

Implementation Considerations for the Criminalisation of Coercive Control in South Australia.



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1. Summary of Recommendations

Full Stop Australia (FSA) supports the criminalisation of coercive control as one piece of a broader plan of action to properly and meaningfully respond to the scourge of coercive control. FSA acknowledges that criminalisation in and of itself is not a silver bullet and must be accompanied by whole-of-government measures to educate, inform and train the justice system and the wider community.

FSA has had the benefit of reviewing Embolden's position paper¹ released in September of last year and an advance draft of their submission for this review, and we support their recommendations in the position paper that the SA Government:

1. Work with other States and Territories and the Federal Government to establish a national definition of sexual, family and domestic violence in which coercive control is recognised as a pattern of abuse.
2. Work with other States and Territories and the Federal Government to establish a national definition of sexual assault which encompasses coercive control.
3. Commit to funding, promoting and supporting community education and awareness of coercive control in the context of sexual, domestic and family violence.
4. Ensure best practice justice, legal and service system responses to and in the prevention of coercive control through close consultation with community members and key stakeholders, specifically in considering risks and potential impacts on First Nations women, children and communities, people living with a disability, LGBTIQ+ communities and women from culturally and linguistically diverse communities.
5. Conduct a review of the current criminal and/or civil law and how it responds to coercive control, including reviewing existing legislation and processes such as the efficacy of intervention orders, with clear, evidence-based recommendations and pathways to action.
6. Review the risk assessment, practice manual and sharing protocols of both the Multi-Agency Protection Service and SA Family Safety Framework, to determine whether coercive control is adequately and appropriately defined, recognised and responded to.
7. Invest in evidence-based and trauma-informed responses, interventions and programs which support women and children's safety and freedom from abuse, encompassing

¹ Embolden SA Inc: *Position Paper on Coercive Control and the Law in South Australia*, September 2021.

primary prevention, intervention, crisis response and recovery, which are underpinned by an understanding of the gendered drivers of violence.

8. Commit to significant training and awareness measures for the South Australian Police force and other relevant whole-of-system bodies to recognise and respond to domestic violence and sexual assault, and to recognise and respond to the presence of coercive control. Such training is essential for all relevant law enforcement, healthcare and justice system officials.
9. Increase funding to specialist women's and culturally specific services that advance gender equality and women's empowerment with a client-centred and rights-based approach.

FSA also calls for the South Australian government to immediately increase sector funding of specialist services who work with survivors of coercive control, whilst working towards national definitions and greater community understanding of coercive control more broadly.

Finally, FSA submits that the criminalisation of coercive control must be implemented as a whole-of-government reform, which requires at a minimum:

- regular and rigorous community and stakeholder consultation including targeted consultations with survivors with lived experience of coercive control;
- drastically increased sector funding of specialist services (including specialist sexual assault services, health and community legal services) to meet the inevitable increase in demand which will occur as a result of increased community awareness and understanding of coercive control;
- whole of community awareness and education measures in all settings informed by sector expertise and lived experience; and
- whole-of-system training for the justice system, first responders and other actors such as GPs who receive disclosures.

We will now briefly deal with each theme of the consultation paper.

2. Awareness Raising and Engagement

FSA submits that it is essential for there to be a strong community awareness campaign in conjunction with the criminalisation of coercive control. Without community awareness of any new offences, they will not operate to the fullest extent and will be underutilised. Evidence from Tasmania demonstrates the dangers of criminalising coercive control without implementing community awareness and education programs. In Tasmania, it took three years for charges to be brought under the new legislation, and one of the key reasons for this was the lack of

community awareness about the offence.² Further, there was little media coverage in relation to the new offence and a lack of support provided to legal and non-legal services.³ We submit that SA could learn from this experience, in ensuring a comprehensive education and awareness campaign so that all the key institutions and the community more broadly obtain an understanding of this insidious aspect of domestic abuse.

ANROWS' National Community Attitudes towards Violence Against Women survey (NCAS) found that there is a great deal of work to do in educating the community that domestic abuse can be psychological.⁴ Indeed, nearly 1 in 5 Australians do not believe financial control is a serious problem.⁵ These results make it clear that there are still widely held beliefs in our society that domestic abuse is merely physical violence.

To achieve substantial community awareness and understanding, right throughout the community, it is necessary to resource and support this activity at the community level. It is only community leaders themselves, in families, schools, workplaces, sporting clubs and religious and cultural institutions that can generate significant and lasting understanding and cultural change. Engagement with state-wide and local community organisations, including First Nation communities, multicultural communities, people with disabilities, LGBTIQ communities, Youth and Older Persons, will be essential in ensuring widespread understanding and empowerment.

3. Education and Training

For the criminalisation of coercive control to be effective, FSA believes that a genuine approach to system-wide reform must be undertaken which results in real practice change. There must be a commitment to orientation and training, ongoing reflective practice, alongside accountability and a comprehensive review of behaviours and institutional practices. Literature and research engaging with institutional and behavioural change shows that much is needed in order to successfully achieve system-wide reform.

Research shows that attempts to address the behaviours and attitudes of police officers towards gendered violence through training alone has had minimal impact.⁶ A study conducted in the United Kingdom evaluated the effectiveness of specialist rape investigation training between officers and found no differences between those who received the training and those who did

² Women's Legal Service Tasmania 2020, 'Inquiry: Submission into Family, Domestic and Sexual Violence,' p.6.

³ Ibid.

⁴ Australia's National Research Organisation for Women's Safety. (2018). *Are we there yet? Australians' attitudes towards violence against women & gender equality: Summary findings from the 2017 National Community Attitudes towards Violence against Women Survey* (NCAS) (Research to policy and practice, 03/2018). Sydney, NSW: ANROWS

⁵ Ibid.

⁶ Anthony Murphy and Benjamin Hine, 'Investigating the demographic and attitudinal predictors of rape myth acceptance in U.K. Police officers: developing an evidence base for training and professional development', (2019) 25(2) *Psychology, Crime & Law* 69-89.

not.⁷ Such ineffectiveness is argued to be, in part, due to the narrow focus of most interventions, without considering the broader context of such beliefs, and a failure to embed a more reflective practice within training programs to help drive institutional change.⁸

FSA submits that whilst orientation and training of specialist workers is integral in the criminalisation of coercive control, this training cannot be the *only* condition in which we achieve system-wide change, we also need to consider the broader context of domestic and family violence, as well as continuously reflect on practices and review behaviours and attitudes within institutions.

Sexual, domestic and family violence exists within a broader framework of sociocultural attitudes and beliefs. Attitudinal systems related to gender and sexuality have been shown to have significant impact on perceptions of victimhood, with a subscription to traditional gender-role beliefs and male dominance.⁹ Further, the beliefs and practices of trained specialists such as police officers are developed and maintained within a broader cognitive framework. Research conducted highlights how several demographic and attitudinal factors influenced police officer's ambivalent sexism and hostility towards women, proving that regardless of receiving specialist training and being key service responders to victims of sexual, domestic and family violence, due to the broader negative and sexist sociocultural beliefs, a high degree of sexist attitude exists within police officers.¹⁰ Results from this study support the idea that efforts to train, raise awareness and address sexist beliefs in specialist services also **must** consider the broader attitudinal context of sexual, domestic and family violence.¹¹

Although some positive examples of training programs exist, most studies suggest that attitudinal intervention, such as specialist training, are ineffective *in and of themselves* for changing ingrained beliefs, foregrounding the complexities of, and resistance to, attitude change within institutions of which these programs are hoping to bring about.¹² Crucially, the study highlights that "any evidence-based training should encourage critical, reflective awareness of the beliefs and subjectivities officers hold and the impact these have on the judgements they may make regarding victims and cases".¹³ For system-wide reform to be effective in the criminalisation of coercive control, there has to be a genuine commitment to a more reflective practice and systemic change, alongside considering not just the act of coercive control within sexual, domestic and family violence cases, but also the context of coercive control within broader cognitive and attitudinal contexts.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid, 73.

¹⁰ Ibid, 83.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid, 85.

4. Supports and Services for victim-survivors

By recognising coercive control as a crime, the broader service system, including child protection, health, ageing, disability, education, housing, social, legal, youth and family services, must update their own definitions, policies, practices and procedures, which will increase the safety and accessibility of these services for victim-survivors of sexual, domestic and family violence. Awareness and recognition within these public and non-government institutions of the nature and seriousness of coercive control will also result in improved screening, risk assessment, and referral processes so that victim-survivors are offered safety and support sooner.

Importantly, criminalising coercive control will allow victim-survivors to be heard and have their experiences validated. Victim-survivors often say that psychological abuse, intimidation, coercion and controlling behaviour was the worst aspect of an abusive relationship.¹⁴ Without an offence of coercive control the current laws operating in SA fail to capture the most traumatising elements of a victim's experience and victims voices will continue to be unheard. Crucially, criminalising these behaviours will give victim-survivors the language to describe what the perpetrator has been doing to them and legitimise their perceptions that these behaviours are unacceptable and against the law.

5. Appropriate Responses to and For Perpetrators

FSA submits that it is fundamental to the safety and wellbeing of women, children and communities that perpetrators of coercive control are held accountable for their behaviour and supported to change. Any meaningful policy framework to address gender-based violence must incorporate an integrated system for perpetrator intervention and behaviour change. If coercive control was criminalised the offence would carry its own penalty, and this would allow courts to specifically sanction offenders for this behaviour as appropriate. This would in turn ensure that offenders are held to account for the full extent of their coercive and controlling behaviours and their cumulative harm as opposed to single incidents of violence. It would also likely result in earlier intervention, which creates an excellent opportunity for diversion and behavioural intervention.

The law is a blunt instrument when it comes to social practices of violence rooted in gender inequality and our current adversarial system cannot address the full range of needs of victims for safety and recovery and the effective rehabilitation of offenders.¹⁵ There is an opportunity for criminalising coercive control to facilitate earlier interventions in abusive relationships before

¹⁴ 'Amanda Gearing, 'Coercive control and domestic abuse: what might have saved Hannah Clarke and her children?' The Guardian (online 29 February 2020) < <https://www.theguardian.com/society/2020/feb/29/coercive-control-and-domestic-abuse-what-might-have-saved-hannah-clarke-and-her-children>>.

¹⁵ Jarryd Bartle, 'Should it be a crime to exert 'coercive control,' over a domestic partner?' *Sydney Criminal Lawyers* (Article, 10 October 2020) < [Should it Be a Crime to Exert 'Coercive Control' Over a Domestic Partner? \(sydneycriminallawyers.com.au\)](https://www.sydneycriminallawyers.com.au)>.

violence escalates further. The UK Law Commission shared this position, expressing that the fair labelling of offenders as perpetrators of coercive control may contribute to the rehabilitation of that offender.¹⁶

Police, magistrates and judges have often relayed that they would like to have more accredited behaviour change programs within and outside of a prison environment as appropriate in accordance with risk. Criminalising coercive control and catching early and hidden abuse will afford this opportunity, provided the SA government is committed to investing in these programs state-wide.

Conclusion

In sum, FSA argues in this submission that the criminalisation of coercive control must be considered as a package reform, to which extensive community and stakeholder consultation, improved sector funding of specialist services, increased awareness measures, whole-of-system training, improved community education and the establishment of national definitions will work together to help put a full stop to sexual, domestic, and family violence.

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About Full Stop Australia

Full Stop Australia (FSA) is an accredited, nationally focused, not-for-profit organisation which has been working in the field of sexual, domestic and family violence since 1971. We offer expert and confidential telephone, online, and face to face counselling to people of all genders who have experienced sexual, domestic or family violence, and specialist help for their supporters and those experiencing vicarious trauma. We also provide best practice training and professional services to support frontline workers, government, the corporate and not for profit sector. Finally, FSA advocates with governments, the media and the community to prevent and put a full stop to sexual, domestic and family violence.

¹⁶ Law Commission, *Reform of Offences Against the Person; A Scooping Consultation Paper* (Consultation paper No 217) 217