Submission to the Women's Safety and Justice Taskforce

by

The North Queensland Women's Legal Service

The North Queensland Women's Legal Service (NQWLS) acknowledges the Queensland Government's initiative in establishing the Women's Safety and Justice Taskforce and welcomes the opportunity to share with the Taskforce, feedback from our position on the front-line helping thousands of vulnerable and disadvantaged women each year who are experiencing domestic violence. This is a monumental task for the Taskforce, and we wish them well in their endeavours. We know it was challenging for us as front-line workers to deliver our core services and provide meaningful submissions in the short time frame.

Who we are:

NQWLS is a community legal centre with offices in both Cairns and Townsville. We assist women from Mackay to the Cape and out to the Northern Territory border, primarily in the areas of family law, child protection and domestic violence. Additionally, we are members of the Women's Legal Services Australia committee and are involved in law reform work, along with delivering community education programs and supervising legal students as volunteers and placement students.

We provide an array of face to face and telephone legal services as well as duty lawyer services in the Domestic Violence Courts and Federal Circuit Courts. In the 2019/2020 year we assisted around 2,200 women with 13,000 services.

Whilst we do not practice in the criminal jurisdiction, we have significant experience in the civil Domestic Violence Court and have contact with women who experience the justice system in one way or another.

Our feedback:

Our submissions focus on the experiences of our clients, garnered largely through our assistance with their legal issues and from their stories and comments about how they perceive the justice system, why they do not wish to engage in the justice system and what has happened when they have engaged in the justice system.

Please find following answers to some of the discussion questions:

Discussion Questions:

1. **What other types of behaviours or risk factors used by perpetrators in domestic relationships might amount to coercive control?**

We have heard countless examples of all the behaviours listed in the discussion paper. Following are examples of other behaviours that we have encountered that amount to coercive control:

Threats/removal of children

One of the most prevalent (and effective) controlling techniques for perpetrators is the threat to remove children, or the actual removal of children, from the care of the mother or from places in which the mother has placed the children, such as schools or day care facilities. Unfortunately, when the perpetrator is the biological father, our experience is that these are not behaviours the police or domestic violence courts uniformly regard as acts of domestic violence. Instead, women are told they are family law issues and that they must start proceedings in that jurisdiction to obtain parenting orders. Sometimes women are in the position that they do not send their children to school for fear they will be taken by the father to punish the woman for leaving, to manipulate her into returning to the relationship, to punish her for a new relationship, or to be otherwise controlled.

We accept that in some cases it is not appropriate for the domestic violence courts to make orders restricting a parent's access to their children because one parent holds a view about what is in the child's best interest. However, in many cases it is clear that the threatened or actual removal of children by a perpetrator occurs with the explicit intention of causing distress to the mother and to exert control. This behaviour is traumatising for both children and mothers.

Police will not assist in these situations and tell women it is a 'civil matter', even in cases where there is a threat by the father to commit an unlawful entry to a woman's home and what would amount to an assault on the children by forcibly removing them. In our experience, the police and domestic violence courts routinely regard such situations as family law issues and the courts refuse in most instances to make conditions that prevent a parent from attending at school or from approaching a child, even when there is evidence that the father is threatening to remove the child as a punishment to the mother and/or as an act of control. The schools and day care facilities also refuse to exclude a parent from removing a child unless there are specific conditions on a protection order.

Client story - we helped a mother recently who had breast fed six-month-old twins who had to seek refuge in a woman's shelter and apply privately for a protection order to prevent the violent father from carrying out his threats to come into her home and remove the babies and keep them for a week as his claimed 'right'. The woman had been turned away by the police despite the perpetrator damaging a gate at her property in a previous attempt to take the children when the woman and children had not been at home. She was told by police that it was a 'civil' matter and that he was 'dad' and 'he had rights'. The woman and her babies had to stay in the shelter for a protracted period of time with constant threats of the removal of the babies by the father and other abuse, until he could be located and served with a temporary protection order that prohibited him from approaching or entering her residence. In this matter, the domestic violence court declined to make a condition that the father not approach the children and would only list them as named children on the temporary protection order. This meant that if the father was successful in removing the children, the police would be powerless to stop him and the mother would need to commence long, arduous proceedings in the family law courts

and a recovery order application may take days, weeks or even months to come before a judicial officer. When this was explained to the mother, she felt nervous and remained hyper-vigilant not to let the babies out of her sight.

Systems abuse

The use of Services Australia (Centrelink, Child Safety and Child Care), the Australian Tax Office, courts, and other organisations to perpetrate systems abuse is widespread and, unfortunately, supported by processes within these institutions and by privacy legislation.

The burden of Centrelink debts and the fear of prosecution in particular, has an enormous impact on a woman's ability to successfully leave a violent relationship and establish a new and safe home for herself and her children. Perpetrators understand how to use Centrelink in this way, to control a woman to remain in or return to an abusive relationship, or to punish her relentlessly for leaving. Whilst the debts and willingness of federal authorities to prosecute/incarcerate these victims is beyond the control of the Queensland government, we believe threats by perpetrators to tipoff these agencies and the coercion of their victims to commit offences could be recognised by the *Domestic and Family Violence Protection Act* (*DFVPA*) as an act of coercive control. Such behaviour could also be captured by an offence of coercive control, or perhaps a standalone offence of commit domestic violence if such offences were introduced.

Coercion to make claim: Women who are trapped in violent relationships are sometimes coerced by a perpetrator to make a declaration that they are 'single' in order to receive a higher level of benefit from Centrelink. The benefit is either syphoned off (stolen) by the perpetrator directly or used to support the family because the perpetrator is spending his income on himself: for example, on substance misuse or gambling. Threats to report the woman to Centrelink are then made by the perpetrator and are used as a mechanism of control. If a tipoff is made by the perpetrator to Centrelink, the woman is investigated, not by social workers who understand the dynamics of domestic violence, but by the debt team. The woman is then subject to Centrelink debt for overpayment and if the sum is sufficiently large, prosecuted for Centrelink fraud. At worst, the woman may be subject to a custodial sentence and the perpetrator then obtains control of the children and the attendant parenting benefits.

Threats/tipoffs: Sometimes a woman has updated her relationship status to single (not as separated under one roof) without the knowledge of the perpetrator in order to gather resources to leave when the time is right. She may be forced to remain living under the same roof with the perpetrator for an extended period however, because of logistical reasons, such as lack of housing, no money to leave, or being fearful of leaving. Sometimes leaving takes several attempts because of lack of affordable housing or other reasons. The woman in this scenario either does not know to make a separated under one roof application or chooses not too as she fears that Centrelink will contact the

perpetrator and hence put her at risk. It is the case that the perpetrator would be contacted unless she gives an indication on the claim that there is domestic violence, or she uploads a domestic violence protection order. Unfortunately, many women are scared, embarrassed or otherwise reluctant to disclose domestic violence.

Whilst the woman secretly identifies as being single, the perpetrator regards them as partnered and when she does leave, he then works out where the money has come from and threatens to tipoff Centrelink to coerce her back into the relationship. Once again, this behaviour could be recognised in the existing *DFVPA* and if coercive control is criminalised, may be captured under that offence. Unfortunately, any such criminal offences will not assist if the perpetrator actually acts on his threat and tipoffs Centrelink that she has been 'partnered' or at least 'separated under one roof' and not 'single'. The woman may then be found to be acting fraudulently and subjected to a large debt and prosecution. Again, in extreme cases the woman may be subject to a custodial sentence and the perpetrator obtains control of the children and parenting benefits.

Mary is a young woman aged 30 years with five children and Centrelink debts of $103,051.87 raised in her name due to a re-assessment of her relationship status.

Mary's history starts when she was assessed as unable to live at home at 15 years due to a childhood history of domestic violence in her family of origin. Mary had 24 contacts with social workers at Centrelink over a 17-year period, the majority for domestic violence, financial hardship and homelessness. Mary's first child was born in 2011 shortly after entering a relationship with her abuser. Mary reports initially moving into a shared unit with her flat mate, but her flat mate quickly took control, changing from friend to sexual partner. Mary reports that within a short time she was pregnant, her flat mate pressured her to end the pregnancy and when she did not, domestic abuse and control became established.

Mary had five children to this abusive man whom she described as engaging in verbal, emotional, sexual and financial abuse, and neglect of his responsibilities. Mary disclosed that she was subjected to sexual abuse and reproductive control from her abuser who has been described by agencies as a "well known drug user". Her address history documents that many times she left this person only to return rather than risk homelessness and the loss of the children to Child Protection or to the care of the father. For women like Mary, a violent home is better than no home.

Mary has had 25 changes of address since the age of 15, some shared with the father of her children, but the majority being her mother's home, her sister's home, his parent's home, motels, and women's shelters, until she secured government housing in December 2019. During this time Mary endured relentless coercive control from the father of her children, who threatened constantly to tipoff Centrelink about her 'relationship status.' He used these threats as Mary had been forced to either return to him on many occasions to avoid homelessness or had at times relied on him to provide emergency care in her

home for the children as her health deteriorated and she required periods of hospitalisation.

A tipoff was eventually made by her abuser, and Mary's home was raided. She was investigated, charged, and convicted of fraud by Centrelink. Her appeal to the Administrative Appeals Tribunal was unsuccessful and she now has a recorded criminal conviction that will impact her future employability for life, and she is burdened with a debt she is never likely to repay. This is despite evidence of domestic violence, homelessness, periods spent in women's shelters and financial hardship. Meanwhile her abuser received no penalty, no criminal record and continues to abuse, harass, and disrupt Mary's life.

This case illustrates how a perpetrator can use Centrelink to continue his coercive control and abuse of a woman during a relationship (or period of cohabitation) and even if she has successfully left the relationship. The long-lasting implications are not only on future employability (due to a criminal conviction), but the on-going confiscation of Mary's Family Tax Benefit lump sum payments to pay off the debt, and her lack of access to advance payments.

Non-lodgement of tax returns: Another technique of coercive control used by perpetrators is the non-lodgement of tax returns in partnered relationships. After two years of non-lodgement, the family tax benefit paid to a mother will cease and will not resume until the returns are lodged. A debt is raised in the woman's name for the entire sum paid during the two years and she is unable to receive any further family tax benefit until the tax returns are lodged or if she separates from the perpetrator. The debt remains in her name until he lodges his tax return, and this is used by some perpetrators to control the financial resources available to the woman. With a large debt hanging over them and no access to benefits, it very hard for these women to leave.

Family Tax Benefit: Perpetrators can use Centrelink in another way to coerce a woman back into a relationship, or at least keep them under great financial stress. That is, by making a claim for the family tax benefit (FTB) and diverting it away from the woman who has rightly been receiving it. A perpetrator will either withhold a child or otherwise get the child into his care (without consent of the mother), or they make a claim that they have the child in their care when the mother still has care of the child, and then submits a claim for FTB. A letter is then sent by Centrelink to the mother to confirm the change of care. She must respond within 14 days and if there is no response then the claim is granted on the evidence provided by the father, which can be as little as a letter from a family member. Sometimes the Centrelink letter does not reach the mother, or she is unable to read or comprehend the letter. The mother then loses the FTB payment, parenting payment and childcare rebate. She is then in a situation where she must take steps to get the child back into her care or prove to Centrelink that she still has the care of the child. Whilst this situation will not result in a prosecution of the woman, it can greatly affect her mental health, her financial situation, and her capacity to parent. Sometimes it results in the woman returning to an abusive relationship or simply giving up and being separated from her children.

Client story - we assisted a woman at domestic violence court who was an aggrieved in a police application against her partner. The perpetrator had strangled the woman in front of the four-year-old child and the woman and child had left the home. The woman (English not being her first language) had successfully managed to obtain accommodation and worked three jobs to support herself and her child. The perpetrator had made a successful claim for FTB and then became eligible for the childcare rebate. The woman did not receive the letter as she had not updated her address with Centrelink. The woman, who still had majority care of the child, could no longer work as she could not afford childcare without the rebate. She sought our assistance as duty lawyers to add an exception to the no approach/no contact conditions on her protection order to allow her to give her consent to contact because she intended returning to the perpetrator because she could no longer afford her rent and feared she and the child would become homeless.

Non-disclosure of income: Women in partnered relationships can be subjected to another controlling technique by their partner not disclosing his correct income to her. This results in her putting a lower figure on her FTB application and for any other benefits, such as parenting payment partnered. Once the tax return is lodged with the correct income, an income support payment debt and FTB debt accrue in the woman's name due to overpayments. The woman is then unable to leave the relationship because they are subject to so much debt. Often, the woman has used any payments received from Centrelink in full support of the children because the perpetrator has used his income for his own lifestyle.

Limiting access to other Centrelink funds: The debts incurred with Centrelink also limit a woman's ability to access their advance payments and any arrears each year (including maintenance exemption arrears, rental assistance arrears and FTB reconciliations), which are withheld for debt recovery. Often women rely on these payments to gather resources to leave an abusive relationship, purchase essential items left behind in a hurried move, pay for large debts like car registrations and maintenance, outstanding electricity bills, rental arrears, or apply for private rentals.

Widespread systems abuse

The use of spurious notifications or reports to multiple agencies is yet another technique of control. Bogus notifications or tipoffs are made, such as to police, Child Safety, the Australian Tax Office, Centrelink, along with in some instances, a woman's employer. Added to this is the misuse of court processes to seek unmeritorious protection orders, challenge child support assessments, and make use of family law courts to further abuse. There are no repercussions for the perpetrator for this behaviour because he is protected by privacy laws. False allegations can result in loss of employment, the woman being investigated by authorities, being constantly on the back foot and eventually worn down by the perpetrator. Unfortunately, this can be used to gain an advantage in the family law courts to create a false impression of the woman as a risk to a child and/or stall those

proceedings. These tactics can compromise the woman's financial security, employment options, mental health, and ability to parent.

We hear countless stories in family law proceedings of perpetrators refusing to disclose financial information, even in the face of court orders to do so. The victim then does not know the true financial position to ensure just property settlement orders can be made. In child proceedings, perpetrators routinely make scandalous allegations against women and unfortunately, even when these are found to be untrue, there are no consequences for such behaviours.

Client story -This example illustrates the most extreme from of manipulation of organisations, in this case Services Australia, Child Support, the Family Law Court, Child Safety, Police, Education Qld and the Australia Tax Office.

Lily had separated from the perpetrator, her ex-partner and father of her child, and moved to a gated community due to fears for her safety. Lily had experienced significant domestic violence throughout the relationship, but she had never reported it for fear of repercussions. Her ex-partner was well educated, ex-military and currently working in government.

Lilly worked part time in her own business, she received part Parenting Payment Single and she had a current child support case that was agency collect (meaning the Child Support Agency would collect child support on her behalf). She had provided a copy of a parenting plan indicating 50% shared care (week about) that was organised by her ex-partner's solicitor. She had complied with everything that was required of her by Human Services (at that time).

The father received a high income, Lily did not. He made several vexatious reports to the Australian Tax Office about her income that resulted in Lily being audited and he disputed the amount of child support he had to pay and went to the Administrative Appeals Tribunal on 2 occasions (he unsuccessful each time). He reported her to Child Safety for abuse and neglect of their child on several occasions. He made vexatious claims to Centrelink that she was living with someone, that she was fraudulent in her income reporting, and that she had applied for support she was not entitled to.

He applied for a domestic violence protection order listing her as the respondent but failed to attend court on 5 occasions until the case was dismissed. Numerous court attendances disrupted Lily's work and caused financial hardship.

He contacted the child's school and made reports that Lily was not supporting the child academically and that the child had fallen behind as a result.

All of this occurred over an 18-month period after separation causing financial hardship, extreme stress and distress and impacted her ability to work due to the constant need to

justify her legal, financial, and parenting situation and reputation to authorities. At the end of 18 months Lily experienced damage to her reputation and mental health.

During this time, the father also forced Lily to attend further mediation where he wanted to change the arraignment from week about to 3 and a half days each per week with the father gaining 4 nights and the mother 3 nights. However, Lily did not agree and did not sign this new plan. Nevertheless, he implemented this change of care and Lily was too frightened to challenge him. After many months, the father reported Lily to Centrelink as fraudulent as she was no longer the principal carer of their child and therefore not entitled to Parenting Payment. This resulted in large debts for Lily. At this time, the father wanted to move to a capital city to advance his career and wanted Lily to give him full care of their child. This started protracted and adversarial Federal Circuit Court proceedings with Lily represented by Legal Aid and the father by a city barrister.

When the father took the Child Support Agency to the Administrative Appeals Tribunal for the second time the contents of his letter to the Agency raised concerns that he may be a perpetrator of domestic violence and a referral was made to a Centrelink social worker for help with a child support exemption claim on the basis of domestic violence. The social worker recognised immediately the ongoing pattern of abuse and use of coercive control and assisted her to successfully appeal the Centrelink debts as the new parenting plan that was relied upon by the father did not contain Lily's signature, so the original parenting plan was considered the valid document.

Child Safety finalised the complaint against Lily without further action. The Magistrates Court dismissed the father's application for a domestic violence protection order. The Australian Tax Office audit resulted in no action against Lily. The Administrative Appeals Tribunal found that Child Support Agency were correct in their assessment. The Centrelink debts were overturned on appeal. The child's school found no issues with mother's educational support.

However, in the Federal Circuit Court, the father's barrister was able to raise evidence that Lily had been subjected to investigations for fraud by Centrelink, child abuse by Child Safety, tax fraud by the Australian Tax Office, and had been a respondent in a domestic violence protection order application. This resulted in the court allowing the father to have majority of care and to move to a capital city with the child to further his career. Whilst Lily could have appealed this decision, she had exhausted her Legal Aid grant and her emotional and physical energy.

Use of the *DFVPA*: Routinely, the *DFVPA* is used by perpetrators to commit further domestic violence and exert control over their victims. Again, spurious applications are filed by perpetrators - usually as cross applications - with the victim not only having to relive the abuse she has suffered in a formal court setting, which is traumatic enough, but having to defend allegations that she is an abuser herself. All too often women will consent to these cross-order applications as they are too traumatised and overwhelmed

by the system to defend the application against them. Lack of access to legal assistance, particularly at domestic violence hearings, results in many victims of violence being named as respondents in protection orders. The order is then used by the perpetrator to further manipulate and control the woman through threats of calling the police or reporting bogus breaches of the order.

Client story - only this week in the domestic violence court we assisted a woman who was an aggrieved in a police application. The perpetrator had filed a cross application alleging, amongst other things, that the woman 'licked his son's urine off the toilet seat' and 'sniffed his son's underpants.' The woman was extremely embarrassed that she had to answer such repulsive allegations. In this matter, as is the case with many perpetrators, although the perpetrator had contested the police application and filed a spurious cross application against the aggrieved (which attached communications from her mental health provider he had sourced by opening her mail), he had filed no further material, resulting in the waste of police resources to prepare the brief of evidence and the aggrieved's time and emotional resources to respond to his scandalous allegations contained in the application (itself a sworn statement).

Child support: Child support is another area that can be deployed as a tool of coercive control. Perpetrators under report their income to the Child Support Agency and when they finally lodge their tax return with a higher level of income, this creates a FTB debt in the woman's name. Only if the child support is agency collect will the Child support Agency pursue the additional child support assessed from the perpetrator to offset the debt. However, in most cases where there is domestic violence the case is private collect, and the woman has little chance of receiving the extra unpaid child support herself. This process can be retrospective as far back as there are outstanding tax returns and can cover a decade-long period in some cases.

Threats to criminalise.

Women are sometimes coerced into committing offences such as Centrelink fraud (as outlined above), stealing, breaching a domestic violence order, and other offences. Perpetrators then use threats to report the behaviour to the police as a technique of control.

We hear many, many instances where a domestic violence order is made against a woman, and her partner or ex-partner uses a threat to 'ring the police' to breach the woman as a form of coercive control. There are often other threats made at this time, such as the woman will go to jail and that the police or child safety will remove the children. This is a powerful tool used to control many women.

Use of visa status.

Our service often assists migrant women who come to Australia on partner visas and are then subjected to domestic violence. Their visa status is used as a tool of coercive control

to force the woman into silence about their treatment and acceptance of the controlling and harmful behaviours perpetrated upon them. Threats are used to 'send them home', 'report them' to authorities, 'cancel their visas' and 'keep the children'.

Use of family law exceptions on domestic violence protection orders.

Domestic violence courts routinely add a 'family law exception' to any domestic violence orders where parties have children together. This often takes the form that he is not allowed to contact her except for the purpose of having contact with the children. A popular and effective technique used by perpetrators to continue to harass victims is to use this exception to keep pressure on the woman with ongoing, unnecessary, and often derogative contact.

Client story - we assisted a woman with a protection order that included the family law exception to the no contact/no locate/ no approach conditions that were on her order. The perpetrator used this exception to harass the woman up to 30 times each day, confirming already confirmed arrangements, putting down her as a mother and continually questioning her abilities to parent the children. The police did not regard this continued and unnecessary contact as a breach because it contained the children's names in each text.

2. What aspects of women's attempts to survive and resist abuse should be taken into account when considering the issue of coercive control?

Access to children: As outlined in our response to question one, to survive and resist coercive control a woman may need to restrict a biological father's access to children quickly. The family law courts are notoriously slow and overworked and there is little opportunity to seek urgent relief under that jurisdiction to prevent the removal of children from her care, especially if a woman is attempting to escape a controlling relationship. Recovery of children already removed can take days, weeks, or months. In the rare cases where a family law order is made with restraints on the removal of children by a father, the state police cannot enforce a breach and the mother must file a further application in the family law courts, which could take days, weeks or months to be heard.

Security of knowing that children cannot be removed by a perpetrator to punish or control her will greatly assist women to leave violent relationships. At present, perpetrators are able to take children - exposing them to domestic violence and derogative attitudes toward women in general and their mothers specifically - before a matter can be ventilated before a family law court and recovery orders made. This issue can be addressed by using the correct interpretation and implementation of the current domestic violence legislation to protect women and children experiencing domestic violence. It could also be captured by an offence of coercive control or commit DV.

Centrelink: As outlined above, Centrelink needs to address the use of its processes by perpetrators to control women by exposing them to crippling debts, prosecution, incarceration, and potential loss of their children for overpayments and fraud. To survive

and resist abuse, a woman may have to keep an illusion of being in a relationship to be safe, whilst needing access to financial resources to survive or escape a violent relationship. Saddling women with large debts can make it impossible for them to leave a relationship. Whilst criminalising coercive control will not address the issue of these debts being incurred by victims, the use of the fear of debts, prosecution, incarceration, and the potential loss of their children by perpetrators as a tool of coercive control can be addressed. This fear is without doubt a major contributor to women staying in or returning to violent relationships.

Misidentification: Police still regularly employ an incident-based approach to domestic violence, which results in many injustices and a loss of confidence in the justice system by women who need to fight back to survive and resist abuse. So often, women will inflict an injury on the perpetrator, such as a bite or scratch, in order to free herself. She then finds herself the subject of a police protection notice and protection order application, and possibly a criminal charge, even though she has been the one to call the police for help and protection. This retaliatory response to domestic violence should be understood better by police and courts so that misidentification does not occur. Police need specialist training to move away from reactive incident-based policing to a pattern based response adopting the predominant aggressor framework to accurately identify who is in the most need of protection.

Client story - we assisted an indigenous woman at domestic violence court who was a respondent to an application to vary the domestic violence order against her to add her children as named children. The woman had been, and was still involved in, a long-term relationship with the children's father who had alcohol abuse issues and had perpetrated physical and emotional violence toward the woman for many years. Two years previously, after a particularly bad incident, the woman called the police for protection. She had been attacked by her partner and in her struggle to get away had scratched him. She was (understandably) angry when the police arrived and was vocal in her contempt for him, whilst the perpetrator had left the premises and had a chance to de-escalate. The police misidentified our client as the perpetrator and sought a protection order against her. She was so overwhelmed she did not resist the order being made. When we met her, yet another incident of misidentification had occurred when the woman was trying to get the three children off to school and the intoxicated partner had chased her around the car with a bat and attacked her. To survive and resist his abuse she gauged his eye. Her mother called the police to protect her. The police attended and arrested her for a breach of the domestic violence order and remanded her in the watch house overnight and applied to add the children's names to the protection order against her. As she is now facing criminal charges of breaching the order, this may affect her ability to hold a Blue Card and earn income to keep the family and contribute to her community.

3. What should be done to improve understanding in the community about what 'coercive control' is and the acute danger it presents to women and to improve how people seek help or intervene?

We support a change of terminology to the term 'domestic abuse'. It is our experience that many people - particularly those experiencing domestic violence - still do not understand that that they are being subjected to domestic violence because there is no physical abuse. Time and time again we hear 'but he never hits me' when a woman is telling us about the environment at home, which may have all the hallmarks of a coercively controlling relationship.

Education is absolutely key in improving the community's understanding around coercive control and the acute danger it presents to women. This should be done through mandatory healthy relationships training incorporated into school curriculum, targeted media campaigns around what coercive control looks like and how you can seek help or help someone else, and by humanising the stories of coercive control to help others identify the warning signs. In conjunction with the bottom-up approach of education, there needs to be clear leadership from government and industry to show that coercive control and domestic and family violence generally will not be tolerated. Often domestic and family violence is still seen as a part of someone's personal life, but this does not exist in a vacuum. Perpetrators may be running a company or occupying a position of power and often have a completely different persona to the one they display behind closed doors.

Client story - we assisted in a matter where a respondent who had been charged with multiple criminal offences relating to a domestic violence relationship (including choking, torture, and attempted murder) maintained a position of leadership in a large company despite having multiple charges before the court. His generous remuneration and paid leave allowances enabled him to fund legal counsel to fight matters that should not have been contested and to continue to perpetrate domestic and family violence against the aggrieved. This support was not something that the aggrieved had available to her. At his sentencing hearing, he had supplied a number of glowing character references and the Judge stated, "it is little comfort that quite a few people speak highly of you when you can be so horrible to the one you were in a long-term relationship with".

Sadly, there has been a number of recent cases that highlight the acute danger of 'coercive control'. This has helped to raise awareness that the first act of physical violence that a respondent inflicts on an aggrieved can result in death. We often hear at court or in appointments when women are seeking legal advice that they minimise the domestic and family violence they have experienced by saying "but he never hit me". Although legislation has tried to build a definition of domestic and family violence that it is not limited to physical abuse, and one type of abuse is not meant to be given more weight by the court than another, the reality is that the perception in the community (and often the treatment by the police and courts) still reflects this misconception. We need the police, the courts, and the broader community to take coercive control seriously so that women affected can recognise the warning signs and get the assistance that they need before it is too late.

4. Are there opportunities for the media to continue to improve its reporting of domestic and family violence and for popular entertainment to tell more topical stories to increase community understanding of coercive control?

   The media can do a lot to improve their reporting of domestic violence and domestic violence deaths. Too often headlines used minimise the behaviour, dehumanise the victim, shift the blame to the victim, and seek to portray the perpetrator as a "good bloke who snapped". The media must use headlines that accurately describe what happened and hold the perpetrators to account. Journalist Jane Gilmore has done a lot of work in this area and her book "Fixed It" highlights just how the media fail to accurately report on domestic violence, child abuse and violence against women. There is clear evidence from many studies that show that the media can play a key role in changing the community's attitudes to and understanding of violence against women (and children) and they should be encouraged to do so.

   We believe social media can be used to better educate and empower woman. For example, Instagram accounts such as Tinder Translator, help to identify concerning behaviour by men on dating apps in a non-serious way. This is an important education tool as it uses humour to highlight profiles of people who display the early warning signs of a perpetrator of domestic violence such as behaviour that is discriminatory or sexist. This technique is more relatable to younger women, especially those that use dating apps and social media and empower them to make more informed choices about the sort of men they want in their lives.

   Social media sites however need to have better moderator functions so that anything that is posted that encourages coercive control and other domestic violence behaviour is removed. Also, those that speak up about feminist issues and call out these behaviours need to be better protected by social media sites.

5. Would a change in terminology support an increase in community awareness of coercive control?

   We believe that this change of terminology would assist community members to better recognise non-physical domestic violence and, hopefully, to calling it out. There still remains a perception that domestic violence is physical violence.

6. If you are a member of a mainstream service or represent a mainstream service provider:
   a. What training relevant to coercive control and domestic and family violence is currently available in your industry?

   There are many training opportunities for legal professionals in Queensland, conducted by domestic violence support agencies, ANROWS, Legal Aid, and many other specialist organisations. We believe however, that more specific training needs to be offered in the area of coercive control.

The biggest issue with training of lawyers in domestic violence awareness, not only in Queensland, but nation-wide, is that it is not compulsory. Whilst lawyers must meet the minimum CPD requirements each year, there is no requirement for them to incorporate any training in the specific area of domestic violence.

Domestic violence stretches far into our community and permeates all areas of law. For this reason, we believe strongly that domestic violence training should be a requirement for a renewal of a practicing certificate in Queensland for all legal professionals. Further, domestic violence training should be a requirement for all judicial officers holding office in Queensland. In our view, this requirement should extend to all legal practitioners and judicial officers throughout Australia.

Domestic and family violence service system response

8. What is currently being done that works well?

Integrated responses such as High-Risk Teams and groups like the Cairns Collective Impact on Domestic and Family Violence are working well and we will discuss this further in our responses below. We find that wrap around services working together with police involvement are bringing about the best results in managing risk and keeping women and children safe.

9. What could be done to improve the capacity and capability of the service system to respond to coercive control (this includes services to victims and perpetrators)?

10. What could be done to better ensure that women in regional and remote areas of Queensland have access to services with the capacity and capability to respond to coercive control?

11. What could be done to better ensure perpetrators in regional and remote areas of Queensland have access to services with the capacity and capability to respond to coercive control?

To respond adequately to coercive control, and domestic violence more generally, the service system needs more funding for: housing solutions; access to legal services; access to counselling and support services for victims and perpetrators; community education; and specialist training for police, legal professionals, and judicial officers.

Ideally, specialist domestic violence courts would be rolled out in as many areas as possible. At a minimum, it should be mandated that any judicial officers who sit in the domestic violence jurisdiction must have annual specialist training in domestic violence, including and especially coercive control. It is our experience that some magistrates are still routinely reluctant to make protection orders based solely on coercive control. Additionally, two specialist police prosecutors should be available at domestic violence court each week, one to liaise/negotiate with parties and one to appear in court. At

present, in non-specialist courts there is only one prosecutor in the courtroom and there is no opportunity to discuss matters to ensure that the right level of protection is sought on police applications.

We outline in our answer to question one above, how threats to remove children and the actual removal of children, when it is obvious that this action is to harass, upset, and control a woman is simply not addressed by organisations in the service system, such as police and courts. There needs to be a shift in thinking, and an identification of this behaviour as an act of coercive control to respond better to this form of behaviour.

We highlight above the major issue of perpetrators routinely using Services Australia as a highly effective tool of coercive control. Centrelink and Child Support need to address the systems abuse in their organisations and stop colluding with perpetrators to saddle women with debt, prosecuting them and incarcerating them. More often than not, these women are simply trying to provide for their children in extreme circumstances.

Accommodation systems need to be strengthened. So often it is the woman and the children who leave the family home for various reasons, including because she cannot afford the rent or mortgage (whilst the income earning male perpetrator can), it is simply too unsafe to remain there, or it is too difficult to remove the perpetrator. The woman and the children are then struggling with accommodation insecurity whilst life is as normal for the perpetrator, with no disruption to his way of living and no interactions from services or support groups. Essentially, he is left unmonitored and unsupported whilst the woman and children are displaced but often supported.

To respond adequately to coercive control, Legal Aid must fund more assistance for women at domestic violence hearings. For both those who are the aggrieved or where the woman is responding to a domestic violence order application against her which is itself an act of domestic violence. There is significant funding for perpetrators of domestic violence to gain representation for domestic violence offences but the experiences of the women we speak to is that they are routinely told that they do not meet the merits test when applying for assistance at domestic violence hearings. This is often because coercive control is not identified by grants officers, or a determination is made that the application against the woman is unmeritorious, and she therefore does not need assistance to resist it.

Client story – as duty lawyer we assisted a non-English speaking woman who had been a long-standing victim of domestic violence defend an application for a protection order filed against her by her abusive ex-partner. We helped the woman complete and lodge a Legal Aid application for assistance at the hearing of her matter. She was denied Legal Aid because the other party's application was unlikely to be successful at the hearing. Given the history of domestic violence perpetrated against her and the fact that English was her second language she did not feel able to represent herself at hearing and consented to an order against her. This order is now impacting her children's matter being heard in the Federal Circuit Court as she is named as a respondent in a domestic violence order.

To respond adequately to coercive control, as well as other forms of domestic violence, it is essential that there is funding for more duty lawyer services in regional and remote areas. For instance, in the courts immediately surrounding the Cairns area, there are no domestic violence duty lawyer services in Mossman, Mareeba, Atherton, Innisfail, and Tully. In fact, there are only nine courts outside of Southeast Queensland that have domestic violence duty lawyer services. This is out of approximately 90 courts! In our service area, which extends from Mackay across to the Northern Territory border and up to the tip of the Cape, there are only three courts with duty lawyer services - Mackay Townsville and Cairns. Following on from this, more funding is needed to upgrade IT capabilities in regional and remote courts for vulnerable people to give evidence remotely and to allow for the remote delivery of duty lawyer services if in person services cannot be provided.

Regional and remote areas of Queensland need better access to homelessness services for both victims and perpetrators of domestic violence. This will assist markedly to better ensure there is an appropriate response to coercive control. Like everywhere, there are very tight rental markets in regional and remote areas, with the situation exacerbated by the COVID-19 pandemic. The lack of affordable accommodation affects many people, including couples that are separating and women trying to flee dangerous situations. If couples must remain separated under one roof for long periods of time this can significantly increase the risk to victims of domestic violence. Victims often need to be able to leave their accommodation quickly for their own and their children's protection. Similarly, it is important that perpetrators have access to accommodation so they cannot use homelessness as an excuse to remain in a home where they are perpetrating violence. Ouster orders should be used far more frequently to protect women and children experiencing domestic violence.

Case study: as duty lawyers we assisted a woman who was an aggrieved in an application for a domestic violence protection order filed by the police. The police were only seeking a mandatory condition on their application despite there being physical violence and threats of a murder suicide. The aggrieved and the respondent had lived together despite being separated for more than three years. The respondent refused to move out of the home because he had no money and did not have anyone he could stay with. It was difficult for the aggrieved to move out as she had two children and two cats, and the house was actually owned by her. The aggrieved ultimately did not seek to pursue an ouster and have the respondent removed from her home. She was worried about him retaliating. If the respondent had access to affordable accommodation this issue may not have arisen.

12. What could be done to better ensure that perpetrators, have access to services and culturally appropriate programs with the capability to respond to coercive control whilst they are on remand or after sentencing in a correctional facility?

It is our understanding that there are no, or limited, programs available to perpetrators on remand or after sentencing. We support the introduction of mandatory perpetrator programs both during remand and/or after sentencing. We believe that intensive

specialist programs should be mandatory for those sentenced for a period of six months or longer and shorter programs available for those incarcerated for shorter periods or on remand. Incarceration is a unique opportunity where services can be wrapped around perpetrators to attempt to facilitate a change of attitude/behaviour. When perpetrators are released into the community there is little opportunity to ensure engagement in programs, with no accountability as to their actions.

13. What are the gaps in the service system that could be addressed to achieve better outcomes for victims and perpetrators of coercive control?

We have addressed many of the gaps, such as:

- Need for better access to legal services.
- Need for access to counselling and support services for victims and perpetrators.
- Need for extensive community education.
- Need for specialist mandatory and regular DV training for police, legal professionals and judicial officers.
- Lack of housing for women escaping violence.
- Lack of housing for perpetrators.
- Lack of LAQ representation for victims of coercive control and domestic violence more generally.
- Lack of domestic violence duty lawyer services to regional and remote courts.
- Need for IT upgrades to regional and remote courts.
- Need for mandatory behaviour change programs in correctional facilities.

15. What in the current integrated service response works well to enable effective responses to coercive control?

16. What are the opportunities to improve integrated responses to victims and/or perpetrators of coercive control to achieve better outcomes?

17. Have you had any experience with the existing integrated service responses or co-responder models operating in the Brisbane, Cairns, Cherbourg, Ipswich, Logan/Beenleigh, Mackay, Moreton and Mt Isa regions? If so: a. What worked well?
b. What could be done better?
c. What outcomes have been achieved?

An integrated response, in our experience, has led to increased safety of women and children, however the model struggles to engage the perpetrator at all unless he is either incarcerated or on probation/parole. The women can be totally surrounded by supports, yet without the ability to engage the perpetrator nothing will change. The immediate risk may be avoided but in many cases the risk is just being kicked further down the road. Engaging the perpetrator, whether voluntarily or involuntarily, is central to decreasing domestic violence and increasing women's safety. Options such as behaviour change

programs being mandated rather than voluntary at the point of making a domestic violence order could be considered. Also, mandatory programs for those who are on remand for, have been convicted of, or are "post-conviction" for domestic violence offences should be considered.

The introduction/expansion of integrated response teams for domestic violence incidents is also something that should be considered. Specialist social workers should attend domestic violence callouts with police to help recognise and respond appropriately to what has occurred. This would reduce the likelihood of women being misidentified as perpetrators and would improve the ability of the victim to report what has happened. Many women will not open up to police as they do not trust them or are afraid of them, often due to previous encounters where the police have not responded protectively or appropriately. Having a social worker available to tell their story to, may break down some of the barriers faced by women, particularly Aboriginal and Torres Strait Islander women and women from culturally and linguistically diverse backgrounds.

18. What is working in the civil protection order system under the DFVP Act to protect women and children from coercive control?

We believe the Act itself is generally well drafted and has the potential to be used effectively to protect women and children from coercive controlling behaviours. However, the big issue is the interpretation and application of the Act in a manner consistent with parliament's intention that it be a protective, flexible tool to address domestic violence. It is our experience that it not routinely used in this way, which can result in great injustices and unsafe outcomes.

We believe the civil system is working. The standard of proof to satisfy a court of an act of domestic violence is more realistic than the criminal standard. The civil system allows a tailored response to circumstances when magistrates use the Act as it was intended, to bring about orders that protect but which take into account the circumstances of the parties.

Often a civil protection order is preferred by women. Women sometimes do not want their partners to face criminal charges for various reasons, but often because the male is the breadwinner and if he is incarcerated then the woman and her children face homelessness, lack of financial resources, or are at risk of retribution from him or his family.

Respondents are far more likely to consent to orders in the civil system than if faced with criminal charges. We find that the concept of consenting to an order without admissions of wrongdoing encourages some perpetrators to agree to orders to finalise the matter, thereby avoiding long drawn-out court proceedings that continue to retraumatise the victim.

19. What parts of the civil protection order system under the DFVP Act could be improved to better protect women and children from coercive control?

Part 2, Division 2 of the *DFVPA* needs to be amended to include a general definition of coercive control along with some specific examples, including threats/removal of children, use of visa status, threats to use systems abuse etc.

Ousters need to be routinely considered and made, as required by the Act but rarely done. This is intimately linked to the issues outlined by our responses about accessible accommodation and support for perpetrators.

To improve the civil protection order system, police, judicial officers, and legal professionals all need regular mandatory specialist training on all elements of domestic violence, including and especially coercive control.

In our view, another improvement to the system would be to include examples of prohibited behaviours on the face of each domestic violence order, including those in the mandatory terms only. This non-exhaustive but comprehensive list should include examples of coercive and controlling behaviours. A further idea could be to have respondents that wish to consent without admissions sign an attachment to the order, to reflect they have understood the conditions and agree to be bound by the order (a bit like a contract to be of good behaviour.)

Section 42 could be amended to provide the court with power to make a temporary protection order, or vary an existing temporary or final protection order, at a bail or variation of bail hearing. This would give the court an extra tool to increase the safety of women. At the sentencing of a perpetrator for a domestic violence offence, the court should also be given power under section 42 to finalise an existing temporary protection order made by the domestic violence court during civil protection order proceedings. Presently, a criminal court must make a new domestic violence order and the applicant must then seek to dismiss the other application.

There also needs to be some fine tuning with the forms and procedure in the civil protection order courts. For instance, the application for a domestic violence order is the first piece of sworn evidence before a domestic violence court and is routinely the only evidence at first mention that a court will allow an applicant to rely on, despite a domestic violence court being able to inform itself in any way. Often, self-represented women complete the form without legal assistance and leave out important particulars needed to satisfy a court that an act of domestic violence has occurred. We suggest that the forms (DV1 and DV4) are reviewed and amended to provide sufficient guidance to an applicant about the evidence of domestic violence they need to include, especially in relation to coercive controlling behaviours. These forms should also be amended to expand the questions that ask the applicant to indicate the specific conditions they need to be made for their protection.

Many victims of violence complete the application forms themselves and it is therefore important that the application is as simple as possible to best ensure they are completed correctly. Otherwise, victims who have experienced very serious violence and more insidious patterns of coercive control, may not have articulated their experiences properly

in an application may not receive the adequate level of protection to keep themselves and their children safe.

Case study: we assisted a woman who had filed an application to vary her protection order herself. She presented to the domestic violence duty lawyer for advice and assistance on the morning of her court date. Unfortunately, her application was very unclear about what variations she was seeking and also what the incidents were that led her to seek additional protection. Her matter needed to be adjourned for her to file further material clarifying what the incidents were and what extra protection she was seeking. She felt fearful that she was at risk and disheartened that when she had finally taken the step to gain protection she was told to do better and come back in two weeks. Had the application been clearer in identifying the sort of information that needed to be included this issue may have been avoided and she may have been successful in obtaining immediate protection.

20. What are the advantages and/or risks of using the civil protection order system under the DFVP Act instead of using a direct criminal law responses?

The Act allows for a concurrent criminal charge for an act of domestic violence arising out of the same set of circumstances as those being put forward to support an application for a domestic violence order. The two jurisdictions have different purposes, the criminal court to punish perpetrators for past behaviour and the civil court to provide protection if there is future risk. In our experience, in the majority of cases where police attend a domestic violence incident, they will only use the civil system to seek a domestic violence order and not charge a criminal offence as well. In our view, when the victim is willing, it is appropriate to use both civil and criminal law responses. We find women are often not aware they can make a criminal complaint and are not informed of this opportunity by the attending officers. It seems to us that often a civil response on its own provides a 'second chance' and a second act of violence is necessary to result in criminal charges.

Some of the advantages of using a civil response instead of a criminal response are:

- The lower burden of proof makes seeking protection for women experiencing domestic violence much more accessible. If a criminal response is used instead, it may prove challenging to discharge the burden of proof to the criminal standard. This may leave perpetrators without consequences for their actions (emboldened) and victims with a diminished confidence in the justice system.
- Some victims do not want the perpetrator charged with a criminal offence and potentially incarcerated because they fear negative consequences for them and their children, however they still need protection of an order.
- Many protection order matters can be finalised quickly because of the option to consent without admissions of wrongdoing or, because it is a civil court, some perpetrators do not appear knowing they will not be arrested for their non-appearance.

Some of the risks of only using a civil response are:

- Perpetrators are not always held accountable for their actions, especially because they can consent without admitting wrongdoing and no findings of fact are made.
- The civil system provides the opportunity for perpetrators to use the system to perpetrate further abuse on victims by permitting the filing of vexatious, malicious, deliberately false or frivolous applications (especially cross applications.) There are no consequences for filing such applications, except if the perpetrator proceeds to hearing and their application is dismissed as one of these four categories, and the victim respondent has incurred legal costs to defend the application, a costs order may be made. We are not aware of a matter where the filing of such an application with the purpose of perpetrating further abuse has been recognised as an act of domestic violence.

21. What could be done to help the civil protection system under the DFVP Act be more effective in protecting women and children from perpetrators who coercively control them?

We have provided our views in question 19 above.

27. What could be done better, for example mandatory perpetrator programs, to protect the safety of women whose coercively controlling partners are given a grant of bail?

We do not practice in the area of criminal law however it seems to us that empowering a criminal court to make a temporary domestic violence order, or to temporarily vary an existing domestic violence order against a person who is applying for bail or to vary bail for a domestic violence offence, would help to protect the safety of women. The making of the order could in fact be taken into consideration when a court is assessing the risk of granting bail.

These temporary orders can then be finalised at the sentencing of the perpetrator or dismissed if he is acquitted at hearing. A new application could still be brought by the police, or the victim, in the domestic violence court where the civil standard of proof may satisfy the court that an act of domestic violence has been committed and it is necessary or desirable to make an order.

In our view, it is not sufficient to rely solely on bail conditions to protect a victim of a domestic violence offence. If a temporary protection order can be put into place and it is breached, more severe sanctions can be faced by the perpetrator than a breach of bail alone, in order to protect the victim.

41. What could police officers do differently when exercising their powers to better protect women and children from coercively controlling partners or former partners?

As outlined in our response to question 2 above, police still regularly employ an incident-based approach to DV. This creates a real issue with misidentification of the person in

need of protection and results in great injustices to women who are trying to resist and survive coercive controlling behaviours perpetrated against them. Police officers need to understand these situations better and use other resources available to them (such as police databases) to look at any relevant history, current or expired domestic violence orders involving the parties, and consider the greater context in which the particular incident has taken place, i.e. police need to employ a pattern-based approach and adopt a predominant aggressor framework to identify the person most in need of protection.

Police officers, like every member of the community, need to understand patterns of behaviours to recognise when someone is perpetrating coercive control. Police need to understand the dynamics of coercive control and the techniques employed by perpetrators and identify when a perpetrator is attempting to use the justice system as a tool of coercive control against a victim.

Where victims are willing, police officers need to take action and lay charges for criminal offences pertaining to the coercive controlling behaviours and not just use the civil system to obtain a domestic violence order. Where possible, police need to ascertain if a victim actually wants a criminal charge to be laid but for safety reasons, is unable to be a complainant. In these scenarios, and where there is sufficient evidence, the police should consider laying charges without a complainant.

To respond better to coercive control, police need better ways and powers to investigate the use of electronic methods to track and control women. They need to understand financial control and have better ways and powers to recognise and act if financial control is being used.

Police also need to ensure that interpreters are used routinely when one or both of the parties do not speak English. We have seen many instances where the woman has very limited English and has tried to tell her story to the police without the use of interpreters, resulting in either orders that do not contain sufficient protection to keep her safe, or that she ends up being named as the respondent.

Client story: we assisted Kari a woman from a non-English speaking country who had been named as a respondent in a protection order application made by the police. Kari spoke very little English and had been the victim of serious ongoing domestic violence, including physical violence and coercive control from her husband. During one incident their neighbour called the police as he was concerned for Kari's safety. When the police attended, they spoke to her husband first as he was Australian and spoke perfect English. He claimed that he had done nothing and that she had actually hit him. They then spoke to Kari and asked her if she had hit him. She said yes. They then arrested her and took out a PPN naming her as respondent and her husband as the aggrieved. When we spoke to Kari with an interpreter it turned out that she had hit him because he was strangling her and she had lashed out to try and get free. She was unable to tell the Police this due to her limited ability to speak and understand English.

42. What are the benefits of personal service of PPNs?

Personal service of PPNs provides immediate protection as soon as service takes place. It also provides an opportunity for police to discuss a perpetrator's behaviour with them and outline the legal consequences if it continues and make referrals to agencies for a willing perpetrator to engage with. It removes any doubt that a perpetrator did not know their behaviour has been called out or that there is a court date regarding the making of a domestic violence order.

43. What would be the risks of enforcing PPN immediately, even though the perpetrator is not yet aware it exists?

Issues of procedural fairness could be used to appeal any convictions brought about from charges laid for breaches of PPNs that contain conditions that a perpetrator was not aware of. If a perpetrator is successful in this manner, this may lead to the perpetrator becoming emboldened and a victim losing faith in the justice system.

However, the mandatory condition to be of good behaviour and not commit domestic violence could be enforceable immediately because that would not prejudice the perpetrator. As a member of a civil society, he must always be of good behaviour and not commit acts of domestic violence. Alternatively, if a standalone offence of commit domestic violence is created, he could be charged under that offence and service is a non- issue. Such an offence however could have serious repercussions for women who are misidentified as respondents and any standalone commit domestic violence offence would need to be accompanied by many of the other suggestions outlined in this submission including extensive police training, adoption of a predominant aggressor framework and integrated response teams to avoid this happening.

44. What avenues other than personal service would be suitable to ensure perpetrators are aware that an order exists so police can commence enforcing a domestic violence order immediately to help keep the victim safe?

A method could be used whereby a domestic violence order can be enforced if a police officer is satisfied that the existence of an order and its conditions has come to the attention of the perpetrator and the perpetrator has been given the opportunity to be served. For example, a police officer telephones a perpetrator and tells him:

1. a domestic violence order has been made with conditions.
2. the order is enforceable immediately; and
3. the onus is on you (the perpetrator) to collect the order from the nearest police station or to organise for the police to travel to you asap to personally serve the order; and
4. if you fail to be served the order you can still be charged with a criminal offence for breaching the order.

There is already scope for this method to be used under the existing provisions of the *DFVPA*, however it is our experience these provisions are not utilised by police. We have seen many women continue to be harassed, abused and threatened by their perpetrator

after a domestic violence order has been made, but police will not assist because it has not been served and he cannot be charged with a breach.

49. What improvements could be made to police training to ensure better protections for women and girls who are victims of coercive control?

We are not aware of how domestic violence training for police officers is currently conducted, but our experience in the domestic violence courts and working with thousands of women every year would suggest that their training does not provide many officers with an understating of the dynamics of domestic violence, and specifically coercive control. We suggest that an improvement to police training is to increase the amount of training, the level of training and to include training by specialist domestic violence services. An understanding of the dynamics of coercive control will assist police to identify when a perpetrator is misrepresenting a situation and would assist the officer to identify the person most in need of protection, despite initial appearances/impressions of the scene.

Part 2- How do other jurisdictions address coercive control?

The economic abuse offence that has been introduced in Tasmania may be useful in addressing some of the financially coercively controlling behaviours that are contained in our response to question 1 above. The difficultly may be in proving the behaviour to the criminal standard, beyond reasonable doubt.

If Queensland was to introduce an offence of coercive control, then it should not be confined to only those perpetrators who are still in a relationship with the victim, like the original English offence, but should absolutely apply to relationships that have ended, as we know abuse continues and often escalates, long after separation.

If Queensland was to introduce an offence of coercive control, then it should absolutely be co-designed in consultation with non-government stakeholders (especially specialist domestic violence services and women's legal services) and be accompanied by significant investment in training of police, courts, lawyers, service providers and the wider community, as occurred in Scotland.

Integrated service responses have proved to be very successful in responding to domestic violence and keeping women safe and should continue to be used. Such models can be further enhanced by the establishment/expansion of integrated response teams whereby specialist social workers accompany police on domestic violence callouts to help them recognise and respond appropriately to what has occurred. This may reduce the likelihood that the true victim is misidentified as the perpetrator.

The use of female only police stations in Argentina staffed by police, lawyers, social workers and psychologists is an excellent way of providing a holistic integrated response to women who are victims of violence in a safe women's only space. Medical practitioners could also be employed to address any physical health needs of women who have

experienced violence. This is an idea that we would support being implemented in Queensland.

55. How will legislating against coercive control improve the safety of women and children?

Legislating against coercive control will hopefully improve the safety of women and children by signalling to the community that these types of behaviours are no longer tolerated, and that the justice system is prepared to protect women and children against such behaviour.

Coercive control legislation will hopefully bring concerning behaviours to the attention of the police at an earlier stage, rather than this behaviour being dismissed because it is not considered overt domestic violence, or from being considered simply a 'red flag' that the police are powerless to address (and that can lead to more sinister incidents).

Client story - Jane and John were in a de facto relationship for 8 years and had 2 children together. Throughout the course of their relationship, John subjected Jane to severe physical and sexual abuse as a weapon to exercise extreme control over her. John had CCTV cameras installed in the house so that he could monitor Jane and the children when he was not home. John would often punch Jane repeatedly in the head until she saw stars, force Jane to perform oral sex on him, and rape Jane.

John eventually took interest in another woman, Jean, and ended his relationship with Jane. At separation, Jane offered to move out of their house, but John forbid it. Instead, John moved into the granny flat out the back of the house and forced Jane to continue living in the house with the children, despite knowing that she wanted to leave. Jane was too fearful of John to leave against his wishes.

Even though John was in a new relationship, with Jean, John continued to monitor Jane through the CCTV cameras in the house and still expected Jane to complete all the domestic duties for both him and the children. John continued to regularly rape and physically abuse Jane after separation. On one occasion, John cut off chunks of Jane's hair because she had "disobeyed him".

Jane was terrified of John. Jane did everything and anything that John asked her to do because she knew that if she didn't, she would be punished - John often threatened to kill Jane. Jane was effectively John's prisoner for seven years after separation.

Jane finally fled from the house seven years later, on the day that John tried to kill her – John tried to waterboard Jane, physically beat Jane until she lost consciousness, dragged Jane by her hair, and told Jane to put a shovel in the boot of his car and get in. The police were called, and Jane fled. John was not charged with attempted murder, but he was charged with strangulation; torture, AOBH, common assaults, deprivation of liberty and attempting to pervert the course of justice (for trying to arrange to have Jane killed after the police became involved.) These charges did not capture the years and years of coercive control that Jane and the children suffered. An offence of coercive control or cruelty may have meant that John could also have been held accountable for those

actions that have scarred Jane so fundamentally that she suffers daily from the effect on her mental health.

Footnote: the matter went all the way to a jury trial and after day two of the trial John decided to enter a plea of guilty. Unfortunately, this meant that some of the more serious charges were dropped, being the two strangulation charges and the torture charge. John was sentenced to six years imprisonment, to serve a minimum of 2.5 years -if coercive control or cruelty (for the psychological abuse) had been also charged, would these charges also have been traded away for being 'less serious' than those for the physical assaults?

56. How will legislating against coercive control encourage greater reporting of domestic and family violence including non-physical abuse?

In our view, the introduction of a new offence must be accompanied by significant education campaigns, commencing in schools and community organisations and also using mainstream broadcasting methods.

As long as the community is made aware of behaviours that can constitute coercive control and what action the public can take if they observe such behaviour, legislating against such behaviour could result in greater reporting by victims who self-identify and by concerned community members. We see many women, particularly older women, who have experienced coercive control or non-physical domestic violence for years but have not known that what they were experiencing was domestic violence.

Conversely, there is also a real risk that the introduction of an offence of coercive control may act as a deterrent to some victims seeking help because they do not want their partners charged with a criminal offence. Reasons include loss of the breadwinner, potential homelessness of the victim and her children, an increase in the risk to her safety, and an inherent mistrust of police and authorities because of previous interactions. This is particularly true for indigenous women who may be distrustful of authorities because of the history of poor outcomes for indigenous people engaging with police and Child Safety. Unfortunately, some indigenous women hold such an inherent distrust of police that they would prefer to side with a violent partner than cooperate with police.

Other vulnerable groups such as culturally diverse women from different ethnic groups, and especially those on visas, also may not want their partners charged and potentially incarcerated because of the real risk that it will lead to their homelessness, or the reduction of financial resources needed to live, or bring about an adverse outcome in their visa applications.

57. How will legislating against coercive control improve systemic responses to domestic and family violence?

If there is an offence of commit coercive control, concerning behaviours could be subjected to greater community and police scrutiny and identified and charged. If used

correctly, such legislation would be another tool for police to manage high risk situations or situations that could lead to higher risk if behaviour is left unchecked.

58. How will legislating against coercive control improve community awareness of domestic violence?

Please refer to answer to question 56 above.

59. How will legislating against coercive control help stop perpetrators from using coercive control?

As the community becomes aware of the types of behaviours that could constitute coercive control, perpetrators may self-identify or have a close contact or community member call out their behaviour before it results in criminal charges, and result in a reduction of such behaviour.

If there is an offence of commit coercive control, perpetrators who persist with such behaviour can be held criminally accountable for behaviours that go unchecked at present, with the deterrent effect of criminal sanctions curbing future risk.

60. What other risks (not mentioned in the paper) are there in implementing legislation to criminalise coercive control?

There is a real risk that criminalising coercive control could lead to injustice where misidentification of the true perpetrator/victim has occurred. This is currently a major issue with the civil domestic violence system, resulting in women being subjected to orders after attempting to survive or resist an act of domestic violence. If coercive control is criminalised, then there is a risk of misidentification leading to women being charged with criminal offences when they are the victims. Perpetrators adept at systems abuse could use the legislation to commit further domestic violence on their victims, by having the victim subjected to criminal sanctions. In turn, this could be used against the victim in family law matters and have implications should Child Safety become involved.

This is a particular risk for Aboriginal and Torres Strait Islander women and women with mental health issues. We know that indigenous women are the fastest growing cohort of incarcerated people, with a large number being convicted of breaches of domestic violence orders. Introducing further criminal offences could lead to further incarceration and criminalisation of the very women that the laws are trying to protect. The law is a very blunt instrument and not necessarily suited to addressing an issue so insidious and difficult to pin down as coercive control.

As with any domestic violence offence, if the offence is charged without the consent of the victim, this may compromise her safety or lead to other adverse consequences for her and her children, such as homelessness, and/or loss of financial resources, transportation, and assistance with raising children.

Consideration should be given to the effect of failure to prosecute or failure to convict perpetrators for their coercive controlling behaviours. If police fail to charge the offence or if prosecution cannot discharge the burden of proof to the criminal standard, perpetrators will likely be emboldened at the lack of consequences for their behaviours, in some instances further increasing the risks to victims. Victims who have had the courage to come forward for help will be let down and their confidence in the justice system diminished.

Ongoing criminal processes can extend the time for domestic violence applications to be finally determined in the civil courts. If coercive control or commit domestic violence is charged, a perpetrator can use this as a reason to have their victim return multiple times to the civil court, as the domestic violence court often agrees to wait for the outcome of contested criminal matters before setting down a domestic violence application for hearing. This widespread practice is an example of the *DFVPA* not being implemented in line with the principles of the Act, which is to minimise the disruption to the lives of people experiencing domestic violence.

64. Would requiring mainstream services (for example health and education service providers) to report domestic violence and coercive control behaviours improve the safety of women and girls?

Mandatory reporting by mainstream services may increase the safety of many women and girls by taking away the burden or the risk of them self-reporting or waiting for police intervention. For some women, they simply cannot report the violence themselves as it would put them at much greater risk to do so. For others, it is simply too overwhelming to report the abuse as they are consumed with the survival of themselves and their children. Some are so desensitized to the violence they accept it as a part of their lives, or they do not even recognise it domestic violence. Some women, as we have explained in question one, have been coerced into committing a criminal act (such as Centrelink fraud or breach of a domestic violence order) and cannot report the violence against them because they are threatened with disclosure of the information that perpetrator has on them.

Client story - we assisted Margaret who had been in a coercively controlling relationship with a perpetrator and had tried multiple times to leave. Margaret had finally found the courage to separate, however the perpetrator saw Margaret parked in her car at the end of a cul-de-sac leading to a jetty where the perpetrator has alighting from a barge. Before Margaret could start the car and escape, the perpetrator threw one of his tools, a hammer, through the window and struck Margaret in the head causing serious injury (splitting the skin resulting in significant loss of blood and breaking her eye socket in three places). As Margaret was about to lose consciousness, the perpetrator pushed Margaret into the passenger seat and drove her to the nearby hospital. The perpetrator presented with Margaret at ED and it was made known to the medical staff that he had thrown the hammer that had caused the injury. Margaret's needle phobia meant that she was given medication that rendered her without capacity to make informed decisions. Margaret was later released into the care of the perpetrator that night. She has no recollection whatsoever of her time in the hospital or her release. Her emergency contact on her existing file was not contacted, nor were the police - even to do a welfare check, despite

her file clearly being marked that she was the victim of domestic violence perpetrated by the person who brought her into hospital and with whom she went home with. Margaret awoke the next morning with the perpetrator in her home and was faced with trying to safely cajole him to leave. He took Margaret's car and had the opportunity to clean a lot of the evidence of the blood before it was eventually returned to her. Margaret was extremely angry that her safety had been compromised by the hospital's lack of concern for her safety. When approached for an explanation, the hospital said they acted according to their policies as there was no requirement to report and refused to issue an apology to Margaret.

There are many other women and girls who would have their safety decreased if mainstream services were subjected to mandatory reporting obligations. These women will bear the brunt of the perpetrator's blame if his domestic violence is reported to police. It will make these women less likely to seek medical or other assistance out of fear that a report will be made. It will also incentivise abusers to prevent their victims from seeking medical attention.

A study on the experiences of 61 Michigan women for who mandatory reports were made indicated many of them would have lied to their doctor if they knew that a report would be made. They also indicated that abusive men were preventing women from seeking medical help out of fear a report would be made. 60 out of 61 of the women opposed mandatory reporting of suspected domestic violence, with the 61st being a woman whose injuries were caused by a stranger who broke into her home who was later found and charged by police. All women whose injuries were caused by an intimate partner thought that mandatory reporting was a bad idea. https://vaw.msu.edu/wp-content/uploads/2013/10/Mandatory-Reporting-Affilia.pdf)

65. Are there any other challenges (not mentioned in the paper) for specialist service providers?

If coercive control is criminalised, there are education campaigns, and the offence is routinely being charged, this will lead to a dramatic increase in the demand for police and court resources and the resources of agencies such as domestic violence specialist support services, community legal services, Legal Aid, etc.

68. Would it be desirable to narrow the definition of domestic violence to include only the abuse that is perpetrated in the context of coercive control?

In our view any narrowing of the definition of domestic violence would be a step back from protecting women and children. There are many behaviours that are harassing or upsetting that may not meet a definition of coercive control. The definition of domestic violence should be as broad as possible so as to be flexible enough to cover a myriad of behaviours, including coercive controlling behaviours, that women and children experience and need protection from. We do however strongly believe that whatever

definitions and offences are ultimately used, they must be drafted in such a way so as to be easily understood by victims, perpetrators, community members, police and courts.

70. What should be key indicators of success when measuring the impact of legislation against coercive control?

Overall, a key indicator of success would be a detectable decrease in the reports of coercive control to police and other community agencies and a decrease in serious injuries and death of women and children in Queensland, as well as a decrease (or at least no increase) in the rate of criminalisation and incarceration of women.

71. What other factors should be considered in relation to assessing impact?

Factors to be considered in assessing impact should be how many times the offence is charged and how many times it results in convictions. Recidivism rates for the offence should also be considered. If the offence is not being charged or if there are low rates of conviction, consideration should be given to the affect this has on the behaviour of the perpetrators (who may be emboldened at the lack of consequences) and the damage to the confidence of the victim in the justice system.

The impact on a victim's safety should also be assessed in circumstances where the charge is used against the victim's wishes, in matters where the parties are still cohabitating, and in all high-risk matters.

Option 1 - Utilising the existing legislation available in Queensland more effectively
& Option 5 – Amending and renaming the existing offence of unlawful stalking in the Criminal Code

Risks - that police do not understand how to use existing legislation and perpetrators are not held accountable for their coercively controlling actions and that victims remain at risk.

Benefits - lower cost to the government. Quicker response. Some training needed to ensure police understand and use the existing legislation more often & understand any amendments. Offences already cover the offending behaviour.

Option 6 – Creating a new standalone 'coercive control' offence
& Option 7 – Creating a new offence of 'commit domestic violence' in the Domestic and Family Violence Protection Act 2012

Risk - as outlined in our response above, misidentification can lead to criminal charges/conviction against victims of violent and coercively controlling behaviour. This have can have flow on effects where the victim has care of children.

If charges are laid without the consent of the victim, her safety can be severely compromised as can her ability to support herself and her children. Can lead to further social issues such as homelessness, children being removed and mental health issues.

Police will not charge the offence, or the charges do not result in convictions, leading to perpetrators being emboldened and victims losing faith in the justice system.

Benefits - perpetrators are held accountable for their coercively controlling actions and that victims' safety is enhanced.

Community members, including victims, can understand and identify behaviours that are coercively controlling and that there can be criminal consequences for those that engage in these behaviours.

Option 12 – Amending the Dangerous Prisoners (Sexual Offenders) Act 2003 or creating a post-conviction civil supervision and monitoring scheme in the Penalties and Sentences Act 1992 for serious domestic violence offenders
& Option 13 – Amending the Penalties and Sentences Act 1992 to create 'Serial family violence offender declarations' upon conviction based on the Western Australian model

Risk - could result in a disproportionate level of indigenous men coming under this scheme.

Benefits - low risk. At present, once a serious domestic violence offender is released into the community there is no scrutiny of their behaviour, no monitoring or supervision scheme and nothing to require them to engage in men's behaviour change programs. These offenders are left to reoffend with the same or new victims, with their behaviours unchecked until their actions result in further criminal charges. Such a scheme will improve safety of women and children.