Non-Government Women's Health Services
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18th January 2021
The Hon Natalie Ward MLC,
Committee Chair,
Joint Select Committee on Coercive Control,
By email: coercivecontrol@parliament.nsw.gov.au.

Submission: Inquiry into Coercive Control in Domestic Relationships

About Women's Health NSW

1. Women's Health NSW (WHNSW) is pleased to contribute to considerations regarding legislation and coercive control in NSW and thanks the Joint Select Committee for the opportunity.

2. WHNSW is an association of and peak body for 21 NGO Women's Health Services funded by NSW Health located across NSW.

3. WHNSW is proactive on priority issues relevant to women's health advocating for improved health outcomes for women in policy and practice to ensure women's health care is delivered in a gender appropriate, affordable and accessible way designed to meet the health needs of women. We also align with NSW Ministry of Health CORE values: Collaboration, Openness, Respect and Empowerment.

Aims of Women's Health NSW

4. WHNSW and its members align with developed *Principles of Women's Health Care* that services will be provided within a feminist context that:

- Incorporates the social, environmental, economic, physical, emotional and cultural factors which influence women's health
- Acknowledges and challenges the effects of sex-role stereotyping and gender discrimination on women's health and well-being
- Reflects the whole of a woman's lifespan, their various and changing roles and responsibilities, not just their reproductive life
- Recognises the importance of maintaining well-being and a focus on preventative practices
- Actively encourages the empowerment of women in both the personal and social aspects of their lives
- Values women's own knowledge and skills and their right to make informed decisions about their health
- Promotes gender equity and the use of gender analysis frameworks for public policy, programs and practice.

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Women's Health NSW Membership

5. WHNSW has twenty one members in total including seventeen Women's Health Centres providing multidisciplinary, primary health care focusing on wellness, prevention, early intervention, immediate and ongoing care including physical health/activity, chronic illness, emotional & mental health, reproductive and sexual health and the health effects of violence against women. In addition, our membership includes four special purpose services: Waminda, South Coast Women's Health & Welfare Aboriginal Corporation, with a focus on culturally tailored programs for Aboriginal women, Fairfield Women's Health Service providing health and well-being services to refugee and immigrant women, Sydney Women's Counselling Centre with trauma specialised counselling and Rape & Domestic Violence Services Australia.

6. NSW NGO Women's Health Centres have been providing services to women who have experienced sexual, domestic and family violence for over 45 years and, are an essential part of the NSW primary integrated health care system. Safety planning, medical services, specialist trauma counselling and therapeutic resilience building, legal and financial information, case management, court support, grief and loss counselling, parenting skills, are a few of the current services provided. The NSW Women's Health Centres are a vital partner to enhance health, safety and well-being outcomes for women who have experienced violence. Comments in this submission are informed by the collective experiences of women and workers over this period of time.

Executive Overview

7. WHNSW acknowledges the work NSW has undertaken over the last 20 years; the extension of programs, building partnerships, development and strengthening of community programs such as the Women's Domestic Violence Court Assistance Scheme, Staying Home Leaving Violence, Say No To Violence Men's Programs, the Safety Action Meetings, Domestic Violence Liaison Committees and the Police Domestic Violence Liaison Officers and increased active policing across NSW. Together these programs all work to provide safety for victims of violence and strengthening perpetrator accountability. They work together to support policing, courts and community services and WHNSW are committed to continue to work within these systems to improve cultural and gender safety and health and well-being.

8. WHNSW also acknowledges that women still feel there is a way to go for structures and processes to demonstrate a system that comprehensively understands and addresses the experiences and effects of violence in domestic relationships across NSW and a system that can keep women and children safe and well. Police recorded 145,000 incidences of domestic violence in NSW during 2019/2020 year. We do need to consistently ensure that law is responsive to academic research, empirical evidence and community need but we also need strong leadership to achieve fundamental change in violent attitudes and behaviours.

9. Of particular importance in recognising control and power as the context for violence it is essential to acknowledge the disproportionate effects of violence on those that have less access to systemic resources and systems. It is paramount to develop considered mechanisms of consultation to include a broad range of women's voices and knowledge in the development of legal and other systemic solutions. In these categories we specifically refer to priority populations of Indigenous women, culturally and linguistically diverse (CALD) women, women with disability, rural women, lesbian, gay bisexual, transgender, queer and intersex (LGBTQI) community and women of low socio economic status.

Executive Recommendations

10. WHNSW endorses the **'Uluru Statement From the Heart'** to call for the establishment of a 'First Nations Voice' in the Australian Constitution and a 'Makarrata Commission' to supervise a process of 'agreement-making' and 'truth-telling' between governments and Aboriginal and Torres Strait Islander peoples.

11. **A statutory definition of domestic and family violence** should be developed that includes a definition of coercive control. As noted in the NSW Government Coercive Control Discussion Paper (hereafter referred to as the Discussion Paper), NSW does not have a statutory definition of domestic and family violence beyond the definition of a "domestic violence offence" in s.11 of the *Crimes (Domestic and Personal Violence) Act 2007.*

12. WHNSW recommends that a **comprehensive definition of coercive control** needs to include a broad range of behaviours and actions informed by the work of Evan Stark as referenced in the Discussion Paper in section 2.

13. WHNSW recommends the legislation include, as a minimum, the **definition of a domestic relationship** as outlined in the s.11 of the *Crimes (Domestic and Personal Violence) Act 2007, Part 1 Preliminary, 5 Meaning of "domestic relationship", 5A Special Provisions – carers and their dependants and 6, Meaning of "relative".*

14. That **comprehensive community consultation** strategies be developed with priority populations of Indigenous women, culturally and linguistically diverse (CALD) women, women with disability, rural women, LGBTIQ community and women of low socio economic status to ensure gender and cultural safety.

15. That **comprehensive consultation with legal and community sectors** specialising in sexual, domestic and family violence (SDFV) is essential to ensure effective application, relevance of law, gaps in law and associated processes.

16. Develop **comprehensive workforce development programs** to ensure police, magistrates and court staff and the SDFV community sectors can apply an understanding of coercive control in understanding violence.

17. Develop **community education programs** to ensure the community can apply an understanding of coercive control in understanding violence in consultation with priority populations, the legal and SDFV community sectors and the Education Centre Against Violence (ECAV) and other specialist education providers in the SDFV field.

18. **Review utilisation and implementation of existing law.** WHNSW supports the undertaking by NSW Bureau of Crime Statistics and Research (BOSCAR) regarding the utilisation of stalking or intimidation offences.

19. **Develop systemic mechanisms to monitor and review ongoing utilisation and outcomes of law.** Build a system of ongoing review and analysis to ensure identified outcomes are understood and implemented.

20. **Develop high level government leadership strategies** to effect change in community attitudes to violence.

21. While WHNSW will not comment on the full range of questions put in the Discussion Paper, we will comment on

    (a) Definition of coercive control

    (b) Definition of domestic relationship

    (c) Community consultation and education program

    (d) Issues relevant to the way culturally and linguistically diverse (CALD) women may experience coercive control (a case for community consultation and education)

    (e) Workforce development

    (f) Gap analysis regarding application of current law and police practice

    (g) Monitoring and review

    (h) High level government leadership strategies.

(a) Definition of Coercive Control

22. Coercive control is often the foundation of many forms of violence and can also form the context of violence in conjunction with the physical expressions of violence, stalking and intimidation currently reported. WHNSW believes the incidence and severity of coercive control should not continue to be ignored in law. WHNSW believes the difference between coercive control and agreed role delineation within relationships are quite stark when intimidation, control, deprivation, threats, sexual and physical violence are paramount.

23. Media discussions that link coercive control with agreed relationship delineated gender roles and or the responsibilities of parenting, often highlight examples that do not constitute the forms of violence the legislation is aiming to address. These discussions can hijack the debate which could result in limited action being taken to review and enhance law and safety. Strong leadership is required to take this opportunity forward so that law and order do represent a definition of violence that is relevant and can make a difference to the safety of women in children in NSW.

24. Section two of the Discussion Paper 'What is coercive control?' clearly outlines an understanding of the wide range of behaviours that constitute coercive control that could form the basis of a definition. This outline will be further informed by the BOSCAR research coupled with a considered consultation with community and the sexual, domestic and family violence legal and community sectors, to identify any matters not currently captured by the BOSCAR research. Collated, the information will result in a comprehensive definition.

(b) Definition of Domestic Relationship

25. The definition of a domestic relationship in some international examples is limited to the current intimate domestic relationship which does not represent the Australian context of law or culture.

26. WHNSW recommends that the current meaning of "domestic relationship" in s.11 of the *Crimes (Domestic and Personal Violence) Act 2007, Part 1 Preliminary,* points *5 Meaning of "domestic relationship", 5A Special Provisions – carers and their dependants and 6, Meaning of "relative"* should be the minimum standard in defining domestic relations.

27. These sections represent the current context in NSW that identifies where violence can occur including marriage, defacto and or intimate partnerships, households, residential facilities, carers, relatives, ex partners and or relationships between previous ex partners. Of particular importance is the recognition of the Aboriginal and Torres Strait Islander Indigenous kinship system and in the case of 5A, paid carers and their dependants.

(c) Community consultation and education program

28. While professionals grapple with understanding how best to apply coercive control in law and policing, the community at large will continue to struggle with articulating their experiences of violence and coercive control and understanding what resources are available to them for protection. In addition, the identified priority populations have unique barriers for consideration in applying law and order that need to be understood.

29. We have included below information from CALD women in the Fairfield and Canterbury-Bankstown areas to highlight some additional barriers that, once understood, could be

addressed to enhance CALD women's access and use of legislation and systems of protection in NSW.

30. Consultation with Indigenous communities continues to be an essential requirement and should be standard practice in Australia. As above, addressing systemic barriers will enhance women and children's access to law and protection.

31. In addition to Indigenous and CALD women, we iterate that women with disability, rural women, LGBTQI community and women of low socio economic status also experience unique barriers to utilise systems in NSW that can be understood and mitigated following consultation, strategic action and applied education and knowledge.

32. Research and review of existing law will only capture that which is currently defined in law. Consultation in community and the SDFV sectors will highlight violence not captured or addressed but prevalent in the community.

(d) Issues relevant to the way CALD women may experience Coercive Control (the case for community consultation and education)

33. The term CALD women encompassed a wide range of communities and experiences. It is important to recognise that not all CALD women have the same experiences and that some CALD groups enjoy a greater level or privilege, security and access to the law than others.

34. Whilst the proposed laws are intended to protect women, including CALD women, from coercive control and domestic abuse related homicides, we would like to draw attention to concerns about the unintended consequences of such laws and the extent to which they will be utilised by CALD women.

35. Women from CALD communities who are being subjected to coercive control may experience it differently. It may, for example, be aided by extended family and involve issues of spiritual abuse and dowry abuse. It may be further complicated by a woman's Visa status and language barriers.

36. Whilst there is a valid argument that legislative change will help women to be able to identify and name coercive control, our experience working with CALD women in the Fairfield and Canterbury-Bankstown areas indicates that CALD women still require assistance in identifying and reporting domestic violence and it will be extremely challenging for some women to recognise and articulate their experiences of coercive control. This means that the legislation will be of limited benefit to CALD women while other barriers continue to exist.

37. Young CALD women are not receiving adequate information and education around the identification of red flags and abusive relationships to competently identify coercive control

Practitioners who deliver the Love Bites program at local high schools have reported a lack of understanding and engagement by young CALD women around healthy and safe relationships.

38. Some of the relevant barriers that CALD women face at present include:

i. Limited access to the law and legal advice;
ii. Strained relationships with police;
iii. Fear of being stigmatised or ostracised by their local cultural community;
iv. Fear of jeopardising their Visa;
v. Lack of access to financial supports;
vi. Lack of access to culturally appropriate supports; and
vii. Lack of access to affordable childcare.

CALD women and police intervention

39. Relationships between women from migrant communities and police are often strained due to cultural stereotyping, language barriers and systemic racism.

40. Some women are fearful of authorities due to past experiences such as trauma in their homeland, political violence, prior encounters with the criminal justice system, or a belief that reporting abuse will have an adverse effect on their Visa.

41. CALD women, especially women of colour, are often treated with suspicion by police even when they are victims.

Sector workers have reported instances where CALD women on temporary spousal visas are not believed by police. There is a prevailing assumption among police that women on temporary visas are seeking AVOs in order to secure protection under the domestic violence provisions of the Migration Act. Police have unfairly suggested that women are reporting DV to stay in Australia rather than because they are genuinely experiencing domestic violence. We have had firsthand feedback from workers who have heard police say 'I don't believe you' or 'You're doing this to stay in the country' to women who are seeking an AVO.

Women on temporary visas

42. Evidence suggests that some CALD women, especially students and women of colour, on temporary Visas are less likely to report violence due to fear of deportation, being separated from their Australian children or other adverse consequences.

43. Refugee and asylum seeker women are among the most vulnerable groups in CALD communities. Barriers they face include;

i. A history of trauma and persecution often perpetrated by the states and state agencies including the police in their homelands. This can make encounters with law enforcement re-traumatising and disempowering for this group of women.
ii. Experiences of racism inform the way in which women experience abuse and the likelihood that they will report it. Women may be reluctant to report family members for cultural reasons or because they are afraid that they will be victimised by the system.

44. Restrictions and conditions associated with Temporary Visas make it hard for women to understand and invoke their legal rights:
    i. Lack of access to childcare and financial support has the effect of making women on temporary Visas further dependent on their abusive partner.
    ii. Women on Temporary Visas still fear that if they report violence it will adversely affect their visa. This is often leveraged by the abuser.
    iii. Without access to culturally appropriate supports and information the legislation will be of limited benefit to these women who will be reluctant to report in case it affects their ability to stay in the country.
    iv. If refugee and asylum seeker women are not believed and not provided with adequate supports the law may have the unintended consequence of further marginalising these women and increasing their vulnerability to domestic abuse as well as systemic barriers.

45. Whilst we believe that there are significant gaps in the law regarding its ability to capture all forms of abuse, it remains unclear what measures will be put in place to ensure that the proposed law will not have adverse consequences on CALD women making it essential that community consultation and education are required.

(e) Workforce Development

46. Having already identified that women and children do not always feel safe reporting to and relying on systemic structures that can still be inherently gender and culturally unsafe, it is imperative that comprehensive education processes are an ongoing part of the solution. Introducing new legislation offers us an opportunity to embed practices that address the current limitations within the context of the proposed new inclusion of coercive control.

47. Policing, justice systems and front line services all need to be supported to implement proposed new legislation and required changes to enhance access to law and protection.

(f) Gap Analysis regarding application of current law and police practice

48. Over the last twenty years, NSW has developed extensive programs, partnerships and infrastructure to address domestic violence. Despite this, current policing practice has, at times, not protected women and children as highlighted in high profile cases in the media such as John & Olga Edwards and, there is no consistency of practice. This coupled with current legislation gaps, limited workforce development and community service expansion, limits the police and the criminal justice system in their efforts to apply safety within the law. We have an exceptional amount of knowledge and research to guide us in a review and the development of a contemporary understanding of violence and control which could be applied.

(g) Monitoring and review.

49. We need to apply all the tools at our command to help reduce the levels of violence that occur across NSW on a daily basis. Violence has been so prevalent across all cultures and

time, and supported by legislation and governments throughout history, it continues to be difficult to implement change.

50. Introducing better legislation on its own will not achieve the fundamental change we really need in Australia to address the levels of violence. To support effective legislative strategy we need to build in an ongoing system of review and analysis to ensure we are achieving the required outcomes.

(h) High level government leadership strategies.

51. WHNSW noted that following the death of two young men at Kings Cross due to them experiencing a 'king hit', the government managed to change law within the month and closed down an entire business sector. Forty eight women died last year due to domestic violence which we only know about due to the work of the group 'Destroy The Joint' publishing 'Counting Dead Women' each death, each year. When the government want to act they can do quickly and effectively with firm resolve.

52. We do not see government or politicians on national or state media / television giving us a weekly update on the
    a. number of Apprehended Domestic Violence Orders (ADVO) issued per week
    b. number of ADVOs breached per week
    c. number of women hospitalised per week
    d. number of women killed per week
    e. number of children killed per week
    f. number of children affected by domestic violence per week or
    g. number of women and children made homeless per week.

53. These are the women and children we work with on a daily basis and we would encourage government to include high level government public leadership strategies that can support meaningful change and discussion. We have a comprehensive array of workers in the field dealing with violence with considered skill whether it be in judicial systems, housing, education, medical, community, hospital, policing or charity.

54. We will not achieve the fundamental cultural changes required to reduce violence unless we continue to implement the knowledge we have and continue to work together to strive to identify creative actions to achieve a common goal of a society free of violence.

Thank you for the opportunity to provide a submission on this topic. Should you wish to discuss any aspect of this submission do not hesitate to contact me on 0414 780 417.

Yours sincerely,

Denele Crozier, CEO