

Submission

Legislative Responses to Coercive Control in Western Australia

30 July 2022



wa council of
social service

Submission to the Office of the Commissioner for Victims of Crime on Legislative Responses to Coercive Control in Western Australia

The Western Australian Council of Social Service Inc. (WACOSS) welcomes the opportunity to make a submission to the Office of the Commissioner for Victims of Crime on legislative responses to coercive control in Western Australia.

WACOSS is the peak body for the community services sector in Western Australia and works to create an inclusive, just and equitable society. We advocate for social and economic change to improve the wellbeing of Western Australians, and to strengthen the community services sector that supports them. WACOSS is part of a network consisting of National, State and Territory Councils of Social Service, who advance the interests of people on low incomes and those made vulnerable by the systems that have been put in place.

Introduction

WACOSS understands, through consultation with members and family and domestic violence and women's legal specialists, that there is a general consensus that the introduction of any new criminal offences alone, without whole of system reform, could lead to adverse outcomes for victim-survivors and have limited impact in improving their safety.

Criminalisation can be symbolically appealing, but due to the severity of the possible unintended consequences, it must be carefully considered whether such an approach would in fact be effective or appropriate. We note that there is currently little evidence to indicate how new criminal offences would impact communities who are already subject to systemic harm and marginalisation by the justice system, such as Aboriginal and Torres Strait Islander people, people who are culturally and linguistically diverse, and people living with a disability.¹ This lack of evidence means that it is challenging to determine whether criminalisation as an approach improves outcomes for victim-survivors.

We recognise the need for improved whole-of-system responses to coercive control and better outcomes through the criminal justice system, but believe this must be part of a larger integrated effort to transform the way that we respond to family and domestic violence, both in and beyond the criminal justice system. By addressing the systemic causes of abuse, we can develop approaches that prevent it occurring in the first place, achieving better outcomes for community safety than can be achieved through a narrow focus on punishment and incarceration.

It is important to contextualise the discussion around legislative responses to coercive control in the sombre reality that the vast majority of intimate partner violence remains unreported and unaddressed. More needs to be done to address barriers to reporting, to secure better outcomes from reported cases, and to improve the safety, protection and wellbeing of women and children at risk of or fleeing abusive and violent relationships.

Our recommendations are directed at strengthening the foundations of the current systems that respond to family and domestic violence, pursuing opportunities to prevent and reduce family violence to the greatest extent possible, and ensuring extensive cross-sector consultation and

¹ Otter, C. and Bosanko, M. (2022) [What is Coercive Control](#), Parliament of Victoria.

collaboration with diverse groups of women and the service providers they engage with, to carefully consider alternatives to criminal justice approaches.

Recommendations

WACOSS recommends the following:

1. Increase funding to the specialist FDV sector to deal with the current crisis in demand
2. Prioritise the funding of FDV primary prevention and early intervention programs
3. Work collaboratively with other agencies that specialise in supporting priority populations and marginalised groups to develop appropriate and culturally secure supports and address barriers to disclosure
4. Place an immediate priority on working collaboratively with Aboriginal and Torres Strait Islander people and organisations in addressing the impact of coercive control in WA
5. Substantially increase investment in the ongoing education and training of police and the judiciary in how to effectively and appropriately police and prosecute FDV crimes, including non-physical abuse and patterns of violence
6. Develop a whole-of-government approach to responding to and preventing coercive control in consultation with the specialist FDV sector, experts and experts with lived experience
7. Ensure sufficient and reliable funding for community and women's legal services to meet demand and improve access to justice for women
8. Expand the funding and availability of men's behaviour change programs to increase perpetrator accountability
9. Invest in ongoing research and evaluation of victim-survivor's perspectives on justice based and non-justice based solutions for FDV

WACOSS considers that these recommendations will improve safety for victim-survivors, ensure the particular needs of vulnerable groups are better served, improve accountability for perpetrators, and strengthen community-based responses to coercive control. If the above priority and prerequisite recommendations are not implemented as part of a whole-of-systems response to family and domestic violence, WACOSS is of the opinion that it would be unwise, harmful and potentially dangerous to introduce new legislation that criminalises coercive control in WA.

Language and Terminology

Family and Domestic Violence

WACOSS recognises that various terminologies are used in policy, practice and research to describe family and domestic violence (FDV). There are many types of family and domestic violence, but all

forms are characterised by behaviours that are intended to coerce, control and/or create fear within an intimate or familial relationship.²

A strong evidence base demonstrates the gendered nature of FDV and that the overwhelming majority of violence experienced in the home is perpetrated by men against women and children.³ As such, gender-binary language and terminology is often used to acknowledge and communicate that family and domestic violence is underpinned by deeply entrenched gender inequalities and power imbalances between women and men. This submission will primarily use gender-binary terms (i.e. women and men) to reflect the current evidence base demonstrating that FDV is gendered in nature. WACOSS recognises that FDV does, however, impact people across a diversity of gender identities, social and cultural contexts, and within various intimate, family and family-like relationships.

The Concept of Coercive Control

WACOSS understands that coercive control has been considered by the Meeting of Attorneys-General (MAG) and that in June 2021, the MAG agreed to co-design national principles to develop a common understanding of coercive control and matters to be considered in relation to potential criminalisation. One part of these national principles will be to establish a common understanding of coercive control.⁴ In view of this, WACOSS believes it would be counterproductive for the Western Australian Government to use a different concept to understand and describe the nature of family and domestic violence.

As outlined by ANROWS, WACOSS reiterates that:

Responding to coercive control more effectively requires a consistent definition of coercive control and of domestic and family violence across legislative and policy settings, Australia-wide. This definition needs to position coercive control as an overarching strategy designed to remove personhood using a range of physical and non-physical behaviours.⁵

Additionally, WACOSS believes that it is important not to present coercive control as a “new” concept to victim-survivors and the community. There is in fact an extensive body of work that emphasises that family and domestic violence is rarely a single incident, rather, it is a pattern of behaviour that is cumulative and ongoing. This pattern of behaviour may or may not include physical violence, but rather includes a wide range of controlling and psychologically abusive behaviours that together function to control the victim.⁶

Coercive control then is not a list of non-physical behaviours (such as emotional, financial or physical abuse, isolation from friends and family, placing restrictions on what a woman can wear and so on)

² Backhouse, C. and Toivonen, C. (2018) [National Risk Assessment Principles for domestic and family violence: Companion resource. A summary of the evidence-base supporting the development and implementation of the National Risk Assessment Principles for domestic and family violence.](#) Sydney: ANROWS.

³ Ibid.

⁴ Government of Western Australia (2022) Legislative Responses to Coercive Control in Western Australia. Discussion paper.

⁵ Australia’s National Research Organisation for Women’s Safety (2021) [Defining and responding to coercive control: Policy brief](#) (ANROWS Insights, 01/2021). Sydney: ANROWS.

⁶ Wangmann, J (2021) [Submission to the Women’s Safety and Justice Taskforce on the discussion paper dealing with Coercive Control.](#) University of Technology Sydney.

rather *it is the overarching context* in which those behaviours occur.⁷ This contextual understanding shifts the focus from individual acts and behaviours to the way in which they function together as a patterned, cumulative environment that serves to instil fear, limiting a woman's freedom and space for action.⁸ The seminal work of Evan Stark, *Coercive Control: How men entrap women in personal life*, published in 2007, has been key to the development of the theory of coercive control.⁹ So the *concept* of coercive control is not new, rather what is new are the discussions around criminalisation of this patterned form of behaviour.

Increase funding for the specialist FDV sector to deal with the current crisis

The serious and widespread nature of FDV within Western Australia, as evidenced through increasing year-on-year statistics,¹⁰ places significant pressure on specialist FDV services. In addition, the economic and social impacts of COVID-19 has produced a significant and rapid rise of demand for services in recent years, which has outstripped capacity and placed the sector under significant strain. Services are not currently equipped to meet this high level of demand, which undermines the safety of those experiencing family and domestic violence and their potential for recovery.

Media reports and consultation with our members reveal that services are forced to turn away hundreds of women and children as they face greater demand than they can meet.¹¹ Specialist FDV services have a long history of providing an invaluable range of supports to women, children and gender diverse people experiencing, or at risk of, family and domestic violence and abuse. These services, and their workers, are highly skilled in the provision of risk assessment, risk management, safety planning, crisis accommodation provision and referral, case management, counselling, and advocacy, with wide-ranging and deep legal and clinical knowledge and experience.¹² These services provide a range of supports to women and children, and contribute unique skills and knowledge about family violence risk that guide the broader system response.

Specialist FDV services enable and support:

- the development of specialist knowledge and information about the dynamics of domestic and family violence;
- the employment of a specialist workforce, including managers and practitioners who are skilled in crisis response, outreach activities, cultural security, and community development;
- collaboration with other agencies and local organisations to provide wraparound supports that can reduce FDV, including housing and homelessness, financial planning, alcohol and drug related services and mental health supports;
- the planning and development for long-term support and recovery for women, children, and men; and

⁷ Ibid.

⁸ Ibid.

⁹ Stark, E. (2007) *Coercive control: how men entrap women in personal life*, Oxford University Press, Oxford.

¹⁰ Government of Western Australia (2022) [16 Days in WA - Facts and statistics](#)

¹¹ Al Jrood, T. (2022) Domestic violence funding lacking despite \$5.7 billion surplus in WA budget, women's group says. ABC News

¹² Holder, R., Putt, J., O'Leary, C. (2017) *Women's specialist domestic and family violence services: Their responses and practices with and for Aboriginal women: Key findings and future directions*. Sydney: ANROWS

- empowerment and self-determination for victim-survivors to ensure their basic rights through practical help and ongoing support.¹³

Specialist FDV services are an integral part of Western Australia’s response to family violence and abuse, particularly as the vast majority of victim-survivors do not report their experiences to the police. Australia’s National Research Organisation for Women’s Safety (ANROWS) estimates that less than one in 10 victim-survivors choose not to engage with the criminal justice system.¹⁴ There are a range of reasons for non-disclosure of family violence to police by victim-survivors, including: fear of further/escalation of violence, feelings of shame or low self-esteem, concerns they won’t be believed, or perpetrator tactics of isolation and control.

Additional and distinctive barriers to disclosure are also present for diverse groups of women. Aboriginal women, for example, are substantially less likely than non-Aboriginal women to call police due to experiences of colonisation, dispossession, ongoing racism and discrimination, fear about authorities removing their children or about Black deaths in custody.¹⁵ Culturally and Linguistically Diverse (CaLD) women may hold religious or cultural beliefs about gender roles and behaviours, particularly within marriage, that are inconsistent with speaking out and seeking help from police about violence perpetrated against them and their children.¹⁶ For women in small communities in regional and rural areas, there might be a perceived lack of confidentiality, privacy and anonymity.

People with a disability, the LGBTIQ+ community, and the elderly are other groups who face greater challenges when it comes to reporting abuse. In addition to demand pressures, specialist FDV services must be adequately resourced to provide tailored responses to victims, with the flexibility to respond to women’s and children’s individual needs.

The WA Labor Government has recognised that “the current system is in crisis.”¹⁷ While a number of funding commitments made by the Western Australian Government to support women and families experiencing family and domestic violence over recent years are very welcome, essential frontline support services remain chronically underfunded and unable to meet the diverse and complex needs of those affected by family violence. WACOSS recommends that an immediate funding boost be granted to FDV specialist services prior to the introduction of any new legislation so that they can move from managing demand to meeting demand.

Recommendation: Increase funding to the specialist FDV sector to deal with the current crisis in demand and to ensure that women, children and gender diverse people impacted by FDV receive effective specialist support.

¹³ Wendt, S., Chung, D., Elder, A., Hendrick, A., and Hartwig, A. (2017) Seeking help for domestic and family violence: Exploring regional, rural, and remote women’s coping experiences: Key findings and future directions. Sydney: ANROWS, and Holder, R., Putt, J., O’Leary, C. (2017)

¹⁴ Australia’s National Research Organisation for Women’s Safety (ANROWS) (2020) Improving family violence legal and support services for Aboriginal and Torres Strait Islander peoples: Key findings and future directions (Research to policy and practice, 25–26/2020). Sydney: ANROWS.

¹⁵ Victorian Aboriginal Legal Service (2021) Addressing Coercive Control Without Criminalisation Avoiding Blunt Tools that Fail Victim-Survivors. Policy Paper.

¹⁶ National Domestic and Family Violence Bench Book (2022) [People from culturally and linguistically diverse backgrounds](#)

¹⁷ WA Labor (2017) [Stopping Family and Domestic Violence](#)

Prioritise the funding of FDV primary prevention and early intervention programs

Work to address violence against women and children exists along a continuum that includes primary prevention, early intervention and response. Each of these approaches reinforce each other and are equally critical to an integrated, multi-faceted and long-term approach to family and domestic violence. Government spending on FDV services and programs, however, is heavily weighted towards the crisis-response end. The existing focus on crisis response and justice system mechanisms must be matched by a similar focus on, and investment in, primary prevention and early intervention to prevent and reduce family and domestic violence to the greatest extent possible.

Problematic and unacceptable attitudes to family and domestic violence and gender inequality in society have remained stubborn and pervasive, and our systems and institutions are not immune to harbouring these attitudes. Cultures of victim blaming and denial are still operating systemically, and regularly jeopardise the safety of victims seeking support and services. A primary prevention approach works across the whole population to address the attitudes, practices and power differentials that drive violence against women and their children and to promote a culture of non-violence and gender equality.

Examples of primary prevention activities include schools-based programs to create gender-equitable environments and build students' relationships skills, efforts to reduce the disrespectful portrayal of women in the media, comprehensive public education and social marketing campaigns, and workplace initiatives promoting positive bystander responses. Such approaches are distinct from responses to existing violence such as crisis counselling, police protection or men's behaviour change programs, as well as from early intervention activities such as working with 'at risk' young people or families.¹⁸

In addition to current programs, such as Respectful Relationships, it may be of benefit to develop an education campaign on coercive control which can be launched in WA schools and through the media. This can include teaching young people what coercive control looks like, encouraging healthy and respectful relationships, help young people to access support services and combat stereotypes and stigma.

Increased investment in early intervention strategies is also critical, as they have the potential to stop early signs of violence from escalating, prevent a recurrence of violence, or remove some of the significant barriers that still exist to women accessing the service system and the supports they require. Expanding preventative and early intervention training and activities to frontline workers who are well-placed to recognise and respond to diverse presentations of abuse across a range of sectors and services is essential in developing a whole-of-community response to FDV.

There is strong evidence for providing early intervention through universal services such as GPs, hospitals, financial services, early childcare services, child protection services, maternal, sexual, and reproductive services, Centrelink and social service providers, where women may disclose or evidence of FDV is present. Staff in these services can be trained to identify family violence and to facilitate access to supportive services in other sectors.

¹⁸ Our Watch (2017) [What is primary prevention of violence against women?](#) Online resource.

The health system, for example, can be an important point of entry to a network of supporting social and legal services for women experiencing abuse.¹⁹ According to the Australian Bureau of Statistics' 2016 *Personal Safety Survey*, four out of 10 women who sought advice or support about sexual violence did so through their GP or other health professionals.²⁰ It is crucial that frontline workers who are in a position to respond to disclosures of violence, including non-physical forms of violence, know how to do so in a way designed to reduce further victimisation and re-traumatisation of victim-survivors and improve their safety.

Reducing levels of harm and death arising from family violence also requires addressing the barriers women and children face in seeking to escape abusive and controlling relationships. This includes better access to adequate income support, safe and secure housing, and immediate, accessible financial support to exit abusive situations.

WACOSS believes that any legislative changes to criminalise coercive control must be underpinned by a commitment to supporting these primary prevention and early intervention measures on a larger scale if we are to create the conditions necessary to reduce the incidence and effects of family violence. If we do not tackle the problem of family violence at its source and become better at preventing it from occurring in the first place, communities and the systems that support them—police, courts and other services—will continue to be overwhelmed.

Recommendation: Prioritise the funding of FDV primary prevention and early intervention programs across a range of settings to stop the violence before it begins, and to change the culture of gendered violence in WA.

Develop appropriate and culturally secure supports and address barriers to disclosure

While FDV is prevalent across all of Western Australia's communities, there is sufficient evidence that demonstrates that certain groups and individuals are at greater risk of experiencing FDV, are more vulnerable to its impacts, and experience additional barriers to seeking and receiving support.²¹ The risk factors, experience and dynamics of domestic and family violence differ for:

- Aboriginal and Torres Strait Islander women and families (as discussed elsewhere in this submission);
- Migrants, refugees and women who are culturally and linguistically diverse (CaLD);
- Lesbian, gay, bisexual, transgender, intersex, queer and gender diverse people (LGBTIQ+);
- Women with disabilities;
- Women with a mental illness;
- Pregnant women;
- Young women;
- Older women; and

¹⁹ World Health Organisation (2017) *Strengthening health systems to respond to women subjected to intimate partner violence or sexual violence: a manual for health managers*. Geneva: World Health Organization.

²⁰ Australian Institute of Health and Welfare (2020). [Sexual assault in Australia](#). Australian Government.

²¹ Backhouse, C. & Toivonen T. (2018) *National Risk Assessment Principles for domestic and family violence. Companion Resource: A summary of the evidence-base supporting the development and implementation of the national risk assessment principles for domestic and family violence*. Sydney: ANROWS

- Women in regional, rural and remote areas²²

Migrant, refugee and CaLD women, have specific support needs that may not be addressed by generalised FDV strategies and services in addition to facing barriers to engaging with the criminal justice system, such as limited access to resources, or failure by police or the legal system to utilise interpreters.²³ The impact of violence may be exacerbated by the stressors of migration and resettlement and the constraints of visa status, which may increase women’s dependency on perpetrators for economic security and residency rights.²⁴ This forced dependency is likely to intensify if the woman has poor English literacy, is caring for children, and is isolated from family and social support networks. Forms of violence and abuse may manifest for women from some cultural backgrounds in the form of dowry stealing, family and community scrutiny and surveillance, early or forced marriage, financial control by perpetrators or extended family members, restriction of movement, and threats to visa or migration status.²⁵

Lesbian, gay, bisexual, transgender, intersex, queer and gender diverse people may experience distinct differences in the forms of abuse and violence utilised by perpetrators. These may include threatening to out or outing the victim in terms of their sexuality or HIV status, withholding hormone treatments, preventing participation in LGBTIQ+ events, personal degradation and public humiliation.²⁶ Research indicates that minority stressor variables, including internalised homophobia and discrimination, are positively associated with both increased perpetration and victimisation of FDV and intimate partner violence.²⁷ Lack of understanding and sensitivity to issues specific to LGBTIQ+ people in mainstream services, discrimination and homophobic attitudes by police officers, or fear of discrimination within judicial systems act as barriers to LGBTIQ+ people seeking help from and using support services and the criminal justice system.

Women with disability who require support from, or depend on, the perpetrator for their daily needs and care, may be especially vulnerable to domestic and family violence. The perpetrator may restrict or deny access to transport, medication or other means of disability support, fail to provide adequate care, interfere with the victim-survivors reproductive health as well as act as a gatekeeper to victim-survivors’ attempts to disclose the violence and seek assistance from support services.²⁸ Research indicates that when women with a disability disclose their experiences of violence, they are less likely to be believed, and when giving evidence in court, their competency, reliability and credibility are more likely to be questioned or given less weight.²⁹ Their fear of prejudicial assessment or discrimination may cause women with disability or impairment to be less likely to access support services or engage with police or judicial processes. Recognising and identifying

²² Backhouse & Toivonen (2018) ; National Domestic and Family Violence Bench Book (2022)

²³ InTouch (2010) “I lived in fear because I knew nothing” Barriers to the Justice System Faced by CALD Women Experiencing Family Violence. InTouch Inc. Multicultural Centre Against Family Violence.

²⁴ National Domestic and Family Violence Bench Book (2022)

²⁵ Ibid.

²⁶ National Domestic and Family Violence Bench Book (2022)

²⁷ Gray, R., Walker, T., Hamer, J., Broady, T., Kean, J., & Ling, J. Bear, B. (2020). *Developing LGBTQ programs for perpetrators and victims/survivors of domestic and family violence* (Research report, 10/2020). Sydney, NSW: ANROWS.

²⁸ National Domestic and Family Violence Bench Book (2022)

²⁹ Ibid

diverse types of violence that impact on the everyday safety and security of women with disability requires attention to individual, environmental and institutional factors.³⁰

Research demonstrates that women with mental health concerns who have been subjected to gender-based violence can be harmed by institutions tasked with helping them.³¹ Women experiencing mental health concerns are particularly vulnerable to being misidentified as an aggressor of violence and among the groups least likely to be believed when reporting sexual assault to police.³² Further, raising mental health in Family Court matters is gendered, with it given as the “reason limiting child contact with mothers in 30 percent of such cases, but only in 2 percent of cases limiting fathers”.³³ Mental ill health can be a compounding factor, a barrier, and outcome of violence against women and can be weaponised by perpetrators for coercive control, through tactics such as gaslighting or using a woman’s mental illness to seek to deny her child contact.³⁴ The complexity of the intersection of violence against women and mental health often requires collaboration between mental health, sexual violence, domestic and family violence and other sectors to provide effective care.

Pregnancy has been shown to increase and escalate a woman’s risk and experience of controlling behaviours by their intimate partner. This may be due to the perpetrator’s jealousy of the pregnancy or the extra attention their partner may experience from family, friends and health care and support service providers. Research shows that unplanned or unwanted pregnancy is more common among women experiencing domestic and family violence.³⁵ The perpetrator may have forced or coerced the woman into pregnancy through, for example, emotional manipulation, contraception sabotage or forced unprotected sex. Pregnancy and infancy also create greater dependence for women on their partners physically, emotionally and financially, increasing their vulnerability to domestic and family violence.

Compared with the overall prevalence of violence against women, young women aged 18 to 24 years’ experience higher rates of physical and sexual violence by their partners or former partners.³⁶ Within that group, those aged 20 to 24 years’ experience the highest rate of homicide victimisation. Young women are more likely to experience technology-based abuse, image-based abuse, stalking, intimidation and other forms of harassment. For example, devices such as computers and smart phones may be used by the perpetrator in conjunction with platforms such as social networking sites and text messages to record sexual assaults, to make threats to distribute images or videos of the

³⁰ Maree, J., Spivakovsky, C., McCulloch, J., McGowan, J., Beavis, K., Lea, M., Cadwallader, J., Sands, T. (2018) Women, disability and violence: Barriers to accessing justice. Key findings and future directions. Sydney: ANROWS

³¹ Ibid.

³² Ibid.

³³ McInnes, (2013) as cited in Death, J., Ferguson, C., & Burgess, K. (2019). Parental alienation, coaching and the best interests of the child: Allegations of child sexual abuse in the Family Court of Australia. *Child Abuse and Neglect*, 94, 104045. <https://doi.org/10.1016/j.chiabu.2019.104045>

³⁴ ANROWS (2020). *Violence against women and mental health* (ANROWS Insights, 04/2020). Sydney: ANROWS.

³⁵ National Domestic and Family Violence Bench Book (2022)

³⁶ Ibid.

victim, or to distribute images or videos without the victim's consent. Young women are also less likely to report incidences of stalking or intimidation to police.³⁷

Older people can be at greater risk of experiencing some forms of abuse, including economic abuse, mistreatment or neglect. Older people may also face a range of barriers to reporting domestic and family violence, thus compounding their vulnerability. Some of these barriers include: lack of awareness of what constitutes abuse; lack of knowledge of their rights or resources; diminished cognitive or physical capacity; restricted mobility; social isolation; dependency on the perpetrator; stigma and shame; perceived or actual lack of options or access to services; and not wishing to tell authorities about abuse as they subscribe to religious, cultural or generational beliefs about family violence as a private matter.³⁸ As a result, family violence against older people tends to be under-reported.

A range of geographic, economic, cultural and social factors place women living in rural, regional and remote areas at higher risk to FDV while also facing additional barriers to accessing help than those living in metropolitan areas. These include, but are not limited to: physical and social isolation; ready access to firearms and other weapons, heightened financial and economic stress and substance abuse; limited or lack of local services, professionals and trained workers to assist victims, children and perpetrators; and the close, conservative nature of rural and farming communities.³⁹ A number of these factors may also contribute to the nature and severity of the domestic and family violence, impact victim-survivors disclosure and help-seeking, and the extent to which perpetrator programs commonly used in metropolitan areas may be inappropriate in regional, rural or remote communities.⁴⁰

Currently, the many different forms and manifestations of family violence are insufficiently recognised within the criminal justice system and responses are not tailored to the particular circumstances and needs of diverse victim-survivors as outlined above. An intersectional approach to family and domestic violence recognises that women from diverse backgrounds and communities can face multiple and intersecting barriers to reporting family violence as well as in finding appropriate help and support. An intersectional approach also means acknowledging that no single initiative will be equally relevant to, or effective for, all groups.

Effective care and response to family and domestic violence requires multiple different, but mutually reinforcing, efforts in different contexts. To adequately respond to coercive control, WACOSS recommends that the WA Government work collaboratively with other agencies to address the array of barriers that lead to the underreporting of violence and reduced help-seeking experienced by priority populations and marginalised groups, prior to introducing a criminal offence. Otherwise, the introduction of legislation to criminalise coercive control risks failing the groups of women who are most in need of support.

³⁷ Indermaur, D. 2001. Young Australians and Domestic Violence. Australian Institute of Criminology

³⁸ National Domestic and Family Violence Bench Book (2022)

³⁹ Ibid.

⁴⁰ Ibid.

Recommendation: Work collaboratively with other agencies that specialise in supporting priority populations and marginalised groups to develop appropriate and culturally secure supports and address barriers to disclosure, prior to adding a separate offence of coercive control.

Prioritise working with Aboriginal and Torres Strait Islander people and organisations

Community-led research highlights the importance of culture in healing from domestic violence and demonstrates the need for family-focused models of support to address FDV in holistic and culturally strong ways.⁴¹ Many Aboriginal and Torres Strait Islander women refer to colonisation and other associated factors as a significant precursor to family violence. Systemic disadvantage, forced removal of children, cultural dislocation, gender and racial discrimination, oppression and intergenerational impacts of trauma shape the experiences of family violence in Aboriginal and Torres Strait Islander communities.⁴² Research demonstrates that systemic barriers disempower Aboriginal and Torres Strait Islander women experiencing violence from reporting violence, including a fear of child removal, fear of isolation from family and community, and the threat of homelessness.⁴³

The Aboriginal and Torres Strait Islander Healing Foundation Development Team strongly advises investment in four primary principles to support the healing of Aboriginal peoples:

1. A focus on addressing the causes of community dysfunction, not its symptoms
2. Aboriginal ownership, definition, design and evaluation of healing initiatives
3. Initiatives based on Aboriginal worldviews
4. Strengthen and support initiatives that use strength-based approaches to healing⁴⁴

Solutions that focus on the restoration of family cohesion and community healing are preferred, particularly those that allow the 'victim-survivor and perpetrator deal with their pain and suffering'.⁴⁵ Collective healing is about encompassing a culturally based approach viewing the individual in the context of their family, community, culture and country.

⁴¹ Morgan, G., Butler, C., French, R., Creamer, T., Hillan, L., Ruggiero, E., Parsons, J., Prior, G., Idagi, L., Bruce, R., Gray, T., Jia, T., Hostalek, M., Gibson, J., Mitchell, B., Lea, T., Clancy, K., Barber, U., Higgins, D., Cahill, A. Trew, S. (2022). *New Ways for Our Families: Designing an Aboriginal and Torres Strait Islander cultural practice framework and system responses to address the impacts of domestic and family violence on children and young people* (Research report, 06/2022). ANROWS.

⁴² Blagg, et al. (2020) *What works? Exploring the literature on Aboriginal and Torres Strait Islander healing programs that respond to family violence* (Research report, 01/2021). ANROWS.

⁴³ Langton, M., Smith, K., Eastman, T., O'Niell, L., Cheesman, E., Rose, M. (2020) *Improving family violence legal and support services for Aboriginal and Torres Strait Islander women* (Research report) Sydney: ANROWS.

⁴⁴ Aboriginal and Torres Strait Islander Healing Foundation Development Team (2009) [Voices from the Campfires: Establishing the Aboriginal and Torres Strait Islander Healing Foundation](#).

⁴⁵ Olsen, A. and Lovett, R. (2016) *Existing knowledge, practice and responses to violence against women in Australian Indigenous communities: Key findings and future directions*, ANROWS Compass, 01/2016

There is consistent evidence that Indigenous-run programs can contribute to healing and the prevention of FDV.⁴⁶ The key elements contributing to effective programs include being long-term, holistic, Indigenous-led, adequately funded, grounded in the local community, culturally based, strengths-based, provided by skilled and well-supported staff and leaders, well-coordinated and provide referrals to other programs and supports as required.⁴⁷ Aboriginal and Torres Strait Islander child and family services should be provided with additional resources and support to enable culturally effective responses.

Recommendation: Place an immediate priority on working collaboratively with Aboriginal and Torres Strait Islander people and organisations in addressing the impact of coercive control in WA.

Invest in the education and training of police and the judiciary

Effective victim support requires trained and experienced first responders and judicial staff, who are currently ill-equipped to provide appropriate support. Developing workforce capacity to ensure quality and consistency in responding to victims' needs trauma informed principles to be embedded. It also requires increased support for regional and remote teams, who often miss professional capacity building opportunities. An inclusive workforce development strategy that ensures staff are representative of and able to respond to the needs of people from diverse backgrounds is also important. Equally, we need to ensure that the judiciary, court staff and the legal profession receive regular and appropriate family and domestic violence training.

Better training for police officers and more robust and effective police policies are needed. Transparency in police capacity building also needs to be elevated, with some inconsistencies in training and policy across different police stations and regions. This includes how breaches of restraining orders are dealt with, victim misidentification, and whether victims are charged with offences that arise out of self-defence in family and domestic violence situations.

The misidentification of victim-survivors as perpetrators by police can have profound and severe consequences, and cannot be dismissed as an inevitable by-product of police responses. Misidentification for Aboriginal women has been identified as perpetuating "toxic cycles of incarceration, child removal, mental illness and substance abuse." Misidentification can be the result of deliberate actions by perpetrators, such as making false reports, manufacturing evidence, or coercing victims to engage in particular actions,⁴⁸ as well as incorrect decisions made by police. These incorrect decisions can be based on not recognising self-defence, discrimination, and failures to engage interpreters when necessary.⁴⁹

⁴⁶ Northern Institute (2019) Family Violence Prevention Legal Services: National Evaluation Report. Charles Darwin University

⁴⁷ Ibid.

⁴⁸ Nancarrow, H. and Thomas, K (2020) [Accurately identifying the "person most in need of protection" in domestic and family violence law](#), ANROWS Research Report 23/2020

⁴⁹ Ellen Reeves (2021) [The continuing problem of misidentification for family violence victim-survivors](#).

Without addressing these issues, introducing new offences creates more opportunities for victim-survivors to suffer from misidentification and the resulting consequences that has. The critical nature of improving the response of police and the judiciary to coercive control was identified by the Victorian Royal Commission into Family Violence, which warned that new offences alone risked having merely “a symbolic effect” as they would only be “as effective as those who enforce, prosecute and apply them”.

Police forces often do not have positive or well-established relationships with marginalised communities. In Western Australia, ingrained racial bias has been demonstrated through comparisons between the issuing of speeding fines from automated speed cameras and police-initiated traffic enforcement.⁵⁰ Significant concerns have been raised regarding allegations of racial profiling within the WA Police Force and the capacity for incidents to be reported.⁵¹ Nationally, Aboriginal and Torres Strait Islander women have reported that when they have reported abuse to police that it has been overlooked or not taken seriously.⁵²

As such members of those communities may not be inclined to bring complaints to law enforcement agencies for investigation or may suffer further discrimination should they do so. Experiences of discrimination and disempowerment by the justice system act to discourage members of those communities to seek assistance through that system again. Mistrust between police and minority communities has been identified as resulting in members of minority communities being less likely to report instances of victimisation or seek police assistance than members of non-minority communities.⁵³

WACOSS does not consider that improved training alone will resolve this. Enhanced accountability and transparency measures for police are necessary to improve the relationship between police and the community, by providing greater confidence in the integrity of complaint processes. This could be achieved by establishing an independent body to investigate complaints made about Western Australian police officers.

Recommendation: Substantially increase investment in the ongoing education and training of police and the judiciary in how to effectively and appropriately police and prosecute FDV crimes, including non-physical abuse and patterns of violence.

⁵⁰ Calla Wahlquist ‘Aboriginal drivers in WA more likely to get fines from police officers than traffic cameras’, *The Guardian Australia* (5 February 2020), <<https://www.theguardian.com/australia-news/2020/feb/05/aboriginal-drivers-in-wa-more-likely-to-get-fines-from-police-officers-than-traffic-cameras>>.

⁵¹ Steven Trask and Evan Young ‘An internal report reveals claims of racial profiling by WA police’, *SBS News* (29 March 2021), <<https://www.sbs.com.au/news/article/an-internal-report-reveals-claims-of-racial-profiling-by-wa-police-this-former-officer-is-shocked-but-not-surprised/5y2ujptj>>.

⁵² Hayley Gleeson, ‘Police are still misjudging domestic violence and victims are suffering the consequences’, *ABC News* (31 March 2021) <<https://www.abc.net.au/news/2022-03-31/police-misidentifying-domestic-violence-victims-perpetrators/100913268>>.

⁵³ Gail Mason and Leslie Moran, ‘Bias crime policing: The graveyard shift’ (2019) 8(2) *International Journal for Crime, Justice and Social Democracy* 1.

Develop a whole-of-government approach to coercive control

The cross-cutting nature of coercive control means that to effectively address it, responses must integrate with other service systems, including child protection, financial hardship, housing and homelessness, mental health, and substance misuse. It is imperative that services and agencies are equipped to work in an integrated way to improve the safety, health and wellbeing outcomes for victim-survivors as well as respond holistically and appropriately to those who disclose or identify as perpetrators of coercive control.

A whole-of-government response is necessary so that responses to coercive control are not limited to the criminal justice system. There is little evidence to suggest that increasing incarceration is effective in making our communities safer or for rehabilitating people. As such, an increased focus on therapeutic and diversionary processes is needed. The principles of enhancing wellbeing and reducing contact with the criminal justice system must be our focus to achieve the best outcomes for our community.

There is also a strong need for coordination, information sharing and cross-referral between child protection and family violence services, and for a more nuanced and supportive approach to be taken to women and children who are victims of coercive control in child protection assessments. Women and children fleeing family violence can find that the combination of their lack of secure housing and the exposure of their children to witnessing family violence become grounds for child removal. We need to encourage and support victims of family violence to seek safety and support services, not create additional barriers to keeping children and women safe.

Western Australia's 10-year strategy to reduce family and domestic violence is a critical mechanism for enabling a whole-of-government and whole-of-community response.⁵⁴ It should be considered how the actions and directions identified in that strategy can be utilised to provide the coordinated systemic change that is needed to address coercive control.

Recommendation: Develop a whole-of-government approach to responding to and preventing coercive control in WA in consultation with the specialist FDV sector, experts and experts with lived experience, which is sufficiently resourced, reviewed, monitored and evaluated.

Ensure sufficient and reliable funding for community and women's legal services

Financial disadvantage is a distinct contributing factor and outcome of FDV. Private lawyers are expensive, and out of the reach of many FDV victims. There are specialist services specifically for Aboriginal and Torres Strait Islander people experiencing family violence, and mainstream services for all Western Australians experiencing family violence, that provide culturally safe legal assistance and support to victim-survivors, including legal assistance, casework, counselling and court support.

⁵⁴ [Path to Safety: Western Australia's Strategy to Reduce Family and Domestic Violence 2020-2030](#).

These legal assistance services are vital to ensure that essential legal help is available to people and communities across Western Australia, regardless of their capacity to afford private legal representation. At present, there simply are not enough services to meet demand.⁵⁵ At a conservative estimate, community legal centres across Australia are forced to turn away over 170,000 people each year.⁵⁶

Legal services provide a range of outcomes for victim-survivors, including, but also more wide-ranging than, outcomes of court cases. For women facing significant disadvantage, and particularly for those who have fear or aversion to the western justice system, community legal centres walk alongside women and communities to help provide a range of outcomes. These may be individual, from assisting women to engage with both legal and non-legal services, to supporting women to participate in required legal processes, through to immediate outcomes of legal processes to longer term impacts for families and communities.

There is evidence to suggest that perpetrators of violence use court processes to further inflict violence and abuse on women, known as systems abuse.⁵⁷ In addition, research indicates that a court's failure to respond adequately or appropriately to a victim-survivor's allegation of FDV may constitute a form of abuse that is secondary to that of the perpetrator.⁵⁸ The risk of systems abuse is heightened when women self-represent before the courts. Further, many women withdraw from criminal prosecution of FDV cases due to fears arising from contemporary and historical trauma, geographical isolation, and complex, protracted legal processes.

Community and women's legal services must be adequately and sustainably funded to support and facilitate access to justice for women who face significant barriers in engaging with the legal system.

Recommendation: Ensure sufficient and reliable funding for community and women's legal services to meet demand and improve access to justice for women.

Expand the funding and availability of men's behaviour change programs

Efforts to keep victim-survivors safe must be strengthened through a consistent and rigorous approach to perpetrator accountability. Victim-survivors are largely left to carry the burden of managing risk in the home, when leaving and post separation. Bringing perpetrators into view and assisting them to change behaviours is essential to reducing family violence.

Currently, the main mechanism to hold perpetrators to account is the criminal justice system, which externally imposes court orders to restrict perpetrators' interactions with those against whom they have used violence, or charges perpetrators with a criminal offence if orders are breached.

According to ANROWS,

⁵⁵ Women's Legal Service WA (2019) [Submission to 10 Year Strategy for Reducing Family and Domestic Violence](#).

⁵⁶ National Association of Community Legal Centres (2016), *National Census of Community Legal Centres, National Report*

⁵⁷ National Domestic and Family Violence Bench Book (2022)

⁵⁸ Ibid.

Accountability to the state does not necessarily align with accountability to women experiencing violence. For example, crimes are prosecuted on behalf of the state, not on behalf of the victim. Therefore, decisions of the court which hold perpetrators accountable may do so in ways that do not acknowledge the impact of violence on the victim, promote her safety, or align with her wishes.⁵⁹

Men's behaviour change programs (MBCPs) are designed to work with men who use family violence by supporting them to internally develop accountability for their behaviour. They may include individual counselling or group programs for men focused on men's learning to understand and take responsibility for their violence, manage their emotions, how to reprogram their responses to conflict and stress and explore more respectful ways of relating.⁶⁰ Coercive control is a core element that is addressed in programs.

The criminal justice system together with MBCPs are critical points for perpetrator interventions. WACOSS has been informed by our members, however, that there is insufficient breadth and diversity in MBCPs in Western Australia.

While WACOSS believes that providing the courts with the discretion to refer people who are subject to a Final Violence Restraining Order (VRO) to participate in MBCPs is key to increasing perpetrator accountability,⁶¹ we recognise that higher demand for behaviour change programs will mean that service providers who run these programs will need more resources. Further, interventions for perpetrators of domestic and family violence will need to be tailored for different cohorts of perpetrators, including those for whom group work is not suitable. Men from a wide range of backgrounds require perpetrator programs that are adapted to their lived experiences, while programs must also be able to respond to diverse forms of perpetration.

Holding perpetrators accountable is essential to promoting the safety of women and children and to delivering long-term change. WACOSS believes that investment in MBCPs and other perpetrator interventions should be increased so that they can be expanded across the state and adapted where necessary to engage and work with diverse perpetrators and circumstances. This will help to increase perpetrator accountability in conjunction with criminal justice measures.

Recommendation: Expand the funding and availability of men's behaviour change programs to increase perpetrator accountability.

⁵⁹ Australia's National Research Organisation for Women's Safety. (2020). Improving accountability: The role of perpetrator intervention systems: Key findings and future directions (Research to policy and practice, 20/2020). Sydney: ANROWS.

⁶⁰ Stopping Family Violence (2022) [Programs delivered by the MBCP Network: A powerful voice for perpetrator programs in WA.](#)

⁶¹ WACOSS (2019) Submission to the Department of Communities 10 Year Strategy for Reducing Family and Domestic Violence Consultation Paper.

Invest in ongoing research and evaluation of victim-survivor's perspectives

The proactive inclusion of the voices of people with lived experience can be critical in ensuring service systems are designed to be welcoming, supportive and responsive to the differing needs of survivors of family violence. Effective community consultation in priority setting and service co-design is critical, but it must also be informed by cross-agency data on community need, local services and outcomes.

There needs to be the capability and cooperation within local community service networks, consumer representation and lived experience to participate in co-design processes. Local public sector managers need the delegated authority to make decisions about joining up programs and budgets to enable joint commissioning. Sufficient time needs to be committed to an inclusive process, driven by clear and consistent guidelines for co-design processes to ensure transparency of processes and clarity of expectations.

Recommendation: Invest in ongoing research and evaluation of victim-survivor's perspectives on justice based and non-justice based solutions for FDV, including coercive control.

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Yours sincerely,



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