

The following is a collection of responses provided by workers in the service

Response to some of the questions

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

- This can include telling children over a period of time negative things about their mother, that she is a bad mother, that she uses drugs or alcohol, etc. After separation using children as a means to use the system to further perpetrate and use coercive control as the current system allows this and is quite easy for fathers to do so. Often the threats to report to child protection authorities will include things the perpetrator has done or also coerced or controlled or restricted the mother from doing. For example, the father may not have allowed the mother enough finances to provide adequate clothing for the children and would later report this to authorities and blame the mother for not meeting the children's needs. Same for children not attending school whereas the background might be that this was the safest option at the time, no access to a vehicle or money for other transport
- Using systems including court and police systems to hold a level of control, especially post-separation. This includes initiating Family Court Proceedings when there is no genuine intention to parent children – only to assert control and create further emotional turmoil. Women then are left needing legal representation, as already outlined elements of their parenting will be used against them, women will sometimes need to travel to attend court if they have fled and this system then will often mandate women undergo substance testing, parenting courses, withhold information from their own children. When the final orders dictate children to spend time in the care of their father, this further removes the mother's control to be able to act to keep her children safe without breaching a court order. This is often used as a threat.
- Example: client's ex-partner convinced the school there was a condition on the DVO that prohibited her from having contact with the children and attending their school. The school believed this man and has prevented the woman from being able to see her children at school when there is no conditions in place to do that.
- From the perspective of a representation of women who were responsible for conceptualising the Power & Control Wheel of tactics that perpetrators utilise, coercive control would be an umbrella term under which might include the use of intimidation; abuse of the emotions; the use of isolation; the verbal behaviours of minimising, denying and blaming in order to absolve a perpetrator of his actions; using and abusing children; benefiting from the assumption that "it's a man's world"; using and misusing finances; as well as perpetrators resorting to underhanded or overt means to make or stop something happen against a person who would prefer otherwise. Coercive control may be experienced by women of different cultures and, where so, may present in different forms intrinsic to that culture. Coercion is also very likely to occur in situations of elder abuse.

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?

Education is key:

- Community – sensitive advertisement about what 'coercive control' is and the acute danger it presents to women could help to improve how people seek help or intervene to assist the women and children caught up in the web of domestic abuse.

- Intergenerational – including appropriate education in all school curriculums about the dangers of one person having power and control over another as opposed to what a healthy relationship should and could be like.
- Systems - culturally appropriate, regular and ongoing training about the nuances and complexities involved with domestic and sexual abuse. We propose that such training be provided to all QPS staff, including police prosecutors; all lawyers who are receiving funding from Legal Aid Queensland, and all judicial officers.
- The public relies on mainstream media. This media continues to ignore the gendered nature of domestic and family violence and feeds into the “not all men” ideology. Listening to women’s stories and experiences and providing information about what to look for and what to do outside of the examples media usually resort to such as seeing a woman with a black eye or physical injury or hearing yelling coming from their neighbour’s house. Media needs to challenge the views of society and especially men’s behaviours.
- Coercive control is not currently dealt with adequately in Queensland. Tactics of coercion may be outlined explicitly in an application for a protection order, which may be considered by a solicitor, if the client should avail her- or himself to one, and then a magistrate for her or his deliberation. The effectiveness of legal professionals, be they solicitors or magistrates, will be dependent upon their knowledge and understanding of the nuances of how coercive control is used. As the effects of D.F.V. are most easily noticeable with physical evidence (e.g. bruising, cuts and breaks of bones or objects), the characteristics of coercion are more often implicit and therefore apt to be overlooked. It is easier to explain cause and effect with tangible, negative outcomes that are by their nature explicit; however, the dynamics or undercurrents beneath an unhealthy relationship or one where there is overt domestic abuse may likely be less easy to discern. Public thinking may therefore focus on that which is visible and discount that which is subtle, hidden or intentionally made invisible.
- The media needs to be accountable for what it purports to present as 'truth' when often it is driven by subjective perception and populism, i.e., it should do more reporting of the facts and less commentary where it positions itself as arbiter of public standards, i.e., the 'norm' as is the often unchallenged hegemony of patriarchy. If an abuse of a person's rights to live without fear and harm to their body, family, possessions or reputation occurs then this should be made clear and kept objective.

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 understanding of coercive control?

- Yes – it is crucial that all media outlets continue to improve their reporting of domestic and family violence.
- There is huge room for improvement. Popular entertainment, mainstream media and news, it all needs to be informed and stop tiptoeing around the issue that domestic violence is a men’s issue
- Inappropriate media headlines that focus on negative things about the victim or positive things about the perpetrator. e.g. media headline in relation to a woman that was killed which spoke about her role as a sex worker. Media headline talking about how the perpetrator was a "good man" or "going through a lot of emotional turmoil from not being able to see his kids"

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

- Yes, particularly in relation to replacing the term 'domestic violence' with 'domestic abuse' in line with Jess Hill's explanation in her book 'See what you made me do – power control and domestic abuse'. The use of terminology such as domestic violence sends a message that it is only a serious issue when there has been physical violence. And we know, and has been supported by the extensive, in-depth research and analysis undertaken by the taskforce team and clearly documented on every page of this discussion page that that is not true.
- Unfortunately, the broader community understanding of domestic violence seems to also be shared by the justice system, no matter how much training has been metered out and undertaken by the officers involved. Maybe a change in terminology and use of the term 'domestic abuse' could facilitate our police officers and judicial officers gaining a better understanding.

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

- Appropriate training
- The field of social work, which has long been a bastion representing the interests of both victims and perpetrators, has involved itself in the areas of hospital care, child protection, mental health, community corrections/corrective services, immigrant communities and homelessness, to name only a few. All of these areas intersect with D.F.V., and so social work, as a profession, must be recognised ahead of the many other associated professions involved in these areas for its unique and holistic understanding of the social forces at play, particularly with respect to the dynamics of power and control that drive D.F.V. Social work education needs to offer students a separate semester subject on what has become a 'wicked problem'. Special emphasis placed on the study of D.F.V. could therefore include the tactics of coercive control so as to add depth to future practitioners abilities to meet the needs of their help-seekers.

8. What is currently being done that works well?

- Education on the matter of coercive control should extend to all service providers involved to provide an effective and integrated community response. The operative word, here, is 'integrated', for without integration there will be service providers that recognise only the more obvious tactics used in domestic abuse and overlook the less obvious tactics that can be employed to control a person through coercion. The integrated systems response also minimises potential for thinking about the object of focus as if in a silo; it actually maximises the potential for greater understanding of the context and background of coercion with a more holistic appreciation for the subtle dynamics used.

12. What could be done better to 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?

- Ensure there are programs available in all QLD prisons. Currently in TSV there is no DV related behaviour change programs available for offenders in prison

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

- Police responses and attitudes sometimes consist of thinking that matters are not serious because there is no obvious physical violence. Police will complete DV referrals rather than applications for incidences where someone attends a station to report acts of DV.

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

- (More) education must be made available if service providers are to look beyond the obvious tactics and impacts of domestic abuse, such as physical and sexual violence, to see through the more veiled tactics and implicit impacts of violence in and beyond the home, e.g., the courtroom, divorce settlements, custody of children, etc. - all considered through the lens of gender inequality that pervades violence in the home and society.

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?

- Training for all Magistrates but especially those who preside over specialist DFV courts. Training needs to be transparent and consistent. Training should also be done regularly to update their knowledge.

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

- Often after a person has been charged with a criminal offence does the coercive control begin, continue or intensify. Secondary victimisation may occur through means other than the judiciary, e.g., dishonouring of responsibility for child maintenance, etc. Mindful of this, the judiciary and associated integrated response systems, need to convey a strong message that 'all eyes' are on the perpetrator and that motives to veil tactics of power and control will be scrutinised so that the potential for the continuation of exertion of distress on victims/survivors will be minimised and strong penalties applied should such tactics of coercion persist.

24. What could be done to improve the capability of police, lawyers and judicial officers to better understand coercive control behaviours so that these factors are given appropriate weight in the assessment of unacceptable risk under section 16 of the Bail Act?

- Knowledge about the gendered nature of domestic and family violence is a large aspect of this, a shift away from women as being manipulative and vindictive and within a Policing context knowing what coercive control can include and constitute. Overwhelmingly, women communicate that their stories and experiences of coercive control were dismissed or that they were not believed or made to feel that this was not serious. This comes down to a wider societal attitude about what a "victim" looks like. Given the high number of callouts and Police attendances to domestic and family violence, some real time and money needs to be put into educating and training – more expansive than a few online training modules or one course. This needs to be an ongoing commitment of upskilling a workforce.

25. Should further training be offered to police, lawyers and judicial officers involved in bail applications about coercive control and if so, should it be mandatory where possible?

- In terms of lawyers and judicial officers, the cumulative effect of coercive control needs to be weighted more heavily rather than a silo approach to the offence before the court. Although we cannot penalise perpetrators for the same action more than once, a history needs to be heavily considered along with a pattern of behaviour when looking at matters that are before the court. Women will experience 12 years of violence and coercive control and the perpetrator will go before the court for a seemingly “minimal” breach or new offence and this is looked at as a standalone low level matter rather than the cumulative effect and pattern of behaviour. This needs to change.
- Lack of training with police and Magistrates follow through with QPS
- Magistrates not taking into account previous criminal offences that were committed in the context of DFV but not charged as DFV offences. Example: PUV had a long history of offences relating to "going armed to cause fear" however in of title of the charge it does not read as a DV offence although it was committed in the context of DFV. Perhaps in these circumstances QP9s should be considered to understand the full context of the PUVs offending history

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

- Importance of shared education
- No individual/personal opinions from the Magistrate

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

- Follow breaches up in a timely manner
- Prioritise listening to the woman's story
- Talking to women and men separately and ensuring that the woman is spoken to before any PPNs are issued. Example: Client who had PPN issued against her after the Police only spoke with the man and got his side of the story, yet this woman had been physically abused during this same incident where she was labelled as a respondent.

[Response to some of the Options](#)

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

The sentencing guidelines in the PS Act currently only provide specific guidance for circumstances in which a person being sentenced is a perpetrator of domestic violence for this to be considered as an aggravating factor. In light of our evolving understanding of domestic violence and what we now know about the impact of coercive control on a victim’s options to keep themselves and their dependants safe, it is appropriate to consider whether section 9 of the PS Act should be amended to specifically require a sentencing court to consider if a person’s offending was attributable in some way to the offender being a victim of coercive control.

This proposal would prompt a sentencing court to actively consider the impact of coercive control and domestic violence as a potential mitigating factor when determining the appropriate penalty.

There is always a risk that a perpetrator of domestic violence could try and claim that they were in fact the victim of coercive control. They could attempt to use this provision to minimise their offending behaviour but arguably this risk could be mitigated by appropriate training of police, prosecutors and judicial officers.

A. What are the benefits of the proposal?

The proposal to amend section 9 of the PS Act to specifically require a sentencing court to consider if a person's offending was attributable in some way to the offender being a victim of coercive control is well received by NQDVRS.

NQDVRS provides domestic violence counselling to women at the Townsville Women's Correctional Centre (TWCC) and the counsellor has heard disclosures from many women of the many and varied tactics of coercive control, physical and sexual abuse that the perpetrators have used against them and how the perpetrators control of the many facets of their lives have led to their eventual incarceration.

These women, many of whom are Aboriginal and Torres Strait Islander women, from rural and remote areas of North and Far North Queensland, are some of the most vulnerable women in Queensland. It is apparent that they have had very little control over almost all aspects of their lives, their children, their safety, their bank accounts, their accommodation...

Such amendments to section 9 of the PS Act could result in sentencing courts actively considering the impact of coercive control and domestic violence as a potential mitigating factor when determining the appropriate penalty as such an amendment could result in less women being incarcerated. Numerous support letters to criminal courts over many years have been written providing such courts with an insight into the many layers of domestic abuse that the women coming before them have been subjected to in the hope that the penalty could be mitigated as a result of the sentencing judicial officer gaining the understanding of the adverse impact that the ongoing abuse has had on her.

Our counsellor has supported women who have been coerced into confessing to having committed crimes that they have not committed, due to their intense levels of fear of what will happen to their children, extended family members and/or themselves upon their release from prison if they did not.

B. What are the risks/possible unintended consequences of the proposal?

As noted in the discussion paper "There is always a risk that a perpetrator of domestic violence could try and claim that they were in fact the victim of coercive control. They could attempt to use this provision to minimise their offending behaviour but arguably this risk could be mitigated by appropriate training of police, prosecutors and judicial officers."

Here in North Queensland, where we have specialist DV courts operating in both Townsville and Mount Isa we are seeing a disproportionate number of women being named as respondents on Protection Orders and our DV Counsellor at TWCC has reported working with a woman who was named as a perpetrator on a DVO for the offence of swearing at her partner and then being breached and serving a 3 month prison sentence for the offence of going to her home under the influence of alcohol, after her partner coerced her into going home, knowing that she had been consuming alcohol. She didn't hurt anyone. Whereas men who strangle their victims in broad daylight with independent witnesses are serving prison sentences of only 3 months.

C. Would the proposal have a disproportionate adverse impact on any particular cohort of people in the community? If so, why? And how could the proposal be adjusted to mitigate adverse impacts?

If the appropriate training of police, prosecutors and judicial officers isn't successful and perpetrators of domestic abuse are able to successfully claim that they were in fact the victim of coercive control and use this provision to minimise their offending behaviour against the real victims, then the real victims of their coercively controlling behaviour will be adversely affected.

There is always the risk that perpetrators of domestic violence could try and claim that they were in fact the victim of coercive control and they could attempt to use this provision to minimise their offending behaviour. This could result in perpetrators having any penalties against them reduced, providing less 'time out' for the real victims to be able to use any time that he is incarcerated to relocate and escape his abuse.

D. Do you have any suggestions to improve the proposal?

Yes – There appears that a large proportion of the women at TWCC are on remand, not convicted of a crime, merely charged with it. Is it possible that a similar understanding that is proposed to be applied to the section 9 of the P&S Act could be applied when the woman, especially if there is any form of evidence that she has been the victim of domestic abuse, comes before the court in relation to her application for Bail?

That evidence need not necessarily be specific to her; but, it may be that her partner or ex-partner has a history of committing acts of DFSV. This evidence needs to be investigated and teased out with her, by asking the right, culturally appropriate questions of her, preferably by a trained trauma and domestic abuse informed counsellor, perhaps working alongside the police. This work with the women is in recognition of the fact that it is not uncommon for women to not always be aware of the tactics of coercive control that are being used against them as formally noted within the discussion paper.

E. What resources and supports would need to be put in place to support the implementation of the proposal?

Legislative oversights and training

As with all the proposals under consideration within this discussion paper the success of introducing such amendments to the legislation will be dependent on the parallel introduction of better oversights and tighter controls on all legislation; together with culturally appropriate, regular and ongoing training about the nuances and complexities involved with domestic and sexual abuse. We propose that such training be provided to all QPS staff, including police prosecutors; all lawyers who are receiving funding from Legal Aid Queensland, and all judicial officers.

In conjunction with any legislative changes consideration could be given to the development of a one-stop service which is a combination of the police stations for women in Argentina and the family justice centres of USA. Such a 'hub' could bring government and nongovernment agencies together under the one roof to support victims of domestic and sexual abuse. In addition to specifically trained female police officers there could also be lawyers, social workers and psychologists to support women and their children through the process of disclosing abuse, navigating complex criminal justice and support service systems and would be based on supporting and empowering victims to make informed decisions.

Additional trauma and domestic abuse trained counselling

Women who have experienced domestic abuse are mostly reluctant to disclose such matters. All workers within the criminal justice system will need to be trained on such things as building rapport, what questions to ask, how to engage the woman in culturally appropriate conversations in which she feels safe to share her previous and ongoing experiences of domestic abuse, if it is relevant and in her interests to do so.

The women will not know to disclose the secret that they have potentially been keeping about the domestic abuse and will not be aware that if they do disclose about the domestic abuse that it could potentially assist them in the legal case against them. If women aren't given this opportunity to make the relevant disclosures of domestic abuse they will be disadvantaged.

An additional resource to consider could be providing all women who have come before the criminal courts, whether granted bail or on remand in corrections, with access to a trauma and domestic abuse trained counsellor as soon as is reasonably practical. Additional funding for Domestic Violence services would be required to meet this need.

F. What are the relevant human rights considerations for this proposal?

Every person in Queensland is protected by the Human Rights Act 2019 which requires laws to be made and interpreted in a way that is compatible with the rights protected under the Act. It also obligates the public sector to make decisions and act in a way that is compatible with these rights.

There appear to be no human rights that are limited by this proposal; and, the rights engaged and promoted are the protection of families and the right to a fair hearing.

H. Do you support/not support the proposal? If so, why?

Yes, provided it is paralleled with the introduction of better oversights and tighter controls on all legislation; together with culturally appropriate, regular and ongoing training of domestic and sexual violence (DSV) involving all lawyers who are receiving funding from Legal Aid Queensland; all QPS staff, including police prosecutors; and all judicial officers.

Option 6 - Creating a new standalone 'coercive control' offence

In England and Wales and Ireland the prosecution must prove that some harm has been experienced by the victim. Scotland and Tasmania only require that the purpose of the behaviour was harmful. The approach in Scotland and Tasmania has been identified as being preferable because it focuses prosecution of this offence on the behaviour and state of mind of the perpetrator rather on the victim's response to that behaviour. This approach may relieve some burden from the victim as a witness [and therefore minimise the potential for secondary victimisation]." A balance will be necessary with respect to these two considerations. The first consideration, if adopted to the exclusion of the second, leaves open the possibility for vexatious claims. The second of the two considerations is important with respect to secondary victimisation that survivors-victims report about having to be subjected to overt power plays in the courtroom while at the same time being on the receiving end of the more covert ploys that perpetrators use for reason that they will not relinquish power and control themselves.

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

A. What are the benefits of the proposal?

A specific defence of coercive control in the Criminal Code could more adequately reflect the diminished, moral culpability of an offender who has been subjected to coercive control.

The creation of a specific defence of coercive control in the Criminal Code should translate into less women being incarcerated for many years due to being pressed into a position where they felt pressured into having to use force against a person with whom they were in an intimate personal relationship with, to preserve their own life.

B. What are the risks/possible unintended consequences of the proposal?

As noted in the discussion paper “[t]here is always a risk that a perpetrator of domestic violence could try and claim that they were in fact the victim of coercive control. They could attempt to use this provision to minimise their offending behaviour but arguably this risk could be mitigated by appropriate training of police, prosecutors and judicial officers.” At worst this could result in a perpetrator of a domestic abuse receiving a reduced penalty than they would have otherwise received if the proposal were not adopted.

C. Would the proposal have a disproportionate adverse impact on any particular cohort of people in the community? If so, why? And how could the proposal be adjusted to mitigate adverse impacts?

There is always the risk that perpetrators of domestic abuse could try and claim that they were in fact the victim of coercive control and they could attempt to use this provision to receive a reduced penalty than they might have received without the introduction of a specific defence of coercive control in the Criminal Code.

Such ‘minimum penalties’ for domestic abuse might contribute towards the real victims of the domestic abuse being deterred from calling the police for assistance and feeling that the judicial system failed to protect them from the perpetrator of domestic abuse.

Such adverse impacts to this cohort of women could be mitigated by the parallel introduction of better oversights and tighter controls on all legislation; together with culturally appropriate, regular and ongoing training about the nuances and complexities involved with domestic and sexual abuse. We propose that such training be provided to all QPS staff, including police prosecutors; all lawyers who are receiving funding from Legal Aid Queensland, and all judicial officers.

D. Do you have any suggestions to improve the proposal?

No.

E. What resources and supports would need to be put in place to support the implementation of the proposal?

Legislative oversights and training

As with all the proposals under consideration within this discussion paper the success of introducing such amendments to the legislation will be dependent on the parallel introduction of better oversights and tighter controls on all legislation; together with culturally appropriate, regular and ongoing training about the nuances and complexities involved with domestic and sexual abuse.

F. What are the relevant human rights considerations for this proposal?

Every person in Queensland is protected by the Human Rights Act 2019 which requires laws to be made and interpreted in a way that is compatible with the rights protected under the Act. It also obligates the public sector to make decisions and act in a way that is compatible with these rights.

The discussion paper has noted the relevant human rights considerations for this proposal are the Right to life; Protection from Torture and cruel, inhuman or degrading treatment; and Protection of families and children. NQDVRS acknowledges the work that the Taskforce has undertaken thus far within this discussion paper of noting proposals such as creating a specific defence of coercive control in the Criminal Code which aligns well with the Government's obligations under the Human Rights Act 2019 of introducing laws, policies, acts and decisions that are compatible with the protection of these rights especially for victims of domestic abuse.

G. Is the proposal compatible with human rights? If not, why?

Yes, the proposal of creating a specific defence of coercive control in the Criminal Code should result in the creation of a law with resultant decisions that go towards acknowledging the Governments obligations under the Human Rights Act 2019 of enacting laws, policies, acts and decisions that:

- result in the protection of people from real and immediate risks to life and ultimately protect the lives of the women and children who are the victims of domestic abuse;
- protect women and children from torture and the coercively controlling acts of cruel, inhuman or degrading treatment, specifically
 - the Torture that intentionally inflicts severe physical or mental pain or suffering,
 - the cruel, inhuman or degrading treatment or punishment involving abuse or humiliation, including acts that cause mental suffering, debases a person, causes fear, anguish or a sense of inferiority;
- protect families and children from family violence, acknowledging that every child has the right, without discrimination, to the protection that is needed by the child, and is in the child's best interests, because of being a child.

It is hoped that this proposal can result in having a positive effect on the welfare of women and their children within their family unit.

H. Do you support/not support the proposal? If so, why?

Yes, provided it is paralleled with the introduction of better oversights and tighter controls on all legislation; together with culturally appropriate, regular and ongoing training of domestic and sexual violence (DSV) involving all lawyers who are receiving funding from Legal Aid Queensland; all QPS staff, including police prosecutors; and all judicial officers.

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)

A. What are the benefits of the proposal?

Such a proposal could provide a clear and definite pathway for expert evidence to be introduced into criminal proceedings about the complexities and nuances of domestic abuse by researchers or family violence sector workers; and, also provides for specific directions that must be made by judges to juries, in a timely manner when requested, about domestic abuse.

This proposal to amend the Queensland's Evidence Act 1977 (Qld) could complement the excuse of Duress (section 31(1)(d)), under Chapter 5 of the Criminal Code; particularly in relation to the removal of the strict rules for the admission and use of expert evidence about the impact that the coercive control had on the victim's ability to access alternative means of escape or avoidance of the abuse. NQDVRS is hopeful that this proposal could also help overcome some of the difficulties for victims using existing defences and excuses under the Criminal Code such as self-defence section 271 and killing for preservation in an abusive domestic relationship section 304B.

This proposal provides for opportunity for expert evidence about domestic abuse that may be relevant when determining—in circumstances where an accused has claimed they acted in self-defence—whether the person's actions were necessary, whether the conduct was reasonable, and whether there were reasonable grounds for the actions taken.

It would be beneficial for amendments similar to the new sections 37-39G of the Evidence Act 1906 (WA) to be introduced into Queensland's Evidence Act 1977 as it insists on direction by the trial judge to the jury on specific matters relating to the coercive effects of being a victim of domestic abuse and the detrimental impacts that can result. e.g. s39 C (2) The trial judge **must** give the jury a requested direction on family violence, including all or specified parts of section 39F if so requested, unless there are good reasons for not doing so.

The inclusion of information into Queensland's Evidence Act 1977 as contained at s39F that is provided to the jury at the direction of the trial judge would be helpful in achieving the outcome of a fair hearing, as the jury would be making their decisions about a guilty / not guilty verdict based on contemporary, evidenced based research about the impact of being a victim of domestic abuse.

B. What are the risks/possible unintended consequences of the proposal?

As noted in the discussion paper "[t]here is always a risk that a perpetrator of domestic violence could try and claim that they were in fact the victim of coercive control. They could attempt to use this provision to minimise their offending behaviour but arguably this risk could be mitigated by appropriate training of police, prosecutors and judicial officers." At worst this could result in a perpetrator of a domestic abuse receiving a reduced penalty than they would have otherwise received if the proposal were not adopted. These risks and possible unintended consequences could be mitigated through good levels of education and training of the investigating police officers, the man's defence team and the judge and jury.

C. Would the proposal have a disproportionate adverse impact on any particular cohort of people in the community? If so, why? And how could the proposal be adjusted to mitigate adverse impacts?

It is well evidenced that many of the women coming before the criminal courts charged with criminal offence are already disproportionately disadvantaged at every turn within the legal system that is available to them as a result of the inequities experienced by the person associated with (but not limited to) race, poverty, gender, disability or age. As with any of the defence proposals noted within this discussion paper the success or otherwise is contingent on the victim having a legal representative who is robust and forthright in acting on her behalf.

D. Do you have any suggestions to improve the proposal?

Consider the possibility of jurors receiving information that is contained at s39E and 39F so that the jurors have that information with them when making their deliberations over whether the woman is guilty or not guilty of the crime before them.

E. What resources and supports would need to be put in place to support the implementation of the proposal?

Additional funding for family violence sector workers as with the introduction of similar amendments to the Evidence Act 1977 (Qld) there will be more requirement for them to prepare for court and attend court to provide expert evidence in relation to coercive control.

As with all the proposals under consideration within this discussion paper the success of introducing such amendments to the legislation will be dependent on the parallel introduction of better oversights and tighter controls on all legislation; together with culturally appropriate, regular and ongoing training about the nuances and complexities involved with domestic and sexual abuse. We propose that such training be provided to all QPS staff, including police prosecutors; all lawyers who are receiving funding from Legal Aid Queensland, and all judicial officers.

In conjunction with any legislative changes consideration could be given to the development of a one-stop service which is a combination of the police stations for women in Argentina and the family justice centres of USA. Such a 'hub' could bring government and nongovernment agencies together under the one roof to support victims of domestic and sexual abuse. In addition to specifically trained female police officers there could also be lawyers, social workers and psychologists to support women and their children through the process of disclosing abuse, navigating complex criminal justice and support service systems and would be based on supporting and empowering victims to make informed decisions.

F. What are the relevant human rights considerations for this proposal?

The Discussion Paper noted that the human rights under the HR Act potentially engaged and promoted by this proposal are right to life; protection from torture and cruel, inhuman or degrading treatment; and protection of families and children. The following rights are also engaged and promoted - right to a fair hearing; rights in criminal proceedings; right to liberty and security of person. NQDVRS does not understand how any rights could be limited under this proposal.

G. Is the proposal compatible with human rights? If not, why?

Yes, this proposal should result in decisions that go towards acknowledging the Governments obligations under the Human Rights Act 2019 of enacting laws, policies, acts and decisions that:

- result in the protection of people from real and immediate risks to life and ultimately protect the lives of the women and children who are the victims of domestic abuse;
- protect women and children from torture and the coercively controlling acts of cruel, inhuman or degrading treatment, specifically
 - the Torture that intentionally inflicts severe physical or mental pain or suffering,

- the cruel, inhuman or degrading treatment or punishment involving abuse or humiliation, including acts that cause mental suffering, debases a person, causes fear, anguish or a sense of inferiority;
- protect families and children from family violence, acknowledging that every child has the right, without discrimination, to the protection that is needed by the child, and is in the child's best interests, because of being a child.

Introduction of mandatory directing of juries by trial judges and the facilitation of admissibility of the provision of expert evidence of the adverse impact of coercive control in similar terms to the amendments contained in new sections 37-39G of the Evidence Act 1906 (WA) of the Family Violence Legislation Reform Act 2020 (WA), would be helpful in achieving the outcome of a fair hearing, as the jury would be making their decisions about a guilty / not guilty verdict based on contemporary, evidenced based research about the many nuances and complexities associated with being a victim of domestic abuse.

Victim's rights in criminal proceedings are also engaged and promoted as this right seems to deal with evidence, and this proposal would allow for the inclusion of expert evidence which could assist the court to arrive at their decisions in a more competent, independent and impartial manner. Also, victim's right to liberty and security of person is also engaged and promoted as a legal system that is not based on contemporary, evidence-based research but instead relies on outcomes determined by members on juries who may hold community held stereotypical misconceptions about domestic abuse.

H. Do you support/not support the proposal? If so, why?

Yes, because such an amendment should translate into all victims of the coercive controlling behaviour that is subsumed within domestic abuse, who find themselves charged with a criminal offence involving their partner/ex-partner, having the opportunity to have their matter heard by a more competent, more independent and more impartial court than has ever been the case.

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

The introduction of an automatic register of dangerous domestic abusers and stalkers.... a register of men who are convicted of harassment" would bring about change in public attitude and perpetrator behaviour. "It would... [ensure] serial stalkers and domestic violence perpetrators are... monitored in the same way as serious sex offenders. The register could then be accessed by police and social services as a source of information to assist both preventative and reactive interventions." It "would help address institutional failures enabling serial abusers to subject multiple women to domestic violence and stalking."

The plight and tragedy of Fabiana Yuri Nakamura Palhares is a case in point: Prior her death, the perpetrator had victimised at least six women, in addition to committing acts of family violence. The benefit of such a scheme is that, like the Queensland Child Sex Offender Register, it is national, which means that it "reduce[s] the likelihood of reoffending and support[s] the investigation and prosecution of future offences" by helping "keep police informed of the whereabouts of... offenders... while they are at liberty in the community." Despite its merits and benefits to society in general, "in 2017, the Q.L.R.C. recommended against... [its] introduction... because of the costs of funding it consistently across the state could not be justified."

Option 12 - Amending the Dangerous Prisoners (Sexual Offenders) Act 2003 or creating a post-conviction civil supervision and monitoring scheme in the Penalties & Sentences Act 1992

Extending the Dangerous Prisoners Sexual Offenders (D.P.S.O.) Act to include high risk violent offenders is logical and supports the aim of a civil society. The Act permits the Supreme Court "to make continuing detention orders and supervision orders in relation to prisoners who are detained in custody for a serious sexual offence." High risk violent offenders should be extended the same courtesy. Policy researchers and writers will need, however, to define its term "high risk violent offenders" as it may differ to the notion of offenders or perpetrators who are using or have used coercive control, for the two forms of offence may be considered quite different among different samples of the Queensland population.

If coercive control were to be included with the current criteria for "high risk", how would it be identified and monitored? If authorities assess a perpetrator's use of coercive control to be "high risk" and beyond reasonable doubt, then engaging "with effective perpetrator programs of sufficient length, depth and quality to effect deep behavioural change... [to improve] the safety of women and children" may be appropriate and worthwhile. That "the implementation of this option would require a very significant additional investment of resources... to support the ongoing supervision of offenders in the community and enforce compliance with... post-conviction orders".

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

What requires careful consideration with respect to the model used by the State Government of Western Australia, is the offender assessment put forward by an "approved expert". The answer surrounding "expert" must be made clear to all: what sort of "expert", and will the expert be motivated by ideology rather than seeking a just outcome based on the alleged "offender's criminal record"? The introduction of an electronic monitoring requirement for parole orders, re-entry release orders or post-sentence supervision could potentially do much to ensure the safety of women and children, as would "disqualification from holding a licence for firearms and explosives", and consideration given to the withholding of bail for repeat offenders.