

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

Organisation: Women's Safety NSW

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Women's Safety NSW acknowledges the Traditional Custodians of Country and pay our respects to Aboriginal and Torres Strait Islander Elders past, present and emerging.

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WOMEN'S SAFETY NSW

Submission to the NSW Joint Select Committee on Coercive Control in Domestic Relationships

12 February 2021

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Women's Safety NSW also thanks and acknowledges everyone who has advocated with persistence and fortitude to get us where we are today with this important Inquiry focused on achieving substantial change for women's safety, and to the select members of the committee for your dedication in reviewing all submissions to ensure these reforms are done well.


II. Abbreviations

ADVO	Apprehended Domestic Violence Order
AVO	Apprehended Violence Order
Bench Book	National Domestic and Family Violence Bench Book
BOCSAR	Bureau of Crime Statistics and Research
BWV	Body Worn Video
CALD	Culturally and Linguistically Diverse
<i>CDPV Act</i>	<i>Crimes (Domestic and Personal Violence) Act 2007 (NSW)</i>
DVLO	Domestic Violence Liaison Officer
DFV	Domestic and Family Violence
DVSAT	Domestic Violence Safety Assessment Tool
DVDRT	NSW Domestic Violence Death Review Team
English/Welsh Act	<i>Serious Crimes Act 2015 (UK)</i>
LGBTI	Lesbian, Gay, Bisexual, Transgender, Intersex and Queer
The Scottish Act	<i>Domestic Abuse (Scotland) Act 2018</i>
VIS	Victim Impact Statement
WDVCAS	Women's Domestic Violence Court Advocacy Service
WWD	Women with Disability

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*“We were completely and utterly trapped, and suffering from the extended nature of his control and abuses... he knew exactly how far he could go with his physical violence towards myself, and how to manipulate the situation so as to look like the kind, caring, wonderful husband and father, etc, whilst wreaking havoc, using the kids as tools/pawns, grooming, manipulating, abusing and alienating them from me, to further his own ends... **It's all documented, and yet none of it matters enough to get a conviction.**”*

- Rowan*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW.

1. Introduction

1.2 About Women's Safety NSW

Women's Safety NSW is a peak representative body for women's specialist domestic and family violence services in NSW – including the [Women's Domestic Violence Court Advocacy Services \('WDVCAS'\)](#) who support over 50,000 women per annum through [Safer Pathway](#) and in the [136 local courts](#) and [major federal family law courts](#) in NSW, in addition to a range of women's specialist domestic and family violence services, such as women's health and counselling services, Staying Home Leaving Violence, women's shelters and refuges, women's resource and case management services, and women's legal services.

Women's Safety NSW advocates on behalf of our members for systemic reform to increase women's safety, justice and wellbeing in the context of domestic and family violence.

Women's Safety NSW also has a [Women's Safety Advocate Program](#), which provides opportunities to women with lived experience of domestic and family violence to access media and advocacy training, professional development, and networking events, as well as news and updates and direct opportunities to feed into policy, practice and law reform in a safe and empowering way.

The organisation is funded by the NSW Government, administered by Legal Aid NSW, and through membership fees, donations and in-kind support.

1.2 Background

Coercive and controlling behaviour is at the core of domestic and family violence. **In a survey conducted by Women's Safety NSW in July 2020, 100% (N = 22/23) of victim-survivors surveyed reported that they had experienced emotional and psychological abuse, and 86.36% (N = 19/23) of victim-survivors surveyed stated that they had experienced financial abuse.** These non-physical forms of abuse can be just as potent and damaging as physical violence, often entrenching abusive power dynamics and enabling offenders to establish control over victim-survivors. Tactics such as psychological abuse, financial control, social isolation, surveillance, and gaslighting are

used by abusers to instil fear and to undermine their victim's autonomy, which impedes their ability to escape abuse.

Whilst the specific term 'coercive control' was coined by sociologist Dr Evan Stark in 2008, the concept of coercive and controlling behaviours in the context of domestic and family violence has long been understood by practitioners and advocates worldwide, and fully integrated into their support service responses. Early feminist and womanist writings captured the essence of coercive control by talking about power, control and coercion.¹ These writings burgeoned during the second wave feminist movement, particularly in the 1980s with prominent authors such as Catharine MacKinnon,² Elizabeth Pleck³ and Kimberle Crenshaw⁴ providing critical analysis to broaden understanding. In 1984, staff at the Domestic Abuse Intervention Project in Duluth, Minnesota drew upon this body of literature and their own frontline experience in developing curricula for groups of men who use violence, and for victim-survivors of that violence. This became known as the Duluth Model and centred on the use of the Power and Control Wheel which depicts "the pattern of actions" such as "threats, intimidation, and coercion" that an individual uses "to intentionally control or dominate his intimate partner".⁵ This model has subsequently been used around the world to inform current day responses to domestic and family violence.

Around this time, the importance of civil protection for domestic and family violence victims became widely recognised. By the early 1980s every Australian state and territory had moved to enact legislation with the express purpose of protecting women from intimate partner violence through the provision of civil protection orders.⁶ Civil protection orders,

¹ See, eg, Simone de Beauvoir, *The Second Sex* (1949); Combahee River Collective, *Combahee River Collective Statement* (1977).

² See Catharine K MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Harvard University Press, 1987).

³ See Elizabeth Pleck, *Domestic Tyranny: The Making of American Social Policy Against Family Violence from Colonial Times to the Present* (Oxford University Press, 1987).

⁴ See Kimberle Crenshaw, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' [1989] (1) *University of Chicago Legal Forum* 139.

⁵ Domestic Abuse Intervention Programs, 'FAQ About the Wheels', *Domestic Abuse Intervention Programs* (Web Page) <<https://www.theduluthmodel.org/wheels/faqs-about-the-wheels/>>.

⁶ Annabel Taylor et al, 'Domestic and Family Violence Protection Orders in Australia: An Investigation of Information-Sharing and Enforcement with a Focus on Interstate

such as Apprehended Violence Orders ('AVOs') or Apprehended Domestic Violence Orders ('ADVOs') in NSW, have continued to form a critical part of safety planning for victim-survivors of domestic and family violence since their introduction, increasing in effectiveness as police culture and practice in responding to domestic and family violence improves. Nevertheless, whilst physical and sexual assault, and later marital rape, was recognised in criminal law, specific domestic and family violence offences were not enacted in most jurisdictions until the 2000s.⁷

Domestic and family violence offences in Australian jurisdictions vary in their definitions but remain focussed on physical and sexual assault within the context of a domestic relationship. Overtime, however, it became apparent that the laws were limited in responding to the broad range of behaviours exhibited in a relationship characterised by domestic and family violence. Accordingly, related behaviours, such as stalking and intimidation, were brought within the ambit of domestic and family violence legislation.⁸

Nevertheless, domestic and family violence is still widely understood within the community to be characterised by incidents of physical and sexual assault due to a person losing control of themselves and lashing out at their spouse. This understanding is not however, consistent with our current understanding of domestic and family violence as informed by the lived experiences of victim-survivors and those perpetrating the abuse.

In fact, victim-survivor and abuser experience shows domestic and family violence to be typically characterised by a person (usually male) committing a series of acts, such as; threats, intimidation, humiliation, psychological manipulation, social isolation, financial restriction, monitoring and surveillance, and deprivation of resources and liberty, which may or may not be accompanied by physical and sexual assault, all of which is perpetrated for the purpose of establishing and maintaining domination and control over their (usually female) partner, ex-partner or other family members.

Orders: Final Report' (Research Report No 7/2017, ANROWS Horizon, November 2017) 9 <https://20ian81kynqg38bl3l3eh8bf-wpengine.netdna-ssl.com/wp-content/uploads/2019/02/Horizons_legal_FINAL.pdf>.

⁷ See, eg, *Crimes (Domestic and Personal Violence) Act 2007* (NSW); 'Family Violence Legislation', *Australian Law Reform Commission* (Web Page) <<https://www.alrc.gov.au/publication/family-violence-a-national-legal-response-alrc-report-114/4-purposes-of-laws-relevant-to-family-violence/family-violence-legislation/>>.

⁸ See, eg, *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 13.

This means there is a mismatch between the actual experience of domestic and family violence and the laws designed to address it. Consequently, and indeed inevitably, the law is ill-equipped for its role in setting and reflecting community standards of conduct as well as delivering protection and justice to those who need it. This shortcoming often leads to devastating consequences.

The murder of Hannah Clarke and her three children in early 2020 sparked national outcry and once again brought the crisis of domestic and family violence to the forefront of the Australian public's attention. News outlets covered the "scary controlling tactics"⁹ that were used against Hannah and her children before their lives were tragically taken, highlighting the extent of abusive behaviours that lead to murder and how system failures left them exposed and at risk.¹⁰ In response to the murder of Hannah Clarke and her children, Prime Minister Scott Morrison stated: *"we must reflect on how and where the system failed Hannah and her children, as it has failed so many others. It's so frustrating. It's so devastating."*¹¹ Following the murder of Hannah and her children the Labor Member for Shellharbour, Anna Watson, called for legislation to criminalise coercive control,¹² naming the proposed coercive control bill 'Preethi's Law', in memory of Preethi Reddy who was murdered by her former partner in 2019.¹³ Greens Spokesperson for Women and the Prevention of Domestic and Family Violence and Sexual Assault, Abigail Boyd MLC had also been consulting with experts on the development of a bill throughout this time.¹⁴

⁹ Kate McKeena and George Roberts, 'Brisbane Car Fire Killer Stalked Wife Hannah Clarke and Used 'Scary' Controlling Tactics Before Final Evil Act', *ABC News* (online, 21 February 2020) <<https://www.abc.net.au/news/2020-02-21/brisbane-car-fire-hannah-clarke-rowan-baxter-family-violence/11985024>>.

¹⁰ Hayley Gleeson, 'Hannah Clarke Did 'Everything' She Could to Protect Herself and Her Children. Experts Explain Why it Wasn't Enough', *ABC News* (online, 10 March 2020) <<https://www.abc.net.au/news/2020-03-10/hannah-clarke-domestic-violence-law-cant-keep-women-safe/12041184?nw=0>>.

¹¹ Ibid.

¹² Kelly Fuller, 'Hannah Clarke Murder Prompts NSW MP's Call for Coercive Control Powers', *ABC News* (online, 29 February 2020) <<https://www.abc.net.au/news/2020-02-29/hannah-clarke-murder-prompts-nsw-mp-coercive-control-power-law/12012300>>.

¹³ Kelly Fuller, 'New South Wales MP Names Proposed Coercive Control Bill for Murder Victim Preethi Reddy', *ABC News* (online, 25 September 2020) <<https://www.abc.net.au/news/2020-09-25/proposed-coercive-control-bill-named-for-victim-preethi-reddy/12698074>>.

¹⁴ Crimes (Domestic and Personal Violence) Amendment (Coercive and Controlling Behaviour) Bill 2020 s 14A(2)(a)(i) introduced by Greens Member of the Legislative Council, Abigail Boyd.

However, this bill was introduced afterwards on the 18 November 2020. Women's Safety NSW were consulted on the drafting of the latter bill.

From around this time (from 12 October 2020), key advocates have assisted in increasing the media's and the public's awareness and understanding of the role coercive control plays in domestic and family violence relationships. Investigative journalist Jess Hill's 2019 award-winning book, *See What You Made Me Do: Power, Control and Domestic Violence*, has been instrumental in this process, providing a detailed but accessible account of the ways in which abusers exert control over their partners, ex-partners and family members, and the often devastating and sometimes fatal consequences.

Meanwhile in NSW, the **NSW Domestic Violence Death Review Team (DVDRT)**, in its 2017-2019 report, highlighted coercive and controlling behaviours as being a prominent feature in **99% (or N = 111/112)** of intimate partner domestic and family violence homicides that occurred in NSW between 10 March 2008 and 30 June 2016.¹⁵ All of the offenders were male.¹⁶ The DVDRT recognised that a number of other jurisdictions, such as England/Wales, Ireland and Scotland had made reforms in an attempt to address these behaviours and recommended:

"the Department of Communities and Justice examine the extent to which existing NSW laws (criminal and civil protection orders) respond adequately to non-physical forms of domestic and family violence and to patterns, rather than incidents, of violence [including through] a qualitative review conducted with NSW police about what forms of behaviour are being targeted under the offence of 'stalking or intimidation'

The DVDRT also recommended the examination of whether such charges are laid on their own or in combination with other offences, and the relationship context of such offences; and monitoring the progress and implementation of offences of coercive control and domestic abuse in other jurisdictions.¹⁷

¹⁵ NSW Domestic Violence Death Review Team, NSW Government, *Domestic Violence Death Review Team Report* (Report, 2020) 154.

¹⁶ Ibid 153.

¹⁷ NSW Domestic Violence Death Review Team, NSW Government, *Domestic Violence Death Review Team Report* (Report, 2017) (n 14) 121-6
<https://www.parliament.nsw.gov.au/lc/papers/DBAssets/tailedpaper/WebAttachments/72106/2015-2017_DVDRT%20REPORT%20PDF.pdf>.

In September 2020, Women's Safety NSW published a [position paper on the criminalisation of coercive control](#), which explored the critical need for law reform around coercive control and offered possible avenues for this reform in accordance with the direct feedback from frontline women's domestic and family violence specialists and victim-survivors, and in light of the approaches taken in England/Wales and Scotland.¹⁸ Women's Safety NSW regards the criminalisation of coercive control as critically important if Australia is to achieve a substantial reduction in violence against women and domestic homicide. **In a February 2020 survey conducted by Women's Safety NSW, 96% (or N=26/27) of victim-survivors surveyed stated that they believed that the definition of domestic violence in the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) should be amended so that coercive control is criminalised. A similar result was obtained in the most recent survey conducted for this submission (November to December 2020) with a larger number of respondents, 97% (or N=70/72) indicating their support for such criminalisation. Moreover, every frontline domestic and family violence specialist, 100% (or N=46), who completed the survey agreed upon the need to criminalise coercive control provided the change in law was accompanied by system reforms and community education.**

In October 2020, in the wake of what had become a national cultural debate, Are Media launched its latest Activist Agenda campaign, '[Criminalise Coercive Control](#)', in a coalition with; Women's Safety NSW, White Ribbon Australia, Small Steps 4 Hannah, Queensland Women's Legal Service, Women's Community Shelters and Doctor's Against Violence Towards Women. Through this campaign, the coalition is calling on governments around the country to criminalise coercive control by July 2021 with a consultation period with frontline domestic violence workers and victim-survivors to "help shape the new law and the guarantee of necessary resources and [a] reform framework to ensure the judiciary and police are equipped and trained to effectively enforce the law as intended."¹⁹ Speaking at the campaign launch, Dr Nithya Reddy spoke of her family's suffering since the loss of her sister, Dr Preethi Reddy in 2019, sharing that she really believed "*We're at the crux of*

¹⁸ Women's Safety NSW, *Criminalising Coercive Control* (Position Paper, No 11, September 2020).

¹⁹ Mediaweek, 'Are Media Addresses Coercive Control in Activist Agenda Campaign', *Mediaweek* (online), 12 October 2020 <<https://www.mediaweek.com.au/are-media-coalition-addresses-coercive-control-in-activist-agenda-campaign/>>.

this real change happening. We can't stop pushing until it happens, because next week another woman is going to be killed, and the week after, and the week after."²⁰

In response to the DVDRT report and the growing pressure from anti-domestic abuse advocates and victim-survivors, the NSW Attorney General and Minister for the Prevention of Domestic Violence, Mark Speakman, on 21 October 2020 published the NSW Government's [Coercive Control Discussion Paper](#) and established a Joint Select Committee to inquire into and report on coercive control in domestic relationships, including how it is investigated, and how best to address it through reforms to the civil and criminal justice system and through community education.²¹ This submission forms Women's Safety NSW's formal response to the Inquiry.

1.3 Methodology

The aim of this submission is to offer the joint select committee the perspectives and understandings of a diverse range of domestic and family violence frontline specialists and victim-survivors across NSW in metropolitan, regional, rural and remote settings in relation to the issue of coercive control in domestic relationships, and how best to address it.

To this end, in November 2020 Women's Safety NSW conducted online surveys of its members who are domestic and frontline domestic and family violence specialists and victim-survivors of domestic and family violence ('victim-survivors') to seek their professional observations and personal experiences with the justice system and obtain their input on the questions raised in the NSW Government Coercive Control Discussion Paper. The forty-six **(46) frontline domestic and family violence specialists** whose responses were relied upon for this submission include specialists from 16 Women's Domestic Violence Court Advocacy Services ('WDVCASs') who coordinate the NSW Government's victim safety response, Safer Pathway, and support women who are victims of domestic and family violence in 136 local courts across NSW, as well as

²⁰ Alley Pascoe, 'Why we're fighting to criminalise coercive control', *Marie Claire* (online, 12 October 2020) <<https://www.marieclaire.com.au/criminalise-coercive-control-campaign>>.

²¹ Minister for the Prevention of Domestic Violence and Attorney General (NSW), NSW Government, *Coercive Control* (Discussion Paper, October 2020) <<http://www.crimeprevention.nsw.gov.au/domesticviolence/Documents/domestic-violence/discussion-paper-coercive-control.pdf>> ('Discussion Paper').

specialists in women's refuges and shelters. Respondents encompassed a variety of roles, including chief executive officers, managers, assistant coordinators, Aboriginal and multicultural domestic and family violence specialists, domestic violence court advocates, and local coordination point information and referral officers. The geographical locations of the respondents were as follows: inner metropolitan **13% (or N= 6/46)**; outer metropolitan **18% (or N = 8/46)**; regional **52% (or N = 24/46)**; rural **11% (or N = 5/46)**; Other **7% (or N = 3/46)**.

Seventy-two (72) victim-survivors of domestic and family violence participated in our online survey. **All (100% or N=72)** victim-survivor respondents identified as cis-women. **Eighty seven percent (87% or N = 63/71)** of participants identified as heterosexual, **9% (or N = 6/71)** as bisexual and **4% (or N = 2/71)** as lesbian/gay. Respondents were aged from 18 years of age to over 60 years of age, with **46% (or N = 33/71)** of respondents being between the ages of 40-49, **23% (or N = 16/71)** being between the ages of 50-59, **21% (or N = 15/71)** being between the ages of 30-39, **7% (or N = 5/71)** being between the ages of 21-29 and **3% (or N = 2/71)** being between the ages of 18-20. **Seven percent (7% or N = 5/71)** of respondents identified as being Aboriginal or Torres Strait Islander. **Fifteen percent (15% or N = 11/71)** of participants were born overseas and **8% or (N = 6/71)** spoke a language other than English at home. **Thirty-one percent (31% or N = 22/72)** of respondents reported having a disability or chronic health condition. At the time of the survey, **32% (or N = 23/71)** of participants lived in inner metropolitan NSW, **30% (or N = 21/71)** lived in outer metropolitan NSW, **23% (or N = 16/71)** lived in regional NSW, **8% (or N = 6/71)** lived in rural NSW and **7% (or N = 5/71)** lived in other areas of Australia. All efforts have been made to de-identify victim-survivors' testimonies for the purpose of this submission. Where real names have been changed, this has been signalled by an asterix '*'.

2. Defining Coercive Control

Coercive and controlling behaviour has been well understood in the specialist domestic and family violence sector for generations and is well articulated in the 'Duluth Model' developed in the early 1980s. The 'Duluth Model' focused on acknowledging the way in which some men utilise violence and other means of abuse to exercise power over their partners, children and other family members. The model has been innovative in holding perpetrators accountable and keeping victim-survivors safe. Central to the model is the Power and Control Wheel (pictured below), which is systematically utilised in the domestic and family

violence field to understand the tactics abusers use to gain power and control over their victims.



*Copyright by the Domestic Abuse Intervention Project
202 East Superior Street, Duluth, MN, 55802
218-722-2781*

Evan Stark's later analysis of what he termed 'coercive control' is useful as a clear articulation of the phenomenon. Stark identified four categories which best encapsulates

the term: “violence, intimidation (including threats, surveillance, degradation, withholding money), isolation and control (principally through the micro-regulation of everyday behaviours, and the institution of rules)”.²² This was identified as extending to a range of behaviours, including but not limited to the following:

- Isolating the victim-survivor from their family and friends, whether this be through controlling their social media or manipulating them to believe their friends and family are no longer supportive.
- Deprivation of liberty and autonomy, such as preventing the victim-survivor from leaving the home or controlling their movements.
- Withholding access to resources, such as money.
- Monitoring and surveillance.
- Stalking and intimidation.
- Reproductive coercion, such as sabotaging the victim-survivors birth control and forcing pregnancy.
- Non-consensual intercourse and sexual touching.
- Physical violence and threats of physical violence.

Through this behaviour, an abuser specifically aims to ‘undermine an[other] individual’ and ‘keep them under control’.²³ This can be described as a form of ‘entrapment’ which renders its victim ‘hostage-like’, inflicting harm on their dignity, personhood, and physical and psychological integrity.²⁴

2.1 An appropriate definition of coercive control?

Coercive control describes the use by one person of controlling and manipulative behaviours such as isolation, emotional manipulation, surveillance, psychological abuse and financial restriction against another person over a period of time for the purpose of establishing and maintaining control.²⁵ In relationships characterised by

²² Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* (Oxford University Press, 2007) 24.

²³ Ibid.

²⁴ Ibid 41.

²⁵ Women’s Safety NSW, *Criminalising Coercive Control* (Position Paper, No 11, September 2020).

coercive control, abusers use tactics of fear and intimidation to exert power over their victim, undermining their independence and self-worth.²⁶

2.1.2 What do victim-survivors say about their experience of abuse?

Victim-survivors of domestic and family violence surveyed by Women's Safety NSW have provided comprehensive accounts of their experiences of abuse, including their experiences of coercive control. The following sections detail both their experiences and their views.

2.1.2.1 Non-physical coercive and controlling behaviours can be as damaging as physical/sexual assault

Almost all (**99% or 71/72**) of the victim-survivors surveyed regarded non-physical forms of coercive control such as social isolation, financial abuse, monitoring, surveillance, gaslighting, humiliation and degradation as being **just as damaging** as physical and/or sexual abuse.

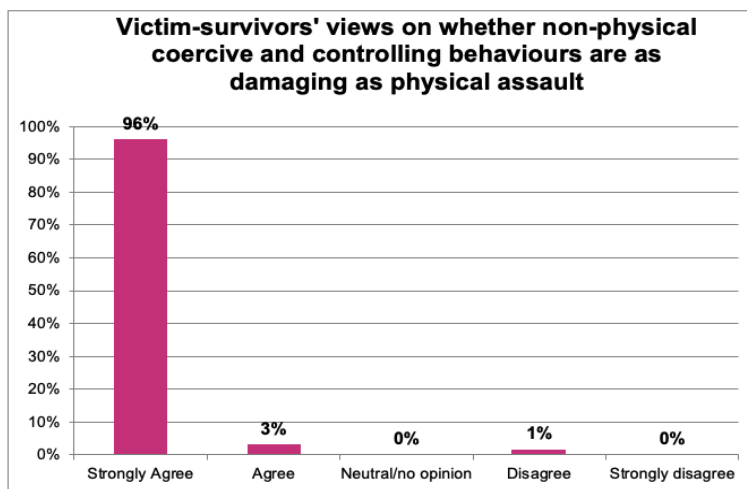


Figure 1.0. Responses to the survey question: "Do you agree that non-physical coercive and controlling behaviours can be as damaging to victim-survivors as physical/sexual assault?". 72 total responses (72 victim-survivors).

²⁶ Ibid.

The comments from victim-survivors in this regard are extensive. Some of these are included below:

*“This has harmed me more than any bruise. And continues to do so after being out for 2 yrs. The threat is always there when you are forced to parent with the perpetrator. He gaslighte[d] me so much, I actually thought I was crazy and could no longer tell reality. **The ongoing damage in all of us is still there... Coercive control is not over when you leave**”* - Tamar*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW.

“I think [non-physical forms of coercive control are] 10 times more damaging to a person [than physical assault], I would have [rather] been physically assaulted then the damage he did to me mentally and psychologically... Wounds heal but he still tries to get into my head.. It has affected me, my kids, and my entire family... I would give anything to have the strong, [independent] and confident woman i once was back again.” - Nari*, victim-survivor, aged 40-49, heterosexual, living in inner metropolitan NSW.

“My daughter and I are still suffering from nightmares, flashbacks, panic attacks and a range of other C-PTSD symptoms now, 3 years after we escaped. My daughter is suicidal at times, and I have extensive cognitive damage from the abuse we endured, and then ongoing stalking, harassment, intimidation and implied threats... [leaving] lasting impacts that victim/survivors have to deal with for the rest of their lives.” - Arabella*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW.

2.1.1.2 The types of abuse experienced by victim-survivors

All **(100% or N=72)** of the victim-survivors surveyed reported experiencing psychological abuse encompassing coercive control. Other forms of abuse experienced are depicted in the accompanying graph:

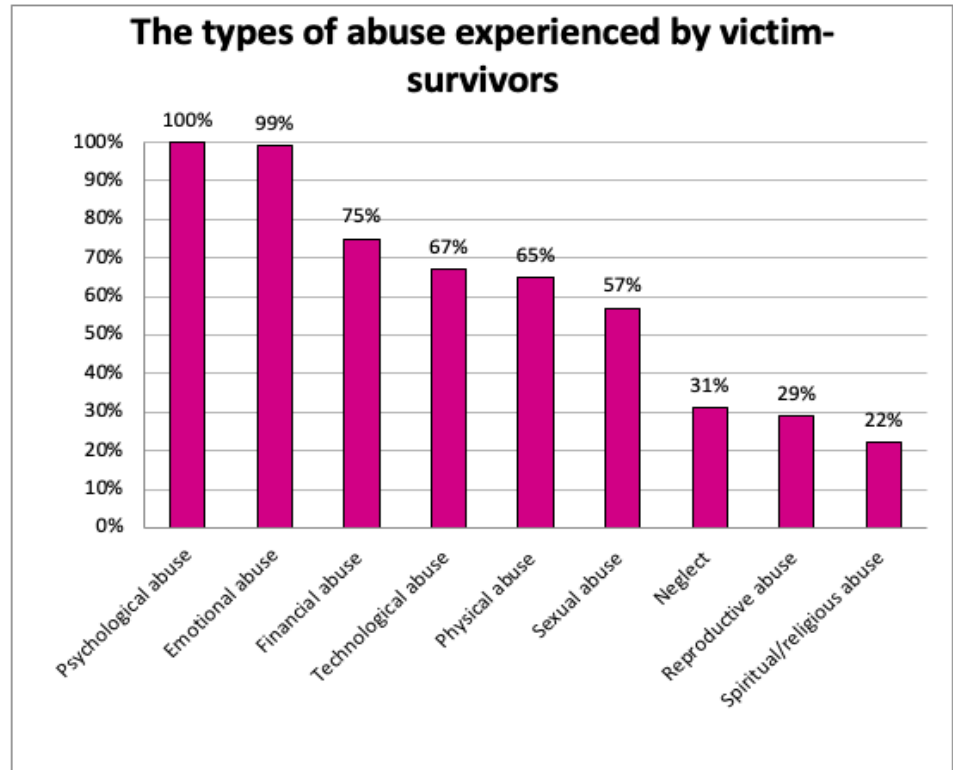


Figure 2.0. Responses to the survey question: “What types of abuse did you experience?”. 72 total responses (72 victim-survivors).

Victim-survivors provided the following insight into the range of abuse they experienced:

“After separation I was cut off from all financial support, and because he was a family law barrister he was able to make me homeless and destitute.” - Charlotte, victim-survivor, living with a disability, aged 50-59, heterosexual, living in Regional NSW.

“My ex-husband provided manipulated information (pathological lies) to my University Lecturers who then prohibited me from clinical student placements and shared this wrongful information inappropriately to employment providers - which has been humiliating. It has impacted on me gaining and sustaining successful employment.” - Nora*, victim-survivor, born overseas, aged 50-59, heterosexual, living in Regional NSW.

“Not allowing me to drive his car (our only car) so that only he could be in charge of how I got to places and always knew where I was. Limiting the time with my family to 3 days a year. Never let me cook, controlled my daughter and my food everyday. Would withhold sex for 6 years knowing I wanted a second child.” - Diana*, victim-survivor, born overseas, aged 30-39, heterosexual, living in inner metropolitan NSW.

“He tortured me by preventing me from falling asleep, whereby he would repeatedly shake me awake, sometimes for hours and hours, so that I was weak from exhaustion and unable to get a job.” - Etta*, victim-survivor, born overseas, aged 20-29, heterosexual, living in inner metropolitan NSW.

2.1.1.3 Coercive controlling behaviours experienced by victim-survivors

Victim-survivors also reported that their abusers had used a variety of coercive and controlling behaviours against them:

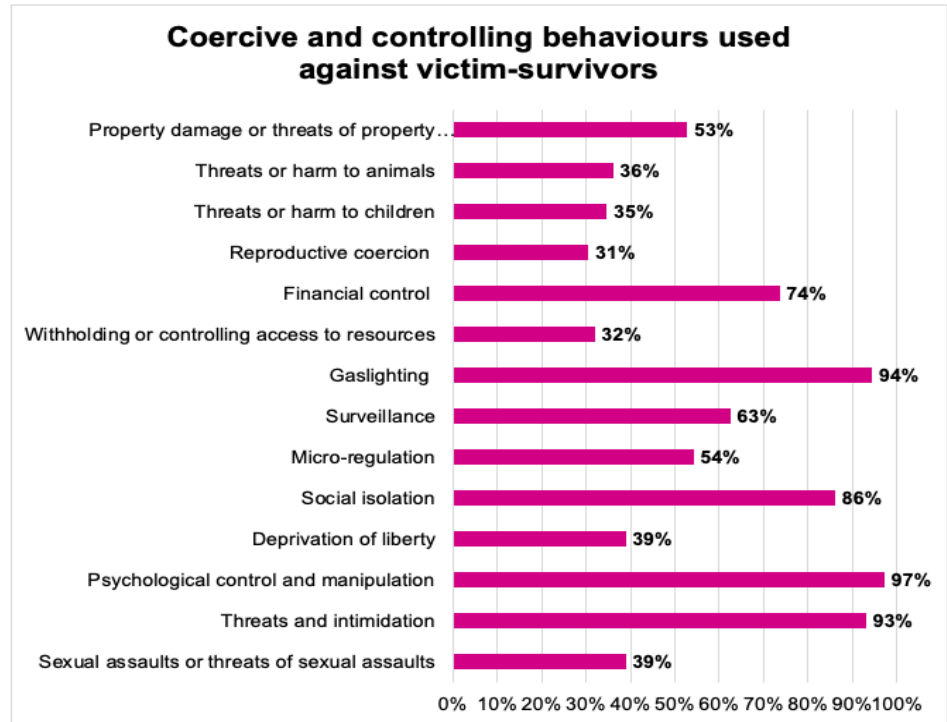


Figure 3.0. Responses to the survey question: “Which coercive and controlling behaviours were used against you?”. 72 total responses (72 victim-survivors).

Comments from victim-survivors about their experiences included the following:

“Threat that if I took the ‘legal route’ (legal action, child support), his actions “would land him in jail and change all our lives forever” - Aya*, victim-survivor, living with chronic health conditions, speaking a language other than English at home, aged 40-49, heterosexual, living in Inner metropolitan NSW.

“Also encouraged my dependency on drugs (both providing access to drugs and controlling access to drugs) and enabled/supported an eating disorder - which kept me physically weak. It became much worse towards the end with actual violence, the threats were mostly implied towards myself, or made directly to my children and then covered with threats. It was very coercive and

covert for most of the relationship/marriage.” - Eva, victim-survivor, aged 30-39, bisexual, living in inner metropolitan NSW.*

2.1.1.4 The impacts of coercive control on victim-survivors (both short-term and long-term)

Coercive control in all its forms can have devastating impacts for victim-survivors. Those surveyed reported experiencing impacts represented in the graph below.



Figure 4.0. Responses to the survey question: “If you experienced coercive control, what were the impacts of this on you (both in the short-term and in the long-term)? (Please select all that apply)”. 72 total responses (72 victim-survivors).

Testimonies about the impact of coercive control on victim-survivors reveal how damaging this form of abuse is, both in the short-term and longer-term:

“I have significant cognitive impairment from the ongoing abuse which has affected my daily functioning, memory, and

self-confidence and self-esteem.” - Shireen*, victim-survivor, aged 40-49, heterosexual, living in rural NSW.

“I managed to always have a roof over our head but his manipulations absolutely nearly succeeded in homelessness. I have worked hard... yet moving so many times really has left me with nothing but my life...” - Serri*, victim-survivor, aged 50-59, heterosexual, living in metropolitan NSW.

“I was lucky to be a working professional with an income but I was a woman on the edge and I don’t think people knew how bad it got for me. I also didn’t fit the ‘mould’ and places like the DV children handover treated me poorly. I think I appeared too ‘well’ for people to believe I’d been hurt by him.” - Flora*, victim-survivor, aged 40-49, heterosexual, living in inner metropolitan NSW.

There were times when I had suicidal ideas because I felt like that was my only escape - from the relationships and then later, from the internalised voices of my perpetrators. I think that shows how damaging non-physical coercive controlling behaviours can be.” - Rosalie*, victim-survivor, aged 40-49, heterosexual, living in outer metropolitan NSW.

“Initially, my daughter and I were homeless, for quite some time. It was extremely difficult to find affordable accommodation as the waiting lists for public housing are ridiculously long.. We have been alienated and rubbished by him to the community that we were living in, mutual friends and acquaintances, and were pushed out of the community accommodation we were taking shelter in because of his stalking and harassment.” - Rowan*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW.

2.1.2 The observations of frontline domestic and family violence specialists

2.1.2.1 The prevalence of coercive control within domestic and family violence relationships

Frontline domestic and family violence specialists revealed to Women's Safety NSW the extent to which clients report experiencing a pattern of coercive and controlling behaviours, **91% (N=41/46) stated that all or most of their clients reported this.**

The full range of responses are represented in the graph below:

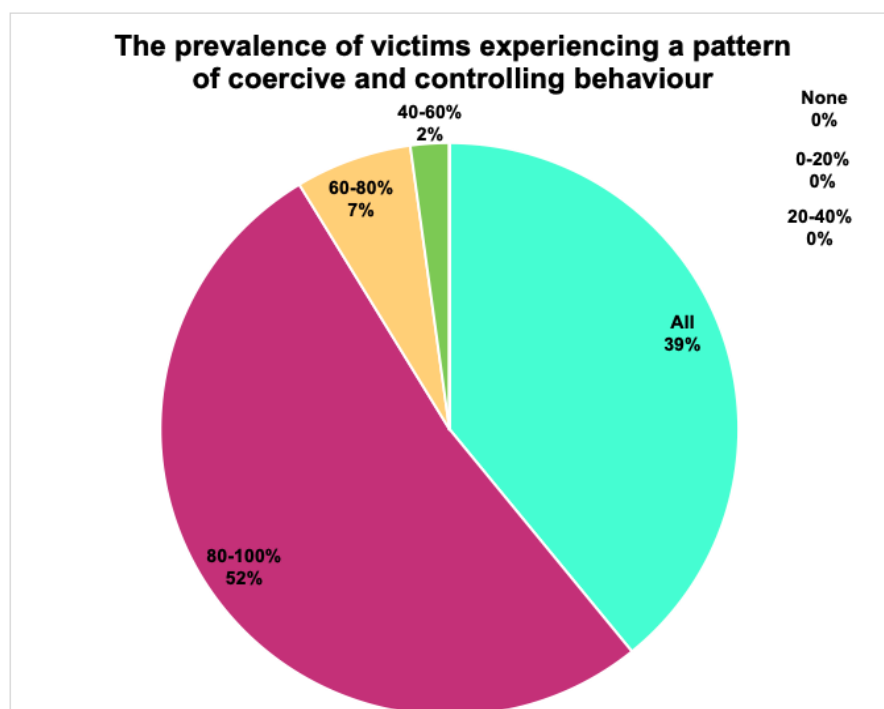


Figure 5.0. Responses to the survey question: "How many of your clients report experiencing a pattern of coercive and controlling behaviours, such as: Physical/sexual assaults or threats ...". 46 total responses (46 members).

- **39% (or N = 18/46)** said that **“all”** of their clients had experienced this pattern of behaviour
- **52% (or N = 24/46)** said that **between 80 and 100%** of their clients had experienced this pattern of behaviour
- **7% (or N = 3/46)** said that **between 60 and 80%** of their clients had experienced this pattern of behaviour
- **0% (or N = 0/46)** said that **less than 40%** of their clients had experienced this pattern of behaviour

2.1.2.2 Observed impacts of coercive control on victim-survivors

Frontline domestic and family violence specialists were asked for examples of how non-physical forms of domestic and family violence impact on their clients in both the short-term and long-term. Their responses were too extensive to include in full. However systematically included the following:

“I have clients who experience fear every time their phone rings because they have become accustomed to receiving abuse through their phone. I have clients who have panic attacks when the power goes out because they associate it with their perpetrator messing with them. I have clients who have PTSD from the non-physical aspects of DV which is causing them more long term harm than the assaults did. This has ongoing consequences for their mental health, their self esteem, their ability to trust themselves and others.” - Sienna* Rural, Aboriginal domestic and family violence Specialist, WDVCS.

“All of the clients I talk to, have to some degree experience PTSD, mental Health issues and physical illness due to coercive control. Generally they do not have the ability to easily leave these relationships and there are no obvious signs of abuse and they therefore don't get the support from family and friends easily. This type of abuse is in my opinion the worse abuse of all, it is silent and there are no bruises. The police don't seem to understand the complexity of it either.” - Zoe*, Regional Safety Action Meeting Coordinator, WDVCS.

“Every client we work with has experienced coercive control. This has affected them all in different ways - disrupting their parenting and bonds with their children, affecting their paid employment, and compromising their health and bodily integrity. The specific features might be different in each case, but they all follow the same themes -a pattern of behaviour by their partner which has left them feeling in fear for their own psychological and physical safety and that of their children” - Aislin*, State-Wide Community Shelters Worker.

“Short-term: The clients that I work with often feel gaslighted and isolated, believing themselves to be the reason for violence. This leads them to minimise the behaviours, blame themselves for the violence perpetrated and determine that they are not worthy of support. If they DO reach for support they feel even more upset, worried about how any information shared will place blame back towards the perpetrator- because what will happen to the client after this? Long-term: Complete distrust of any systems or services as they continue to be a reason for the POI to exert his violence. Lack of engagement with police due to fears of being further belittled, threatened or otherwise made to believe they are unworthy as a human. Generally long term the clients see no way out of the relationship safely and choose to remain- otherwise they believe they will be murdered or their children taken permanently: which leads to further coercive control and abuse” - Katya*, Regional Safety Action Meeting Coordinator, WDVCS.

“Clients question their ability to function in society. Client are reluctant to leave as they do not know where to go or what to do. They do not think they have the skills to look after themselves. Clients have lost their trust in Police and the legal system to protect them.” - Aliyah*, Outer Metropolitan domestic and family violence Specialist Worker, WDVCS.

“Non-physical forms of DV reported or discussed, majority of the time have a more significant impact on the individual than if physical harm was to be inflicted. They state that they wish the perpetrator would just hit them and be done with it. The mental state that these individuals end up in is almost a state of abuse psychosis. This then has more repercussions and carry on affect than we could ever think possible.” - Rem, Rural WDVCS Manager.*

2.1.3 What behaviours should be captured in the offence?

This matter is covered in detail in [Section 7](#). However, in brief, the offence should cover a wider range of abusive behaviours, provided they establish a pattern of abuse perpetrated intentionally or recklessly with likely harm to the victim.

Ninety-seven percent (97% or N = 70/72) of victim-survivors and **100% (or N = 43/43)** of frontline domestic and family violence specialists surveyed by Women's Safety NSW supported expanding the definition of domestic violence to include a wider range of behaviours, such as emotional and financial abuse. These results are consistent with previous surveys conducted by Women's Safety NSW for the 2020 [Position Paper on Criminalising Coercive Control](#), where **96% (or N = 26/27)** of domestic and family violence specialists and **100% of domestic and family violence victim-survivors surveyed by Women's Safety NSW believed that the definition of domestic violence in NSW legislation should include a wider range of behaviours.**

More specifically, the frontline domestic and family violence specialists and victim-survivors surveyed largely agreed upon the behaviours captured in the Scottish offence as a good starting point for the offence in NSW, which is expanded upon further in [Section 7.4.1](#).

Ultimately, however, to be regarded as coercive control, the behaviours would need to represent a **pattern of abuse** perpetrated intentionally or recklessness, or with knowledge that it would likely cause harm to the victim.

“It's too difficult to criminalise [single non-physical] behaviours...it's the pattern of conduct and so much more.” - Charlotte, victim-survivor, living with a disability, aged 50-59, heterosexual, living in Regional NSW.

“We need an offence which covers the 'patterns of behaviour' so prevalent not just in intimate partner violence, but in elder abuse, ritualised group abuse and cult control” - Aislin*, State-Wide Community Shelters Worker.

Recommendation 1

Women's Safety NSW recommends that the NSW Government enact a new 'domestic abuse' offence in the *Crimes (Domestic and Personal Violence) Act 2007* (NSW).

2.2 Distinguishing acts of coercive control

A question was posed in the NSW Government's Discussion Paper as to how coercive and controlling conduct could be distinguished from relationship behaviours which are “*generally socially accepted*” or those acceptable in certain contexts.²⁷ Establishing a balance between autonomy and intimacy is a challenge faced within many relationships and it is thus essential to have an appropriate threshold of the likely harmfulness of the behaviour patterns on the alleged victim so as to warrant criminal responsibility.²⁸

2.2.2 Distinguishing acts through an established pattern and likely harm

Throughout the United Kingdom, governments have used careful drafting to distinguish between what might be considered poor but tolerable behaviour and criminal conduct amounting to coercive control. The primary way in which this has been achieved is through the requirement to establish a pattern of behaviour, and for that behaviour to have caused, or be likely to cause serious harm or serious effect on the person.

²⁷ Discussion Paper (n 20) 25.

²⁸ Sandra Walklate and Kate Fitz-Gibbon, 'The Criminalisation of Coercive Control: The Power of Law?' (2019) 8(4) *Journal for Crime, Justice and Social Democracy* 94, 95.

In England and Wales, for example, the standard of proof is extremely high. Four elements must be proven to successfully convict the accused of a coercive control offence. Firstly, the behaviours must have taken place repeatedly or continuously, the pattern of behaviour must have had a serious impact on the victim, the preparator must have known or ought to know the impacts on the victim and finally both parties must be personally connected when the incident took place.²⁹

In Scotland, in contrast, the victim is not required to have suffered actual harm but rather an objective standard of reasonableness is applied to determine whether the conduct would be likely to have caused a relevant effect on the victim.³⁰ It should be noted that in Scotland, the parties need not be cohabiting at the time the behaviour took place.³¹

In Ireland, the criminal threshold is met if, in addition to intention or recklessness, the behaviour is (a) controlling or coercive, (b) has a serious effect on a relevant person, and (c) a reasonable person would consider the behaviour likely to have a serious effect on a relevant person.³²

Therefore, whilst England, Wales, Scotland and Ireland apply different subjective and objective thresholds, they all maintain the principle of coercive control being a **'course of conduct type offence'**,³³ they all require intention or recklessness on the part of the accused, and they all require **harm or likely harm** be established.

2.2.3 The need for defences

In reference to the task of distinguishing what may be benign but anti-social behaviour from dangerous and damaging coercive control, frontline domestic and family violence specialists were asked their views as to whether there were any circumstances where the conduct stipulated in the Scottish legislation would

²⁹ Home Office (UK), *Controlling or Coercive Behaviour in Intimate or Family Relationships* (Statutory Guidance Framework, December 2015) 5.

³⁰ *Domestic Abuse (Scotland) Act 2018* s 76.

³¹ *Ibid* s 1(a).

³² *Domestic Violence Act 2018* (Ireland) s 39(1).

³³ Discussion Paper (n 20) 14-7.

not constitute coercive control. Over three-quarters (**76% or N = 32/42**) of those surveyed did not believe so. Victim-survivors predominantly shared this view and pointed again to the need to establish a pattern of behaviour and to look to the likely harm as a threshold for determining criminal responsibility. Some of their responses included the following:

“No. the perpetrator may not be aware or intentional regarding the behaviour; but that doesn't change the impact and outcome of the abuse. If people knew they could be charged for these behaviours, maybe they wouldn't abuse people who trust them.” - Min*, victim-survivor, living with chronic health conditions, aged 30-39, heterosexual, living in outer metropolitan NSW.

“No the behaviours lead to a lot of victim issues” - Annika*, victim-survivor, Aboriginal or Torres Strait Islander, aged 40-49, heterosexual, living in outer metropolitan NSW.

“I cannot think of such. People are all sorts of vulnerable. Including girls with good jobs. And people with a mental illness. I think it could be used to say there was no power imbalance, or that they were a threat to themselves needing control.” - Flora*, victim-survivor, aged 40-49, heterosexual, living in inner metropolitan NSW.

However, the frontline domestic and family violence specialists who believed these behaviours could be engaged in without constituting coercive control **24% (or N = 10/42)**, and a number of victim-survivors who answered in this way, pointed to particular circumstances where this might occur. Specifically, where there may be:

- a lack of capacity to understand the behaviour (such as a person with an intellectual disability or psychotic illness);
- a genuine caring reason (for example, where the person is protecting their partner or family member from self-harm under medical guidance);
- consent for a particular activity without the associated harm (such as role play); or
- A genuine protective reason (for example, where the person is acting to protect a child, relative, friend or animal from abuse).

Some of these responses are included for reference:

“Where there is a demonstrated inability of the offender to have insight into their actions eg. intellectual disability” - Sophia*, Regional frontline domestic and family violence specialist, WDVCAS.

“If there is evidence/suggestion that harm could come to the 'victim' if some level of control was not in place, eg, monitoring movements if there are suicidal tendencies, isolating from friends if friends are an obvious danger to 'victim's' health or safety (drug users, etc)” - Elia*, Inner metropolitan Operations Manager, WDVCAS.

“If the person is seriously ill and needs to recover from an illness or does not have the [legal] capacity to make a decision” - Lily*, Regional frontline domestic and family violence specialist, WDVCAS.

“If the power and control dynamic was consensual at all times e.g. BDSM and didn't impact the person's day to day life.” - Mia* Regional frontline domestic and family violence specialist, WDVCAS.

Evidently the reasoning explained by those who responded ‘no,’ related to different mitigating factors relating to health, capacity and safety. It is important to take into account situations and circumstances where someone would require healthcare, assistance, round-the-clock care and those who are genuinely a danger to themselves (i.e. suicide watch) or someone else.

This approach has been taken in the various UK jurisdictions. For example, in the England and Wales:

“It is a defence for A to show that—

(a) in engaging in the behaviour in question, A believed that he or she was acting in B's best interests, and

(b) the behaviour was in all the circumstances reasonable.³⁴

³⁴ *Serious Crime Act 2015* (UK) s 76(8).

A is to be taken to have shown the facts [above]... if—

- (a) sufficient evidence of the facts is adduced to raise an issue with respect to them, and
- (b) the contrary is not proved beyond reasonable doubt.³⁵

[Furthermore,] the defence [above]... is not available to A in relation to behaviour that causes B to fear that violence will be used against B.”³⁶

Similar defences also exist in the other UK jurisdictions.³⁷

Women’s Safety NSW regards it as essential that any new coercive control offence in NSW be accompanied by carefully drafted defences with reference to the defences which have been enacted in the UK. This is further discussed in [subsection 7.9](#).

2.2.4 Distinguishing acts through statutory guidance

A further way to assist in distinguishing socially accepted conduct from criminal coercive control is to provide **statutory guidance as to specific examples** of the types of conduct which, when forming a pattern, might constitute the offence. It is important that the examples amount to a non-exhaustive list to avoid the risk of law enforcement and judicial officers relying solely upon the list without evaluating the whole of the defendant’s behaviour or its likely impact on the victim. Examples of this type of statutory guidance may be found in the UK Statutory Guidance Framework which accompanied the enactment of the new laws in England and Wales,³⁸ or the explanatory notes to the Scottish legislation.³⁹

This approach is supported by victim-survivors consulted for this submission:

³⁵ Ibid s 76(9).

³⁶ Ibid s 76(10).

³⁷ See, for example *Domestic Abuse (Scotland) Act 2018* s 6.

³⁸ Statutory Guidance Framework, Controlling or Coercive Behaviour in Intimate or Family Relationships, Home Office UK 3.

³⁹ *Domestic Abuse (Scotland) Act 2018*, Explanatory Notes.

“An example will provide a greater understanding to officers and the community that do not understand or have ever experienced coercive control.” - Khadija*, victim-survivor, aged 50-59, heterosexual, living in regional NSW.

“A thorough list of traits would be helpful for magistrates as would loads of specialist training for police and law makers” - Rayan*, victim-survivor, living with a disability and/or a chronic health condition(s), aged 40-49, bisexual, living in regional NSW.

“Yes in the statutory guidance as per the UK model” - Eva*, victim-survivor, aged 30-39, bisexual, living in inner metropolitan NSW.

“To be used for informative purposes for both victims and DV services, etc” - Arabella*, victim-survivor, living with a disability and/or a chronic health condition(s), aged 40-49, heterosexual, living in regional NSW.

“The EM (explanatory memorandum) to the legislation can include examples or regulations. Putting in the legislation takes too long to change and may not move quickly enough for progression.” - Amanda*, victim-survivor, aged 50-59, heterosexual, living in metropolitan ACT.

3. NSW's current approach to coercive control

3.1 Current legislative framework and practice

In NSW, the **Crimes (Domestic and Personal Violence) Act 2007 (NSW)** (“**CDPV Act**”) provides a legislative framework to address domestic and family violence. Section 11 of the *CDPV Act* defines a domestic violence offence as an offence committed against a person with whom the offender has had a domestic relationship. Domestic violence offences include:

- A personal violence offence;
- an offence, other than a personal violence offence, that arises from substantially the same circumstances as those from which a personal violence offence has arisen; or

- an offence, other than a personal violence offence, the commission of which is intended to coerce or control the person against whom it is committed or to cause that person to be intimidated or fearful or both.

Whilst the objects of the *CDPV Act* recognise “*that domestic violence extends beyond physical violence and may involve the exploitation of power imbalances and patterns of abuse over many years*”, there is no particular offence which makes such a pattern of behaviour a crime, beyond stalking and intimidation. This means that coercive control has not been enacted as a separate offence in NSW nor any other state or territory in Australia, with the exception of Tasmania.

3.1.1 Intimidation and Stalking

Section 13 of the *CDPV Act* explicitly recognises that “**stalking or intimidation** with intent to cause fear of physical or mental harm” is an offence:

- 1) A person who stalks or intimidates another person with the intention of causing the other person to fear physical or mental harm is guilty of an offence.
Maximum penalty: Imprisonment for 5 years or 50 penalty units, or both.
- 2) For the purposes of this section, causing a person to fear physical or mental harm includes causing the person to fear physical or mental harm to another person with whom he or she has a domestic relationship
- 3) For the purposes of this section, a person intends to cause fear of physical or mental harm if he or she knows that the conduct is likely to cause fear in the other person.
- 4) For the purposes of this section, the prosecution is not required to prove that the person alleged to have been stalked or intimidated actually feared physical or mental harm.
- 5) A person who attempts to commit an offence against subsection (1) is guilty of an offence against that subsection and is punishable as if the offence attempted had been committed.⁴⁰

By including intimidation in section 13 alongside stalking, legislators have expanded the scope of domestic violence offences to include “**conduct, including**

⁴⁰ *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 13.

cyberbullying, amounting to harassment or molestation of the person”,⁴¹ and “any conduct that causes a reasonable apprehension of injury to a person or to a person with whom he or she has a domestic relationship, or of violence or damage to any person or property”.⁴² This means the legislation is no longer limited to the standard stalking behaviours.⁴³

To determine whether intimidation is present, the legislation allows the courts to consider **“any pattern of violence... in the person’s behaviour”**.⁴⁴ Examples of personal violence offences considered domestic violence as listed in the *Crimes Act 1900* (NSW) are listed as the following:⁴⁵

- Homicide
- Conspiracy to murder
- Attempts to murder
- Documents containing threats to (kill)
- Acts causing danger to life or bodily harm
- Assaults
- Common assaults
- Sexual offences against adults and children (including sexual assault and assault with intent to have sexual intercourse, sexual touching, sexual act)
- Kidnapping
- Recording and distributing intimate images (including threats)
- Explosives and firearms offences
- Housebreaking
- Crimes against property generally
- Computer offences (e.g Unauthorised access, modification or impairment with intent to commit serious indictable offence).

⁴¹ Ibid s 7(1)(a).

⁴² Ibid s 7(1)(c); Jane Wangmann, ‘Coercive Control’ in Marilyn McMahon and Paul McGorrry (eds), *Criminalising Coercive Control: Family Violence and the Criminal Law* (Springer, Singapore, 2020).

⁴³ Libby Brooks, ‘Scottish Police to be Trained to Spot New Domestic Abuse Offence’, *The Guardian* (online, 29 Dec 2017) <<https://www.theguardian.com/society/2017/dec/28/scottish-police-to-be-trained-to-spot-new-domestic-abuse-offence>>.

⁴⁴ *Crimes (Domestic and Personal Violence) Act* (NSW) s 7(2).

⁴⁵ Ibid s 11.

3.1.2 ADVO orders

Apprehended Domestic Violence Orders ('ADVO') are made by the local courts under the *CDPV Act*. The purpose of an ADVO is to protect an individual from violence (including stalking and threats) by a spouse, de facto partner, ex-partner, family member or person living in the same household.⁴⁶

Provisional orders can be made by senior police officers, or other authorised officers, if a police officer investigating an incident **suspects or believes that a domestic violence offence or an offence of stalking and intimidation has recently been or is being committed, or is likely to be committed**, against the person for whose protection an order would be made.⁴⁷ **ADVOs may also be made as a consequence of a conviction for a domestic violence offence.**⁴⁸ A court can make an ADVO if it is satisfied on the balance of probabilities that a PINOP has **reasonable grounds to fear, or in fact fears**, the commission of further offences, intimidation or stalking by the defendant.⁴⁹

Whilst these orders are civil in nature, they link to the criminal law through the penalty of breaches, as breaching a civil protection order in NSW is a criminal offence.⁵⁰

3.2 Does existing criminal and civil law provide the police and courts with sufficient powers to address both non-physical and physical forms of abuse?

Seventy-five percent (75% or N = 53/71) of victim-survivors and 39% (or N=18/46) frontline domestic and family violence specialists indicated that they believed existing laws in NSW provided police and courts **little or no powers to address domestic and family violence** (including both non-physical and physical forms of abuse). The full set of results is as follows:

⁴⁶ Ibid s 15.

⁴⁷ Ibid s 27(1)(a)(i).

⁴⁸ Ibid s 39.

⁴⁹ Ibid s 16.

⁵⁰ Ibid s 14.

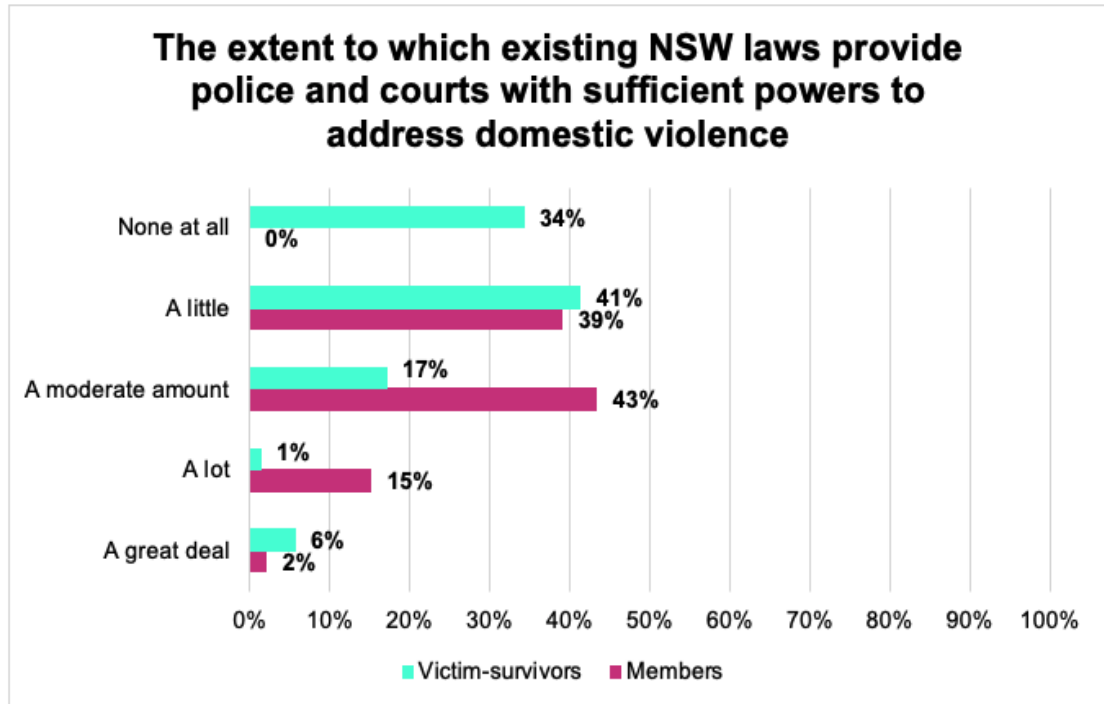


Figure 6.0. Responses to the survey question: “To what extent do you think the existing laws in NSW provide police and courts with sufficient powers to address domestic violence (including both non-physical and physical forms of abuse)?”. 116 total responses (46 members, 70 victim-survivors).

The testimonies of victim-survivors are instructive:

“[I think the powers are] only for physical violence, but even this is limited. In addition my abuser continues to monitor my location and regularly travels to places I have recently been to or other locations where I have booked accommodation. There is not enough evidence for charges of stalking but there is a clear pattern in his movements. In addition there is no protection from him approaching my parents, and high school friends to tell them about me and try and discredit/split them from supporting me.” - Sheema*, victim-survivor, aged 30-39, heterosexual, living in regional NSW.

“If feels like there has to be physical tangible evidence, i have to have physical injuries. That my psychological ones don't count or are too hard to “prove”” - Jamie*, victim-survivor, aged 30-39, heterosexual, living in inner metropolitan NSW.

“For non-physical abuse, they have almost no power. And basing it on individual incidents makes it impossible to understand the whole relationship and its patterns. We were together for 20 years! - you can't possibly illustrate the level of control and abuse in that relationship from a single incident.” - Rosalie*, victim-survivor, aged 40-49, heterosexual, living in outer metropolitan NSW.

Sixty-five percent (65% or N = 47/71) of victim-survivors surveyed reported that they had experienced being told by the police that the abuse they had experienced did not count as evidence of domestic violence.

“[T]hey [police] said because there was no physical injury, no charges would be laid and they didn't think it was necessary to apply for an AVO. This was despite terrifying physical intimidation and threats to my life.” - Rosalie*, victim-survivor, aged 40-49, heterosexual, living in outer metropolitan NSW.

“Initially it wasn't safe to report the abuse to the police, as we were in a small regional town, with only part-time police presence. I was also aware that he would deny any wrongdoing to the police, and as there was no overt physical abuse towards myself at the time, it would be unlikely that the police would believe me, or eject him from the house, and if they did, we would be left in a vulnerable position once he was released on bail. Those concerns and fears about police assistance ultimately turned out to be grounded, along with the fears that his behaviour would escalate once we did actually escape, because they did.” - Rowan*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW.

3.2.1 Are the intimidation and stalking offences adequate to address non-physical forms of coercive control?

Ninety-three percent 93% (or N = 67/71) of victim-survivors surveyed by Women's Safety NSW reported experiences of intimidation and threat. **Sixty-**

two percent 62% (or N = 45/71) reported being stalked. The impacts of these behaviours can be grave on a victim-survivor's emotional, physical, psychological and spiritual wellbeing. One frontline worker observed that:

*“the impact of non-physical DV is **the same or worse** than physical DV except that there may not be a visible injury. The fear results in **the loss of independence and confidence**, where children are involved, **parenting capacity is reduced** leading to kids with no-respect for their mother. All family members are impacted”* - Josie*, Inner Metropolitan domestic and family violence Specialist Worker, WDVCAS.

Frontline domestic and family violence specialists have also expressed an extreme discontent with existing legislation, offering the following insights:

*“[L]egal systems/ laws do not support... reports of this type of violence. There are often police who can acknowledge it however are **powerless** to do anything. The collection of evidence is concerning given that some women will have a vast array of evidence to provide however given the behaviours of the perpetrator this again could be difficult to prove for example producing evidence of financial control will be difficult if victims do not have access to things like bank accounts etc.”* - Vivian*, outer metropolitan Youth Focused Case Worker, WDVCAS.

*“One barrier is that **once as a service we empower our clients to understand and identify coercive control they are not given enough support through other systems (police and courts) to be protected from this form of abuse.**”* - Vivian*, outer metropolitan Youth Focused Case Worker, WDVCAS.

*“**Being told by police that there is no physical evidence, therefore, nothing to report, magistrates not wishing to pursue a case without evidence, feeling like it will always be her word against his, being told by the community that it's normal or they are making an issue over nothing**”* - Sascha*, rural Safety Action Meeting Coordinator and Aboriginal Specialist Worker, WDVCAS.

Whilst the law does account for intimidation and stalking, it is evident it **does not account for other forms of coercive control** such as **social isolation, gaslighting, reproductive coercion, micro-regulation, deprivation of liberty or withholding of resources** such as food and/or shelter. These forms of non-physical abuse, when forming a pattern of coercive and controlling behaviour, must be recognised within the criminal law with sufficient seriousness as to warrant prioritised action by law enforcement officers and the courts.

3.2.2 Are ADVOs adequate to address non-physical forms of coercive control?

Sixty-nine percent (69% or N = 49/71) of victim-survivors who responded to the survey said that they had either applied for an ADVO themselves or had police apply on their behalf. Of these victim-survivors, **less than half (47% or N = 23/49)** noted that their experience of non-physical forms of coercive control had been used as evidence to support their need for an ADVO.

Non-physical forms for coercive control used as evidence to support a victim-survivor's need for an ADVO can be extremely difficult to establish. Victim-survivors have made the following comments regarding the difficulty in obtaining an ADVO:

"It went unheard, by both Police and the Magistrate" - Dahlia*, victim-survivor, aged 40-49, heterosexual, living in outer metropolitan NSW.

"I chose not to apply for an ADVO because of this. I was too scared to in case I wasn't granted it" - Shante*, victim-survivor, living with chronic health conditions, aged 40-49, heterosexual, living in Rural NSW.

"ADVO was in relation to assault with standard terms. The police declined to ask for stricter conditions as they didn't see the point. I was advised to 'forget about the relationship and get on with my life'" - Anamaria*, victim-survivor, aged 40-49, heterosexual, living in inner metropolitan NSW.

"The first AVO was a civil one where I was assisted by the court registrar in making the application and affidavit, as police would not assist me,

despite attempting to report the abuse towards myself and my children, along with the stalking and harassment that was occurring towards my daughter and myself at the time. The second AVO was a police one, after his continued stalking resulted in a breach, and intimidation charges (both of which were later dropped by the DPP in favour of cutting a deal with him). Both contained evidence of the coercive control and violence that he had subjected all 3 of us to.” - Rowan*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW.

“There should’ve been an AVO But I was ignored by the police on [specific date]” - Saoirse*, victim-survivor, aged 50-59, heterosexual, living in regional NSW.

“They said it didn’t count as it wasn’t against the law” - Anisa*, victim-survivor, aged 30-39, heterosexual, living in inner metropolitan NSW.

It has been suggested that criminalising coercive control is unnecessary as these behaviours are by-proxy criminalised through the civil protection system when they amount to a breach of an ADVO. This criminalising of coercive control is, however, a two-stage approach:

- I. the first stage being that the victim-survivor has to obtain an ADVO on the basis of an offence being committed or imminent, along with other grounds for fear; and
- II. the second stage being further victimisation through a breach of that ADVO.

This process therefore has the effect of criminalising coercive control by-proxy as it is the breach of the order that constitutes the offence as opposed to the behaviour itself.⁵¹

The appropriateness of this approach is, however, questionable as it not only creates more steps and hurdles for victims, it also seemingly implies that the wrongful behaviour does not lie in the coercive or controlling behaviours but

⁵¹ Heather Douglas, ‘Do we need a specific domestic violence offence?’ (2016) 39(4) Melbourne University Law Review, 434– 471, 438.\

rather in the breach.⁵² This by-proxy criminalisation is insufficient, less effective and creates confusion within the communities understanding of the operation of the two-stage criminalisation of certain behaviours.⁵³ It also sends a message to the community and actors within the criminal justice system that non-physical forms of abuse are less serious than physical assault.

When asked the best way to reform the civil and criminal justice system to better respond to coercive control, the overwhelming majority of frontline domestic and family violence specialists **91% (or N = 41/45)** maintained that we should both create a criminal offence of coercive control and update the ADVO system to cover a wider range of behaviours. Just **2% (or N=1/45)** believed we should solely reform the ADVO system.

3.2.3 What role does police practice play in addressing both physical and non-physical forms of abuse?

Police play an extremely vital role in addressing domestic and family violence, including both physical and non-forms of abuse. They are often the first point of contact with a victim-survivor, and in some cases, their only point of contact.

Under the current framework, where coercive control is not yet a criminal act, it is often the responsibility of police to ensure that victim-survivors' experiences of non-physical violence, such as stalking and intimidation as well as breaches of ADVOs, are responded to. Unfortunately, however, it is apparent that there are some challenges in ensuring a consistent police response to such forms of abuse. **The majority (87% or N = 40/46) of frontline domestic and family violence specialists surveyed indicated that their clients either “very often” or “often” mention that police are unwilling or unable to take action when they report non-physical forms of domestic violence.** The the full range of results is reflected in the graph below:

⁵² 6 Women's Legal Service Tasmania, 'Submission for the Inquiry into family, domestic and sexual violence', (2020) (Web Page, July 2020).

⁵³ Ibid.

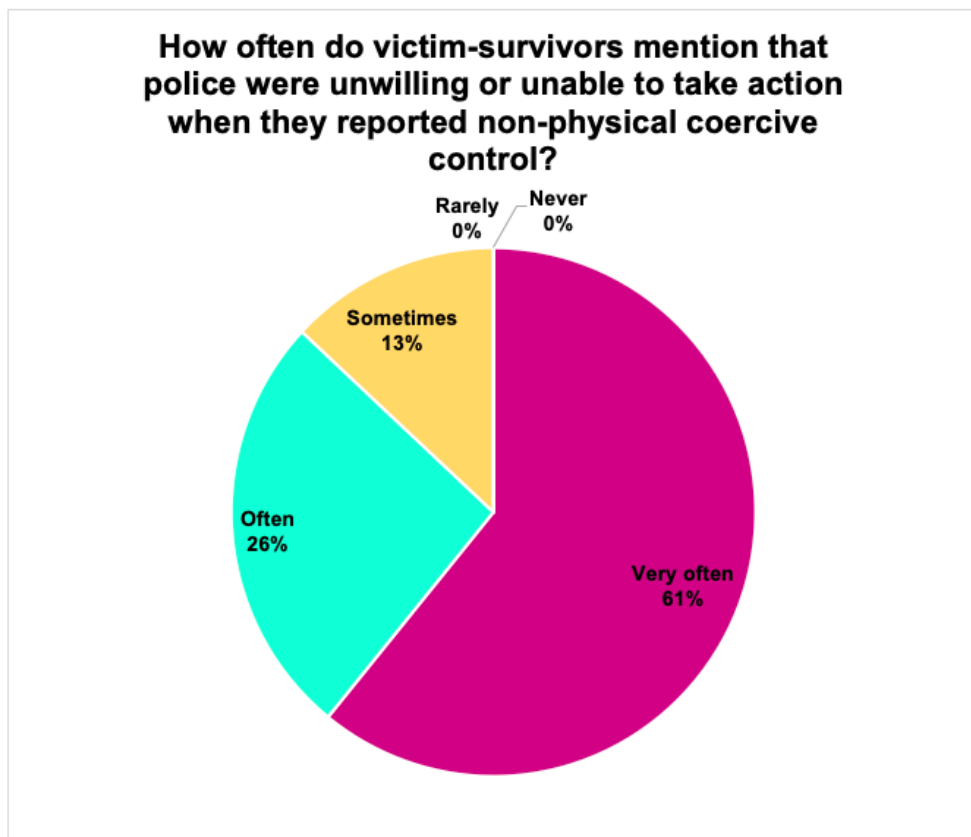


Figure 7.0. Responses to the survey question: “How often do your clients mention that police were unwilling or unable to take action when they reported non-physical coercive control?”. 46 total responses (46 members).

*“Unless the officer they happen to report to is educated in this space, many times they will respond with things like “he didn’t threaten you though” or “he is just trying to see his kids”. **The police often do not recognize the control and power the perpetrators are using on their victims.** For example, an officer wouldn’t charge a perpetrator with intimidation because the messages he was sending were only of a dog. But he was sending 50 messages a day of the dog, and was doing it to make sure the woman wouldn’t forget about him and would remain fearful. To the officer involved though, he wasn’t doing anything “wrong”” - Sienna* Regional, Aboriginal domestic and family violence Specialist, WDVCS.*

Victim-survivors also noted an unwillingness on the part of police to investigate in the context of **family law**:

“They said it was a family court matter and not domestic violence even though I had screenshots of text messages containing threats and abuse, photos of property damage.” - Aya*, victim-survivor, living with chronic health conditions, speaking a language other than English at home, aged 40-49, heterosexual, living in Inner metropolitan NSW.

Frontline workers further revealed examples of the barriers that their clients face to reporting coercive/seeking support from police:

“For Aboriginal clients, there is already a fear of police due to our history of being targeted and treated unfairly. Many of our Aboriginal clients have faced police who do not believe them or who are dismissive of their matters. This is even more evident when we are talking about non-physical DV. The education for police just is not there and so many of them do not recognize it. This puts Aboriginal clients in the position of having to prove that what they experienced is in fact DV and a crime, but the power imbalance means that this almost never has a positive outcome” - Sienna* Regional, Aboriginal domestic and family violence Specialist, WDVCS.

“Police not seeing this as abusive or a reportable offence. Often comments [are] given [like] but “that’s your word against his” so I think police see this as a hard offence to obtain evidence for so don’t note this on the system. Also many women see this part of the relationship rather than it being abusive.” - Tahmina*, regional Intake Referral Officer and Court Support Worker, WDVCS.

“Police response is patchy - some understand and are clever with offences and charging (stalking and intimidation) where others, particularly if they are not DVLOs, do not have good knowledge beyond physical incidents of domestic violence. Some women do not understand coercive controlling behaviour until it is explained, and then it is like watching a lightbulb go on. They see the patterns” - Aislin*, State-Wide Community Shelters Worker.

*“My perpetrator was a master manipulator. Unfortunately the Police didn’t always pick up on that ... I asked ... Police to let me know when my perpetrator was let out of their cells, so I could leave Sydney as I was in fear. They agreed to do so, then failed to let me know once he was released. I asked them why they didn’t advise me and their reply was: **“What!!! Do you want us to sit outside the front of your driveway 24/7 ???”** They had no regard for the fear I was feeling, yet they had all the evidence of what he had put me through...”* - Dahlia*, victim-survivor, aged 40-49, heterosexual, living in Outer Metropolitan NSW.

“He would be charged and in jail by now, quite simply. If these laws existed, and if the police that I had dealings with were trained properly” - Arabella*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in Regional NSW.

“The police would have been more willing to take action and then the domestic violence (as coercive control) would have been recognised in a family court context. While the initial judge recognised it, the independent children’s lawyer accused me of making false assertions of domestic violence because it did not fit her legal definition. I.e. he was never charged with domestic violence” - Aya*, victim-survivor, living with chronic health conditions, speaking a language other than English at home, aged 40-49, heterosexual, living in Inner Metropolitan NSW.

“An educated police force helps empower victims of coercive control. They [victims] are frequently gaslighted by law enforcement and told that there is nothing they can do” - Evelyn*, victim-survivor, was born overseas, speaking a language other than English at home, aged 40-49, heterosexual and living in Outer Metropolitan NSW.

“A law is of no use if those who uphold it don’t understand or are able to identify it. As a victim. I can immediately recognise it in others.

When you understand what to see, it can be identified easily. It would need to be ongoing, and every officer should be trained in identifying domestic violence, not just specialists.” - Tamar, victim-survivor, living with chronic health conditions, aged 40-49, heterosexual, living in Regional NSW.*

Although specialised police, such as the Domestic Violence Liaison Officers ('DVLO') are intended to improve consistency in domestic and family violence situations by providing a 'vital link' between victims and the judicial system, the reality is that it is general duties police officers who are in most cases the first respondents to incidents of domestic violence. **This is reflected victim-survivors' relayed experiences, and the outcomes affecting their safety.** Women Safety NSW regards it as critical that specialisation occurs at all levels as an initial positive police response is acknowledged as having a significant impact not only on the safety of victims but also on whether they decide to report further victimisation.

3.2.4 What role does court practice play in addressing both physical and non-physical forms of abuse?

Courts also perform a critical role in addressing domestic and family violence, including both physical and non-physical forms of abuse.

Whilst coercive control is not yet a criminal act, courts still make determinations and sentencing decisions in relation to stalking and intimidation offences, as well as breaches of ADVOs, and thus perform a crucial function in ensuring victim-survivors of domestic and family violence are protected and offenders are held to account.

Nevertheless, of the **37** victim-survivors surveyed (**or 54%, N=37/68**) who had their abuser charged with a domestic violence offence and taken to court, **only 32% (or N=22/69) reported having the non-physical forms of coercive control they experienced taken into account as evidence.**

Ashley*, a victim-survivor, living with a disability, aged 50-59, living in outer metropolitan NSW shared her experience in this regard:

“...[T]he prosecutor said charges would be hard to prove and I wouldn’t be a good witness for cross examination by the defence lawyer due to my trauma response and we should do a deal with the defence”

Caterina*, a victim-survivor, who identifies herself as an Aboriginal or Torres Strait Islander, aged 40-49, heterosexual, living in inner metropolitan NSW noted that it is also sometimes down to the particular magistrate hearing the matter, noting that although evidence of non-physical forms of coercive control were used as evidence in her case, it *“[didn’t do] any good. It was totally overlooked and didn’t seem to be important to the magistrate.”*

It is evident that a proportion of magistrates and judges do not currently exhibit a thorough and complex understanding of coercive control and the dynamics of domestic and family violence. The table below demonstrates that sixty-nine percent (**69% or N = 31/46**) of frontline domestic and family violence specialists indicated that magistrates have *‘a little’* or *‘none at all’* understanding of coercive control and the dynamics of domestic and family violence.

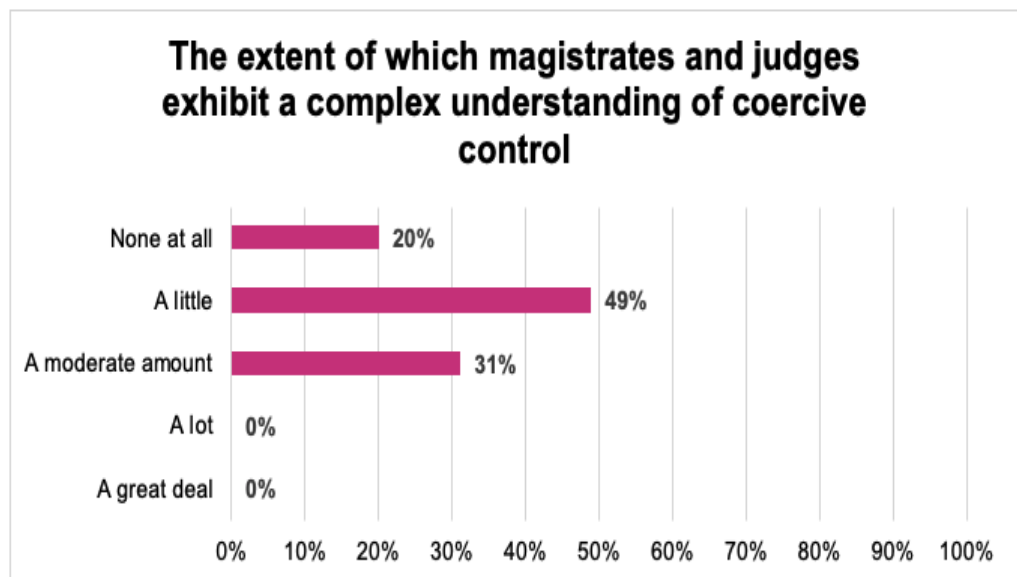


Figure 21.0. Responses to the survey question: “To what extent do you think most magistrates and judges exhibit a thorough and complex understanding of coercive control and the dynamics of domestic and family violence?”. 45 total responses (45 members).

“Many [magistrates] still only view physical violence as the most destructive form of violence and therefore coercive forms are not good enough.” - Margaret, SAM Coordinator, WDVCS, regional.*

The extent to which non-physical forms of coercive control are taken into account as evidence in court is further discussed in [Section 5.1](#) below. Additionally, as per [Section 5.2](#) below, it is also apparent that evidence of non-physical coercive and controlling behaviour in domestic violence cases is often not taken into account in sentencing.

Nari*, a victim-survivor, aged 40-49, heterosexual, living in inner metropolitan NSW spoke of the impact this had on her in her case:

*“I never forget the words that came from a judge’s mouth upon releasing him, that he was in jail for **low level domestic violence**. I’ve never been so angry, humiliated, and disgusted in my life...I even moved twice still he wouldn’t give up, still he hasn’t given up **3 years later and he is still at times trying to find me**, contact me on social media, asking people about me... **I still look over my shoulder everytime i walk out of my door** because I am sure he has found out where i live again.. The effects it had on my daughter, she didn’t have a mother really for at least a year as i was so busy trying to keep him from losing his shit, or dealing with him losing his shit because he wasn’t the centre of my attention, or keeping her safe when he did lose it making sure she didn’t witness anything. **I would be sitting at home on my own at night and hear my dogs bark outside and go into panic mode, I didn’t sleep well for over a year..** but the judge put it down to low level non violent domestic violence.”*

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

It is evident that the **NSW criminal and civil law do not afford police and courts with sufficient powers to address domestic violence, including non-physical and physical forms of abuse, and further, that the current practice of police and**

courts are not consistently protective of victim-survivors of domestic and family violence.

Women's Safety NSW recommends domestic violence legislative and practice reform to move away from the traditional approach of focusing intently on single incidents of physical assault, towards an approach reflective of victim-survivors' experiences. This will require recognising a course of abusive conduct including both physical and non-physical forms of abuse as a crime of equal gravity.⁵⁴ It will also require a committed investment in the updating of tools, guidelines, and bench books, as well as training and professional development of police, prosecutors, judicial officers and allied social services, and the institution of review mechanisms.

4 Coercive Control Offences in Other Jurisdictions

In a discussion of potential approaches to criminalising coercive control in New South Wales, it is both relevant and of great use to examine such criminalisation in other Australian jurisdictions and abroad. These foreign and domestic jurisdictions may provide guidance as to what best practice—our 'ideal' might actually look like in the NSW context.

4.1 Scotland

In 2017 the Scottish Government passed its ***Domestic Abuse (Scotland) Act 2018 (the 'Scottish Act')*** which established the specific offence of domestic abuse to come into effect in April 2019.

Elements of the offence

An offence will be committed where:⁵⁵

- 1) the person ("A") engages in a course of behaviour which is abusive of A's partner or ex-partner ("B"), and
- 2) both of the further conditions are met

⁵⁴ See Discussion Paper (n 20).

⁵⁵ *Domestic Abuse (Scotland) Act 2018* s 1.

In defining 'abusive' behaviour for the purposes of the *Scottish Act*, there are two categories. The first is behaviour on the part of A which is 'violent, threatening or intimidating' towards B.⁵⁶ The second, is behaviour which is directed at B, their child or another person which either has, or would reasonably be likely to have one or more of the following effects:⁵⁷

- making B dependent on, or subordinate to, A;
- isolating B from friends, relatives or other sources of support;
- controlling, regulating or monitoring B's day-to-day activities;
- depriving B of, or restricting B's, freedom of action;
- frightening, humiliating, degrading or punishing B.⁵⁸

For the purposes of this section, 'course of behaviour' means behaviour on at least two occasions.⁵⁹ However, it is up to the courts to determine whether two instances of behaviour occurring far apart will be considered as forming a course of behaviour.⁶⁰

The 'further conditions' required to be met in order to establish the offence relate to the accused's state of mind. A reasonable person must consider the course of behaviour likely to cause B to suffer psychological harm, and A must have intended or have been reckless as to whether the course of behaviour would cause physical or psychological harm.⁶¹ This framing of the legislation ensures that we look to the perpetrator behaviour and not the victims reaction.

⁵⁶ Ibid s 2(2)(a).

⁵⁷ Ibid s 2(2)(b).

⁵⁸ Ibid s 2(3).

⁵⁹ Ibid s 10(4).

⁶⁰ REF

⁶¹ Ibid s 1(2)(a)-(b).

Statutory guidance	<p>The Domestic Abuse (Scotland Bill) Policy Memorandum provides extensive guidance pertaining logistics to the Scottish Act.</p> <p>The primary objective of the <i>Scottish Bill</i> is to improve responses to domestic abuse through recognising “a course of conduct which takes place over a sustained period of time. In addition, the course of conduct can consist of both physical violence and threats which can be prosecuted under existing laws, and psychological and emotional abuse which either cannot be or, at the very least, can be difficult to prosecute under existing laws.”⁶² The Bill will also ensure that a course of conduct of entirely non-physical abuse of a person’s partner or ex-partner is criminalised.</p>
Relationships covered	<p>The Memorandum states that eligibility is only restricted to ‘partners and ex-partners’ and where person A is 18 or older and where person B is 16 or older.⁶³</p>
Legal standards	<p>Section 1(2) of the Scottish Act sets out the standards of proof of the offence. The first condition establishes an objective standard of proof in assessing the conduct of the offender. A person will have committed an offence if ‘a reasonable person would consider the course of behaviour to be likely to cause the victim to suffer physical and psychological harm’, <i>and</i> either (i) the defendant intended the behaviour to cause the victim such harm, or (ii) was reckless as to whether the behaviour would cause the victim such harm. In considering the meaning of ‘psychological harm’, fear, alarm and distress are indicative. Using a ‘reasonable person’ test to establish whether the defendant’s behaviour would likely cause harm to the victim shifts the standard of proof away from a subjective assessment of an individual victim’s response to abuse, and instead considers what the reasonable, objective person would consider to be inherently harmful behaviour. Of great</p>

⁶² REF

⁶³ *Domestic Abuse (Scotland Bill) Policy Memorandum* [47].

	<p>significance is the absence of any requirement that the actions of the offender actually inflict harm on the victim.</p> <p>The second condition establishes a subjective test of intent of the offender. The offender must have intended to cause physical or psychological harm, or be reckless as to whether they cause this harm.⁶⁴ This separate test shifts the focus back onto the subjective intention of an abuser to inflict harm on their victim, requiring them to have deliberately caused harm, or been criminally reckless as to their behaviour's likely impact on the victim in order to be convicted of an offence.</p>
Defences	<p>The <i>Scottish Act</i> includes a defence on grounds of 'reasonableness' as follows:⁶⁵</p> <ol style="list-style-type: none"> 1. proceedings for an offence under section 1(1), it is a defence to show that the course of behaviour was reasonable in the particular circumstances. 2. That is to be regarded as shown if— <ol style="list-style-type: none"> a) evidence adduced is enough to raise an issue as to whether the course of behaviour is as described in subsection (1), and b) the prosecution does not prove beyond reasonable doubt that the course of behaviour is not as described in subsection (1).
Aggravation	<p>It is important to note that the <i>Scottish Act</i> establishes that the 'course of abusive behaviour' offence is aggravated if the offender directs behaviour to a child or makes use of a child in directive behaviour at the victim.⁶⁶</p> <p>This section is intended to ensure that the offence captures the seriousness of perpetrators involving children in domestic and</p>

⁶⁴ *Domestic Abuse (Scotland) Act 2018* s 1(2)(a)-(b).

⁶⁵ *Ibid* s 6.

⁶⁶ *Ibid* s 5.

	<p>family violence. If a child sees, hears or is present during an incident of abusive conduct, or if a reasonable person would consider the course of behaviour likely to have an adverse effect on a child usually residing with the perpetrator and/or victim, the offence will be aggravated.⁶⁷ There does not have to be evidence that the child was actually aware of or understood the behaviour, or whether there was actually an adverse impact on the child.⁶⁸</p>
Penalties	<p>Should a party be found guilty of the ‘course of abusive behaviour’ offence may be liable to:⁶⁹</p> <ul style="list-style-type: none"> (a) On summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both) (b) On conviction on indictment, to imprisonment for a term not exceeding 14 years or a fine (or both)
Operation	<p>In assessing the operation of the offence to date, it is significant to note the rates of offending and prosecution. In 2019-20, 1,065 charges were reported under the new Act, accounting for 3.5% of all domestic abuse charges reported.⁷⁰ Furthermore, over 1000 (96%) of these 1065 charges were referred to prosecutors resulting in criminal proceedings.⁷¹ Ninety-six percent (96%) of offenders were male.⁷² Such high rates of prosecution are indicative of the offence operating with some success and with a degree of priority in Scotland.</p> <p>The high percentage of male defendants being prosecuted (96%) also likely signifies that in the operation of the offence, instances of misidentification of the primary aggressor have been ameliorated.</p>

⁶⁷ Ibid s 5(3)-(4).

⁶⁸ Ibid s 5(5).

⁶⁹ Ibid s 9.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid.

4.2 England and Wales

The **Serious Crimes Act 2015 (UK)** (*‘English/Welsh Act’*) established a distinct, stand-alone offence for controlling or coercive behaviour. It came into force in December 2015.

Elements of the offence	<p>There are four aspects to the offence. An offence will be committed where:</p> <ul style="list-style-type: none"> • person (A) ‘repeatedly or continuously engages in behaviour towards another person (B) that is controlling or coercive;⁷³ • At the time of the behaviour A and B are personally connected;⁷⁴ • The behaviour has a serious effect on B⁷⁵ and • A knows or ought to have known that the behaviour would have a serious effect on B⁷⁶.
Statutory guidance	<p>The Statutory Guidance Framework on Controlling or Coercive Behaviour in an Intimate or Family Relationship, issued in conjunction with the <i>English/Welsh Act</i>, provides further guidance as to the scope of controlling or coercive behaviour.⁷⁷ It defines coercive behaviour as a “range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.”⁷⁸ It goes on to define coercive behaviour as a “continuing act or a pattern of acts of assault, threats, humiliation and intimidation or other</p>

⁷³ *Serious Crimes Act 2015 (UK)* s 76(1)(a).

⁷⁴ *Ibid* s 76 (1)(b).

⁷⁵ *Ibid* s 76 (1)(c).

⁷⁶ *Ibid* s 76 (1)(d).

⁷⁷ Statutory Guidance Framework on Controlling or Coercive Behaviour in an Intimate or Family Relationship, *Serious Crimes Act 2015 (UK)*.

⁷⁸ *Ibid* 3.

abuse that is used to harm, punish, or frighten their victim.”⁷⁹ The Framework provides further guidance to the judiciary by including a **non-exhaustive list of behaviours** which may constitute coercion and control:

- isolating a person from their friends and family;
- depriving them of their basic needs;
- monitoring their time;
- monitoring a person via online communication tools or using spyware;
- taking control over aspects of their everyday life, such as where they can go,
- who they can see, what to wear and when they can sleep;
- depriving them of access to support services, such as specialist support or
- medical services;
- repeatedly putting them down such as telling them they are worthless;
- enforcing rules and activity which humiliate, degrade or dehumanise the victim;
- forcing the victim to take part in criminal activity such as shoplifting, neglect or abuse of children to encourage self-blame and prevent disclosure to authorities;
- financial abuse including control of finances, such as only allowing a person a punitive allowance;
- threats to hurt or kill;
- threats to a child;
- threats to reveal or publish private information (e.g. threatening to 'out' someone);
- assault;
- criminal damage (such as destruction of household goods);
- rape;

⁷⁹ Ibid.

	<ul style="list-style-type: none"> preventing a person from having access to transport or from working.⁸⁰
Relationship covered	<p>For the purposes of this offence, the legislation outlines that the offender and the victim must be ‘personally connected’ at the time of the behaviour.⁸¹ A and B are “personally connected” if A is in an intimate relationship with B⁸² or if A and B live together⁸³, therefore the offence covers intimate personal relationships whether they lived together or not.⁸⁴ The offence also covers situations where A and B have previously been in an intimate personal relationship with each other.⁸⁵</p> <p>Section 76 also covers members of the same family⁸⁶ however they must live together when the behaviour took place (otherwise harassment legislation may apply). It does not include roommates who are not in an intimate relationship⁸⁷.</p>
Legal standards	<p><i>The English/Welsh Act</i> establishes a subjective test for assessing the intention of the offender as well as the harm caused by the behaviour.</p> <p>The offender must “know or ought to know that the behaviour will have a serious effect” on the victim,⁸⁸ and the behaviour will have a ‘serious effect’ on the victim (B) if it (a) causes B to fear, on at least two occasions, that violence will be used against B, or (b) it causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities.⁸⁹</p>

⁸⁰ Ibid 4.

⁸¹ Ibid s 76(1)(b).

⁸² Ibid s 76 (2) (a)

⁸³ Ibid s 76 (2) (b)

⁸⁴ Statutory Guidance Framework on Controlling or Coercive Behaviour in an Intimate or Family Relationship, Serious Crimes Act 2015 (UK) 12

⁸⁵ *Serious Crimes Act 2015* (UK) (n 70) s 76 (2) (b) (ii)

⁸⁶ Ibid s 76 (2) (b) (i)

⁸⁷ Statutory Guidance Framework on Controlling or Coercive Behaviour in an Intimate or Family Relationship, Serious Crimes Act 2015 (UK) 12

⁸⁸ *Serious Crimes Act 2015* (UK) (n 70) s 76(1)(d).

⁸⁹ Ibid s 76(4).

	<p>‘Ought to know’ means that which a reasonable person in possession of the same information would know.⁹⁰</p> <p>The wording of this offence therefore is designed to capture behaviours which, in aggregate, seriously affect a party to a relationship. The nature of the offence and the provisions in the legislation allow for background information on the relationship to become relevant and admitted as evidence.</p>
Defences	<p>A defence may be established where it can be proven that while engaging in the behaviour in question, A was acting for B’s best interests, and the behaviour was in all the circumstances reasonable.⁹¹</p> <p>To establish this defence, ‘sufficient evidence’ must be adduced such as to raise an issue with respect to the facts alleged by B,⁹² and the contrary must not be proved beyond reasonable doubt.⁹³ However, this defence will not be available to A in relation to behaviour which causes B to fear that violence will be used against them.⁹⁴</p> <p>There is an objective element to this aspect of the offence as in the particular circumstances the behaviour must be objectively reasonable⁹⁵.</p>
Penalties	<p>Finally, should a party be found to have committed this offence, they may be liable (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both; or (b) on summary</p>

⁹⁰ Statutory Guidance Framework on Controlling or Coercive Behaviour in an Intimate or Family Relationship, Serious Crimes Act 2015 (UK) 5

⁹¹ *Serious Crimes Act 2015* (UK) s 76(8).

⁹² *Ibid* s 76(9)(a).

⁹³ *Ibid* s 76(9)(b).

⁹⁴ *Ibid* s 76(10).

⁹⁵ Statutory Guidance Framework on Controlling or Coercive Behaviour in an Intimate or Family Relationship, Serious Crimes Act 2015 (UK) 15

	conviction, to imprisonment for a term not exceeding 12 months, or a fine, or both. ⁹⁶
Operation	<p>Following the enactment of this Act, the UK has seen the recorded rates of coercive and controlling charges rise. Police records indicate the following rates since the year 2017:</p> <ul style="list-style-type: none"> • Year to March 2017: 4,246⁹⁷ • Year to March 2018: 9,053⁹⁸ • Year to March 2019: 17,616⁹⁹ • Year to March 2020: 24,856¹⁰⁰ <p>Evidently, there has been a steady increase in the number of coercive and controlling offences being committed and the rates recorded in 2020 are the highest thus far. This is highly significant as these are offences that would have previously fallen through the cracks of the legal system.</p>

⁹⁶ *Serious Crimes Act 2015* (UK) (n 70) s 76(11).

⁹⁷ Office for Statistics 2018 (Archived) 'Domestic abuse: findings from the Crime Survey for England and Wales: year ending March 2018,'

⁹⁸ Office for Statistics 2019 (Archived) *Domestic abuse: findings from the Crime Survey for England and Wales: year ending March 2020*

⁹⁹ Office for Statistics 2020, 'Domestic abuse prevalence and victim characteristics,' Dataset, Table 19

<<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseprevalenceandvictimcharacteristicsappendixables>>.

¹⁰⁰ Office for Statistics 2020, 'Domestic abuse prevalence and victim characteristics,' Dataset, Table 20

<<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseprevalenceandvictimcharacteristicsappendixables>>.

4.3 Ireland

Elements of the offence	<p>Under the <i>Domestic Violence Act 2018</i> (Ireland) s 39, a person commits an offence where he or she knowingly and persistently engages in behaviour that</p> <ul style="list-style-type: none"> • Is controlling or coercive¹⁰¹ • Has a serious effect on a relevant person;¹⁰² and • A reasonable person would consider likely to have a serious effect on a relevant person¹⁰³
Statutory guidance	<ul style="list-style-type: none"> • Refer to The Statutory Guidance Framework on Controlling or Coercive Behaviour in an Intimate or Family Relationship, issued in conjunction with the <i>English/Welsh Act</i>.¹⁰⁴
Relationship covered	<p>For the purposes of the offence a 'relevant person' can be</p> <ul style="list-style-type: none"> • The spouse or civil partner of another person;¹⁰⁵ or • Is not the spouse or civil partner of that other person and is not related to that other person within a prohibited degree of relationship but is or was in an intimate relationship with that other person¹⁰⁶
Legal standards	<p>The <i>Domestic Violence Act 2018</i> (Ireland) outlines that for the purposes of subsection 1, a person's behaviour has a serious effect on a relevant person if the behaviour causes them:</p> <ul style="list-style-type: none"> • To fear that violence will be used against him or her;¹⁰⁷ or • Serious alarm or distress that has a substantial adverse impact on his or her usual day to day activities¹⁰⁸

¹⁰¹ *Domestic Violence Act 2018* (Ireland) s 39 (1) (a).

¹⁰² *Ibid* s 39 (1)(b).

¹⁰³ *Ibid* s 39 (1)(c).

¹⁰⁴ Statutory Guidance Framework on Controlling or Coercive Behaviour in an Intimate or Family Relationship, Serious Crimes Act 2015 (UK).

¹⁰⁵ *Ibid* s 39 (4)(a).

¹⁰⁶ *Ibid* s 39 (4)(b).

¹⁰⁷ *Ibid* s 39 (2)(a).

¹⁰⁸ *Ibid* s 39 (2)(b).

	It can be said that Ireland adopts an approach which requires there to be actual harm inflicted on the victim, whilst also implementing an objective test which requires a reasonable person to consider the behaviour likely to have such a serious effect on the victim.
Defences	<ul style="list-style-type: none"> • None.
Aggravation	<p>According to s 40 of the <i>Domestic Violence Act 2018</i> (Ireland) an offence will be considered aggravated if committed against a relevant person which is defined in the coercive controlling offence in section 39(4).¹⁰⁹</p> <p>Therefore an offence under s 39 is considered an aggravated offence in Irish jurisdiction.</p>
Penalties	<p>A person who commits an offence under subsection 1 is liable</p> <ul style="list-style-type: none"> • On summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both;¹¹⁰ and • On conviction on indictment, to a fine or imprisonment for a term not exceeding 12 months or both¹¹¹
Operation	<p>There has been a significant development in Ireland. On January 18 2021, they became the last jurisdiction in the UK to criminalise coercive control with only the formality of royal assent remaining. MPs had the following to remark upon:</p> <p>Mr Dunne, Assembly Member for North Down aptly stated, <i>"We are all agreed that the progression of the Bill has significantly increased public awareness of the importance of reporting domestic abuse. It will help to give victims a voice if they know that that support is there and that the law can protect them"</i></p>

¹⁰⁹ Ibid s 39 (4).

¹¹⁰ Ibid s 39 (3)(a).

¹¹¹ Ibid s 39 (3)(b).

Mr Givan the Chairperson for the Committee of Justice asserted,
*“The legislation will also provide an opportunity to **raise awareness of the existence and unacceptability of psychological abuse and coercive control and, in the longer term, assist in changing societal attitudes towards domestic violence and abuse.**”*

And further stated,

*“I hope that it also sends a message to the perpetrator that, when it comes to coercive control, the new offence of psychological abuse, financial abuse and the myriad forms that abuse takes, the law can now prosecute you for it. **I hope that that will deter them from carrying out this kind of heinous crime in the first instance**”*

As well as this, the first conviction under the new coercive control offence has occurred.

Case Study – Daniel Kane

Daniel Kane viciously and callously attacked his victim between 2018-2020 by burning, punching, headbutting, stamping on and attempting to strangle her.¹ As well as the physical offences there were also major incidents of non-physical violence by depriving her financially, humiliating her in public and isolating her from her friends and family.¹ Kane would always convince his victim that he would not continue this behaviour leading her to return to him and demonstrating the extent of control he had over her.¹ The doctors intervened upon her 20th admission to hospital which finally put an end to the abuse.¹ Although there were physical aspects of abuse in this matter, it was heard as a course of conduct offence and holistically included the non-physical forms of abuse.¹ If this matter was heard prior to the coercive control offence being instituted, the majority of the non-physical abuse would have gone uncharged and unrecognised. Due to the new laws, justice was served, and he received a sentence that accurately reflected the severity of

4.4 Tasmania

Tasmania's approach is held by some as being the most comprehensive approach to coercive control by reason of its ability to capture 'course of conduct.' However, it must be noted that these legislative reforms have not been accompanied by systemic reforms such that these provisions are not being fully utilised. Tasmania's *Family Violence Act 2004* (Tas) expressly makes provision for economic abuse, and emotional abuse or intimidation.

In relation to economic abuse, the Act states that:

(1) A person must not, with intent to unreasonably control or intimidate his or her spouse or partner or cause his or her spouse or partner mental harm, apprehension or fear, pursue a course of conduct made up of one or more of the following actions:

- (a) coercing his or her spouse or partner to relinquish control over assets or income;
- (b) disposing of property owned –
 - (i) jointly by the person and his or her spouse or partner; or
 - (ii) by his or her spouse or partner; or
 - (iii) by an affected child –

without the consent of the spouse or partner or affected child;

- (c) preventing his or her spouse or partner from participating in decisions over household expenditure or the disposition of joint property;
- (d) preventing his or her spouse or partner from accessing joint financial assets for the purposes of meeting normal household expenses;
- (e) withholding, or threatening to withhold, the financial support reasonably necessary for the maintenance of his or her spouse or partner or an affected child.¹¹²

In relation to emotional abuse or intimidation, which if found guilty, carries a penalty of 40 penalty units or imprisonment for a term not exceeding 2 years:

¹¹² *Family Violence Act 2004* (Tas) s 8(1).

- (1) A person must not pursue a course of conduct that he or she knows, or ought to know, is likely to have the effect of unreasonably controlling or intimidating, or causing mental harm, apprehension or fear in, his or her spouse or partner.
- (a) In this section – a course of conduct includes limiting the freedom of movement of a person's spouse or partner by means of threats or intimidation.¹¹³

Although the legislative framework is strong, in practice, since coming into force in 2004, they have been severely underutilised. No charges were laid in the 3 years following the introduction of the offences.¹¹⁴ By the end of 2019, a combined total of only 198 charges had been laid, with the significant majority—186, of these being for emotional abuse.¹¹⁵ Potential reasons for this include the lack of community awareness surrounding these offences and their relevance. Unfortunately, there is still widespread community perception that domestic abuse is primarily physical. As well as this, there was no training for police on what constituted emotional or economic abuse when the offences were first introduced as part of the new family violence framework.¹¹⁶ Rather the training only focused on immediate changes to police powers.¹¹⁷ This brings into sharp relief the importance of both community awareness campaigns and robust police training.

In implementing reforms to criminalise coercive control, it is essential NSW learn from the operational issues faced by other jurisdictions so as to ensure the same issues are not replicated here.

4.5 Other Australian jurisdictions

4.5.1 Queensland

The *Domestic and Family Violence Prevention Act 2014* (Qld) defines domestic violence as being a relationship between two people which is

¹¹³ Ibid s 9(1).

¹¹⁴ Women's Legal Service Tasmania, *Inquiry: Submission into Family, Domestic and Sexual Violence* (July 2020) 6.

¹¹⁵ Ibid.

¹¹⁶ Ibid 7.

¹¹⁷ Ibid.

- physically or sexually abusive;¹¹⁸
- emotionally or psychologically abusive;¹¹⁹
- economically abusive;¹²⁰
- is threatening;¹²¹
- is coercive;¹²²
- or in any other way controls or dominates the second person and causes the second person to fear for the second person's safety or wellbeing or that of someone else.¹²³

It is noted that the Queensland definition of domestic violence improves upon the NSW definition in its explicit reference to non-physical forms of abuse such as emotional and psychological abuse, economic abuse and coercion. The Act also provides a list of behaviours which may constitute domestic and family violence, which provides for greater clarity as to the types of behaviours which may constitute an offence:

- causing personal injury to a person or threatening to do so;¹²⁴
- coercing a person to engage in sexual activity or attempting to do so;¹²⁵
- damaging a person's property or threatening to do so;¹²⁶
- depriving a person of the person's liberty or threatening to do so;¹²⁷
- threatening a person with the death or injury of the person, a child of the person, or someone else;¹²⁸
- threatening to commit suicide or self-harm so as to torment, intimidate or frighten the person to whom the behaviour is directed;¹²⁹

¹¹⁸ *Domestic and Family Violence Prevention Act 2014* (Qld) s 8(1)(a).

¹¹⁹ *Ibid* s 8(1)(b).

¹²⁰ *Ibid* s 8(1)(c).

¹²¹ *Ibid* s 8(1)(d).

¹²² *Ibid* s 8(1)(e).

¹²³ *Ibid* s 8(1)(f).

¹²⁴ *Ibid* s 8(2)(a).

¹²⁵ *Ibid* s 8(2)(b).

¹²⁶ *Ibid* s 8(2)(c).

¹²⁷ *Ibid* s 8(2)(d).

¹²⁸ *Ibid* s 8(2)(e).

¹²⁹ *Ibid* s 8(2)(f).

- causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the person to whom the behaviour is directed, so as to control, dominate or coerce the person;¹³⁰
- unauthorised surveillance of a person;¹³¹
- unlawfully stalking a person.¹³²

The emphasis, however, remains on single incidents of these behaviours as opposed to a 'course of conduct', and this is reported in practice to result in a hierarchy of harm being established whereby incidents of physical and sexual assault will result in a police responses, whereas, non-physical forms of abuse, such emotional or financial abuse will regularly be denied a response.¹³³ In the wake of the horrendous murders of Hannah Clarke and her three children in February 2020, the domestic violence sector in Queensland has joined together to call for coercive control to be explicitly made a crime.¹³⁴ In response, the Liberal National Party of Queensland announced they would implement this reform if they won the election,¹³⁵ and in October 2020, the Labor Government made a commitment to effect these reforms in 2021.¹³⁶

4.5.2 Victoria

The relevant Victorian legislation is the *Family Violence Protection Act 2008* (Vic). This Act adopts a similar approach as that in Queensland, that being, defining domestic or family violence and providing a list of behaviours which

¹³⁰ Ibid s 8(2)(g).

¹³¹ Ibid s 8(2)(h).

¹³² Ibid s 8(2)(i).

¹³³ Jane Goodman-Delahunty and Anna Corbo Crehan, 'Enhancing Police Responses to Domestic Violence Incidents: Reports from Client Advocates in New South Wales' (2015) 22(8) *Violence Against Women* 1007, 1022.

¹³⁴ Max Oprey, 'Push for domestic violence reforms', *The Saturday Paper* (online, 24 February 2020) <<https://www.thesaturdaypaper.com.au/thebriefing/max-oprey/2020/02/24/push-domestic-violence-reforms>>.

¹³⁵ Sarah Elks, 'Hannah Clarke family murders: Queensland Libs announce new domestic violence election policy', *The Australian* (online, 26 February 2020) <<https://www.theaustralian.com.au/nation/queensland-libs-announce-new-domestic-violence-election-policy/news-story/51b1660e8f7a298b52347452c648049c>>.

¹³⁶ Minister for Child Safety, Youth and Women and Minister for the Prevention of Domestic and Family Violence, The Honourable Di Farmer, 'Palaszczuk Government to get coercive control right' (Media Release, 4 October, 2020) <<https://statements.qld.gov.au/statements/90986>>.

may be classified as such. The definition provided is behaviour by a person towards a family member which is:

- physically or sexually abusive;¹³⁷ or
- emotionally or psychologically abusive;¹³⁸ or
- economically abusive;¹³⁹ or
- threatening;¹⁴⁰ or
- coercive;¹⁴¹ or
- in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person;¹⁴² or
- behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in paragraph (a).¹⁴³

A non-exhaustive list of behaviours which may constitute domestic and family violence include:

- assaulting or causing personal injury to a family member or threatening to do so;¹⁴⁴
- sexually assaulting a family member or engaging in another form of sexually coercive behaviour or threatening to engage in such behaviour;¹⁴⁵
- intentionally damaging a family member's property, or threatening to do so;¹⁴⁶
- unlawfully depriving a family member of the family member's liberty, or threatening to do so;¹⁴⁷

¹³⁷ *Family Violence Protection Act 2008* (Vic) s 5(1)(a)(i).

¹³⁸ *Ibid* s 5(1)(a)(ii).

¹³⁹ *Ibid* s 5(1)(a)(iii).

¹⁴⁰ *Ibid* s 5(1)(a)(iv).

¹⁴¹ *Ibid* s 5(1)(a)(v).

¹⁴² *Ibid* s 5(1)(a)(vi).

¹⁴³ *Ibid* s 5(1)(b).

¹⁴⁴ *Ibid* s 5(2)(a).

¹⁴⁵ *Ibid* s 5(2)(b).

¹⁴⁶ *Ibid* s 5(2)(c).

¹⁴⁷ *Ibid* s 5(2)(d).

- causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the family member to whom the behaviour is directed so as to control, dominate or coerce the family member.¹⁴⁸

It is noted that the domestic and family violence sector in Victoria is split on whether to create a specific coercive control offence.¹⁴⁹ Victoria has a backlog of reforms to progress since the Royal Commission in 2015,¹⁵⁰ and has been having difficulties in expanding capacity and capability fast enough in the implementation of its 227 recommendations.¹⁵¹ It is noteworthy that similar differences of opinion across the domestic violence sector has occurred on other matters of law reform. For example, in 2020, Domestic Violence Victoria and No To Violence made a joint submission to the Victorian Government arguing against making a stand-alone offence for non-fatal strangulation.¹⁵² Nevertheless, the Victorian Attorney General has ordered a review into the possibility of new coercive control laws.¹⁵³

¹⁴⁸ Ibid s 5(2)(e).

¹⁴⁹ See for example, InTouch Multicultural Centre Against Violence, Criminalisation of Coercive Control, Position Paper, January 2021 <<https://intouch.org.au/wp-content/uploads/2021/01/inTouch-Position-Paper-Criminalisation-of-Coercive-Control-2021-FINAL.pdf>> c/f Women's Legal Service Victoria, Policy Brief: Justice system response to coercive control, August 2020, <https://womenslegal.org.au/files/file/CoerciveControl_policy_brief_FINAL.pdf>.

¹⁵⁰ Family Violence Royal Commission - Report and recommendations", Victorian Government, 29 April 2016 <<https://www.vic.gov.au/about-royal-commission-family-violence>>.

¹⁵¹ Report of the Family Violence Reform Implementation Monitor, Victorian Government, November 2017 <<https://apo.org.au/sites/default/files/resource-files/2018-05/apo-nid171406.pdf>>.

¹⁵² Domestic Violence Victoria and No To Violence, 'Non-fatal Strangulation Offence Consultation Paper Feedback' (Consultation Paper Feedback, 31 January 2020) <<http://dvvic.org.au/wp-content/uploads/2020/02/FINAL-NTV-DV-VIC-Non-fatal-strangulation-offence.pdf>>.

¹⁵³ Herald Sun, 'New Laws to Protect Victims from Insidious Abuse', *Herald Sun* (online, 26 October 2020) <<https://www.heraldsun.com.au/truecrimeaustralia/police-courts/domestic-violence-victims-to-be-protected-from-insidious-abuse/news-story/0c144f06bb98a19290881008c866a11e>>.

5. Evidence of coercive control in NSW proceedings currently

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

Both victim-survivors and frontline domestic and family violence specialists who responded to our survey indicated their dissatisfaction with the ability of courts to receive evidence of coercive and controlling behaviour in domestic and family violence proceedings. **Over half (58% or N = 39/71) of victim-survivors** indicated that current laws do not provide adequate ways for courts to receive evidence on coercive control.

Indeed, of the **37** victim-survivors surveyed (**or 54%, N=37/68**) who had their abuser charged with a domestic violence offence and taken to court, **only 32% (N=22/69) reported having the non-physical forms of coercive control** they experienced **taken into account as evidence**.

Diana*, a victim-survivor, born overseas, aged 30-39, heterosexual, living in inner metropolitan NSW spoke of the impact this had on her in terms of both her safety and wellbeing:

"[The fact that the non-physical forms of abuse were not taken into account as evidence was]... upsetting as despite how serious the [physical] violence was I am still most afraid of the psychological control and manipulation that I am still being subjected to and will take me years to recover from"

The criticism is shared by frontline domestic and family violence specialists. The vast majority (**80% or N = 36/46**) of frontline domestic and family violence specialists expressed that NSW laws as they stand **provide only 'a little' or 'none at all' adequate ways for courts to receive evidence of coercive and controlling behaviours in domestic violence proceedings**. The full set of results are represented in the following graph.

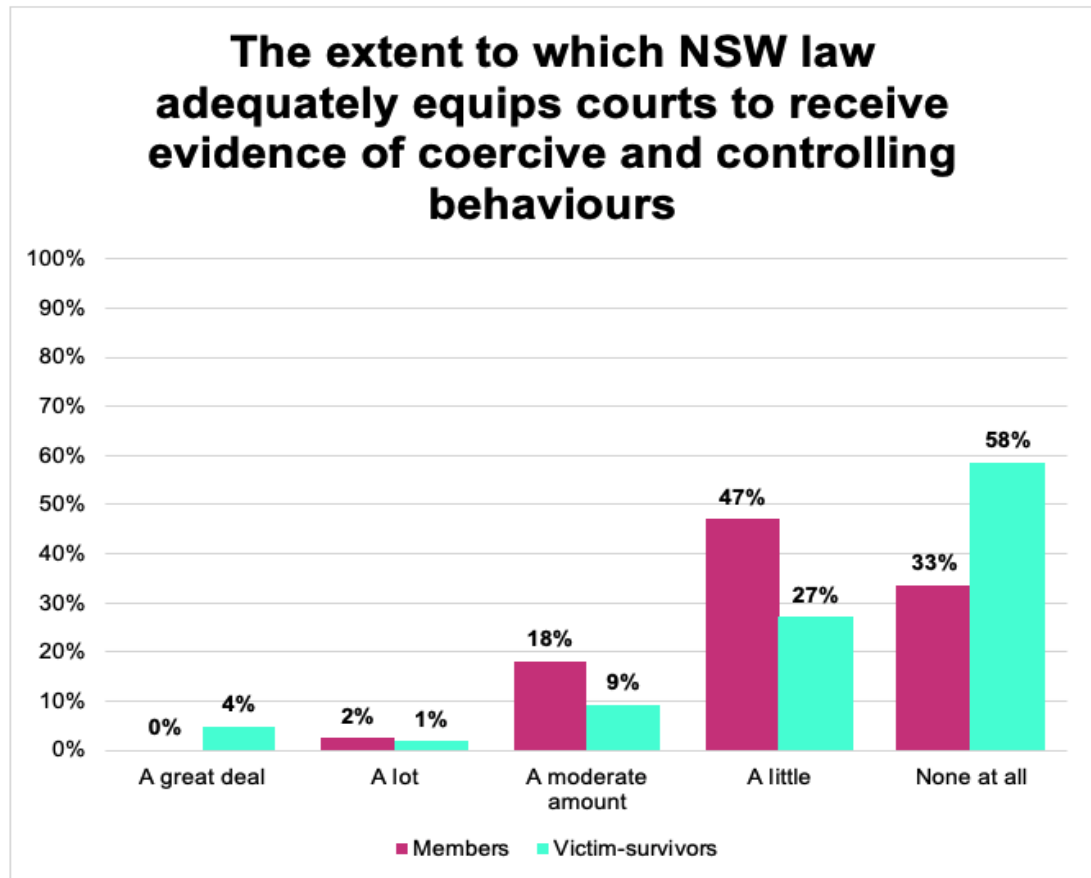


Figure 8.0. Responses to the survey question: “To what extent do you think the law in NSW currently provides adequate ways for courts to receive evidence of coercive and controlling behaviours in domestic violence proceedings?”. 112 total responses (45 members, 67 victim-survivors).

Accordingly, the limited ability of courts to receive this evidence is reflected by the limited extent to which evidence of these behaviours are admitted in domestic and family violence matters. **Sixty-seven percent (67% or N = 28/42)** of frontline domestic and family violence respondents indicated that they either ‘*never*’ or ‘*rarely*’ see non-physical coercive and controlling behaviours being admitted as evidence in court in domestic violence matters. The full range of results are as follows:

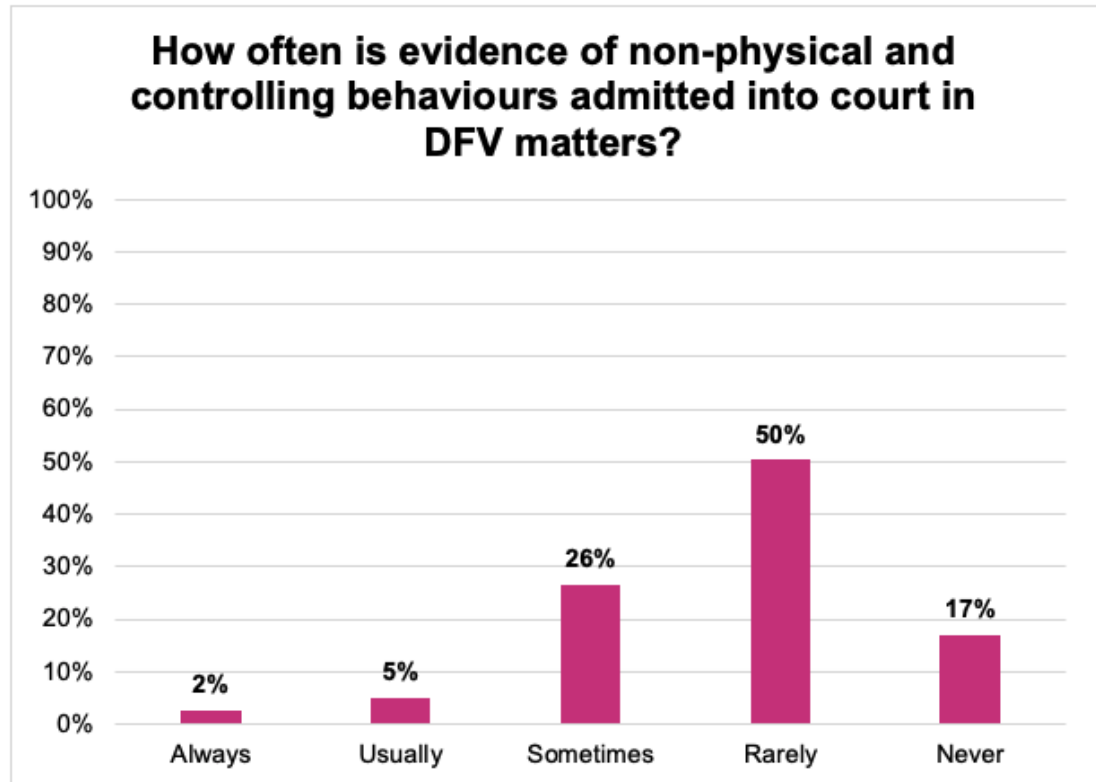


Figure 9.0. Responses to the survey question: “How often do you see non-physical coercive and controlling behaviours being admitted as evidence in court in domestic violence matters (in cases where there is coercive control)?”. 42 total responses (42 members).

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

It is evident that within the workings of the current sentencing system evidence of non-physical coercive and controlling behaviors are scarcely taken into account by the court during sentencing, with **64% (or N = 28/44) of frontline domestic and family violence specialists surveyed** saying this happened either **“rarely”** or **“never”**.

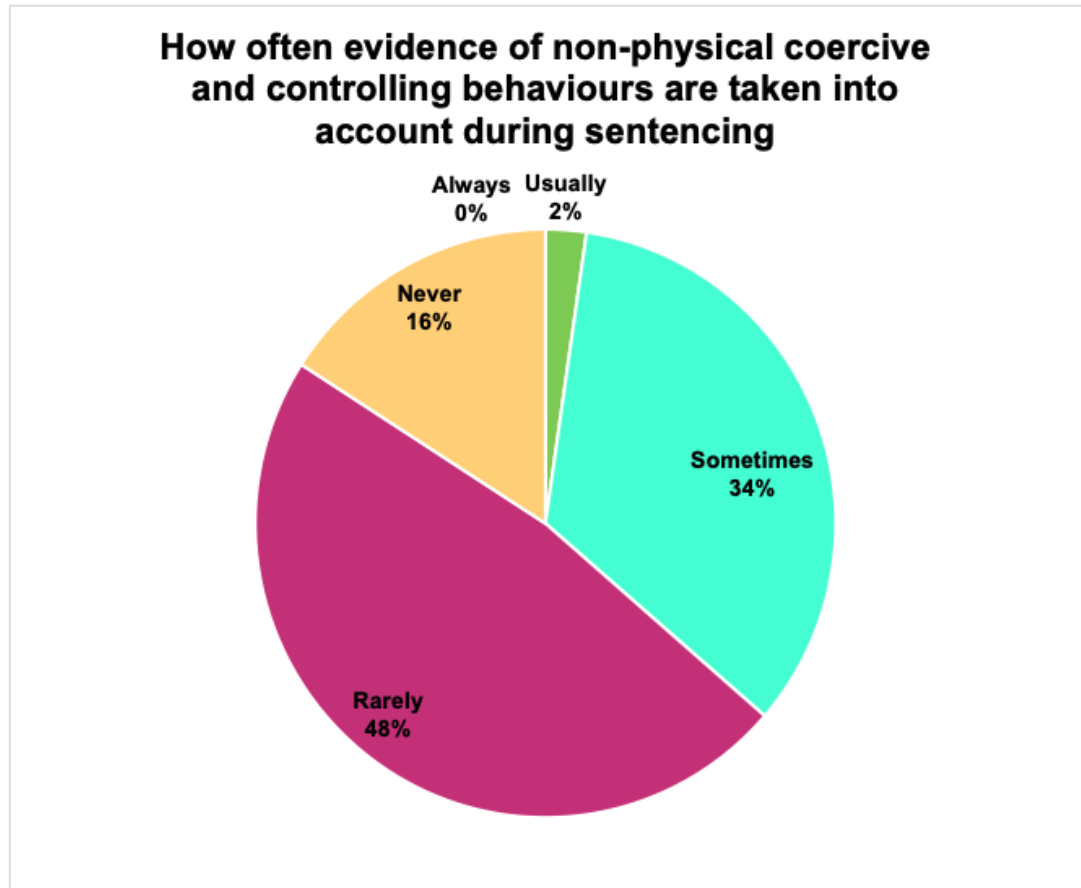


Figure 10.0. Responses to the survey question: “During sentencing, how often do you see evidence of non-physical coercive and controlling behaviours (in cases where there is coercive control) being taken into account by the court”. 44 total responses (44 members).

When Women’s Safety NSW surveyed victim-survivors, we asked if their abuser was ever sentenced, **“would it have been helpful if coercive and controlling behaviour was considered an offence during sentencing?”** Of those that answered, **all but one (98% or N=45/46)** said that it would.

“My partner would be charged with multiple offences if coercive and controlling behaviour was considered an offence.” - Min, victim-survivor, living with chronic health disorders, aged 30-39, heterosexual, living in outer metropolitan NSW.*

*“Absolutely I had solid evidence of the financial aspects of the control and abuse, and was willing to testify as to how and why the other aspects of the coercive control and violence had had such an impact on our health, safety and well-being. **If coercive control laws were in place, we would hopefully have been able to seek a conviction for his ongoing behaviours.** As it was, everything was dropped because my daughter was unable to testify in court for the actual abuses from him towards her directly, and the breach of the AVO, and the abuse towards myself wasn't [considered] serious enough to press charges.”* - Rowan*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW.

*“100% it is what it's all about - **I don't even think anyone can understand how it can get to physical violence without referencing the cohesive control that happens for years leading up to that**”* - Diana*, victim-survivor, born overseas, aged 30-39, heterosexual, living in inner metropolitan NSW.

*“Yes, definitely. **It would validate my experience and allow me to better convey what happened to me.**”* - Etta*, victim-survivor, born overseas, aged 20-29, heterosexual, living in inner metropolitan NSW.

*Coercive and controlling behaviours are extremely damaging. Although I am lucky to be a survivor of domestic violence, **this abuse has left me with extreme ptsd, anxiety, fear, debt (out of my control. which I have had to pay back in full to save my credit rating), uncertainty about my future, a lack of concentration and learning difficulties (which I never experienced prior to my abuse). I am continuously striving to get myself back to where I was prior to this kind of abuse.** I am slowly getting there, however it is a long hard road. The affects and damage that one person can to do another is horrifying. The perpetrators need to be held accountable for their destruction.”* - Caterina*, victim-survivor, Aboriginal or Torres Strait Islander, aged 40-49, heterosexual, living in Inner metropolitan NSW.

5.3 How could the law be improved to ensure the evidence is admissible and is given adequate weight in civil and/or criminal proceedings?

Women's Safety NSW recommends, first and foremost, that coercive control be criminalised so that the evidence of its perpetration becomes directly admissible¹⁵⁴ in domestic violence matters. This must not affect the ability to admit evidence of coercive control which goes to the relationship between the parties,¹⁵⁵ or to tendency and coincidence.¹⁵⁶ Character evidence¹⁵⁷ is problematic in domestic violence matters as it can serve to reinforce the idea that offenders are just 'good guys' that snapped.¹⁵⁸ However, the admissibility of coercive control as character evidence would go some way to ameliorating this issue.

This law change must be accompanied by system reforms inclusive of the updating of tools, guidelines, bench books, and training and professional development of law enforcement and judicial officers, in addition to a community education campaign.

6. Criminalising coercive control – potential benefits and practical challenges

6.1 Potential benefits

The overwhelming majority of survey participants, both frontline domestic and family violence specialists (100% or N=46/46) and victim-survivors (97% or

¹⁵⁴ See the *Evidence Act 1995* (NSW) s 55.

¹⁵⁵ *HML v The Queen* (2008) 235 CLR 334.

¹⁵⁶ *Evidence Act 1995* (NSW) ch 3, pt 3.6.

¹⁵⁷ See *ibid* ch 3, pt 3.8.

¹⁵⁸ See for example, Women's Safety NSW, 'Submission to the NSW Sentencing Council Review of Sentencing for Murder and Manslaughter, including penalties imposed for domestic and family violence homicides', (2020), 9.

<<https://www.womenssafetynewsw.org.au/wp-content/uploads/2020/02/07020-Sentencing-for-Domestic-Related-Homicide-FINAL.pdf>>.

N=70/72) supported the criminalisation of coercive control, provided such laws were accompanied by system reforms, training, professional development and community education.



Figure 11.0. Responses to the survey question: "Do you think coercive control should become a criminal offence in NSW?". XX total responses (46 members, 72 victim-survivors).

The potential benefits of these reforms were seen by both victim-survivors and frontline domestic and family violence specialists to include the following:

- It would raise awareness and promote education about the issue of coercive control in the broader community
- It would lead to evidence of coercive and controlling behaviours being admissible in court
- Preventing intimate partner homicides
- It would lead to the law more accurately reflecting the experiences of victim-survivors
- It would make it easier for victim-survivors to reach out for help
- It would catch abusive behaviours that are currently outside the scope of the law
- It would be easier for victim-survivors to access the protection of the law

- It would make victim-survivors feel more heard and validated in relation to the abuse they have experienced
- It would lead to improved police responses to domestic and family violence
- It would send a message to abusers that the behaviour will not be tolerated by society
- There would be a specific penalty for the offence in sentencing
- It would reduce the likelihood of victim-survivors being criminalised as a result of being misidentified as the primary aggressor
- There could be earlier diversion of abusers to rehabilitation and behaviour change programs

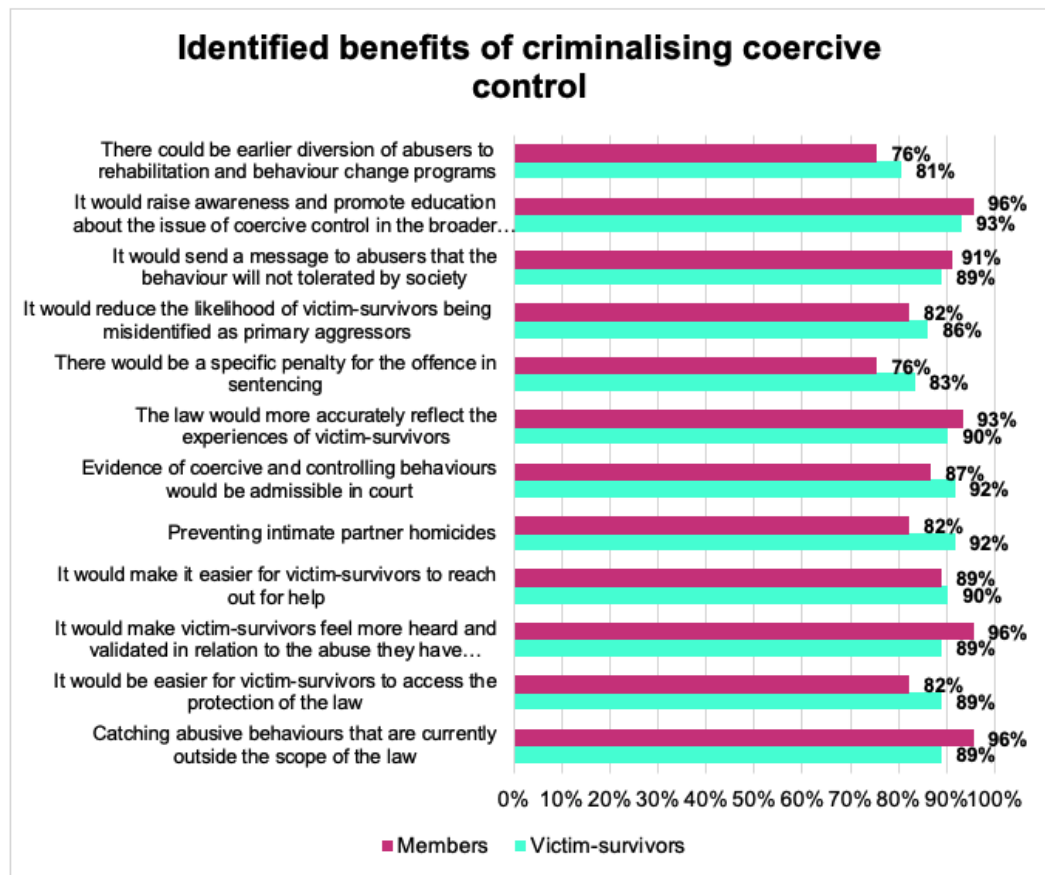


Figure 12.0. Responses to the survey question: "In your opinion, what would be some of the benefits of creating an offence of coercive control? (Please select all that apply, and leave a comment with further detail if possible)". 117 total responses (45 members, 72 victim-survivors).

The following subsections further elaborate on the various benefits of criminalising coercive control.

6.1.1 Recognition, Awareness and Understanding

The present lack of legal recognition of coercive control contributes to widespread misunderstanding about the nature of domestic and family violence. In line with the law, society continues to conceive of domestic abuse as incident-based and primarily physical, to the extent that even many victim-survivors do not recognise what they are experiencing as abuse.

The criminalisation of coercive control would represent a significant step forward in raising societal awareness and increasing understanding about the experience of domestic and family violence. Indeed, whilst the law is often said to reflect the moral and ethical standards of society, it also has a cultural and society norm-setting function. Parliaments in NSW and across the country have been united in their sentiments and their efforts to address the scourge of domestic and family violence in our communities. It is appropriate that this sentiment is reflected in the criminalisation of that conduct which is at the core of domestic and family violence, sending a clear message to all in the community - whether they be people using violence, people experiencing violence, or their families, friends, colleagues or community members - this behaviour is harmful and dangerous and will attract the appropriate criminal penalty.

Across the UK, the criminalisation of coercive control is having a marked impact upon community knowledge, awareness and understanding of domestic and family violence, and the ability of victims of such violence and abuse to be able to recognise the warning signs and seek assistance. The speed and impact upon which this occurs will be influenced by the effectiveness of the accompanying system reforms, and consequently how well the laws are utilised.

Ninety-six per cent (96% or N = 43/45) of frontline domestic and family violence specialists and 93% (or N = 67/72) of victim-survivors agreed that criminalising coercive control would raise awareness and promote education about the issue in the broader community. This awareness is invaluable to combating domestic and family violence. Outdated beliefs about domestic abuse still persist in Australia, and many dangerous misconceptions remain widespread. Criminalising coercive control

would explicitly recognise that domestic violence goes beyond the traditional concept of purely physical violence between intimate partners. In reality, domestic abuse is complex, and can take many forms.

Sixty-three per cent (63% or N = 46/72) of victim-survivors surveyed identified that their inability to recognise their experience as abuse was a factor which prevented them from speaking out and reporting it.

Many victim-survivors reported that it was only after they had left the relationship that they realised they had been coercively controlled by their abuser, and that this behaviour was wrongful. Often, it is only after a victim-survivor escapes abuse and gains perspective and insight from third parties that they come to understand that they have been experiencing abusive behaviours.

“During the relationship I started to question the patterns of behaviours that didn't seem right. I was only able to name those behavioural patterns as coercive control after the relationship ended.” - Anamaria*, victim-survivor, aged 40-49, heterosexual, living in inner metropolitan NSW.

“Not for quite a while, initially I believed his lies and excuses, and was also too stressed/distressed to see through the lies/cover-ups that he was the source of the problems. I recognised the financial aspects of the control when we were under extreme financial distress as well, but again, didn't realise that it was purposeful for quite some time- it seemed like it was just the series of events that had unfolded at the time. But in the last 5 years, it became more and more obvious that his behaviour was purposeful, and was designed to keep us in financial distress and under control.” - Rowan*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW.

“During the relationship I knew something was wrong. It wasn't until after I left that I began to start understanding what was happening.” - Diana*, victim-survivor, born overseas, aged 30-39, heterosexual, living in inner metropolitan NSW.

Other victim-survivors described only coming to terms with the fact that they were being abused once they had experienced a physical assault. This is reflective of a

widespread, but outdated understanding of domestic violence, perpetuated by the current legal framework, which fails to recognise the impacts of non-violent coercive control on a victim.

“[I realised I was being abused only after the relationship had ended [and] after an assault on myself and two of my sons.” Shireen*, victim-survivor, aged 40-49, heterosexual, living in rural NSW.

“I wasn’t labeling it this [coercive control], but I increasingly wanted out. That’s when it escalated, became threats of violence and then physical.” - Flora*, victim-survivor, aged 40-49, heterosexual, living in inner metropolitan NSW.

“[I realised I was being coercively controlled] when the abuse turned physical and I was shown the cycle of violence and wheel of control by the police.” - Scarlett*, victim-survivor, living with a disability, aged 30-39, heterosexual, living in regional NSW.

Notably, a number of victim-survivors identified that they only realised they were being abused by the perpetrator after first being made aware of the concept of coercive control. Numerous women reported that coming across books or articles, learning about coercive control in the media, or being told by a counsellor, DV specialist, police or friend, prompted them to realise that this was what they were experiencing.

Victim-survivors made the following comments about the point at which they realised they were experiencing coercive control:

“After the relationship ended and I had access to dv support and education.” - Cordelia*, victim-survivor, Aboriginal or Torres Strait Islander, aged 50-59, heterosexual, living in inner metropolitan NSW.

“After I had ended the relationship when the words coercive control were more widely in use. Previously I asked myself if it was domestic violence and it was difficult to understand whether it met those definitions. At one point I saw definitions that required me to assess the perpetrators intent and I was unsure if he wanted to control me personally or just not ever have anyone stop him found anything he

wanted eg gambling infidelity drugs; he was prepared to do anything though to sustain personal control and blame me for lack of feelings of control over his life, and didn't care whether I could control my life or have an equal opportunity to pursue the same types of life goals he insisted he be 100 percent free to pursue." - Anamaria*, victim-survivor, aged 40-49, heterosexual, living in inner metropolitan NSW.

"When I read Jess Hill's book. I have had child services, police, and the courts involved since I was an infant, but I did not know this term or concept until I was 26 and read Jess' book." - Fatima*, victim-survivor, aged 40-49, heterosexual, living in regional NSW.

"After I got divorced. I started to meet other people and talk about my marriage and how I was treated. It was then I realised I was being controlled. This was later confirmed with my psychologist." - Clara*, victim-survivor, aged 30-39, heterosexual, living in inner metropolitan NSW.

"Afterward. I read Jess Hill's book and I realised what had happened to me." - Aida*, victim-survivor, Aboriginal or Torres Strait Islander, aged 40-49, heterosexual, living in rural NSW.

"When I spoke to a Police Officer and he described what domestic violence was. Up to this point I was confused and controlled so badly I couldn't make decisions for myself, and everything was very unclear." - Serena*, victim-survivor, aged 40-49, heterosexual, living in rural NSW.

"After reporting the physical abuse to the police and being recommended the book "See what you made me do." - Gabriella*, victim-survivor, born overseas, aged 40-49, heterosexual, living in regional NSW.

"When I saw an article on [Facebook] and read it." - Alegria*, victim-survivor, living with a disability and chronic health conditions, aged 21-29, bisexual, living in outer metropolitan NSW.

These accounts demonstrate the importance of raising awareness about coercive control amongst the broader public. Formal recognition that coercive control is harmful abuse, and education about how these behaviours operate, is essential to empowering victim-survivors to escape domestic and family violence, and assisting family, friends, colleagues, community members and frontline workers to assist them in this journey.

6.1.2 Prevention of domestic and family violence

“(Criminalising coercive control) could prevent a lot of injuries/deaths as physical violence starts with emotional and coercive controlling behaviour” -

Wendy*, Victim-Survivor, heterosexual/straight, aged 40-49 and living in Inner Metropolitan NSW

As families, community and societal institutions come to better recognise and understand coercive control, cultural norms within each of these will begin to shift. It will be less likely that coercive and controlling behaviours will be tolerated or that people will turn a blind eye. Family members, friends, colleagues, teammates, and community members will be aware of the red flags, and reach out to offer support. We will stop violence before it starts.

We know from the international evidence-base that the primary drivers of violence against women are not financial stress, substance abuse or mental illness, but entrenched social norms:

- asserting men’s control of decision-making;
- limiting women’s independence in public and private life;
- ascribing to rigid gender roles and stereotyped constructions of masculinity and femininity;
- encouraging male peer relations that emphasise aggression and disrespect towards women; and
- condoning violence against women.¹⁵⁹

¹⁵⁹ Our Watch, Victorian Health Promotion Foundation, and Australia's National Research Organisation for Women's Safety, “Change the story: A shared framework for the primary prevention of violence against women and their children in Australia” (2015), Our Watch <<https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2019/05/21025429/Change-the-story-framework-prevent-violence-women-children-AA-new.pdf>>.

Improved awareness and understanding throughout the community that this control element in relationships is the most dangerous and damaging part will most certainly lead to a reduction in tolerance to these dynamics, and a shifting of violence-supportive social norms.

We will see more leaders standing up and providing positive role modelling of respectful relationships. We will see victims of coercive control being supported to speak up and reach out for support earlier. We will see people using coercive and controlling behaviours in their relationships held to account by their friends, family members, colleagues and community members, and directed to programs which support behaviour change before families and relationships are destroyed.

6.1.3 Improved victim-survivor access to protection and justice

Criminalising coercive control would mean a wider range of abusive behaviours would be brought within the ambit of the law and addressed by the authorities. It will mean the evidence victim-survivors have readily available of ongoing forms of abuse they have experienced will become directly relevant and admissible and thus of greater interest to the police. This may include items such as emails, text messages, voicemail recordings, bank statements, diaries, photographs of injuries or damage to property, lost contact with friends, family, employment, or social activities, records of the abuser attending their medical appointments and/or making false allegations to police or health/social/migration services about them.

In turn, this will assist police officers in responding to cases that are potentially lethal because of the high levels of psychological control but where there is no overt physical abuse.¹⁶⁰ Further it would assist police in responding more appropriately to domestic violence incidents in general, as it would place physical violence in context.¹⁶¹

These views were shared by both frontline domestic and family violence specialists and victim-survivors, with **96% (or N = 43/45) of frontline domestic and family violence specialists and 89% (or N = 64/72) of victim-survivors agreeing that catching abusive behaviours which are currently outside the scope of the law would be a key benefit of criminalising coercive control.** Moreover, **93% (or N =**

¹⁶⁰ Julia R Tolmie, 'Coercive Control: To Criminalise or Not to Criminalise?' (2017) 18(1) *Criminology & Criminal Justice* 50, 52.

¹⁶¹ Ibid.

42/45) of frontline domestic and family violence specialists agreed that criminalising coercive control would lead to **improved police responses** to domestic and family violence.

Additionally, through the recognition of coercive control as a crime, the broader service system, including child protection, health, ageing, disability, education, housing, social, legal, youth and family services, will update their own definitions, policies, practices and procedures, which will increase the safety and accessibility of these services for victim-survivors of domestic and family violence.

Awareness and recognition within these public and non-government institutions of the nature and seriousness of coercive control will also result in improved screening, risk assessment, and referral processes so that victim-survivors are offered safety and support sooner.

Importantly, criminalising coercive control will allow victim-survivors to be heard and have their experiences validated. Victim-survivors often say that psychological abuse, intimidation, coercion and controlling behaviour was the worst aspect of an abusive relationship.¹⁶² Without an offence of coercive control the current laws operating in NSW fail to capture the most traumatising elements of a victim's experience and victims voices will continue to be unheard.

Indeed, criminalising these behaviours will give victim-survivors the language to describe what the perpetrator has been doing to them and legitimise their perceptions that these behaviours are unacceptable and against the law. These views were shared by both domestic and family violence specialists and victim-survivors, with **96% (or N = 43/45) of frontline domestic and family violence specialists and 89% (or N = 64/72) of victim-survivors agreeing that criminalising coercive control would make victim-survivors feel more heard and validated in relation to the abuse they have experienced.**

“I think (criminalising coercive control) is one of the most important changes that can be made in domestic violence cases at this time. There is a reason women say it can be, in some ways, more painful than

¹⁶² ‘Coercive control and domestic abuse: what might have saved Hannah Clarke and her children?’ (n 127)

sexual assault, and that is because it is consistent and there is no reprieve. Without your mind, your sense of self, freedom and autonomy, you can't leave and that is their ultimate goal.” - Etta, victim-survivor, born overseas, aged 20-29, heterosexual, living in inner metropolitan NSW*

“(Criminalising coercive control will lead to an) overall recognition of the fact that domestic and intimate violence is not just physical and/or sexual. Rarely is it ever just those aspects, which are obviously easily identifiable, and which society, police, and the court system recognise as being abuse, and wrong. The complexity and breadth of domestic/intimate violence is not currently being recognised legally, and it's creating a vast path of destruction and waste in terms of human life in its wake.” - Rowan, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual and living in regional NSW.*

6.1.4 Prevention of primary aggressor misidentification and criminalisation of marginalised women

6.1.4.1 Current problem with police and courts sometimes misidentifying the primary aggressor

Systems abuse is a prevalent issue within NSW civil and criminal justice system responses to domestic violence, whereby, for example, perpetrators are able to persuade responding officers that they are in fact the victim in a particular domestic violence incident and this is then used by the perpetrator as a means to exert further power and control over their victim.

With a highly **incident based** system and a focus on **proactive policing**, women who are the primary victims in a relationship characterised by coercive control can easily be **misidentified** by police and courts as the **primary aggressor** in a particular incident, particularly where they have acted in self-defence, or used retaliatory or resisting force. As a result, the victim could become the subject of an ADVO application, or even face criminal charges, while the perpetrator of a campaign of abuse faces no repercussions at all. Concerningly, this is something which has a higher prevalence for women from marginalised groups, such as First Nations women, women from non-English backgrounds, and women with cognitive or intellectual disabilities.

When asked whether they had experienced being misidentified as the primary aggressor by police, a quarter (25% or N = 14/56) of victim-survivor respondents reported that they had.

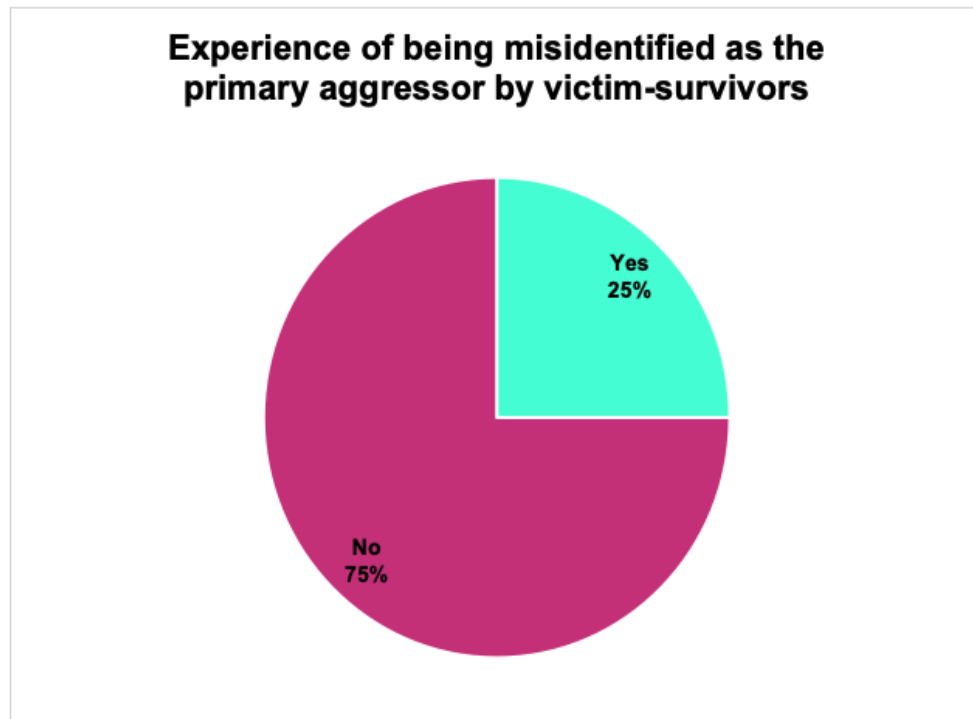


Figure 13.0. Responses to the survey question: “If you reported the abuse to the police, did you experience being misidentified as the primary perpetrator of the abuse?”. 71 total responses (71 victim-survivors).

“My ex-husband told them I was emotionally disturbed and that I had kidnapped the children. He lied about our marital experiences and our family dynamic.” - Rebecca*, victim-survivor, Aboriginal or Torres Strait Islander, living with chronic health conditions, aged 40-49, heterosexual, living in rural NSW.

My son was also assaulted by my ex husband however the police identified my son as a potential perpetrator so as a result, they did not charge my ex husband with my son's assault, because they then said they would have to

charge my son with assault on my ex husband.” - Indi, victim-survivor, aged 18-20, heterosexual, living in inner metropolitan NSW.*

“[My] husband befriended [a] very young officer at our local station and started changing pickup to be done there. The officer said ‘my mother did this to my father too’ and a few weeks later served me with [my] ex’s IVO application and actually said ‘we advise the guy, if she slaps one on him, to slap her back. It makes our jobs easier. Evens it up’.” - Emma, victim-survivor, aged 40-49, heterosexual, living in outer metropolitan NSW.*

Victim-survivors also noted being misidentified as primary aggressor as a result of defending themselves from abuse:

“There was an incident a week prior to the sexual assault where he accused me of physically assaulting him and police mistook me as the perpetrator due to scratches on his arms that they didn’t examine closely enough to actually see they were defence scratches from struggling to free myself from his grip. When the sexual assault occurred and I reported it, the original officer that arrested me for the alleged physical assault felt horrible but couldn’t do anything about the assault charge against me.” - Arifa, victim-survivor, aged 50-59, heterosexual, living in outer metropolitan NSW.*

“Police attended after I was assaulted and were confused about who provoked who as I disclosed my fight/flight/freeze responses and decided not to charge ex-partner. The following day after a review of my injuries they charged my ex-partner. At the hearing, this “erring” of police was detrimental to a conviction and charges were dismissed by magistrate.” - Maeve, victim-survivor, living with a disability, aged 40-49, heterosexual, living in Victoria.*

The responses from frontline domestic and family violence specialists were consistent with victim-survivor reports of their experience. When asked how often police and courts misidentify victims of domestic violence as the primary aggressor in their matter, the following was reported:

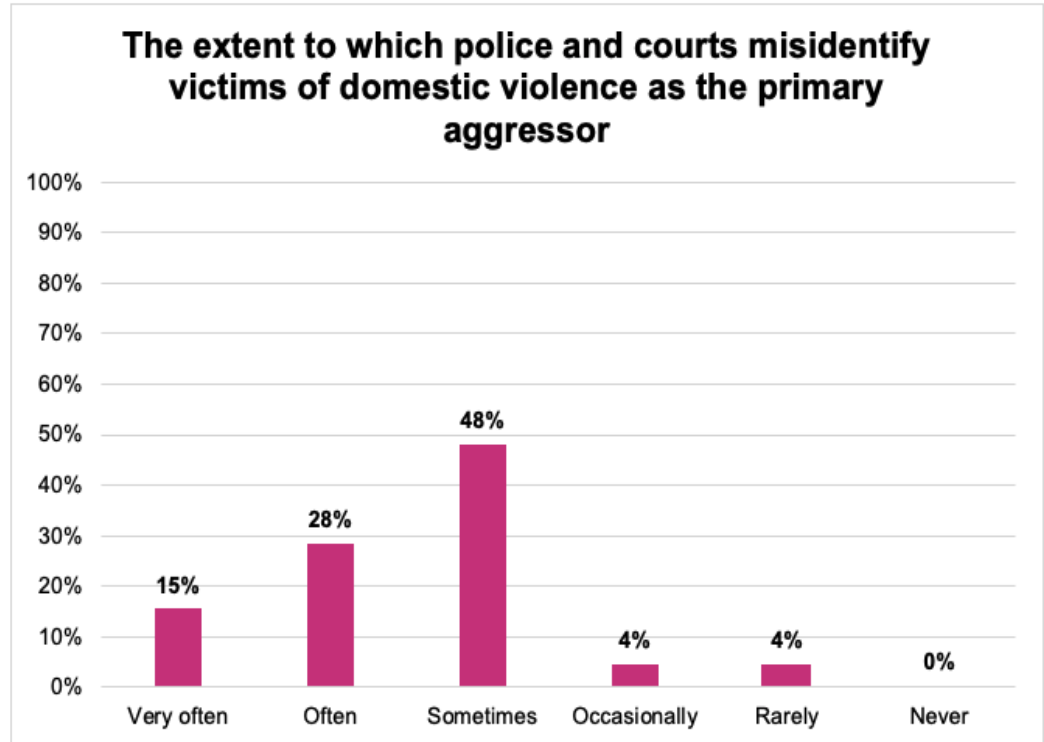


Figure 14.0. Responses to the survey question: “How often do you think police and courts misidentify victims of domestic violence as the primary aggressor in their matter?”. 46 total responses (46 members).

6.1.4.2 Mismatch between rates of female offending and rates of actual female perpetration

This reported rate of misidentification (25%), albeit from a small sample of 56 victim-survivors, **can be seen to reflect the elevated rate of recorded female domestic violence offenders in NSW** as a proportion of the total number of domestic violence offenders. In the period October 2019 to September 2020, the Bureau of Crime Statistics and Research (‘BOCSAR’) recorded 7,653 female domestic violence offenders, representing **20.7%** (N=7,653/37,043) of the total

number of offenders.¹⁶³ This contrasts with Australian Bureau of Statistics data which indicates that 95% victims of violence name a male perpetrator.¹⁶⁴

6.1.4.3 Identified reasons for primary aggressor misidentification

Frontline domestic and family violence specialists provided further insights into the key reasons why police and courts sometimes misidentify the primary aggressor:

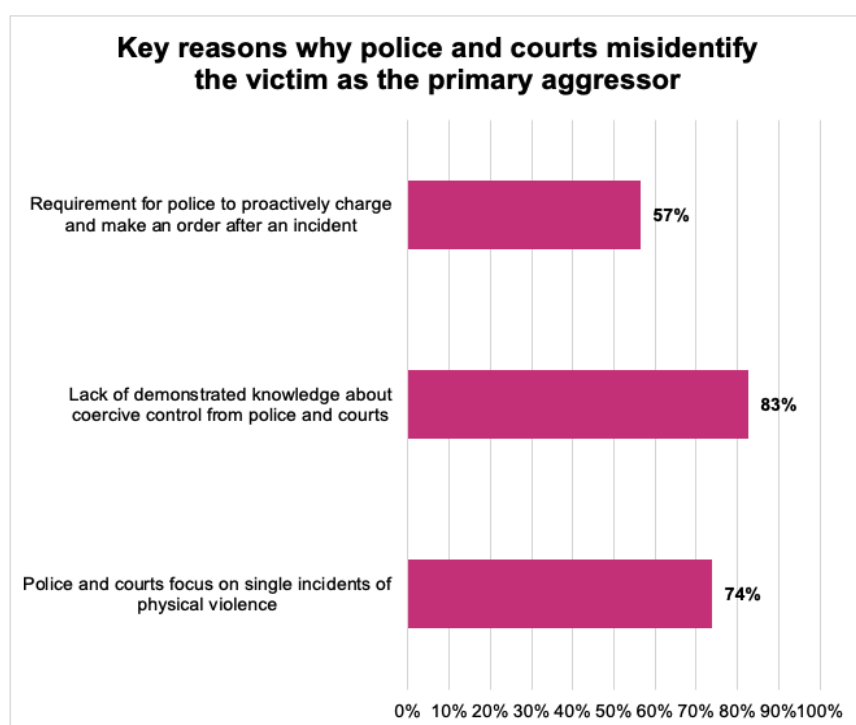


Figure 15.0. Responses to the survey question: "What do you think are the main reasons for police and courts misidentifying the primary aggressor? (Please select all that apply)". 46 total responses (46 members).

¹⁶³ Bureau of Crime Statistics and Research ('BOCSAR'), NSW Recorded Crime Statistics October 2015 to September 2020, Number of recorded domestic violence related incidents and rate per 100,000 population: 2 and 5 year trend[^] (2020), Sydney <https://www.bocsar.nsw.gov.au/Pages/bocsar_pages/Domestic-Violence.aspx>.

¹⁶⁴ Kristin Diemer, ABS Personal Safety Survey: additional analysis on relationship and sex of perpetrator (2015), University of Melbourne, <<https://violenceagainstwomenandchildren.files.wordpress.com/2015/07/abs-personal-safety-survey-victim-perpetrator-sex-and-relationship6.pdf>>.

Additionally, numerous frontline domestic and family violence specialists also indicated that misidentification can occur due to the way that victims present after an incident being misunderstood or misinterpreted by police. Victims will often be emotional or distressed following an incident, and frontline domestic and family violence specialists report that perpetrators can then manipulate police into believing them by appearing calm and rational in contrast.

“I have had many women who were labeled as the primary aggressor because when police showed up, she was “emotional” where as the man was ‘calm’.” This is sexist and shows a complete disregard for the trauma being experienced by the victim of DV.” - Sienna* Regional, Aboriginal domestic and family violence Specialist, WDVCAS.

“Often the perpetrator presents very well and the victim is quite hysterical and emotional. These types of perpetrators are very good at convincing police that the victim has mental health issues and is the one going off.” - Odette*, Regional frontline domestic and family violence specialist, WDVCAS.

“Trauma response of victims being outside stereotypical behaviours and misinterpreted as lack of distress or transparency, lack of training/education, personal values inputting into decision making, resistance to accepting victim testimony, lack of investigation into background of complaint, believing the perpetrator because he seems relaxed and reasonable and the woman seems hysterical or shut down.” - Sascha*, Rural Safety Action Meeting Coordinator and Aboriginal Specialist Worker, WDVCAS.

“Victim’s mental health is triggered and escalated by an incident. Offenders are very skilled at manipulation and often manipulate police.” - Lucy*, Inner Metropolitan frontline domestic and family violence specialist, WDVCAS.

“Police misidentify self-defence as aggression, based on the word of often manipulative perpetrators who are often calm at the scene while the victim has been through a traumatic incident and is physically

dealing with the after-effects. Police failing to observe obvious discrepancies in physical size and power.” - Elsa, Outer Metropolitan frontline domestic and family violence specialist, WDVCAS.*

Others indicated that **perpetrators are sometimes able to win the trust of police by reporting before the victim has a chance to do so**. This can give them the advantage of establishing their version of events early and creating a good impression with police, making it much more difficult for victim-survivors to then approach police and make a credible report against them.

“Perpetrators reporting as victims to police prior to the actual victims.” - Alexandra, Regional Safety Action Meeting Coordinator, WDVCAS.*

“The POI approaches police first and presents her experience as their experience and the woman is forced to deal with police that refuse to support her. Especially if she's been too scared to report the violence.” - Aliyah, Outer Metropolitan frontline domestic and family violence specialist, WDVCAS.*

Several frontline domestic and family violence specialists reported that **outdated attitudes** continue to hinder the ability of some police and courts to address domestic violence and correctly identify the primary aggressor.

“Attitudes of individual officers attending incidents towards women [leads to misidentification].” - Lily, Regional frontline domestic and family violence specialist worker, WDVCAS.*

“Also lack of knowledge in how DV presents in relationships from police. A lot in the media about “men being victims too”.” - Trini, Regional frontline domestic and family violence specialist worker, WDVCAS.*

“Lack of training and care for victims of domestic violence. There is so much victim blaming still despite all of the media and “improvements to the systems for victims”...it is not happening on the ground.” - Samara, Regional frontline domestic and family violence specialist, WDVCAS.*

6.1.4.4 Suggestions that criminalising coercive control will increase systems abuse, particularly for marginalised women

Indeed, there has been some suggestion that the criminalisation of coercive control will create new **opportunities for legal systems abuse**;¹⁶⁵ that perpetrators will use the legal and other formalised systems to further assert control over their partners as a result of the new offence. Such an offence, it is argued, could be misused as a justification by perpetrators for their abuse. This would then need to be disproven in a process which would have the potential to re-traumatise the victim.

This would be a particular concern from marginalised women. We know that Aboriginal women are disproportionately represented and the fastest growing prison population in Australia, comprising around one-third of female prisoners in New South Wales, for example, despite making up just 3% of the population.¹⁶⁶ We also know that the vast majority of Indigenous women in prison in NSW have experienced violence themselves.¹⁶⁷

6.1.4.4.1 Critical need for marginalised women to be centred in reform development and implementation

The ongoing impacts and consequences of institutionalised and systemic racism, sexism, ableism and homophobia within our society, reinforce the need for marginalised communities, particularly First Nations women, culturally and linguistically diverse (CALD) women, women with disability (WWD) and lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons to be centred the development of these reforms.

¹⁶⁵ Heather Douglas 'Legal Systems Abuse and Coercive Control' (2018) 18(1) *Criminology & Criminal Justice*

¹⁶⁶ Keeping Women Out Of Prison 'Profile of women in prison in NSW' (2019) 15.

¹⁶⁷ Mary Stathopoulos and Antonia Quadara, 'Women as Offenders, Women as Victims: The Role of Corrections in Supporting Women with Histories of Sexual Abuse' (Women's Advisory Council of Corrective Services NSW, 2014) 18.

Recommendation 2

Women's Safety NSW recommends that the NSW government closely consult with First Nations women, CALD women, WWD and LGBTIQ persons in both the development and implementation of these reforms.

When asked if NSW police and courts provide culturally safe and accessible services for Indigenous and CALD women experiencing domestic violence, **over half (53% or N = 24/46) of frontline domestic and family violence specialists** identified that this occurred **'a little' or 'none at all'**. Further **100% (or N = 46/46) of frontline domestic and family violence specialists** stated that it was **'extremely important' or 'very important'** to ensure specialist training is provided to NSW police and courts to ensure that their services are culturally safe and accessible for Indigenous and CALD communities.

6.1.4.5 What do Women's Safety NSW member and survivor advocates say?

Women's Safety NSW's consultation with our frontline Aboriginal, Multicultural and disability-focused domestic and family violence specialists, victim-survivors from an Indigenous, CALD or LGBTIQ background, and victim-survivors with a disability or chronic health condition, have thus far reflected overwhelming support for the reforms as a package, with carefully drafted provisions taking their perspectives, knowledge and experience into account, and accompanying policy changes and investment in training, specialisation, resource development and community education and development.

6.1.4.6 Criminalising coercive control may reduce primary aggressor misidentification and the criminalisation of marginalised women

The vast majority of frontline domestic and family violence specialists 100% (or N = 46/46) and victim-survivors (85% (or N=62/72) maintain **the recognition of coercive control as a crime will in fact reduce the risk of misidentification and systems abuse, and hence the criminalisation of marginalised women**, provided police and courts are adequately trained.

*“I believe that this would result in a higher number of abusers being identified as abusers and victims to be identified as victims and **NOT misidentified as the abuser/prosecutor.**” - Manuella*, living with chronic health disorders, speaking a language apart from English at home, aged 21-29, bisexual, living in inner metropolitan NSW*

*“However, my yes is on the assumption that any areas of concern are addressed sufficiently and improve safety. (Eg, misidentification, extra at risk populations like women on temporary visas and Aboriginal and Torres Strait Islander women) Children also need to be protected from abduction **AND the criminalisation of a protective parent wrongly accused of this.**” - Theresa*, victim-survivor, living with a disability and chronic health disorders, aged 30-39, lesbian, living in outer metropolitan NSW.*

6.1.4.7 Has criminalisation of coercive control in the UK resulted in increased primary aggressor misidentification and the criminalisation of marginalised women?

Initial analysis of the United Kingdom's and Scottish offence for criminalising coercive control indicates that the offence has not been misused as a means of legal systems abuse. Contrasting such fears of systems abuse, early evidence reveals not only a lack of systems abuse, but also the offence has not led to an increase in victims being misidentified as the primary aggressor.¹⁶⁸

6.1.4.7.1 In the UK, 97% of defendants charged with coercive control are male, which reflects true perpetration rates

In McGorry and McMahon's (2019) analysis of 107 individuals convicted of coercive or controlling behaviour in the United Kingdom, concerns around the potential for the new offence to be misused through the misidentification of the primary aggressor were found to be unwarranted. Consistent with known perpetrator patterns,¹⁶⁹ in McGorry and McMahon's data, 106 of the 107 offenders sentenced for controlling or coercive

¹⁶⁸ Paul McGorry and Marilyn McMahon, 'Prosecuting controlling or coercive behaviour in England and Wales: Media reports of a novel offence' (2019), *Criminology & Criminal Justice*.

¹⁶⁹ Ibid.

behaviour were male;¹⁷⁰ findings which are consistent with the Ministry of Justice's reporting that in the 2017 calendar year **97% of the defendants that were charged with controlling or coercive behaviour were male**.¹⁷¹ Additionally, McGorry and McMahon's analysis also revealed a **low rate of appeals and a high rate of guilty pleas (73%)**, which suggests that the police and/or Crown Prosecution Service have adopted clear guidelines for determining what constitutes offending behaviour, and that this has minimised the risk of dispute as to whether the relevant conduct falls within the boundaries of acceptable human interactions.¹⁷²

6.1.4.7.2 *In the UK, criminalisation of coercive control has also opened the pathway for retroactive justice for victim-survivors of domestic and family violence who have gone on to offend.*

As a consequence of criminalising coercive control in the UK, a number of victim-survivors of domestic and family violence have been able to obtain retroactive justice in relation to offences and sentencing outcomes in circumstances where they have acted with force in resistance or retaliation to long periods of abuse and control. The most well-known example of this is the case of Sally Challen, who was exonerated for the murder of her husband after experiencing many years of psychological torment.¹⁷³ This case is discussed further at [subsection 7.9.1](#).

Whilst the criminal justice system and sentencing practices differ in the NSW context, an expanded definition of domestic and family violence in NSW which includes coercive control as an offence may have some potential for similar retrospective application here.

6.1.4.8 Women's Safety NSW's view

Women's Safety NSW believes that the current focus on incident-based domestic violence hinders the ability of police officers and the courts from accurately

¹⁷⁰ Ibid.

¹⁷¹ Office of National Statistics UK, 'Domestic abuse in England and Wales: year ending March 2018' (Web Page, 22 November 2018).

¹⁷² Paul McGorry and Marilyn McMahon, 'Prosecuting controlling or coercive behaviour in England and Wales: Media reports of a novel offence' (n 137)

¹⁷³ Marilyn McMahon and Paul McGorry (eds), *Criminalising Coercive Control: Family Violence and the Criminal Law* (Springer, 2020), 84.

identifying the primary aggressor in a relationship characterised by domestic and family violence. By recognising the 'course of conduct' nature of domestic violence offences and implementing a contextual framework, the civil and criminal justice system can more correctly ascertain which party in a domestic violence relationship is in most need of protection. This will be particularly helpful in situations where the primary victim resists or retaliates against their abuser with violence following a long history of abuse and is incorrectly labelled as the primary aggressor.

A contextual framework will allow us to differentiate between violence which is inflicted in order to control, and violence which is inflicted in the context of victimisation. It will also lead to a better understanding overall of the dynamics of domestic abuse, and, in conjunction with increased training, will provide police and courts with a more evolved understanding of how victims and offenders may present in the wake of an incident, thus **reducing the risk of victims being incorrectly identified as an aggressor due retaliatory violence or systems abuse.**

"It would expose the gendered nature of coercive control and intimate partner violence..." - Aislin*, State-Wide Community Shelters Worker.

6.1.5 Increased early diversion and rehabilitation

It is fundamental to the safety and wellbeing of women, children and communities that perpetrators of coercive control are held accountable for their behaviour and supported to change. Any meaningful policy framework to address violence against women and their children must incorporate an integrated system for perpetrator intervention and behaviour change.

If coercive control was criminalised the offence would carry its own penalty, and this would allow courts to specifically sanction offenders for this behaviour as appropriate. This would in turn ensure that offenders are held to account for the full extent of their coercive and controlling behaviours and their cumulative harm as opposed to single incidents of violence. It would also, as described above, likely result in earlier intervention, which creates an excellent opportunity for diversion and behavioural intervention.

Seventy-six percent (76% or N = 34/46) of frontline domestic and family violence specialists and 81% (or N = 58/72) of victim-survivors believed that criminalising coercive control would allow there to be earlier diversion of abusers to rehabilitation and behaviour change programs.

“These behaviours can be monitored earlier, show a pattern of abuse before physical abuse occurs.” - Leila* Rural Domestic and Family Violence Specialist Worker

The law is a blunt instrument when it comes to social practices of violence rooted in gender inequality and our current adversarial system cannot address the full range of needs of victims for safety and recovery and the effective rehabilitation of offenders.¹⁷⁴ There is an opportunity for criminalising coercive control to facilitate earlier interventions in abusive relationships before violence escalates further. The UK Law Commission shared this position, expressing that the fair labelling of offenders as perpetrators of coercive control may contribute to the rehabilitation of that offender.¹⁷⁵

Police, magistrates and judges have often relayed that they would like to have more accredited behaviour change programs within and outside of a prison environment as appropriate in accordance with risk. Criminalising coercive control and catching early and hidden abuse will afford this opportunity, provided the NSW government is committed to investing in these programs state-wide.

6.1.6 Prevention of domestic homicide

Women's Safety NSW regards the criminalisation of coercive control as critically important if Australia is to achieve a marked reduction in domestic homicide. The laws operating in NSW have long assumed that people who eventually wield deadly violence are physically violent before that, and so policing has attempted to reduce homicidal violence by prosecuting lesser violence, such as physical assaults, on an

¹⁷⁴ Jarryd Bartle, 'Should it be a crime to exert 'coercive control,' over a domestic partner?' *Sydney Criminal Lawyers* (Article, 10 October 2020) <<https://www.sydneycriminallawyers.com.au/blog/should-it-be-a-crime-to-exert-coercive-control-over-a-domestic-partner/>>.

¹⁷⁵ Law Commission, *Reform of Offences Against the Person; A Scooping Consultation Paper* (Consultation paper No 217) 217

incident-by-incident basis.¹⁷⁶ However, it has become clear that many domestic homicides are not preceded by any physical violence, with coercive and controlling behaviour instead being the primary predictor of domestic homicide.

The NSW Domestic Violence Death Review Team (DVDRT) Annual Report for 2017-2019 indicated that out of 111 cases, **95% (or N = 105/111)** involved verbal abuse and **43% (or N = 48/111)** involved financial abuse.¹⁷⁷ Data from the DVDRT also found that a striking **111 out of 112 (99%)** perpetrators used coercive control on their partner before killing them between 2017 and 2019.¹⁷⁸ Coercive control is thus **the strongest risk precursor to homicide** in intimate partner relationships and yet in the eyes of the law, the most common behaviours of coercive control are perfectly legal. **Ninety-two percent (92% or N = 66/72) of victim-survivors and 82% (or N = 37/45) of frontline domestic and family violence specialists agreed that preventing intimate partner homicides would be a key benefit of criminalising coercive control.** Criminalising coercive control is essential if we want to reduce violence against women, make any headway in reducing the figures around violence, and also prevent domestic violence homicide. By focussing solely on individual incidents of physical assault, we will miss high-risk perpetrators who go on to kill their victims under our watch.

6.2 Practical challenges

6.2.1 When should behaviour be considered criminal?

[Subsection 2.2.1](#) of this submission canvasses the key elements which distinguish what might be considered poor but tolerable behaviour in relationships from criminal

¹⁷⁶ Amanda Gearing, 'Coercive control and domestic abuse: what might have saved Hannah Clarke and her children?' *The Guardian* (online 29 February 2020) <<https://www.theguardian.com/society/2020/feb/29/coercive-control-and-domestic-abuse-what-might-have-saved-hannah-clarke-and-her-children>>.

¹⁷⁷ NSW Domestic Violence Death Review Team, NSW Government, *Domestic Violence Death Review Team Report* (Report, 2017) (n 14) 154.

¹⁷⁸ Maggie Cogan, 'Fight to criminalise coercive control ramps up', *Pro Bono Australia* (Article, 13 October 2020) <<https://probonoaustralia.com.au/news/2020/10/it-sends-a-very-clear-message-to-everyone-in-the-community-that-coercive-controlling-behaviour-is-dangerous-and-intolerable-an-anti-domestic-violence-advocate-says/>>. See also, Analysis and Policy Observatory, *Australian Domestic and Family Violence Death Review Network, Data Report 2018*, 31 May 2018, 29.

conduct amounting to coercive control. These are (a) that the behaviour in question forms a pattern over time, and (b) that the pattern of behaviour, or course-of-conduct is such that it would likely to cause serious harm or serious effect on the person, and this must be determined on the criminal standard.

The behaviours associated with coercive control are actually very well defined and understood. See [subsections 1.2](#) and [2.1](#) of this submission for more. Specialist domestic and family violence services have been supporting victim-survivors in their safety and recovery on the basis of this knowledge and experience for many decades. As can be seen in [subsections 2.1.3](#) and [7.4](#) of this submission, the types of behaviours and effects on the victim captured in the Scottish legislation is a strong expression of this, although there may be need for a more explicit articulation of financial abuse or abuse directed at a child, relative, friend or animal connected with the victim. As discussed at [subsections 2.2.2](#) and [7.12](#), the latter will come with some challenges which may need to be addressed with a defence and/or statutory guidance if the drafting cannot ameliorate risk of systems abuse on the part of abusers. It is also essential that the government consult with a wide range of groups, particularly First Nations women, culturally and linguistically diverse women, women with disability, older women, younger women, women in regional, rural and remote areas, and lesbian, gay, bisexual, transgender, intersex and queer peoples, to ensure the particular forms of abuse or effects of abuse which amount to coercive control in their relationships and communities are appropriately captured.

A pattern of abusive behaviours as has been described, or behaviours which have these effects, will, when a power imbalance exists, cause serious harm and/or have serious effect on the person who is the target of those behaviours.

Behaviour on the part of one person with knowledge or with intention or recklessness, causes serious harm or has serious effects on another should come within the ambit of the criminal law and should be sanctioned if these elements are met on the criminal standard.

6.2.2 Proving coercive control

6.2.2.1 A change to policing domestic violence, but course of conduct offences not new

Proving coercive control will involve establishing multiple instances of abusive behaviour as captured by the offence to form a pattern of behaviours over time or a course of conduct. Whilst true that this represents a significant change to the focus on policing domestic and family violence in the NSW civil and criminal system of justice, the concept itself is not new.¹⁷⁹ Indeed, this approach is embedded in a number of offences at the state and federal level.¹⁸⁰ Recent examples of course of conduct offences which have been brought within the realm of NSW domestic violence law include stalking and intimidation,¹⁸¹ whereby “a court may have regard to any pattern of violence.”¹⁸² Whilst the review of the operation of these laws undertaken by BOCSAR is yet to be published, experience from victim-survivors and the domestic and family violence specialists who support them shows that these offences have had a degree of effectiveness in increasing women’s safety and access to justice, and that over time police are becoming more effective at identifying and prosecuting offences under these laws, albeit with significant room for improvement as highlighted by these quotes:

“He has two previous ADVOs and was charged with stalking and actual bodily harm by two previous partners. He was on good behaviour when he abused me.” - Etta*, victim-survivor, born overseas, aged 20-29, heterosexual, living in inner metropolitan NSW.

“Police response is patchy - some understand and are clever with offences and charging (stalking and intimidation) where others, particularly if they are not DVLOs, do not have good knowledge beyond physical incidents of DV.” - Aislin*, State-Wide Community Shelters Worker.

¹⁷⁹ David Ross, "Continuing Offences", (2004), *Deakin Law Review* 10.1, 283, 283-295.

¹⁸⁰ *Ibid.*

¹⁸¹ *Crimes (Domestic and Personal Violence) Act 2007* (NSW) ss 7-8 (as made) <<https://www.legislation.nsw.gov.au/view/pdf/asmade/act-2007-80>>.

¹⁸² *Ibid* ss 7(2) and 8(2).

Nevertheless, as pointed out in the NSW Government Coercive Control Discussion Paper, the offence of stalking “is still fundamentally incident based.”¹⁸³ Furthermore, as outlined at [subsection 3.1.1](#), stalking and intimidation offences do not cover the full range of coercive controlling behaviours, leaving victim-survivors unprotected by the law. Rowan*, a victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW explains in detail:

“Yes, [if there was a separate coercive control offence] we would have had a police AVO, support, protection and assistance from the beginning, rather than being left to try and manage the violence by ourselves and in terror. Being ignored because there wasn't enough physical violence being perpetrated against myself, or because he wasn't leaving evidence of his stalking and violence that they could/would actually act upon was and is an ongoing problem for us. He KNOWS that if he makes a verbal, written or online threat that the police can act upon that, and potentially press charges. He KNOWS that if he leaves physical damage on the house, car or shed when he's broken in that the police will come knocking on his door, in the same way that if he actually HIT us, he would be facing charges. He also KNOWS what the police can and can't act upon, so he does the things that won't be recognised legally, and can't be charged for. He KNOWS that if he avoids arrest for 5 months that our case will drop off the system, the AVO won't be renewed, and then he can come at us again without actually breaching anything, and we're back to trying to get him on intimidation and stalking charges, which he can deny, and therefore get away with. If I had been able to prove that he had been coercively violent towards myself and my children, kept us trapped in the relationship for over 3 years, coercively controlled me financially, with regards to my health, and the safety of my children, then we would be in a very different position now, and he would not be able to claim that

¹⁸³ Minister for the Prevention of Domestic Violence and Attorney General (NSW), NSW Government, *Coercive Control* (Discussion Paper, October 2020) <<http://www.crimeprevention.nsw.gov.au/domesticviolence/Documents/domestic-violence/discussion-paper-coercive-control.pdf>> 25 [6.12].

he has been falsely accused, and move onto his next victim, who has 3 young grandchildren... Coercive violence laws would catch at least some of these repeat, intentional, and devious perpetrators out, and make them responsible for their actions, whilst protecting their victims, and society in general.”

6.2.2.2 Readily available evidence made directly admissible

Criminalising coercive control would bring these other aspects of domestic abuse, for which they may have readily available evidence, within the ambit of the law. As noted at [subsection 6.1.3](#), this may include items such as emails, text messages, voicemail recordings, bank statements, diaries, photographs of injuries or damage to property, lost contact with friends, family, employment, or social activities, records of the abuser attending their medical appointments and/or making false allegations about them to police or health/social/migration services.

Certainly, changing the focus of domestic violence policing will pose a challenge. However, if the law is to act to protect and provide justice for victim-survivors, it must accurately capture the abuse which is most harmful and dangerous to them. Furthermore, although this change in approach will likely require an initial investment in training, professional development and review mechanisms, over time there should be an observed reduction in repeat offending as the law becomes better tailored to address that which is at the core of domestic abuse.

6.2.2.3 Preventing re-traumatisation of victim-survivors

It is essential that the offence be drafted in such a way as to prevent re-traumatisation of victim-survivors. We must learn from our experience with prosecuting existing domestic violence and sexual assault matters and ensure complainants of coercive control are not subjected to arduous proceedings and irrelevant and traumatising cross-examination.

In this regard, it is essential that:

- As detailed in [subsection 7.5](#), the course of conduct element of the offence be established on the basis of no more than two occasions of the prescribed forms abusive conduct (of abusive conduct with the prescribed effects).

- As detailed in [subsections 7.4.2.4](#) and [7.4.2.5](#), the prescribed abusive conduct (or abusive conduct with the prescribed effects) should be clearly articulated and accompanied by statutory guidance as to how this abusive conduct may be proven.
- As detailed in [subsection 7.5](#), there should be no time limitations on the prescribed abusive conduct (or abusive conduct with the prescribed effects) forming the course of conduct.
- As detailed in [subsection 7.7](#), careful consideration should be given as to whether the *mens rea* element is satisfied through knowledge as opposed to intent.
- As detailed in [subsection 7.8](#), the harm threshold should be determined objectively, that is, that a reasonable person would regard the conduct of the accused likely to cause the alleged victim harm. There should be no requirement to prove actual harm.
- As detailed at [subsection 8.2](#), the *Criminal Procedure Act 1986* (NSW) should be amended to ensure context and relationship evidence is admissible in criminal proceedings relating to domestic violence.
- As detailed at [subsection 8.3](#), jury directions should be developed to specifically address commonly held violence supportive and/or victim blaming misconceptions.
- As detailed at [subsection 8.4.3](#) within sentencing, evidence of the impact of coercive control in Victim Impact Statements ('VIS') should be allowed as contextual evidence.
- Furthermore, the procedural protections currently afforded to vulnerable witnesses in sexual assault matters should be extended to complainants of coercive control.

6.2.3 Ensuring the laws are implemented as intended

The biggest challenge in ensuring the laws are utilised as intended will be in training all frontline personnel, but particularly police, prosecutors and judicial officers. For the criminalisation of coercive control to be effective, a genuine approach must be taken to achieve system-wide reform. There must be a commitment to orientation, training, and professional development and ongoing reflective practice, alongside accountability and review mechanisms. Literature and research engaging with

institutional and behavioural change shows that these are fundamental requirements needed if we are to successfully achieve practice change system wide.¹⁸⁴

Evidence shows that attempts to address the behaviours and attitudes of police officers towards gendered violence through only specialist training and intervention has had minimal or no significant impact.¹⁸⁵ Research conducted in the United Kingdom evaluated the effectiveness of specialist rape investigation training between officers, and found no differences between those who received the training and those who did not.¹⁸⁶ Such ineffectiveness is argued to be, in part, due to the narrow focus of most interventions, without considering the broader context of such beliefs, and a failure to embed a more reflective practice within training programs to help drive such institutional change.¹⁸⁷ Women's Safety NSW believes that in addition to orientation and training of frontline workers, we also need to consider the broader framework of domestic and family violence, and embed reflective practices and review mechanisms to ensure practice change. This is further discussed in [section 9](#).

Experiences from the UK show that enacting new legislation without implementing the necessary system reforms will result in very little change in practice. This, in turn, impacts upon **victim's access to safety and justice**. Additionally, lack of specialist education and training could pose a risk of system abuse by perpetrators and thus a lack of safety in the legal process for victims. The detrimental effects of criminalising coercive control without providing sufficient training of police is exemplified in the United Kingdom, **where the lack of consistent training for police has been a major hurdle in implementing the law properly**. Professor Evan Stark, the sociologist who originally coined the term coercive control, honestly stated that the UK **'have created a crime but the police have almost no idea how to use it'**.¹⁸⁸

¹⁸⁴ See for example, Subha Ramani, Graham McMahon, and Elizabeth G. Armstrong, Continuing professional development to foster behaviour change: from principles to practice in health professions education, (2019), *Medical teacher*, 41(9), 1045-1052.

¹⁸⁵ Anthony Murphy and Benjamin Hine, 'Investigating the demographic and attitudinal predictors of rape myth acceptance in U.K. Police officers: developing an evidence base for training and professional development', (2019) 25(2) *Psychology, Crime & Law* 69-89.

¹⁸⁶ Ibid.

¹⁸⁷ Ibid.

¹⁸⁸ Ciara Nugent, 'Abuse Is a Pattern.' Why These Nations Took the Lead In Criminalising Controlling Behavior in Relationships', Time, (online, 21 June 2019).

Women's Safety NSW proposes **ongoing and specialised training for all key actors, including police, judicial officers and other government and non-government service workers**. The development of specialised training pertaining to the identification and assessment of coercive control is of critical importance because of prevalent preconceived notions about domestic violence.

It should be acknowledged that achieving system wide practice change, particularly within police, will require investment. However, ensuring that dangerous and damaging abusive behaviour is stopped earlier will over time reduce rates of reoffending and revictimisation, which in turn will reduce the resource intensity of policing domestic violence.

7. Constructing the Specific Offence of Coercive Control

When considering the construction of the specific offence of coercive control, Women's Safety NSW carefully considered the different types of abuse that victim-survivors reported experiencing as per [subsection 6.1.1](#) and the impacts of these behaviours have had on them (also at [subsection 6.1.1](#)).

7.1 Name and location of a new offence

Women's Safety NSW recommend the establishment of a new '**domestic abuse offence**' alongside the offence of stalking and intimidation. This could be achieved through the creation of a new provision at s 13A of the *CDPV Act*. Women's Safety NSW prefer the use of the term 'domestic abuse' to 'coercive control' in the legislation as it will make the provision more accessible and easier for both the community and actors within the civil and criminal justice system to understand and operationalise.

Recommendation 1

Women's Safety NSW recommends that the NSW Government enact a new 'domestic abuse' offence in the *Crimes (Domestic and Personal Violence) Act 2007* (NSW).

7.2 Relationships included

For the criminalisation of coercive control to afford meaningful protection to domestic violence victim-survivors, it must be recognised that abuse can occur in a range of different domestic relationships. Controlling and coercive behaviours are not only used in intimate partner contexts. Indeed, they can be used in a wide range of family and caring relationships whereby the harm may be just as dangerous and damaging.

This view was supported by frontline domestic and family violence specialists and victim-survivors alike. When asked which domestic relationships should be covered in a coercive control offence, frontline domestic and family violence specialists and victim-survivors reported the following:

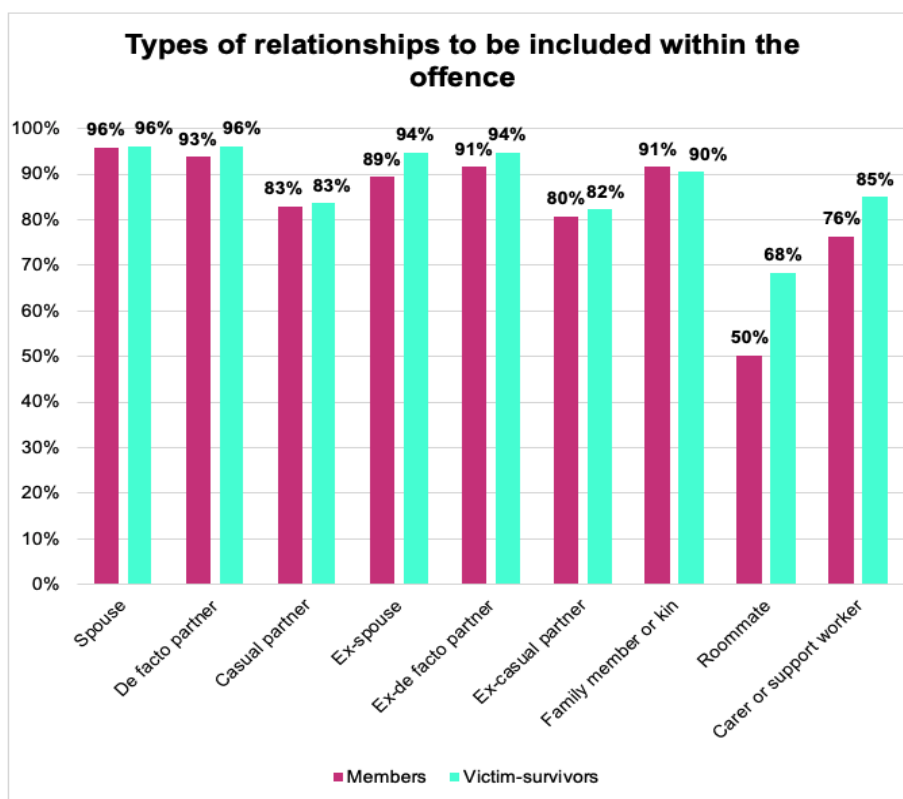


Figure 16.0. Responses to the survey question: “If coercive control became a criminal offence in NSW, which domestic relationships do you think should be included? (Please select all that apply)”. 118 total responses (46 members, 72 victim-survivors).

However, only **50% (or N = 23/46)** frontline domestic and family violence specialists and **68% (or N = 49/72)** victim-survivors supported extending the offence to the relationship of roommates.

“I do not believe that we should be limiting the relationship [if] this comes into effect. However, I believe a time frame may be beneficial...” - Rem*, Rural WDVCS Manager.

*“[It s]hould also include provision for **group abuse** and coercive controlling behaviour of **cult-like groups of people**.”* - Aislin*, State-Wide Community Shelters Worker.

*“Everyone in a **proximity relationship**”* - Elsa*, Outer Metropolitan frontline domestic and family violence specialist, WDVCS

*“I really think the behaviors and impacts could manifest in **all of these relationships**”* - Flora*, victim-survivor, aged 40-49, heterosexual, living in inner metropolitan NSW.

*“**All of these relationships can be coercive and abusive, depending on the circumstances.**”* - Rowan*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW.

*“I think this question is about functional **power imbalances**. After my ex, I recognised a friendship (where I was actually dependent on the friend too), that had many similar dynamics. I COULD leave. There were some impacts. Some of them were significant. They were not devastating. I also think this is the sort of thing that would actually change over time if other forms of coercive control was criminalised. I think workplace bullying for example needs to be separated in some way. Not sure how though. Maybe there is something about defining a person's ability to leave in some way.”*
- Theresa*, victim-survivor, living with a disability and chronic health disorders, aged 30-39, lesbian, living in outer metropolitan NSW.

“PARENTS!!!!!!!!!!!!!! And also there should be provision for the application of coercive control laws to organised abuse groups where necessary.” - Alegria, victim-survivor, living with a disability and chronic health conditions, aged 21-29, bisexual, living in outer metropolitan NSW.*

“Absolutely anyone in any context that abuses the vulnerabilities of anyone in their life, I can see that there would be many instances where this is used, although not as easy to perpetrate when their not living in the home and time to dominate is limited. Joint responsibilities for everything, ups the ante and ability. There are adaptations to coercive control I'm sure, but it certainly requires access and fear etc, so i guess it's the motive. CONTROL, may be just the financial in some situations as opposed to the total control over a partners life and wellbeing.” - Serri, victim-survivor, aged 50-59, heterosexual, living in metropolitan NSW.*

*“We need to do all that we can to have this type of coercion not be as normalised as it has become! We must do better for everyone as no one deserves such **manipulative and vile behaviour** and then be dismissed by police, courts and lawyers due to them not seeing or believing it to be a **legitimate abuse of power within a relationship. This kind of coercive control can come from anyone close to a victim-survivor.**” - Manuella*, victim-survivor, living with chronic health disorders, speaking a language apart from English at home, aged 21-29, bisexual, living in inner metropolitan NSW.*

Recommendation 3

Women's Safety NSW recommends that the new domestic abuse offence extend to “domestic relationships” as currently defined in the *Crimes Domestic and Personal Violence Act 2007* (NSW).

7.3 Geographical jurisdiction

Due to the nature of coercive and controlling behaviours which may be perpetrated through electronic and technological means, it is essential that a new offence apply to both instances where the offending conduct took place with NSW and where the offending conduct was committed wholly outside the State, but the offence has an

effect in the State. Indeed **15% (or N = 11/72)** of the victim-survivors who completed our survey alone responded that whilst not identifying as a NSW resident, they had cases which had occurred in NSW. Further **67% (or N = 48/72)** victim-survivors indicated that they had experienced technologically facilitated abuse. These results point towards the pressing nature of this jurisdictional issue and the need to ensure these victim-survivors do not fall between the cracks. Such a cross-jurisdictional approach would be consistent with Part 1A of the *Crimes Act 1900* (NSW) which allows for the provisions of the Act to transcend the bounds of the State so long as there is a sufficient nexus between the State and the crime.¹⁸⁹

Recommendation 4

Women's Safety NSW recommends that the new domestic abuse offence apply to both instances where the offending conduct took place with NSW and where the offending conduct was committed wholly outside the State, but the offence has an effect in the State

7.4 What behaviours should be included?

7.4.1 Scottish legislation a starting point

Victim-survivors and frontline domestic and family violence specialists were largely supportive of including the types of behaviours captured in the Scottish model, that is, **“violent, threatening or intimidating”** conduct, or conduct which would be **reasonably likely to have one or more of the effects shown in the graph below.**

¹⁸⁹ *Crimes Act 1900* (NSW) Part 1A.

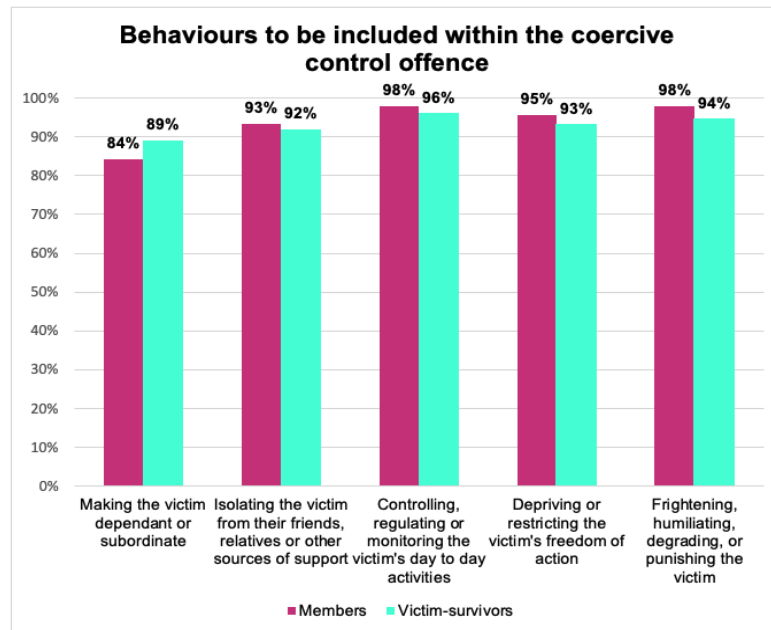


Figure 17.0. Responses to the survey question: “If coercive control was criminalised, which behaviours do you think should be included in the scope of this offence? (Please select all that apply)”. 116 total responses (44 members, 72 victim-survivors).

However, it is clear from the comments provided by members that the criminalisation of these behaviours alone would not be enough.

Recommendation 5

Women’s Safety NSW recommends that the types of behaviours captured in the Scottish model, that is, “violent, threatening or intimidating” conduct, or conduct which would be reasonably likely to have one or more of the effects as follows for the base of the new domestic abuse offence:

- a) making B dependent on, or subordinate to, A,
- b) isolating B from friends, relatives or other sources of support,
- c) controlling, regulating or monitoring B’s day-to-day activities,
- d) depriving B of, or restricting B’s, freedom of action,
- e) frightening, humiliating, degrading or punishing B.

7.4.2 Other behaviours for inclusion

Victim-survivors noted that other behaviours should also be caught by this coercive control offence. Abuse that was **financial** in nature and **abuse directed at a child, relative, friend or animal connected with the victim** were behaviours which were commonly mentioned. A number of comments from victim-survivors have been extracted below:

“Financial manipulation. Emotional manipulation and silent treatment” - Priyanka*, victim-survivor, born overseas, aged 40-49, heterosexual, living in inner metropolitan NSW.

“Threatening, controlling and abusing children, relatives and pets” - Arabella*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW.

“Threatening physical or sexual harm including those the victim loves children or pets or threatening to deliberately humiliate degrade or punish Technological threats and stalking Threatening to abduct the children or disrupt their habitual relationship with the primary caring parent Threatening divorce etc if it can be proven it’s designed to change behaviour of the victim e.g. if it’s repetitious and not serious and linked to the expectations of the victims behaviour Threatening or regularly changing things the victim is relying on if it can be demonstrated this was designed to destabilise the victim in their other relationship access to help etc” - Maeve*, victim-survivor, living with a disability, aged 40-49, heterosexual, living in Victoria.

7.4.2.1 Economic or financial abuse

It is clear that whilst the existing types of behaviour listed in the Scottish legislation could encompass financial abuse, there is an identified need to make this form of abuse, or the effects of it, more explicit. Women’s Safety NSW recommend that consideration be given to achieving this through an adaptation of one of the likely effects in the Scottish legislation.

Recommendation 6

Women's Safety NSW recommends that consideration be given to explicitly recognising financial abuse within the types of abusive behaviours captured or the effects on those abusive behaviours in the offence.

7.4.2.2 Abusive conduct directed at a child, relative, friend or animal connected with the victim

The issue of whether and how to include abusive conduct **directed at a child, relative, friend or animal connected with the victim**, is a challenging one. Victim-survivors and frontline domestic and family violence specialists each made note of the importance of including this type of abusive conduct, noting its centrality to many cases of coercive control. At the same time however, it was the potential inclusion of this type of abuse which has caused the greatest concern with respect to the possible misuse of the provision by abusers themselves, even resulting in recommendations that this form of coercive control be carved out of the offence altogether on the basis that such matters could more appropriately be addressed in the federal jurisdiction of family law.¹⁹⁰ The concern is that abusers may seek to utilise the provision to claim the victim has engaged in abusive conduct by withholding access to a child or undermining their relationship with a child, akin to the debunked, but frequently utilised concept of 'parental alienation.'

Given the experiences of victim-survivors of domestic and family violence who often report abusive conduct directed at a child, relative, friend or animal connected with them as being the most dangerous and damaging aspect of the coercive control they have experienced, Women's Safety NSW does not support the carving out of this conduct from the proposed offence. However, we strongly urge careful consideration to be given to the wording of coercive control legislation to prevent abusers from exploiting specific phrasing to wrongfully implicate their partners as perpetrators of coercive control, as well as the potential for a specific defence and/or statutory guidance.

Ninety-eight percent (98% or N=42/43) of frontline domestic and family violence specialists and 99% (N=71/72) of victim-survivors agreed that specific protections for parents taking reasonable action to protect their

¹⁹⁰ Women's Legal Service Queensland (2021).

children from violence and/or abuse must be included within a new offence of coercive control. Victim-survivors also expressed support of specific defensive protections for non-offending parents, stating:

“Yes - because the perpetrator often accuses her of “kidnapping” the children and accuses her of parental alienation, when she is actually acting protectively!” - Nora*, victim-survivor, born overseas, aged 50-59, heterosexual, living in Regional NSW.

“... Women are being penalised for trying to take protective action but then accused of undermining the relationship with the offending parent.” - Aya*, victim-survivor, living with chronic health conditions, speaking a language other than English at home, aged 40-49, heterosexual, living in Inner Metropolitan NSW.

In taking protective action and removing children from potential harm and abuse, victim-survivors subsequently are at risk of being labelled as a ‘hostile parent’ or commonly known as ‘alienators’ in court, entrapped within the victim’s dilemma.¹⁹¹ The victim’s dilemma consists of when the victim has experienced domestic and family violence and has fears for the safety of the children if they are to be in the care of the perpetrator, however, in opposing parental custody the victim may be seen as alienating the children from the other parent.¹⁹² Consequently, the court does not accept the evidence of domestic and family violence and may instead place the children *with* the perpetrator for extended periods to protect the children from the perceived harmful alienating behaviour of the non-offending parent.¹⁹³ This accusation of parental alienation has become a popular counter-claim against abuse allegations with victim-survivors often relaying that they did not report abuse owing to custody fears following advice from lawyers and other actors in the family law system. In Flora’s case*, for example, her lawyer informed her that *“...Courts get upset with mums who criticize dads”* - Flora*, victim-survivor, aged 40-49, heterosexual, living in Inner Metropolitan NSW.

¹⁹¹ Richard Chisholm, *Family Courts Violence Review*, 27 November 2009, 27.

¹⁹² Ibid.

¹⁹³ Ibid

Many victim-survivors experience coercive and controlling behaviours regarding parenting and the protection of their children, with some perpetrators manipulating custody orders to further enact control:

“The coercive control changed its form and continued after separation. As I could no longer protect the children from him, he began to heavily psychologically abuse and manipulate them and use them to control me and as a way to get to me, influence and control my decision making and choices. We have now been through the family courts twice. Our most recent was due to him not allowing the children to change schools (at their request) and me to move an hour away from where we were living to support them doing so. Even though his time with the children would not change. We are awaiting the outcome of the final hearing. I left my ex [8 years ago]. The coercive control continues” - Shante*, victim-survivor, living with chronic health conditions, aged 40-49, heterosexual, living in Rural NSW.

“I wasn’t allowed to parent my children. My authority with them was undermined. I was verbally abused on a daily basis and accused of being a bad mother... I was afraid to express an opinion or suggestions for fear of getting put down and making him angry” - Juliana*, victim-survivor, speaking a language other than English at home, aged 50-59, heterosexual, living in Outer Metropolitan NSW.

“My ex-husband told [the police] I was emotionally disturbed and that I had kidnapped the children” - Nora*, victim-survivor, born overseas, aged 50-59, heterosexual, living in Regional NSW.

“[T]here has been risks identified through the family court process. During our first hearing he was still granted shared parental responsibility and access to the children regardless of the identified risks he posed. Our second time round in court proceedings more risks have been identified. Possible manipulation...” - Shante*, victim-survivor, living with chronic health conditions, aged 40-49, heterosexual, living in Rural NSW.

These experiences of victim-survivors, as well as the continued employment of controversial theories such as the parental alienation syndrome by perpetrators

and the family courts, highlights the critical importance of creating defence provisions in order to protect non-offending parents from the misapplication of the coercive control offence and not enable opportunities for systems abuse by the perpetrator.

Women's Safety NSW regard it as critical that very careful consideration be given as to how to encapsulate abusive conduct directed at a child, relative or animal connected with the victim, whilst also safeguarding against systems abuse by abusers themselves. This might be achieved by careful drafting of the offence itself, for example **replacing the term 'threatening' with 'menacing'**¹⁹⁴ to avoid the inclusion of conduct which involves a protective parent *threatening* to stop contact with a child, relative or animal in circumstances where the abuser is acting in an abusive manner towards them.¹⁹⁵ Additionally, or alternatively, this might be achieved through a specific defence and/or statutory guidance.¹⁹⁶ This is further discussed in [Section 7.4.2.3](#) below. As canvassed in Women's Safety NSW's Position Paper on Criminalising Coercive Control, consideration should also be given to empowering judges and magistrates with greater power to strike down vexatious claims.¹⁹⁷

Recommendation 7

Women's Safety NSW recommends that very careful consideration be given as to how to encapsulate abusive conduct directed at a child, relative or animal connected with the victim, whilst also safeguarding against systems abuse by abusers themselves. This might be achieved by careful drafting of the offence itself, for example **replacing the term 'threatening' with 'menacing'**¹ to avoid the inclusion of conduct which involves a protective parent *threatening* to stop contact with a child, relative or animal in circumstances where the abuser is acting in an abusive manner towards them.¹ Additionally, or alternatively, this might be achieved through a specific defence and/or statutory guidance.

¹⁹⁴ As per the Crimes (Domestic and Personal Violence) Amendment (Coercive and Controlling Behaviour) Bill 2020 s 14A(2)(a)(i) introduced by Greens Member of the Legislative Council, Abigail Boyd.

¹⁹⁵ Women's Safety NSW, *Criminalising Coercive Control* (Position Paper, No 11, September 2020) 72-73.

¹⁹⁶ Ibid 72-74.

¹⁹⁷ Ibid 74.

7.4.2.3 Advice from specialist organisations working with marginalised women, such as First Nations women, CALD women, women with disability, older women, young women and LGBTIQ people

Additional advice should be taken from specialist organisations working with marginalised women, such as First Nations women, CALD women, women with disability, older women, young women and LGBTIQ peoples to ensure the offence adequately captures the types of abusive conduct which may be particular to, or common for particular groups of women/people. By way of example only:

- for women on temporary visas, threats in relation to visa sponsorship must be clearly captured within the offence. “[U]sing a victim's migration/visa status against them - this must be specifically identified as a form of coercive control.” - Eva*, victim-survivor, aged 30-39, bisexual, living in inner metropolitan NSW.
- for particular migrant women, dowry abuse will also be essential to incorporate.
- In some First Nations families, as well as families from particular cultural groups, coercion perpetrated at the inter-familial or kinship level will also be important to consider.

Older women, younger women, women with a disability, and LGBTIQ peoples will all have particular forms of abuse which will need to be incorporated into the prescribed behaviours (or effects of the behaviours). Women's Safety NSW refers the Committee to the submissions of these specialist agencies for this advice in the first instance.

7.4.2.4 Prescribed abusive conduct should be clearly defined

Notwithstanding these additional incorporations, in order to ensure the offence is efficiently and effectively prosecuted, and that victim-survivors are not subjected to long, drawn-out, re-traumatising proceedings, Women's Safety NSW recommends the prescribed abusive conduct (or abusive conduct with the prescribed effects) be clearly defined and articulated.

Recommendation 8

Women's Safety NSW recommends the prescribed abusive conduct (or abusive conduct with the prescribed effects) should be clearly articulated and accompanied by statutory guidance as to how this abusive conduct may be proven.

7.4.2.5 Examples of specific behaviour and statutory guidance

To assist with this process, examples and statutory guidance should accompany the new offence. Almost all **(98% or N = 43/44)** of frontline domestic and family violence specialists believed that the NSW legislation or statutory guidance to the legislation **should include a non-exhaustive list of examples of specific behaviours** that may constitute the offence. This would facilitate greater understanding by law enforcement and judicial officers in their utilisation of the provision.

*“As police base their investigating off legislation- **having examples to prompt would be extremely useful and also mandatory training (involving WDVCS workers, senior police, specialist DV works for aid in providing structured training to give those examples, be it in a role play example (live exposure).**” - Lucy*, Inner Metropolitan Domestic and Family Violence Specialist Worker, WDVCS*

Moreover, **93% (N=65/72)** of victims/survivors agree that NSW legislation should include a non-exhaustive list of examples of behaviours that may constitute domestic violence. Valuable additions included the following:

“Yes but clearly say ‘not limited to’ as someone will always do something terrible outside the box. I don’t know enough about the law that by saying yes it constricts things too much if it needs to be in guidelines or a interpretation doc or if it needs to be written in” -Jamie, victim-survivor, aged 30-39, heterosexual, living in inner metropolitan NSW.*

“I think the specifications would help people to understand and recognise behaviours. For people who have and haven’t experienced abuse, having it explained as more specific examples could help victims and the police identify problems sooner” - Etta, victim-survivor, born overseas, aged 20-29, heterosexual, living in inner metropolitan NSW.*

“As long as they are diverse and known as not being limited to. It is important to recognise that domestic abuse comes in many different forms and they are specific to that relationship.” Shante*, victim-survivor, living with chronic health conditions, aged 40-49, heterosexual, living in Rural NSW.

“The EM (explanatory memorandum) can include examples or regulations. Putting in the legislation takes too long to change and may not move quickly enough for progression.” Amanda*, victim-survivor, aged 50-59, heterosexual, living in metropolitan ACT.

“Yes in the statutory guidance as per the UK model” Eva*, victim-survivor, aged 30-39, bisexual, living in inner metropolitan NSW.

Recommendation 9

Women’s Safety NSW recommends that a non-exhaustive list of examples of specific behaviours and statutory guidance accompany the new offence

7.5 Course of behaviour

All **(100% or N = 45/45)** of the frontline domestic and family violence specialists surveyed believed that NSW law should recognise that domestic violence can be a ‘course of conduct’ (a pattern of behaviours over a period of time) rather than just an isolated incident. This understanding of domestic violence is central to the calls for a course-of-conduct offence.

“This is a key to keeping victims safe” - Navya*, Outer Metropolitan Multicultural Specialist Worker, WDVCS.

“Absolutely all too often we are seeing clients in what appears to be isolated incidents however they are a long pattern that demonstrates a course of conduct”- Vivian*, Outer Metropolitan Youth Focused Case Worker, WDVCS

Moreover, a similar opinion was expressed in the corresponding survey as **85% (N=61/72)** of victim survivors surveyed agreed that NSW should recognise domestic violence as a course of conduct rather than as an isolated incident.

“Absolutely, things are often lost in the singular context. The pattern of behaviour is much more telling” - Aya*, victim-survivor, living with chronic health conditions, speaking a language other than English at home, aged 40-49, heterosexual, living in Inner Metropolitan NSW.

“Absolutely along with the past history of violence, abuse, coercive control, previous charges and convictions relating to domestic/intimate violence” - Rowan*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW.

“YES! Victim Services determined my situation to be not an isolated event but ongoing domestic violence and abuse based on numerous phone calls I had made to police as well as my abusers past history with ADVOs. However, the court system only focuses on the ONE event rather than the entirety of the relationship and what patterns existed” - Manuella*, victim-survivor, living with chronic health disorders, speaking a language apart from English at home, aged 21-29, bisexual, living in inner metropolitan NSW.

In Scotland, the legislation entails that the abuse must have occurred on two separate instances of either the same behaviour or different behaviours in order for it to constitute as a ‘course of behaviour’.

A balance must be struck between ensuring accessibility of the offence whilst safeguarding against misuse. In this regard, Women’s Safety NSW considers the [Scottish definition of ‘course of behaviour’](#) as an appropriate threshold to establish a pattern of abuse. **More specifically, the course of conduct element of the offence should be established on the basis of no more than two occasions of the prescribed forms abusive conduct (of abusive conduct with the prescribed effects. Importantly, there should also be no time limitations on the prescribed abusive conduct (or abusive conduct with the prescribed effects) forming the course of conduct.** As has been seen in Tasmania, this can put the provisions out of reach of many victim-survivors. It is important to acknowledge for this type of offence

that there can be a long period between particular definable acts of coercive control, and a long period between an act occurring and the victim-survivor being in the position to report it.

Recommendation 10

Women's Safety NSW recommends that the course of conduct element of the offence should be established on the basis of no more than two occasions of the prescribed forms abusive conduct (of abusive conduct with the prescribed effects).

Recommendation 11

Women's Safety NSW recommends that there be no time limitations on the prescribed abusive conduct (or abusive conduct with the prescribed effects) forming the course of conduct.

7.6 Should we have a control element?

Coercive control can be best described as a series of behaviours that aim to establish control over the victim. It is thus crucial that law reform in this area recognises that the desire to establish power and control are at the heart of these behaviours. Both the UK and Scottish legislation incorporate fear and intimidation as core components of coercive control. However, whilst fear and intimidation are key tools used by abusers to manipulate victims, they are not the ultimate goal of coercion. Perpetrators of domestic and family violence use these tactics to undermine and emotionally manipulate victims, with the ultimate intent of subjugating them. Establishing this power dynamic enables perpetrators to entrap victims, preventing them from escaping abuse or seeking help.

Women's Safety NSW regard it as essential that legislation criminalising coercive control capture this cornerstone element of control. Consideration should be given to whether, alongside statutory guidance, the types of behaviours included sufficiently capture this element, or whether instead an additional limb is required.

Recommendation 12

Women's Safety NSW recommend that consideration should be given to whether, alongside statutory guidance, the types of behaviours included sufficiently capture the cornerstone element of control, or whether instead an additional limb is required.

7.7 Abuser's state of mind: knowledge or intent/recklessness?

When asked what factors should be considered when assessing whether a defendant is guilty, frontline domestic and family violence specialists indicated the following as best reflecting their view:

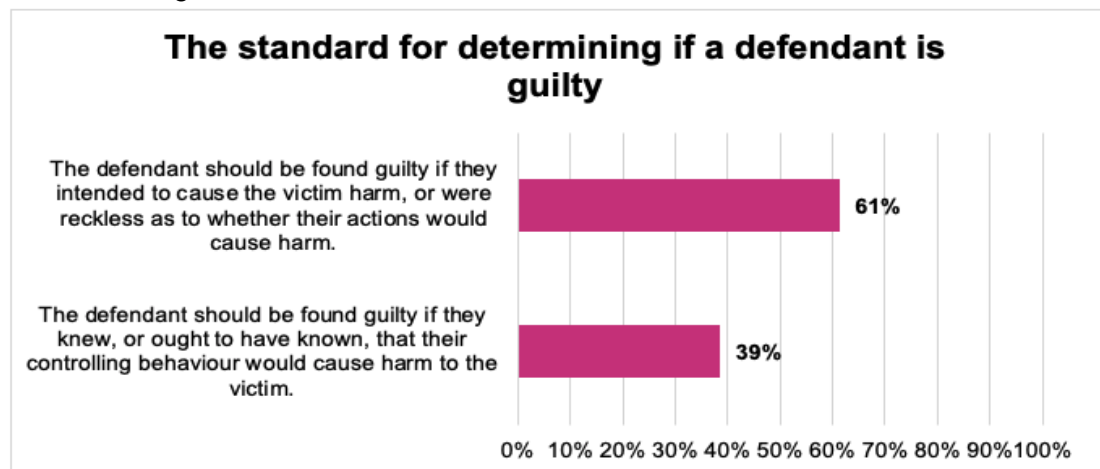


Figure 18.0. Responses to the survey question: "If coercive control was criminalised, what do you think should be the standard for determining if a defendant is guilty?". 44 total responses (44 members).

Women's Safety NSW suggests caution with this approach, however. Our concern is that proving intent or recklessness may prove too high a burden and place additional pressure on victims-survivors as witnesses for evidence to meet this element.

When victim-survivors were asked by Women's Safety NSW whether they believed that their abuser intended or was reckless as to causing them harm through coercive and controlling behaviour, only seventy-nine (79% or N = 57/72) answered 'yes'. Four

percent (4% or N=3/72) believed there was no intention or recklessness, and 17% (N=12/72) were unsure.

Some of the comments from victim-survivors include the following:

“He definitely intended to cause both myself and my children harm. For myself it was to control me as a means of maintaining access and control over my children, and for them it was to physically and sexually groom, manipulate and abuse them, along with exposing them/us to other predators throughout the relationship.” - Rowan*, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW.

“He was totally aware of what he was doing. I was not his sole victim.” - Caterina*, victim-survivor, Aboriginal or Torres Strait Islander, aged 40-49, heterosexual, living in an Inner metropolitan area.

“He knew exactly what he was doing with controlling me. He’s a complete narcissist and more than likely has Narcissistic Personality Disorder (he ticks every point on the checklist). He neglected his own 2 year old child as a way to make me care for her and then got mad at me if he had to do so much as change a nappy himself. He also lied and withheld vital information such as his huge debts before we moved in together and that he was unable to pay the rent after only a few weeks. He then blamed me saying it was due to furniture and appliances purchased even though he made me use MY credit card and MY AfterPay account and he only contributed minorly.” - Manuella*, victim-survivor, living with chronic health disorders, speaking a language apart from English at home, aged 21-29, bisexual, living in inner metropolitan NSW.

Several victim-survivors noted, however, that with coercive control, it is sometimes difficult to ascertain intent or recklessness.

“He does not see gas lighting as an issue. He is a narcissist and lacks empathy completely” - Amar*, victim-survivor, aged 40-49, heterosexual living in regional NSW.

“My ex-partner was manipulative. I don't think he was able to recognise and process that his behaviours were damaging” - Anamaria, victim-survivor, aged 40-49, heterosexual, living in inner metropolitan NSW.*

Recommendation 13

Women's Safety NSW recommends careful consideration be given as to whether the *mens rea* element of the offence is to be satisfied through knowledge as opposed to intent.

7.8 Standard of proof

An important consideration when enacting legislative change regarding coercive control is whether there should be a subjective or objective standard of proof in determining the defendant's guilt. Women's Safety NSW maintain that whilst a **subjective standard** may be appropriate for determining the defendant's intention or recklessness with regards to likely harm to the victim, an **objective standard** is appropriate for determining likely harm to the victim.

In England/Wales, controlling or coercive behaviour will be regarded as having a 'serious effect' on the victim if it causes the victim to fear 'on at least two occasions, that violence will be used against [the victim]', or it causes the victim 'serious alarm or distress which has a substantial adverse effect on [the victim's] usual day-to-day activities'.¹⁹⁸ This requirement for the offender's conduct to cause the victim fear on at least two occasions, 'reverts the focus of the offence to individual incidents' and the victim having to establish their own experience of fear.¹⁹⁹ Placing the burden on victims to prove their own fear in court can lead to increased trauma, and discourage victims of abuse from engaging with the legal system.

Scotland, on the other hand, has implemented an objective threshold to proving domestic abuse/coercive control by applying a 'reasonable persons test'. In this jurisdiction, criminal responsibility is established once the courts are satisfied that a

¹⁹⁸ Serious Crime Act 2015 (UK) s 76(4).

¹⁹⁹ Paul McGorry and Marilyn McMahon, 'Criminalising "the Worst" Part: Operationalising the Offence of Coercive Control in England and Wales' (2019) (11) The Criminal Law Review 4.

'reasonable person would consider the 'course of behaviour' *likely* to cause the victim to suffer physical or psychological harm'.²⁰⁰

This approach is extremely effective as it shifts the focus from the subjective assessment of the victim's response to the coercive control to the inherent harmfulness of the behaviour.

In addressing this question, the vast majority (**79% or N= 34/43**) of frontline domestic and family violence specialists and victim-survivors (**72% or N=47/65**) surveyed agreed that a new coercive control offence should not place responsibility on the victim to prove the actual harm they have suffered.

Comments include the following:

"Victims will be affected differently as different people in different circumstances and why judge them? Focus of the law should be based on [the] perpetrator's actions, not on [the] victim's response. Even if victims do not see themselves as 'harmed', the behaviour is still wrong. There should still be consequences to protect potential future partners of the perpetrator."

- Rosalie*, victim-survivor, aged 40-49, heterosexual, living in outer metropolitan NSW.

"The victim should not be responsible for proving harm - this should be an objective test as to whether a reasonable person perceives the behaviour could cause fear/harm (and by reasonable person I do not mean a entitled male who has no concept of the threat environment women endure everyday by having to exist in a world where male violence is a tool of oppression and women are silenced)." - Eva, victim-survivor, aged 30-39, bisexual, living in inner metropolitan NSW.*

"If I got hit by a car yesterday, it would not be my responsibility to find the driver and prove that they hit me or make my doctor come to court and say that I was injured." - Siena, Regional, WDVCS.*

²⁰⁰ Domestic Abuse (Scotland) Act 2018.

“If the victim still is unaware of the full scope of violence they may continue to minimise. I believe it is a team approach from Police, prosecutors and victims to prove the harm as they have the training and knowledge to identify the risks.” - Katya, Regional Safety Action Meeting Coordinator, WDVCAS.*

Women's Safety NSW urges the government not to focus on how the abuse harmed the victim, and rather focus on the inherent dangerousness of the behaviour.

Recommendation 14

Women's Safety NSW recommends that the harm threshold be determined objectively, that is, that a reasonable person would regard the conduct of the accused likely to cause the alleged victim harm. There should be no requirement to prove actual harm.

7.9 Retrospectivity

Women's Safety NSW recommends that when NSW enacts a coercive control offence, that there should be some scope for retrospective application to provide justice to victim-survivors and enable the prosecution of prolific offenders.

7.9.1 Retrospective application to victim-survivors

A benefit of the UK approach to criminalising coercive control has been its potential retrospective application for victim-survivors who have been criminalised as consequence of the effects of the abuse they endured. The introduction of a separate offence of coercive control creates the possibility of providing retroactive justice to victim-survivors of domestic and family violence who have been wrongly convicted of offences where they have acted with force in resistance or retaliation to long periods of abuse and control. A more evolved understanding of the nature of coercive control and psychological impacts on victims-survivors has the potential to exonerate those who have been unjustly treated by the justice system in the past and prevent this from occurring in the future. A good case study for this is Sally Challen (UK):

Case Study – Sally Challen

Sally Challen was convicted of murdering her husband in 2011 after unsuccessfully pleading diminished responsibility manslaughter. During the relationship, she had experienced many years of psychological torment that would be classed as coercive control under the current legislation. Challen's former husband had displayed numerous controlling behaviours, including depriving Sally of her autonomy, financial abuse, ridiculing her accusations of his having an affair (when these accusations were in fact true), and making threats of abandonment.¹ The courts failed to scrutinise Mr Challen's coercive and controlling behaviour, instead characterising Sally Challen as a 'jealous and lonely wife'¹ unhappy with her husband's behaviour. Under the new legislative framework, in March 2018, Sally's second appeal against her conviction of murder was successful. **Her lawyers submitted that an 'advanced understanding [of coercive control] amounts to the fresh evidence in the same way science such as DNA can result in the undermining of the safety of a conviction.'**¹ The first ground for appeal was that the fresh evidence demonstrated that she had been suffering an 'abnormality of mind' at the time of the killing. The second was that the evidence of the perpetrator's coercive and controlling behaviour supported her defence. Had this evidence been available at trial the jury may have accepted diminished responsibility and/or provocation.¹ The UK's criminalisation of coercive control

Although the retrial was ultimately based on provocation, rather than self-defence, the impact of this case could be broadly instructive in developing strategies for criminal defences based on coercive control.²⁰¹ An expanded definition of domestic and family violence in NSW which includes coercive control as an offence could have similar potential for retrospective application in NSW. Creating a sociolegal framework in which the impacts of coercive control on a victim are better recognised and understood could afford victim-survivors who have been criminalised for retaliating to extensive abuse the opportunity for absolution.

²⁰¹ Marilyn McMahon and Paul McGorrey (eds), *Criminalising Coercive Control: Family Violence and the Criminal Law* (Springer, 2020), 84.

7.9.2 Retrospective Application to Offenders

It is less clear whether this law reform could operate retrospectively to hold offenders to account. The principle of non-retroactivity dictates that it would be 'unfair if the criminal law could operate in a post-hoc and unpredictable manner, punishing behaviours that (at the time they occurred) were not criminal'.²⁰² This causes problems when applying a 'course of conduct' evidentiary approach, as the controlling and coercive conduct may sometimes span over several years.²⁰³ In the UK, an 81 year old man who had abused his 74 year old wife was only 'criminally liable for behaviour that occurred during the nearly 12-month period since the offence came into operation' even though he had been bullying her for a number of years.²⁰⁴

Women's Safety NSW recognises applying a newly expanded definition of domestic and family violence retrospectively to criminalise past offenders may be difficult in light of the principle of non-retroactivity. While people who have been abusive in the past are no less deserving of criminal liability and punishment, this would violate non-retroactivity and could create a problematic precedent within the Australian legal system. However, **Women's Safety NSW does support the consideration of past conduct when current offenders are brought into the criminal justice system under the new legislation.** This would mean that previous abusive behaviour could be considered in conjunction with behaviour that occurred after the legislative reform, in order to establish an ongoing pattern of controlling behaviour. Allowing retroactive application of the legislation in this way only would be a just approach, as it enables current offenders whose course of conduct has spanned long periods to be detected, without criminalising conduct that has occurred in the past but has since ceased.²⁰⁵

Recommendation 15

Women's Safety NSW recommends that if NSW enacts a coercive control offence, that there should be some scope for retrospective application to provide justice to victim-survivors and enable the prosecution of prolific offenders

²⁰² Paul McGorriery and Marilyn McMahon, 'Criminalising "the Worst" Part: Operationalising the Offence of Coercive Control in England and Wales' (2019) (11) The Criminal Law Review 3.

²⁰³ Ibid.

²⁰⁴ Ibid.

²⁰⁵ See for example, Crimes (Domestic and Personal Violence) Amendment (Coercive and Controlling Behaviour) Bill 2020 s 14A(8).

7.10 Penalties

Careful consideration must be given to the penalties imposed under coercive control legislation. Coercive control is a toxic and often highly damaging offence, that can inflict life-long harm on victims/survivors. For coercive control legislation to be effective in protecting victims/survivors and their children from violence judges and magistrates must be able to impose harsh penalties, including custodial sentences, on serious offenders. However, Women's Safety NSW acknowledges that the inclusion of high penalties may reduce the rates at which this offence is utilised by prosecutors. It is therefore necessary to strike a balance between the inclusion of penalties that are sufficiently strong to protect victims/survivors, without being prohibitively high.

England/Wales and Scotland take differing approaches to penalties for their respective coercive control offences. Under the *Serious Crime Act 2015* (UK), an offender convicted summarily faces a maximum penalty of 12 months' imprisonment and/or a fine.²⁰⁶ The maximum penalty for an offender convicted on indictment is five years imprisonment and/or a fine.²⁰⁷ In contrast, the maximum penalty for an offender under the Scottish Act is 14 years imprisonment and/or a fine.²⁰⁸

Recommendation 16

Women's Safety NSW recommends, as a starting point, a maximum penalty of 2 years imprisonment for a summary offence of coercive control, and a maximum of 10 years imprisonment for an indictable offence.

7.11 Aggravation

Section 5 of the *Domestic Abuse (Scotland) Act 2018* outlines that the 'course of abusive behaviour' offence is aggravated if the offender directs behaviour at a child or makes use of a child in directing behaviour at the victim. This section is intended to ensure that the offence captures the seriousness of perpetrators involving children in domestic and family violence. If a child sees, hears or is present during an incident of abusive conduct,²⁰⁹ or if a reasonable person would consider the course of behaviour

²⁰⁶ Serious Crime Act 2015 (UK) s 76(11)(a).

²⁰⁷ Ibid s 76(11)(b).

²⁰⁸ *Domestic Abuse (Scotland) Act 2018* s 9(b).

²⁰⁹ Ibid s 9.

likely to have an adverse effect on a child usually residing with the perpetrator and/or victim,²¹⁰ the offence will be aggravated. There does not have to be evidence that the child was actually aware of or understood the behaviour, or whether there was actually an adverse impact on the child.²¹¹

Recommendation 17

Women's Safety NSW recommend that careful consideration be given to whether to create a specific aggravating offence with respect to a proposed new coercive control offence, or whether instead to rely upon existing aggravating factors in sentencing.

7.12 Defences

As discussed at [subsection 7.2.2.2](#), it is critical that protections be put in place to safeguard victims of coercive control from systems abuse on the part of the abuser. This is particularly important in cases where the victim has taken steps to protect a child, relative, friend or animal from harm from the abuser by ceasing or reducing contact and/or validating their experiences of abuse at the hands of the abuser.

Other areas where a defence may be warranted, as identified by frontline domestic and family violence specialists and victim-survivors surveyed by Women's Safety NSW, include where there is:

- a lack of capacity to understand the behaviour (such as a person with an intellectual disability or psychotic illness);
- a genuine caring reason (for example, where the person is protecting their partner or family member from self-harm under medical guidance);
- consent for a particular activity without the associated harm (such as role play); or as discussed in this Section;
- a genuine protective reason (for example, where the person is acting to protect a child, relative or animal from abuse).

This is further discussed at [subsection 2.2.2](#).

²¹⁰ Ibid s 5(4).

²¹¹ Ibid.

Under the Scottish Act s 6 affords a defence on the grounds of 'reasonableness'. In order to access this defence, the defendant must prove that the 'course of behaviour was reasonable in the particular circumstances. The defence in England/Wales is similar. To access the defence, the defendant must prove that 'while engaging in the behaviour in question, A was acting for B's best interests, and the behaviour was in all the circumstances reasonable.'²¹² Importantly, the defence 'will not be available to A in relation to behaviour which causes B to fear that violence will be used against them'.²¹³

Recommendation 18

Women's Safety NSW recommend that consideration be given to affording a defence to the crime of coercive control to facilitate its effective operation. In drafting this defence, however, consideration should be given to the operation of the 'reasonable person' test, which in practice has been found to discount women's experiences, particularly in the context of gender-based violence.¹

7.13 Ongoing monitoring and review

It is of critical importance that the operation of a new offence be carefully monitored and reviewed to ensure the reforms are having the desired effect and that any issues with effective implementation are identified so as to guide ongoing reform efforts.

The monitoring and evaluation framework should encompass all key projected benefits of the reforms as well as any identified risks. For example, along with the recording of quantitative data pertaining to reported incidents, prosecution rates, conviction rates and sentencing outcomes from a new offence, changes observed in related offences should be captured. Additionally, qualitative data as to the experiences of victim-survivors, law enforcement and judicial officers, and support services, and awareness within the community, should also be captured.

²¹² *Serious Crimes Act 2015* (UK) (n 70) s 76(8).

²¹³ *Ibid* s 76(10).

Recommendation 19

Women's Safety NSW recommend that the operation of a new offence be carefully monitored and reviewed to ensure the reforms are having the desired effect and that any issues with effective implementation are identified so as to guide ongoing reform efforts. This capture quantitative data as well as qualitative data regarding the experiences of victim-survivors, law enforcement and judicial officers, and support services, and awareness within the community.

Recommendation 20

Women's Safety NSW recommend the new laws include a provision requiring statutory review to determine the extent to which the policy objectives of the new laws are being met.

7.14 Activities supporting a new offence

Women's Safety NSW also note the importance of updating ADVO legislation to both ensure the new offence serves as a ground for an ADVO, and that ADVOs protect against the conduct captured by the offence. Moreover, we point to the essentiality of adopting a comprehensive reform package to accompany the new law so as to facilitate its effective implementation.

7.14.1 Updating of ADVO legislation

Alongside the establishment of the new offence, Women's Safety NSW note the need to update ADVO legislation to explicitly recognise a charge of coercive control as grounds for an interim ADVO. This could be achieved by including the coercive control offence within the meaning of a 'serious offence' after stalking and intimidation at section 40(5) of the *CDPV Act*.²¹⁴ Furthermore, s 36 of the *CDPV Act* must be updated to ensure every ADVO prohibits conduct captured by the new offence to afford adequate protection to victim-survivors of this form of abuse.²¹⁵

²¹⁴ See for example, Ibid [5].

²¹⁵ See for example, Ibid [4].

Recommendation 21

Women's Safety NSW recommend that alongside the establishment of the new offence, ADVO legislation be updated to explicitly recognise a charge of coercive control as grounds for an interim ADVO. This could be achieved by including the coercive control offence within the meaning of a 'serious offence' after stalking and intimidation at section 40(5) of the *CDPV Act*.

Recommendation 22

Women's Safety NSW recommends that s 36 of the *CDPV Act* be updated to ensure every ADVO prohibits conduct captured by the new offence to afford adequate protection to victim-survivors of this form of abuse.

7.14.2 Accompanying system reforms and community education

Women's Safety NSW recognises that developing legislation is not merely enough to create social, cultural and practice change. It is for this reason that alongside new legislation, we recommend the updating and development of essential tools, resources, guidelines, and bench books, as well as widespread training and professional development of actors within the civil and criminal justice system, and a targeted community education program.

To allow time to develop and implement the system reforms and deliver community education, Women's Safety NSW recommend a twelve-month lead in time from when the law is passed to when it comes into effect.

Please refer to [Section 9](#) for a detailed analysis of Women's Safety NSW's recommendations on accompanying system reforms.

Recommendation 23

Women's Safety NSW recommends that alongside new legislation, the NSW Government develops and updates a number of system tools, resources, guidelines, and bench books to assist key actors in the civil and criminal justice system to implement the new laws as intended.

Recommendation 24

Women's Safety NSW recommends that alongside new legislation, the NSW Government deliver specialised training and professional development to all frontline actor within the civil and criminal justice systems along with accountability mechanisms to actualise practice change.

Recommendation 25

Women's Safety NSW recommends that alongside new legislation, the NSW Government delivers a comprehensive education and awareness campaign so that all key institutions and the community more broadly obtains an understanding of coercive control.

Recommendation 26

Women's Safety NSW recommends that alongside new legislation, the NSW Government resource and support local and state-wide specialist community organisations and community leaders themselves, in families, schools, workplaces, sporting clubs and cultural and religious institutions for the purpose of generating significant and lasting understanding and cultural change.

Recommendation 27

Women's Safety NSW recommends the adoption of a twelve (12) month lead in time from when the law is passed to when it comes into effect so as to allow time to develop and implement the system reforms and deliver community education.

8. Other Avenues for legislative reform

8.1 ADVOS

It has been suggested that criminalising coercion and control is unnecessary as these behaviours are by-proxy criminalised through the civil protection system. While these orders are civil in nature, they link to the criminal law through the penalty of breaches, as breaching a civil protection order in NSW is a criminal offence. This criminalisation of coercive control is therefore a two-stage approach: the first stage being that the victim-survivor has to apply for an ADVO and in NSW threats, stalking, intimidation and harassment are all grounds for receiving an ADVO. The criminalisation then occurs if the respondent breaches the ADVO. This process therefore has the effect of criminalising coercive and controlling behaviour by-proxy as it is the breach of the order that constitutes the offence, as opposed to the behaviour itself.²¹⁶ However, the validity of this approach is questionable as it not only creates more steps and hurdles for victims, it also seemingly implies that the wrongful behaviour does not lie in the coercive or controlling behaviours but rather in the breach. This by-proxy criminalisation is insufficient, less effective and creates confusion within communities' understanding of the operation of the two-stage criminalisation of certain behaviours.

Frontline domestic and family violence specialists provided their views on whether the current legislative regime governing ADVOS could better address coercive and controlling behaviour:

²¹⁶ Women's Legal Service Tasmania, 'Submission for the Inquiry into family, domestic and sexual violence', (2020).

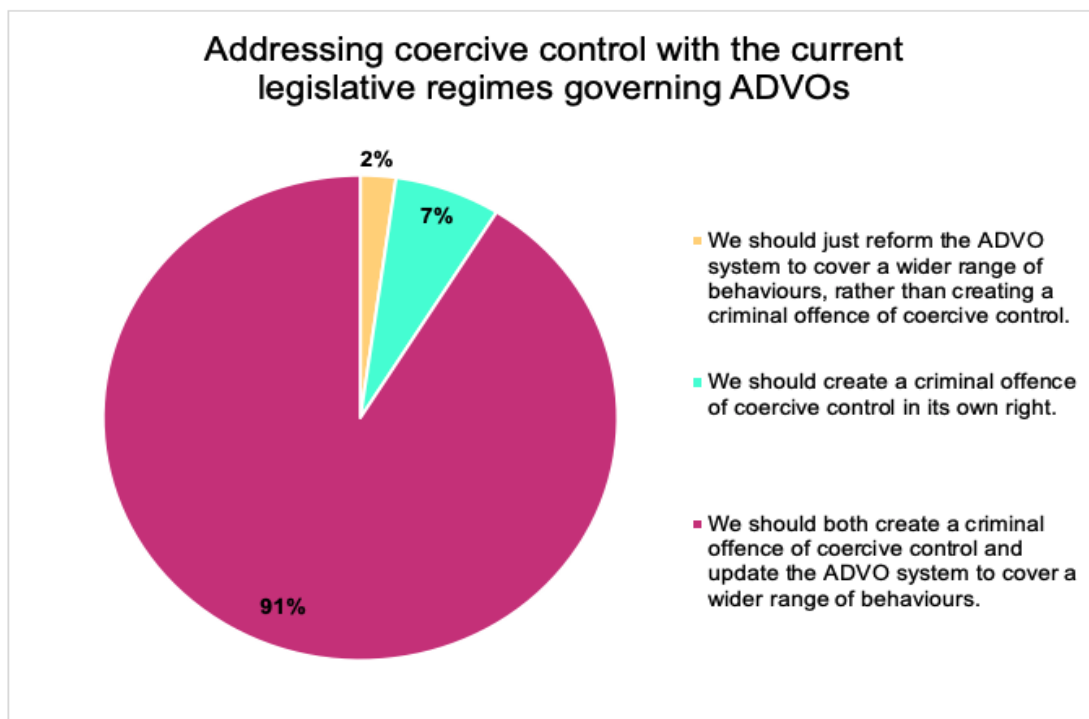


Figure 19.0. Responses to the survey question: “Which of the following statements best reflects your view?”. 45 total responses (45 members).

As can be seen from these responses, reforming the ADVO system to cover a wider range of coercive controlling behaviours would be a welcome introduction. However, this should not be regarded as a substitute for criminalising coercive control. Rather, these reforms should occur alongside one another. As Lily*, Regional Domestic and Family Violence Specialist Worker, WDVCAS explains, *“definition and charges need to be aligned. If there are charges for emotional and financial abuse, then it needs to be reflected in the definition.”*

8.2 Admissibility of context and relationship evidence

NSW legislation should reflect the common law’s position on the admissibility of relationship evidence in criminal proceedings pertaining to domestic and family violence offences. While under the *Evidence Act 1955* (NSW), evidence of a defendant’s past misconduct will not be admissible, prosecutors can attempt to bring this evidence in as an ‘uncharged act’ under the common law. However, there is much

contention regarding the admissibility of 'uncharged acts' or also known as 'relationship evidence'.²¹⁷ Evidence of coercive control can be crucial in cases of physical and sexual violence cases.

The case of *Pasoski v R*²¹⁸ demonstrates the importance of evidence relating to coercive control behaviours to provide context to individual charges. In this case the defendant was charged with physical and sexual assault. The court admitted relationship evidence which demonstrated that the defendant's behaviour was controlling. The abuser would limit the victim's time spent with family and friends and would dictate how she should dress and how she should do her makeup.

Pursuant to s 55 of the *Evidence Act 1955* (NSW), all evidence must be directly or indirectly relevant to the fact in issue in order to be admissible in court. Evidence of coercive control, in most cases, is directly relevant to physical and sexual violence cases. Amending the *Criminal Procedure Act 1986* (NSW) to codify the admissibility of context and relationship evidence in criminal proceedings relating to domestic violence would result in better access to justice for women.

Complex legal drafting is required to ensure the effective admissibility of appropriate relationship evidence and Women's Safety NSW is prepared to provide any support necessary in this endeavour.

Recommendation 28

Women's Safety NSW recommends that the *Criminal Procedure Act 1986* (NSW) be amended to ensure context and relationship evidence is admissible in criminal proceedings relating to domestic violence.

Recommendation 29

Women's Safety NSW recommends that the procedural protections currently afforded to vulnerable witnesses in sexual assault matters be extended to complainants of coercive control.

²¹⁷ *Gipp v The Queen* (1998) 194 CLR 106.

²¹⁸ [2014] NSWCCA 309.

8.3 Jury proceedings

As already established, domestic and family violence in particular coercive control, is extremely nuanced and complex. Women's Safety NSW's concern is that a jury may not be properly informed of the complexities of domestic and family violence. In this regard, Women's Safety NSW recommend that evidence which is admitted into court regarding a matter that is heard by the jury be accompanied by appropriate jury to make plain the complexities of domestic and family violence and coercive control.

The *Stronger Communities Legislation Amendment (Domestic Violence) Act 2020* (NSW)²¹⁹ introduced essential law reform regarding jury instructions established in order to protect the victims/survivors. This includes provisions detailing:

- The judge must warn the jury **not to draw any inference adverse to the accused person** or give the evidence greater or lesser weight because it is given by different means including audio visual link.²²⁰
- The judge must warn the jury that absence of complaint or delay in complaining **does not necessarily indicate that the allegation that the offence was committed is false**²²¹ and that should **not have a bearing on their credibility**.²²² Further, the judge must instruct that there may be good reasons why a victim of domestic violence may hesitate in making, or may refrain from making, a complaint about a domestic violence offence²²³.

These are significant reforms regarding protection of victims/survivors and jury directions that indicate progress the way in which the criminal justice system treats vulnerable witnesses. Misunderstandings surrounding the nature of domestic and family violence are prevalent throughout society which will be reflected in a jury. It would be highly detrimental for pervasive and negative perceptions regarding non-physical forms of abuse to prevail in a court of law due to misinformed community attitudes.

²¹⁹ *Stronger Communities Legislation Amendment (Domestic Violence) Act (NSW) 2020* No 36

²²⁰ *Ibid* s 289V (5)(b)

²²¹ *Ibid* s 306 ZR (2)(a)

²²² *Ibid* s 306 ZR (2)(c)

²²³ *Ibid* s 306 ZR (2)(b)

Ninety-six percent (96% or N = 43/45) of frontline domestic and family violence specialists surveyed agreed that in domestic violence matters that are heard by a jury, the judge should be required to instruct the jury regarding the dynamics of domestic violence so that the jury can make a more informed decision. Furthermore, when we asked victim-survivors whether a judge should be required to instruct the jury about the dynamics of domestic violence, 97% (or N = 68/70) of victim-survivors responded in the affirmative.

Eva*, victim-survivor, aged 30-39, bisexual, living in Inner Metropolitan NSW, powerfully expressed the pressing need to instruct and educate the jury in domestic and family violence matters.

“Jurors are the average person, so we can safely assume they hold the same bias and misunderstandings of domestic and family violence, supported by gender inequality and ideas of gender roles that allow domestic and family violence to be so prevalent and tolerated in the first place. We almost need specialist jurors who are adept at identifying charming, manipulative behaviour and not buy into the victimhood narrative that elicits collusion with the perpetrator. Abusers wouldn't be so effective if they were repugnant horrible people, and jurors need to understand that "good men" are capable of great harm.”

Recommendation 30

Women's Safety NSW recommends that jury directions be developed to specifically address commonly held violence supportive and/or victim blaming misconceptions.

8.4 Sentencing

Criminalising coercive control will need to be accompanied by an update to sentencing guidelines. In NSW, the Sentencing Bench Book provides guidance to judicial officers in this regard. Women's Safety NSW recommend that the Sentencing Bench Book be updated alongside the enactment of coercive control, with a specific articulation of the offence in the Statutory Framework for Domestic Violence Offences, and reference to the case law as it develops.

Recommendation 31

Women's Safety NSW recommends that the Sentencing Bench Book be updated alongside the enactment of coercive control, with a specific articulation of the offence in the Statutory Framework for Domestic Violence Offences, and reference to the case law as it develops.

8.4.1 Aggravation

Women's Safety NSW regards it as essential that a coercive control offence be established. If this occurs, there will not be a need to include coercive control itself as an aggravating factor in sentencing. The objective seriousness of the offence would likely be determined with reference to existing aggravating factors such as:

- The offence involving actual or threatened or use of violence;²²⁴
- The offences being committed in the home of the victim;²²⁵
- The offence being committed in the presence of a child under 18;²²⁶
- The injury, emotional harm, loss or damage caused by the offence being substantial;²²⁷ or
- The offender being a person in a position of trust or authority with respect to the victim,²²⁸
- And so on.

8.4.2 Victim Impact Statements

Women's Safety NSW note the importance of the admissibility of Victim Impact Statements ('VIS') for both just sentencing for the victim-survivors and in many cases for healing and recovery. Alongside an offence control, the legislation governing VIS should facilitate an expansion of the content of these so that victims of domestic violence can include as contextual evidence the particular harms they have suffered pertaining to the coercive controlling conduct as contextual evidence.

²²⁴ *Crimes (Sentencing Procedure) Act 1999* (NSW) s21A(2)(b).

²²⁵ *Ibid* s 21A(2)(eb).

²²⁶ *Ibid* s 21A(2)(ea).

²²⁷ *Ibid* s 21A(2)(g).

²²⁸ *Ibid* s 21A(2)(k).

Recommendation 32

Women's Safety NSW recommends that the legislation governing VISs be amended to facilitate an expansion of the content that victims of domestic violence can include as contextual evidence of the particular harms they have suffered pertaining to the coercive controlling conduct.

9 Non-legislative issues

9.1 A system-wide approach

Alongside the enactment of the new coercive control offence, Women's Safety NSW recommends the development and updating of a number of **system tools, resources and guidelines** to assist key actors in the civil and criminal justice system to implement the new laws as intended, along with **ongoing professional and specialised training, accountability mechanisms to actualise practice change, and community awareness through education to ensure the public is cognisant of the new laws.**

One hundred percent (100% or N = 46/46) of frontline domestic and family violence specialists agreed that it was 'extremely important' or 'very important' that there is accompanying reform of systems and processes alongside the criminalisation of coercive control.

As Leila*, a Rural Domestic and Family Violence Specialist WDVCS Worker explains:

Coercive can be very damaging to the victim mentally, emotionally and financially. This is a form of abuse and all involved need to be educated and trained appropriately to be best informed and take appropriate action for victims and their abusers. These behaviours can be monitored earlier, show a pattern of abuse before physical abuse occurs.

Indeed, Women's Safety NSW believes that simply enacting the new legislation without implementing the necessary system reforms will result in very little real, practical change.

Recommendation 23

Women's Safety NSW recommends that alongside new legislation, the NSW Government develops and updates a number of system tools, resources, guidelines, and bench books to assist key actors in the civil and criminal justice system to implement the new laws as intended.

9.2 A genuine approach to practice change

For the criminalisation of coercive control to be effective, Women's Safety NSW believes that we must undertake a genuine approach to system-wide reform which results in real practice change. There must be a commitment to orientation and training, ongoing reflective practice, alongside accountability and a comprehensive review of behaviours and institutional practices. Literature and research engaging with institutional and behavioural change shows that there are fundamental requirements needed in order to successfully achieve system-wide reform.

Research shows that attempts to address the behaviours and attitudes of police officers towards gendered violence through training has had no or minimal impact.²²⁹ A study conducted in the United Kingdom evaluated the effectiveness of specialist rape investigation training between officers, and found no differences between those who received the training and those who did not.²³⁰ Such ineffectiveness is argued to be, in part, due to the narrow focus of most interventions, without considering the broader context of such beliefs, and a failure to embed a more reflective practice within training programs to help drive such institutional change.²³¹ Women's Safety NSW believes that whilst orientation and training of specialist workers is integral in the criminalisation of coercive control, this training cannot be the only condition in which we achieve system-wide change, we also need to consider the

²²⁹ Anthony Murphy and Benjamin Hine, 'Investigating the demographic and attitudinal predictors of rape myth acceptance in U.K. Police officers: developing an evidence base for training and professional development', (2019) 25(2) *Psychology, Crime & Law* 69-89.

²³⁰ Ibid.

²³¹ Ibid.

broader context of domestic and family violence, as well as continuously reflect on practices and review behaviours and attitudes within institutions.

Domestic and family violence exists within a broader framework of sociocultural attitudes and beliefs. Attitudinal systems related to gender and sexuality have been shown to have significant impact on perceptions of victimhood, with a subscription to traditional gender-role beliefs and male dominance.²³² Highlighting, that the beliefs and practices of trained specialists such as police officers are developed and maintained within a broader cognitive framework. Research conducted highlights how several demographic and attitudinal factors influenced police officer's ambivalent sexism and hostility towards women, proving that regardless of receiving specialist training and being key service responders to victims of domestic and family violence, due to the broader negative and sexist sociocultural beliefs, a high degree of sexist attitude exist within police officers.²³³ **Results from this study support the idea that efforts to train, raise awareness and address sexist beliefs in specialist services also must consider the broader attitudinal context of domestic violence.**²³⁴ Although some positive examples of training programs exist, most studies suggest that attitudinal intervention, such as specialist training, are ineffective for changing ingrained beliefs, foregrounding the complexities of, and resistance to, attitude change within institutions of which these programs are hoping to bring about.²³⁵ Crucially, the study highlights that **“any evidence-based training should encourage critical, reflective awareness of the beliefs and subjectivities officers hold and the impact these have on the judgements they may make regarding victims and cases”**.²³⁶

For system-wide reform to be effective in the criminalisation of coercive control, there has to be a genuine commitment to a more reflective practice and systemic change, alongside considering not just the act of coercive control within domestic violence cases, but also the context of coercive control within broader cognitive and attitudinal contexts. In a research study performed in Norway, the use of body worn video ('BWV') devices are used to offer insight into behaviours, which then can be translated into

²³² Ibid, 73.

²³³ Ibid, 83.

²³⁴ Ibid.

²³⁵ Ibid.

²³⁶ Ibid, 85

experiential learning for police officers.²³⁷ This learning is utilised to offer a first-person perspective to reflect and improve participants' understanding of their own actions. Through enhancing professional development and professional education on issues such as domestic and family violence, reflecting via BWV encourages officers to not only implement their training and feel accountable and aware of their own behaviour, but continuously reflect on their practices.²³⁸ This reflection is a vital aspect of successfully embedding system-wide reform on issues such as domestic and family violence.

Recommendation 24

Women's Safety NSW recommends that alongside new legislation, the NSW Government deliver specialised training and professional development to all frontline actor within the civil and criminal justice systems along with accountability mechanisms to actualise practice change.

9.3 Lessons from overseas on training

Experiences from the UK show that enacting new legislation without implementing the necessary system reforms will result in very little change in practice. This, in turn, impacts upon **victim's access to safety and justice**. Additionally, lack of specialist education and training could pose a risk of system abuse by perpetrators and thus a lack of safety in the legal process for victims. The detrimental effects of criminalising coercive control without providing sufficient training of police is exemplified in the United Kingdom, **where the lack of consistent training for police has been a major hurdle in implementing the law properly**. Professor Evan Stark, the sociologist who originally coined the term coercive control, honestly stated that the UK **'have created a crime but the police have almost no idea how to use it'**.²³⁹

²³⁷ Joshua M. Phelps, Jon Strype, Sophie Le Belly, Saadi Lahlou and Jan Aandal, 'Experiential Learning and Simulation-based Training in Norwegian Police Education: Examining Body-worn Video As A Tool To Encourage Reflection', (2016) 12(1) *Policing: A Journal of Policy and Practice*, 50-65.

²³⁸ *Ibid*, 57.

²³⁹ Ciara Nugent, 'Abuse Is a Pattern.' Why These Nations Took the Lead In Criminalising Controlling Behavior in Relationships', *Time*, (online, 21 June 2019).

Women's Safety NSW proposes **ongoing and specialised training for key actors, such as police and judicial officers**. The development of specialised training pertaining to the identification and assessment of coercive control is of critical importance because of the preconceived notions held by a proportion of officials and society more generally, that domestic violence only takes the form of physical violence. Furthermore, Women's Safety NSW recommends that training of frontline law enforcement and judicial officers be undertaken in a collaborative manner with specialist domestic and family violence services, and particularly with specialist First Nations, CALD, LGBTIQ and disability focused domestic and family violence specialists, and victim-survivors themselves.

In both the United Kingdom and Scotland, specialist services and victim-survivors were intimately involved with police, prosecutor and judicial officer training. This element of the training should be replicated in the NSW context for maximum benefit.

9.3.1 Victim-survivor and frontline specialist's views on police training

Every single victim-survivor (N=72/72) and frontline domestic and family violence specialist (N=46/46) surveyed by Women's Safety NSW agreed that it was 'extremely important' for police and prosecutors to receive specialist training to ensure they understand coercive control.

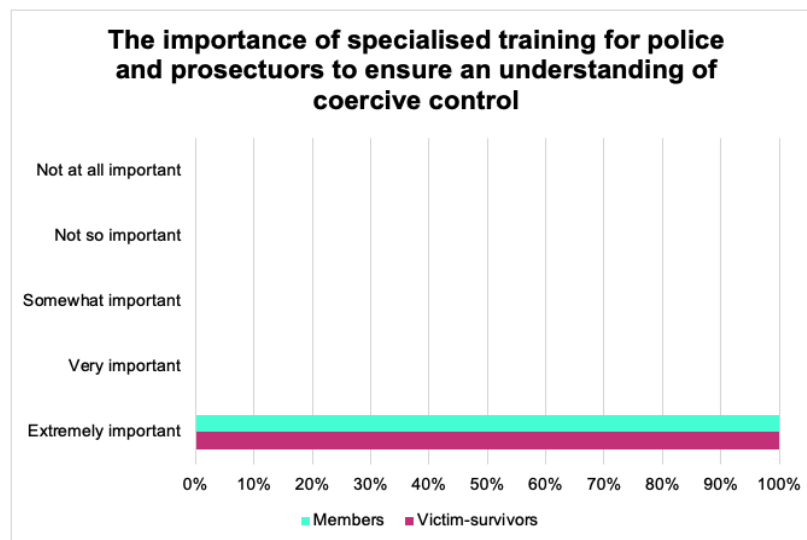


Figure 20.0.
Responses to the survey question: "In your opinion, how important is specialist training for police and prosecutors to make sure they understand coercive control?". 116 total responses (45 members, 71 victim-survivors).

“A law is of no use if those who uphold it don't understand or able to identify it. As a victim, I can immediately recognise it others. When you understand what to see, it can be identified easily. It would need to be ongoing, and every officer should be trained in identifying dv, not just specialist.” - Tamar*, victim-survivor, living with chronic health conditions, aged 40-49, heterosexual, living in Regional NSW.

“Police need to see the red flags of an abuser... only knowledge can support the victims” - Saoirse*, victim-survivor, aged 50-59, heterosexual, living in regional NSW.

“Clients would definitely feel more empowered to report the incidents that are making them feel unsafe, which for 70 percent of the time, are not physical assaults or stated threats of assault” - Sophia*, Regional frontline domestic and family violence specialist, WDVCS.

“[A]t least if they had knowledge of patterns and linkages so when i reported incident x they added it to y and z and saw a pattern and assessed this isn't a great look (so to speak)” - Amanda*, victim-survivor, aged 50-59, heterosexual, living in metropolitan ACT.

“Hopefully by providing better protection from a well informed and responsive service in which individual frontline domestic and family violence specialists had a good understanding of the dynamics of domestic violence and weren't just operating from a couple of days of workshops and a set of existing stereotypes - Kate*, Outer Metro/Regional Intake Assessment and Referral Officer, WDVCS.

“Yes. Risks to myself and the children would have been identified in [many years ago]... It would have made a huge difference to all of our futures and what we have each individually experienced over the last [number of] years being exposed to a perpetrator of coercive control and domestic abuse” - Shante*, victim-survivor, living with chronic health conditions, aged 40-49, heterosexual, living in Rural NSW.

“I cannot stress enough how important this is” - Caterina*, victim-survivor, Aboriginal or Torres Strait Islander, aged 40-49, heterosexual, living in an Inner Metropolitan area.

In conjunction with this criminalisation it is critical that specialisation occurs in both police and police prosecutors to ensure consistent responses for victim-survivors. **If NSW is to criminalise coercive control, all civil and criminal justice agencies involved in the enactment of the legislation must be properly trained in the nature, presentation and dynamics of coercive control.**

9.3.2 Victim-survivor and frontline specialist's views on judicial training

Again, every single victim-survivor (N=71/71) and frontline domestic and family violence specialist (N=46/46) who responded to Women's Safety NSW's survey agreed that it was ***‘extremely important’*** for judicial officers to receive specialist training to ensure they understand coercive control.

Frontline domestic and family violence specialists revealed how training of judicial officials would affect the safety of their clients and the outcome of their matters:

“Too many times have magistrates being uniformed and unwilling to learn about DV. They make judgements that affect the lives and safety of our clients, based on training they did 20, 30 years ago. We need magistrates to be held accountable to the latest information about DV and the trauma and cycles of it. DV forms the vast majority of police matters, it is unreasonable and unethical that the magistrates dealing with these cases are not properly informed! Imagine if our magistrates who deal with driving offences didn't know what a car was or how fast it goes? Imagine if our magistrates who deal with robbery didn't know the value of money or the harm a business suffers after been robbed? How can we have magistrates dealing with DV who literally do not know how power and control are used against women to prevent them from leaving?” - Sienna*, Regional frontline Aboriginal domestic and family violence specialist worker.

“Hopefully by providing better protection from a well informed and responsive judiciary in which individual frontline domestic and family violence specialists had a good understanding of the dynamics of DV and weren’t just operating from a set of existing stereotypes” - Kate, Outer Metro/regional Intake Assessment and Referral Officer, WDVCS.*

“Without understanding the impacts (of coercive control) it is impossible for a magistrate to apply the appropriate sentence” - Sophia, Regional frontline domestic and family violence specialist, WDVCS*

Whilst victim-survivors also outlined their views and experiences:

*“The magistrates are in desperate need of training and educating in relation to domestic violence. **One of the magistrates in court told my abuser that "Oh well, you didn't hurt her" - and sent him home to re-offend.** In that courtroom the magistrate had seen and heard evidence that he had smashed my house and every belonging of mine to pieces (he had sent photos and voice messages to me as he was doing it). I was at my parents home and throughout his rampage he threatened to come over and slit my throat - he arrived at their home and he smashed my car whilst there - in fear, I ran to a neighbours place and called the Police. He had told me he had hurt my dogs (fortunately that was not the case). Police caught up with him and he assaulted them. And the magistrate said that "he did not hurt me". I lost faith in our system that day.” - Dahlia*, victim-survivor, aged 40-49, heterosexual, living in Outer Metropolitan NSW.*

*“Too many perpetrators of domestic violence are sent home to re-offend. They are not held accountable. The judge we had sent the perpetrator home and said **“Well, he didn't hurt her”** My house had been smashed up, all my belongings were smashed, my car was smashed, my life was threatened (he told me he was going to slit my throat, and came to my parents house), my 2 dogs lives were threatened (fortunately they were safe). I had text messages, & voice messages from him and photos he sent me throughout his rampage as evidence **This seemed to be of no concern in the courtroom. There needs to be specialist training. This is EXTREMELY important.**” - Caterina*, victim-survivor, Aboriginal*

or Torres Strait Islander, aged 40-49, heterosexual, living in an Inner Metropolitan area.

“(Training of judicial officers) would make a massive difference. If magistrates and judges were trained the offender would have been charged and breaches would have been accepted by Police. Furthermore, my children would’ve been protected from the offender and not court ordered to attend mandatory 50/50 contact whereby they suffered a great deal of torment, fear, anxiety and panic attacks” - Khadija*, victim-survivor, aged 50-59, heterosexual, living in Regional NSW.

Experience from the UK and Scotland has shown that the **greatest risk** of failing to invest in systems reforms, such as training for judicial officers, to accompany the enactment of coercive control legislation is **that it will be underutilised**. Like police, if judicial officers do not have the appropriate tools, guidelines and training to be able to act decisively, and with confidence, access to safety and justice for the victim-survivors for whom this reform is intended to protect will be elusive.

9.3.3 Comprehensive guidance for judicial officers

Judicial officers presiding over and determining matters involving coercive control must have access to comprehensive guidance. Presently, judicial officers determining domestic and family violence matters nation-wide have access to the [National Domestic and Family Violence Bench Book \(Bench Book\)](#).²⁴⁰ This Bench Book, recently updated²⁴¹, was originally developed in response to a recommendation by the Australian Law Reform Commission in 2010,²⁴² and aims to assist and educate judicial officers to achieve best practice in their judicial decision making and writing, and to create consistency in victim-survivors experiences of the court system.²⁴³

²⁴⁰ National Domestic and Family Violence Bench Book, ‘National Domestic and Family Violence Bench Book’ (2020), (Web Page, June 2020)
<<https://dfvbenchbook.aija.org.au/purpose-and-limitations/>>.

²⁴¹ Ibid.

²⁴² Australian Law Reform Commission, ‘Family Violence- A National Legal Response (ALRC Report 114)’ (2010), (Web Page, 11 November 2010)
<<https://www.alrc.gov.au/publication/family-violence-a-national-legal-response-alrc-report-114/>>

²⁴³ See above n 182.

The Bench Book addresses various aspects of domestic and family violence proceedings, including fair hearing and safety, evidence issues, protection orders and perpetrator interventions. In terms of coercive control, the Bench Book outlines the spectrum of domestic violence indicated in the 'Dynamics of domestic and family violence' section. In particular, the Duluth '*Power and Control Wheel*' is referenced in such a way as to identify different manifestations of domestic and family violence and to describe these indicators as a part of a cycle of abuse, rather than solely as a linear, isolated progression of events. Additionally, within section 4, victims' experiences are detailed, identified through key words that align with their content to grant judicial officers further context on specific forms of violence.

In order to assist judicial officers presiding over matters centring on coercive control, Women's Safety NSW recommends the additional inclusion of a sub-section on coercive control in the "Understanding domestic and family violence" section, setting out its definition, central elements, patterns of perpetration and victim impacts.

9.4 Additional Tools to be Updated

Alongside the **ongoing and specialised training for key actors, such as police and judicial officers**, Women's Safety NSW also argues that additional supporting tools are updated to reflect the reform and assist front liner workers with guidelines and processes.

One hundred percent (100% or N = 46/46) of frontline domestic and family violence specialists agreed that it was '*extremely important*' or '*very important*' that there is accompanying reform of systems and processes including:

- Updating of the tool used to identify domestic and family violence and assess risk and threat level - the [Domestic Violence Safety Assessment Tool \(DVSAT\)](http://www.domesticviolence.nsw.gov.au/__data/assets/file/0020/301178/DVSAT.pdf)²⁴⁴, to ensure it maintains a focus on the key risk factors associated with coercive control

²⁴⁴ http://www.domesticviolence.nsw.gov.au/__data/assets/file/0020/301178/DVSAT.pdf

and lethality risk in accordance with the evidence base,²⁴⁵ and is in the optimal form for police and frontline domestic and family violence specialists to utilise effectively in their respective fields;

- Updating of police policy and procedural guidelines to assist with effective charging and investigation of coercive control offences;²⁴⁶
- The development of highly effective prosecution guidelines akin to the UK [Domestic Abuse Guidelines for Prosecutors](#),²⁴⁷ to equip Police Prosecutors and Public Prosecutors from the Office of the Director of Public Prosecution (DPP) to effectively prosecute in matters of coercive control brought to them;
- Updating of the [Bench Book](#) to include a specific sub-section on coercive control in the “Understanding domestic and family violence” section, setting out its definition, central elements, patterns of perpetration and victim impacts so as to assist judicial officers presiding over matters centring on coercive control; and
- Updating of the NSW [Sentencing Bench Book](#) with a specific articulation of the offence of coercive control in the Statutory Framework for Domestic Violence Offences, and reference to the case law as it develops so as to provide guidance to judicial officers in this regard.²⁴⁸

“We need to tighten these to ensure we seal the gaps of ‘grey’ areas” -
Rem*, Rural WDVCS Manager.

²⁴⁵ ANROWS, ‘National risk assessment principles for family and domestic violence’, (2018), (Web Page, July 2018) < <https://www.anrows.org.au/research-program/national-risk-assessment-principles/> >

²⁴⁶ NSW Police Force, ‘Domestic and Family Violence Policy’ (2018) (Web Page, February 2018) < https://www.police.nsw.gov.au/__data/assets/pdf_file/0006/477267/Domestic_and_Family_Violence_Policy_2018.pdf > 3.1;

²⁴⁷ <https://www.cps.gov.uk/legal-guidance/domestic-abuse-guidelines-prosecutors>

²⁴⁸

https://www.judcom.nsw.gov.au/publications/benchbks/sentencing/domestic_violence_offences.html.

Recommendation 34

Women's Safety NSW recommends that the [Domestic Violence Safety Assessment Tool](#) (DVSAT) be updated to ensure it maintains a focus on the key risk factors associated with coercive control and lethality risk in accordance with the evidence base and is in the optimal form for police and frontline domestic and family violence specialists to utilise effectively in their respective fields.

Recommendation 35

Women's Safety NSW recommends that police policy and procedural guidelines be updated to assist with effective charging and investigation of coercive control offences.

Recommendation 36

Women's Safety NSW recommends that prosecution guidelines are developed, akin to the UK Domestic Abuse Guidelines for Prosecutors, to equip Police Prosecutors and Public Prosecutors from the Office of the Director of Public Prosecution (DPP) to effectively prosecute coercive control matters brought to them.

Recommendation 33

Women's Safety NSW recommends that the National Domestic and Family Violence Bench Book be updated to include a specific sub-section on coercive control in the 'Understanding domestic and family violence' section, setting out its definition, central elements, patterns of perpetration and victim impacts so as to assist judicial officers presiding over matters centring on coercive control.

Recommendation 31

Women's Safety NSW recommends that the NSW [Sentencing Bench Book](#) be updated with a specific articulation of the offence of coercive control in the Statutory Framework for Domestic Violence Offences, and reference to the case law as it develops so as to provide guidance to judicial officers in this regard.

9.1 Education and awareness-raising with the community

9.1.1 Community Awareness Campaigns

“In my opinion, the extra-legal benefits (of criminalising coercive control), such as awareness, validation and support are truly significant benefits with the potential to help many people who may not ever report to police. Not just a side benefit to the legal ones.” - Rosalie*, Victim-survivor, heterosexual, aged 40-49 and living in Outer Metropolitan NSW

It is absolutely essential for there to be a strong community awareness campaign in conjunction with the criminalisation of coercive control. **Without community awareness of the new offence, it will not operate to the fullest extent and will be underutilised.** Evidence from Tasmania demonstrates the dangers of criminalising coercive control without implementing community awareness and education programs. In Tasmania, the offence went three years without any charges being brought, and one of the key reasons for this was the lack of community awareness about the offence.²⁴⁹ Further, there was little media coverage in relation to the new offence and a lack of support from legal and non-legal services.²⁵⁰ NSW needs to learn from this experience in ensuring a comprehensive education and awareness campaign so that all our key institutions and the community more broadly obtain an understanding of this insidious aspect of domestic abuse.

ANROWS' National Community Attitudes towards Violence Against Women survey (NCAS) found that there is a great deal of work to do in educating the community that domestic abuse can be psychological.²⁵¹ Indeed, nearly 1 in 5 Australians do not believe financial control is a serious problem.²⁵² These results make it clear that there are still widely held beliefs in our society that domestic abuse is merely physical violence.

²⁴⁹ Women's Legal Service Tasmania 2020, 'Inquiry: Submission into Family, Domestic and Sexual Violence,' p.6.

²⁵⁰ Ibid.

²⁵¹ Australia's National Research Organisation for Women's Safety. (2018). *Are we there yet? Australians' attitudes towards violence against women & gender equality: Summary findings from the 2017 National Community Attitudes towards Violence against Women Survey (NCAS)* (Research to policy and practice, 03/2018). Sydney, NSW: ANROWS

²⁵² Ibid.

Creating a new offence which goes to the heart of domestic abuse will have a powerful norm-setting effect. Coupled with large-scale community education and awareness campaigns like 'Stop it at the Start',²⁵³ 'No Excuse for Abuse',²⁵⁴ and 'Speak out'²⁵⁵, and target strategies as detailed at [subsection 9.1.2](#), a coercive control offence could be the catalyst for generational change.

Recommendation 25

Women's Safety NSW recommends that alongside new legislation, the NSW Government delivers a comprehensive education and awareness campaign so that all key institutions and the community more broadly obtains an understanding of coercive control.

9.1.2 Targeted Approaches

In order to achieve substantial community awareness and understanding, right throughout the community, it is necessary to resource and support this activity at the community level. It is only community leaders themselves, in families, schools, workplaces, sporting clubs and religious and cultural institutions that can generate significant and lasting understanding and cultural change.

Engagement with state-wide and local community organisations, including Indigenous, multicultural, disability, LGBTIQ, Youth and Older Persons, will be essential in ensuring widespread understanding and empowerment.

Women's Safety notes the submissions of organisations such as Youth Action, Older Women's Network, ACON, and Muslim Women Australia, and strongly endorses their respective proposals for community engagement on coercive control.

²⁵³ Australian Government 2021, 'Stop it at the Start,' <<https://www.respect.gov.au/>>.

²⁵⁴ Our Watch 2020, 'No Excuse for Abuse,' <<https://www.noexcuseforabuse.org.au/>>.

²⁵⁵ NSW Government 2020, 'Speak Out', <<https://www.speakout.dcj.nsw.gov.au>>.

Recommendation 25

Women's Safety NSW recommends that alongside new legislation, the NSW Government resource and support local and state-wide specialist community organisations and community leaders themselves, in families, schools, workplaces, sporting clubs and cultural and religious institutions for the purpose of generating significant and lasting understanding and cultural change.

10 Concluding Remarks

“Coercive control is dangerous, life endangering and damaging... [W]e need laws that protect [our] basic [human rights], that provide deterrents and administer consequences. Lives are literally counting on it. If my experience is for anything, it is using my voice to do my best so that this does not continue to happen for my daughters and granddaughters. I am evidence of the destruction [of coercive control]” - Tamar, victim-survivor, living with a disability and/or a chronic health disorder(s), aged 40-49, heterosexual, living in regional NSW*

The NSW Government stands poised on the edge of enacting critical reforms that will change the lives of hundreds of thousands of women and children in NSW living with domestic abuse. Enacting this law, alongside sensible reforms to make them work, will send a powerful message to each and every victim-survivor of domestic abuse that they have been heard; that they matter. It will also send a message to people using abuse that this behaviour will no longer be tolerated; it will no longer be regarded as a private matter; that it's time to change; that we will help them change. If done well, these laws will increase women and children's access to protection, and to justice. They will recalibrate both law enforcement responses and social services to respond effectively to victim-survivors and abusers who come into contact with them. If done right, they will not leave anyone behind, regardless of gender, race, culture, language, religion, age, sexuality, ability, income, or geography. Everybody deserves to feel safe in their home.

Women's Safety NSW would like to thank the Attorney General and Minister for the Prevention of Domestic Violence, the Committee Chair, and every member of the Joint Select Committee for this Inquiry and the opportunity to make this submission. We look forward to appearing before you to respond to any questions or further information requests.

11 Recommendations

Recommendation 1

Women's Safety NSW recommends that the NSW Government enact a new domestic abuse offence in the *Crimes (Domestic and Personal Violence) Act 2007* (NSW).

Recommendation 2

Women's Safety NSW recommends that the NSW government closely consult with First Nations women, CALD women, WWD and LGBTIQ persons in both the development and implementation of these reforms.

Recommendation 3

Women's Safety NSW recommends that the new domestic abuse offence extend to "domestic relationships" as currently defined in the *Crimes Domestic and Personal Violence Act 2007* (NSW).

Recommendation 4

Women's Safety NSW recommends that the new domestic abuse offence apply to both instances where the offending conduct took place with NSW and where the offending conduct was committed wholly outside the State, but the offence has an effect in the State

Recommendation 5

Women's Safety NSW recommends that the types of behaviours captured in the Scottish model, that is, "violent, threatening or intimidating" conduct, or conduct which would be reasonably likely to have one or more of the effects as follows for the base of the new domestic abuse offence, but replacing the term "threatening" with the term "menacing":

- a) making B dependent on, or subordinate to, A,
- b) isolating B from friends, relatives or other sources of support,
- c) controlling, regulating or monitoring B's day-to-day activities,
- d) depriving B of, or restricting B's, freedom of action,
- e) frightening, humiliating, degrading or punishing B.

Recommendation 6

Women's Safety NSW recommends that consideration be given to explicitly recognising financial abuse within the types of abusive behaviours captured or the effects on those abusive behaviours in the offence.

Recommendation 7

Women's Safety NSW recommends that very careful consideration be given as to how to encapsulate abusive conduct directed at a child, relative or animal connected with the victim, whilst also safeguarding against systems abuse by abusers themselves. This might be achieved by careful drafting of the offence itself, for example **replacing the term 'threatening' with 'menacing'** to avoid the inclusion of conduct which involves a protective parent *threatening* to stop contact with a child, relative or animal in circumstances where the abuser is acting in an abusive manner towards them. Additionally, or alternatively, this might be achieved through a specific defence and/or statutory guidance.

Recommendation 8

Women's Safety NSW recommends the prescribed abusive conduct (or abusive conduct with the prescribed effects) should be clearly articulated and accompanied by statutory guidance as to how this abusive conduct may be proven.

Recommendation 9

Women's Safety NSW recommends that a non-exhaustive list of examples of specific behaviours and statutory guidance accompany the new offence

Recommendation 10

Women's Safety NSW recommends that the course of conduct element of the offence should be established on the basis of no more than two occasions of the prescribed forms abusive conduct (of abusive conduct with the prescribed effects).

Recommendation 11

Women's Safety NSW recommends that there be no time limitations on the prescribed abusive conduct (or abusive conduct with the prescribed effects) forming the course of conduct.

Recommendation 12

Women's Safety NSW recommend that consideration should be given to whether, alongside statutory guidance, the types of behaviours included sufficiently capture the cornerstone element of control, or whether instead an additional limb is required.

Recommendation 13

Women's Safety NSW recommends careful consideration be given as to whether the *mens rea* element of the offence is to be satisfied through knowledge as opposed to intent.

Recommendation 14

Women's Safety NSW recommends that the harm threshold be determined objectively, that is, that a reasonable person would regard the conduct of the accused likely to cause the alleged victim harm. There should be no requirement to prove actual harm.

Recommendation 15

Women's Safety NSW recommends that if NSW enacts a coercive control offence, that there should be some scope for retrospective application to provide justice to victim-survivors and enable the prosecution of prolific offenders.

Recommendation 16

Women's Safety NSW recommends, as a starting point, a maximum penalty of 2 years imprisonment for a summary offence of coercive control, and a maximum of 10 years imprisonment for an indictable offence.

Recommendation 17

Women's Safety NSW recommend that careful consideration be given to whether to create a specific aggravating offence with respect to a proposed new coercive control offence, or whether instead to rely upon existing aggravating factors in sentencing.

Recommendation 18

Women's Safety NSW recommend that consideration be given to affording a defence to the crime of coercive control to facilitate its effective operation. In drafting this defence, however, consideration should be given to the operation of the 'reasonable person' test, which in practice has been found to discount women's experiences, particularly in the context of gender-based violence.

Recommendation 19

Women's Safety NSW recommend that the operation of a new offence be carefully monitored and reviewed to ensure the reforms are having the desired effect and that any issues with effective implementation are identified so as to guide ongoing reform efforts. This capture quantitative data as well as qualitative data regarding the experiences of victim-survivors, law enforcement and judicial officers, and support services, and awareness within the community.

Recommendation 20

Women's Safety NSW recommend the new laws include a provision requiring statutory review to determine the extent to which the policy objectives of the new laws are being met.

Recommendation 21

Women's Safety NSW recommend that alongside the establishment of the new offence, ADVO legislation be updated to explicitly recognise a charge of coercive control as grounds for an interim ADVO. This could be achieved by including the coercive control offence within the meaning of a 'serious offence' after stalking and intimidation at section 40(5) of the *CDPV Act*.

Recommendation 22

Women's Safety NSW recommends that s 36 of the *CDPV Act* be updated to ensure every ADVO prohibits conduct captured by the new offence to afford adequate protection to victim-survivors of this form of abuse.

Recommendation 23

Women's Safety NSW recommends that alongside new legislation, the NSW Government develops and updates a number of system tools, resources, guidelines, and bench books to assist key actors in the civil and criminal justice system to implement the new laws as intended.

Recommendation 24

Women's Safety NSW recommends that alongside new legislation, the NSW Government deliver specialised training and professional development to all frontline actor within the civil and criminal justice systems along with accountability mechanisms to actualise practice change.

Recommendation 25

Women's Safety NSW recommends that alongside new legislation, the NSW Government delivers a comprehensive education and awareness campaign so that all key institutions and the community more broadly obtains an understanding of coercive control.

Recommendation 26

Women's Safety NSW recommends that alongside new legislation, the NSW Government resource and support local and state-wide specialist community organisations and community leaders themselves, in families, schools, workplaces, sporting clubs and cultural and religious institutions for the purpose of generating significant and lasting understanding and cultural change.

Recommendation 27

Women's Safety NSW recommends the adoption of a twelve (12) month lead in time from when the law is passed to when it comes into effect so as to allow time to develop and implement the system reforms and deliver community education.

Recommendation 28

Women's Safety NSW recommends that the *Criminal Procedure Act 1986* (NSW) be amended to ensure context and relationship evidence is admissible in criminal proceedings relating to domestic violence.

Recommendation 29

Women's Safety NSW recommends that the procedural protections currently afforded to vulnerable witnesses in sexual assault matters be extended to complainants of coercive control.

Recommendation 30

Women's Safety NSW recommends that jury directions be developed to specifically address commonly held violence supportive and/or victim blaming misconceptions.

Recommendation 31

Women's Safety NSW recommends that the NSW [Sentencing Bench Book](#) be updated with a specific articulation of the offence of coercive control in the Statutory Framework for Domestic Violence Offences, and reference to the case law as it develops so as to provide guidance to judicial officers in this regard.

Recommendation 32

Women's Safety NSW recommends that the legislation governing VISs be amended to facilitate an expansion of the content that victims of domestic violence can include as contextual evidence of the particular harms they have suffered pertaining to the coercive controlling conduct.

Recommendation 33

Women's Safety NSW recommends that the [National Domestic and Family Violence Bench Book](#) be updated to include a specific sub-section on coercive control in the 'Understanding domestic and family violence' section, setting out its definition, central elements, patterns of perpetration and victim impacts so as to assist judicial officers presiding over matters centring on coercive control.

Recommendation 34

Women's Safety NSW recommends that the [Domestic Violence Safety Assessment Tool](#) (DVSAT) be updated to ensure it maintains a focus on the key risk factors associated with coercive control and lethality risk in accordance with the evidence base and is in the optimal form for police and frontline domestic and family violence specialists to utilise effectively in their respective fields.

Recommendation 35

Women's Safety NSW recommends that police policy and procedural guidelines be updated to assist with effective charging and investigation of coercive control offences.

Recommendation 36

Women's Safety NSW recommends that prosecution guidelines are developed, akin to the UK [Domestic Abuse Guidelines for Prosecutors](#), to equip Police Prosecutors and Public Prosecutors from the Office of the Director of Public Prosecution (DPP) to effectively prosecute coercive control matters brought to them.

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Appendix A: Victim-Survivor Survey Responses

Q.10: What types of abuse did you experience?

Q.11: Which coercive and controlling behaviours were used against you?

Q.13: At what point did you realise that you were being coercively controlled by the perpetrator?

Q.14: Do you think that the perpetrator intended or was reckless as to causing you harm through their coercive and controlling behaviours? Please provide detail if you feel comfortable doing so.

Q.15: Have you ever formally reported the abuse you experienced?

Q.16: If you reported the abuse to the police, did you experience being misidentified as the primary perpetrator of the abuse?

Q.17: If you reported the abuse to the police, did you feel that they took your report seriously?

Q.18: Did any of the following factors prevent you from reporting the abuse or make you reconsider whether you should report it?

Q.19: If you ever disclosed the abuse, who did you feel most comfortable speaking to about it?

Q.20: Have you ever experienced the police telling you that the abuse you experienced does not count as evidence of domestic violence?

Q.21: Have you ever applied for an ADVO, or have the police ever applied for an ADVO on your behalf?

Q.22: If you answered yes to Q.21, was your experience of non-physical forms of coercive control used as evidence to support your need for the ADVO?

Q.23: Has your abuser ever been charged with a domestic violence offence and taken to court?

Q.24: If your answer to Q.23 was yes, were the non-physical forms of coercive control you experienced counted as evidence and used in court?

Q.25: If your abuser was ever sentenced in court, would it have been helpful if coercive and controlling behaviour was considered an offence during sentencing?

Q.26: To what extent do you think the existing laws in NSW provide police and courts with sufficient powers to address domestic violence (including both non-physical and physical forms of abuse)?

Q.27: To what extent do you think the law in NSW currently provides adequate ways for courts to receive evidence of coercive and controlling behaviour in domestic violence proceedings?

Q.28: Do you agree that non-physical coercive and controlling behaviours can be as damaging to victim-survivors as physical/sexual assault?

Q.29: If you experienced coercive control, what were the impacts of this on you (both in the short-term and in the long-term)? (Please select all that apply.)

Q.30: Do you think that the definition of domestic and family violence in NSW law should be expanded to include a wider range of behaviours, such as emotional abuse and financial abuse?

Q.31: Do you think that coercive control should become a criminal offence in NSW?

Q.32: Please provide reasons for your answer to question 31.

Q.33: If coercive control was criminalised, do you think there should be specific protections for parents taking reasonable action to protect their children from violence and/or abuse (e.g. a mother who threatens to leave an abusive home with her children

Q.34: Do you think that NSW law should recognise that domestic violence can be a 'course of conduct' (a pattern of behaviours over a period of time) rather than just an isolated incident?

Q.35: If coercive control became a criminal offence in NSW, which domestic relationships do you think should be included? (Please select all that apply).

Q.36: Do you think that NSW legislation about domestic and family violence should include examples of specific behaviours that may constitute domestic violence?

Q.37: If coercive control was criminalised, which behaviours do you think should be included in the scope of this offence? (Please select all that apply)

Q.38: Do you think there are any circumstances in which a pattern of these behaviours would not constitute coercive control? If so, please provide comments.

Q.39: If coercive control was criminalised, do you think that the responsibility should be on the victim to prove the harm they have experienced in court?

Q.40: In your opinion, what would be some of the benefits of creating an offence of coercive control? (Please select all that apply, and leave a comment with further detail if you feel comfortable doing so)

Q.41 In your opinion, how important is specialist training for magistrates and judges to make sure they understand coercive control?

Q.42 In your opinion, how important is specialist training for police and prosecutors to make sure they understand coercive control?

Q.43 In domestic violence matters that are heard by a jury, do you think the judge should be required to instruct the jury about the dynamics of domestic violence so the jury can make a more informed decision?

Q.44 Do you think that there should be a requirement for all domestic violence charges to be signed off by a senior domestic violence police officer?

Q.45 Is there anything else that you would like to add?

Q.10: What types of abuse did you experience?

Responses:

- **100.00% (or N = 72/72)** = Psychological abuse (e.g. intimidation, coercive control, threats, inducing anxiety)
- **98.61% (or N = 71/72)** = Emotional abuse (e.g. manipulation of self-esteem, name-calling, put-downs)
- **75.00% (or N = 54/72)** = Financial abuse (e.g. controlling income, limiting spending)
- **66.67% (or N = 48/72)** = Technological abuse (e.g. abusive messages, threatening to share images without consent)
- **65.28% (or N = 47/72)** = Physical abuse (e.g. hitting, kicking, spitting, hair pulling)
- **56.94% (or N = 41/72)** = Sexual abuse (e.g. sexual harassment, assault, degrading acts, all without consent)
- **30.56% (or N = 22/72)** = Neglect (e.g. withholding care, food, medical treatment etc.)
- **29.17% (or N = 21/72)** = Reproductive abuse (e.g. controlling access to reproductive healthcare, birth control etc.)
- **23.61% (or N = 17/72)** = Other (please specify)
- **22.22% (or N = 16/72)** = Spiritual/religious abuse (e.g. controlling spiritual/religious practices, using religion to manipulate you)

Comments:

After separation I was cut off from all financial support, and because he was a [law professional] he was able to make me homeless and destitute

- Charlotte*

My ex-husband provided manipulated information (pathological lies) to my University Lecturers who then prohibited me from clinical student placements and shared this wrongful information inappropriately to employment providers - which has been humiliating. It has impacted on me gaining and sustaining successful employment.

- Nora*

With holding intimacy being ignored not spoken to my ex was very shallow there was no depth within his emotional being

- Saorise*

Not sure where it fits but I was threatened by my ex with outing me to people who did not know I am a lesbian, especially colleagues and management (which she did, counter to the ADVO)

- Ciara*

Throwing things at me, shutting the door so I couldn't see what he was doing with my baby

- Wendy*

Stalking, social abuse (approaching family and high school friends with 'stories' about me)

- Sheema*

Stalking, gaslighting, threatening friends/family if I spoke up. Technological abuse via drones / stalking. Monitoring software. Identify theft (in my birth name as I changed my name).

- Patricia*

Not allowing me to drive his car (our only car) so that only he could be in charge of how I got to places and always knew where I was. Limiting the time with my family to a couple of days a year. Never let me cook, controlled my daughter and my food everyday. Would withhold sex for several years knowing I wanted a second child.

- Diana*

Abuse of my children and pets

- Arabella*

He tortured me by preventing me from falling asleep, whereby he would repeatedly shake me awake, sometimes for hours and hours, so that I was weak from exhaustion and unable to get a job.

- Etta*

It escalated to physical just before I left

- Alma*

Reproductive abuse in no he would not take any responsibility at all with birth control. Had a tubal ligation after successful separation. (Or so I thought) using children for years and a lot of community bullying led to severe isolation and crazy making.

- Serri*

Abuse and manipulation of my children

- Rowan*

Post separation abuse. Systems abuse. (Family law) Financial abuse as part of above, being very different from in the relationship. Sexual coercion as part of emotional/psychological abuse. Stalking via systems abuse and likely technology. Not sure where things like secretly "testing" moderate allergies would fit (known to cause wheezing and throat tightening.) Child abduction (again, using systems abuse, though not officially).

Theresa*

Q.11: Which coercive and controlling behaviours were used against you?

Responses:

- **97.22% (or N = 70/72)** = Psychological control and manipulation
- **94.44% (or N = 68/72)** = Gaslighting (i.e. making you doubt your own judgment, sanity, or perception of things)
- **93.06% (or N = 67/72)** = Threats and intimidation
- **86.11% (or N = 62/72)** = Social isolation (i.e. cutting you off from friends, family, support networks etc.)
- **73.61% (or N = 53/72)** = Financial control (e.g. controlling access to money, creating debt in your name, quarantining income, and regulating spending)
- **62.50% (or N = 45/72)** = Surveillance (e.g. stalking, monitoring your technology)
- **54.17% (or N = 39/72)** = Micro-regulation (i.e. regulation of everyday behaviours such as clothing, diet etc. and enforcement of specific rules)
- **52.78% (or N = 38/72)** = Property damage or threats of property damage
- **38.89% (or N = 28/72)** = Sexual assaults or threats of sexual assaults
- **38.89% (or N = 28/72)** = Deprivation of liberty (i.e. controlling your movements e.g. kidnapping and/or confining)
- **36.11% (or N = 26/72)** = Threats or harm to animals
- **34.72% (or N = 25/72)** = Threats or harm to children
- **31.94% (or N = 23/72)** = Withholding or controlling access to resources (e.g. care, food, shelter)
- **30.56% (or N = 22/72)** = Reproductive coercion (i.e. interfering with contraception, pressure to become pregnant or to terminate a pregnancy, withholding reproductive healthcare)

Comments:

I had nearly a decade of rape due to non consensual sex while always in a highly dissociative state. I am dealing with [police unit de-identified] with a rape complaint.

- Charlotte*

The judicial finding after two full trials [length of trial omitted], was that he uses Coercive Control with the Gaslight effect and that he has in fact emotionally, physically, and psychologically abused each of the children and I - before, during, and after the marriage.

- Nora*

Threat that if I took the 'legal route' (legal action, child support), his actions "would land him in jail and change all our lives forever"

- Aya*

Threats or harm about children - ie having them removed

- Nari*

Also threats of physical harm to my parents and friends. He did not provide care for his kids due to gambling alcohol and sexual addictive behavior

- Maeve*

Would hide clothes or personal items from my past and throw them away or convince me they were stupid and make me get rid of them - things I can never get back that I miss terribly.

- Diana*

I am a [citizenship de-identified] and my medicare had expired. When I developed a [infection] I was unable to access medicine for myself and he denied that I needed medication. When he did eventually get it for me, as he had also now developed a [same infection], he would take the medicine for himself.

- Etta*

The abuse was so subtle. But when I look back now at the [several] years it was terrifying what he did.

- Alma*

[Many] years plus many attempts to escape, too much access to children is the force among other things to keep in a regular pattern of intimidation. Hides this from children but uses them to pass on subtle threats that only I could see. Used a child's contact centre for access changeover. [Many] years every fortnight [a long way] each way. He would stalk in my township. As little contact as possible would help, maybe school holidays etc. As there is contact inevitable. Being able to limit. Never thought he would hurt children, (and I put up with a huge amount after separation and planned and waited, but it did feel very dangerous everytime I fled but his need to scare, control and destroy me, had no end. Long story but safer in the end as teens they stayed with him, I escaped and was punished for that. However as young adults I have them both in my life and he doesn't. My children were shielded from the abuse on me and to this day we don't discuss him, they have a long distant relationship with their father. Both are well adjusted working and caring adults. In essence through no end of coercive control, to destroy me the most was to get them away from me. I never insisted on access as they had enough of that in their younger years. God help these women, I could write a book, but I am lucky to be alive, because I could feel it and see it when no one else could.

- Serri*

I feel he is indirectly controlling my movements as I won't go places where I think he could be at.

- Amanda*

The coercive control changed its form and continued after separation. As I could no longer protect the children from him, he began to heavily psychologically abuse and manipulate them and use them to control me and as a way to get to me, influence and control my decision making and choices. We have now been through the family courts twice. Our most recent was due to him not allowing the children to change schools (at their request) and me to move some time away from where we were living to support them doing so. Even though his time with the children would not change. We are awaiting the outcome of the final hearing. I left my ex in [year omitted, 2010's]. The coercive control continues

- Shante*

Also encouraged my dependency on drugs (both providing access to drugs and controlling access to drugs) and enabled/supported an eating disorder - which kept me physically weak. It became much worse towards the end with actual violence, the threats were mostly implied towards myself, or made directly to my children and then covered with threats. It was very coercive and covert for most of the relationship/marriage.

- Eva*

Threats or harm to children mostly indirect or involving passive aggressive. Psychological/emotional abuse of children. Property damage also passive aggressive.

- Theresa*

Threats to take children

- Rebecca*

Q.13: At what point did you realise that you were being coercively controlled by the perpetrator?

Comments:

After I got divorced. I started to meet other people and talk about my marriage and how I was treated. It was then I realised I was being controlled. This was later confirmed with my psychologist.

- Clara*

After our daughter was born, which was just over a year into our relationship Although according to him I was just post natal and the hormones were making me think silly things

- Leah*

When I spoke to a Police Officer and he described what domestic violence was. Up to this point I was confused and controlled so badly I couldn't make decisions for myself, and everything was very unclear.

- Dahlia*

In the last year of our marriage - when it escalated to a point where he couldn't hide it anymore

- Charlotte*

During FLC proceedings.

- Nora*

Afterward. I read Jess Hills book and I realised what had happened to me

- Anisa*

After the relationship ended and I had access to dv support and education

- Tamar*

Post separation

- Aya*

After reporting the physical abuse to the police and being recommended the book "See what you made me do"

- Amelia*

After I had left

- Niamh*

[A few years ago] I fled from my home with four children we were homeless for [some time] before I refuge was ready we stay there for [several] months It wasn't until I was told by my psychologist but my ex-husband was a narcissist that I realised after doing Research about domestic violence And support from services " and he's toxic behaviour Leading us to flee our family home with a bag of clothes each .

- Saorise*

When a counsellor named it.

- Kahdija*

It was gradual. Sometimes I was aware of it and then behaviours would change, then things would happen again. It wasn't until my son and I fled that I grasped the full picture, sadly.

- Ciara*

It started when I confirmed his affair and continued after divorce.

- Arifa*

Towards the end of our [over decade long] relationship

- Rayan*

[A few] months [in]

- Nari*

Just after my daughter was born

- Wendy*

Shortly after marriage

- Sheema*

My husband asked for separation because he said the relationship was harmful to him. He then said that he had been thinking of divorce, killing himself or killing me. I didn't realise I was in an abusive relationship and just felt relieved that he had picked divorce. But I told a friend later that day who is a DV specialist and she told me I was in a coercive controlling relationship and in danger. We rang 1800 respect and they advised that I report to police and remove the kids from the home. I left with the kids in the middle of the night and reported it to police the next day.

- Min*

When I was pregnant with my son

- Kayla*

After [the relationship] as I had been left to question my own reality via gaslighting.

- Patricia*

Looking back on my relationship

- Emma*

After I had ended the relationship when the words coercive control were more widely in use. Previously I asked myself if it was domestic violence and it was difficult to understand whether it met those definitions. At one point I saw definitions that required me to assess the perpetrators intent and I was unsure if he wanted to control me personally or just not ever have

anyone stop him found anything he wanted eg gambling infidelity drugs; he was prepared to do anything though to sustain personal control and blame me for lack of feelings of control over his life, and didn't care whether I could control my life or have an equal opportunity to pursue the same types of life goals he insisted he be 100 percent free to pursue.

- Maeve*

A [few years] into an [over decade long] relationship I began to start having an uneasy feeling but it slowly built over time 6 years into the relationship I began to try leaving but as a result her proper and promised me children and then it became so much harder to leave

- Diana*

After the relationship had ended after an assault on myself and two of my sons.

- Shireen*

Probably at around the 5 year mark into the marriage, but it was very hard to pinpoint. Wasn't comfortable in situations but not until later but did fight against it where I could.

- Arabella*

When I left and was outside of the control or in situations where I was in a learning situation and it was highlighted in that is where it became clear.

- Poppy*

I realised after three weeks of becoming intimate with him.

- Etta*

When I saw an article on fb and read it

- Fatima*

When I realised I had lost all my support network

- Aditi*

Not until after he left

- Holly*

Nearly the end of the relationship

- Evelyn*

5 years into our relationship, after counselling and marriage counselling helped me identify.

- Amar*

After I left

- Alma*

When his behaviours escalated and the stalking increased to high levels of danger

- Drisana*

When he wanted me to stop mixing with my family

- Annika*

Actually, two weeks before our wedding

- Abigail*

Only recently looking back on the relationship.

- Bronwyn*

When i moved back to Sydney from [overseas country de-identified] with my kids - had a circuit breaker effect. We all felt what it was like not to be walking on eggshells all the time.

- Dasha*

After 2 children and a pamphlet after 7 years, however did not realise that it was 100 times worse after separation. After separation spoke to a councillor, GP and DV phone service. Agreed to his type of separation, 5 years to gain strength to challenge that, escalation when you challenge and expose. legal aid lawyer no understanding until i pleaded please read this letter i had written as you say pattern not incident very difficult, she did and alerted to the stalking factor i had been suffering. She took out a restraining order and he rang the office threatening, she said "I believe you" Now im really in trouble, pretty much the whole community hated me.

- Serri*

When I read Jess Hill's book. I have had child services, police, and the courts involved since I was an infant, but I did not know this term or concept until I was [age omitted, late 20's] and read Jess' book.

- Alegria*

When I grew up and moved out. When I still lived in the house it was often so targeted and subtle that I couldn't tell.

- Harper*

I wasn't allowed to parent my children. My authority with them was undermined. I was verbally abused on a daily basis and accused of being a bad mother. I was made to feel guilty for not contributing financially to the family yet my ability to seek employment was conditioned. I was afraid to express an opinion or suggestions for fear of getting put down and making him angry.

- Juliana*

i think more is learnt over time and with help from professionals. It is likely I was coercively controlled from early on in the relationship. It is shameful (even though I don't need to have the shame) as I'm an educated woman in a well paying job.

- Amanda*

A couple months into the relationship

- Indi*

During the relationship I knew something was wrong. It wasn't until after I left that I began to start understanding what was happening.

- Shante*

During the relationship I started to question the patterns of behaviours that didn't seem right. I was only able to name those behavioural patterns as coercive control after the relationship ended

- Anamaria*

I wasn't labeling it this, but I increasingly wanted out. That's when it escalated, became threats of violence and then physical.

- Flora*

We had been together for [over a decade], in the [last few years] I knew something wasn't right but it took me that [long]. It's only when I started using Emotional Freedom Techniques/Tapping I started to develop a sense of hang on this isn't ok. I thought it was all my fault. I was responsible for his behaviour. My bar was when he hits me I will leave. After tapping I moved that bar after one night when he was going at me about what a terrible person I was and how my potentially being late to taking our daughter somewhere reflected on him. It was a LOOONG way from the worst things he has done, that was just a regular Thursday, standard behaviour from him. But it was this point where instead of listening to him I finally realised he was crazy not me. I never trusted my reality, so when he said it was my fault it was, he had me so convinced I was [crazy]. My thoughts and opinions everything was made out to be wrong. My reality was his. A lot of self work with EFT/ Tapping was what helped me realise it wasn't ok. Without that i'd probably still be getting in trouble for answering his question with another question to understand more rather than the yes or no answer he demanded. I remember the day a friend caught me crying and was mortified when I finally caved and explained why. It think the look on her face told me what was happening wasnt ok.

- Jamie*

I was in 2 coercively controlling relationships at the same time. DE FACTO PARTNER: After we had been in a relationship for [over a decade], the perpetrator and I started relationships with

another couple. Until then I believed all the abuse was my fault, and did not reveal what I was experiencing to anyone. But I couldn't hide it from my new partner, who witnessed my distress and complex behaviour in an attempt to avoid abuse by my de facto partner. It was my new partner's comments which eventually led me to educate myself and understand that I was being controlled by my de facto partner. BOYFRIEND: I'm not certain because it was a very gradual realisation. I knew I wanted to leave for a long time but did not feel free to. The extent of control only really sunk in after I'd left. Probably I started to realise how serious it was when he first made threats to reveal our (non-monogamous) relationship to my family.

Rosalie*

When the abuse turned physical and I was shown the cycle of violence and wheel of control by the police

- Scarlett*

I was aware throughout the abuse being perpetrated against me, but that did not prevent the abuse from having an impact on me - abuse is insidious and effective.

- Eva*

Not for quite a while, initially I believed his lies and excuses, and was also too stressed/distressed to see through the lies/cover-ups that he was the source of the problems. I recognised the financial aspects of the control when we were under extreme financial distress as well, but again, didn't realise that it was purposeful for quite some time- it seemed like it was just the series of events that had unfolded at the time. But in the last [few] years, it became more and more obvious that his behaviour was purposeful, and was designed to keep us in financial distress and under control.

- Rowan*

When I spoke to my social worker and DVCAS

- Eden*

Not until after I had left the relationship and I was advised by my social worker.

- Juniper*

The very day we moved in together after he suggested I move in with him after [a couple] of months of dating. I had to call police on him the very first night

- Manuella*

Over 12 years I spoke up (with my partner) about things I wasn't happy with. In the year before separation, I spouses the word gaslighting, but also said that it was only the term closest to what was happening, and wasn't really that bad (it was). My GP identified abuse dynamics, when I explained a saga of my then partner telling me she wanted to separate. A few weeks

later a couples Counsellor said the same thing to me. Over the next few months I increasingly realised what was happening. Jess Hills book was a big turning point in terms of how much I second guessed myself, and the language I used. This was months after formal separation.

- Theresa*

After I left. When I was in a refuge

- Yarra*

In 2010 when on a holiday. I had known things weren't right [for a few years], then they escalated [three years later] but I didn't see it properly till [we went on holiday]. I tried to get out [a year later], then his methods changed but got worse until we finally fled [nine years later after that].

- Ashley*

After I left.

- Adeline*

A Police officer spoke to me about Domestic Violence. I was feeling totally controlled and was unable to make decisions or function properly. My choices were limited.

- Caterina*

When I realised I actually needed help to fix the problems he was creating. Also I actually started to feel afraid of him.

- Gabriella*

The counselling sessions

- Melanie*

During & after school relationship

- Cordelia*

Isolation and financial abuse

- Aida*

When it was happening

- Rebecca*

For [over a decade].

- Daria*

After I left

- Serena*

Four months into the relationship

- Vashti

When he said he that I'm not comfortable around my own family and he didn't want to see them

- Sari*

After I got divorced. I started to meet other people and talk about my marriage and how I was treated. It was then I realised I was being controlled. This was later confirmed with my psychologist.

- Clara*

Q.14: Do you think that the perpetrator intended or was reckless as to causing you harm through their coercive and controlling behaviours? Please provide detail if you feel comfortable doing so.

Responses:

- 79.17% (or N = 57/72) = Yes
- 16.67% (or N = 12/72) = Unsure
- 4.17% (or N = 3/72) = No

Comments:

I think to some extent he knew what he was doing. Upon reflection he had very low self esteem and felt powerful when controlling me. I was too afraid to confront him. That part I know for sure, that he was aware of his actions.

- Clara*

To a certain extent, yes but then I feel his behaviours are learnt, something he learnt as a possible coping mechanism at a very young age and as an adult his behaviours just developed to the point of no return and it became his normal.

- Leah*

I believe he knew exactly what he was doing, as I have since found out he had done this to other women.

- Dahlia*

My ex husband used to beat and sexually abuse his first wife. All he did was learn not to use his fists, instead he clenched his fists in his head and used sex to unclench them.

- Charlotte*

He is void of insight, empathy, and cannot take the perspective of another. He has told me in the past [that I would have nothing without him]. Thankfully, he wrote to the Judge at the end of our trial and headed his letter with "ULTIMATUM" - Then proceeded to document what he will do to me throughout the community if the judge didn't give him the orders he sought. (This was [almost over a decade] and [a couple of] trials).

- Nora*

He used these methods to get what he wanted at any given time. Goal posts were always moving. I believe he also enjoyed the rescuing of me once the fear or event passed. He was aware of past childhood abuse and particularly like to use the same things to undermine my mental health and judgement. He particularly favoured gaslighting.

- Tamar*

He said it was because I was his outlet for anger. I knew I was his emotional [outlet] . But it wasn't until I was able to take legal action and create the emotional space to realise how much he was using his behaviour to control mine. The amount of time he got to see our son, how much he got away with paying no child support or contribute financially. It was only after [several] years of strict family court orders how much he manipulated/bullied me to get his own way.

- Aya*

I think my ex has a personality disorder which was brought on by his childhood experiences. I believe he doesn't realise his behaviour is controlling as it's what he thinks is a normal way to behave.

- Niamh*

Yes he created a sense of security as then as soon as we were married. It was a non-centre security my house my rules then it was entrapment if you leave me you will lose everything

- Saorise*

I feel he intended most of the harm as he was calculated in his actions.

- Khadija*

It was a systematic effort [over half a decade], I now come to understand, began within the first few weeks of our relationship.

- Ciara*

My former husband was careful and calculating in his use of control. He took a long time to build up to taking full control of my life. He was not reckless or reactive - he was thoughtful, planned things, had a good discipline and didn't overreact in the moment. (My father was very angry and prone to anger and violence in the moment. My husband was the opposite - cool and calculating.

- Rayan*

He went out of his way to do this, he would contact police, docs, housing, friends, family, etc make lies up about me so that I would lose my children, or be kicked out of my house, or anything to cause trouble. He would call me names, he would put me down, he would intimidate me physically, storming up to me and attempting to punch me

- Nari*

He stopped being the charmer and became nasty as I think he believed he had me under control once I had a baby. I don't think he believed I could/would be able to bring her up on my own without him

- Wendy*

*I am a [profession de-identified] and work in this field. I had tried to approach him with my concerns for his behaviour. Labelling and working towards a safer home through better choices, but he would label me 'vicariously traumatised' due to my work and that is was more 'I am woman hear me roar bull****' when I tried to discuss power and control.*

- Sheema*

I don't think my partner has insight into his behaviour. He thinks that I am controlling him and that I'm the cause of his distress and mental health problems. He doesn't have insight that he was/is at risk of killing me and he is denying that he ever told me he had thought of killing me. At the same time, it is hard for me to understand how he can have so little insight, and then I wonder if he is aware and intentional in his behaviour. The cognitive dissonance he must have to genuinely think I'm abusive while he is the one who has talked about killing me, does not make sense to me.

There was so much lying and manipulating that I am learning now that I have left the relationship - so much that instinctively I felt but could never prove and so I thought I was going mad and he made me feel like I was unstable when I was actually just onto his deception.

- Diana*

Absolutely he knew. I have since found out that he also had two previous relationships in which he treated those women exactly the same way.

- Shireen*

At first it seemed like it was accidental, or situational, and he denied any intention or actual harm, etc. But it became clearer as time went on, and the behaviours were clearer, intentional, and caused clear harm to both myself and my children.

- Arabella*

It's absolutely intentional and they knew what they were doing whether they knew it was coercive control or not.

- Poppy*

Yes, he would openly admit to being controlling and that it was causing me harm. He once said 'I'm going to hurt you, emotionally'. He would also admit to controlling ex-girlfriends amongst other forms of abuse.

- Etta*

He was certainly reckless & probably intentional. He knew what effects his behavior had on the children & myself.

- Evelyn*

He does not see gas lighting as an issue. He is a narcissist and lacks empathy completely.

- Amar*

Absolutely. He targeted me from our first encounter and the control, manipulation and abuse went from there

- Alma*

I don't think he has logic and would not see his behaviours as reckless or causing harm.

- Drisana*

He wanted to have me around 24/7 so he'd interfere with my work with blackmail and also isolate, berate and abuse

- Annika*

To this day I think he feels he is the victim and that I arbitrarily chose to end our marriage

- Dasha*

Definitely intentional and saw me coming and knew he had me under false pretenses'. My upbringing was a wonderful family atmosphere and a respectful father. At 20 I knew nothing about DV. After marriage all his awful childhood came out, full on DV. especially physical. This for a time was used to get me to feel sorry for him, he hated my normal upbringing im sure, in essence learnt behaviour but no conscience or empathy.

- Serri*

In my mother's case, the purpose was to isolate, gaslight, and control me and to prevent me from accessing financial, psychological, and physical freedom. In my rapist's case, I think his aim was to have the opportunity to assault me again and to frighten me out of contacting authorities.

- Alegria*

I think the perpetrator was manipulative and all his actions were calculated. If I defended/justified myself verbally he would become enraged and physically violent.

- Juliana

It was his way to have power over me. He intended it. He still intends to have control over me with his behaviours intimidating and stalking me.

- Amanda*

Violence towards myself and the children was used as a way to control our behavior. My ex would often yell and destroy objects around the home and then blame us for his behavior. Afterwards saying things like "I'm so sorry but if you hadn't done that I wouldn't have gone off. You know how I am" One time he pulled the handbrake on while I was driving, I couldn't physically disengage it and had to beg and plead with him to disengage it. My children were in the car. He also punched the windscreen a number of times [de-identified]... blood [de-identified] onto me. I couldn't escape and keep us safe. I also would not drive the car home as I thought he would kill us. I chose to drive us all to his mates house as I knew he wouldn't do anything to us there. Again the next day he apologized profusely but blamed me for making him angry.

- Shante*

My ex-partner was manipulative. I don't think he was able to recognise and process that his behaviours were damaging

- Anamaria*

He demonstrated both during and after the marriage that he was intentional.

- Flora*

Not sure, sometimes lately he would say things like, "a part of me is proud of you for finally standing up to me and not taking my shit anymore". It took a lot of self work (EFT/Tapping) to help me work through "i don't want to believe that's who he is, so it must be me". That was a big one. I wanted the behaviour to stop not the relationship back then. I think he was a vulnerable narcissist, used guilt as his weapon of choice alot mixed with direct attack. Part of me thinks he just doesn't know any differently. I know he made a vow, he told me that after watching his mum dominate his dad his whole life that he "vowed to himself that he would never let that happen to

him" but in doing so turned into the perpetrator himself. I always hung on for the "good" person I knew was "in" there. Now I never know if he is remorseful or not. We are separated but still living together due to financial reasons. The other night it was like I watched us from outside my body and could count the amount of time he tried to use guilt to get me to conform to what he wanted. I don't know if he does it deliberately to harm me, or he just hasn't done his own work and doesn't know any other way. It was modeled so completely by his mother, it makes sense. My father was verbally abusive, I don't think I turned out like he did though. It's always a choice, I think.

- Jamie*

I think (with both perpetrators) it was a mix of intent and recklessness. There were times when they retaliated in a very determined way, or menaced and intimidated me - those were definitely intentional, because they were clearly trying to cause me pain or terrify me into complying. Eg. - de facto partner would confiscate my car keys or let down my tyres in retaliation for something, so I couldn't leave or had to manage my day without use of the car - "to stuff you up". - boyfriend would threaten to 'out' me as non-monogamous, to get me to do something or other. But there were other times when the behaviour was more reckless because they were focused on their own needs. Eg. - de facto partner taking me home from hospital emergency even though I needed treatment because he was sick of waiting - boyfriend coercing me into sex even though I was unwell, or into sexual acts I didn't want.

- Rosalie*

Yes and no. When he was acting from a place of insecurity that spurred jealousy then yes, he knew he was sending me abusive texts and insulting/shaming in order to get me to not go out without him. When he came home drunk and he was bleeding/bruised bc he had been in a physical fight at the pub, I don't think he realised this would be intimidating and scary for me as it demonstrated his willingness to be physically violent.

- Eva*

He definitely intended to cause both myself and my children harm. For myself it was to control me as a means of maintaining access and control over my children, and for them it was to physically and sexually groom, manipulate and abuse them, along with exposing them/us to other predators throughout the relationship.

- Rowan*

He knew exactly what he was doing with controlling me. He's a complete narcissist and more than likely has Narcissistic Personality Disorder (he ticks every point on the checklist). He neglected his own 2 year old child as a way to make me care for her and then got mad at me if he had to do so much as change a nappy himself. He also lied and withheld vital information such as his huge debts before we moved in together and that he was unable to pay the rent after only a few weeks. He then blamed me saying it was due to furniture and appliances

purchased even though he made me use MY credit card and MY AfterPay account and he only contributed minorly
Manuella*

Even things obviously done on purpose, and those admitted to, I have accepted as "unintended". There is some shifting combination of reckless, intended, unaware, ect. Around and Post separation it appears she feels more justified in having no choice but to, or that things are acceptable or reasonable. There was a short period of a few months where I had some insight into how this happened because she would tell a friend or psychologist select information/distorted truths/outright lies, and they would tell her what she wanted to hear. It's hard to tell about most specific incidents if they were reckless, unintended, lacking awareness due to her own emotional state etc, or straight up cruel and intentional. There was a point where the differentiation stopped mattering, because she WAS aware of the general and significant issue, and not addressing it at all, did cross over into making a choice to continue it. I hope that makes sense. I don't think she was aware of the scope of the psychological harm she was causing early on and throughout our relationship, or how much she was controlling me. I wasn't either. I was aware (until told I was wrong) it wasn't okay though. To varying extents, she was aware it wasn't okay either. Sometimes that meant we accepted it was just part of the less great aspects of her, rather than realising it was harmful choices she was making. I think the denial about the harm caused to our children in the last two years is pretty strong, and there isn't much awareness there at all. I know it's a protective thing, and I'm actually more cross at systems for letting her get away with and continue it. It's definitely made her worse. That doesn't mean I don't think she is responsible just because she isn't aware it's not okay.

- Theresa*

Intended, everything he did was to gain and maintain power over me.

- Yara*

Yes, he was totally aware of what he was doing. I was not his sole victim.

- Caterina*

Yes as he knows how to put on the charm with others. No in that he has ADHD and strong narcissistic tendencies so not sure if he knows or cares ... it's complicated

- Gabriella*

Any ABUSE by Perpetrator was/ is PRE MEDITATED!

- Cordelia*

He wanted to take over everything in my life friends family having a child. Finance with the treatment of I'm everything to him and no one would care as much as him

- Aida*

Yes he wanted to isolate me so he could also access my finances and have a child to keep taking money from me

- Sari*

Q.15: Have you ever formally reported the abuse you experienced?

Responses:

- 84.72% (or N = 61/72) = Yes
- 15.28% (or N = 11/72) = No

Comments:

No, I have no physical evidence. No one would believe. Sometimes I still feel like its not true. My psychologist has confirmed that this is just related to my trauma. Also terrified he would want revenge. Safer to not report.

- Clara*

Contacted the counselling services

- Priyanka*

Initially, I wasn't believed when I reported that he threatened to kill me & make it look like an accident if I left him & told him about his D&FV. Also, that he had said, re the father who drove into the dam killing his 3 sons one fathers day - "the poor bastard probably had no other choice". Nobody believed me - but by the end of the 2nd trial, they did! (albeit - he relocated to live within [distance omitted] of me, after I relocated from him). The FLC gave him my address.

- Nora*

I reported it a year afterward. He denied it and then took out a civil restraining order on me stating I was the abuser

- Anisa*

I was always too scared too. He had me convinced noone would believe me anyway. He threatened to harm my children. And reminded me constantly that he was the only person in our world. I have history of depression and anxiety and feared this would also be used against me. I feared my children would be removed. However, I am now speaking to detectives about historical sexual assaults and have made an initial report

- Tamar*

I reported to police. They took no action so I took family court action.

- Aya*

But only after I had left. There was an AVO and also during the family court proceedings.

- Niamh*

Yes reported it to the police on [date omitted] then are the event numbers with the police with destroying my property within text messages and using a third party involvement in harassment and intimidating and again to the police on [later date omitted] I gave all my information to the police there has been no acknowledgement and no event number for the information that was given it has been totally disregarded

- Saoirse*

It escalated to the point of police applying for a DVO.

- Arifa*

Only after I left. I was too scared and confused and didn't really understand what had happened until I got out of the situation. I spoke to police and for DV support but never had him charged with rape (2 had happened overseas and I had no evidence to support a claim here). I just wanted to get away with my daughters and be safe and free

- Rayan*

An ADVO is currently in place however he was unable to be charged with physical assaults as he stated in his police interviews that he had no idea how I had sustained my injuries and that he thought I was suicidal, therefore protecting me. Prosecutors felt this was going to be too difficult a defence to fight for charges of assault.

- Sheema*

I reported the incident of my partner talking about killing himself or me to police the next day. Initially police applied for an AVO with condition one. However, I reported the incident to a command centre that was not in the same LGA as where the incident happened and where I had been living. The matter was then transferred to the relevant Police command and the DVLO charged my partner with intimidation and stalking, and added bail conditions which included no contact and for my partner to not come within 100 metres of me. Police put in an application to amend the AVO to include the bail conditions and they applied to add the children as PINOP. I now have an interim AVO which names me and both children as being in need of protection and it includes conditions 1, 2, 5, 9

- Min*

There are 2 AVO's out on my husband but he is now financially abusing and controlling me through the court system and our work network as we both work in [work industry de-identified]. He still insists on ignoring all the boundaries I try to put up to protect myself and my daughter

both psychologically and physically. He is charismatic and is able to convince people all the time that he isn't the person who could also be the man who has been charged with strangling me, crushing my jaw, fracturing my knees and threatening to kill me.

- Diana*

But not until towards the very end of the relationship, when we were trying to escape.

- Arabella*

Informally sussed it out but knew it was going to be too traumatic and/or can't really prove it or be believed.

- Poppy*

I have very recently finished giving a statement to the police.

- Etta*

There was an incident at my house where my mother came over to drop off some books for my kids. My husband hates her and does not want her in the house. So he locked the doors so we couldn't come in after being in the backyard (which is where we intended to stay as I have been told she is not allowed in the house when he is there). I explained she needed to use the toilet and could he just go into his room for 5 minutes. He refused and started shouting at me and being verbally aggressive, then started slamming his fist on the window, at my mother, which she and my kids could see.

- Amar*

My Gp and Psychologist are aware

- Alma*

Once in [early omitted year] but they didn't take a statement and again in [later in omitted year] where an AVO was taken on my behalf.

- Drisana*

He was convicted of common assault there are three more statements going through

- Annika*

Had to ADVOs. The second included two of my kids.

- Dasha*

Verbalised to councillors, service etc. But stalking near the end close to my escape. Beat up my dog, access my roof space, did something to my car, knew someone was outside my house. Scary embarrassing wheelies outside my home. When this escalation started I had been planning sometime to run. I took my daughter and fled interstate, I knew murder was coming

and the police confronting him was not going to help, I suspect he was getting very mentally unstable, more than before, through all his stalking and access to the children he knew I was I was going to do something. Even to this day, I think if he had the chance he would finally destroy me.

- Serri*

Yes I have wasted years of my life in court from the age of 17.

- Alegria*

I have spoken with counsellors and friends. And with my sister and mum who is still with him.

- Harper*

I was afraid of the consequences. I was scared of his reaction as he was unpredictable. I was afraid of depriving my children of their father. I was scared that I couldn't financially provide for my children. I felt weak and helpless.

- Juliana*

To Police - they did question him over the sexual assaults. He said they were consensual. Police said difficult to prosecute. I put the abuse in the affidavits in family law proceedings. One of my children reported to her teachers the physical abuse she suffered from him. The Department contacted me and I explained my plans to leave the home (with both children). My son reported the abuse he suffered to his psychologist. It is gutting to find out what was done to the children and like mothers do - try to keep looking after them and sacrificing what impact it has on me as the mother. It will haunt me forever my son [age omitted] telling me over [a few] days that he was going to kill himself because of what his dad was doing. So there is reporting of abuse but there is no holistic review of all the bits and pieces of the abuse. The family report writer (for the child inclusive conference) can only get a tiny bit of this information based on their time limits. I was fortunate - I succeeded in Sole Parental Responsibility regarding the child (other had turned 18 by then) to rebut the presumption shows that someone listened to the abuse. But it continues, in a different form - this needs to be followed up - if the court recognise how bad the abuse is - why just leave people suffering from there - it is very likely to continue if it was really bad. It is like being in a war zone - I don't know when the next danger is going to come upon me.

- Amanda*

I went to the police after we separated to get protection as my ex was turning up at the school and bus stop causing scenes and behaving in an intimidating, controlling manner towards myself and the children. It was scaring us. The DVLO said that there wasn't enough evidence for them to support me in taking out a dvo. They did say that I could take it to the local court on my own but didn't like my chances of being granted a DVO. I was too scared to take that risk without the support of the law. Instead I moved myself and the children from our home to my mothers home. We have been through the family courts twice. Our most recent was due to him

not allowing the children to change schools (at their request) and me to move an hour away from where we were living to support them doing so. Even though his time with the children would not change. We are awaiting the outcome of the final hearing

- Shante*

When my ex-partner was charged for assault I attempted to tell the police about previous incidents but they were ignored. The police asked "why didn't you report the other incidents at the time?"

- Anamaria*

To police. Then later, post the physical attack and IVO, the police on multiple occasions - he was charged with contravening but it took so long to get to court that the police withdrew it ('no other instances'). But he'd just changed his approach. Judge at court when he sought early release of firearms asked if I'd been all that hurt if no ambulance was called. But then heard about other phone calls and odd behavior (like asking for guns isn't) and denied him the permission to have his firearms Licence reinstated or guns back. Said he 'couldn't help but think this is about getting one up on [female name de-identified]'.

- Flora*

I had to phone the police once as he said he would kill both himself and our daughter, I felt it was just a ploy to drive me up the wall but 1800 Respect were quite forceful when I called them in tears and wouldn't speak to me until I called the police. The police were then horrific, yelling at me and I felt abusive towards me. There was no care or compassion or understanding. They left that day thinking he was a model citizen and I was the crazy one. They turned up with him and my daughter from the beach before they even spoke to me, after I begged them not to go find them in the end as I would just pay for it later. I just wanted to sneak down to where he said they were going and check on them. So the first time I speak to them in person they are marching him back in the front door, my daughter is stressed and upset and they told me he seemed like a caring loving dad and I was the upset hysterical one. He flat out lied to the police and said he never said what he had. I WON'T be calling them again or 1800 Respect either.

- Jamie*

Mostly in the last 5 years it was the behaviour and difficulties that we were having with the kids that was being reported to the police and child protection authorities, but because I was willing to cooperate and seek the assistance of social workers, counsellors and psychologists, etc, and because of the early/prior history of violence and abuse (the abuse was continued and taken advantage of by him, and was also the perfect cover for his ongoing activities), we went under the radar as to who the actual culprit of the current problems were for quite some time. It was an accumulation of the repeated behaviour and exposure of the kids to people who I deemed to be inappropriate and unsafe, along with bullies and known predators that made my suspicions increasingly dangerous for myself, and his abuses/exposure, along with grooming and abuse of my children escalated in the last [several years] of the time we were

together, resulting in injuries to the kids, increasing ill health for myself, and outright violence towards us all when I challenged his behaviour, and particularly when I demanded a divorce. I felt unable to go to the police or DV services safely at the time of seeking to leave the marriage, and attempted to seek assistance in secret, but was told that I was overreacting, transferring previous experiences and traumas onto that situation, and was unable to access assistance aside from opening a secret bank account, then and there, when the bank was located on the busiest intersection of the regional city where the counsellor was located. I felt completely alone and trapped by that stage, and the advice of planning and saving money secretly was absolutely useless as he was watching my every move, monitoring my social and community access, and had complete control over my bank account and income.

- Rowan*

Filed the sexual assault immediately when it happened. Investigation still ongoing. Police removed him from the apartment upon serving the ADVO with the additional circumstances such as not to go within 100m of myself, home, workplace, etc. and that he also can't contact me unless through a lawyer.

- Manuella*

Yes, though not much. Some of the times I have to police, I have realised later the police have no recorded it. This is despite conversations where they have brought up AVO's (and I have said no). When my then partner called 000 and reported I "was going to kill myself". I misunderstood a police officer when he said not to worry that it would be reported as DV because they had to write something. I had been relieved, thinking he understood my few attempts to bring up abuse, and I would get some help. What happened was the other police officer (who didn't speak to me at all) made a DV report against me. The police report mentions "fighting", possible separation, my ex's reports of my previous mental health, and what she saw as "emotional instability", and her report of me being suicidal. I know suicide threats can be part of DV, but even if her reports were accurate this wouldn't fit that! Because police became frustrated with her calling them for ridiculous reasons (later calling 000 for "keeping her awake". It was [prior to midnight]. I tried for 15-20 minutes about something she had been promising to all day. This was a repeated pattern. The topic was directly related to the separation she wanted. She wouldn't do anything about it though. Just get angry about it whenever I annoyed her in anyway.) Because of this, police called everything "tit for tat" "all separations are hard" etc. I only started speaking to them in the days before my ex took my kids for 3 weeks, so they were saying that when things had gotten quite bad.

- Theresa*

Q.16: If you reported the abuse to the police, did you experience being misidentified as the primary perpetrator of the abuse?

Responses:

- 59.15% (or N = 42/71) = No
- 21.13% (or N = 15/71) = N/A
- 19.72% (or N = 14/71) = Yes

Comments:

It's complex because the police identified me as a victim, but then he got an IVO against me that made me into a perpetrator which meant he was believed.

- Charlotte*

My ex-husband told them I was emotionally disturbed and that I had kidnapped the children. He lied about our marital experiences and our family dynamic.

- Nora*

I have not heard from the police regarding any of the information I presented to them in paperwork with support letters Psychologist reports and other information.

- Saorise*

It was very difficult to express the coercive control to Police. It was only when the police found empty bullet shells in my garage) when the officer offered to temporarily fix the damaged garage door the POI kicked in) did the investigation escalate.

- Khadija*

No, but without evidence they said it would be just his word against mine. He was clever and charming and played nice. I knew he was dangerous and just wanted to be free to get on with my life. If we'd gone to court, he would've used the system.

- Rayan*

Not misidentified but I was treated as "just another domestic violence victim" as in they didn't care and they showed it, they constantly would say when they arrived why did you answer the phone (because he had called me 50-100 times) why did you respond to him (coz he bombarded me and wouldn't stop) always why to me... I felt victim blamed a lot.

- Nari*

Police were very supportive. While they were very sterile in their presentation and even asked if I had consented to injuries I received, they were very professional and I feel supported me to the extent of their professional capacity.

- Sheema*

However, my partner has since lodged at least 2 false police reports where he is questioning my care of the kids and suggesting that I am harming them. Police have closed the matters after speaking with me.

- Min*

Not sure. Despite a threat to murder in the documents I showed Victoria Police, the individual officer did not consider it a crime at the time.

- Maeve*

Initially I was in a complete state and could hardly speak at the station - I was crying and distressed. They pushed for me to make a formal report but I was too scared. When I eventually did they cops at first were skeptical acting like I could be making it up - till I showed them all the time stamped photos then they wanted to make the charge. But it is scary not feeling like our society wants to believe victims. I am grateful that I am not any weaker than I am or it would have stopped me from having the courage to stand up for my daughter and myself

- Diana*

My son was also assaulted by my ex husband however the police identified my son as a potential perpetrator so as a result, they did not charge my ex husband with my son's assault, because they then said they would have to charge my son with assault on my ex husband.

- Shireen*

The detective assigned to my case was only ever supportive and respectful.

- Etta*

I wasn't misidentified by law enforcement, rather his attorney attempted to portray me as the perpetrator

- Evelyn*

I don't know. I spoke with the police and explained the situation - they went and spoke to him and said they would say he is being unreasonable. He laughed at me when I returned to the house.

- Amar*

But they did not understand why I had to continue to communicate with him - family court orders to arrange visits with kids.

- Dasha*

Not in [de-identified State] (only made [a few] calls, one visit prior to leaving) but I also wanted to let them know if something happens to me, (also my steering wheel came off suspect he did

that, as lots of stalking prior to that event, coincidence that I didn't have my children that weekend, would have only killed me. The lawyer in Tasmania after a threat, believed me. In essence I put up with it all, many years of terror and compliance to protect my children from the truth. But also had figured I was on my own and with careful planning and knowledge my only hope was to move interstate.

- Serri*

The police were hit and miss over the periods I went and reported the abuse. One of them didn't care - I put in a complaint that they need to take this seriously. Other police were fantastic. One of them escalated me to a family violence type unit who did a risk assessment - they told me to stay guarded. At times they have helped me by putting additional alerts on me - ie making me a priority if I call etc. In relation to an order I had for him not to come near my workplace - well the workplace is near the shopping centre so he would tell the Police that he was out shopping - so the hands of the Police were tied. I'm sure they were frustrated but him being near me at the workplace was too scary. It was also scary as he subpoenaed my attendance records at work - so he knew the hours I kept. This approach by him showed how much he wanted to know about my life.

- Amanda*

Police attended after I was assaulted and were confused about who provoked who as I disclosed my fight/flight/freeze responses and decided not to charge ex-partner. The following day after a review of my injuries they charged my ex-partner. At the hearing, this "erring" of police was detrimental to a conviction and charges were dismissed by magistrate.

- Anamaria*

Husband befriended very young officer at our local station and started changing pickup to be done there. The officer said my mother did this to my father too' and a few weeks later served me with ex's IVO application and actually said 'we advise the guy, if she slaps one on him, to slap her back. It makes our jobs easier. Evens it up'

- Flora*

per above. They couldn't understand, they thought he was a model citizen. I said I asked you not to go and find him and they yelled at me, what if we didnt and did kill them. I get it but yelling it at me didn't help when him yelling at me is part of the problem. I had to ask them if we could speak out the front as he was in the room when they tried to finally ask me about what happened. When I said I will pay for this later they said to me well if he comes after you call us back then when he actually does something like I wasted their time. They also sent 2 men. After all my work I had done, they made me feel crazy too. I was seriously questioning my sanity again, if the police an "authority" think I crazy, I must be. But I had read Jess Hill's book. I think that saved me from slipping back under. The more younger, gentle, less dominate of the 2 police pulled me aside before they left and whispered to call again if I needed to before it got bad, to not be afraid. Almost as if he had a better understanding but couldn't

speak up in front of his partner. I will hesitate to call them again. I wasn't arrested or suspected of abusing him but of being "crazy" and wasting their time.

- Jamie*

After we escaped and relocated, we were ignored by police when attempting to report the stalking and harassment, along with a refusal to assist with a police AVO until my daughter started disclosing his extensive abuses towards herself, brother, and other children.

- Rowan*

Not in this case with the sexual assault. There was an incident a week prior to the sexual assault where he accused me of physically assaulting him and police mistook me as the perpetrator due to scratches on his arms that they didn't examine closely enough to actually see they were defence scratches from struggling to free myself from his grip. When the sexual assault occurred and I reported it, the original officer that arrested me for the alleged physical assault felt horrible but couldn't do anything about the assault charge against me.

- Manuella*

My ex called the police initially, but I did bring it up. This happened 3 times in slightly different ways. The actual protection order was taken out in Canberra (ACT residents). I'm usually told this isn't allowed, and there have been cases where it's been dismissed later because of that. My ex works in Canberra though. (She was on leave), which is how she justified it. I signed undertakings under duress so nothing was ever addressed. There was even less information sharing because of the ACT/NSW border. NSW police would not issue her one. Months later, nsw police forgot to investigate an incident where she and her sister and sisters partner have chased me and the children for 20 minutes in the car after trying to unsuccessfully trap us there. They forgot because she rang up nsw police 6 hours later and reported a breach of the ACT FVO saying "she stole my keys and tried to trap me in a conversation". The police officer laughed and said "your story does make more sense". I had been on the phone several times as the incident unfolded. Including around the time she made the report as she was sending me texts like "you know I am here waiting for you at the gate", while I waited over an hour in the dark and [Location] winter to drop my children off at the rural property safely. The police "forgot" to investigate this because she rang up afterwards and reported the "breach", so they investigated that instead. (Literally what the officer told me.)

- Theresa*

My perpetrator was a master manipulator.

- Caterina*

Q.17: If you reported the abuse to the police, did you feel that they took your report seriously?

Responses:

- **40.00% (or N = 28/70)** = No, not at all seriously
- **34.29% (or N = 24/70)** = Somewhat seriously
- **15.71% (or N = 11/70)** = Yes, very seriously
- **10.00% (or N = 7/70)** = N/A

Comments:

It was only the first officer I spoke to that believed me.

- Charlotte*

The police told me what my ex would say and how he will respond - before they even met with him, or spoke to him. The police told me that D& FV was just a game. True!

- Nora*

My experience was the officer who took the initial report was very understanding and made me feel heard. However, I was also reporting child sexual assault and not just the dv and sexual assaults if the relationship. The detective who took a statement and will be investigating has been supportive. Understanding my concerns about filing a report while in family court and it being used against me there.

- Tamar*

They did visit and speak to him but took no action and said it was a matter for family court. On another occasion that I called the police following a threat, they told me to screenshot any threats but at no time did they say they would do anything.

- Aya*

This is a hard one to answer as I had two official dealings with the police. The first to report a stalking/intimidation incident. The policeman was dismissive, not supportive, made me feel terrible and gave me a fake incident number. The second time my ex had called me over 30 times in 30 minutes. The police constable was great and he was the one who went forward with the AVO. He did the DV safety questionnaire when he came to my house and put me in touch with victims services for support.

- Niamh*

Not at all. The Police only listened when empty shells (as above) were discovered by police and the POI did not possess a firearm license.

- Khadija*

Some officers did, others were woefully disinterested.

- Ciara*

They were fantastic and I felt they understood very well each aspect of the abuse. I felt heard and supported.

- Arifa*

They took it seriously but I knew they needed more training to identify my fear and terror when they came to the house when I called them on the day I left. The young female Constable ended up chatting and joking and with my husband. If she'd been aware, she could have helped me identify what was going on and I could've got an AVO or more protection.

- Rayan*

Victim blamed constantly I would hand them all the evidence from him threatening me, constantly contacting me while having a AVO with no contact through text messages or sending me [more than 30] letters from jail but because there was so many they couldn't be bothered to read them all and just put them down to a breach, he was sending threats from prison, he got away with this as the police didn't put the threats in the brief so his lawyer said that he was writing me letters seeking comfort as his aunt had passed away.

- Nari*

I reported at [de-identified police station] police and I did not feel they understood the level of risk I was in, as they only approved condition 1. [De identified police station, different from former) Police who took over the matter took it very seriously.

- Min*

I was treated respectfully.

- Maeve*

I know now that I have their full support they have met him and seen his behaviour first hand now.

- Diana*

The initial reports were not taken seriously, and I had to apply for a civil AVO with the assistance of the court registrar when the stalking started after he found us.

- Arabella*

Depends who you get.

- Poppy*

Not at all the first time, definitely the second time. Most breaches were not taken seriously unless I reported them to female officers

- Drisana*

It varied. Some were excellent, the worst was the DVLO at [de-identified police station].

- Dasha*

Some counsellors absolutely not, I took my kids to a counsellor for strategies for the use of a contact centre and that I had taken them interstate. He could have seen them on holidays even I would have found the money to do so. He followed where his family is, torture, then I had ideas of fleeing again and reducing his ability to follow again, took 8 terrifying years. Every step was severely punished, exposing him gave him a deadly anger. [State de-identified] police were great, but police help was not going to save me and I didn't want that exposure for my children, so my decision to keep fleeing to stay alive finally worked. Incidentally I have never re-partnered and took 20 + years to stay alive.

- Serri*

In the case of my mother, police took the abuse somewhat seriously, often sending FACS to follow up, but did not seem to comprehend the true severity and harm caused by the abuse, and so they rarely followed through until I became homeless at 16 after being kicked out. In the case of my main rapist, the police took it extremely seriously, despite the fact that the kidnapping and gang rape I experienced was not nearly as bad as the abuse I had endured growing up, for 16 years.

- Alegria*

It was hit and miss - see response above. Some took it seriously, more often than not it was taken seriously.

- Amanda*

I definitely felt unsupported, let down, disheartened and very scared.

- Shante*

Police didn't recognise patterns of behaviour and were dismissive of records/evidence that I had noted of previous injuries and incidents

- Anamaria*

*Depended on who. One night, a [day of the week], the children [age omitted] were with their dad. Phone rang [late evening] and make voice - first hung up because it wasn't me answering, called back and said 'tell [name de-identified] the children aren't safe with their father tonight. I was frightened but suspected he wanted me to race over to his and be labelled crazy. The policeman- another young guy said after the welfare check (I was admonished) that he'd look into phone records. Told me next day his boss said no as a one-off. He later told me he got the number and checked it out: 'I visited your ex. I don't think it will happen again...unfortunately no law against being a pr**ck...but come and see me if it escalates' he just found other ways*

- Flora*

My case was reassigned after the first officer was ill and away for weeks immediately after I reported. First (female) officer was somewhat sympathetic and took immediate action to investigate and take statements. The second (male) officer avoided contact with me, dismissed incidents: 'there was nothing physical', and dismissed my ongoing safety concerns: 'if you were really scared you wouldn't have taken 6 weeks to report'; 'well, come back if he does something else'; 'an AVO/AVO application might just provoke him'.

- Rosalie*

Initially it wasn't safe to report the abuse to the police, as we were in a small regional town, with only part-time police presence. I was also aware that he would deny any wrongdoing to the police, and as there was no overt physical abuse towards myself at the time, it would be unlikely that the police would believe me, or eject him from the house, and if they did, we would be left in a vulnerable position once he was released on bail. Those concerns and fears about police assistance ultimately turned out to be grounded, along with the fears that his behaviour would escalate once we did actually escape, because they did.

- Rowan*

Not initially. But after a friend of mine from the police force (different area) contacted the police in my area I was assigned a detective.

- Juniper*

They issued the provisional ADVO and removed him from our shared apartment almost immediately. They also allowed the case to be reinvestigated and take a further statement in November, on which I'm waiting to hear any updates on as they originally couldn't charge him. I wouldn't accept this and after some research and learning the official terminology, I was able to understand more of what happened and through talking with helplines, friends, family, my psychologist/psychiatrist and additional DV and sexual assault specific counselling, I was able

to gather more evidence to prove the events of what had happened. I feel confident with the extra information that he will get charged before Christmas.

- Manuella*

Some did, some didn't. I asked an officer at [de-identified] Police Station, (due to fear), if they could 'notify' me once my perpetrator had been released from their cells back into the community, to which they failed to do. When I asked them why I hadn't been notified, the officer sarcastically said to me, "What, do you want us to sit out the front of your driveway 24/7? I entered [de-identified, different from former] Police Station to get a copy of my event numbers which I needed at the time. They treated me like the perpetrator. When I asked the officer if they could inform me of which incident related to which event number, they said "Well shouldn't you know, if you were there!". I felt humiliated and brushed off. I felt those two incidents were not taken seriously at all.

- Caterina*

There should have been an AVO and there have been more follow up with me to check on my welfare to see if I needed help. Even after he has left now the abuse is the same but different.

- Gabriella*

Some police took my report seriously. Others treated me like I had mental problems and accused me of over reacting.

- Serena*

Q.18: Did any of the following factors prevent you from reporting the abuse or make you reconsider whether you should report it?

Responses:

84.51% (or N = 60/71) = Fear of the perpetrator

- **74.65% (or N = 53/71) = Lack of confidence in the system's ability to protect you**
- **71.83% (or N = 51/71) = Fear that you wouldn't be believed**
- **67.61% (or N = 48/71) = Lack of evidence of the abuse**
- **64.79% (or N = 46/71) = Lack of confidence in the police**
- **63.38% (or N = 45/71) = Not realising at the time that what you experienced was abuse**
- **61.97% (or N = 44/71) = Fear of engaging with police and courts**
- **60.56% (or N = 43/71) = Fear of judgment/stigma around reporting to the police**
- **46.48% (or N = 33/71) = Fear of alerting child protection services**
- **39.44% (or N = 28/71) = Believing that what you experienced was not against the law**

- **39.44% (or N = 28/71)** = Previous dealings with police (e.g. police unwilling or unable to take action as the behaviours weren't considered criminal)
- **35.21% (or N = 25/71)** = Inability to contact support due to the abuse (e.g. restrictions on your movement, your phone being monitored etc.)
- **35.21% (or N = 25/71)** = Other (please specify)

Comments:

Societal Pressure or Image that could do further damage and risk.

- Priyanka*

I felt that I had no support from our system at all. They failed me on a few occasions and my perpetrator knew how to manipulate the system.

- Dahlia*

In the beginning - I had total trust in the system and never doubted for a moment that I wouldn't be protected and helped. Now - after all my experience - I've changed my perspective. I found the [court de-identified] judge amazing; and the Barrister for the ICL amazing, but my own Lawyer stated to me that she wasn't paid enough to properly represent me & I have since lost absolute and total trust in the service sector (and I'm a Social Worker with a Master's Degree!!)

- Nora*

Previous history of mental health issues(depression and anxiety)

- Tamar*

I struggled to find services / police etc who were sympathetic to DV occurring to a lesbian.

- Ciara*

I didn't report a lot of the abuse in the end and tried to deal with it myself as I didn't want to deal with the police and be let down again.

- Nari*

He threatened to report me for things he felt were abusive and therefore take my psych registration.

- Sheema*

A counsellor I saw in secret approximately for [a few years] years before we escaped said that I was overreacting to the abuse and transferring previous experiences onto the current situation. She claimed that there was no help available for my situation, and that I had to agree on the spot to opening up a secret bank account (which was located on the busiest intersection in town, when I was being stalked/surveillanced closely by my ex), and that I needed to plan and save, when he had control over my existing bank account. She later called unexpectedly to inform me that she was leaving the service, placing my safety at risk because my ex would listen in on conversations.

- Arabella*

I originally went to the police to get an ADVO, it was how seriously they took the matter that made me realise the severity of what happened. Their treatment of the matter is the reason I felt as though I could continue with the process - I was lucky.

- Etta*

Fear of other members of the community knowing about the abuse ... shame

- Aditi*

He was an [professional sportsman] player [team de-identified] & police held him in high regard. He avoided any consequences of his behaviours for years.

- Evelyn*

To shield my children from police courts etc, definitely knew my life was at risk anyway, exposing the perpetrator, challenging their control, no this is not something I could do in the same state. This man was an extraordinary stalker and did not work, also engaged others.

- Serri*

In childhood, police had generally made things worse by contacting my mother - my abuser.

- Alegria*

There is a strong push not to use the local court system for protection orders when you are about to head into Family Court.

- Amanda*

Because my abuser was so manipulative and coercive I think I was uncertain a lot of the time about what behaviours were against the law. He was very clever about what type of abuse he used. I see now that even when he was being 'nice' that too was a part of his coercive control.

- Shante*

I blamed myself and thought "if only I... changed/did things better/ understood/ wasn't so emotional/ etc" that these things wouldn't keep happening. I lived in hope that the relationship would improve. After each incident, for a brief time things did improve, then the cycle started again.

- Anamaria*

Family court. Lawyers said just say nothing and take the custody arrangement. Courts get upset with mums who criticize dads'.

- Flora*

I was very afraid of involving police, because at the time he was living in a shed on vacant land we owned, and I was worried about council getting wind of it and throwing him off the land. It was another reason I never even considered calling police to the property during many incidents there.

- Rosalie*

Although I did report it almost immediately, I did feel embarrassed and ashamed of what happened and the reporting only came about due to calling police mid panic attack and admitting to feeling suicidal which prompted them to send paramedics. The paramedics were all females and I felt comfortable around them and ended up blurting out what had happened which then lead to a series of overwhelming events with having to give the initial report at hospital, doing the forensic medical, making the official statement over three days due to the stress and trauma... upon reflection, it would've been better if I had had professional mental health support alongside me when making the report as I would've been able to make a clearer statement rather than the rather confusing and messy one I made which ultimately lead to my rapist not being charged. I was very confused with the entire process and considered giving up throughout it as it was so traumatic to retell what had happened directly after the sexual assault had happened.

- Manuella*

All of these at various times to varying degrees. All have played a significant part. Fear of child protection was huge, and I regret that. For a long time, even when things got worse, I believed my ex could change and didn't want to hurt her by getting her in trouble in any way, even by having people know what she was doing.

- Theresa*

After I got a friend to call the police one night when he was screaming at me - he told me who it was that called - said he had police contacts that told him who it was (through a third party) that called police and that if I ever call them again there would be consequences.

- Gabriella*

He always stated his words against mine and I'd never be believed.

- Aida*

Q.19: If you ever disclosed the abuse, who did you feel most comfortable speaking to about it?

Responses:

56.94% (or N = 41/72) = Counsellor

- **52.78% (or N = 38/72) = Friend**
- **41.67% (or N = 30/72) = Domestic violence specialist worker**
- **25.00% (or N = 18/72) = Family member**
- **25.00% (or N = 18/72) = GP or medical professional**
- **18.06% or N = (13/72) = Legal service**
- **9.72% (or N = 7/72) = Police**
- **6.94% (or N = 5/72) = Carer or support worker**
- **6.94% (or N = 5/72) = Relationship services**
- **23.61% = Other (please specify)**

Comments:

The first police officer I spoke to, then a sexual assault counsellor, then a family violence counsellor.

- Charlotte*,

I actually found the DV specialist workers didn't have the experience, empathy or comprehension of the extent of my experience.

- Nora*

I did report what was going on before I even fled from my home.

- Saoirse*

All of this was after I left.

- Rayan*

I really didn't speak to anyone cause you soon learnt that no one wants to hear it

- Nari*

Psychologist in a Inpatient facility for trauma

- Patricia*

I didn't disclose the abuse for quite some time to anyone at all.

- Arabella*

told a school friend who betrayed me and told the bullies who further abuse me so I shut down and blocked it out.

- Poppy*

Female police officers.

- Drisana*

With the lawyers absolutely need to understand the pattern not the incident.

- Serri*

Psychotherapist

- Alegria*

But not everyone saw a complete picture of what went on and what continues to go on.

- Amanda*

During the relationship I didn't really disclose the abuse to anyone. Now feel comfortable speaking about it

- Shante*

Psychologist (trauma informed)

- Anamaria*

Mostly I didn't. Because there was no practical solution that I could see. I hoped he'd get less angry over time. Was also penalized on my income protection insurance at renewal for answering yes to having seen. Psychologist

- Flora*

but this was only towards the end of the relationship or even after the relationship ended

- Eva*

My (male) GP is special and has been amazing. He was naive like me though, and didn't realise the levels of manipulation.

- Theresa*

Q.20: Have you ever experienced the police telling you that the abuse you experienced does not count as evidence of domestic violence?**Responses:****65.28% (or N= 47/72) = Yes**

- **34.72% (or N= 25 /72) = No**

Comments:

When I sat with a sergeant at [Location] who treated me like a spiteful vindictive nasty wife out to get her ex-husband.

- Charlotte*

They told me that D&FV is not a crime. You need evidence to get an IVO, and if he breached the IVO - then that was a crime...but he breached multiple IVO's over a decade and never got into any trouble for any of it. The police told me that "IVO's are designed to make you feel safe, they're not designed to get ex-husbands into trouble". Even though my ex breached every order & I never once instigated any of it & I reported all of it! My ex said "a piece of paper will not stop a man with intent".

- Nora*

I experienced some stalking after separation. Important Mail going missing, someone being in our yard and evidence of that. Upon making a report this officer insisted there was no proof it was him and my fear was unjustified. It was minimised and I felt that I was a nuisance and more paperwork for him.

- Tamar*

They said it was a family court matter and not domestic violence even though I had screenshots of text messages containing threats and abuse, photos of property damage.

- Aya*

When he stalked and intimidated me in the park. I was too frightened to report it initially so I went in two days after the incident, after the case worker from the DV charity that was helping me persuaded me to do it. The policeman was really dismissive and made it clear that he had no time for my story. He made it clear that because I didn't report it straight away, he didn't think it was serious and that I was just over reacting. I tried to explain that this man had threatened to kill me on more than one occasion and I was terrified of him but it didn't help him understand.

- Niamh*

No but it looks that way Because nothing has been done and apparently it's okay to psychologically abuse somebody or to push somebody and say prove it With no consequences to the perpetrator.

- Saoirse*

Was told the first time (before physical violence) that I should just "document" and move away, change my number and get a solicitor if I thought I needed to get away. Was also told by the first police officer I spoke to before the assault, that "sometimes these things happen" when I mentioned my perpetrator was a woman. He told me to "just let her calm down" and then talk to her and that I should consider how it would "make her feel" if I went ahead with it.

- Ciara*

Even with documented proof, or they would just victim blame.

- Nari*

They said that him filing to the court pictures of the whereabouts of my car, 8 consecutive days in a row wasn't a criminal offence, that anyone can take pictures of anything if they want.

- Wendy*

Police agreed that the incident of partner telling me he had thought of killing himself and / or me was considered to be evidence of domestic abuse. I also disclosed a past sexual assault in my statement and have since given a statement about that. But all the other things and ways that I have been controlled aren't considered crimes - and so when explaining those things to Police they responded that it wasn't relevant to the incident I was reporting.

- Min*

Well that it was not a criminal matter at that stage.

- Maeve*

I videoed an instance of my exhusband breaching the AVDO by approaching me and abusing me. The police told me that I was in breach of the Surveillance Act by recording him without his consent.

- Shireen*

As there wasn't clear physical abuse/evidence (against myself), and he wasn't making verbal or written threats, it wasn't classed as meeting the requirements for DV or a police AVO.

- Arabella*

On form of their coercive control/stalking was that they would send me "flowers" or "gifts" to show me they had found me and let me know they "still had control."

- Poppy*

The opposite - I was worried it wouldn't count but I was encouraged to give everything I believed as evidence in my statement that I could recall.

- Etta*

Told to keep a diary etc, however this is more dominating your time scenario for me. This was not a fight I was going to win, I saved, I planned, I had no one in my home except my children. I diligently kept a low profile, put up with the stalking etc. Renovated a house but not overtly etc. and I felt for my situation. I had to physically be in another state to be safe and taking action was too dangerous.

- Serri*

As a child and teen my experiences were recognised as abuse but NOT the worst or most chronic aspects of it. I.e. the coercive controlling aspects.

- Alegria*

I went to the police for protection before my safe exit as I was afraid of his reaction to my leaving and they said that they can't help me unless physical violence had occurred in which case he would be arrested and charged.

- Juliana*

Most police have been good.

- Amanda*

Yes. I referred to this earlier. I went to the police after we separated to get protection as my ex was turning up at the school and bus stop causing scenes and behaving in an intimidating, controlling manner towards myself and the children. It was scaring us. The DVLO said that there wasn't enough evidence for them to support me in taking out a dvo. The did say that I could take it to the local court on my own but didn't like my chances of being granted a DVO. I was too scared to take that risk without the support of the law. Instead I moved myself and the children from our home to my mothers home. We have been through the family courts twice. Our most recent was due to him not allowing the children to change schools (at their request) and me to move an hour away from where we were living to support them doing so. Even though his time with the children would not change. We are awaiting the outcome of the final hearing.

- Shante*

The police were focussed only on the call out incident.

- Anamaria*

As provided. But I also met some who I felt wished they could do more for me.

- Flora*

Well they told me that he denied saying he would kill himself and our daughter and they thought he was an outstanding model citizen and it was my word against his and there was nothing they could do.

- Jamie*

Yes, they said because there was no physical injury, no charges would be laid and they didn't think it was necessary to apply for an AVO. This was despite terrifying physical intimidation and threats to my life.

- Rosalie*

If it wasn't physical and directly towards myself, it didn't count.

- Rowan*

The police agreed that the sexual assault was and is domestic violence, but when it came to the evidence provided, they didn't take into consideration certain aspects and information I'd provided until I was able to give an additional statement after a few months of gathering more evidence and knowledge about terminology.

- Manuella*

Kind of ... the first time said if I get an AVO then if he has mental issues it would go on his record and if he can't help his behaviour then he may bit be able to help get a record. The second time they came to the house they really should have removed him instead told me that because he hadn't physically hurt me there was nothing they could do.

- Gabriella*

Abuse by proxy non-threats but people told I was suicidal

- Aida*

Q.21: Have you ever applied for an ADVO, or have the police ever applied for an ADVO on your behalf?

Responses:

- 66.67% (or N = 48/72) = Yes
- 33.33% (or N = 24/72) = No

Q.22: If you answered yes to Q.21, was your experience of non-physical forms of coercive control used as evidence to support your need for the ADO?

Responses:

- 39.39% (or N = 26/66) = No
- 34.85% (or N = 23/66) = Yes
- 25.76% (or N = 17/66) = N/A

Comments:

It went unheard, by both Police and the magistrate.

- Dahlia*

The police applied for an AVO on my behalf due to my risk of suicide because of how my ex could induce that state in me, but they didn't identify it as controlling behavior or gaslighting or anything like that.

- Charlotte*

As well as physical abuse of the children and threats to kill both myself and our 3 children.

- Nora*

They said it didn't count as it wasn't against the law.

- Anisa*

It was based on the hard evidence of harassing behavior. When I stood in court the judge asked me a question and I tried to start explaining why I was so frightened of this man. She cut me off and said "the answer is no, yes or I don't know" and wouldn't let me speak.

- Niamh*

There should've been an AVO But I was ignored by the police on [year omitted, 2010's].

- Saoirse*

The ADVO was put in place as he had gone ballistic as I told him he was not to come over that we were finished, he turned up to my house at night, he was stalking, I caught him under a camper van I had out the front, he approached me and was then scared off by a neighbor, the next day I looked under the camper and found that he also had a knife, hammer, and a crowbar on him that apparently he had wiped the prints off of. He continued to abuse me by text that night even after the incident.

- Nari*

the police won't apply for one on my behalf, and nor will my lawyer

- Wendy*

I think so - as [police station de-identified] charged him with intimidation. And they cited my fear that he had been thinking about killing me for some time (as he had talked about me dying from suicide earlier in the year and he had shown me a documentary about Chris Watts who killed his wife and kids).

- Min*

I wish it was. It was in the family court - all his patterns of behaviour were made clear. I feel like on [date omitted, 2010's] when my ex has his criminal charge he will get off because he has expensive senior council and I have just a police prosecutor. Plus I know that they won't show any past evidence of all the coercive control and that he will flip the scenario to say I'm the abuser and make me out to be crazy - they have already threatened me saying this is their plan.

- Diana*

spoke to the police courts but was advised it could be argued as a "nice gesture" so never pursued an ADVO.

- Poppy*

The stalking and use of social media to send threats was used as evidence.

- Etta*

Endless abusive text messages, emails

- Dasha*

I guess as far as I know the fact that he called and threatened the lawyer's office, I'm going to get those or that liar? Might have been enough. (Just remembered that I think he was agreeable if the restraining order was reciprocal, devastating but I accepted (FYI a new DV funded councilor very small rural community, was manipulated by him and acted for writing letters on his behalf to the lawyer suggested my request for a DVO was ludicrous etc. I was very ridiculed

by proxy. I had been having phone DV support for some time prior. I complained to them and she was removed from her position. These men are genius when it comes to using others in their pursuit, but I was getting more knowledgeable about what i was dealing with now. I left the area. The damage he did to me through other people killed my spirit, you're not only fighting them but a whole army of others. this time was manipulated by him to act on his be

- Serri*

I applied for an AVO against my main rapist but was told I had no evidence, because he had raped me in high school as a juvenile offender and his record was now sealed.

- Alegria*

I chose not to apply for a DVO because of this. I was too scared to incase I wasn't granted it

- Shante*

ADVO was in relation to assault with standard terms. The police declined to ask for stricter conditions as they didn't see the point. I was advised to "forget about the relationship and get on with my life"

- Anamaria*

But, in court the next day, a very irritated judge (it was mostly going over my head) wanted to cross out something about him being prohibited from surveillance and posting anything about me. She said it wasn't relevant. I reached out to the advocate and said in a panic 'but he said he's got pictures of me and will publish them if I leave him' so she begrudgingly left it in.

- Flora*

The first AVO was a civil one where I was assisted by the court registrar in making the application and affidavit, as police would not assist me, despite attempting to report the abuse towards myself and my children, along with the stalking and harassment that was occurring towards my daughter and myself at the time. The second AVO was police one, after his continued stalking resulted in a breach, and intimidation charges (both of which were later dropped by the DPP in favor of cutting a deal with him). Both contained evidence of the coercive control and violence that he had subjected all 3 of us to.

- Rowan*

Hacking into my personal email account.

- Juniper*

Since it was sexual assault, the ADVO with additional circumstances was applied by and approved by the police

- Manuella*

Not that it did any good. It was totally overlooked and didn't seem to be important to the magistrate.

- Caterina*

Only the physical the non-direct threats weren't treated as threats

- Aida*

Q.23: Has your abuser ever been charged with a domestic violence offence and taken to court?

Responses

- **54.41% (or N = 37/68)** = yes
- **45.69% (or N = 31/68)** = no

Comments

As far as I'm aware his ex wife and myself

- Leah*

Numerous times, and is sent home to re-offend continuously

- Dahlia*

I don't know, I've never been told.

- Charlotte*

He has never been charged. FLC [family law court] - evidenced. The Judge even said it's one of, if not the worst case of emotional abuse that has been before her court.

- Nora*

Charged with firearms charges and only had to pay a fine. He pleaded not guilty and matter was adjourned on approx. 5 occasions.

- Khadija*

Yes, but not in relation to my case, in regard to a subsequent relationship.

- Ilona*

The police application proceeded to court but there were no charges laid.

- Arifa*

26 breaches of advo, intimidation, stalking, and physical abuse

- Nari*

but the army and police have records of his violent behavior

- Wendy*

Intimidation

- Min*

At the time my ex and he's friend were on parole.

- Patricia*

He is currently

- Diana*

With myself as well as two previous women.

- Shireen*

With his previous wife.

- Arabella*

not that I am aware of. I know one of them was attacked in their house and it was talked about as a "random" event...I'm sure it wasn't random.

- Poppy*

He has two previous ADVOs and was charged with stalking and actual bodily harm by two previous partners. He was on good behaviour when he abused me.

- Etta*

I've had a police issued advo but not sure of this answer

- Fatima*

Charged and convicted and breach of avo's

- Drisana*

Breaching advo. Fined. Would cost less than the fuel in his Ferrari

- Dasha*

Same reasons put up and run. Too hard to include beautiful children in this at least i knew if i put up with it then the children were oblivious. However still exposed to his hate, but conflict from

only one parent. I provided the normal ,nurturing, positive, routined home life and bundles of self esteem teaching, this outweighed going to War over the abuse and risking certain murder, it was going to happen but to some degree, i was delaying it and giving myself the best chance at escape.

- Serri*

My mother, no. My main rapist, not sure, but he already had a sexual violence history at ages [ages de-identified]

- Alegria*

However there has been risks identified through the family court process. During our first hearing he was still granted shared parental responsibility and access to the children regardless of the identified risks he posed. Our second time round in court proceedings more risks have been identified. Possible manipulation. The finding of this is up to the discretion of the judge

- Shante*

unsure, not by me

- Eva*

The charges were dropped after my [intellectually disabled], terrified, traumatised daughter was unable to face him in court and be cross-examined, and the police/DPP cut him a deal with the conditions of the second AVO.

- Rowan*

He had a standard ADVO against him by his former girlfriend/mother of his child from [years omitted, 2010's]I found via the free DV database, before it was taken down). I'm not sure if any charges accompanied the ADVO or not though. Therefore I can't answer yes or no to this question.

- Manuella*

On a number of occasions, however, he is constantly sent home to re-abuse. He is charged and has a long record, however this seems to mean nothing in the eyes of our system.

- Caterina*

I'm the 4th woman

- Aida*

I'm the fourth woman in 10 years

- Sari*

Q.24: If your answer to Q.23 was yes, were the non-physical forms of coercive control you experienced counted as evidence and used in court?

Responses

- 44.12% (or N = 30/68) = N/A
- 32.35% (or N = 22/68) = No
- 23.53% (or N = 16/68) = Yes

Comments

Yes, although not taken seriously by the system.

- Dahlia*

He let my application go through as a final ivo so it wouldn't be tested in cross examination.

- Charlotte*

They were when the family court judge made interim sole custody and recovery orders. She also made an injunction order against him.

- Aya*

Waiting on custody judgement still, [close to a year] since the final trial...sigh.

- Wendy*

I think so. See above answer re Police filing for AVO. At my last court hearing, my partner plead not guilty to the intimidation charges and he did not consent to the AVO. I was then asked by the magistrate to speak in court about why I'm fearful. I said that I'm afraid for myself and my kids because my partner has talked about killing me, his mental health is not stable and he lacks insight into that and this incident took place in the context of being a very controlling relationship. The magistrate then added the conditions police had requested, added my kids as PINOP and added another condition herself stating that he can't pick kids up from the school, vacation care etc. We go back to court [within the next few months] where the charges and AVO will be heard in court and I will have to give further evidence / speak to the video and written statement I already made. Hopefully the AVO will be made final at that time.

- Min*

Which is upsetting as despite how serious the violence was I am still most afraid of the psychological control and manipulation that I am still being subjected to and will take me years to recover from.

- Diana*

I am yet to find out as the first mention happens in [a few] days' time.

- Etta*

There again [year omitted, 1990's] or so divorced in [year omitted, 1990's], stalked, threatened, intimidated etc. until I discreetly built my resources and moved interstate again and finally, approx. [year omitted, 2000's]. This was terrible, to me moving was the only option. If I challenge I die, if I run I've got a chance.

- Serri*

Only during family court proceedings and I still needed other physical evidence of my ex's character to add weight to my claims.

- Shante*

Police were not interested.

- Anamaria*

Not really. Brushed aside. But I also had my dad strike out the material in my affidavit about the sexual things. I think he felt shame.

- Flora*

The conditions of the second AVO included clauses designed to stop his continued stalking and harassment of my daughter and I, however he has continued to do so, by finding ways around the laws, and 'skirting the edge of the legislation', according to the specialist DV service we were being assisted by at the time.

- Rowan*

However, the prosecutor said charges would be hard to prove and I wouldn't be a good witness for cross examination by the defence lawyer due to my trauma response and we should do a deal with the defence

- Ashley*

Against me.

- Adeline*

He would constantly say I would not be believed.

- Aida*

Q.25: If your abuser was ever sentenced in court, would it have been helpful if coercive and controlling behaviour was considered an offence during sentencing?

Responses:

- 63.38% (or N = 45/71) = Yes
- 35.21% (or N = 25/71) = N/A
- 1.41% (or N = 1/71) = No

Comments:

Definitely. This is something that desperately needs to happen.

- Dahlia*

Definitely.

- Niamh*

It was to a point. But that was because of the amount I had copped. I never forget the words that came from a judge mouth upon releasing him, that he was in jailed for a LOW LEVEL NON-VIOLENT DOMESTIC VIOLENCE. I've never been so angry, humiliated, and disgusted in my life. This man was texting me 100 + times a day, plus calls if I didn't answer him he would go mental, my life revolved around trying to keep the peace, plus be a mother. I blocked him, I changed my number 5 times, I even moved twice still he wouldn't give up, still he hasn't given up [several] years later and he is still at times trying to find me, contact me on social media, asking people about me... I still look over my shoulder every time I walk out of my door because I am sure he has found out where I live again.. The effects it had on My daughter, she didn't have a mother really for at least a year as I was so busy trying to keep him from losing his shit, or dealing with him losing his shit because he wasn't the centre of my attention, or keeping her safe when he did lose it making sure she didn't witness anything. I would be sitting at home on my own at night and hear my dogs bark outside and go into panic mode, I didn't sleep well for over a year. but the judge put it down to Low level non-violent domestic violence.

- Nari*

My partner would be charged with multiple offences if coercive and controlling behaviour was considered an offence.

- Min*

I've been living with this for [several] years now and I don't see the law changing anytime soon. I have no privacy, I live in constant fear.

- Patricia*

100% it is what it's all about - I don't even think anyone can understand how it can get to physical violence without referencing the cohesive control that happens for years leading up to that

- Diana*

I had evidence of coercive control and violence, if there had been laws to protect us, he would potentially have been charged and sentenced, instead of getting off with a deal from the DPP that ended up with them dropping the breach and intimidation charges.

- Arabella*

Yes, definitely. It would validate my experience and allow to better convey what happened to me.

- Etta*

Absolutely they are still looking at the single event rather than the coercive and controlling behaviours all together

- Drisana*

I was coerced and manipulated to make a statement withdrawal.

- Annika*

Absolutely needs to be made into law. I was terrorised for years and the children are a huge part of coercive control, if not their lives are at risk most certainly their mental health and development. My son is a very respectful man who treats women very well had he seen the dynamic of coercive control he wouldn't.... all of this is needs considering, Children need choices in court, counselled and listened to, what do they want, there must be a way children aren't implicated but can be with the mother and not used to control her, perhaps for a certain duration depending on kids age, no new partner living in the home versus more parental time with the mother, changing as time goes on, but initially considered.

- Serri*

If he was charged and sentenced - yes the behaviour would be appropriate to consider as subjective/mitigating factors.

- Amanda*

Assault charges were dismissed, therefore no sentencing option. If police thoroughly investigated, the current offences would have been sufficient for a conviction.

- Anamaria*

Not sure of the definition of sentences. The police dropped their contravention charges after it took [many months] to go to court.

- Flora*

Absolutely I had solid evidence of the financial aspects of the control and abuse, and was willing to testify as to how and why the other aspects of the coercive control and violence had had such an impact on our health, safety and well-being. If coercive control laws were in place, we would hopefully have been able to seek a conviction for his ongoing behaviours. As it was, everything was dropped because my daughter was unable to testify in court for the actual abuses from him towards her directly, and the breach of the AVO, and the abuse towards myself wasn't serious enough to press charges.

- Rowan*

I wish they would focus on the psychological and emotional abuse that occurred within my sexual assault case.

- Manuella*

If I thought it was possible, absolutely. I would like what's happening now to stop. Some kind of recognition, even of just the past [couple of years] would have an enormous impact.

- Theresa*

There would have been a framework for police to follow

- Ashley*

This would have helped greatly.

- Caterina*

Q.26: To what extent do you think the existing laws in NSW provide police and courts with sufficient powers to address domestic violence (including both non-physical and physical forms of abuse)?

Responses:

- **5.71% (or N = 4/70)** = A great deal
- **1.43% (or N = 1/70)** = A lot
- **17.14% (or N = 12/70)** = A moderate amount
- **41.43% (or N = 29/70)** = A little
- **34.29% (or N = 24/70)** = none at all

Comments:

A little with ADVO's. However, some people have found these not very helpful.

- Clara*

I think the laws actually do cover it well but police don't understand it, or understand how a victim presents.

- Charlotte*

This is why I want to relocate to [name of state], so I can feel safer and better protected.

- Nora*

The current laws are far too lenient, and perpetrators are aware of that, even with photographic evidence of physical injuries, PTSD in myself and children, evidence of financial abuse and identifiable behaviours in our children or one mimicking his behaviour, there has been no consequences for him at all. He threatened my life and has firearms and they were not removed, I had to hide the keys for [many] years, and now we have left he has them again. It is automatically assumed I am lying and I am the one defending myself in court.

- Tamar*

Because he was never charged with domestic violence or never subject to an AVO, the family court questioned whether I ever experienced domestic violence, even though there was an injunction order against him.

- Aya*

I believe the whole system is screwed up. The police are over all the domestic violence so they don't give a shit. They're not trained to deal with domestic violence victims, they don't understand traumatic response. They're not supposed to judge but they all come to take a statement with their minds made up already. I have proven this with police that came to take my statement automatically asked me why do you just not ignore him, why did you respond. During the interview he started calling, called me [more than 30] times while police were there, plus messages, etc they were then shocked at the extent of his frenzy and their attitudes changed and they were sympathetic then. When the police did lay charges, the courts would then give him a slap on the wrist. He breached the ADVO [well over a dozen] times before he was sent to jail for [a few] weeks... All of these were not considered serious as they were non-violent... But this was incessant texting 100+ per day, emailing, calling, turning up to where I was, threats, threats to take my children, intimidation. then we would have the police briefs which were not right. I would always do my statements via video so I never saw the actual statement, things were left out, I was never contacted by the dpp so when his statement was taken he would lie his ass off. I went to his court cases sometimes the dpp didn't even get out of their chair, didn't say a word. I believe that the victim should have a right to be present in court and be called up to the stand if they want to, as so many things were not put forward to the court and he was able to lie so much while in court..

- Nari*

Only for physical violence, but even this is limited. In addition my abuser continues to monitor my location and regularly travels to places I have recently been to or other locations where I have booked accommodation. There is not enough evidence for charges of stalking but there is a clear pattern in his movements. In addition there is no protection from him approaching my parents, and high school friends to tell them about me and try and discredit/split them from supporting me.

- Sheema*

I think I have had a positive experience however. I currently have an interim AVO that has a lot of conditions on it and I'm well protected in that sense. But I know lots of women don't have that experience.

- Min*

Some [type of social] clubs are invoked with my ex and he's friend. They would have connections. The police would be pointless.

- Patricia*

It's only useful in certain cases in many cases there is a long way to go for anyone to recognise it's not a normal or ok situation to accept (or to continue for perpetrators)

- Maeve*

It feels very behind to me and as much as I am grateful for the police working hard to get me to report this I don't feel confident at all that they have the ability to charge him

- Diana*

Physical/sexual abuse are recognised, but only if there's clear physical/forensic evidence, or witnesses.

- Arabella*

The system is designed to protect perpetrators and continue the abuse to and for victims.

- Poppy*

I believe coercive control needs to be a crime.

- Etta*

When it comes to non physical.

- Alma*

My retraction was never asked in the court if I wanted to use it

- Annika*

I think there is a reluctance/confusion when things in family court - the two systems don't understand each other.

- Dasha*

Restraining orders do not work, access to children needs an overhaul, some women don't want child support like me, give them a choice. All of this is more aggravation for a user when she leaves. Spend the money and get Laura Richards expertise into the professional's vision. Laura Richards is spot on with her insight and interpretation, Australia must listen to her and others of that academia on D V. Put Laura on Insight with a panel of judges, police etc, get public awareness going strong this is insidious and usually only one person can see it, murder in slow motion, get into schools, pandemic, censor the iteetroups who savage women and gai a huge following, give the children a voice and choice, go Laura Richards engage her ,she is the most articulate and insightful professional out there.

- Serri*

Since infancy, in fact, since my mum was pregnant with me, social workers and police warned my dad and my grandparents that my mother's violence was not safe for me. And yet nothing was ever done to protect me until I became...homeless [when a young person]. (And then I was gang raped while couch surfing!)

- Alegria*

They need proof. How do you provide proof of non physical violence?

- Juliana*

Little to none. I think domestic violence...the term domestic abuse is more accurate...is complex and our current laws don't provide for that complexity and I don't think there is enough weight in the current laws to provide adequate safety and protection. I ticked, a little, as I do believe this, but at my time of need I felt there was none.

- Shante*

Police seem timid to investigate, collect evidence and charge. Courts deal with the evidence, so if the evidence is not strong, cases fall apart in the courts. Both police and courts have insufficient understanding of the dynamics of domestic violence relationships.

- Anamaria*

The family court almost compartmentalises it.

- Flora*

If feels like there has to be physical tangible evidence, i have to have physical injuries. That my psychological ones don't count or are too hard to "prove". I don't know much about the actual laws but from listening to calls on Coercive control that the laws need to be modified to include other "damage" or "harm" not just the tangible broken jaw. I am terrified to leave the home with

my daughter permanently because one group would say, leave to protect your child but then another would order her to have time with him because it's important for both parents to have a relationship, ignoring the fact that he is an abuser and if I am not there to supervise and control that. That's a risk I can't take.

- Jamie*

For non-physical abuse, they have almost no power. And basing it on individual incidents makes it impossible to understand the whole relationship and its patterns. We were together for [more than 20] years! - you can't possibly illustrate the level of control and abuse in that relationship from a single incident.

- Rosalie*

Only obvious physical violence is currently recognised. Police have to wait for a violent event to occur, and then they can act and press charges. Not even taking control over my son after abusing him directly, and exposing him to a now convicted paedophile, and then alienating him from us completely was recognised as evidence of the extent of the abuse, control and violence towards myself and my daughter.

- Rowan*

The detective on my case didn't even know The police agreed that the sexual assault was and is domestic violence, but when it came to the evidence provided, they didn't take into consideration certain aspects and information I'd provided until I was able to give an additional statement after a few months of gathering more evidence and knowledge about terminology financial abuse, psychological abuse and social abuse (ie. isolating me from friends and family) even "were a thing". He admitted this when I mentioned financial abuse in the form of my abuser forcing me to use my AfterPay and Credit Card to pay for home furnishing and appliances and also him not paying his portion of rent three weeks prior to the sexual assault and then for the rest of the lease term of which I stayed within the apartment before I was able to move to an address my abuser doesn't know so that I would feel more safe and secure. The police also didn't fully understand the psychological aspect of my official diagnosis of PTSD and how me being unable to socialise easier with friends and family aided in my abusers ability to continue abusing me.

- Manuella*

I think the powers are there, they are just not used in sentencing

- Serena*

Financial abuse can only go through civil court so more dealings with the abuser

- Sari*

Q.27: To what extent do you think the law in NSW currently provides adequate ways for courts to receive evidence of coercive and controlling behaviour in domestic violence proceedings?

Responses:

- **4.48% (or N = 3/67) = A great deal**
- **1.49% (or N = 1/67) = A lot**
- **8.96% (or N = 6/67) = A moderate amount**
- **26.87% (or N = 18/67) = A little**
- **58.21% (or N = 39/67) = none at all**

Comments:

They want physical evidence of injury only.

- Tamar*

In the family court it's only really allowed in your affidavit. And in the criminal court it was only based on the specific behaviour that led to the AVO, not about all the other stuff that had happened.

- Niamh*

Some women would be happy to go to court and stand up and tell them what happened but as we haven't physically been abused we are not even allowed to do a victims impact statement. But these are the ones that need to be heard so much. Judges, police and the whole legal system have no idea of the extent of trauma and absolute chaos these people inflict because we are silenced by them.

- Nari*

As far as I understand, the police are only using my statement regarding the specific incident. I could give them many examples of coercive and controlling behaviour, but have not been asked to provide this.

- Min*

There needs to be a new law around lack of evidence due to gaslighting, stalking and intimidation.

- Patricia*

I don't know enough.

- Maeve*

I have so much evidence and they are not using it.

- Diana*

I don't think it does. There is not real way of reporting patterns of behaviours or have this readily available in every police station and court. Previous behaviour and victims are also not included as far as I understand in the court. This cannot be an isolated incidents system. The whole picture has to be taken into account and understood.

- Poppy*

The intimidation and stalking charge did go some way in allowing me to explain how he used violence as a threat but didn't even begin to cover the extent of the coercion.

- Etta*

Courts are evidenced based. A lot of the coercive control debate is she says he says.

- Alma*

As long as the perpetrator is unaware of the gathering or of evidence or they will quickly recede and manipulate evidence. They put an enormous amount of time and thought into this calculative control, women can be so vulnerable and destroyed that they cant fight.

- Serri*

Unable to comment.

- Amanda*

I have only felt with this through the family courts.

- Shante*

Police seem timid to investigate, collect evidence and charge. Courts deal with the evidence, so if the evidence is not strong, cases fall apart in the courts. Both police and courts have insufficient understanding of the dynamics of domestic violence relationships.

- Anamaria*

I just don't know enough.

- Flora*

I'm not sure. No experience with the courts.

- Rosalie*

The current laws are useless.

- Rowan*

They barely look at other abuse if it isn't physical or sexual.

- Manuella*

I don't know that it is absolutely zero, I'm not sure.

- Theresa*

Not sure.

- Serena*

Q.28: Do you agree that non-physical coercive and controlling behaviours can be as damaging to victim-survivors as physical/sexual assault?

Responses:

95.83% (or N = 69/72) = Strongly Agree

- **2.78% (or N = 2/72) = Agree**
- **0.00% (or N = 0/72) = Neutral/no opinion**
- **1.39% (or N = 1/72) = Disagree**
- **0.00% (or N = 0/72) = Strongly Disagree**

Comments:

Yes. I have diagnosed PTSD.

- Clara*

Yes, I strongly agree. I have been left with anxiety, ptsd, learning difficulties (which i have never experienced before the domestic violence), and fear. It has affected me greatly. Every day is a struggle to get back to where I was prior to meeting him.

- Dahlia*

I can't get a job because he has ruined my professional reputation. We live in a small rural community and his new partner totally believes his nonsense. She's helped him to denigrate and discredit me.

- Nora*

This has harmed me more than any bruise. And continues to do so after being out for [a number of] years. The threat is always there when you are forced to parent with the perpetrator. He

gaslighter me so much, I actually thought I was crazy and could no longer tell reality. The ongoing damage in all of us is still there. Hypervigilance is completely exhausting Coercive control is not over when you leave.

- Tamar*

Both my children and myself have been experienced trauma as a result of these experiences.

- Aya*

Yes! It's the most dangerous of the lot. The majority of women that are killed have suffered psychological, emotional abuse with a high emphasis on coercive control. And the most dangerous time is when they leave because the abuser loses control.

- Niamh*

It's worse It's insidious I found myself so confused and didn't understand I was even being abused for a long, long time.

- Rayan*

I think it is 10 times more damaging to a person that has been physically assaulted, I would have rather it been physically assaulted then the damage he did to me mentally and psychologically... Wounds heal but he still tries to get into my head... It has affected me, my kids, and my entire family, it has had effects on me getting employment, and has made me very distrustful of all people. I would give anything to have the strong, independent and confident woman I once was back again.

- Nari*

I grew up in a home where my father had coercive and controlling behaviours. The impact of this has been low self-esteem and chronic mental health problems. I then married a man who told me that God had sent him into my life so that I could be cared for and he told me that he didn't think I would have been ok if we weren't married. He told me I was dependent on him. He told me that my depression was the problem in the relationship. He told me that I needed him to be my carer. But the entire time, I worked as a [type of] social worker, was the primary carer for our children and did the majority of housework and life admin. I never needed a carer, but he made me believe that I wasn't enough and he made me believe that I needed him. The impacts of that emotional / psychological abuse mean that despite [many many years] of counselling and work on myself, my depression has continued to come back in strong waves. He turned me into a shell of who I am and told me that I wasn't good enough. Without him in my life, my depression has improved and the people who know and love me are saying that I'm coping better than I ever have.

- Min*

I don't think the worst "event" which was strangulation in a moment of rage did much except to reinforce the fear I developed over a very, very long-time frame. Later on it was just one piece

that led me to fear for my life alongside threats verbally to take my kids and kill my boyfriend and one of my parents.

- Maeve*

I think they are tragically much worse because your body can heal faster than the mental programming you have endured.

- Diana*

My daughter and I are still suffering from nightmares, flashbacks, panic attacks and a range of other C-PTSD symptoms now, [several] years after we escaped. My daughter is suicidal at times, and I have extensive cognitive damage from the abuse we endured, and then ongoing stalking, harassment, intimidation and implied threats. My [other child] is completely alienated from us due to the ongoing manipulation, grooming, and campaign against me as a protective parent.

- Arabella*

Both are horrendous and both can leave lasting impacts that victim/survivors have to deal with for the rest of their lives.

- Poppy*

I'm [several] years out and still find it hard to trust anyone and am often triggered by innocent actions of other.

- Alma*

Absolutely ruined my life and spirit and destroyed many non partner relationships, took everything from me, except my life, because i finally realized what i was dealing with and how dangerous that was. I wanted to see my son and daughter mature in healthy adults, with healthy respect for relationships, work ethic, respect for money etc, i think this was my driver and to be a good parent i needed to escape that misery to give them a chance. But!!! No bruises.

- Serri*

In my life coercive control has done the most damage - I believe it is primarily responsible for my PTSD and Dissociative Identity Disorder. Whereas the physical and sexual abuse has only caused chronic pain which sucks but is much easier to survive.

- Alegria*

My ex-husband is furious - I can see it in his latest correspondence. He still wants to re-prosecute what he believes should be the outcome. As I've mentioned before, my family law outcome was pretty harsh on him - there should be an automatic review that this is going to make that person angry and likely to continue controlling behaviours - nature of a person. We should continue to be monitored in a system - the outcome of court should be grounds to look at

any of his behaviour as it shows that he has a tendency to be coercive and controlling and now that he is not in court he needs to get other ways to control me.

- Amanda*

People who have been exposed to nonphysical coercive and controlling behaviours have lasting long term effects mentally, emotionally and physically.

- Shante*

Being invalidated by systems that should be protecting citizens (ie police and legal system) was more damaging.

- Anamaria*

I was a wreck. For years. Then I had a spontaneous dissection of the internal carotid artery. Neurologist says they think it's linked to PTS.

- Flora*

I am now working with women who have experienced DV. In my practice working directly with women on the front line it takes longer for someone to regain their self confidence and trust themselves than it does to heal the emotional wound of physical injuries.

- Jamie*

We were completely and utterly trapped, and suffering from the extended nature of his control and abuses. He has had previously been in abusive and violent relationships/marriages as well, and was charged for the physical violence towards his second wife and court ordered to do a violent offender's program- probably to avoid actual jail time. So this time, with us, he knew exactly how far he could go with his physical violence towards myself, and how to manipulate the situation so as to look like the kind, caring, wonderful husband and father, etc, whilst wreaking havoc, using the kids as tools/pawns, grooming, manipulating, abusing and alienating them from me, to further his own ends, abuse, and exposure to other predators and paedophiles. It's all documented, and yet none of it matters enough to get a conviction. He has, and continues to do his utmost to ruin our lives.

- Rowan*

My mental health basically deteriorated and I was officially diagnosed with PTSD and pre-existing mental illnesses also worsened due to the abuse and assault.

- Manuella*

I strongly agree with this. Coercive and controlling behaviours are extremely damaging. Although I am lucky to be a survivor of domestic violence, this abuse has left me with extreme PTSD, anxiety, fear, debt (out of my control. which I have had to pay back in full to save my credit rating), uncertainty about my future, a lack of concentration and learning difficulties (which I never experienced prior to my abuse). I am continuously striving to get myself back to where I

was prior to this kind of abuse. I am slowly getting there; however it is a long hard road. The affects and damage that one person can do another is horrifying. The perpetrators need to be held accountable for their destruction.

- Caterina*

Q.29: If you experienced coercive control, what were the impacts of this on you (both in the short-term and in the long-term)? (Please select all that apply.)

Responses:

- **97.22% (or N = 70/72)** = Loss of self-esteem or sense of self
- **87.50% (or N = 63/72)** = Feeling constantly fearful or on edge
- **86.11% (or N = 62/72)** = Loss of faith in your own judgment
- **83.33% (or N = 60/72)** = Finding it difficult to trust or develop relationships
- **81.94% (or N = 59/72)** = Post-traumatic stress disorder (PTSD)
- **81.94% (or N = 59/72)** = Depression or anxiety
- **70.83% (or N = 51/72)** = Debt/lack of financial stability
- **69.94% (or N = 50/72)** = Questioning your own abilities, including parenting ability
- **69.44% (or N = 50/72)** = Ongoing isolation from friends and family
- **62.50% (or N = 45/72)** = Insomnia
- **59.94% (or N = 41/72)** = Loss of job or income
- **51.39% (or N = 37/72)** = Disruption of your relationship with your child/children
- **44.44% (or N = 32/72)** = Worsening chronic health conditions
- **27.78% (or N = 20/72)** = Other mental health issues
- **27.78% (or N = 20/72)** = Homelessness
- **19.44% (or N = 14/72)** = Substance abuse issues

Comments:

Weight gain, imposter syndrome. I was continuing to let men treat me poorly as this was familiar to me. Luckily my psychologist has helped me work through this.

- Clara*

It's almost ten years since I left and I still have many of these.

- Rayan*

And just when you build yourself up and start to pick yourself up, all he has to do is contact you or something small and you're right back down there again.

- Nari*

Again...never realised all of these describe me.

- Wendy*

No privacy.

- Patricia*

Our financial situation has improved without his financial abuse, coercion and outright theft of our money. I have significant cognitive impairment from the ongoing abuse which has affected my daily functioning, memory, and self-confidence and self-esteem. My daughter and I have not had any contact with my [other child] for almost 3 years now, due to my ex-husband's influence over him.

- Arabella*

Stage fright.

- Poppy*

I managed to always have a roof over our head but his manipulations absolutely nearly succeeded in homelessness. I have worked hard long and discreetly, yet moving so many times really has left me with nothing but my life adult kids and freedom eventually that's what it took.

- Serri*

Dissociative Identity Disorder Chronic pain.

- Alegria*

I have issues with my workplace - the employer. I've told them I don't feel safe in the work location. I've had reactions of ridicule - eg manager telling me - "well all women lie in family court - just stay in the building all day and you won't run into him". The workplace are now telling me they will find me another job in another location but I will have to take a pay cut and added "surely safety is more important than your pay rate". I've told them that is so inappropriate.

- Amanda*

I was lucky to be a working professional with an income but I was a woman on the edge and I don't think people knew how bad it got for me. I also didn't fit the 'mould' and places like the DV children handover treated me poorly. I think I appeared too 'well' for people to believe I'd been hurt by him. 'He's so lovely'

- Flora*

My substance abuse is chocolate to cope, it's not illegal but I am dependent on it Total loss of trust in self Total loss of judging social situations Need to control and analyse everything to ensure i get it right

- Jamie*

There were times when I had suicidal ideas because I felt like that was my only escape - from the relationships and then later, from the internalised voices of my perpetrators. I think that shows how damaging non-physical coercive controlling behaviours can be.

- Rosalie*

Initially, my daughter and I were homeless, for quite some time. It was extremely difficult to find affordable accommodation as the waiting lists for public housing are ridiculously long, and we were also displaced from our community and supports in trying to escape from his violence and control. It has also had serious health impacts for myself, and at the time of fleeing I was in and out of hospital, and very close to having [a terminal illness]. We have been alienated and rubbished by him to the community that we were living in, mutual friends and acquaintances, and were pushed out of the community accommodation we were taking shelter in because of his stalking and harassment.

- Rowan*

I experienced physical and sexual assault alongside coercive control. So hard to tell what caused my mental health issues.

- Yara*

My son suffered mental health and addiction issues and made attempts on his life

- Ashley*

Women are of no importance. Who are we kidding!

- Adeline*

All of these impacts apply. I am [a number of] years no contact with my abuser, and I am still impacted. I am working 24/7 to lessen the burden and get myself back to where I was prior to my abuse.

- Caterina*

Q.30: Do you think that the definition of domestic and family violence in NSW law should be expanded to include a wider range of behaviours, such as emotional abuse and financial abuse?

Responses:

- **97.22% (or N = 70/72) = Yes**
- **2.78% (or N = 2/72) = No**

Comments:

110%. Women need to know what is considered domestic violence. If I had known this I would have escaped earlier.

- Clara*

There are very silent manipulation, There should be more awareness on this with examples and AV stories.

- Priyanka*

Absolutely!! Waiting for him to be accountable only serves him. You must hold him financially liable for the harm he causes - then watch how fast he changes his behaviour!!

- Nora*

And psychological abuse. PTSD is an injury to the brain, this must be allowed as evidence of what has occurred.

- Tamar*

Most definitely, I was running a successful business in the construction industry that man stole over [tens of thousands of dollars] from me as well as ruined my business, he just got away with all of that... Then he comes out of jail to [a large windfall] as his [relative] had passed away he ruined me and everything I had and then came out to all that money. That was my children's future... I'll be extremely lucky to get that sort of opportunity again but now I barely survive on what I get...

- Nari*

100% I have examples of abuse across all the different types listed. How I parented was impacted by my partner telling me how I should parent and valuing his own opinion over my own. He would stop me from comforting my kids based on what he thought was best. I told him that I was thinking of harming myself (not suicide but self-harm) and he did not acknowledge what I had said or seek medical assistance for me. He later told me that he thought I had made an actual attempt to kill myself and that he was expecting to find 'a body dead in the kitchen'. He did nothing to seek assistance for me or to protect our children from the trauma of finding me 'dead' as he assumed I was. He controlled my access to money - I am the main earner in the family. I have held the same professional job for the past [many] years. He has changed jobs multiple times. I increased my hours at work because he lost his job and he wouldn't consider getting a job that didn't meet his own qualifications and wishes. If I wanted to buy anything that wasn't food, he wanted me to check with him first. He told me that if I spent money without asking him, it hurt his feelings. Mostly he would say yes when I asked him, but then he would take the same amount of money to spend for himself 'to be fair'. and he would sometimes say no about trivial things. For example, I wanted to spend \$25 on a rice cooker and he said no. No reason given. just no. some of these examples may seem trivial as stand-alone events, but

when there is a pattern of them and they're across multiple areas, they form a picture of coercive control.

- Min*

Financial abuse is so serious and the court system allows men like my ex to exploit their victims even more financially.

- Diana*

Absolutely

- Arabella*

Definitely, yes. It is so incredibly damaging. It wears down your resolve until you can't think straight. When you have been giving rules, instruction, criticism, restriction, manipulation, regulation, over and over again in the space of the day, you have so little left to give.

- Etta*

Absolutely, i could have committed suicide over his non-violent cruelty and confusion, but what took me a long time to understand and be strong about was the abuse by proxy and the extreme damage that this causes.

- Serri*

I believe in the [location omitted] where I am from these behaviours are included.

- Amanda*

People experiencing domestic abuse are often at their most vulnerable when they are reaching out for help. The law should be there to protect them from all forms of domestic abuse.

- Shante*

I think laws are currently sufficient but not used to their full extent. Dynamics of family violence is not well understood to those who have not had experience of it.

- Anamaria*

Definitely! To protect victims directly, but also to help people (including victims) to recognise those behaviours as criminal, which will lead to broader long term cultural change.

- Rosalie*

But be aware, police don't charge people with definitions contained within the legislation - they charge people with an offence. The behaviour has to be well enough defined within the offence for police to understand and identify evidence of the offence to charge someone. Having coercive control/behaviours included in definitions of family/domestic/sexual violence will not

within the Act does is not what police enforce. They do not enforce the intent or legal definitions of the act, but the offence! This is also then a factor for evidence, burden of proof and the rest....

- Eva*

It's all part of the bigger picture, and helps to establish the pattern of behaviour, which is often over long periods of time. For example; I was a qualified chef prior to having my children, and by the end of the marriage/relationship, my children would not eat or touch any food that I made because it was disgusting, and I would not cook anything in the kitchen when he was home due to the jibes, put downs and criticisms. The financial abuse is absolutely a way to control the family and victims, and should be considered a form of absolute violence.

- Rowan*

YES YES YES 100% YES!!! I also want to see rental manipulation included in financial abuse as due to my abuser not paying his rent both before and after the abuse and assault, my brand new rental record was tarnish and I was almost blacklisted from renting forever. Thankfully, the property manager I had for that residence knew the entirety of what had happened and spoke to me privately and received a copy of the ADVO. He also spoke to my abuser and stated that since he had signed a legal document, he still had to pay his share of the rent (50%) regardless of living there or not as he had also stated multiple times to the real estate agent and landlord that he and I would be splitting the rent 50/50. Due to the property manager knowing all of this information he was able to tell the tribunal courts that only my abuser should be blacklisted from rentals. The property manager also confirmed and reassured with me that I was not blacklisted from rentals. However, it was hard to obtain a new rental residence after the sexual assault because people at the Real Estate companies could see that there were rental arrears under my name and within my application I would have to explain the sexual assault which was also upsetting.

- Manuella*

I think it should be changed to coercive control, as a pattern of behaviour that may or may not include incidents of physical or sexual assault. I think post separation abuse, systems abuse, and children, need to be explicitly mentioned in legislation. Children are both subjected to coercive control, and used as a tool to control. Including systems abuse is tricky, but that isn't a good reason to ignore it and not include it. If abuse via family law (of children and their non-offending parent) is as terrible as we all know it is, why shouldn't that also be criminalised?

- Theresa*

Not until police and courts have more training on what constitutes coercive control. As it could easily be used against the victim at their most vulnerable.

- Yara*

Most definitely.

- Caterina*

Q.31: Do you think that coercive control should become a criminal offence in NSW?

Responses:

- **55.56%% (or N = 40/72)** = Yes, provided there are accompanying system reforms (e.g. training for police/courts, updated guidelines and accountability)
- **41.6% (or N = 30/72)** = yes
- **2.78% (or N = 2/72)** = no

Comments:

It's too easy for victims to become the perpetrators in these kinds of cases.

- Charlotte*

Coercive control underpins domestic violence. It is insidious, stealthy. It is domestic violence. The personal and economic costs of cc are huge and are ongoing for many years. We need a deterrent, consequences and protection from these poisonous behaviours.

- Tamar*

Because I have gone through absolute horrifying experience that is affected my children and myself for [many] years the two years of marriage was domestic violence towards my children and myself with no Consequences to the perpetrator.

- Saoirse*

Primarily, abusers who use coercive control know exactly what they are doing. This isn't a case of accountability, it's a case of serious abuse and threats towards a persons life which needs to be seen for what it is (abuse).

- Patricia*

Independent DV informed Training and education need to be provided to everyone involved in the front line services related to DV across the board, including counsellors, psychologists, social workers, police, legal professionals, and most importantly judges.

- Arabella*

We do need reforms and I think we need a specialist DFV court in both the circuit court and family court. I think we need the law and we need to reform the system.

- Poppy*

Training is always a good thing; the more we educate the better.

- Etta*

I believe it's a crime and men should be held accountable for their actions.

- Drisana*

Get Laura Richards, worth every cent Australia would spend, also for understanding of migrant indigenous intricacies etc. Got to have the right educators.

- Serri*

I do but I think fundamentally there needs to be a look at the interactions with Mental Health - and use intervention programs such as apply in drug courts etc. People need a chance to rehabilitate.

- Amanda*

The approach should be 1/ wide consultation to identify the issues/challenges of current legal/justice systems, 2/ develop informed statutory guidance with a focus on the gendered nature of coercive control, 3/ education campaign backed up by competency testing for police, prosecutors, magistrates/judges to demonstrate that they are aware of their own conditioning/gendered values, they fully understand challenges victims encounter with the legal system, and can identify evidence of coercive control - including being able to make a risk assessment of who is most in need of protection, 4/ these results of these competency tests (on aggregate or deidentified) need to be shared with victim survivors who should be given right of reply to say if they have confidence that the police, prosecutors, magistrates/judges will effectively charge perpetrators, not risk or retraumatise victims through out the process, 5/ then implement legislation supported by ongoing education/training for all front line police/magistrates etc... and a public awareness campaign (including working with television productions to weave it through soap opera/dramas that are widely watched - a la Neighbours and Home & Away - this needs to reach the masses).

- Eva*

I would like to see stronger protections for victims escaping violence from the perpetrator to ensure their ongoing safety. Greater awareness, and specialised independent training for police, DV liaison officers, court staff and lawyers, and most importantly magistrates. Along with the recognition of the violence in the family courts system. Parental alienation training also needs to be provided, along with the better handling of vulnerable victims who are willing to give evidence in the court system; victims should not be placed at risk of exposure, intimidation, controlling behaviours, threats, or physical harm in having to attend the same location to give evidence to the police or courts.

- Rowan*

It is vital that police be trained or have a specific DV department to handle these cases and work alongside DV and sexual assault counselling professionals to aid with statements being

made and for the police to further understand the impact such abuse and assault has on an individual and how abuse can manifest in many various ways.

- Manuella*

I don't even think those two yes's are seperate. No one is advocating introducing laws without systems reform. Some are suggesting systems reform only is better. Some are suggesting systems reform and maybe legislation changes later have better strategic value. However, my yes is on the assumption that any areas of concern are addressed sufficiently and improve safety. (Eg, misidentification, extra at risk populations like women on temporary visas and Aboriginal and Torres Straight Islander women) Children also need to be protected from abduction AND the criminalisation of a protective parent wrongly accused of this.

- Theresa*

Yes I do 100%.

- Caterina*

Q.32: Please provide reasons for your answer to question 31.

Comments:

It is a dangerous behavior that can lead to innocent people dying. There needs to be consequences for this behavior to avoid victims losing their lives. Coercive control can lead to murder. We have seen cases like this again and again.

- Clara*

Physical scars heal but mental and emotional abuse has been the hardest to heal.

- Leah*,

If not well trained, it could be further damaging.

- Priyanka*

I believe that needs to be criminalised as a matter of urgency because of the damaging effects it leaves on the victim, both in the short and long term. My life was turned upside down. I now suffer anxiety, ptsd, learning difficulties. I was left with a huge amount of debt that I struggled to pay back. I had to leave my own home in order to feel safe, I live with fear, I have had to attend counselling sessions and therapy groups in order to try and overcome what I went through. I was left with the aftermath of his destruction, while he moved on to his next victim. He constantly gets sent home from court to re-offend. His long police record doesnt seem to be taken into account when he appears in court. With all the evidence in front of the magistrate, he still gets sent home to re-offend. I was always someone who respected the law and our Police force, unfortunately I lost all faith.

- Dahlia*

I've worked in [an area of] law for [very many] years and seen too many victims accused of being perpetrators, and having it alleged and believed about me too. It is too fraught with risk and I would never make a report to police if I knew what I know now.

- Charlotte*

Because it causes harm. It impacts a person's human rights; liberty, autonomy, privacy & confidentiality etc. As well as income, parental responsibilities and fundamental housing/medical/health rights.

- Nora*

It is more damaging and long- lasting than physical abuse.

- Anisa*

Changes in legislation is not enough unless police and the courts recognise this. Otherwise charges will not be laid, action not taken, and orders not made. This will then make victim-survivors even more vulnerable.

- Aya*

The effects of coercive control and emotional abuse can be just as dangerous and impactful as physical abuse.

- Amelia*

Because emotional abuse is one of the big gest indicators that the perpetrator will go on to kill. And it's the thing that stays with you. [many] years since I saw or heard from my ex and I still fear him. I don't think that fear will ever go away. This is a man that made me fear my own name! As soon as anyone called it, my stomach flipped and I thought "what have I done now". It's taken me years to rebuild myself. Rebuild my confidence. Learn to feel safe again but that's only because he is no longer in my life.

- Niamh*

Something needs to change the domino affect of domestic violence is homelessness with ongoing struggles in the system allowing the perpetrators to continue to destroy people's lives and put them in hardship children end up with mental health issues .

- Saoirse*

The criminal justice system, particularly magistrates and police require the deep understanding of what coercive control is and the life long negative impacts on both women and children that continue post separation.

- Khadija*

So often, even after an ADVO is issued, coercive control abuse is ignored by police as significant breaches, where in my instance alone, my perpetrator did everything bar physical violence once the ADVO was issued in order to continue her abuse on me and, sadly, my son.

- Ciara*

Existing criminal framework does not catch all abusive behaviour or provide a safe remedy for victims.

- Ilona*

My reason for supporting coercive control behaviours being an offense is it is a much greater way of protecting a victim than a DVO (a piece of paper).

- Arifa*

Because coercive control is a huge part of DV and they are not separate

- Rayan*

I had to endure so much because this stupid law didn't account for emotional abuse.. I had to endure so much because the police couldn't be arsed to do their job properly and investigate or even read 100 pages. I never asked to be threatened, I never asked to be swindled out of my money, I never asked to be constantly intimidated, harassed.. My children didnt deserve any of this. But due to one man who couldnt get his own way thats what we copped, and the legal system gave him a constant green light. Why would he stop if he is not getting punished properly. For a man that has over [close to thirty] serious breaches (he breached 100s of times) and assault, intimidation, etc to be sent to prison [several] times and has served not even 12 months. You can see why he laughs at the legal system and me, you can see why when he gets out of jail he contacts me not long after just so i know... or how he would walk out of court and call me as he is walking out coz the legal system is a joke....

- Nari*

it could prevent a lot of injuries/deaths as physical violence starts with emotional and coercive controlling behaviour, although how does one prove it?

- Wendy*

Because it was difficult enough to convince police of the D/FV and I was lucky enough to have some audio recordings as well as photos of bruising. There is a great deal of abuse I sustained that police wouldn't even recognise as abuse for use in perusing criminal charges or for the ADVO. I was given only 15 min for the recorded statement. This was not enough time to list all types of abuse.

- Sheema*

My relationship has been one of coercive control, but most of it is subtle and targeted to what is controlling for me. Early on in my relationship my partner raped me, but he denied to me it was a rape and stated that he thought it was consensual. After that, he never raped me again. But he pressured and coerced me to have sex with him. If I kept saying no, he wouldn't speak to me or touch me at all. He told me that he couldn't control himself and couldn't touch me without having sex with me. The amount of guilt he applied made it very emotionally costly for me to say no to sex. Similarly, early on in the relationship we had an argument and I tried to leave the house. My husband grabbed my wrist and told me to not leave. He was hurting me and I told him multiple times that he was hurting me and needed to let go. Eventually he did. After that, my husband didn't try to physically restrain me, but he would follow me if I tried to leave. I think if he had kept up with the physical types of abuse, I would have realised it was abuse and left. So he changed tactics to being coercive. He mainly used emotional abuse and would try to control my emotions and behaviour by telling me that what I felt and said and did was hurtful to him. I hate the idea of hurting someone I love, and so as soon he told me I was hurting him, I would try to change my feelings and behaviour. I would often feel confused in our conversations/arguments, and he would deny having said and done things after the fact. He is currently denying that he wanted a permanent separation from me (even though this conversation happened in front of another person) and he is denying that he said he had told me he thought of killing me. He admitted to police that he had thought of killing himself and told police he said to me 'I thought of you, killing you'. But now he is telling friends of ours that the quoted sentence is something I reported to police and not something he said. There are so many examples of him behaving in ways that are coercive and controlling. I didn't know these behaviours were abusive. I do now and I wish they were considered to be offences.

- Min*

Its processes needs to be monitored and updated when required.

- Kayla*

Primarily, abusers who use coercive control know exactly what they are doing. This isn't a case of accountability, it's a case of serious abuse and threats towards a persons life which needs to be seen for what it is (abuse).

- Patricia*

Without education for front line workers coercive control hard to identify particularly if victim in unaware.

- Emma*

It is not a crime right now and victims need to do all the heavy lifting in the civil system right when they are at their worst point and maybe cannot even understand whether their own judgment of reality is sound after gaslighting mocking and thought control type effects.

- Maeve*

It is an extreme form of abuse - just because the scars aren't visible does not mean it is not serious. We have seen what it leads to - a woman is killed every week in this country - one man gets king hit and our laws change - women die all the time and no laws change. It would stop so many women from being killed if these men could be stopped before it becomes violent. I know I could have been one of these statistics and I feel I am lucky to be able to fill out this survey instead of my daughter being motherless.

- Diana*

All of the coercive controlling behaviours are a pre-cursor to actual physical assault.

- Shireen*

Coercive control constitutes the majority of DV behaviours and underpins the other elements/forms of abuse involved. If someone tried to tell you you were fat, ugly, useless, stupid, a liar, and incapable of doing things from day 1 of a relationship, no one who was in their right mind would stay. It's a gradual, covert, persistent but purposeful set of behaviours aimed at degrading the victim(s), gaining control, and ensuring that the victim remains in that situation. Under any other circumstances, it would be recognised as bullying behaviour at the very least, which is actually illegal in itself. Why is there an exception/distinction for the 'domestic or intimate' setting/relationship? It simply allows abusers to continue abusing their families, especially if they 'don't hit'.

- Arabella*

Giving people hope that this could help or be an option is vitally important to people's well being. It needs to be done well and not rushed but done in a timely manner building on what already word in Scotland an other places.

- Poppy*

Typically, any extra training and education can be beneficial - the more the police understand the forms of coercive control and how to work with the legal system the better. I appreciate that every case is different, which makes the offences harder to define, but I can testify that if it has happened to you, then you know and so if the police are aware of how it can occur then they can support the victims in their own understanding.

- Etta*

To further help protect women and their children from this type of abuse.

- Fatima*

It's important Police are given adequate time to properly investigate all these offences.

- Aditi*

To recognise all patterns of abuse and the harm it inflicts on the victims. Coercive control strips autonomy from the victim and increases the likelihood of other forms of abuse.

- Holly*

There's no value in changing the law if police & court officials do not enforce the law. There should also be a massive statewide campaign to inform citizens about coercive control.

- Evelyn*

It should be. The legal system should be adapted and supported to ensure that the law is upheld to protect those it is meant to and not just add more money to pockets of lawyers.

- Amar*

Even some psychologist don't recognise the truth when put in front of them. In my experience these perpetrators are very clever people and publicly usually highly regarded

- Alma*

The controls they have make you doubt everything and everyone and people police and courts especially magistrates need to understand the impacts.

- Annika*

Because, not matter whether a bruise or physical damage can be proven, or violence is violence. The aftermath and damages and consequences are exactly the same, unfortunately.

- Abigail*

Front line workers ie police need training on what constitutes coercive control for identification purposes.

- Bronwyn*

I think it needs to be done carefully but coercive control is so insidious because you don't know it's happening until it's too late.

- Dasha*

I'm one of the lucky ones and so are my children, I didn't know about DV until I was about 30 years of age, but was in a murder in slow motion reality and coercive control for 20 + years couldn't fight had to run and outsmart. I want to see this publicised there's plenty of others who have no idea like me, I picked up a small brochure in a GP office, that got me thinking. I was terrorised by stalking for my, 20's, 30's and some of my 40's damn shame all my energy went into fight or flight, all those years, I chose flight. I have a daughter and an innocent [early childhood age] beautiful granddaughter, probably a great target for DV. To understand the enemy within their strategies and motivations is everything to empowering women to leave safely. I also believe strongly in a serial abuser register and stalking advocacy. The world needs to correlate femicide and family annihilation with this type of abuse. Prelude, give some laws of intervention and exposure.

- Serri*

I should not have had to endure [many many] years of abuse that FACS and police were aware of but had no power to rescue me from. I have barely survived the ongoing impacts of the psychological torture and control I grew up with. I'm in therapy three times a week, outpatient groups twice a week, and have 4 pain specialists. I became a disability pensioner at [age omitted] and was academically excluded from University. I have tens of thousands of dollars debt from before I secured the NDIS. I am [age omitted] and have never been in a romantic relationship. I have had a dozen suicide attempts, including one that resulted in a [near death and extensive intensive care treatment]. Coercive control has been the defining architect of both my nervous system and my life itself. It can't be invisible to the authorities any longer.

- Alegria*

I've read about it being implemented in Scotland and think a similar thing would help here. There also needs to be wider social and cultural changes. I still don't think I would've reported anything because I didn't recognise what was happening as abuse. So there needs to be broader education about what coercive control is.

- Harper*

Coercive control is even more destructive than physical violence.

- Juliana*

This is a wicked problem. There needs to be a review with other elements such as mental health etc.

- Amanda*

Yes, I believe it should be a criminal offence as it takes over people's lives and effects them long term, and is mentally damaging. It also indicates the characteristics of the perpetrator which in most cases ends up in domestic violence.

- Indi*

Because coercive control is so complex. If people who uphold the law don't have an in-depth understanding of what coercive control looks like or what it is, then the law would be greatly ineffective.

- Shante*

I feel that it is just another invention of a criminal offence to try and get someone on. It's another offence that complicates policing. I think it would be better to put energy into proper identification of victim; safety of victim; behavioural change programs of both parties; deterrence models; action to enforce perpetrator personal responsibilities.

- Anamaria*

People who use the system will find a way to introduce this into their MO. But I hope really well trained people will cut right through the he said she said. The evidence is all there. It's a pattern of behavior. It puts itself.

- Flora*

It causes significant psychological damage which impacts on all areas of that person's life and also on the children. It costs the system billions of dollars in mental health care and other services. I think it's time that the law caught up with the reality, that we are allowing perpetrators to go about their lives whilst they destroy others and allowing/ ordering children to have a relationship with them.

- Jamie*

I think training is sorely needed in general for police and courts to better understand domestic abuse, but coercive control can be particularly hidden and complex. Therefore it will be difficult to recognise, investigate and prosecute. Each relationship, in a way, has its own codes and language of control which is not easily understandable to those outside it. Police will need comprehensive training.

- Rosalie*

Coercive control is at the core of domestic violence and leaves women with far greater trauma to recover from.

- Scarlett*

I've read the literature about what works, I've listened to and read the articles written by advocates and survivors who raise valid concerns about the current justice/legal systems, and reviewed evidence of other countries who have implemented criminalising coercive control.

- Eva*

Currently, it's hit and miss as to whether even physical violence is taken seriously by police, and the court system. A huge overhaul of the whole system, and attitudes of those who are involved in it needs to occur, for the most part. Along with further input in the process from victims themselves, rather than being informed of the outcomes after the fact.

- Rowan*

Coercive Control is just as worse as physical abuse.

- Eden*

As coercive control is very damaging and the effects can last longer than physical abuse.

- Juniper*

It's torture. There is an argument for abolition. There are MANY conversations about how to best legislate. An increase risk in safety (which for me includes misidentification) is a valid

concern. I would prefer to address this by a rigorous look at how to make things better, rather trying to fix it later, thinking it's too hard, or assuming it will be okay with a few safeguards.

- Theresa*

Courts can act sooner.

- Yara*

Unless those working in the system understand this type of control and it's effects then they won't effectively police the law.

- Ashley*

It is the foundation for other abuse and a pre curser to deadly violence.

- Adeline*

Its not just "living with the abuse", its the "aftermath" as well. I have spent the last 2 years trying to get myself back to where I was prior to the abuse. It has such a huge impact on your life, it is damaging & destructive. I live with the scars of the abuse, whilst the perpetrator carries on life as usual, re-offending. They need to be held accountable. This is a serious issue which needs addressing ASAP.

- Caterina*

Highly manipulative and narcissistic individuals could manipulate the courts and police to persecute abused people further. They need training to understand the mechanisms as to how this can all play out.

- Gabriella*

Yes because it's a form of abuse and is a crime.

- Melanie*

SELF EXPLANATORY!!!

- Cordelia*

They need training to understand how complicated dv is.

- Aida*

Because coercive control is domestic violence, it is debilitating and intimidating and has long lasting detrimental impacts on the victim.

- Rebecca*

Just as bad if not worse.

- Daria*

Police need adequate training to distinguish being an abuser using them as part of their control and an actual victim.

- Serena*

If these were included into the law than my ex-partner could have been charged or an AVO could have been granted for the months and months of constant stalking, harassment, abusive verbal texts and call, intimidation tactics long before he broke into my home and attempted to strangle, stab me and set my house on fire. I could have been better protected to keep myself and my children safe and not live in constant fear that impacts everything in your life from friendships, parenting, working, studying, relationships.

- Vashti*

Classic known issue abusers can say no they didn't do anything but the amount of evidence required to fight for yourself is unbelievable.

- Sari*

Q.33: If coercive control was criminalised, do you think there should be specific protections for parents taking reasonable action to protect their children from violence and/or abuse (e.g. a mother who threatens to leave an abusive home with her children)?

Responses:

- 77.78% (or N = 58/72) = Yes
- 0.00% (or N = 0/72) = No
- 22.22% (or N = 16/72) = Answer in comments

Comments:

I think it could be too easy to have this used as a way of manipulating the family law system. People game it, even though the media want us to believe that people don't lie, or don't use their children as pawns. They do, and it would be foolish not to consider this as a way of being weaponised just as the new family violence cross examination scheme has been.

- Charlotte*

Yes - because the perpetrator often accuses her of "kidnapping" the children and accuses her of parental alienation, when she is actually acting protectively!

- Nora*

Especially through family courts. Women are being penalised for trying to take protective action but then accused of undermining the relationship with the offending parent.

- Aya*

The family law court (magistrates) require the deep understand on the poor mental health impacts coercive control has on children.

- Khadija*

But how can we prove coercive control?

- Wendy*

I am not in a position to answer.

- Maeve*

When I attempted to kick him out after discovering that he had put my [child] at risk, he grabbed my [other child] by [their] throat and dragged [them] into [their] room. That was a critical point, and I felt unable to call the police for a number of reasons. If coercive control was illegal, I would have been able to seek assistance much sooner, and not have either of my children or myself placed at such physical risk/violence, and everything else that was occurring.

- Arabella*

Evan Stark and Emma Katz both talk about the use of coercive control by perpetrators on children and using children to perpetrate further violence/abuse on their women/partners.

- Poppy*

Im not sure women leave good fathers and husbands, im sure in some convoluted situations this is true, but for the most part if the womens instinct and education on DV in all its guises is a reality for her yes, however its the seperation danger thats crucial to be addressed, very difficult scenarios and this is where laura suggests every situation is unique to the woman involved and her level of risk as she understands it. Yes leave but not without planning ,legal, financial support and understood access , i know thats easy to say and those in imminent danger, may be temporarily moved interstate, whilst arrangements and options are looked into. Distance i believe is a reliever, but concern for other family members comes into it, but it certainly would put a stop to follow up control for the time it takes to assess responses. States could work with each other to accommodate these women and children even temporarily, really moving them into an escape zone, even if temporarily without having to deal with the preb next week in the local court etc, do it from a distance.

- Serri*

Yes. So long as these recognise that while women are the vast majority of DV victims, men can be too - women like my mother, herself a CSA and coercive control survivor, can be fatally abusive to children and partners.

- Alegria*

Correct identification of victim/ perpetrator is the police accountability and responsibility.

- Anamaria*

I'm confused, I can't think how I would use coercive control to leave? Nor would I ever want to. It is tricky because in his mind, I am abusing him but not giving in to his guilt trips or demands. I guess it is a fine line and would need some guidelines.

- Jamie*

Yes, if that helps avoid the protective parent being seen as a perpetrator.

- Rosalie*

If we had been able to access specific protection and supports, we would have left the situation at least [many years] earlier, and the outcomes would have been 100% better. The extent of the abuse, the impacts on us, and the alienation from my child would all have been minimised or negated.

- Rowan*

There HAS to be, but it's equally important to protect children from being abducted, including when that's only briefly, or used to establish a status quo situation for family court. That is ALSO abusive and damaging. Children need protection.

- Theresa*

Q.34: Do you think that NSW law should recognise that domestic violence can be a 'course of conduct' (a pattern of behaviours over a period of time) rather than just an isolated incident?

Responses:

- **84.72% (or N = 61/72) = Yes**
- **0.00% (or N = 0/72) = No**

Comments:

This will protect victims from being named as the perpetrator. A reaction is not the same a pattern of intent.

- Tamar*

Absolutely. Often things are lost in the singular context. The pattern of behaviour is much more telling.

- Aya*

It is always is a pattern of behaviour that often may occur for the life of the perpetrator.

- Khadija*

Victims rarely speak up and when something has been going on for many years, the police don't take this seriously unless it's the same day/week when the abuse was reported.

- Patricia*

Absolutely. Previous episodes or relationships involving violence, and abuse towards children should also be considered as well.

- Arabella*

Absolutely kept me under control and fearful for over 20 years and murder definately was on the table for me,only o e other person said, he might kill you, and the one lawyer said it was not a good idea for me to go back to my home, which i had too, even for the shortest time.

- Serri*

It can be both a course of conduct and an isolated incident. Many people see the one off isolated incident and think oh it never happened before, but victims sometimes are not able to realise that it could have been a course of conduct over a period of time. Both options need to be included.

- Amanda*

Absolutely. Along with the past history of violence, abuse, coercive control, previous charges and convictions relating to domestic/intimate violence.

- Rowan*

YES! Victim Services determined my situation to be not an isolated event but ongoing domestic violence and abuse based on numerous phone calls I had made to police as well as my abusers past history with ADVOs. However, the court system only focuses on the ONE event rather than the entirety of the relationship and what patterns existed.

Absolutely

- Manuella*

Definitely!

- Theresa*

Q.35: If coercive control became a criminal offence in NSW, which domestic relationships do you think should be included? (Please select all that apply).

Responses:

- 95.83% (or N = 69/72) = Spouse
- 95.83% (or N = 69/72) = De facto partner
- 94.44% (or N = 68/72) = Ex-spouse
- 94.44% (or N = 68/72) = Ex-de facto partner
- 90.28 (or N = 65/72) = Family member or kin
- 84.72% (or N = 61/72) = Carer or support worker
- 83.33% (or N = 60/72) = Casual partner (e.g. dating, casual intimacy)
- 81.94% (or N = 59/72) = Ex- casual partner
- 68.06% (or N = 49/72) = Roommate
- 29.17% (or N = 21/72) = Other (please specify)

Comments:

All relationships.

- Clara*

ALL...who the hell thinks that only intimate partners get this abusive behaviour

- Charlotte*

All of the above

- Wendy*

Friends of an ex or [social] clubs.

- Patricia*

I think roommate would be unusual and Need to include some evidence of dependence

- Maeve*

ALL! as it has to be the perpetrator not the relationship. If you do not include all abusers then you are not actually understanding the pervasiveness of coercive control. It also fails to understand that this is about Power and Control and that this is present in any relationship that allows for Power over someone.

- Poppy*

Anyone. Co-workers. This type of abuse does not discriminate.

- Alma*

Really anyone who engages in that conduct.

- Dasha*

Absolutely anyone in any context that abuses the vulnerabilities of anyone in their life, I can see that there would be many instances where this is used, although not as easy to perpetrate when their not living in the home and time to dominate is limited. Joint responsibilities for everything, ups the antie and ability. There is adaption to co ercive control im sure, but is certainly requires access and fear etc, so i guess its the motive. CONTROL, may be just the financial in some situations as opposed to the total control over a partners life and wellbeing.

- Serri*

PARENTS!!!!!!!!!!!!!! And also there should be provision for the application of coercive control laws to organised abuse groups where necessary. (Talk to [expert] at [University] about it).

- Alegria*

but graduated sentencing based on relationship

- Amanda*

Is there research for the reason for police intervention?

- Anamaria*

I really think the behaviors and impacts could manifest in all of these relationships.

- Flora*

Any relationship between 2 people even parent/child.

- Jamie*

I would keep the existing definition of 'domestic relationship' as well which includes partners of any of the above, I think?

- Rosalie*

All of these relationships can be coercive and abusive, depending on the circumstances.

- Rowan*

We need to do all that we can to have this type of coercion not be as normalised as it has become! We must do better for everyone as no one deserves such manipulative and vile behaviour and then be dismissed by police, courts and lawyers due to them not seeing or believing it to be a legitimate abuse of power within a relationship. This kind of coercive control can come from anyone close to a victim/survivor. Both before and after being sexually assaulted, I had men plead and beg and attempt to manipulate me into having sex. Prior to the

assault, I would cave in as I feared confrontation. After the assault, I became much more assertive and wouldn't put myself physically around someone by going to their home or inviting him to my home, but I would receive a barrage of text messages trying to convince me to have sex and when I refused or stopped replying, the messages still would come and they'd get passive aggressive or straight up aggressive with the male in question calling me a "bitch" or "mean tease". Some of the men who did this also KNEW I had been sexually assaulted by my former-partner and yet they still showed this sort of behaviour towards me.

- Manuella*

I think this question is about functional power imbalances. After my ex, I recognised a friendship (where I was actually dependent on the friend too), that had many similar dynamics. I COULD leave. There were some impacts. Some of them were significant. They were not devastating. I also think this is the sort of thing that would actually change over time if other forms of coercive control was criminalised. I think workplace bullying for example needs to be separated in some way. Not sure how though. Maybe there is something about defining a persons ability to leave in some way.

- Theresa*

Family members- siblings should be included but good defences to cover problem areas.

- Adeline*

All of the above

- Caterina*

Anyone that is a perpetrator of coercive control.

- Rebecca*

Q.36: Do you think that NSW legislation about domestic and family violence should include examples of specific behaviours that may constitute domestic violence?

Responses:

- **92.86% (or N = 65/70) = Yes**
- **7.14% (or N = 5/70) = No**

Comments:

People need to know what it looks like to help relate themselves to the situation.

- Clara*

It also differs from culture to culture. So there should be cultural competence training.

- Priyanka*

It should be in notes, but if it's in the legislation then it becomes too proscriptive and rigid.

- Charlotte*

In my experience these patterns are specific and are used by all perpetrators at various times. It's like there is a handbook.

- Tamar*

I'm not sure. Often the examples are used as ways to discount behaviours that don't fit the examples.

- Aya*

There is a definite pattern. It's like they get a manual and all follow the same song sheet.

- Niamh*

I did this when reporting it to the police I was saved an event number and nothing else was done.

- Saoirse*

An example will provide a greater understanding to officers and the community that do not understand or have ever experienced coercive control.

- Khadija*

A thorough list of traits would be helpful for magistrates as would loads of specialist training for police and law makers.

- Khadija*

Definitely, my ex was charged with domestic violence offences, do you know how degrading that is to me, for example he wrote me 30 letters from JAIL containing some threats or basically just ordering me to go see him or to call him or to write to him or to tell me how hard he has it. Each letter would affect me tremendously as this was the third time he had been put in prison for offences against me. He got one breach. 30 times i had to be subjected to pain and suffering and he got 1 breach. I was severely disadvantaged because the police just stuck it in as a breach or a domestic violence offence. The judges and the legal system need to know exactly what has happened on all these previous times, and his record should show exactly what it is he has done. He needs to be held accountable not hide behind a domestic violence charge.

- Nari*

As long as those examples don't exclude non specified examples from being included. Coercive control is specific to the person being targeted. What is controlling for me may not be controlling for someone else.

- Min*

I am not in a position to judge what should go in legislation.

- Maeve*

To be used for informative purposes for both victims, and DV services, etc.

- Arabella*

Yes as long as they are examples and not definitive of what examples occur.

- Poppy*

I think the specifications would help people to understand and recognise behaviours. For people who have and haven't experienced abuse, having it explained as more specific examples could help victims and the police identify the problems sooner.

- Etta*

It should be very detailed.

- Alma*

Well all behaviors there are many.

- Annika*

Yes, also considering the effect as well ie, name calling, devastating for self esteem and functioning in life, setting examples for children, constitutes bullying in the school yard, so complicated, no access to money and basic medical, needs etc. the list is for the dow trodden getting loans that they don't want entrapment. Its exhaustive, but I would be advised by the one and only expert I trust Laura Richards she is not shy in naming, calling out and using the correct and preferred language.

- Serri*

Only if these examples are gender neutral and include the range of potential perpetrators, including patents.

- Alegria*

The EM to the legislation can include examples or regulations. Putting in the legislation takes too long to change and may not move quickly enough for progression.

- Amanda*

As long as they are diverse and known as not being limited to. It is important to recognize that domestic abuse comes in many different forms and that they are specific to that relationship

- Shante*

More for the guidance papers? Training? Because once in the law it almost implies by default 'the only list'.

- Flora*

Yes but clearly say "not limited too" as someone will always do something terrible outside the box. I don't know enough about the law that by saying yes it constricts things to much if it needs to be in a guidelines or an interpretation doc or of it needs to be written in.

- Jamie*

I think it has to be broad to capture all the possible unique and specific coercively controlling acts which otherwise might be missed. Maybe outside the wording of the law there could be some guidelines with examples.

- Rosalie*

yes in the statutory guidance as per the UK model.

- Eva*

As a guiding principle, yes, but not as absolute measures of the violence. Each situation is individual and depends very much upon the impacts to the victim(s).

- Rowan*

Yes, and I think it should include a range of severity, types, and also peculiar ways that are otherwise "normal", and separately also borderline behaviours that clearly explains the difference between something we see as unhealthy, vs abuse. I also think there needs to be examples of patterns, behaviours, and incidents that could EITHER be the perpetrator or victim without looking at context, intent and harm caused.

- Theresa*

Yes definitely.

- Caterina*

But be open to accept other forms of behaviours that are not listed as examples

- Rebecca*

Q.37: If coercive control was criminalised, which behaviours do you think should be included in the scope of this offence? (Please select all that apply)

Responses:

- **95.83% (or N = 69/72)** = Controlling, regulating, or monitoring the victim's day to day activities
- **94.44% (or N = 68/72)** = Frightening, humiliating, degrading, or punishing the victim
- **93.06% (or N = 67/72)** = Depriving or restricting the victim's freedom of action
- **91.67% (or N = 66/72)** = Isolating the victim from their friends, relatives, or other sources of support
- **88.89% (or N = 64/72)** = Making the victim dependent or subordinate
- **37.50% (or N = 27/72)** = Other (please specify)

Comments:

Gas-lighting, sexual manipulation.

- Clara*

Finacial manipulation. Emotional manipulation and silent treatment Gaslight a projection Covert narc

- Priyanka*

It's too difficult to criminalise behaviours...it's the pattern of conduct and so much more.

- Charlotte*

Gaslighting

- Tamar*

Threats. Denigrating the victim to their child(ren) and attempting to undermine their relationship

- Aya*

Threatening to kill them self or their partner.

- Niamh*

Stalking activity

- Arifa*

How are you going to prove that someone is dependant on another, police wont even investigate when they have all the proof given to them

- Nari*

All of the above

- Wendy*

Reproductive coercion , financial

- Emma*

Threatening physical or sexual harm including those the victim loves children or pets or threatening to deliberately humiliate degrade or punish. Technological threats and stalking .Threatening to abduct the children or disrupt their habitual relationship with the primary caring parent. Threatening divorce etc if it can be proven it's designed to change behaviour of the victim e.g. if it's repetitious and not serious and linked to the expectations of the victims behavior. Threatening or regularly changing things the victim is relying on if it can be demonstrated this was designed to destabilise the victim in their other relationship access to help etc

- Maeve*

Threatening, controlling and abusing children, relatives and pets

- Arabella*

Specifically include examples of financial control & sexual abuse

- Evelyn*

Gaslighting behaviours which I accept is extremely hard to police

- Alma*

Using children to emotionally control, don't know how but must be indicators that can be looked at. Looking at what time these perpetrators have. STALKING education, absolute terrorism.

- Serri*

Controlling access to medical care.

- Alegria*

Yelling, Making you feel guilty for not wanting intimacy and not "fulfilling wifely obligations". Verbally abusing you in front of the children. Not allowing me to parent

- Juliana

Involving the children of the relationship

- Shante*

The above behaviours applied to my situation, but I wouldn't have evidence of this and I definitely would not be able to explain it in a court situation without sounding crazy.

- Anamaria*

More again about the collective. Some of these seem like 'signs' or symptoms to support an application but not the resultant crime.

- Flora*

Engendering drug and alcohol dependency/controlling access to drugs of someone with a drug dependency, threatening suicide or encouraging self harm of the victim, continued and repeated irresponsible financial management including gambling, abusing victims' identity for financial gain/coercing victim into risky financial situations (such as getting loans in the victim's name or Centrelink fraud), using a victim's migration/visa status against them - this must be specifically identified as a form of coercive control.

- Eva*

Financial abuse and control

- Rowan*

Abuse and manipulation of partners KNOWN mental illness/es. Such as, studying a partner/victim's diagnosed mental illness to then aggravate certain symptoms to further instil fear and control upon their partner/victim. In my personal case, my abuser/rapist researched BPD and induced additional fear of abandonment, and paranoia, as well as triggering depersonalisation and dissociated stages to get me into an "auto-pilot" mode to further his control over me to abuse and assault me.

- Manuella*

Children. Systems abuse. Post separation abuse, including financial control, children, and litigation in addition to all other forms of abuse. Litigation as a form of post separation abuse. Using passive aggressive behaviours

- Theresa*

Needs to be implemented progressively. It must include clear defences and mechanisms for determining mindset

- Adeline*

All of the above

- Caterina*

Threatening to take children, forcing sexualising acts, including manipulating birth control

- Rebecca*

Q.38: Do you think there are any circumstances in which a pattern of these behaviours would not constitute coercive control? If so, please provide comments.

Comments:

One off negative comment. It needs to be consistent to constitute as coercive control.

- Clara*

Depending on the situation. It is also likely that the victim is using it as a defensive way. It is important to analyse it thoroughly

- Priyanka*

No

- Dahlia*

Yes, I know many couples who have a BDSM relationship that from the outside could look like this, but is absolutely and lovingly by consent. This is not so easy to unpack and without careful thought the police or others could ruin peoples lives.

- Charlotte*

If the person was their carer

- Anisa*

In children who are immigrating behaviours of an abusive parent(ie has learned these behaviours) and does not understand the behaviour or dies not exhibit intent of harm from the behavior

- Tamar*

No

- Amelia*

No

- Niamh*

No.

- Ciara*

Not in an intimate partner relationship

- Rayan*

No

- Nari*

Maybe if it could be proven the perpetrator had a significant mental illness such as Autism Spectrum or a psychotic illness (schizophrenia/schizoaffective), where they may not have conscious awareness or ability.

- Sheema*

no. the perpetrator may not be aware or intentional regarding the behaviour; but that doesn't change the impact and outcome of the abuse. If people knew they could be charged for these behaviours, maybe they wouldn't abuse people who trust them.

- Min*

I don't know

- Maeve*

not sure

- Diana*

No. behaviour patterns do not lie

- Shireen*

Friends have raised concerns about the possibility for consensual relationship arrangements to be seen as potentially coercive or abusive in functional relationships, such as; one person/partner being in control of the finances. Or, of a disaffected ex using this legislation as a means of accusing the other person falsely to gain advantage over them. Checks and balances need to be in place to ensure that these cases are identified accurately, and people aren't falsely accused of violence.

- Arabella*

Unsure

- Fatima*

I'm not sure

- Holly*

A parent restricting freedoms to prevent their child from harming themselves.

- Evelyn*

No, not that I can think of.

- Amar*

Possibly and like all laws it would be open to exploitation

- Alma*

No

- Drisana*

No the behaviours lead to a lot of victim issues

- Annika*

If there is just name calling and not other behaviours present ?? Some families see this as humour and all do it to each other. This is where you need Laura. Perhaps someone has a gambling problem and their spending needs to be monitored. The behaviours with other factors stalking, intimidation. So hard, but yes if its present its abuse but I guess there are some situations ie the gambling spouse that may be understandable in that context but one behaviour only monitored access to money. But most definitely these behaviours are abusive and designed to control and dominate.

- Serri*

Nope!

- Alegria*

No

- Juliana*

Unable to identify at this stage but may have some thoughts later.

- Amanda*

No i don't

- Indi*

Not sure

- Anamaria*

I cannot think of such. People are all sorts of vulnerable. Including girls with good jobs. And people with a mental illness. I think it could be used to say there was no power imbalance, or that they were a threat to themselves needing control.

- Flora*

Not that I can think of

- Jamie*

No

- Rosalie*

The only time this doesn't constitute coercive control is when the person genuinely does not feel victimised (and being ignorant to the social conditions that allow this to occur is not the same as genuinely being happy with an arrangement where one partner controls the access to resources and the other person's freedom). The behaviours above are not 'protecting and providing' they are controlling and crime of liberty. If there is any fear involved at all between the partners (other than concern about hurting the other person's feelings, and not because they will be retaliated against) then that is coercion with the intent to control the other partner's behaviour and that is not a respectful or equal partnership but an abuse of power.

- Eva*

A few friends have raised their concerns with the potential for this legislation to be misused/abused by perpetrators themselves by claiming that they are in fact the victims of violence, and in non-violent relationships where one partner has the job of, or is better at managing the finances, or day-to-day running of the house, or one partner prefers to drive when they're in the car together, etc, and it's a mutually consensual arrangement. In the case of abusers misusing the legislation to further abuse and control their victim(s), specifically trained DV liaison officers might need to be employed to further examine and assess who the actual abuser is, and give both parties a safe opportunity to disclose their side of the story, any relevant evidence or history of abusive and controlling behaviour, etc And equally so, there needs to be further investigation into the situation with more normal, less abusive relationships where there may appear to be an imbalance of power from an outside perspective. For my own situation, I wasn't able to voice the full extent of the control, abuse, violence and impact it was and continues to have on us until we were away from his physical presence and control, and being supported by the DV services, and police, to a certain extent. Having independent, safe access to services where you are believed and supported, was absolutely key in being able to disclose the full extent of the abuse, and it wasn't until I was able to seek out assistance that I was informed of some of the extra forms of violence that I/we experienced by trained workers - I had not fully recognised the physical restraint, being pushed but not hit, and other more subtle forms of control, coercion and actual physical/sexual violence for what it was due to the overwhelming nature of our situation, my concern for the safety and well-being of my children first and foremost, and also the gaslighting from him that what he was doing was indeed violence. And I still can't fully unpack that now to to the ongoing stalking, harassment, and implied threats of him hanging over us, and hounding us to regain/retain as much control as possible. Awareness needs to be forefront in frontline workers that the victims themselves aren't always able to cohesively articulate or recognise their experiences as abuse, due to the nature of the abuse itself, if it's not outright bang, crash, smash physical violence and abuse.

- Rowan*

No

- Eden*

No

- Juniper*

Sometimes a victim becomes so uncomfortable and afraid of their abuser that they start to question where the abuser is and what they're doing. Within the above boxes I ticked, that could be seen as coercive control if not properly understood by a mental health professional. In my personal experience, I frequently asked my abuser where he was and when he would be back etc. because I was afraid of him scaring me or plotting something against me. I have severe Generalised Anxiety Disorder as well as Borderline Personality Disorder. I don't display the aggressive or other negative traits of BPD, but do get majorly affected by the symptoms of paranoia, fear of abandonment (ironic since I didn't want to be in the relationship yet didn't want to be abandoned by him either, and he actually looked up BPD and used the symptoms against me to aggravate those symptoms and gaslight me into believing I was failing at improving my mental health), as well as symptoms of episodic depersonalisation and dissociation. The final two of those BPD symptoms, he manipulated to get me into stages of delusion to further control, manipulate and abuse me as I would end up running on autopilot. Having said all this, I'm going to add "abuse of mental illness" in the above question under "other". My previous boyfriend that I dated from [years de-identified, occurring in 2010's] also used my BPD against me to control and manipulate me, though his actions were much less severe and he never sexually or physically abused/assaulted me. In comparison to my abuser/rapist, that ex-boyfriend is basically nothing.

- Manuella*

When things are done to survive abuse. I saw a meme about "stalking" an ex to avoid them. These are things that need to be spoken about.

- Theresa*

Yes

- Yara*

Yes ! Mental health capacity, disability, age relationship types recency

- Adeline*

No

- Caterina*

No

- Aida*

NO

- Rebecca*

If the pattern is out of care and love. For example- refusing money to buy smokes or drugs or alcohol as it's bad for ones health and it doesn't line up with other abusive behaviours. If it's managing money due to gambling issues rather than a means to control or restrict access to money.

- Vashti*

No it has many other forms also

- Sari*

Q.39: If coercive control was criminalised, do you think that the responsibility should be on the victim to prove the harm they have experienced in court?

Responses:

- 72.31% (or N = 47/65) = No
- 27.69% (or N = 18/65) = Yes

Comments:

The respondent/defendant/perpetrator should have the burden of proof. They should have to prove that they are not guilty of coercive control.

- Clara*

Again, if I had to prove what I endured at the time then I would have been rudderless. There should be expert referral options so victims aren't left to make statements like rape victims are. Whole of story interviewing techniques as happens with good sexual assault officers.

- Charlotte*

Victims should be believed. Perpetrators should prove innocence

- Tamar*

Evidence is necessary. But victim-survivors should be supported by the police to be able to provide the necessary evidence. It should be a collaboration.

- Aya*

I think it should be the victim and others as well - counsellors, family members, dv charities

- Niamh*

Support letters psychologist reports and from other services will prove in court the domestic violence

- Saoirse*

The perpetrator should prove he didn't harm the victim.

- Khadija*

Proof of any offence is required in court so, yes, it has to be.

- Arifa*

I think making things easier for the victim by using witness statements and more simple questionnaires etc used by police and counsellors could help clarify the victims experiences and responses. In my experience, we are often overwhelmed and fraught with doubt and confusion and fear. We have not kept dairies of events and are very fragile after periods of coercive control. We need good structures to support us in finding and clarifying our memories and then documenting them in ways that align with with courts definition

- Rayan*

Partly, I strongly believe that the victim should be required to attend court. That they need to have their say, a lot of victims wont do it but there is still the victims out there like myself that want to have their say, that want to show the impact and effect that this monster had on her.

- Nari*

how else?

- Wendy*

But it helps to document and keep a record of incidents to assist with the courts decision - I did this and it helped getting the AVO

- Kayla*

Yes, but I think there needs to be support groups and information saying that it is okay for the victim to speak.

- Patricia*

I think if the police acquire evidence they should prosecute

- Maeve*

But as has been the case with me family, friends, go's and therapists have been able to see it even more clearly and help provide evidence - what is scary as you are often trauma bonded with you abuser and you have been making excuses for their behaviour for years to keep yourself sane so you need a lot of support from experts and outside eyes to help you see the extent of what has happened to you

- Diana*

The current requirements for proof are the reasons for the appallingly low conviction rates that we see now. The onus should be on the accused perpetrators to prove their innocence, and not be able to get off with the "beyond reasonable doubt" measure, or by saying that they did not intend to be abusive/violent, etc. The system is furthering abuse in most cases as it currently stands, and the burden of proof needs to change as well.

- Arabella*

No more trauma for victims! the courts/police need to support victims to share but not be traumatised. There must be a deep understanding and training for ALL people working with victim survivors.

- Poppy*

It is the job of the police to do so, but of course, the victim will be asked to provide evidence in the form of a statement but beyond that, the police should assist wherever possible and take that responsibility.

- Etta*

There would need to be some explanation or evidence of the control but the scope should be broad.

- Evelyn*

Yes, partially. But I would also like to see the defendant prove what they did to support their spouse and demonstrate NOT abusing ? E.g. cultivated good relationship with spouses friends and family - easy to disprove/ prove. Proven by interview with 3 friends + family?

- Amar*

Potentially but in some instances should come via a detailed report from a very experienced and highly trained psychologist. I'm not sure how I would "prove" my abuse except possibly via affidavits

- Alma*

The court system fails the police systems. Police charge and then perps hire barristers and the victim feels like she is on trial and not the perp

- Drisana*

How is it fair that a victim can provide a lot of evidence yet when the perpetrator says "it never happened" they are believed. My ex has a history of DV [close to 50] charges as well as other violence, theft, drug and alcohol yet he only was convicted for [several] months probation.

- Annika*

Police should provide a paper trail of events

- Bronwyn*

This is difficult. Court is traumatic but evidence is needed - people can't be convicted without it

- Dasha*

I don't know how else that evidence may be sought without the individual victim involved?

Perhaps an advocate can take the evidence, source and provide the evidence to court on behalf of the victim, this also plays into that distancing the victim from the abuser that I believe is important can be just another way of stalking and intimidating through court.

- Serri*

Hell fucking no.

- Alegria*

I don't understand how this works legally. All I know is that it is currently the responsibility of the victims. If there was another way to do it I'd be interested

- Harper*

prosecution to prove the case against the defendant in a criminal matter. If the victim has a victim impact statement will that be cross-examined to show the proof?

- Amanda*

Yes and no. that's a tricky one. I found it very difficult to even identify what the coercive control behaviors were in my relationship. It took many years to identify them. I guess the question is...would the victim be able to identify what the harm was? Coercive control can be happening and the victim doesn't even realize it

- Shante*

But with professional support to unpack it and better articulate what it was that they experienced

- Flora*

unfortunately I don't know how there is any other way. We need to know how to record it so it will stand up in court. Could they provide evidence but not have to front the court and the perp

- Jamie*

Victims will be affected differently as different people in different circumstances and why judge them? Focus of the law should be based on perpetrator's actions not on victim's response. Even if victims do not see themselves as 'harmed', the behaviour is still wrong. There should still be consequences to protect potential future partners of the perpetrator.

- Rosalie*

The victim should not be responsible for proving harm - this should be an objective test as to whether a reasonable person perceives the behaviour could cause fear/harm (and by reasonable person I do not mean a entitled male who has no concept of the threat environment women endure everyday by having to exist in a world where male violence is a tool of oppression and women are silenced).

- Eva*

The court system is traumatising, intimidating, and not conducive to extracting accurate information. If evidence is required by the court, and particularly if cross examination is required, it needs to be via video link, off-site, and away from the alleged perpetrator. Defense lawyers need to be held in check, and not be allowed to absolutely crucify the victim(s), confuse, bamboozle, bully, and discredit them with slurs, accusations, and getting violent perpetrators off on technicalities, etc. The victim(s) should not be on trial, the accused person(s) should be, but it's the opposite at the moment. DV services, DV liaison officers, counsellors, psychologists, psychiatrists and family and friends evidence should also be taken into account, along with impact statements from the victim(s) themselves. I also think that we need to move away from the "Beyond reasonable doubt" measure, which basically gives most perpetrators a get out of jail free card by a simple denial, to a measure of here is the weight of the allegations, financial, emotional, psychological and other evidence, what do you have to say for yourself, and how do you explain this behaviour? Especially if there is a history of violence in previous relationships/marriages, and/or a violent criminal history. And especially if there are allegations of violence towards children and/or pets.

- Rowan*

But with supporting evidence

- Juniper*

Providing any video or audio recording the victim took in self-defence of which the abuser was unaware of being recorded, should be allowed as evidence. Being abused emotionally/psychologically can cause victims to feel the urge to sneakily record their conversations so as not to be continuously gaslit by their abuser. At current, it's not permissible in court for such recordings to be allowed as evidence due to the illegality of it. Other than that, text/social media messages between the abuser and victim should be able to be used as evidence, as well as any messages the victim sent to friends and family. Friends and family of the victim should also be able to make statements to be believed if sufficiently equal across the board and further supported by mental health professionals such as long term GP, specialists, other medical personelle. Proving abuse is very difficult at this moment and psychological analysis of both victim and abuser should be considered an option where the same mental health professional hears both sides individually and makes their own determination as well on who's version is the truth, as many mental health professionals are skilled at weeding out the true victims from the abusers who are simply "playing the victim" The court proceedings in all DV cases should also be closed courts.

- Manuella*

This is tricky and I don't know enough about it. This needs to be safe.

- Theresa

That's hard. Need to ensure fairness but look at propensity as a step in the determination of fact

- Adeline*

No, not entirely

- Caterina*

Don't know really

- Gabriella*

No I don't but I can't see any other way working

- Serena*

We need support because we are still being manipulated until we are away without contact for some time

- Sari*

Q.40: In your opinion, what would be some of the benefits of creating an offence of coercive control? (Please select all that apply, and leave a comment with further detail if you feel comfortable doing so)

Responses:

- **93.06% (or N = 67/72)** = It would raise awareness and promote education about the issue of coercive control in the broader community
- **91.67% (or N = 66/72)** = Preventing intimate partner homicides
- **91.67% (or N = 66/72)** = Evidence of coercive and controlling behaviours would be admissible in court
- **90.28% (or N = 65/72)** = It would make it easier for victim-survivors to reach out for help
- **90.28% (or N = 65/72)** = The law would more accurately reflect the experiences of victim-survivors
- **88.89% (or N = 64/72)** = Catching abusive behaviours that are currently outside the scope of the law

- **88.89% (or N = 64/72)** = It would be easier for victim-survivors to access the protection of the law
- **88.89% (or N = 64/72)** = It would make victim-survivors feel more heard and validated in relation to the abuse they have experienced
- **88.89% (or N = 64/72)** = It would send a message to abusers that the behaviour will not be tolerated by society
- **86.11% (or N = 62/72)** = It would reduce the likelihood of victim-survivors being misidentified as primary aggressors (due to the context of the relationship being taken into account)
- **83.33% (or N = 60/72)** = There would be a specific penalty for the offence in sentencing
- **80.56% (or N = 58/72)** = There could be earlier diversion of abusers to rehabilitation and behaviour change programs
- **29.17% (or N = 21/72)** = Other (please provide comments)

Comments:

I don't believe this needs to be criminalised as domestic violence laws already cater for these offences. It's getting the police and others to understand what these behaviours are and the impact on victims.

- Charlotte*

I don't believe in behaviour programs. They make a choice to use these behaviours.

- Tamar*

There would be greater recognition through family court/custody battles that domestic violence has occurred.

- Aya*

It would help with courts - especially family court - to assist the abused parent/child.

- Ciara*

It would be a law that people would study and know (just like drink driving is an offence) and therefore it would change the culture of society and its behavior.

- Rayan*

Sending a message to the abusers won't make a difference as they know what they are doing and will deny anything said against them (especially around gaslighting, stalking, intimidation as lack of evidence).

- Patricia*

It would enable victims of violence to escape much earlier.

- Arabella*

Whilst I think the above are true, it will not change unless awareness is raised, enforcement happens and specialist training is given. It has the ability to empower victims if done well. It also has the ability to have a flow on affect to work, friendships, churches etc

- Poppy*

All of the above - I think it is one of the most important changes that can be made in domestic violence cases at this time. There is a reason women say it can be, in some ways, more painful than sexual assault, and that is because it is consistent and there is no reprieve. Without your mind, your sense of self, freedom and autonomy, you can't leave and that is their ultimate goal.

- Etta*

It could protect the children in these homes

- Evelyn*

Femicide and family annihilation is correlated with these behaviours, hear these women's fears and instinct, understand and prevent. Look seriously at stalking, murder in slow motion, this is how I knew my life was in serious danger, warn more about stalking, introduce DASH educate, REGISTER, EDUCATION, seriously Laura Richards is the best out there, get her here to Australia to advise, set up, panel public awareness, policing policy insight.

- Serri*

Child services will have grounds to intervene where parent's primary form of abuse is coercive control.

- Alegria*

Really all of it. Carefully implemented it has to be better than how it is now.

- Flora*

In my opinion, the extra-legal benefits (eg awareness, validation, support) are truly significant benefits with the potential to help many many people who may not ever report to police. Not just a side benefit to the legal ones.

- Rosalie*

Criminalising coercive control makes a statement about community expectations and standards - that what once was tolerated, men's dominance of women, control of resources and the 'right' to enforce these gendered roles in the home as head of the household is not acceptable any more. It would start to define the expectation of equality and respect within intimate and family relationships, and most obviously in heterosexual partnerships. Men do not have the right or entitlement to control women in their homes or lives, men should no longer be afforded this privilege and allowed to maintain this status of superiority to women through the use coercion, control, threats or violence within relationships. Male dominance must be deconstructed.

- Eva*

Just overall recognition of the fact that domestic and intimate violence is not just physical and/or sexual. Rarely is it ever just those aspects, which are obviously easily identifiable, and which society, police, and the court system recognise as being abuse, and wrong. The complexity and breadth of domestic/intimate violence is not currently being recognised legally, and it's creating a vast path of destruction and waste in terms of human life in its wake.

- Rowan*

Too many abusers continue to get away with their coercive control of their victims as they don't see it as "abuse". Many within society don't see it as "abuse" either, which is why I believe it is so prevalent. If/when coercive control becomes a crime, it would prevent so many cases of DV from escalating to extremes.

- Manuella*

It's potentially dangerous due to attitudinal limits of police and judiciary. Beyond reasonable doubt will be hard to reach. Consider putting it as an amendment to Crimes Act Domestic and Family Violence Act 2007 for lesser aspects of CC

- Adeline*

All of the above

- Caterina*

It could help protect children from abuse after separation

- Gabriella*

Q.41 In your opinion, how important is specialist training for magistrates and judges to make sure they understand coercive control?

Response:

- 100% (or N = 71/71) = Extremely Important

Would this have made any difference to your safety and the outcome of your case? Why?

Yes, I would have felt supported and understood and more likely to report incidents.

- Clara*

The magistrates are in desperate need of training and educating in relation to domestic violence. One of the magistrates in court told my abuser that "Oh well, you didn't hurt her" - and sent him home to re-offend. In that court room the magistrate had seen and heard evidence that he had smashed my house and every belonging of mine to pieces (he had sent photos and voice messages to me as he was doing it). I was at my parents home and throughout his rampage he threatened to come over and slit my throat - he arrived at their home and he smashed my car whilst there - in fear, I ran to a neighbour's place and called the Police. He had told me he had hurt my dogs (fortunately that was not the case). Police caught up with him and he assaulted them. And the magistrate said that "he did not hurt me". I lost faith in our system that day.

- Dahlia*

Yes. But I had a lawyer ex who perjured himself to protect himself

- Charlotte*

Yes. It initially took [several] years to get the matter heard by a Judge, then a further [many] years for the 2nd trial to be heard. In the meantime, he caused irreparable damage to our parental relationship and he had access to the children supervised, and then unsupervised. He even evidenced taking them to [a very high height] and leaving our [pre-school aged children] to [nearly drown]. One of the older children ran back and pulled him out because the father didn't think it was a problem

- Nora*

Yes. We have been told the violence and abuse 'is in the past and no longer relevant' It prevents me from being able to protect my child without having to defend accusations of alienation

- Tamar*

Not in the case of police action because they didn't take any. But in family court, it made the world of difference to have a judge recognise the behaviour and grant sole parental responsibility, recovery order, and injunction order.

- Aya*

I was lucky and I got the outcome I needed but I can understand why people do not.

- Niamh*

Judges will have the insight and their knowledge to see The effects that domestic violence has on women and children the community And The impact that has on family's For them to make right decisions within the court system to support victims

- Saoirse*

It would make a massive difference. If magistrates & judges were trained the offender would have been charged and breaches would have been accepted by Police. furthermore, my children would've been protected from the offender and not court ordered to attend mandatory 50/50 contact whereby they suffered a great deal of torment, fear, anxiety and panic attacks.

- Khadija*

Essential

- Rayan*

It would have made all the difference.. These people have no idea what its like, they dont know what its like to jump at every noise, they dont know what its like to go through all that you do then have the guts to go to the police and then the court only to hear things like it was low level non violent domestic violence. You feel like you dont matter, because you are just another domestic violence victim. You dont feel protected by anyone. This is why women go back to their abusers because its better to be in contact with them and to be able to judge their moods than to have no contact because you know he's still watching, planning and scheming and he's going to do something again and you have no protection.

- Nari*

I think so. The risk of me being killed is informed by the context of the relationship. Otherwise, a magistrate may perceive my partner's statement re killing me as an indicator of his deteriorating mental health. But there's so much more to it than that. The risk is high because he is used to being able to control me and he has lost that control. The risk is high because I have removed my kids for their safety and mine.

- Min*

Yes, especially if the abuser has been in jail before.

- Patricia*

I don't have knowledge of this

- Maeve*

Currently I feel the word coercive control doesn't even come into court

- Diana*

Probably not, as the laws themselves were inadequate, and it didn't reach the court stage where I was required to give direct evidence.

- Arabella*

This should happen regardless!

- Poppy*

Training is always important. Understanding is always important. Education is always important for a vindication of the rights of women...

- Etta*

All incidents need to be taken into account not just isolate incidents

- Fatima*

Possibly, I could have recovered some of the money that was stolen from me through coercive control.

- Evelyn*

Yes. I wouldn't still be in court after nearly 3 years as he continues to abuse and control with the full support of the courts

- Alma*

I had one magistrate who was very informed about DV, the barrister then elected a new magistrate who has no idea about dv. Therefore in my matter the perp will possibly get away with 14 breaches of an existing AVO

- Drisana*

Magistrates need training on dv in general little alone coercion

- Annika*

Absolutely. I wished to God that they would just listen to me, and not judge me for what I had been through. I wish to God that they just wouldn't wouldn't have to be re-visiting the trauma and the abuse by trying to explain what I had gone through.

- Abigail*

Extremely, then understand risks of murder to women and children and the danger especially at seperation.

- Serri*

I have been in many court rooms with other victims as a case manager. Judges are often seen as infallible, sometimes it appears they even see themselves as that. And it's so often that they don't seem to understand the nature of risk.

- Harper*

Not necessarily

- Amanda*

Yes this would have. It would have made a difference with protecting myself and my child with an understanding of DV to recognise the other parties reoccurring patterns and prevent any DV,

Coercive control, or any other high risk from being exposed to my child's such early important years as well as her future.

- Indi*

Yes. If the coercive control was identified in the court proceedings earlier, the outcome may have been more in line with protecting my children from the coercive control they have been exposed to

- Shante*

Absolutely. Misunderstood my fight/flight/ freeze responses and the dynamics of the relationship. Painted me as the perpetrator and my ex-partner as the victim.

- Anamaria*

In my experience it's all currently in the too hard basket. And in family court it has felt like 'any dad is better than no dad', but then when the eldest hit puberty (even just prior) he started engaging really overtly in same behaviors

- Flora*

Magistrates and judges come to this work and their understanding of the world around through the same society that privileges men, tolerates male violence and uphold gender stereotypes. Additionally they hold an extremely privileged position within the social hierarchy and patriarchy, to sit in judgement of other 'men'. The laws were made for men, by men and basically they all need to go through a reeducation program that makes them deeply address their own bias and values that may deliberately or inadvertently support the patriarchy and its oppression of women. Any magistrate/judge who has a whiff of the 'not all men' about them should be recused for bias. See previous point about education program that ensures magistrates and judges must demonstrate competency about coercive control (and by extension support of gendered roles) - that satisfies victims survivors concerns before they are allowed to preside over DFV cases.

- Eva*

They are the ones who have the final say on the violence and outcomes for victims, society and in general terms in society. Their attitudes/awareness towards violence, coercion and the ongoing impacts have a direct affect on how our society behaves, what it expects and accepts, and they need to be a measure of those things, along with meeting community expectations in terms of outcomes, sentencing and ultimately changing the culture of violence that is currently recognised but unacceptable.

- Rowan*

No. The judge in my case seemed to be award of coercive control.

- Juniper*

Yes yes yes!!! Having someone who fully understands the scope of DV and sexual assault would make it easier for victims to get their abusers charged. When an abuser isn't charged, they believe that what they've done hasn't happened and they'll more than likely reoffend. In the case of my abuser/rapist, he has a serious pattern of disrespecting, abusing and mistreating his partners after the initial flattery and narcissistic love bombing "honeymoon" phases have passed. Specialist magistrates and judges would be able to identify patterns within the specific relationship at hand and they should also be able to examine PAST behaviour and ADVOs and convictions (if any) as well as the ability for witness accounts from any former partner, be it casual or de facto, willing to come forward and speak up on the coercive control and abuse they also suffered by the hand of the abuser in question. I believe that this would result in a higher number of abusers being identified as abusers and victims to be identified as victims and NOT misidentified as the abuser/prosecutor. This would likely (hopefully) lead to an overall decline in the number of DV and sexual assault cases there are, as well as more cases being reported because the victim/survivors would feel more understood and heard within the justice system and really get the justice that is deserved by having their abuser and/or rapist charged with any and all abusive behaviours that occurred.

- Manuella*

Absolutely. In a variety of ways. One example is the inability to take coercive control into account in assessing if it's child abduction or leaving urgently with children. My ex started a new relationship with someone who also did this (while "on the run" for [a few] weeks). That person had both had that done to their child (but with zero contact for a decade now), and done it to her other ex. I have spoken to a relatives partner about my own situation. That person has done the same thing as my ex themselves. The more this isn't addressed, the more it's going to happen. Rowan Baxter abducted one of his children. These are two different behaviours/decisions/actions, with very different intent and outcomes. That difference is incredibly important to address so that it can be assessed urgently at the time these things happen. (A mum actually needing to do this probably needs extra support, which is also a good reason for it being urgent and important to assess)

- Theresa*

Yes, this is EXTREMELY important. Too many perpetrators of domestic violence are sent home to re-offend. They are not held accountable. The judge we had sent the perpetrator home and said "Well, he didnt hurt her" My house had been smashed up, all my belongings were smashed, my car was smashed, my life was threatened (he told me he was going to slit my throat, and came to my parents house), my 2 dogs lives were threatened (fortunately they were safe). I had text messages, & voice messages from him and photos he had sent me throughout his rampage as evidence This seemed to be of no concern in the courtroom. There needs to be specialist training. This is EXTREMELY important.

- Caterina*

Yes because a document I wrote under duress was use to lessen the sentence

- Aida*

Yes! There was a long history of reported and convictions against my abuser, yet when he made allegations that I was abusing the children and he had to have custody, I court made me prove my innocence and didn't ever really look at him as though he was continuing with the abuse. He always said I could leave any time but the kids weren't going anywhere, I was fearful for their lives, but he turned me into the abuser

- Serena*

Yes absolutely. The judge seemed more concerned about the perps drug use and mental health than the severe impacts on me of the abusive behaviour which dismissed my experience as a "it's not his fault he's suffering from mental health and I am the collateral damage"

- Vashti*

I don't think magistrates really understand the implications of being abused and there should be a standard at least

- Sari*

Q.42 In your opinion, how important is specialist training for police and prosecutors to make sure they understand coercive control?

Response:

- **100% (or N = 71/71) = Extremely Important**

Would this have made any difference to your safety and the outcome of your case? Why?

More likely to report. I think some police officers don't understand non physical domestic violence because it hasn't happened to them or they don't understand it.

- Clara*

When it came to reporting breeches I gave up I was told the test messages he sent were nice and non threatening (but I had a no contact clause) I was told he is just wishing you a happy birthday, what's wrong with that? Never wished me a happy birthday while we were together but breeched his avo to do so I was told next time he messages you tell him he is breaching his avo isn't this the job of the police and not the victim ? So now I don't bother with reporting breeches

- Leah*

My perpetrator was a master manipulator. Unfortunately the Police didn't always pick up on that. He had a record a mile long with charges relating to domestic violence, however, that

wasnt always recognised. I asked [station de-identified] Police to let me know when my perpetrator was let out of their cells, so I could leave [place de-identified] as I was in fear. They agreed to do so, then failed to let me know once he was released. I asked them why they didn't advise me and their reply was: " What !!! Do you want us to sit outside the front of your driveway 24/7 ??? " They had no regard for the fear I was feeling, yet they had all the evidence of what he had put me through, and had assaulted them and threatened them during his arrest. The Police need training and educating desperately.

- Dahlia*

Yes. Maybe I could have secured the IVO I wanted and applied for and he would then have been prohibited from accessing my University Lecturers and impacting my professional development and employment.

- Nora*

A law is of no use if those who uphold it don't understand or able to identify it. As a victim, I can immediately recognise it others. When you understand what to see, it can be identified easily. It would need to be ongoing, and every officer should be trained in identifying dv, not just specialist. Every lawyer should be able to identify it. If they can train hairdressers to identify it what justification do the protectors have not too? It should be that simple for them

- Tamar*

The police would have been more willing to take action and then the domestic violence (as coercive control) would have been recognised in a family court context. While the initial judge recognised it, the independent children's lawyer accused me of making false assertions of domestic violence because it did not fit her legal definition. I.e. he was never charged with domestic violence

- Aya*

Police need to see the red flags of an abuser And only knowledge can support the victims

- Saoirse*

Essential

- Rayan*

For the above reasons

- Nari*

The first police that I reported to did not understand my level of risk. When the matter was transferred to Auburn command and the DVLO was involved, police sought the protections that I needed and they charged my partner with intimidation.

- Min*

In my case, probably not as my abuser could have the power to manipulate the police.

- Patricia*

As for question above

- Meave*

yes because they would be able to push this more and not only focus on one night of extreme violence

- Diana*

He would be charged and in jail by now, quite simply. If these laws existed, and if the police that I had dealings with were trained properly.

- Arabella*

Again this should happen regardless. Unfortunately some of the people suppose to help victims are pervasive users of coercive control themselves. Identifying patterns of behaviours will set off red flags earlier.

- Poppy*

The police detective that I predominantly dealt with did understand but I don't expect this to be the norm.

- Etta*

Not to let abusers use the police as a form of abuse once you have left. Police need to look at all interaction between the couple/family

- Fatima*

An educated police force helps empower victims of coercive control. They are frequently gaslighted by law enforcement & told that there is nothing they can do.

- Evelyn

No, police not involved

- Alma*

They need to understand

- Annika*

Yes. The DVLO who I department with had no idea about family court and about my obligations. She just thought I should stop a communication. I couldn't.

- Dasha*

Same again better able to protect if they understand risk. DASH

- Serri*

at least if they had knowledge of patterns and linkages so when i reported incident x they added it to y and z and saw a pattern and assessed this isn't a great look (so to speak)

- Amanda*

Yes. As I've experienced a police officer tell me to go back inside a home of DV that i rang the police to come escort me out of that home.

- Indi*

Yes. Risks to myself and the children would have been identified in [year de-identified, early 2010's] and probably lead to the outcome we now have on an interim basis (no contact and sole pr) much earlier. It would have made a huge difference to all of our futures and what we have each individually experienced over the last 6 years being exposed to a perpetrator of coercive control and domestic abuse

- Shante*

I feel that a family violence specialist unit and court process would deliver the best outcomes for the victim and the perpetrator.

- Anamaria*

Some already 'see' it. Others just trying to get it squared away.

- Flora*

would have changed everything, they basically thought I was crazy and based on how he was in the "moment" they saw him he was charming

- Jamie*

Police may have better understood my concerns, and taken them more seriously. Perhaps they might also have better understood the complex dynamics of coercive control which affected when and how I reported but were not understood by police.

- Rosalie*

See other previous points about demonstrating competency of understanding coercive control and being able to identify evidence of coercive control and the person most in need of protection - and add child protection to the list. The inquest into John Edwards murder of his two youngest children and lifetime of abuse that was never properly addressed by any of the systems that are literally there with the purpose of protecting people from harm demonstrates why a coercive control (course of conduct) offence is requires to educate police, give them something to enforce, and to (hopefully) prevent the continued manipulation and torture of partners/ex and children through family court (which also needs to recognise and have measures to mitigate

coercive control), and failings of child protective services (basically we need a new model for child protection bc what we have now is not working and failing our children and their mothers).

- Eva*

Yes, we would have had a police AVO, support, protection and assistance from the beginning, rather than being left to try and manage the violence by ourselves and in terror. Being ignored because there wasn't enough physical violence being perpetrated against myself, or because he wasn't leaving evidence of his stalking and violence that they could/would actually act upon was and is an ongoing problem for us. He KNOWS that if he makes a verbal, written or online threat that the police can act upon that, and potentially press charges. He KNOWS that if he leaves physical damage on the house, car or shed when he's broken in that the police will come knocking on his door, in the same way that if he actually HIT us, he would be facing charges. He also KNOWS what the police can and can't act upon, so he does the things that won't be recognised legally, and can't be charged for. He KNOWS that if he avoids arrest for 5 months that our case will drop off the system, the AVO won't be renewed, and then he can come at us again without actually breaching anything, and we're back to trying to get him on intimidation and stalking charges, which he can deny, and therefore get away with. If I had been able to prove that he had been coercively violent towards myself and my children, kept us trapped in the relationship for over 3 years, coercively controlled me financially, with regards to my health, and the safety of my children, then we would be in a very different position now, and he would not be able to claim that he has been falsely accused, and move onto his next victim, who has 3 young grandchildren. If he had been charged with coercive violence for grooming, manipulating and [putting my son in extreme danger], then at least he would have had some form of punishment for his actions, and we would not be alienated from him completely, worrying about where he is, how he is, and how we can ever reconnect safely with him. And he also would lose his working with children check, at the very minimum. These things matter not only to us directly, but to the wider community as well. And now another woman and her family are at risk of exactly the same, if not worse violence again because society and the system have let her and her [child in her care] and family down, along with mine, and his [several] previous wives, and his own children as well. One of whom is now partnered with a convicted [violent criminal], as well. Coercive violence laws would catch at least some of these repeat, intentional, and devious perpetrators out, and make them responsible for their actions, whilst protecting their victims, and society in general.

- Rowan*

It definitely would have a huge difference. I've already covered a fair bit of this in my previous comments here.

- Manuella*

I cannot stress enough how important this is.

- Caterina*

As per comments on 41

- Aida*

Yes, police would not have sent me away every time I begged for help because I feared he would kill me

- Vashti*

As per question 42 comments

- Sari*

Q.43 In domestic violence matters that are heard by a jury, do you think the judge should be required to instruct the jury about the dynamics of domestic violence so the jury can make a more informed decision?

Responses:

- **97.14% (or N = 68/70) = Yes**
- **2.86% (or N= 2/70) = No**

Comments:

Yes, most definately, this is extremely important.

- Dahlia*

The jury should be educated in domestic violence red flags in a course That will help them educate them

- Saoirse*

The general community require a solid understanding of domestic violence also.

- Khadija*

Definitely

- Rayan*

I believe no one knows what it's like to go through all of this unless you yourself have been through it. Victims of dv have a stigma related to them that they just keep going back to the perps, noone thinks about the fact that the perps wont leave them alone, that they stalk and intimidate you, that they get into every aspect of your life to bring harm to you, all they think that

dv is, is someone beating the shit out of another person. if there is no blood then they cant be abused, if they really knew the reasons they would think differently.

- Nari*

domestic violence is poorly understood by the community.

- Min*

ABSOLUTELY!!

- Kayla*

Including all forms of abuse.

- Patricia*

As for question above

- Maeve*

although I think with evidence it becomes fairly clear

- Diana*

Absolutely, it goes without saying that they should receive specialised training for the case, and how coercive control manifests and underpins all of the other forms of violence.

- Arabella*

Maybe there could be an instructional video though it has to appear to not be leading the jury for a "fair" trial. Maybe it should just be there for all people who are on juries regardless of the trial. Training in every area of life so bystanders can know the signs.

- Poppy*

It would most definitely help the jury to understand

- Etta*

If not the judge, a DV advocate should inform the jury

- Evelyn*

I believe that, if you have not experienced some some form of violence yourself you will not fully understand or comprehend the factors.

- Abigail*

Everybody has to see through the charmers,

- Serri*

Absolutely because it is very poorly represented in pop culture, and victim blaming myths and misogynistic attitudes abound! They should be educated as to why people may find it difficult to leave, including basic polyvagal theory and attachment theory.

- Alegria*

Because people still do not get it.

- Harper*

Someone should but perhaps not the judge

- Flora*

I didn't even know the way my husband behaved was abusive for 10 years. People need an education.

- Jamie*

Yes, as awareness and understanding in the community is still very low. Many myths and misunderstandings persist.

- Rosalie*

Jurors are the average person, so we can safely assume they hold the same bias and misunderstandings of domestic and family violence, supported by gender inequality and ideas of gender roles that allow DFV to be so prevalent and tolerated in the first place. We almost need specialist jurors who are adept at identifying charming, manipulative behaviour and not buy into the victimhood narrative that elicits collusion with the perpetrator. Abusers wouldn't be so effective if they were repugnant horrible people, and jurors need to understand that "good men" are capable of great harm.

- Eva*

Absolutely. There are a lot of misconceptions, misinformation, and biases towards domestic violence, what it is, how it manifests, and the levels of what is 'acceptable' violence. Bringing in legislative changes around coercive violence and control will be ground-breaking, and a lot of the general public will have varying degrees of awareness, attitudes towards violence, and what is acceptable or not.

- Rowan*

YES!

- Manuella*

Most definitely

- Caterina*

Q.44 Do you think that there should be a requirement for all domestic violence charges to be signed off by a senior domestic violence police officer?**Responses:**

- **85.94% (or N= 55/64) = Yes**
- **14.06% (or N= 9/64) = No**

Comments:

Yes to help with regulating reports.

- Clara*

These people are trained and educated.

- Dahlia*

But more than one so there's no chance of mates getting off.

- Charlotte*

This would ensure the laws are not used incorrectly to charge victims for reactions to individual situations and ensure the identification of patterns of behaviour. There would need to be an increase of such officers to prevent delay in matters that could risk lives

- Tamar*

I don't know. The senior DV police officers would need to have sufficient resources so there isn't a backlog of approval and create delays in police action.

- Aya*

Because they would have seen and heard it all. They will be able to recognise the signs, patterns and identify worrying behaviour

- Niamh*

Yes because they are educated in domestic violence

- Saoirse*

In the hope the senior police officer has more experience on domestic violence and is able to capture something a junior is unaware of.

- Khadija

Definitely - if I'd had a more engaged and knowledgeable team of police come and support me I would've definitely got an AVO and had support so I didn't end up homeless, losing my

business, my income, our property and carrying his debt. I thought I was just lucky to get away with my daughters. I thought I had no rights or couldn't be safe if I made any 'trouble'

- Rayan*

I cant really say, as i have met some incompetent DVLO's

- Nari*

If this had happened, my initial AVO would have been more substantial. Instead, I had a number of weeks where I was protected by bail conditions but my children were only protected under condition 1. But a 4 and 6 year old cannot assess if they are being threatened or at risk of harm. They needed to be protected from him approaching or contacting them; and I had to wait 4.5 weeks for an AVO that included my children and the needed level of protection.

- Min*

Most of the time, police have been absolutely hopeless for DV matters

- Kayla*

Yes, keeping in mind an abuser could have more power than the police.

- Patricia*

I don't have knowledge about this

- Maeve*

There need to be checks and balances, the senior officer should be specifically trained in DV.

- Arabella*

Specialist Domestic Violence officers/police sector/courts really need to be developed. We cannot keep trying to do things without a deep understanding of what victims experience and signs to look out for. So if this would assist yes, but I am also hesitant as it could be signed off wrong if the DV officer wanted to protect the perpetrators.

- Poppy*

They are trained and therefore more qualified.

- Etta*

I don't exactly what this entails.

- Evelyn*

I don't know the current process, but I believe this person would be highly experienced and trained in dom violence cases?

- Amar*

Only if they are trained and have a clear understanding

- Annika*

All police should be educated

- Bronwyn*

Sometimes they aren't at good either. On occasion it was the young blokes who saw it for what it was and the women didn't.

- Dasha*

Highly insightful and educated senior officer brilliant should be able to connect with nuance and risk behaviours and ideally what does the victims instinct say!

- Serri*

Not sure what this means.

- Alegria*

My friend was given the most basic of AVOs with only condition 1 and the children were not named. Her husband continued to harass and coercive control her. After the Senior DV police officer looked at it she put a charge in place with strict bail conditions, added conditions and added the children. She could see the risk clearly.

- Harper*

assurance that this has had a fresh set of eyes

- Amanda*

I'm uncertain of what this process is

- Shante*

Experience. And now I'm second guessing myself.

- Flora*

If that helps prevent victims being misidentified as the perpetrator, yes. Otherwise seems like this may hinder the process?

- Rosalie*

I'm not sure that it needs to be a senior officer, but a specially trained officer, definitely. There needs to be an extension of the DV units off all police stations, with extra staff and resources, specialised training provided for them, and someone available in the police station at all times for victims to access and report to. So many times, I have attempted to report to the general station officers only to be treated as a pest, that I'm overreacting, making up stories, or

exaggerating the extent of the violence, stalking and harassment. Police attitudes need to change, and that starts with training, education, and extra resources.

- Rowan*

Based on the title alone, one would believe that the Senior Domestic Violence Police Officer would be much more knowledgeable about DV and sexual assault and would be able to proper go over the statements and make a final ruling on charges. Something like that would've benefited me within the false allegation my abuser made where he claimed I'd physically assaulted him and I was arrested based on the scratch marks on his arm that were clearly struggle/Defense marks caused from my attempts to escape the firm twisted fist hold grip he had on the front of my [clothing]. This minor, yet very important detail, was overlooked by the officers at the scene and further overlooked/ignored within the statement interview I had to give at the police station. I was given a charge of "Common assault - domestic violence related" which was dropped on grounds of a Section 32 within court. Going to court with my abuser/rapist "playing victim" when I'm the true victim of abuse and assault (by HIM nonetheless) was traumatic and very mentally challenging. It caused an influx in suicidal thoughts as I began to question my entire sense of self and personal identity and was even going as far as to basically gaslight myself into think I may be abusive or an abuser, though I knew the truth which was/is that I am not abusive and not an abuser. My pre-existing mental illnesses combined with the additional PTSD diagnosis and processing of the tumultuous and abusive relationship as well as the sexual assault really impacted my entire life and also made it hard to make clearer statements to police about the sexual assault due to such brain fog and self-doubt. Had it not been for his false allegation, I believe that I would've been able to give a clearer statement and get him charged. My abuser/rapist and his family + friends also accused me of lying and making up my allegations of DV and sexual assault (ironic again since he was the abuser who also committed the assault). They claimed I was doing it as "revenge" and that also hurt me. Had his false allegation of physical assault been proved as such (ie. false), then I wouldn't have been attacked by his personal circle of people who I then had to block on all social media because of their attacks and accusations against me. All would've been easier and more JUST (as in provided more justice), had a senior domestic violence officer assessed the allegation against me and looked at past history of police calls I had made in regards to my personal safety and other things whilst living with my abuser/rapist. Unfortunately, no such thing happened. In the case of the sexual assault, it would've also been able to prove the abuse and assault much easier had they taken into account the relationship patterns as well

as my abuser/rapists history with abuse and ADVOs against him.

- Manuella*

Definitely! And this needs specialist child knowledge too. Safe and together mode.

- Theresa*

To show that the case has been reviewed thoroughly by a specialist

- Garbiella*

Well depends on the experience and outlook for the officer

- Aida*

And no depends on the experience of the officer

- Sari*

Q.45 Is there anything else that you would like to add?

Comments:

I have seen many women lose their lives and it's time for our legal system to catch up. I was lucky I survived but I do believe if I had not left I would have been another life lost. Change needs to happen now.

- Clara*

Cultural perspective and complex trauma should be part of the discussion too. Economic abuse is a big one for CALD

- Priyanka*

Yes, these changes need to be made urgently.

- Dahlia*

Yes, you should talk to me about this because I have unique insight into how the courts view this, especially in family law. My ex was a family law barrister and I beat him, and I am going to hopefully send him to jail. Plus, you need people who can provide lived experience immersive and experiential training which I can do.

- Charlotte*

Yes. Please remove the s.121 prohibitions to allow victims to share their experiences and help educate the service sector and community as well as advocate for their own safety and human rights.

- Nora*

Thank you

- Anisa*

Coercive control is dangerous, life endangering and damaging. It underpins dv. This is a world wide issue Liberty of freedom is a human right, we need laws that protect those basic HR, that

provide deterrents and administer consequences. Lives are literally counting on it. If my experience is for anything, it is using my voice to do my best so that this does not continue to happen for my daughters and granddaughters. I am evidence of the destruction CC achieves

- Tamar*

Changes to state laws are a first step. Changes to federal law/family legislation is also necessary, along with training of all associated professionals.

- Aya*

The system needs to change to protect the victims of domestic violence and the police need to stop enabling the perpetrators to get away with abuse

- Saorise*

I think these changes are so important. I thank you for the time you've taken to our this survey together and for the efforts you're making to bring this topic to legislation It is time for change

- Rayan*

That the legal system need to remember that these are peoples lives, there lies another issue that when women dont have to go to court then the legal system doesnt associate it with a human being we are just a name or a number. Judges need to be confronted with the fear, the confusion, the anger, the hurt and the detrimental effect it has on our lives they need to see that so we are no longer just treated like a number A WITNESS TO OUR OWN COURT CASE its ridiculous. They have to be trained in the effects of trauma because as was in my case I would be very calm and straight to the point when i was giving my statements. I didnt cry, i didnt scream, i was always polite and i just told the video what happened. Because i internalise everything, it also comes down to the window of tolerance i was always in a Hypoarousal state meaning I was just numb, couldnt defend myself, i was disconnected because i had been through so much already, i was just flat very robotic, because thats how my body coped with all the trauma this didnt mean i was not terrified, it meant i couldnt cope with all that i was going through and so my brain just switched off.. And i was so used to showing no emotion to my abuser trying to point out that it wasnt affecting me so he would stop, so he would think i didnt care, so i became robotic, out of body experience really.. I had to to survive

- Nari*

I would like to see systems abuse added as well. My partner has made false police reports since I left the home with my children. These are types of abuse within themselves and it shows me that I'm still at risk. He hasn't breached the AVO, but he has changed tactics. I'm still being abused and he isn't being held to account for that type of abuse.

- Min*

Thank you for helping us

- Diana*

Coercive control is really how perpetrators in every part of life get away with things, churches, offices, homes, work, police, courts, judges, politicians etc etc. It's time to expose and stop it being allowed to be used any further especially in DFV. When we think that most DFV perpetrators manoeuvre themselves into positions of power it is not going to be confined to the home.

- Poppy*

Thank you - change needs to happen.

- Etta*

I would like to see people like myself with lived experience involved in the reform

- Alma*

Dv is so complex I hope this goes through

- Annika*

Coercive control is a strategic pattern of behaviour designed to exploit, control, create dependency and dominate. The victim's every day existence is micro managed and her space for action as well as potential as a human being is limited and controlled by the abuser. Over time, coercively controlling behaviour erodes the victim's sense of self, their confidence and self-esteem.

- Abigail

Whatever it costs to afford change, Laura Richards UK is really where Australia needs to be advised, she has the expertise, understanding of legislation and education tools, all the hard works been done. The reform can happen now, if Laura is engaged.

- Serri*

I know better than most how much the justice system sucks and retraumatises people more often than not. But I believe criminalising coercive control would have empowered authorities to protect me as a child and keep me safe as an adult.

- Alegria*

there are additional parts of the community that also need to take responsibility - eg sporting clubs. In my example, my son wanted to play for club x but only if his dad was not the assistant coach. I asked club X could the father step aside - given it is for kids and not for parents. The club responded to me - the kid can go elsewhere, the father is a good bloke as far as we know. This was disgusting in junior sports. These community groups need to understand family violence and coercive control. We need to get the knowledge out to more places and get people to step out this behaviour. My son choose another sport to avoid his father. My son choose to not play for that club again. In my view that club should be called out as supporting

coercive control. They put an adult ahead of a kid - in junior sports. It makes me want to vomit thinking about it .

- Amanda*

I'm so glad and a bit wrecked that this is a conversation right now. Thankyou. It's been a little therapeutic

- Flora*

Thank you for the work you do x

- Jamie*

Thank you for the opportunity to have our voices and experiences heard.

- Rowan*

I think I've provided enough of my experience and opinion...

- Manuella*

The process of implementation needs to be carefully managed. Serious obvious CC needs to be identified so criminal cases do not hang in limbo due to poorly framed Explanatory Note and supporting training. We must stop thinking training is a panacea. It's the obedience to authority not the training. Stanley Milgram got it right! People need to oversee the process and report on it regularly

- Adeline*

Our system needs changing ASAP, to help prevent further destruction to people's lives.

- Caterina*

It should also include financial abuse in dv rather than having to go through the civil claim

- Aida*

I think the law currently has the powers to deter abusers, they just choose not to use them.

- Serena*

All types of abuse should be included and more advice to victim should be given

- Sari*