
- The Family Law Court needs to take Domestic Violence seriously and understand that if someone is capable of such violence and abuse they can not be a good parent. Abusers will use anything to control and manipulate their victim including the children. Parental alienation is a common form of abuse used by perpetrators. Court all need to work together and communicate to ensure the best possible outcome for the victim and their children
- The family court needs to consider coercive control and not overrule state child protective orders.
- The whole family court system is broken. I would worry that when this is raised in family court, being an adversarial system, that it would result in victims being disbelieve and retraumatizes through the court case.
- The family court need to take coercive control more seriously especially when considering how perpetrators can use children as a tool of manipulation.
- MUST WORK IN COLLABORATION. It is absolutely a crime in itself for some minors to be exposed to further Abuse &/or Violence due to different jurisdictions.-
- The family court is an abomination. The civil courts needs to follow the law and make changes to parenting orders simultaneously when this conduct is found removing visitation etc. Not a single Magistrates court in this country has implemented this power as they are too scared to over-rule the family court. So victims continue to be traumatized by their perpetrator.
- Yes. I was with my abuser for 5 years. Despite him not contributing financially, emotionally or otherwise, he is lying and has already cost me \$70,000 in legal fees and we've only just done mediation. I have two more years before this will see a court room. Despite everything being in my name and him benefitting to a quick end to this, his need to control outweighs even getting money to go away. If I was able to get a criminal offence against him, then surely that should form part of any family court settlement. Why am I even stuck in the court system trying to protect everything

I've worked my whole life for, from someone who destroyed me? How is that fair. Where's the justice in that?

- Yes. This is very important! Thank you for raising this issue. Family court should never override AVO. This puts women and children at great risks . Family court should never allow a perpetrator access for children. Please stop that.
- I seeked legal help to get custody orders denying him access to his children because of his violent addicted behaviours but because he currently holds the upper hand over us and we are constantly reminded that because his behaviours are not direct threats even though they make us fearful. The courts could still allow him unsupervised access to our children. I have been advised whilst I have the children and there best interest at heart I should avoid a court case unless initiated by him but he will never do that. Why would he still controls us.

12 February 2021

Ms. Clare Hawker  
Director of Committees  
Joint Select Committee on Coercive Control  
Parliament of New South Wales  
6, Macquarie Street, Sydney, NSW, 2000  
Via email: [coercivecontrol@parliament.nsw.gov.au](mailto:coercivecontrol@parliament.nsw.gov.au)

Dear Ms. Hawker,

### **Inquiry into coercive control in domestic relationships**

Mission Australia delivers evidenced-based, client-centred community services. In the 2019-20 financial year, we supported over 167,000 individuals through 483 programs and services across Australia. Of these, 59,000 people were in NSW and nearly 9,000 of them were either experiencing or were suspected of experiencing domestic and family violence. We provide a range of domestic and family violence related services including Staying Home and Leaving Violence, Women's Domestic Violence Court Advocacy Service as well as Men's Behaviour Change Programs.

Mission Australia is a member of Domestic Violence NSW and based on our service experience, we support sections 14 and 15 of the DVNSW submission which discusses the non-legislative activities that are needed to support people experiencing domestic and family violence. In particular, we reiterate the importance of following suggestions:

- Additional funding for DFV sector to better respond to sexual, domestic and family violence.
- Thorough training in DFV, trauma-informed care and cultural awareness and competency for all first responders, including police, health and education staff.
- Utilising a gendered approach to address DFV.
- Substantial investment in primary prevention.
- Community awareness campaigns about coercive control and non-physical forms of DFV.
- Additional regulations, measures and safeguards from tech companies and banks to address tech-facilitated abuse [and financial abuse].
- Reframing the system to adopt a framework of perpetrator accountability, and healing/reparation to the victim-survivor by utilising experts trained in IPV and restorative justice.
- Investment in community bystander training, noting that the majority of victim-survivors do not report violence to the police.

Additionally, we independently note the value of Men's Behaviour Change Programs, which aim to reduce rates of recidivism and thus improve the safety and wellbeing of previous, current and future intimate partners. Research suggests they may also contribute towards safer parenting and healthier childhoods. While we note that there have been arguments against these programs, including that they divert resources from victims' services, we also note that increasing support is being shown for perpetrator interventions including through *Australia's National Plan to Reduce Violence against Women and Their Children*, which contains stopping perpetrator violence and holding them to account as one of its outcome areas. We believe Men's Behaviour Change Programs to be one of a suite of approaches that are of use in reducing domestic and family violence.

Finally, we encourage the committee to work closely with individuals with lived experience, legal experts, the peak advocacy bodies and community services throughout the inquiry process to ensure that their voices are appropriately reflected in the final report and the recommendations for the government.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Nada', followed by a long horizontal flourish.

Nada Nasser

State Director NSW