

**Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation
Amendment Bill 2022**

Submission No: 18
Submitted by: Micah Projects
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:



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Micah Projects Submission

To: The Legal Affairs and Safety Committee, Parliament of Queensland

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street
Brisbane Q 4000
LASC@parliament.qld.gov.au

Re: Domestic and Family Violence Protection (Combating Coercive Control)
and Other Legislation Amendment Bill 2022

From: Micah Projects (with input from Brisbane Domestic Violence Service)

Date: 2 November 2022

1. Introduction

We welcome the opportunity to provide a submission to the Legal Affairs and Safety Committee. We commend the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence and parliamentary colleagues for responding so comprehensively to the issue of coercive control. In this submission we specifically address two aspects of the Bill, namely:

The objectives of the Bill that:

- give effect to legislative reform in recommendations 52 to 60 and 63 to 66 of the Women's Safety and Justice Taskforce (the Taskforce) in Chapter 3.8 of its first report, *Hear her voice – Report one – Addressing coercive control and domestic and family violence in Queensland*, and
- modernise and update sexual offence terminology in the Criminal Code in response to advocacy that the language appropriately reflects criminal conduct.

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Our hope is to create justice and respond to injustice at the personal, social and structural levels in society.

We seek to work collaboratively and respectfully with Indigenous communities and agencies. Micah Projects endorses the United Nations Universal Declaration of Human Rights.

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This submission is based on the experiences of women and children who have been supported by Brisbane Domestic Violence Service (BDVS) practitioners, and research evidence.

Patterns of coercive control have been employed, primarily by men, for decades as a way of instilling fear, intimidating, threatening and maintaining power over their partners. These patterns have not been well understood or responded to effectively by police and criminal justice personnel. We support the transformational, system-wide change recommended by the Women's Safety and Justice Task Force to respond to coercive control.

We also acknowledge the unfathomable grief and extraordinary courage of Sue and Lloyd Clarke. They have championed change so that our community better understands coercive control and its potential lethality.

We acknowledge that across the Queensland Government, including the QPS, leaders are increasingly recognising the seriousness of DFV. This is evident in substantial new investment in DFV; the emergence of new specialist DFV teams; improved collaboration across disciplines and improved responses to DFV by those officers who are committed to saving the lives of women and children in Queensland. Despite the positive shift, police responses are inconsistent and inadequate in keeping victims safe and in holding perpetrators accountable for their patterns of coercive control and other forms of violence.

Leadership at all levels of the QPS and the Queensland Courts must reinforce that DFV is a major crime that requires strategic, relentless, and effective policing and legal responses to reduce harm and prevent its occurrence. Police and criminal justice system personnel must be adequately and routinely trained in patterns of coercive control, and the impact of the legislative changes in this Bill must be effectively evaluated to mitigate the risk of unintended consequences of this Bill. The person most in need of protection must be identified accurately, and the impact of coercive control on victims must be taken seriously by police and courts.

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2. Recommendations

Recommendation 1.

The provisions of the Bill receive the support of the Queensland Parliament and that the government adequately fund: (i) the required police and criminal justice system training, and (ii) an effective program of evaluation of the impact of the legislation.

Recommendation 2.

The co-location, co-responder and High-Risk team models that foster cross-discipline work need to be scaled up across Queensland. The option of police being positioned in specialist domestic violence services is also important to trial. Consideration should be given to positioning dedicated Domestic Violence Units alongside or within a Vulnerable Persons Unit. This will foster better practice with trained police and co-responders on DFV who have an in-depth understanding of the gendered and intersectional nature of domestic violence, and of coercive control.

Recommendation 3.

It is imperative that the impact of the changes in this Bill are evaluated from day one of their implementation with a report to Parliament at annual or biennial intervals. The primary aim is to monitor any unintended consequences of this Bill as well as positive impacts.

Recommendation 4.

The changes to sexual violence language proposed in the Bill be supported to mitigate the risk of victim-blaming.



3. About Micah Projects/BDVS

Micah Projects is a community-based, not-for-profit organisation with a vision to create social justice and respond to injustice at the personal, social, and structural levels in the church, government, business and society. We believe every child and adult has the right to a home, an income, healthcare, education, safety, dignity and connection with their community of choice.

Micah Projects provides a range of support and advocacy services to individuals and families according to their needs and capacity. We ensure the immediate needs of participants are met in a supportive, informed and respectful manner for the people we support, and the people that work as part of our organization.

Brisbane Domestic Violence Service (BDVS) is the specialist domestic violence service for the Brisbane metropolitan region. The primary role of BDVS is to provide free and confidential services to women and children, partners in an intimate relationship and family members who are affected by domestic or family violence. BDVS provides a range of services by a multidisciplinary team, in different locations across Brisbane, and leads the Integrated Service Response for Brisbane. These services include:

Safer Lives Mobile Service - a 24-hour outreach and mobile service where staff meet people in locations that are safe and suitable to their circumstances whether they be at home or in the community, including co-responding with officers of the Queensland Police Service (QPS).

Safer Triage and Response – providing immediate screening and triage, brief intervention and immediate safety planning, provision of information and referral as appropriate, and co-response approaches with Queensland Police Service with embedded DFV advocates at Vulnerable Persons Units North and South, and an embedded police officer.

Safer Options and Support – includes and a team of DFV advocates to assess the risk and support safety for women and children and promote collaboration across agencies to ensure appropriate support for women and children.

Safer Families Initiative – supporting women and children affected by domestic and family violence when they are safe; and a trial program working with adolescent perpetrators of violence against their mothers.

Safe and Accountable Justice – providing court support; men's perpetrator programs, including support and advocacy for women.

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Safer Community Culture – promoting knowledge and understanding of DFV across the integrated service system and working with the Brisbane South primary health network to support General Practitioners in understanding DFV to effectively work with women, children and families experiencing DFV. This program also provides financial counselling for women through a position funded initially by Great Southern Bank (previously trading as CUA Bank), and now the Financial Counselling Foundation.

BDVS has implemented a co-response model with Queensland Police, enabling a social worker to address the immediate needs of the woman and provide her with information, while police address the immediate threat with the accused perpetrator.

BDVS 2021/22 year data

Total number of individuals supported by BDVS = 4870

Total number provided co-response = 609 (This number doesn't include one-off contacts that have been provided information and not come into the service at the time).

QPS has a system where they send referrals directly to BDVS, which often occurs even if they have contacted us directly by phone for urgent assistance. These are 'Redbourne' referrals, and police may send multiple referrals for an individual. In the financial year to date, we received 3512 referrals this way – an average of 70 referrals a week.

4. A cautious approach to legislating coercive control

The Hon. Shannon Fentimen in introducing the Bill affirmed that legislative responses to coercive control must be introduced with caution. They must have the backing of major criminal justice and service systems reforms. We share this cautious approach. There is a grave risk of unintended consequences of legislating coercive control — that is, the criminalisation of many women (especially First Nations women) can occur if patterns of coercive control are not well understood by police and criminal justice personnel. The rate of cross-applications can

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increase and women can be mis-identified as perpetrators of violence not victims most in need of protection.

The Hon Attorney-General stated in her speech to Parliament:

“...The task force recommended that a standalone offence of coercive control be introduced. However, they were very clear that, prior to the introduction of a standalone offence, system-wide reform is necessary to ensure sufficient services and supports are in place across the domestic and family violence service and justice systems. Critical amendments to existing legislation, requiring immediate implementation, were also identified. This reform and critical amendments are required to ensure the coercive control offence will be effective in reducing domestic and family violence and also mitigating any unintended consequences, particularly as they relate to the misidentification of the primary aggressor and the experience of First Nations women and girls. “

Therefore, consistent with the task force’s approach, this bill does not include the new offence of coercive control but sets the scene and lays the foundation.

The bill gives effect to those recommendations which the task force considered critical ahead of the introduction of the criminal offence...The Queensland government has committed to introducing a second stage of legislative reform that will include a coercive control offence by the end of 2023...The bill amends the Domestic and Family Violence Protection Act 2012 to include a reference to a ‘pattern of behaviour’ in the definition of domestic violence. Amendments will also make it clear that domestic violence includes behaviour that may occur over a period of time, including individual acts that, when considered cumulatively, are abusive, threatening, coercive or cause fear, and must be considered in the context of the relationship as a whole. These amendments seek to strengthen systems’ responses to coercive control, through a shift from focusing on responding to single incidents of violence to focusing on the pattern of abusive behaviour that occurs over time.

Amendments are also made to clarify the intent and process for a court to hear and decide cross applications—to ensure the person most in need of protection is identified and protected. The task force heard that the Domestic and Family Violence Protection Act is not operating as intended and cross applications are sometimes used by perpetrators as a means of continuing to control and intimidate victims, resulting in domestic violence orders being made against victims of domestic and family violence...”

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The ground-work and cautious approach in the Bill is supported by research. For example, ANROWS (2021) in the report *Accurately identifying the 'person most in need of protection in domestic and family violence law* reported that:

- Women—especially Aboriginal and Torres Strait Islander women—are being misidentified as perpetrators on protection orders and the effects of this are far-reaching.
- Police practice is guided by a focus on single incidents of visible or physical violence. This focus does not always support the appropriate application of DFV legislation, where violence would be considered in context in order to assess the need for protection from future harm.
- Police sometimes err on the side of caution in making applications, deferring to the magistrate to determine if an order is warranted. However, magistrates in turn may rely on the initial assessments made by police, as may prosecutors. This can create a pinball effect where each decision-maker defers to another's assessment of the appropriateness of an order. Accordingly, this means that accountability for that assessment is unclear.

The ANROWS (2021) report made the following recommendations:

- Create guidance for police on identifying patterns of coercive control.
- Improve processes of decision-making and accountability between police and courts.
- Create guidance for magistrates on how and when they can dismiss inappropriate applications and/or orders.

It is imperative that the impact of the changes in this Bill are evaluated from day one of their implementation with a report to Parliament at annual or biennial intervals. The primary aim is to monitor any unintended consequences of this Bill as well as positive impacts.

It is also important that the Queensland Government scale-up funding to enable more innovative co-location, co-responder models and high-risk DFV teams. The following case examples show the benefit of these models in responding to coercive control.

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Example 1. The co-location of a DFV Specialist Social Worker from BDVS in a Vulnerable Persons Unit has had a positive impact on the understanding of DFV and coercive control for those police officers on rotation. In working alongside each other, BDVS staff and police build good relationships, share information and knowledge routinely, and promote understanding with a wider group of police officers when on a new rotation. This helps to open-up an insular police culture to new influences. We also better understand the police role and perspectives through this co-location. The challenge is the limited capacity we have with so few DFV and police staff. These positive co-location models need to be scaled-up across Brisbane and Queensland.

Example 2. In our co-responder work, Police can contact the BDVS 24-hour mobile service to co-respond and support women when it is safe to do so. This model also improves information-sharing, risk assessment and decision-making. From our observations the work alongside specialist DFV practitioners, exposes the police to external relationships that have the positive effective of opening up the police culture to new ways of thinking; better understanding of coercive control; being less defensive and less prone to disrespect for women and victim-blaming. We all learn and benefit from this cross-discipline exchange. Importantly women and children subject to DFV benefit. The challenge is capacity. There is just one team of two workers servicing metropolitan Brisbane. Access to this opportunity, while leading to better outcomes for women and children, is limited to such a small number of victims/survivors.

Recommendation 1.

The provisions of the Bill receive the support of the Queensland Parliament and that the government adequately fund: (i) the required police and criminal justice system training, and (ii) an effective program of evaluation of the impact of the legislation.

Recommendation 2.

The co-location, co-responder and High-Risk team models that foster cross-discipline work need to be scaled up across Queensland. The option of police being positioned in specialist domestic violence services is also important to trial. Consideration should be given to positioning dedicated Domestic Violence Units alongside or within a Vulnerable Persons Unit. This will foster better practice with trained police and co-responders on DFV who have an in-depth understanding of the gendered and intersectional nature of domestic violence, and of coercive control.

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Recommendation 3.

It is imperative that the impact of the changes in this Bill are evaluated from day one of their implementation with a report to Parliament at annual or biennial intervals. The primary aim is to monitor any unintended consequences of this Bill as well as positive impacts.

5. Modernising sexual violence terminology.

In the past 2 years there has been unprecedented public attention on grooming and other forms of child sexual abuse. Survivor advocates, such as Grace Tame have raised community awareness of the predatory and controlling ways that men in authority lure children and sexually abuse them. These advocates have sought systemic change. One of the changes addressed in this Bill is to ensure that legal and common use language clearly reflect that power and control men exert over their child victims. We support these changes:

- The bill therefore replaces ‘carnal knowledge’ with ‘penile intercourse’, ascribing the current definition of ‘carnal knowledge’ to the new term. The amendment intends to make no substantive change to the operation of offences. It is also important to note that in Queensland other forms of sexual penetration not contemplated by the term ‘carnal knowledge’ are addressed by other offences within the code.
- The bill changes the title of the section 229B offence title ‘Maintaining a sexual relationship with a child’ to respond to victim-survivor criticism that the words ‘maintaining’ and ‘relationship’ soften or trivialise criminal conduct and suggest an equal and consenting association between the victim and offender. The bill retitles the offence: ‘Repeated sexual conduct with a child’ which omits references to the concepts of maintaining and relationship.

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Recommendation 4.

The changes to sexual violence language proposed in the Bill be supported to mitigate the risk of victim-blaming.

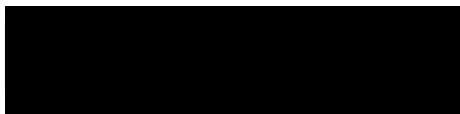
6. Conclusion — Cultural and systemic change need to respond to coercive control.

A Queensland Police culture that gives primacy to community safety and crime prevention must recognise the evidence — a gender dynamic applies to domestic violence as it applies to other major crimes. It is predominantly men who threaten, intimidate, and violate women, children and other men in relationships. It is men who use a pattern of coercive control over time to invoke fear, powerlessness, humiliation, and violence. Police must not be defensive about the predominance of male violence and instead ‘stand up’ and lead transformational change to end male violence — including coercive control.

Policing is a male-dominated culture. Until this entrenched culture, with its foundations in a value base of male superiority is transformed, far too many male DFV offenders will not be held accountable, and women and children will not be adequately protected from harm.

We welcome the opportunity to present evidence and our experience in person to committee members.

Yours sincerely



Karyn Walsh AM Hon.DSocWk & Nurs Qld
CEO, Micah Projects

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