

July 2021

Dear Taskforce Chair,

Re: Women's Safety and Justice Taskforce: Discussion Paper 1

Caxton Legal Centre is pleased to provide this Submission to the Taskforce on Coercive Control and Women's Experience in the Criminal Justice System.

Caxton's programs and work with persons affected by domestic and family violence

Caxton Legal Centre is Queensland's oldest community legal centre providing legal advice and social work supports to disadvantaged clients including those experiencing domestic and family violence, family law issues and elder abuse.

In support of this Submission, we have drawn from the experience of our lawyers, social workers and clients who provide services to clients in the following programs which Caxton provides:

- Domestic Violence Duty Lawyer – court based legal advice for Respondents in the Domestic Violence Court, Brisbane Magistrates Court.
- Seniors Legal and Support Service – legal and social work supports for older persons who are experiencing or at risk of experiencing elder abuse, including domestic and family violence
- Older Persons Advocacy and Legal Service – a Health Justice Partnership with Metro South Health providing legal and social work supports for older persons who are experiencing or at risk of experiencing elder abuse, including domestic and family violence.
- Family Law Duty Lawyer – court based legal advice provided five days per week at the Brisbane Registry of the Federal Circuit Court of Australia and Family Court of Australia.
- Family and Advocacy Support Service – court based legal advice and social work supports for persons affected by domestic and family violence five days per week at the Brisbane Registry of the Federal Circuit Court of Australia and Family Court of Australia.
- Family Law and Domestic Violence Advice and Casework program – day time and evening advices and casework. Our evening advices are delivered by volunteer lawyers.
- Human Rights and Civil Law program – day time and evening advices and casework across a broad range of legal issues including policing with a focus on assisting persons experiencing domestic and family violence.

Clients who access our services are either court users or people who do not qualify for legal aid and cannot afford private legal services. Through our Seniors Legal and Support Service and Health Justice Partnership we assist clients who are victims of elder abuse as a form of domestic and family violence, including coercive control.

In 2020-2021 Caxton assisted over 5,000 clients with advice and casework, of whom 34% were affected by domestic and family violence. Caxton is uniquely placed to observe the issues in question for the Taskforce through the lens of both the aggrieved and the respondent given that Caxton works intentionally with both groups of persons.

Policing and Human Rights

Domestic and family violence is one of the most serious human rights violations in Australia. The impact of the involvement of Police in coercive controlling domestic and family violence matters cannot be understated, particularly where it can lead to further distress or inadvertent systemic abuse of the parties involved. A human rights-based approach puts the onus on police to ensure the realisation of a woman's/victim's rights to safety, autonomy and protection, especially within the context of coercive control.

Police need to be fully equipped to understand the nuances of domestic and family violence from a human rights lens and what the impact of the human rights legislation means to policing. This means understanding that the legislation for domestic and family violence is human rights legislation in that it creates an obligation for police to engage in a proportionate balancing of the rights to protection and safety with the rights to participation and self-determined outcomes. It also means that when engaging with these laws, there needs to be some consideration about how they are advancing human rights principles. Police may not be equipped to ensure these human rights are realised because their role is as enforcers of the law and not necessarily to support families experiencing domestic and family violence in the way that is needed.

Human rights principle – participation

In the context of coercive controlling relationships, a human rights-based approach to policing of domestic violence in this context means that police must ensure the maximum participation of victims in decisions being made about their safety. We have noticed several cases where:

- a. Women or victims have been misidentified as the Respondent because the police have failed to use independent and/or qualified interpreters when interviewing the parties, sometimes relying on the other party to interpret or translate for them.
- b. Police have applied for a protection order based solely on the statement of one party because the other party did not have an interpreter (for both non-English speaking persons as well as persons with a hearing impairment).
- c. Both victims and perpetrators have said the facts alleged in the application for a protection order have been misrepresented (either exaggerated or underrepresented) due to the lack of interpreter being used.
- d. Police have failed to properly engage with an older victim complaining about familial violence especially where the alleged perpetrator is an informal carer and/or there is suspicion/assertion of cognitive decline.

Human rights principle – non-discrimination

A human rights-based approach requires the police not to discriminate against victims of domestic violence on the basis of their age, disability, gender, race or sexuality. This requires police to not only provide interpreters, but to demonstrate cultural awareness and sensitivity when dealing with women and all people from diverse groups. We support submissions made by other stakeholders that there could be a negative impact on Aboriginal and Torres Strait Islander women who are overrepresented in the criminal legal system if we legislate against coercive control.

Human rights principle – transparency and accountability

The Convention on the Elimination of Discrimination of All Forms of Discrimination against Women requires governments to exercise 'due diligence' to prevent and respond to domestic and family violence against women. This means that in enforcing domestic and family violence laws police must take reasonable and effective measures to address domestic violence. A human rights-based approach requires police to be transparent and accountable for the decision to apply or not to apply for a protection order.

In the context of coercive controlling relationships the decision not to apply for a protection order can result in many forms of harm to the victim. Caxton assists people, including very old people, to make a private application for a protection order in circumstances where police have failed to exercise 'due diligence' and take action in coercive controlling intimate partner and intergenerational violence situations. In these cases, it is our experience that there is no clear articulation of why the set of circumstances reported to police did not satisfy the threshold for taking action. There is no record of the balancing of the proportionality test. There is no sufficient explanation provided to the victim and/or it is explained as a private family matter that police will not intervene in. There has also been a failure to provide sufficient referral options to parties to empower them to understand their rights to safety and access community, legal, health and other supports to mitigate the risk of family violence escalating. There is also no accountability for the decision.

Caxton is not aware of how many and the nature of the human rights complaints (244 in 2019-2020) received by the QPS that relate to their policing of domestic and family violence. In terms of police training, whilst it is acknowledged that the QPS has developed and delivered basic human rights training to its employees and reviewed existing policies and procedures for compatibility with the Human Rights Act 2019, the police OPM Issue 82 Public edition states, "The Human Rights Act (HRA) does not fundamentally change operational policing in Queensland." Respectfully, this is misconceived and ignores the opportunity to clearly articulate how human rights principles can be embedded in police interventions in domestic and family violence situations. With police intervention being a significant doorway to rights realisation, whether or not the Government legislates against coercive control, Caxton recommends:

Recommendation 1 That QPS develop, with proper consultation, a clearly articulated position on how human rights principles will govern the policing of domestic and family violence.

Recommendation 2 That Chapter 9 the OPM be amended to include a process for recording and providing to the victim reasons for police declining to take action when responding to domestic and family violence, noting that the mere recording of an incident as 'Domestic Violence – Other Action' is insufficient.

Recommendation 3 That human rights training for policing of domestic and family violence especially in the context of coercive controlling relationships, be significantly strengthened.

Recommendation 4 That consideration be given to what mechanisms should be included within the domestic and family violence legislation to mandate greater transparency around police decision-making when responding to domestic and family violence.

Older Women

Older women and older persons in general have been given far less attention as victims of coercive control. Many clients of our Seniors Legal and Support Service and Health Justice Partnership are victims to the patterns of controlling behavior and emotional abuse that characterise coercive control within family relationships, in particular relationships with their adult children. For our clients these

patterns of coercive control take a variety of forms, including making someone believe they have cognitive decline when they do not; deliberately not providing medications; threatening neglect; threatening placement in aged care; threatening grandchild alienation; deliberately making an older person feel they are a burden and social isolation from friends and family.

Coercive control within the context of elder abuse and family relationships shares the same pattern of controlling behavior as is present in intimate partner violence. Many of our clients are victims of years of coercive control by their adult children, often without any issues of physical violence and often concurrent with issues of financial or economic abuse. For a number of our older clients, many years of coercive control eventually culminate in an act of physical violence committed by a young, physically fit adult, against an older, physically frail person.

In addition to coercive control by adult children against their parents, our service assists older women who have been decades-long victims of coercive control within the context of intimate partner violence.

The case studies below, based on two recent clients of our Seniors Legal and Support Service, illustrate how coercive control is an extremely concerning issue for older Queenslanders that needs to be given due recognition and addressed alongside coercive control within intimate partner violence.

Case Study

Kate, aged 80, had agreed for her daughter, Mary (together with her partner and daughter) to temporarily move in with her for a few months. Mary and her family remained in Kate's home rent-free for six years. Mary was emotionally abusive towards Kate, constantly calling her names, belittling her and isolating her from friends. Mary's partner observed this behaviour but never intervened.

After Kate had a hip operation, Mary's behaviour towards her worsened. Kate had trouble completing her post-operation rehabilitation exercises, so Mary taunted her and called her a 'cry baby'. Occasionally, when Mary was angry at Kate, she refused to make her dinner. On a regular basis Mary would deliberately make Kate feel like a burden and would say things to Kate to make her believe she could not survive without Mary. When a friend of Kate's became concerned that Kate was not answering her phone she called the police and requested a welfare check. When the police arrived Mary told them that Kate had dementia and police consequently took no action. Kate was so disturbed by this baseless allegation of dementia that she went to her GP to complete a Mini-Mental Examination and scored 29 out of 30.

Over the years Mary had never been physically violent towards Kate, until one day things escalated and she pushed Kate over. Shortly after this incident Kate's friend again became worried when she had not heard from Kate for a while, so she went to Kate's house to check up on her. When she arrived, Mary blocked the door and would not let Kate leave. This incident was the final straw for Kate having already endured years of coercive control. With the help of her friend, she left the home and stayed at friends' houses for six months, effectively homeless. She was still reticent to take legal action because Mary had threatened that she would never see her granddaughter again if she kicked them out of the house.

Eventually, after nearly six years of coercive control, Kate worked up the courage to seek help from the police to obtain a protection order against Mary. The police declined to take action. They advised Kate to apply for a protection order herself. With the help of our service Kate succeeded in obtaining a protection order with an ouster condition to remove Mary from the home, after which she and her family left. Upon Mary's departure from the home in compliance with the ouster order, she stripped

Kate's house of all her furniture, wrote derogatory messages on the walls in black marker and deliberately left the bathroom and toilet in a state of filth, as her final acts of coercive control.

Case Study

Cheryl sought our help to remove her daughter Pamela from her home. Pamela had moved into Cheryl's home ten years prior. Over the years Pamela's behaviour towards Cheryl included telling Cheryl she had Alzheimer's (after which Cheryl attended her GP who reassured her that she had no capacity issues); monitoring Cheryl's phone calls; controlling Cheryl's communication with her other adult daughter; following her around the house; constantly interrupting her at bedtime so that she could not sleep; constantly harassing and interrupting Cheryl while she used the bathroom; threatening suicide; and banging on her bedroom window from outside of the house to intimidate her.

Cheryl expressed that for many years she had felt like she was constantly walking on egg shells around her daughter. She became too afraid to keep living with Pamela and eventually left her home of twenty years to stay with friends, effectively homeless. It took Cheryl nine months of 'couch surfing' at friends' houses to work up the courage to take legal action against her daughter. Cheryl phoned the police to seek help. The police declined to take action. They advised her to lodge a private application. Subsequently, our service assessed that there was sufficient evidence of domestic and family violence to apply for a protection order. We assisted Cheryl to successfully obtain a protection order including an ouster condition requiring Pamela to leave the home. Cheryl returned to her home but still lives in fear of Pamela returning and has installed a medi-alert system and changed the locks.

It is rare, in our experience, for an older woman to make a report to police about family violence because of strong familial ties, fear of repercussions, guilt and sense of parenting failure, concern about grandchildren, dependency for care and reporting barriers (mobility, hearing impairment, poor health, frailty). It is extremely concerning that when a report is made, police are not able to recognise that the domestic violence laws have been enlivened and take appropriate action. It may be a moot point to have new coercive control laws when the existing ones, already quite broadly framed to capture the behaviours of coercive control, are not being adequately policed on behalf of older women, particularly in the case of intergenerational elder abuse.

There is a particular need for there to be a sufficient mechanism for police to peacefully remove unwanted persons living with an older woman. The impact of coercive control is amplified when the perpetrator is living with the older woman. Caxton has assisted hundreds of older women in this exact scenario and finds there to be either a gap in the law and/or gap in policing when an older woman does not want to be forced into a stressful process of applying for a protection order with ouster condition. Instead, they just want someone to remove the occupant without causing too much fuss. Police are reluctant to remove the unauthorised occupant using existing trespass laws. Police are concerned about the rights of the occupant under tenancy laws. Caxton has provided the QPS with a lengthy briefing note on how to devise a suitable police action to peacefully remove an adult child from an older person's home where the coercive controlling behaviours are significantly impacting the safety of the older person. We are in a position to provide more details about this issue at the Taskforce's request.

Caxton has proactively worked with the QPS to develop an Elder Abuse Aide Memoire and also to hold a forum on elder abuse. Unfortunately, there is not sufficient resourcing for the dedicated 'Vulnerable Persons – Elder Abuse' role in QPS, it having extremely short tenure (6 incumbents over 6 years) which impacts the ability of QPS to maintain proper focus on elder abuse and engage with stakeholders to make the improvement necessary for police to appropriately respond to older women who experience coercive control as a form of elder abuse.

Recommendation 5 That training provided to police about domestic and family violence and coercive control include specific information about elder abuse as a form of domestic and family violence including features of coercive control.

Recommendation 6 That QPS work with the Seniors Legal and Support Service and the Elder Abuse Prevention Unit to develop resources and training materials for police to understand the features of coercive controlling behaviours in elder abuse.

Recommendation 7 That the role of 'Vulnerable Persons – Elder Abuse' be adequately resourced to become a long-term tenured role.

Recommendation 8 That the QPS prioritise, in consultation with stakeholders, the development of procedures and training for police to peacefully remove unwanted persons who are living with the older person within the existing legal framework.

Recommendation 9 That consideration be given to how the existing legal framework for the removal of unauthorised occupants where there are circumstances of elder abuse, especially where there is coercive control, (whether by way of specific elder abuse laws or coercive control laws or domestic and family violence laws) may be strengthened.

Misidentification of Person Most in Need of Protection

Through our Domestic Violence Duty Lawyer service we assist women who have been misidentified as the Respondent Party when they are in fact the person most in need of protection. For many of these women, the time and stress of pursuing an order to protect themselves, in a context where the police are against them, cause them to be reluctant to pursue an order for their own protection. In our experience, this can occur even when the police are aware of a history of violence by the male partner.

The case study below illustrates the issue of misidentification of women as Respondents.

Case Study

Nikita initially attended at our Domestic Violence Duty Lawyer service as the Respondent to a police application, after an incident where she had accidentally cut her ex-partner, Bob, in self-defence while holding a bread knife. Bob had come to the house uninvited, kicked the front screen door in, and started an argument. He punched Nikita repeatedly in the presence of their two-year-old.

Based on this same incident, Bob was charged and imprisoned for breach of a protection order that had been made against him a few months earlier naming Nikita as the Aggrieved. The order only contained conditions that Bob be of good behaviour and not commit violence against Nikita. There had been a lengthy history of serious physical violence against Nikita by Bob, resulting in Nikita being hospitalised multiple times.

Following long-term counselling Nikita self-identified as a victim of the cycle of domestic violence. Under pressure and having been threatened by Bob that he would kill her if she took legal action

against him, Nikita had previously been unwilling to seek the help of the police to obtain more conditions on the protection order. She had told the police that she did not want an order protecting her at all.

Our service assisted Nikita to seek the dismissal of the police application against her and also prepared a variation application and successfully obtained extra conditions against Bob including not to approach within one hundred metres of Nikita and their child. At that stage police were still unwilling to withdraw the application against Nikita and the matter was listed for final hearing. It was only after our service prepared and lodged affidavit material for Nikita, detailing how she was the person most in need of protection, that police finally withdrew the application against Nikita. It had taken a four-month court process to reach this outcome.

Nikita informed us that it had taken her many years of counselling to reach a point where she had the strength to participate in a court process and that without the assistance of a lawyer she would not have opted to endure the arduous court process that resulted from her having been misidentified as a Respondent.

Recommendation 10 That there be a strengthening of the provisions relating to the identification and assessment of person most in need of protection, especially noting where the alleged victim is using coercive controlling behaviours towards the misidentified respondent.

Mental Health

We regularly assist Respondents (men and women) who present with significant mental health issues that are not well managed, including schizophrenia, bipolar disorder, borderline personality disorder and drug and alcohol dependency issues. These illnesses can seriously impact on a person's ability to regulate their behaviour including using specific behaviours within a relationship that are coercive and controlling, not necessarily with what may be referred to as the 'criminal' intent to do so. It is our experience that there is a greater risk that these persons will be the Respondent to a protection order and/or breach a protection order. Consequently, a specific offence of coercive control may have the unintended consequence of placing women with serious mental health issues/disability at a greater risk of arrest and incarceration.

Persons who suffer from dementia or other illnesses resulting in cognitive decline may also be adversely affected by legislating coercive control. Our service has assisted older persons with a diagnosis of dementia who have become physically violent towards their partner (often in the caring role) during a state of dementia-induced agitation, resulting in an application for a protection order being made against them by police.

The case studies below illustrate some of the difficulties around the use of domestic and family violence laws as a blunt instrument for situations where parties may present with mental health issues.

Case Study

Betty, aged 75, was named as the Respondent to a police application after she suffered a mental health episode one evening, resulting in her husband of fifty years phoning the police and ambulance for assistance. Recent tensions within the marriage, coupled with Betty's recent trial and error of new medication for her depression and anxiety, had triggered Betty's mental health episode. When police attended their home, her husband informed them she had tried to strangle him and bitten him. That night Betty presented as erratic and unsettled and was unable to articulate her concerns to the police.

The ambulance took her to the hospital and the police simultaneously applied for a domestic violence order naming her as the Respondent.

When we first met Betty at the Domestic Violence Duty Lawyer service it came to light that her husband had been aggressive towards her that night, including twisting her arm. Betty had bitten him in self-defence when he would not let go of her arm.

The police refused to withdraw the application against Betty, in spite of Betty's husband telling police that he did not fear for his safety and did not want an order against his wife.

We subsequently assisted Betty to lodge a cross application, which meant Betty had to go through the trauma of further court attendances. Fortunately, a change of medication had improved Betty's anxiety levels enabling her to have the fortitude to make the decision to defend the police application and pursue a cross application with the help of our lawyer.

The legal process had become so unsettling for Betty that the night before her cross application was due to be mentioned in court for the first time, she was hospitalised again. Subsequently, Betty opted not to go through the stress of proceeding to a final hearing and the matter resolved with each party consenting without admissions to a protection order requiring them both to be of good behaviour and not commit domestic violence against one another. Betty and her husband were both committed to relationship counselling.

Case study

Jane suffers agoraphobia, PTSD and transient seizures and had not left the house alone for many years. She received ongoing treatment and support from her psychologist and psychiatrist. The police applied for a protection order against Jane, naming her partner of two years, Tom, as the Aggrieved, after an allegation by Tom that she had tried to strangle him during an altercation. Tom had phoned the police under the guise of seeking assistance. When police attended at the residence, they accused Jane of being vague. Jane reported having been in shock when the police arrived. After observing minor scratch marks on Tom, the police misidentified Jane as the aggressor.

Jane described to our domestic violence duty lawyer a history of coercive control by Tom against her throughout their relationship. This included threatening to leave Jane knowing she was dependent on him; demanding she cook dinner in the middle of the night, then criticising the food; repeatedly telling Jane that she will end up in the psychiatric ward; threatening to burn down the house; threatening to break Jane's late husband's property; threatening to make baseless phone calls to Child Safety to take away Jane's grandchild from her daughter; and holding a knife and taunting Jane to "go ahead and kill me".

We assisted Jane to lodge a cross application against Tom. After four months of multiple adjournments and Tom's failure to attend court, the police application against Jane was dismissed and an order with multiple conditions was made against Tom to protect Jane. It was highly distressing for Jane to attend court on each occasion. Had she not been misidentified as the Respondent and had the police correctly identified her as the person most in need of protection, they would have applied for the order on her behalf and she would not have had to endure this lengthy process.

Recommendation 11 That appropriate weight be given to how coercive controlling behaviours may be the result of mental health issues/disability and how any new coercive control or domestic and

family violence laws ought take that into consideration in balancing the victim's rights to safety with the respondent's culpability and rights to liberty.

CALD Women

It is our experience that women from Culturally and Linguistically Diverse (CALD) backgrounds receive less protection from the system than English-speaking women. Cultural and language barriers they face contribute to their under representation as Aggrieved parties in court.

CALD women require more support to assert their story and seek protection as the true aggrieved when they have been wrongly identified as the respondent or aggressor by the misuse of the system designed to protect them. The use of female interpreters and properly qualified domestic violence duty lawyers and support staff is an important part of protecting these women.

Our service assists women who are fearful to leave abusive partners who are the sponsor of their spousal visa. Abusive partners use the threat of withdrawing sponsorship, causing women fear of being forced to leave Australia or alternatively fear of remaining in Australia with no financial support. This issue is exacerbated for women with children.

In other cases, CALD women are named as respondents to protection order applications brought by their partners as a way for their partner to end an arranged marriage or try to retrieve a dowry payment.

Recommendation 12 That appropriate consideration be given to how new coercive control or domestic and family violence laws may increase the likelihood of criminalisation of CALD women who are subject to systems abuse by a partner.

Question 1: What other types of coercive controlling behaviours or risk factors used by perpetrators in domestic relationships might help identify coercive control?

In the context of coercive control by family members (in particular adult children) against older women and older persons in general, coercive controlling behaviours that may not typically be seen in intimate partner violence include:

- Saying that an older person has cognitive decline when they do not
- Withholding medication
- Withholding meals
- Withholding the provision of care and supports (including transport) even when receiving a carer's payment
- Cancelling external support services to increase dependency on perpetrator
- Denying the older person an opportunity to speak or participate in health, aged care or other decisions
- Threats to deny a grandparent a relationship with their grandchildren
- Threats to place the older person in a nursing home without basis

- Isolation from family members, support service providers and friends
- Refusal to take the older person to visit their GP
- Moving mobility aids to an unreachable location
- Threats to use a Power of Attorney to effect unwanted transactions
- Forced signing of end-of-life documents
- Forced care of grandchildren under threat of child safety involvement
- Forced living circumstances for financial gain

Question 2: What aspects of women’s attempts to survive and resist abuse should be taken into account when examining coercive control?

When examining coercive control for the purpose of determining whether or not to create new laws or strengthen existing ones, not just the behaviours of the perpetrator should be a relevant consideration, but the effect of the behaviours on the woman should be taken into account, not as a prerequisite for action, but to properly appreciate whether there is coercive control and what interventions would achieve safety. For example, in the situation described in the case studies about Caxton’s older clients, if it was necessary to consider whether a woman has, without any other reasonable explanation, left her home in an attempt to survive, it may better inform an understanding that there is coercive control and prompt better police action.

Question 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?

There needs to be a greater understanding of the way coercive control affects older Queenslanders and older women. Any awareness raising campaign or communication strategy ought to include how coercive control manifests for older women, especially in the lesser understood instances of elder abuse.

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

In addition to the recommendations already made in this submission for the benefit of victims, there needs to be a greater focus on perpetrator interventions that will work in particular dynamics of domestic and family violence. This is especially important where there is coercive controlling behaviours that are escalating towards an assessed likelihood of serious harm. Perpetrator interventions are still under-researched, under-resourced and culturally inappropriate due to the focus on perpetrator accountability using a more rights-restrictive approach rather than on rights-promoting strategies that install the necessary supports and interventions required for real harm minimisation and healing. Caxton has authored various submissions that relate to this issue, particularly in the area of elder abuse, and at the Taskforce’s request can provide copies of those.

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

In our experience as domestic violence duty lawyers, the co-location of a Men’s Support Service alongside the Respondent domestic violence duty lawyer service at Magistrates Courts is invaluable insofar as it provides men with immediate access to counselling support and referrals for further

support; as well as practical assistance to link these men in with Behaviour Change Programs immediately. Whilst this co-location at the courts is invaluable, it does not overcome the barriers to positive change caused by lengthy wait times for men to attend the program.

The multi-disciplinary lawyer-social worker model used by Caxton to respond to coercive control in elder abuse is best practice. This model is highly collaborative with police, aged care, Office of the Public Guardian, health services, housing services and other support services. Caxton has authored various papers and submissions that relate to this model and at the Taskforce's request can provide copies of those.

Question 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 response?

Many of our older clients are reluctant to pursue any legal matter against their adult sons or daughters due to their love for their children and also often out of a fear of creating conflict within the family. Accordingly, they instead opt to continue to tolerate ongoing abuse and coercive control behaviours by their adult children. As demonstrated through the case studies under subheading "Older Women" herein, it can take many years before an older person takes the step of seeking help to obtain a protection order, if ever. Even under a civil protection order system, it is still very confronting for our older clients to take any form of legal action against their own children, even when there has been a worsening pattern of coercive control, until they reach a 'breaking point'. In that regard, it is apparent that for some older persons a direct criminal law response could be more confronting and possibly result in even less reporting of abuse.

More broadly, the harms of criminalisation are well understood along with an appreciation for the fact that criminalising certain behaviours does not necessarily act as a deterrent, especially in partner or family violence. The advantage of a civil response is that there is a greater opportunity for well-timed and targeted interventions, especially health and other social support responses, to be incorporated.

Question 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?

Refer to Recommendations 4 and 10 herein.

Question 42: What could police officers do differently when exercising their powers to better protect women and children from coercively controlling partners or former partners?

Refer to our previous recommendations herein.

Question 57: How will legislating against coercive control encourage greater reporting of domestic and family violence including non-physical abuse?

Legislating against coercive control is unlikely to encourage greater reporting of elder abuse as a form of domestic and family violence. It does not address any of the barriers to reporting.

Question 58: How will legislating against coercive control improve systemic responses to domestic and family violence?

It cannot at this stage be known whether legislating against coercive control is likely to improve systemic responses to elder abuse as a form of domestic and family violence. The National Plan on Elder Abuse, the ALRC Recommendations in the Inquiry into Elder Abuse, the evaluation of the twelve Elder Abuse Trial Sites and the recommendations that are to come out of the National Elder Abuse Prevalence Study will inform how systemic responses can be improved.

Question 59: How will legislating against coercive control improve community awareness of domestic violence?

This would only be achieved if community awareness raising communications about new laws include a description of how coercive control is experienced by older women as a feature of elder abuse.

Question 69: 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?

No. Coercive control is a feature of the abuse pattern not the whole sum of the pattern. What is required is a national definition of domestic and family violence that includes coercive control along with consistency in all risk assessment and management frameworks.

Question 71: What should be key indicators of success when measuring the impact of legislation against coercive control?

- Increased survivor safety over time
- Reduced incidence of domestic and family violence in the community
- Reduced domestic and family violence related homicide in the community
- Improved quality of life of survivors
- Improved supports and interventions for perpetrators

This submission was prepared by lawyers from the Family, Domestic Violence and Elder Law Practice at Caxton Legal Centre Inc. For further information, please contact Colette Bots on (07) 3214 6333 or colette@caxton.org.au.

Yours faithfully,

Colette Bots
Director
Family, Domestic Violence and Elder Law Practice
Caxton Legal Centre Inc.