

23/06/2021

Discussion points from a 2-hour Zoom session with Broken to Brilliant members

All 72 discussion questions could not be responded to, the discussion paper summary 1 document was used to guide the discussion with a group of domestic violence survivors.

Overall, abuse survivors expressed that the current laws and the application of those laws by the police and the courts have not held perpetrators to account for their behaviour. Survivors felt that perpetrators got off scot-free! Nothing happened to them for breaching restraining orders and committing these types of offences stalking, raping, sexual abuse, showing children pornography, stealing, fraud, drugging their partners for sexual abuse, threats to kill, harming pets, smothering, attempted drowning, strangulation, break and enter, threatening letters, text messages, phone calls and voice messages even though all these were reported to the police.

Therefore, any changes to the law require that ALL police, paramedics, court officials, health care professionals and domestic violence service professionals have specialised training and ongoing training to be competent in understanding and applying the issues that survivors face and to hold perpetrators to account.

We question a state-based response as survivors and perpetrators move interstate. Domestic abuse is a national issue, we are aware that each state has powers to make legislation concerning matters involving crime within their states.

Discussion Paper 1 -Summary

1. What other types of behaviour or risk factors used by perpetrators in Domestic relationships might amount to Coercive Control?

Coercive behaviours by perpetrators that the survivors in this discussion group have experienced:

- A victim with a disability is restricted, frightened, degraded.
- Perpetrators using the children to hurt the victim by restricting and withholding any medical attention/treatment while in their care in the perpetrators home.
- Limits the victim's ability to access any type of home care.
- Perpetrator gives the victim medication, drugs that are not prescribed disability or not disability e.g sleeping tablets, tranquilisers other drugs to enable sexual abuse.
- Perpetrator will send a deposit to bank account e.g., 10c with an abusive message in the deposit description.
- The perpetrator takes sexual abuse photography and videos while the victim is drugged. They reveal the images and use these as threats to not leave and to drop assault charges.
- past trauma used to influence and to deliberately control the victim.

- Perpetrator hurts or puts children in dangerous situations. e.g., not feeding them, drives fast with children in the car, withholding medication.
- Using children's and pets to control the victim.
- Taking children away from the victim thereby making the victim return to the perpetrator.
- Uses victim's mental health problems in affidavits in court e.g., contacting victim's mental health professional to gain information to be used against the victim.
- Perpetrator portrays himself as the carer to get information and control the situation.
- Uses the legal system to financially ruin the victim.

Flying monkeys – 'flying monkeys' is another way of saying 'abuse by proxy, uses friends and family of the victim to spy on them, spread gossip while painting themselves and the perpetrator as the victims.

- Encouraging family and friends to deliver abuse, secondary abuse.
- Applying for a false DVO on the victim – vexatious DV orders
- Perpetrators are very manipulative.
- isolating victim

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

- Understand that if the victim wants to stay, this could be a safer option.
- Too much at stake to leave with no income, no work, no housing, no transport.
- Police should look more closely at isolated acts of violence, and it could be the victim hitting back after years of ongoing abuse, the victim performs retaliatory self-defence abuse that is used by the perpetrator to portray themselves as the victim and reduce the chance of the real victim pursuing charges.
- Police need to understand who the real abuser is.
- Police are not trained sufficiently to address domestic violence, understand a person's response to trauma, fight, flee, flock, freeze, disassociate.
- Consider sending both parties for assessment to find out the truth, though psychiatrists do not fully understand abuse and have been known on multiple occasions to fall for the manipulation of the abuser.
- During a sexual assault, the victim may kick, scratch, pull hair anything to prevent the assault from occurring, this is portrayed by the abuser as 'rough sex' that was consensual, 'you know mate, the way she really likes it!'

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?

- Community education and awareness about coercive control and the impact to change people's mindset/perceptions.
- Teach greater awareness of what constitutes healthy respectful relationships in schools so that coercive control and domestic abuse can be more easily identified as not a healthy relationship and skills to intervene when there is bullying or abuse.
- Regulations for TV dramas and reality TV and other TV programs, e.g. Home and Away and Married at First sight – both these programs allow and condone abuse and portray abuse for-profit and viewership.
- All professionals need to be taught about domestic abuse, how to identify it and the skills to intervene.
- All professionals, in particular, the police need to believe what they are being told.
- Mandatory reporting e.g., by health professionals, banks and services about abuse
- Advertising in media and how to intervene when you see abuse and how to seek help.
- It starts at the top- the political behaviour displayed in parliament, the lack of professional and ethical standards required for a politician to be allowed to be a politician, the bar has been set very low when infidelity and sexual harassment is covered up and rewarded.
- Politicians who have been fined for a DV offence should not be allowed to sit in parliament.

4. Are there opportunities for the media to continue to improve its reporting of DFV and for popular entertainment to tell more topical stories to increase understanding of Coercive Control?

- Accurate media reporting and not sensationalist, not victim-blaming reporting as identified by Jane Gilmore in her book Fix-It - rape is rape not a sexual relationship with a minor.
- More diversity in the journalist's media.
- Promote and advertise services to help survivors.
- Adverts on TV based on Coercive Control.
- List where I can go from here, what help is out there.
- TV needs to have DFV survivors on the writing teams.
- The media need to consider how they report the story.
- Non-English-Speaking people in a relationship commit suicide as they do feel they cannot get out of the relationship.
- Media domestic violence reporting guidelines be established like suicide reporting guidelines. There is significant evidence that media reporting of suicide may increase the rate of suicidal behaviour in individuals who are experiencing suicidal ideation.

We feel that research is needed to determine if the reporting of the methods of domestic violence used by the perpetrator increases copycat domestic violence e.g., women being burned Hannah Clarke and her children, Kelly Wilkinson are there others?

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

- Survivors in our books say that nobody truly knew what the terror was like behind closed doors and that domestic violence offenders terrorise their victims.
- Violence is only one form of abuse
- Domestic violence vs domestic abuse vs domestic terrorism.
- Coercive control is a part of abuse and power and control.
- The overarching term should be **Domestic Abuse** as this covers all forms of abuse including coercive control (power and control), physical violence and assault, sexual assault, spiritual abuse, technology abuse, financial abuse, emotional abuse, stalking harassment.

7. If you are a victim of coercive control (or have supported a victim) and you have received assistance from a mainstream service:

a) What worked well?

- For those who had access to women's legal services, their service worked well though there are insufficient legal services for all.
- Services that provide housing set up such as Rise Up and Friends with Dignity
- Seeking support 0-3 months during the crisis there is support.
- It takes way too long, though when the help finally does come through (usually 2 years or more) assistance with housing, bond and rent are vital.
- In Tasmania, the Safe at Home integrated criminal justice response to family violence has worked well. It utilises a pro-arrest, pro-prosecution policy to address family violence, complemented by a human services approach to support recovery and change. This integrative case-management approach/model occurs each week in each jurisdiction in Tasmania a panel consisting of Police, DV Counselling Service, Child Safety, Probation and Parole, and Court Support Service – all of whom have completed DV training before being part of the panel meet to discuss the newly reported cases of DV for that jurisdiction each week and they are then case managed by each particular agency depending on the level of risk agreed on by the panel. This model could also be used in Qld, and they could additionally have survivors attend regularly to talk about their experiences so the panel members can enhance their learning of DV from a survivor's perspective. For e.g., this would be useful to enhance any DV training the panel members have had so they can achieve a deeper level of understanding such as in cases where the more subtle (or those which appear to be subtle or not recognised by police) ways that perpetrators are using especially coercive control.

- Specialist domestic violence court services where judges, magistrates, course personnel, support people have received extensive training in understanding domestic abuse and the cycle of power and control.
- Specialists police domestic violence units/stations have operated in Western Australia and Victoria and have worked well as they are highly trained, understand the cycle of abuse and treat victims with respect, understanding and they offer real help.

b) What could have been done better?

- The whole system needs to change, it is still disjointed, hard to navigate.
- Overall, survivors need to be included at the table for all decision making regarding laws, training, education campaigns, governance and more, similar to the National Safety and Quality Health Service Standards that require consumers to be involved in all levels of health care.
- **DV Programs and services**
 - After mainstream crisis support for 12 months to 2 years afterwards, there is a gap in long-term services
 - Services that are working in long term recovery are not acknowledged, funded, or supported.
 - Current services put on limits and caps e.g., Anglicare, Centre Care, only provide support for a limited time as do other services.
 - There are services whose programs retain survivors creating co-dependency to retain their funding.
 - All perpetrator programs need to ensure that the facilitator checks in confidentially with the victim to double-check the veracity of what the abuser is saying in the program.
- **Legal Services**
 - Limited access to legal aid, all victims need to be provided with funded specialised domestic violence legal services. Initial access to legal services is very poor because many survivors do not qualify for legal aid due to the assets test even though their assets will be tied up for months (or they have been denied access to bank accounts) or even years going through the family court process before they have access to money. This further enables the perpetrator to continue to financially abuse the survivor because they cannot afford legal representation.
 - There needs to be follow up services after legal as there are ongoing family court issues that keep victims entrapped to the abuser for decades in co-parenting arrangements.

- **Healthcare**

- Drs need to document more clear evidence of domestic violence, control, physical and psychological injuries, the victim's concern.
- The Medicare funded mental health plan does not offer sufficient appointments, 10 appointments are the trust-building timeframe and this does not allow time for recovery.
- Longer time frames are needed for all programs, they hit their quota and say goodbye, get on with your life and you feel lost, abandoned, worthless and alone.

- **Court and Family Court**

- The safety of children that is purported in the DV ACT is not applied in family court and consistently victims are forced to co-parent with an abuser.
- the cost, the length of time it takes – we have members still going through family court 11 years later, members have paid to private legal firms over \$100,000 and owe their family this money.
- long legal battles exacerbate the financial crisis and lengthen the time of trauma, delaying recovery and rebuilding.
- Court processes need to be sped up and family court actions should not be dragged on.
- Judges and magistrates need to treat victims with respect and understanding. They need to be trained in trauma responses.
- There is a significant disparity in the way the Family Court responds to allegations of DV and taking this appropriately into account when making orders about whom the children spend time with compared to the way the Magistrates in the DV Specialist courts respond to allegations of DV (e.g., they almost always put the children in protection orders because they can see they have been exposed to the DV). Children are therefore placed at risk if this disparity continues because and the Family Court's response to DV needs major changes.

- **Police:**

- Should not share victim information with the abusers.
- are unable to discern the anxious frightened reactive response to abuse between the calm manipulative perpetrator who presents as a victim.
- do not believe victims.
- they speak disrespectfully to victims.
- Queensland needs increased resources for more vulnerable person's units to address domestic violence and train all police officers to understand domestic violence and the cycle of power and control.

- **Centre Link**
 - perpetuates abuse through child support payments, perpetrators work long and hard to not provide child support and trick the system, the victims end up paying, the system does not believe the victim.
 - Centre Link requires a victim to provide their address, and this gets shared with the abuser, they also share private victim information with the abuser.
 - Currently, you need to carry a Centrelink issued card in your purse, the perpetrator can get the card and see your address.
 - Staff need to be trained extensively on domestic abuse power and control.
- **Driver's licence**
 - Currently, a Driver's Licence must have a residential address therefore, there is no privacy and the perpetrator can access it.

55 Are there any other benefits in legislating against Coercive Control?

- Yes, the benefits are that perpetrators of domestic abuse will be held to account for their behaviour and this earlier intervention through the law may prevent death and permanent and/or temporary harm.

61 What other risks are there in implementing legislation to criminalise coercive Control.

- The risk of escalating further abuse as payback for the legislation.
- Aboriginal and Torres Strait Islander women may be imprisoned more.
- Police, lawyers, judges and family court does not currently investigate thoroughly enough, write limited police reports and there is no understanding of the whole situation.

The group also discussed the 11 options posed in the discussion paper:

Option 1 - Option 1 – Utilising the existing legislation available in Queensland more effectively.

- There was no agreement.
- One person agreed to utilise existing legislation as coercive control is already written into the DV ACT.
- Other people did not think the existing legislation is strong enough and the current elements of coercive control are not currently applied by police and courts.

Option 2 – Creating an explicit mitigating factor in the Penalties and Sentences Act 1992 (Qld) that will require a sentencing court to have regard to whether an offender's criminal behaviour could in some way be attributed to the offender being a victim of coercive control.

- All agreed yes.

Option 3 – Amending the definition of domestic violence under the Domestic and Family Violence Protection Act 2012

- The definition could be broadened so that section 8 specified more of the behaviours that are associated with coercive control as constituting domestic violence, for example, removing reproductive control.

Option 4 – Creating a new offence of 'cruelty in the Criminal Code

- No, this was not supported.

Option 5 – Amending and renaming the existing offence of unlawful stalking in the Criminal Code.

- No, this was not supported.

Option 6 – Creating a new standalone 'coercive control' offence.

- This was debated coercive control is listed in the current DV ACT, though the DV ACT and its elements are not applied correctly by police and the courts. The current approach is not strong enough.
- All agreed coercive control should be a criminal offence and not a civil matter, kept behind closed court doors.
- The coercive control laws in Scotland are working well and are considered gold standard this was also seen as favourable.

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

- If creating a new offence 'commit domestic violence' became a criminal offence, then this would be supported, though there would need to be changes to permitted evidence and further intensive training of judges and police so that victims are not further victimised by the system and perpetrators are actually held to account.
- At present, the perpetrator known to the victim can commit many offences, where a stranger committing the same offences would be charged as a criminal offence. Keeping domestic violence, a civil matter seems to keep domestic abuse behind closed doors and still secret. Domestic abuse and all forms of it need to be in the criminal ACT. If a stranger committed any form of abuse or assault, they are charged, it seems a lot harder to convict someone convicted if you know.

Option 8 – Creating a 'floating' circumstance of aggravation in the Penalties and Sentences Act 1992 for domestic and family violence.

- Nil comment

Option 9 – Creating a specific defence of coercive control in the Criminal Code

- Yes, this was supported.

Option 10 – Amending the Evidence Act 1977 (Qld) to introduce jury directions and facilitate admissibility of evidence of coercive control in similar terms to the amendments contained in the Family Violence Legislation Reform Act 2020 (WA)

- Yes, to introduce admissible evidence of coercive control
- Though no, to a jury being required as the court system is already slow, this will slow the system up even more.

Option 11 – Creating a legislative vehicle to establish a register of serious domestic violence offenders.

- Yes, this is imperative, and information needs to be shared across every state and territory and perpetrators should not be allowed to hold public office and they need to be treated like the criminals that they are.

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.

- Yes, this was supported.

Option 13 – Amending the Penalties and Sentences Act 1992 to create ‘Serial family violence offender declarations’ upon conviction based on the Western Australian model

- Yes, this is imperative, and information needs to be shared across every state and territory.