



ARROS

23 Nundah St Nundah Q 4012

Ph: 3266 3788

Email: arros@communityliving.org.au

Managed by Community Living Association, Inc.

Submission to the Women’s Safety and Justice Taskforce

This submission responds to the first discussion paper of the Women’s Safety and Justice Taskforce (the Taskforce) and outlines the risks of criminalising coercive control in the state of Queensland. Our submission is written in the context of our work with young people with cognitive or intellectual disabilities who are homeless or at risk of homelessness, and explains how punitive or carceral responses will fail to effectively reduce coercive controlling behaviours. We have included recommendations for further action that will more effectively respond to the guiding principles and considerations outlined by the Taskforce.

Contents

ARROS	2
Coercive Control	2
Risks of Criminalising Coercive Control.....	3
Recommendations	6

ARROS:

ARROS is a service of Community Living Association that works alongside young people with suspected or diagnosed intellectual or cognitive disabilities, who are homeless or at risk of homelessness. The young people we support at ARROS have often experienced multiple complex circumstances including abuse, neglect, out of home care, contact with the youth justice or criminal justice system, poor mental health, and substance use. The young people often have a history of trauma and social disadvantage which can result in complex behaviours that further marginalise them from mainstream society and place them at heightened risk of criminalisation. Complex behaviours can mean that the young people we support are unable to access many mainstream and specialist services, and can also lead to difficulties in developing and maintaining relationships that provide informal support.

ARROS practice is trauma-informed and relationship-based, and we use a proactive outreach model based on principles of respect, flexibility, and a commitment to connect with young people who have generally had multiple negative experiences of services and systems. We provide support to young people in a manner that is responsive to the impact of trauma, aims to emphasise and support physical, emotional, and psychological safety, and creates opportunities for young people to build their sense of control and empowerment.

Coercive Control:

ARROS workers acknowledge the need for action to address and eradicate coercive controlling behaviours and recognise that the causes and contributors to domestic violence are extremely complex. We recognise, as per the Queensland Government's Domestic and Family Violence Strategy 2016-2026, that cultural attitudes and behaviours, gender inequality, discrimination and personal behaviours and attitudes are all determinants of domestic violence, and believe that interventions must respond to these factors to successfully reduce coercive controlling behaviours¹.

Through our work supporting young women as victim-survivors of domestic violence, and young men who have perpetrated domestic violence, we have seen firsthand how the criminal justice system often fails to adequately respond to coercive controlling behaviours. We observe that the criminal justice system often fails to adequately meet the needs of victim-survivors, and is routinely unable to meaningfully hold perpetrators to account and support changed behaviours.

We support the guiding principles of the Taskforce, and believe that any response to coercive control should be trauma-informed and evidence-based, as well as founded upon local, national and international evidence. We recognise and acknowledge the diversity of experiences within this field, and are committed to working productively alongside government and non-government agencies to ensure the increased safety of women.

¹ Queensland Government, *Queensland Government's Domestic and Family Violence Strategy 2016-2026*. (2016), <https://www.publications.qld.gov.au/dataset/not-now-not-ever/resource>

Risks of Criminalising Coercive Control:

People with intellectual and cognitive disabilities from disadvantaged backgrounds are over-represented in the criminal justice system both in Australia and internationally². Under the existing structures of the Queensland justice system, we hold concerns that the introduction of legislation criminalising coercive control will increase the overrepresentation of disadvantaged people with cognitive and intellectual disability in this system. Further, the marginalisation of young people with disabilities who have experienced multiple complex circumstances will likely be exacerbated by increased involvement with the justice system.

1. The justice system in Australia has historically played a key role in the stigmatisation, control, and marginalisation of people with cognitive and intellectual disability, and there is risk that the criminalisation of coercive control will increase this role and function. Police involvement, and management by Youth Justice or criminal justice systems is most prevalent for people with cognitive or intellectual disability who are Indigenous, or non-Indigenous but from socially and economically disadvantaged backgrounds³. Within our specific cohort at ARROS, a large proportion of the young people we support have had Police and broader justice system involvement since their early teens. We have seen young people become enmeshed in the web of courts, police, prisons, and probation; and have observed how these systems often fail to appropriately understand and respond to the needs of people with cognitive disabilities.
2. The young people we support at ARROS report experiences of mistreatment and abuse across the justice system, and there is risk that the criminalisation of coercive control will further marginalise this group through denial of access to appropriate supports, the compounding of trauma, and exposure to additional harm. Many of the young people we support at ARROS do not identify as having a disability, and many have not had access to formal diagnoses. Further, many of the functional impacts of cognitive disability in this cohort are highly complex and are often misunderstood by those without specialised knowledge. This means that appropriate responses to the support needs of this cohort generally do not occur in systems where young people are expected to self-identify their disabilities, and where the skills and knowledge of those responding are inadequate⁴.

The young people we work alongside at ARROS also utilise strategies to hide, conceal or mask their disabilities. ARROS have experienced young people being labelled “unwilling to engage”, “misbehaved” or “thugs” in engagements with police, courts,

² McCausland, Ruth, and Baldry, Eileen. "I feel like I failed him by ringing the police': Criminalising disability in Australia." *Punishment & Society* 19, no. 3 (2017): 290-309.

³ Baldry, Eileen, Damon B. Briggs, Barry Goldson, and Sophie Russell. "'Cruel and unusual punishment': an inter-jurisdictional study of the criminalisation of young people with complex support needs." *Journal of Youth Studies* 21, no. 5 (2018): 636-652.

⁴ Brookbanks, Warren. "Protecting the Interests of Vulnerable Defendants in the Criminal Justice System: The New Zealand Experience." *The Journal of Criminal Law* 83, no. 1 (2019): 55-70.

probation, or prisons. Without having their support needs identified within these systems, young people with cognitive disability and complex support needs experience re-traumatisation and increased marginalisation from mainstream society⁵. Further, in the absence of appropriate, trauma-informed support, young people with cognitive disability are at increased likelihood of remaining involved with the criminal justice system throughout their lives, experiencing cycles of release and re-incarceration⁶. Being criminalised at a young age has lifetime impacts for this cohort, and can in fact entrench young people in systems of monitoring and punishment that make achieving positive change in trauma-informed behaviours increasingly difficult⁷.

3. There is a risk that the criminalisation of coercive controlling behaviours will see victim-survivors with disability and complex support needs being misidentified as perpetrators by Police and the broader justice system. The overrepresentation of people with intellectual and cognitive disabilities from marginalised communities in prison populations exists for both men and women, and we hold concerns that the young women we support will be at increased risk of criminalisation themselves due to prior interactions with the justice system, as well as difficulties experienced in communicating with Police and systems more broadly.

The first discussion paper of the Taskforce does not acknowledge the specific experiences of marginalised women with cognitive disability and fails to recognise that many of these young women have themselves experienced abuse and mistreatment at the hands of Police and the broader justice system. The discussion paper acknowledges disability specific forms of coercive control such as the withholding of supports, however, fails to recognise complicating factors such as dual disability, trauma, and how these factors intersect to determine one's ease of access to the justice system. The Taskforce's presupposition of criminalisation as an effective means of increasing women's safety fails to recognise how policing and the justice system interact with the cohort of young women we support at ARROS, and fails to adequately mitigate the risks that they too will experience increased criminalisation because of these proposed changes.

In addition to our concerns about the overrepresentation of young people with cognitive and intellectual disability in the criminal justice system, ARROS is concerned about the risk that criminalising coercive control will not effectively reduce its prevalence within the

⁵ Baldry et al. "Cruel and unusual punishment': an inter-jurisdictional study of the criminalisation of young people with complex support needs."636-652.

⁶ Baldry, Eileen. "Women in transition: From prison to...." *Current Issues in Criminal Justice* 22, no. 2 (2010): 253-267.

⁷ Dowse, Leanne, Therese M. Cumming, Iva Strnadová, Jung-Sook Lee, and Julian Trofimovs. "Young people with complex needs in the criminal justice system." *Research and practice in intellectual and developmental disabilities* 1, no. 2 (2014): 174-185.

communities in which we work. The Taskforce's first discussion paper identifies thirteen legislative responses to coercive controlling behaviours, with five of these involving the introduction of new criminal offences. We recognise the need for immediate action to increase women's safety, and support policy approaches that centre women's experiences; however, we hold deep concerns that criminalisation will not actually improve safety or reduce coercive controlling behaviours.

1. People with intellectual or cognitive disability experience challenges in being able to link actions to consequences. Criteria A in the DSM-V states that people diagnosed with Intellectual Disability (Intellectual Development Disability) experience deficits in intellectual functioning including having capacity to learn from experiences⁸. The prison model expects that people are rehabilitated and have learnt from incarceration and have changed behaviours following incarceration⁹. This expectation highlights the inappropriateness of a carceral response to keeping women safe when perpetrators have an intellectual or cognitive disability. Carceral responses for people with an intellectual disability provide extremely limited opportunities for rehabilitation, as well as minimal therapeutic intervention that would be supportive in ensuring coercive controlling behaviours are ceased¹⁰.
2. There is increasing evidence that the use of shame, humiliation, and punitive responses in general are ineffective in addressing antisocial behaviours within individuals who have experienced complex trauma¹¹. The impacts of trauma on the brain have been demonstrated through neuroscientific research, and we now have knowledge that trauma impacts upon neural circuits, grey-matter volume, and sensory systems¹². The young people we support at ARROS have most often been in state care following experiences of abuse or neglect in childhood, and have experienced ongoing traumatisation throughout their adolescence and into emergent adulthood. This ongoing traumatisation occurs in the context of the young people we support not having their disabilities or trauma identified or recognised in various systems, and subsequently receiving punitive responses for trauma-informed behaviours from a young age. Further, these young people often experience ongoing cycles of punishment and criminalisation as the punitive responses they receive are not supportive in actually reducing trauma-informed behaviours.

⁸ American Psychiatric Association. *Diagnostic and Statistical Manual of Mental Disorders, 5th, ed.* American Psychiatric Publishing, 2013. *DSM-V*, <https://doi-org.ezp01.library.qut.edu.au/10.1176/appi.books.9780890425596.dsm01>

⁹ Australia, Corrective Services Administrators' Council. "Guiding Principles for Corrections in Australia." Revised 2018, <https://www.corrections.vic.gov.au/guiding-principles-for-corrections-in-australia>.

¹⁰ Vanny, Kathryn, et al. "People with an Intellectual Disability in the Australian Criminal Justice System." *Psychiatry, Psychology, and Law*, vol. 15, no. 2, Routledge, 2008, pp. 261–71, doi:10.1080/13218710802014535.

¹¹ Fisher, Colleen, Karen Martin, Lisa Wood, Elizabeth Lang, and April Pearman. *Best Practice Principles for Interventions with Domestic and Family Violence Perpetrators from Refugee Backgrounds*. Australia's National Research Organisation for Women's Safety, 2020.

¹² Sweeney, Angela, Beth Filson, Angela Kennedy, Lucie Collinson, and Steve Gillard. "A paradigm shift: relationships in trauma-informed mental health services." *BJPpsych advances* 24, no. 5 (2018): 319-333.

A key component of a trauma-informed approach in any system is the reduction of shame and the provision of emotional, physical, and psychological safety; whilst also holding people accountable for actions or behaviours that are harmful. We believe that continued reliance on criminalisation and punitive responses will ensure that cycles of violence continue within disadvantaged communities, and that poor outcomes for both victim-survivors and perpetrators will eventuate.

Recommendations:

ARROS recognise the importance of reducing and eradicating coercive controlling behaviours in the state of Queensland, and believe that an overall response should incorporate trauma-informed principles as well as early intervention. To meaningfully challenge and eradicate coercive control in the communities in which ARROS works, we need to recognise the complexity of these behaviours, understand the risks of criminalisation as a response, and provide interventions based upon the best available evidence in this field.

Our recommendations for more effective action in eradicating coercive control and ameliorating the risks identified in this submission are as follows:

1. Research examining the efficacy of existing men's behaviour change programs:
Existing men's behaviour change programs across Queensland are based primarily on a model that incorporates the program logic of the feminist Duluth Model with some cognitive-behavioural theory. A recent meta-analysis of men's behaviour change interventions concluded that group programs based on the Duluth Model yielded mixed results, while the implementation of programs that incorporated substance abuse treatment or trauma components yielded better results¹³. To respond more effectively to domestic violence and coercive control in Queensland we need to understand the efficacy of existing programs, as well as any effective mechanisms of change that these programs utilise or could utilise. Increasing the knowledge base of effective behaviour change programs will allow governments to direct investment towards programs whose efficacy is measured and proven.
2. Trauma-informed practice in men's behaviour change responses:
Understanding of the impact of trauma on the brain underpins our practice at ARROS, and we believe the extension of this understanding to men's behaviour change intervention would increase the efficacy of these programs to meaningfully change violent behaviours. Including principles of a trauma-informed approach in men's behaviour change interventions will increase their efficacy in promoting behaviour change by responding to the complex needs of men who have

¹³ Karakurt, Günnur, et al. "Meta-analysis and systematic review for the treatment of perpetrators of intimate partner violence." *Neuroscience & Biobehavioral Reviews* 105 (2019): 220-230.

experienced trauma. Men's behaviour change programs, whether group or individual, need to incorporate trauma-informed concepts such as creating emotional safety, facilitating connection, and responding to identity and context whilst also holding men accountable for their actions. To hold perpetrators of violence accountable in a trauma-informed way means moving away from shame, humiliation, and punitive responses, whilst maintaining and increasing recognition in perpetrators that it is their *responsibility* to change their behaviour.

3. Reconsider the effectiveness of and punitive responses to people with intellectual and cognitive disabilities:

The ongoing overrepresentation of marginalised young people with cognitive disability involved with youth justice or criminal justice systems evidences the need for an alternative approach to supporting this cohort in behaviour change. Existing diversionary measures in our justice system have not meaningfully reduced the flow of people with cognitive disability into these systems, and existing means of reducing recidivism are not supportive for young people with cognitive disability¹⁴. Reform within the justice system can only do so much for a cohort of people whose needs are not met by responses that centre punishment or mandatory 'therapeutic' programs. Recognition of the complexity of factors that define 'criminality' within this specific cohort is imperative; so too the provision of supports from childhood that enable genuine alternatives to criminalisation for people whose disability is often missed or misunderstood.

4. Increased awareness and knowledge in the legal system of "invisible" disability:

Through our work supporting young people across the justice system, we have observed that there is extremely limited awareness and knowledge of intellectual and/or cognitive disabilities, and even less awareness of the hidden nature of some cognitive and intellectual disability. The young people we support at ARROS, and people with cognitive disability more broadly, require solicitors, clerks, Magistrates, Police Officers, and other workers in this system who are able to recognise "invisible" disabilities. Increasing this recognition across the system would go some way in mitigating some of the risks outlined in this submission, and would most importantly mean that victim-survivors from the ARROS cohort would have access to better legal processes.

5. Increased training for Queensland Police Service:

The first discussion paper of the Taskforce identifies outlines numerous training courses offered to Queensland Police members, however there is no training offered to skill Queensland Police around supporting women with cognitive and/or

¹⁴ McCausland, Ruth, and Baldry, Eileen. "I feel like I failed him by ringing the police': Criminalising disability in Australia." *Punishment & Society* 19, no. 3 (2017): 290-309.

intellectual disabilities, dual disability, or people with experiences of trauma. Australian Bureau of Statistics data highlights that people with a disability are more likely to experience domestic violence than women who do not have a disability, and that women with an intellectual disability experience higher rates of violence when compared to women with a physical disability¹⁵. Given these statistics, it is imperative that Queensland Police Officers have access to specialist training to build their knowledge of intellectual and cognitive disabilities, increase skills in identifying disability, and develop an understanding of trauma, dual disability, and communication styles that are supportive to this cohort. This training needs to be evidence-based, utilise a trauma informed approach, and should be consistently evaluated.

¹⁵ Australian Bureau of Statistics (2021) *Disability and Violence – In Focus: Crime and Justice Statistics* [<https://www.abs.gov.au/statistics/people/crime-and-justice/focus-crime-and-justice-statistics/disability-and-violence-april-2021>], accessed 09/07/2021