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COERCIVE CONTROL AND JUDICIAL EDUCATION: A CONSULTATION REPORT

Professor Heather Douglas and Hannah Ehler
for the Australasian Institute of Judicial Administration (2022)

Coercive Control and Judicial Education: A Consultation Report

Professor Heather Douglas and Hannah Ehler

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This report details the findings of a consultation aimed at improving educational materials about coercive control for use by judicial officers.

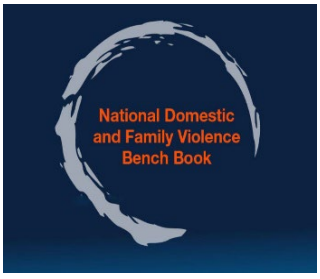
The results of this project will be distributed through the Australasian Institute of Judicial Administration and the statement about coercive control will be updated and made available to view on the National Domestic and Family Violence Bench Book, https://dfvbenchbook.aija.org.au/ (section 3.2) from July 2022.

The project is supported and funded by the Australasian Institute of Judicial Administration and the Commonwealth Attorney-General's Department.

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Part 1: Consultation - Interviews.

Summary

Our interviews with 28 judicial officers and 5 research experts identified ideas about how best to present information about coercive control in the National Domestic and Family Violence Bench Book and the information needed by judicial officers to better understand coercive control. Based on the detailed material outlined in full in this Report we have extracted key points in this summary.

i. Updating section 3.2 National Domestic and Family Violence Bench Book.

The context statement of section 3.2 of the National Domestic and Family Violence Bench Book should be updated to:

- Reflect the diversity of relationships that may include coercive control.
- Include specific examples to illustrate the behaviours associated with coercive control.
- Highlight more prominently the particular vulnerabilities that are commonly observed where victim/survivors experience coercive control.
- Be easier to read. It should be formatted in a way that is easier to read – including dot points and short sentences.
- Include information about why judicial officers need to know about coercive control and how / why it is relevant to their work.

ii. Explaining coercive control to judicial officers

Key aspects of coercive control that need to be explained to judicial officers include:

- That it can be subtle and difficult to identify (see 2.2.1).
- That coercive control is often missed if judicial officers focus on a single incident, rather judicial officers should look for patterns of behaviours and /or see behaviours collectively (see 2.2.2).
- That coercive control may not include physical /sexual abuse or physical violence. Or where there is physical / sexual abuse or physical violence it may have occurred early in the relationship (see 2.2.1).
- That indications of coercive control in the relationship may include conduct which belittles and humiliates, use of animals (including direct threats about contact with or violence to animals), threats dressed as loving comments, limitations on liberty, movement and social interactions, rigid rule-making, vengeful use of authorities, disproportionate responses to perceived wrongs, and monitoring and surveillance, especially using technology (see 2.2.3).

iii. Coercive control in the court room

Participants suggested a range of responses to respond to coercive control in the courtroom (see 2.2.4):

- Telling perpetrators who attempt to blame victim/survivors that the consequences of their behaviour is no one's fault but their own.
- Refuse to entertain submissions of defence counsel in pleas in mitigation that a family violence perpetrator has 'an anger management problem' or 'lost their temper.'
- Call out descriptions of abusive relationships as 'toxic' relationships.
- Be aware that apparently 'trivial' breaches may indicate high risk.
- Call out attempts to exert inappropriate behaviour in the court environment.
- Be mindful of physical aspects of court surrounds which can improve safety for those participating in court processes.
- Call on security to reduce risk of breaches and other inappropriate behaviour in waiting areas.
- Tailor protection orders to address particular coercive and controlling elements of individual relationships.
- Encourage parties to seek (independent) legal advice.
- Consider asking a suspected victim/survivor if they can decide now or whether they need more time (re consent orders).

iv. Observations about coercive control

Participants shared several observations about how coercive control may present in the court room.

For example, a person may respond to their loss of control of the victim/survivor by committing a serious offence.

The responses / perceptions of victim/survivors of coercive control can be complex and include that victim/survivors may (2.3.2):

- Be framed as perpetrators.
- Present with a 'normalised' response to abuse.
- Support their abusive partner's bail application.
- Retract statements.
- Side with their abuser rather than their children.
- Stay in a relationship because of coercive control.

Participants observed that children may be used as part of coercive control and that 'cultural' issues should be considered in trying to understand coercive control.

Participants identified the importance of parties having evidence of coercive control.

v. The red flags for coercive control

Participants identified a number of 'red flags' for coercive control before separation (2.4.1):

- Intimidating the victim/survivor, causing fear
- Isolation
- Jealousy
- Monitoring
- Attacks on self-confidence
- Loss of autonomy
- Economic abuse
- Intense affection followed by removal of intense affection,
- Offender justifying abusive behaviour
- Illicit drugs

Participants identified a number of 'red flags' for coercive control post-separation (2.4.2):

- Threats (to kill respondent, children, extended family, pets, suicide or self-harm)
- Strangulation/hands on the throat
- Harassing
- Monitoring
- Disputes about children's matters
- Victim/survivor downplays or normalises abuse
- Attempts to control court hearings

*Note that many of the matters identified as red flags by the participants may be red flags for coercive control both before and after separation, for example strangulation/hands on the throat.

1. Introduction

1.1. Background

Generally coercive control is understood as a course of conduct aimed at dominating and controlling another (usually an intimate partner, but it may be present in other family or 'carer' relationships) and is almost exclusively perpetrated by men against women.[1] Victims often describe coercive control as feeling like 'walking on eggshells' and report they need to ask permission to do small everyday things and fear the repercussions of not fulfilling their abuser's expectations or demands.[2] The behaviours and tactics associated with coercive control can be hard to identify.[3]

The Fourth Action Plan of the *National Plan to Reduce Violence Against Women and their Children 2010-2022* identified that emotional, psychological and financial abuse, and controlling a partner through fear and coercion or intimidation are all types of domestic violence.[4]

There is no single legal definition of coercive control and legal definitions of domestic and family violence differ across jurisdictions. Some legislative definitions include coercive control as an aspect or overarching feature of domestic and family violence. However, even where coercive control is not included in legal definitions of domestic and family violence, an understanding of coercive control may be relevant in a range of legal contexts, across jurisdictions. For example, it may be important to understand coercive control so that safe conditions for bail or protection orders can be crafted or in understanding the relevance of evidence of non-physical abuse or controlling behaviours in the particular context, including in the courtroom.

There is limited information in Australia about judicial understanding of coercive control, its relevance to legal proceedings and the key needs of judicial officers for further education on this topic.

We consulted with 28 Australian judicial officers who had experience in dealing with cases involving domestic and family violence to address these limitations and five representatives/researchers from key Australian research agencies that are focussed on improving responses to domestic and family violence. The results of the consultation will inform the development of judicial education resources and the development of the National Domestic and Family Violence Bench Book, in particular section 3.2 Coercive control.

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[1] Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* (Oxford University Press, 2007).

[2] Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* (Oxford University Press, 2007); Heather Douglas, *Women, Intimate Partner Violence and the Law* (Oxford University Press, 2021).

[3] Hayley Boxall and Anthony Morgan, 'Experiences of coercive control among Australian women.' (2021) Statistical Bulletin no. 30, (Canberra: AIC)

[4] *National Plan to Reduce Violence Against Women and their Children 20102022* available at: https://www.dss.gov.au/women/programs-services/reducing-violence/the-national-plan-to-reduce-violence-against-women-and-their-children-2010-2022

1.2 Approach and method

During a thirty-minute telephone or video-link interview researchers asked judicial officers to share their knowledge about coercive control and any published resources including published legal judgments that may be helpful for judicial education about coercive control.

Initially interviews were conducted by both authors to ensure a consistent approach was developed. After the initial interviews, interviews were conducted by one (or both) of the authors.

Interviews were not audio-recorded rather the interviewer took copious notes during the interview.

Participation was voluntary and participants were advised that they were free to withdraw their participation at any time. The project has ethical approval from the Office of Research Integrity, University of Melbourne, no. 2021-23104-23489-3).

The questions asked of judicial officers were open-ended and resulting discussions in interviews were extremely varied as each judicial officer's responses were necessarily framed by their individual professional experience.

The following questions were put to all participants (non-judicial expert researchers were not asked question 3):

1. Please read section 3.2 coercive control context statement (one page) (in the National Domestic and Family Violence Bench Book). Do you have any suggestions for how it could be improved, or any useful resources that should be added in this section?
2. Are there aspects of coercive control that you feel would be good to explain in more detail for judicial officers?
3. In your experience, have you had cases involving controlling behaviour or coercive control and do you have any observations about those cases?
4. In your experience, what are the red flags that suggest coercive control? Are they different when a couple are in a relationship compared with after they separate?
5. Are there any decisions or judgements that you are aware of where you think coercive control was well-recognised and described by you or another judicial officer?

Judicial officers were initially contacted by judicial representatives associated with the Australasian Institute of Judicial Administration. If those judicial officers who were contacted expressed interest and willingness to be interviewed, their contact details were passed onto the research team who then approached them directly, or via their associate, by email to set up a time to talk.

The timeline for interviews was mid-November until the end of December 2021, with one judicial officer interviewed in January 2022. The tight timeline presented an obstacle for the participation of some judicial officers.

1.3 Who were the participants?

The participants were drawn from across Australian courts and jurisdictions and all had experience in matters involving domestic and family violence issues.

28 Judicial officers were interviewed from across Australian jurisdictions (see Table 1).

Jurisdiction	Number of judicial officers interviewed
Commonwealth	3
Australian Capital Territory	1
New South Wales	3
Northern Territory	2
Queensland	5
South Australia	2
Tasmania	4
Victoria	5
Western Australia	3
Total	28

Table 1: Number of judicial officers interviewed in each jurisdiction.

The judicial officers interviewed worked in a variety of courts (see Table 2).

Type of court	Number of judicial officers interviewed.
Magistrates/Local Courts	11
District / County Courts	5
Supreme Courts	8
Judicial registrar	1
Family courts	3
Total	28

Table 2: Number of judicial officers interviewed from each type of court.

The researchers also interviewed five domestic and family violence research professionals about their views on material they believed was relevant to judicial education in relation to coercive control.

In order to better understand the responses, themes were identified in relation to each question. We numbered each participant's response to ensure they were deidentified. The judicial officers who participated are referred to as Judicial Officers or simply as participants. The non-judicial officer research participants are referred to as research expert participants.

2. The responses

2.1 Coercive control and the *National Domestic and Family Violence Bench Book*

The first question gave participants an opportunity to comment on the existing resources on coercive control located in the National Domestic and Family Violence Bench Book. Question 1 was:

> Please read section 3.2 coercive control context statement (one page) (in the National Domestic and Family Violence Bench Book). Do you have any suggestions for how it could be improved, or any useful resources that should be added in this section?

We identified three themes in the responses to this question: issues with structure and clarity; questions about terminology and finally, usefulness of the coercive control section of the National Domestic and Family Violence Bench Book. We begin by outlining some general comments and then discuss the three themes in turn.

2.1.1 General observations

While many judicial officer participants said the content of section 3.2 was appropriate,[5] most had suggestions for how it could be improved.

Many participants commented that the concept of coercive control might be better explained with more detailed examples, for example from reported cases, of the types of behaviours which sometimes underpin coercive control.[6]

Suggestions of diverse, overlapping and interconnected aspects of coercive control which could be highlighted included:

- Systems abuse, including the vulnerability of criminalised persons to systems abuse;[7]
- Use of threats by perpetrators[8] including threats which are not readily apparent as threats to others (for example "make my dinner" might indicate to a victim/survivor that if they do not comply there is a risk of violence or other abuse[9]). Threats to have the children removed.[10] Threats to distribute intimate images were also described as common by one judicial officer;[11]
- Technology facilitated abuse; [12]
- Surveillance and making the victim/survivor aware that surveillance is occurring[13] (eg monitoring the odometer, looking through the victim/survivor's phone at their contacts);[14]

[5] Participant 1, 3, 4, 6, 9, 10, 13, 14, 15, 19, 21, 24, 25, 26, 28.
[6] Participant 2, 6, 17, 19, 24,
[7] Participant 2, 24.
[8] Participants 2, 6,
[9] Participant 4.
[10] Participant 19.
[11] Participant 6,
[12] Participant 11,
[13] Participant 6, 11
[14] Participant 19

- Jealousy (including allegations of infidelity requiring a victim/survivor to constantly justify social contacts[15]) and 'jealousing'[16] in Aboriginal and Torres Strait Islander communities;[17]
- Obsessive text messaging and other forms of contact[18] (including an example of a perpetrator using messages attached to bank transfers to contact a victim/survivor[19]);
- Control of victim/survivor's manner of dress;[20]
- Isolation of a victim/survivor by scaring away the victim/survivor's network of contacts, including by going through a victim/survivor's phone and contacting all her contacts,[21] becoming upset when a victim/survivor socialises with others,[22] or controlling a victim/survivor's access to devices;[23]
- Rigid rule making.[24]

Some judicial officers suggested that the particular vulnerabilities that are commonly observed where victim/survivors experience coercive control should be highlighted more prominently. The vulnerabilities participants referred to included:

- Misuse of drugs or alcohol by victim/survivor (one judicial officer noted that perpetrators may demonstrate genuine concerns about a victim/survivor's drug or alcohol misuse[25]);
- Culturally and linguistically diverse people[26] who may have little or no English language skill;
- People who are unemployed, lack financial independence and are otherwise economically vulnerable (for example carers for dependent children[27]);
- People who have no understanding of the need for consent between partners.[28]

Several judicial officers observed that section 3.2 attempted to label a very broad pattern of behaviour that can play out in many different ways.[29] A research expert participant expressed a concern that 'emphasis on coercive control might end up going back to a narrow understanding of family violence as coercive control' and that 'peoples' understandings might become essentialised to the coercive control paradigm', meaning that they 'might overlook and ignore other types of domestic and family violence.'[30]

[15] Participant 14.
[16] 'Jealousing' refers to circumstances where a person is jealous of their partner's associations with others and may deliberately provoke a violent response from their partner. See National Domestic and Family Violence Bench Book [4.4.10] and also see Blagg, Harry, Nicole Bluett-Boyd and Emma Williams, *Innovative Models in Addressing Violence Against Indigenous Women: State of Knowledge Paper* (ANROWS, 2015).
[17] Participant 14.
[18] Participant 14.
[19] Participant 24.
[20] Participants 15.
[21] Participant 14.
[22] Participant 14
[23] Participants 15.
[24] Participant 20.
[25] Participant 2.
[26] Participant 8.
[27] Participant 8.
[28] Participant 15.
[29] Participant 26, 30.
[30] Participant 12.

2.1.2 Structure and clarity

Multiple judicial officer participants, from most jurisdictions and levels of the judiciary suggested that section 3.2 coercive control might benefit from a simpler, more accessible written style that is easier for judicial officers to access quickly.

Responses included:

> Written style lacks clarity, appears dense, could structure better with gaps and headings… clarity important… looks dense when it isn't, need to be able to pick it up quickly.[31]

> Generally, would prefer it to be punchier – dot points – headings – I have no time to research.[32]

> Make it shorter, it's hard to read, could be a little more straight-forward, separated into more readable dot-points.[33]

> It is dense and that's unhelpful, it should be easy to read and self-contained.[34]

2.1.3 Terminology

Some judicial officers expressed a degree of concern that the emphasis of section 3.2 is on the perpetuation of coercive control by men against female partners and former partners, when other types of relationships also reflect this dynamic.[35]

A participant observed that coercive control can arise in relationships outside typical male/female relationships and that judicial officers should not presume it was not present in more diverse relationships. He observed that he had noted coercive and controlling behaviours as factors in a matter where the employer murder victim had been exerting coercion and control over an employee murder accused, and another case of a teenager with gender dysphoria was being controlled by fundamentalist Christian parents. The same participant also observed that coercive control as a concept did not always assist those who have been victim/survivors of coercive control. He recalled two cases where accused women had arranged for family members to kill a controlling spouse, and prosecutors raised the controlling relationship as motive for murder.[36]

One participant suggested that it would be useful to include practical case examples (with links to the case) highlighting different types of relationships and the way coercive control may present in different types of relationships.[37]

One participant felt that the use of the phrase 'the golden thread' was inappropriate in the context statement due to its similarity to Viscount Sankey's description of the prosecution's

[31] Participant 1.
[32] Participant 7.
[33] Participant 20.
[34] Participant 18.
[35] Participant 2, 23.
[36] Participant 23.
[37] Participant 2.

burden of proving guilt beyond reasonable doubt in criminal cases as the 'golden thread' which runs 'throughout the web of the English criminal law.'[38]

2.1.4 Usefulness of section 3.2 of the *National Domestic and Family Violence Bench Book*

Several participants commented that section 3.2 of the *National Domestic and Family Violence Bench Book* does not clearly explain why judicial officers need to understand coercive control.[39]

For example, one judicial officer stated:

> The key for a Magistrate is to be able to identify it and also to know why it is relevant… it could be an uncharged act, and then what do you do with it? It could be relationship evidence, could be propensity. You need to tell Magistrates why they need to know – they are not interested in the academic nature of it. What is important is seeing it and knowing why its relevant.[40]

Another judicial officer noted:

> Most judicial officers looking at a bench book are looking for practical direction – this is useful as background with its links to source material, but it might be helpful if it distilled into points as to how [coercive control] could practically impact decision-making.[41]

Several participants, and in particular family court judicial officers, focused on how coercive control might be evidenced.[42] One judicial officer suggested section 3.2 ought to:

> encourage practitioners to ensure relevant knowledge of the risk which arises as a result of past violence is evidenced in court. [Practitioners should] carefully choose the appropriate expert [and] ask the right questions.[43]

A superior court judicial officer noted that:

> Judicial officers need to understand the dynamics of coercive control relationships and juries need directions. [Judicial officers need to know] what can be said about evidence, [and about] context and relationship evidence.[44]

A judicial officer working in the family courts observed:

> The biggest challenge is how the information in the Bench Book can be used. There's a general misunderstanding in the community at large that everything can be cured by more information. Cases are only as good as the evidence. It might be useful to include background information about courtroom dynamics …

[38] Participant 2, see *Woolmington v Director of Public Prosecutions* [1935] AC 462
[39] Participant 5, 16, 18, 23, 26, 30.
[40] Participant 16.
[41] Participant 23.
[42] Participant 5, 16
[43] Participant 5.
[44] Participant 18; see also 4, 16.

This judicial officer, who worked in the family courts, went on to explain their approach to ensuring sufficient evidence of family violence is before the court:

> I now deliberately ask pointed questions of experts in relation to future risk. Where there are single experts it is important to ensure they are across the issues, [and practitioners should] take care framing the questions you should ask. There is a need for education for practitioners on how to evidence family violence. We also need perpetrators to acknowledge their violence or controlling behaviour and its impact and the steps taken to address this in their affidavits – blanket denials while there are convictions are not appropriate as conviction is evidence of a history of violence.[45]

2.2 Aspects of coercive control that require further explanation for judicial officers.

Question 2 was:

> Are there aspects of coercive control that you feel would be good to explain in more detail to judicial officers?

We identified four themes in the responses to this question: the contexts where judicial officers might need to be mindful of the possibility of coercive control; the subtlety of coercive control; coercive control as a pattern of behaviour; the behaviours which might indicate coercive control and finally how judicial officers can address or respond to coercive and controlling behaviours. These themes are discussed in turn.

2.2.1 Contexts where judicial officers might need to be mindful of the possibility of coercive control.

The first participant interviewed said judicial officers need to be aware of a variety of procedural and court contexts where coercive control might be a factor relevant to decision-making. This judicial officer identified that judicial officers should be mindful of possible coercive control in any of the following contexts:

- When considering witnesses and witness safety, including when witnesses fail to appear (coercive control might offer an explanation for failure to appear);
- In considering whether the court room environment is safe for all participants;[46]
- In sentencing, both in considering the impact of coercive control on a victim/survivor, and as a factor which may contribute to victim/survivor criminality;
- In articulating matters and court processes to parties;
- In exercising discretion as to court processes;
- In directing a jury;
- In listing matters (safety and systems abuse considerations);
- In considering a party's compliance or lack of compliance with orders; and
- In considering whether a party may be attempting to use court processes to further abuse another party[47] (systems abuse).[48]

[45] Participant 5.
[46] Also noted by participant 8.
[47] Also noted by participants 6 and 28
[48] Participant 1.

Another judicial officer suggested that judicial officers would benefit from understanding that court settings can be inherently dangerous and can pose challenges for parties. [49] This judicial officer said that court spaces are not generally well-designed for family violence matters, and that the court system does not accommodate a single parent victim/survivor with nowhere else to take their children, or the mother with no understanding of court processes or the English language. [50] This judicial officer suggested that there may be a need to redesign court spaces and be aware that having both parties present in the same place can be dangerous.

One participant observed that identifying legal systems abuse as part of coercive control can be difficult. This participant suggested that judicial officers cannot assume that every case where one party argues that the other party is abusing court systems by making multiple contact applications will be the one who is the coercive or controlling party. They compared two recent cases where one of the parties claimed systems abuse in the context of a protection order application. In one case, the judicial officer reported they accepted the claim that repeated contact applications were inappropriate but in the other case they rejected such an argument in circumstances where the party complaining of systems abuse had not complied with contact orders and therefore the applications were appropriate. [51]

2.2.2 Subtlety

Several judicial officers suggested that their peers need to understand the subtle nature of coercive control, [52] and that it could manifest in the 'simplest or most complex pattern of behaviour'. [53]

Another observed that 'early attributes [of coercive control] involve plausible deniability [such that] early on it can be hard to identify.' [54]

A Magistrate participant considered how the subtlety of coercive control should be considered in developing educational materials specifically for other Magistrates:

> It's a tricky thing to identify sometimes. A simple thing like 'he wouldn't let me have the money and I was stuck' [might indicate coercive control]. Don't just look for the big hitters, the shouters… Magistrates… need to understand the subtlety of the abuse. The physical abuse might have happened years ago but that has set up the pattern of domination, now look for the subtle things. [Magistrates] need factual information to know that [coercive control] can be equally as dangerous as the big hitters. [55]

This Magistrate suggested that judicial peers need help to explain what to look for and to reinforce that judicial officers need to look beyond the obvious. [56]

Another participant urged other judicial officers to be open to identifying controlling behaviours where there are:

[49] Participant 8.
[50] Participant 8.
[51] Participant 6.
[52] Participant 4, 9, 16, 17, 18, 21, 30
[53] Participant 21.
[54] Participant 9.
[55] Participant 16.
[56] Participant 16, also 30.

> … pattern-like problems, any one part may seem benign, consider what it means for the life of the woman. Does he do all childcare dropoffs and pickups or the shopping, presenting himself in a good light in a way which limits her engagement with their child's network.[57]

One participant noted that coercive control can be hard to identify when it occurs in same sex relationships, noting that it can be very difficult to assess whether perpetrators and victim/survivors are misidentified and therefore where possible systems abuse is an issue.[58]

Another participant reported hearing a matter in which a defendant's counsel had submitted that the matter was not a typical coercive control scenario. The defendant's counsel claimed that the defendant was not the abusive partner, rather the defendant was the vulnerable party in the relationship, having been groomed by the complainant from a young age and being at a significant age and maturity disadvantage to the complainant.[59]

2.2.3 Coercive control as a pattern of behaviour

Several judicial officers suggested that their colleagues might benefit from understanding that coercive control might not be apparent from a single incident before a court.[60]

One judicial officer noted that 'often there is a significant history [and] repeated court appearances and offending … [it is important to] understand the building blocks'[61] while another noted that coercive control 'is about the total picture rather than individual complaints' and that evidence of coercive and controlling behaviours 'can be viewed and admitted as context evidence to make a victim/survivor's evidence more believable.'[62]

Another judicial officer also observed that other judicial officers would benefit from understanding how patterns might help demonstrate criminality, observing that section 3.2 highlights intentionality on the part of the abuser as an aspect of coercive control, and noted that:

> From the defendant's point of view, while the defendant may view his actions as intentional in the sense of being a voluntary action, they don't often see the wrongness of it and they may not be intending to harass necessarily. They may argue that they think it is for her good, for her guidance, for example turning up outside her work with tea or coffees every single day. You can see it in their affidavits, they claim there is no intentionality and think there is nothing really wrong or bad about what he is doing… if we view each thing in isolation and accept his explanation – what's wrong? But her perspective is different – she told him no and he continued. For criminal matters intent is important [and] it is more difficult to deal with his explanation and more difficult to call out evidence contrary to his explanation.[63]

[57] Participant 17.
[58] Participant 6.
[59] Participant 19.
[60] Eg. participant 4, 8, 11, 26.
[61] Participant 8.
[62] Participant 11.
[63] Participant 11.

This judicial officer continued:

> So, for example in a protection order application we can consider coercive control but if he is charged with breach of order or aggravated assault, stalking – it's harder to ensure coercive control is considered to get the prosecution over the line. [64]

Some participants pointed out that judicial officers need to particularly look for, and be aware of, patterns of behaviour:

> Individually behaviours can be easily explained but together its coercive control. Patterns and histories are easier to consider since the opening up of tendency evidence … [I am] more often considering relationship evidence since the National Uniform Evidence Law reforms. [65]

Several participants suggested that judicial officers should be aware that there may not have been actual physical violence at all or for many years. [66] One noted: 'the physical abuse may have happened years ago, but that has set up the pattern of domination.' [67] Another noted that coercive control is 'a process, a relationship development that can't be seen in a snapshot. It is all about the development of control progressing from one area to another.' [68]

One participant reported being 'disturbed' to hear of a matter where a judicial officer refused to admit evidence of a history of control and violence in a relationship as irrelevant to a family violence allegation. [69]

A research expert participant said that their research continued to identify that judicial officers tend to focus on physical abuse, neglecting the major implications of coercive control, they said:

> Mums have had trouble in family law. Women struggle to articulate coercive control to judges. Some judges don't 'get' [coercive control] and ask: has he hit you? Has he raped you? They struggle with it and fail to understand the major implications of coercive control. Financial abuse…can be devastating. It has significant implications for parenting. [70]

Several judicial officers specifically pointed out that there may not be a history of serious physical violence in a relationship where coercive control is present. [71] One observed that courts can emphasise a search for physical evidence which may not be present in relationships where there has been coercive and controlling behaviours. [72]

One judicial officer acknowledged that it can be difficult to quickly reach a decision to make a protection order where there is no evidence of a history of physical violence or a particular incident but extended evidence of a history of coercive behaviours, noting that it sometimes

[64] Participant 11.
[65] Participant 26.
[66] Eg. Participants 16.
[67] Participant 16.
[68] Participant 16.
[69] Participant 15.
[70] Research expert participant 27.
[71] Participants 1, 3.
[72] Participant 3.

can appear victim/survivors reassess the entire history of their relationship once they report an incident to police.[73]

2.2.4 Behaviours which might indicate coercive control

Several judicial officers said that other judicial officers would benefit from being aware of behaviours which, in their experience, might indicate coercive control.

Some of the participants identified possible coercive and controlling behaviours. Behaviours identified included:

- Conduct which belittles and humiliates (eg calling them worthless, ugly, fat, saying "who else would want you?", comments about her inability to manage without him[74]) contributing to entrapment and inability to leave especially in context of isolation from support networks;[75]
- Use of animals, including direct threats of violence to animals or threats to keep animals from victim/survivors;[76]
- Threats dressed as loving comments (eg 'You can't leave the house in that outfit'; 'I want you to look pretty"; 'Are you going to cook that?'[77]
- Limitations on liberty, movement and social interactions[78] (and recent research indicates removal of access to technology, preventing help-seeking, was particularly prevalent in recent bushfire disasters);[79]
- Threats to commit suicide;[80]
- Rigid rule-making[81] (in relation to eg. home-making, parenting, finances, division of responsibilities[82]);
- Vengeful use of authorities – including threats to report and actual reporting falsely to police (which one participant noted can result in the arrest and even unnecessary mental health hospitalisation of victim/survivors[83]), Australian Taxation Office, child protection authorities, immigration authorities;[84]
- Disproportionate responses to perceived wrongs (eg. if their wife is a bit long at the shops - have to bash her);[85]
- Monitoring, especially using technology (even in the most remote communities[86]);
- Surveillance, especially using technology (including gifts of toys with hidden surveillance capabilities[87]).

Vengeful use of authorities, sometimes referred to as systems abuse, was highlighted by several participants. One participant said that they most often observed coercive and controlling behaviour as it presents as systems abuse. This participant noted that some

[73] Participant 7.
[74] Participant 16.
[75] Participant 3.
[76] Participant 3.
[77] Participant 6, 20.
[78] Participant 16.
[79] Research expert participant 29.
[80] Participant 19.
[81] Participant 20.
[82] Participant 16.
[83] Participant 6.
[84] Participant 25.
[85] Participant 9.
[86] Participant 9.
[87] Research expert participant 29.

perpetrators 'know the legal system very well and are adept at using it to abuse their victims.'[88]

2.2.5 How judicial officers can address coercive and controlling behaviour

Participants suggested a range of possible responses to coercive control.

A judicial officer suggested that judicial officers can address coercive and controlling behaviour in their courtrooms by telling perpetrators who attempt to blame their victim/survivors that the consequences of their behaviour is no one's fault but their own.[89]

Similarly, another participant indicated that they routinely refuse to entertain submissions of defence counsel in pleas in mitigation that a family violence perpetrator has 'an anger management problem' or 'lost their temper.' This participant viewed such arguments as counterproductive and also calls out descriptions of abusive relationships as 'toxic'.[90]

Another suggested that judicial officers should call out attempts to exert inappropriate behaviour in the court environment and be mindful of physical aspects of court surrounds which can improve safety for those participating in court processes (including separate entrances where practicable and security to reduce risk of breaches and other inappropriate behaviour in waiting areas).[91]

The same judicial officer suggested that other judicial officers should be aware that protection orders can be tailored to address particular coercive and controlling elements of individual relationships, and addressing the use of legitimate contact to coerce. This judicial officer suggested that clear and specific conditions may be useful in making clear to the respondent which behavior would not be tolerated. Examples provided included:

- 'Must return the garage remote';
- 'Delete intimate material depicting the other party on any devices';
- Expanded exclusion catchments around schools/childcare centres;
- Suspending family court orders[92] if they are not recent and changing specified contact arrangements eg. "drop off at his mother's house", orders for supervision, drug or alcohol use, "substantial attendance orders" ie that contact occur substantially in presence of a named person eg mother, partner – usually a woman.[93]

A research expert participant expressed concerns that many orders purported to be made by consent may not actually be consensual where coercive control is present. This participant suggested judicial officers should encourage women to seek (independent) legal advice, as even when women may be making their own decisions, they may be making them at a time when they are experiencing significant trauma. The participant suggested it may be prudent

[88] Participant 28.
[89] Participant 6.
[90] Participant 25.
[91] Participant 11.
[92] Note this judicial officer was referring to powers of a courts of summary jurisdiction pursuant to *Family Law Act 1975* (Cth) ss 68R and 176. See also *National Domestic and family Violence Bench Book*, [7.8] https://dfvbenchbook.aija.org.au/protection-orders/parenting-orders/
[93] Participant 11.

to ask a suspected victim/survivor 'Do you feel you are in a position to make these decisions? Do you need time?'[94]

This research expert participant suggested that one of the easiest additional protective responses is to put a review in place in six-months' time to give parties the opportunity to review orders made by consent and ask: 'Is this OK? Is this working?' This would allow a victim/survivor time and space to say: 'No, this is not what I want to do.' This research expert participant also suggested that domestic violence experts should be part of the assessment processes used by courts where possible, especially in Magistrates Courts, when allegations of domestic violence are raised.[95]

2.3 Judicial officers' observations about coercive control in the courtroom

Question 3 was: In your experience, have you had cases involving controlling behaviour or coercive control and do you have any observations about those cases?

Only the judicial officer participants were asked this question. Themes in the responses to this question were: reaction to loss of control; that victim/survivors' responses to coercive control are complex; coercive control and children; coercive control and culturally and linguistically diverse people; evidencing coercive control; the role of perpetrator behaviour change programs and online hearings.

2.3.1 Reaction to loss of control

Several judicial officers noted that serious offending often appeared to be a reaction to the perpetrator losing control of the victim/survivor, often as a result of separation or some other 'push back' against the perpetrator's control.

One judicial officer suggested that the controlling party 'becomes quite manic post-separation especially if children are involved – texts, demands in attempt to control/monitor - obviously easier to monitor in presence before separation'.[96]

For example, a judicial officer noted that they had a case where 'his response to separation was to telephone 50-100 times per day and I found that amounted to domestic and family violence.'[97] This judicial officer observed you see 'more anger post-separation – the response to the loss of control.'[98]

A judicial officer noted that he was about to to hand down a sentence where he will find that the act of setting his partner on fire was not a planned act, but the logical extension of an extended history of coercive control and violence. He felt that case demonstrated the complexity of coercive control and would find that the victim/survivor was challenging the perpetrator's control.[99]

[94] Research expert participant 27.
[95] Research expert participant 27.
[96] Participant 20.
[97] Participant 22.
[98] Participant 22.
[99] Participant 26.

2.3.2 Victim/survivors' responses to coercive control are complex

Several participants commented on the complex behaviours of victim/survivors of coercive control.

A judicial officer noted that he often sees victim/survivors framed as perpetrators, eg. a man charged with murder claiming his partner committed the crime, or that he did it at her instigation (when it becomes clear the control is being exercised by the man).[100]

Another judicial officer observed that it is often easy to misidentify victim/survivors as perpetrators because victims don't act 'like victims' all the time, noting 'often victims have experienced force from the defendants many times…but the one time she uses force she gets a [protection order] against her.'[101]

One participant noted that victim/survivors may present with 'a normalised response (which is abnormal)' to 'the physical presence of the man exerting control on the behaviour of their partner' and reflected on a case where an accused woman's failure to appear was attributed by her counsel to vague 'threats' where no evidence was adduced, positing that coercive control may have been relevant to the disposition of the matter.[102]

Some participants observed that coercive and controlling behaviours might be apparent where victim/survivors attend bail applications in support of applicants where the victim/survivor is the complainant[103] and where complaints are followed by retractions of allegations,[104] with one participant noting that police body-worn cameras can make it possible for prosecutions to continue where victim/survivors have given police more than one version of events.[105]

A judicial officer observed that in matters where evidence of children was pre-recorded for sexual abuse matters it was common to see mothers who appeared to be victim/survivors of coercive control be supportive of a partner over her children and give evidence on the partner's behalf.[106]

One participant noted that it can be difficult to respond to breach allegations where victim/survivors might have initiated the breach of a protection order by inviting the accused into their home (eg. to assist with child care) resulting in the breach of a protection order, and recounted a particularly difficult matter in which police had opposed a bail application for a juvenile accused charged with repeated breaches following his transient ex-partner's continued attendance at his home as she had nowhere else to go.[107]

Another participant noted that she found it disturbing that other Magistrates made orders against the wishes of adult women exercising adult decisions to not pursue an application for a protection order in family violence matters.[108]

[100] Participant 2.
[101] Participant 4.
[102] Participant 1.
[103] Participant 14.
[104] Participants 15,
[105] Participant 15.
[106] Participant 15.
[107] Participant 24.
[108] Participant 22.

At least one participant noted that coercive control may be an explanation for a victim/survivor not leaving an abusive relationship.[109]

2.3.3 Coercive control and the use of children

Judicial officers observed that threats in relation to children are common aspects of coercive control.[110]

One judicial officer observed that it was common to see perpetrators who make threats related to children, including claiming the mother is 'depriving the kids if she tells anyone about abuse, that child protection will be involved and she will lose her children and be exposed as a bad parent'.[111]

Another judicial officer noted that attempts at coercion might be framed as concern for children and expressions of love while exerting emotional manipulation. That judicial officer recalled a matter where the perpetrator who had been refused bail in relation to charges of serious violence against his partner attempted to manipulate the victim/survivor to resume the relationship by writing letters from custody claiming 'it won't happen again' and 'you are depriving the children of their father'.[112]

One research expert participant pointed to their research which had found that many judicial officers were not mindful of the impacts of coercive control on victim/survivors and their children.[113]

This research expert participant had observed some judicial officers were sometimes unable:

> … to understand that just because the use of controlling behaviours are against the partner that doesn't mean the children are immune- especially in a custody context. Judges don't understand how dangerous he is or the impacts of coercive control on the mother- and how impactful on her mothering. Just because kids are not exposed to it doesn't mean they are unharmed by it (ie indirectly). Judges lack a firm grasp on impacts [of coercive control] – [they] often think that coercive control of her has no relevance on the custody /care arrangements.[114]

2.3.4 Coercive control and 'cultural' issues

A number of participants noted cultural factors they had observed, in particular financial control as a factor in observed relationships in Indian subcontinental and African communities[115] and forced sex as a factor in relationships of those from multiple cultural groups in which such behaviour was perhaps 'considered normal in their home countries'.[116] The same participant also noted a pattern of threats that extended family of perpetrators will harm victim/survivors' families in India. Another participant noted that coercion and control

[109] Participant 4.
[110] Participants 5, 6, 19, 22.
[111] Participant 6.
[112] Participant 6.
[113] Research expert participant 27.
[114] Research expert participant 27.
[115] Participant 7.
[116] Participant 15.

can be exercised by threatened and actual cultural pressures exerted by perpetrators' extended families within Australia.[117]

One participant noted that cultural factors influencing the nature of coercive and controlling behaviours can be very diverse, recalling matters where a restraining order was sought to restrain a Torres Strait Islander perpetrator from cursing his wife and a medical doctor husband with fringe Christian beliefs who expected his family to conform to his expectations of spartan lifestyle practices.[118]

Another participant noted that cultural factors can make it difficult for a judicial officer of a different cultural background to assess whether behaviour is culturally motivated or beyond the scope of typical cultural behaviour. This judicial officer pointed to a particular case where cultural considerations coexisted with abhorrent behaviours. The same participant noted that cultural considerations were also relevant in relationships of Indigenous Australians and that judicial officers must be careful not to stigmatise all aspects of behaviours where they may have cultural motivations.[119]

Another participant observed that cultural factors including beliefs as to the sanctity of marriage can also play into victim/survivor reluctance to leave a coercive or controlling relationship.[120]

2.3.5 Evidence of coercive control

Two judicial officers who worked in the family courts noted that coercive and controlling behaviour is often poorly evidenced.[121]

One of these judicial officers observed that for coercive control to be considered, the coercive and controlling behaviour alongside expert evidence as to the ongoing risk of violence where there is any history of violence must be adduced. This participant observed that practitioners need to ensure that an expert report or expert cross-examination addresses ongoing risk. The same judicial officer suggested that perpetrators of coercive control should acknowledge and address the ongoing risk in their own affidavits.[122]

The other Family Court judicial officer commented:

> Lawyers don't provide evidence very well, they make lots of vague assertions…there's a whole generation of lawyers who don't understand what evidence may be persuasive. There's a lack of specificity… [although] expert witnesses don't hold back – everything I know about coercive control has come from listening to experts, [as a judicial officer] sometimes you need to lead experts through the [social science evidence of risk associated with coercive control] – ask 'Dorothy Dixers' – often experts don't include the social science evidence [of risk associated with coercive

[117] Participant 14.
[118] Participant 9.
[119] Participant 23.
[120] Participant 14.
[121] Participants 5 and 10.
[122] Participant 5.

> control], they expect judicial recognition. Practitioners should ensure that these questions are addressed in reports.[123]

A judicial officer who hears protection order matters on the papers now routinely telephones applicants and annotates their applications with their oral evidence to build a stronger evidence base to demonstrate coercive control. This participant noted that evidence that coercive control is a risk factor for homicide would assist her in her decision-making in protection order matters.[124]

2.3.6 The role of perpetrator behaviour change programs

One judicial officer wondered whether early use of perpetrator behaviour change programs might 'nip abuse in the bud'.[125] He observed that if bail is granted after a short period in custody with an order for participation in a behaviour change program it might improve outcomes for victim/survivors and perpetrators. While this judicial officer recognised that there are few programs available for remand prisoners (or prisoners in general), he thought it might avoid 'festering' of perpetrators who blame the impacts of incarceration (life stagnating, loss of job, mortgage not being paid) solely on the victim/survivor.[126]

A magistrate who reflected on the impact of perpetrator behaviour change programs noted that it was important not to order anger management programs for perpetrators of coercive control as this is not an anger management issue. This participant, having observed the impact these programs had on perpetrators placed on community corrections orders over the period of their sentences, encouraged other magistrates to promote the use of specialist family violence programs.[127]

2.3.7 Matters heard online

Several participants referred to difficulties associated with online hearings where there are allegations of domestic and family violence. Participants noted that there is a risk that persons who should not be present during matters can be out of sight but listening in on, or recording, proceedings, pressuring witnesses, or have provided access passwords to others. A participant noted there are 'real safety and privacy concerns' associated with Webex hearings.[128]

Some participants suggested that online court hearing safety for victim/survivors and/or witnesses can be improved by ordering an accused to turn off their camera.[129] Similarly pre-recording of child witness evidence for online hearings can be done in another room so that child witnesses cannot see the accused while giving evidence.

[123] Participant 10.
[124] Participant 11.
[125] Participant 18.
[126] Participant 18.
[127] Participant 25.
[128] Participant 2.
[129] Participants 2.

2.4 The red flags for coercive control

The fourth question we asked participants to address was: In your experience, what are the red flags that suggest coercive control? Are they different when a couple are in a relationship compared with after they separate?

There was a general trend across responses that prior to separation 'red flag' behaviour (ie behaviour indicating risk of future domestic and family violence) is thought to be directed to maintaining control, while post-separation red flag behaviour is thought to be a response to the inability to cope with loss of control.[130] A superior court judicial officers responded that matters have usually progressed beyond red flag identification when they come before them.[131] A Family Court judicial officer noted that the ways in which coercive control is exercised are infinite and that if a judicial officer is not looking for coercive control they will not see it.[132] Another judicial officer noted that a prior history of violent or controlling behaviour is itself a red flag.[133]

In this section we have reported the participants' responses under three main headings: judicial officers and 'red flags' during the relationship; judicial officers and 'red flags' after separation and finally research expert participants' concerns.

2.4.1 Judicial officers and red flags during the relationship

Judicial officers identified a number of 'red flags' which suggested coercive control during the relationship. They often illustrated their suggestions with types of behaviour. Their responses are set out in Table 3 below. Note many of these issues would be red flags for coercive control after separation also.

[130] In particular, participant 6.
[131] Participants 8,
[132] Participant 10.
[133] Participant 24.

Red flag	Example
Intimidating victim/survivor, causing fear[134]	• Multiple judicial officers noted that they hear "walking on eggshells" repeatedly. • Standing over, getting in her face.
Isolation[135]	• This might include a victim/survivor who does not work. • Controlling access to/ taking or destroying a phone or other device (which prevents help-seeking). • Controlling who a victim/survivor can associate with, including family and friends to the extent a victim/survivor may have no other support network remaining and feel unable to leave. • Locking her in the house, not allowing person to leave the house.
Jealousy[136]	• Allegations of infidelity. • Jealousy is a significant factor in matters in Aboriginal communities.
Monitoring[137]	• This might include checking phone, odometer or another device history.
Attacks on self-confidence[138]	• Put-downs may be framed as concern that a victim be perceived favourably: 'You can't leave the house in that outfit; I want you to look pretty.' 'Are you going to cook that?' – suggestions and put-downs in the same breath.
Loss of autonomy[139]	• Deference of decision making and expectations of compliance • In relation to ordinary matters of life – the entrapment nature of it.
Economic abuse[140]	• Including restricting access to money. • Requiring a victim/survivor to account for money spent, providing an allowance, and requiring a victim/survivor to ask for money.
Intense affection, followed by removal of affection[141]	• Can include perpetrator becoming very close to a victim/survivor's child, almost to the extent of excluding her from a relationship with her own child. • Silent treatment.
Offender justification of abusive behaviour[142]	• Statements like 'she makes me crazy', 'toxic relationship', 'I've never hit her'.
Illicit drugs[143]	• Where the male partner is also selling/providing drugs to the victim/survivor – access to drugs has been used as a controlling mechanism.

Table 3: Red flags for coercive control during the relationship

[134] Participants 14, 25
[135] Participant 3, 4, 14, 15, 31.
[136] Participants 4, 9, 14
[137] Participants 4, 14, 19, 26
[138] Participant 10, 20.
[139] Participant 1, 3, Research expert participant 12.
[140] Participant 14, 15.
[141] Participant 14, 15.
[142] Participant 25.
[143] Participant 30.

2.4.2 Judicial officers and red flags after separation

Judicial officers identified a number of 'red flags' which suggested coercive control post-separation. They often illustrated their suggestions with types of behaviour. Their responses are set out in Table 4 below. Note many of these issues would be red flags for coercive control after separation also, especially for example strangulation/hands on the victim/survivor's throat.

Red flag	**Example**
Threats[144]	• To kill – respondent, children, extended family. • To kill animals • Of suicide or self-harm.
Strangulation /hands on the victim/survivor's throat[145]	• Allegations of strangulation • Any evidence that perpetrator's hands have been on victim/survivor's throat, even where no actual strangulation is alleged
Harassing[146]	• Intense patterns of phone calls, messaging or other contact. • Manic post-separation contact including demands in attempt to control and monitor. • Reaching out to victim/survivor's network, scaring them off.
Monitoring[147]	• Including malware, GPS tracking of phone or other devices including devices in the victim/survivor's car. • Video surveillance, using innocuous things like 'find my iPhone'. • Having her phone back up to the cloud so abuser can have access to data at all times, • Linking devices, baby monitors in child's bedroom – some are 'nannycam' types which when controlled by separated partner give access to inside her home at all times. • Having family members track social media activity.
Disputes about children's matters[148]	• Threats in relation to children. • Allegations a party is disparaging the other party to children (especially where one party is a male step-parent) eg. poor parenting practices, harsh disciplinarian of children. Encouraging children to portray mother in poor light and reporting illness/injury in mother's care. • Constant lateness for contact pick-up. • Failure to comply with agreements as to children's matters. • Attempts to seek urgent children's recovery orders where the child's location could be a refuge.

[144] Participant 7, 15, 18, 19, 21, 27.
[145] Participants 19, 21
[146] Participant 15,20
[147] Participant 12, 14, 15, 17, 26, 27
[148] Participant 4,5,15,25,27

Victim/survivor downplays/ normalises abuse[149]	• A victim/survivor who downplays physical violence or emotional abuse as ordinary.
Attempts to control in court hearings[150]	• Both parties appearing together from same room in Webex hearings. • Attempts to influence in court. • Party has intense focus on the witness who alleges abuse. • Victim/survivor/witness looking to other party for approval. • Anger when attempts to control court responses fail (can indicate importance of special witness provisions). • Dragging person through the process to wear them down.

Table 4: Red flags for coercive control post-separation.

2.4.3 Research expert participants and concerns

One research expert participant had observed in their research that while some judicial officers struggle to identify coercive control, some women subjected to coercive control also struggle to articulate their experiences of abuse.[151]

The same research expert noted the usefulness of checklists in assisting courts and victim/survivors to identify coercive control. For example, one checklist this research expert mentioned included questions such as:

- Do you feel like you can't do this…?
- Does he control the finances?
- Does he say bad things about your family members?

This research expert also noted that this approach can help crystallise the behavior for both the person experiencing coercive control and the judicial officer. This research expert also observed that realizing they have experienced domestic and family violence can be a traumatic revelation for some who do not identify as a victim/survivor.

Finally, this same research expert cautioned judicial officers to:

> … remember that abusers who don't use physical violence are often charming and publicly functional. This can be in their favour in parenting assessments – we assume the report writers can tell when they are manipulated, but this is often not the case. These men 'perform'- coercive controlling men are more likely to be successful, come from the higher echelons [of society] as opposed to men who are doing physical abuse. They may not engage in physical abuse because of their role in society… Remember everyone could be an abuser – the man in the suit, not just a bikie covered in tattoos. [They] manipulate and get away with it.[152]

[149] Participant 25
[150] Participant 7,14, 21,22.
[151] Research expert participant 27.
[152] Research expert participant 27.

2.5 Decisions or judgements where coercive control was well-recognised

Our final question asked participants to identify judgments and other resources. Specifically, we asked: Are there any decisions or judgements that you are aware of where you think coercive control was well-recognised and described by you or another judicial officer?

Suggested cases are collated in Part 2 of this report. The cases suggested have been organised by jurisdiction of recommended decision, although judicial officers did not necessarily confine their recommended cases to cases from their own jurisdictions. Not all participants were able to point to decisions where coercive control was well-recognised and described and a number referred to cases which did not specifically relate to issues associated with coercive control. One judicial officer who worked in the family courts noted that in cases where they personally had recognised coercive control they focused their decisions on the identified actual physical violence and were able to reach a decision without reference to the observed coercive and controlling behaviour. This participant described this as 'the cowards approach'.[153]

Several Magistrates noted that, as their decisions are unpublished and decisions are rarely appealed, identifying matters where coercive control was well-recognised and articulated is difficult.[154] A superior court judicial officer noted that while they were unable to think of a relevant case from their own jurisdiction they had noticed prosecutors using terminology of coercive control over the past twelve months.[155]

[153] Participant 10.

[154] Eg. participant 11.

[155] Participant 18.

Part 2: Cases that have identified coercive control.

In Part 2 of this report we have included a list of cases arranged by jurisdiction that discuss and identify coercive and controlling behaviour. The cases were identified by judicial officers and research expert participants in the interviews discussed in Part 1. The extracts include a link to the case on Austlii or another database where available and an extract of the part of the case where coercive and controlling behaviour is discussed is included.

Commonwealth

Family Court of Australia

Behn & Ziomek **[2019] FamCA 298 (10 May 2019) – Family Court of Australia** (parenting orders)

McClelland DCJ recognized that the father was using repeated litigation in a way that amounted to coercive and controlling conduct:

> [245] Additionally, I find that the manner in which the father has conducted himself throughout this litigation amounts to coercive and controlling conduct as against the mother. As set out above and annexed to these Reasons for Judgment, the father has brought an excessive number of interim applications, including two Contravention Applications. In that regard, during cross-examination, Ms O gave the following evidence:
>
> Question: … Would you suggest that, should the Court reinstate a regime whereby the father spends time with the child, that the father will continue to do such things as use the Court system to control the mother?
>
> Answer: That's another very common feature of perpetrators of coercive controlling family violence. Yes. Continued litigation. And that in turn has a negative impact not just on the other parties but on the children obviously because coming before – having to be interviewed by someone like me over and over again or the ICL, or whomever it is, is an incredibly stressful experience for children.
>
> [246] It was not disputed that in the period between 19 April 2016 and 10 May 2016, at the request of the father, the Police attended the mother's home on seven occasions to conduct welfare checks on the child. I am also satisfied that the father acted in a coercive and controlling manner by requesting that the Police conduct such a number of unnecessary welfare checks on the child.
>
> [247] I am further satisfied that the father has sought to exercise control over the mother by dictating to her the appropriate medical treatment for the child and when the child should commence school. I set out the evidence relevant to that issue below.

Garrod & Davenort **[2018] FamCA 825 (12 October 2018) – Family Court of Australia** (parenting orders)

Bennett J was critical of the Regulation 7 Family Consultant's handling of the matter:

> [219] The Regulation 7 Family Consultant agreed with Ms Lewis, counsel for the mother, that the flagrant breach of orders so the father can get what he wants is consistent with him engaging in coercive controlling violence. It is particularly concerning that the father's poor behaviours were not based on a lack of control but on a prerogative of his needs and desires. That indicates to me that very significant changes in attitude and behaviour are required to be undertaken by the father.

Bennett J noted that family violence is not to be assessed on a sliding scale focused solely on physical violence:

> [220] …The Regulation 7 Family Consultant did not recognise the father's conduct to Ms O or the mother as being on the higher end of family violence. His manipulative behaviours were insidious and should have been identified as such. The Regulation 7 Family Consultant has assessed family violence on a scale which was an error. Family violence is not to be assessed on a sliding scale. Every child is entitled to be kept safe from harm. Precautions must be proportionate to the harm identified. It does not follow that a cessation of time is reserved only for perpetrators of physically life threatening violence. My strong impression is that the Regulation 7 Family Consultant had regard to some physical violence perpetrated by the father towards the mother but largely gleaned over the coercive controlling violence of the father.

And later, noting the Family Violence Best Practice Principles definition of coercive controlling violence:

> [223] ….. Coercive controlling violence is an ongoing pattern of use of threat, force, emotional abuse and other coercive means to unilaterally dominate a person and induce fear, submission and compliance in them. Its focus is on control, and does not always involve physical harm. [referring to the Family Violence Best Practice Principles, Edition 4, December 2016, Family Court of Australia, 8.] It is inconceivable that the Regulation 7 Family Consultant could have had regard to the definition of violence in which the father was engaged.

Federal Magistrates Court of Australia

Heilig & Cabiness **[2011] FMCAfam 97 (2 March 2011) – Federal Magistrates Court of Australia** (parenting orders)

Altobelli FM recognised the coercive and controlling behaviour of the father:

> [10] He has a long history of law breaking, and there is very little evidence of conscience in his functioning. His controlling abusive behaviour towards young partners I find

flabbergasting. The description of his severely burning Ms Cabiness' arm when he considered the coffee she had made for him was 'crap' is appalling. The description of his behaviour is almost of treating them as slaves, while enjoying humiliating them.

In paragraph [30], Altobelli FM favourably refers to research quoted in the decision of the Court of Criminal Appeal on the Crown manifest inadequacy appeal in relation to the father's sentencing for violent offending against the mother and other former domestic partners, cited as *R v Heilig* [2006] NSWCCA 302 (20 September 2006) at [77]:

> An adequate account of domestic violence should recognise that it typically involves the exercise of power and control over the victim, is commonly recurrent, may escalate over time, may affect a number of people beyond the primary target (including children, other family members and supporters of the victim) and that it contributes to the subordination of women; domestic violence typically involves the violation of trust by someone with whom the victim shares, or has shared, an intimate relationship; the offender may no longer need to resort to violence in order to instil fear and control: J Stubbs, "Restorative Justice, Domestic Violence and Family Violence", Australian Domestic and Family Violence Clearing House, Issues Paper 9, 2004, pages 6-7.

Australian Capital Territory

Supreme Court of the Australian Capital Territory

R v Smith **[2021] ACTSC 114 (3 June 2021) - Supreme Court of the Australian Capital Territory** (sentence)

Mossop J observed:

> [25] The sexual intercourse without consent is constituted by the digital penetration of the complainant's vagina. This is a case in which the sexual intercourse can properly be described as an act of sexual violence. There is nothing which suggests that the act was performed for the purposes of sexual gratification. Rather, it was an assault designed to degrade the victim and formed part of a pattern of demeaning and controlling behaviour on the part of the offender. That demeaning and controlling behaviour is an important part of the context in which the offence occurred.

R v NX (No 2) [2019] ACTSC 131 (24 May 2019) – Supreme Court of the Australian Capital Territory (sentence)

In considering the objective seriousness of the offence, Mossop J observed:

> [31] The offending in the present case includes very serious offending occurring in a context having features of domestic violence. Those include that the offending was directed to maintaining control over the victim by destroying her property and means of transport and blaming her for the offender's unlawful conduct. The victim was more

vulnerable by reason of her need to care for and protect her young child. Her young child was present during some of the offences.

R v Brown **[2015] ACTSC 65 (5 March 2015) – Supreme Court of the Australian Capital Territory** (sentence)

Burns J accepted the opinions and statements he quoted from clinical psychologist, Dr Michael Barry's report.

[4] … Dr Barry said:

> At the time of the offence, Miss Brown had been in an emotionally and physically abusive relationship for over two years. She described a gradual deterioration in her mental health, reporting low self-worth and feeling overwhelmed, feeling that she did not "fit in anywhere" and she described a "sense of loss in the world". She reported that despite Mr Ruspandini's treatment of her, she felt that he was the only one who she could rely on. Domestic violence and emotional abuse are behaviours used by one person in a relationship to control the other. Research into the cycle of domestic violence suggests that it is common for victims of domestic violence to blame themselves for the abuse and to experience major disruption in their self and world view. Domestic abuse can have a serious impact on the way a person thinks and interacts with the world around them. The chronic exposure to violence, or the threat of violence, and the stress and fear resulting from this exposure, can cause not only immediate physical injury, but also mental shifts that occur as the mind attempts to process trauma or protect the body.
>
> Domestic violence affects a person's thoughts, feeling and behaviours, and can significantly impact on mental stability. While the effects of physical abuse are obvious, the effects of emotional abuse are easier to hide and harder to repair. It is common for victims of emotional abuse to blame themselves and minimise their abuse, particularly when they are repeatedly told that it is their fault that their partner becomes angry or aggressive.

[5] I accept the opinions and statements which I have just quoted from Dr Barry's report.

Roberts v Smorhun **[2013] ACTSC 218 (1 November 2013) – Supreme Court of the Australian Capital Territory** (sentence)

Refshauge J referred to dicta of the Alberta Court of Appeal in *R v Brown* (1992) 73 CCC (3d) that:

> [81] When a man assaults his wife or other female partner, his violence toward her can be accurately characterized as a breach of the position of trust which he occupies. It is an aggravating factor. Men who assault their wives are abusing the power and control which they so often have over the women with whom they live. The vulnerability of many such women is increased by the financial and emotional situation in which they find themselves, which makes it difficult for them to escape.

Refshauge J noted that this statement had been cited with approval by the Court of Criminal Appeal of the Supreme Court of Tasmania in Parker v The Queen (Unreported, Tasmanian Court of Criminal Appeal, Green CJ, Underwood and Zeeman JJ, 21 July 1994), 11 and in the NSW Court of Criminal Appeal in *R v Hamid* [2006] NSWCCA 302. [82]

Purcell v O'Reilly **[2018] ACTSC 60 (9 March 2018) – Supreme Court of the Australian Capital Territory** (sentence)

Penfold J observed:

> [48] … the incident giving rise to Mr Purcell's conviction, and its source in Mr Purcell's determination to examine the victim's mobile phone, seem to reflect both an attempt to exercise power or control over his former wife and a belief that this was justified. For this reason, the incident as a whole may legitimately be treated as more serious than it would have been if the TV had been destroyed in anger or frustration generated by some event unrelated to conflict between Mr Purcell and his former wife.

Magistrates Court of the Australian Capital Territory

Love v Kumar **[2018] ACTMC 23 (31 October 2018) - Magistrates Court of the Australian Capital Territory** (evidence of coercive control)

In finding the accused assaulted his wife Special Magistrate Hunter OAM observed:

> [207] Taken together the evidence if accepted of giving information to officials at Immigration, the refusal to recant that information, the bruise to the head which is consistent with the allegation on 18th and the general information such as not allowing Ms Devi to have a phone, not allow her to contact her brother and the like which could lead to a conclusion that the defendant was controlling her life, (which is not unknown in domestic violence situations). It also leads to a conclusion that Ms Devi is speaking the truth and should be believed.
>
> [209] I am also satisfied that she had been controlled at least to some extent. That is supported by uncontroverted evidence that she had to secret a SIM card so that she could contact her family and brother by phone. This is consistent with the evidence from her brother that she had no access to contact him except by public phone until he gave her the SIM card. I am also satisfied she had limited access to friends and family. That evidence was corroborated by her brother and by the fact she used the SIM card he gave her to make the various phone calls she made to family and friends. I also note the Defendant had alluded to that control in some of his answers in the ROI such as those referred to by Prosecution counsel in her submissions.

[Note: This decision was unsuccessfully appealed *Kumar v Love* [2019] ACTSC 238 (30 August 2019) – Australian Capital Territory Supreme Court]

New South Wales

Supreme Court of New South Wales - Court of Criminal Appeal

***Yaman v R* [2020] NSWCCA 239 (25 September 2020) – Supreme Court of New South Wales - Court of Criminal Appeal** (sentence).

[135] The right of all women to determine their own path in life must be protected and upheld by the courts. Where a woman's right is ignored or disregarded by an offender, that right must be vindicated, including by punitive and strongly deterrent sentences where necessary.

[136] The applicant had failed to accept that his former partner had chosen a life that did not include him and, by the commission of a violent crime against her, he sought to force her to resume a relationship with him. His act had to be denounced; stern punishment had to be imposed, and the applicant and others deterred from future conduct of that nature.

***Le v R* [2020] NSWCCA 238 (23 September 2020) – Supreme Court of New South Wales - Court of Criminal Appeal** (evidence – witness credibility).

Adamson J observed:

> [215]: Thus, it was, for example, for the jury to determine whether the applicant's conduct in proposing dinner with the complainant's family on the evening of Sunday 15 October 2017 was inconsistent with that of a man who had just assaulted the complainant and caused her serious injury which, to his knowledge, had resulted in at least a substantial bruise on her hip and in her having difficulty walking. One might postulate, as Mr Dhanji did in argument, that it would be odd for a man who had assaulted his partner to want to expose her to the gaze of her family soon after the event when the effects of the injury would still have been obvious. On the other hand, a jury might regard it as consistent with their plainly abusive relationship that the applicant would oscillate between drug-fuelled violence and affectionate, inclusive gestures to perpetuate the complainant's emotional dependency on him and her compliance with the dictates of their relationship. The jury might have regarded the applicant's conduct in expressing concern about the complainant's welfare, including her consumption of alcohol, as a smoke screen to assuage her family's concerns.
>
> [223]: None of the matters referred to above is, as Mr Dhanji would have it, a matter of "making excuses" for the complainant's inconsistencies. The jury could have formed the view that the complainant was prepared to endure an injury inflicted by the applicant if it was one from which she could recover because she had come to love and depend on him, both financially and emotionally, and believed that he loved her. The jury might have considered that once the complainant appreciated, as she did at the end of October 2017, that he had fractured her hip and that she would have to undergo a serious operation, she realised that he had not been acting in her interests and had permanently harmed her. It was open to the jury to infer that, from that time on, she stopped making excuses for him,

as she had done up until that point, both when confiding in her aunt and in telling the police on the first occasion in October 2017 before she knew of the diagnosis. The jury might have considered that this was what led the complainant to participate in a recorded interview in November 2017, having been so reluctant to go on the record or identify the applicant when she was taken to the police station on 24 October 2017 following her call to Triple-0. The jury could have formed the view that the complainant was prepared to endure an injury inflicted by the applicant if it was one from which she could recover because she had come to love and depend on him, both financially and emotionally, and believed that he loved her. The jury might have considered that once the complainant appreciated, as she did at the end of October 2017, that he had fractured her hip and that she would have to undergo a serious operation, she realised that he had not been acting in her interests and had permanently harmed her.

[225] The complainant's conduct towards the applicant involved the inevitable conflict inherent in an abusive relationship: notwithstanding that he hurt her, she loved him and did not want to lose him. It may be that when she called police on 24 October 2017, she did so to assist her in her dual aims of keeping the relationship with the applicant on foot and yet stopping him from assaulting her. Her descriptions to her aunt and to the police of how she sustained the injury to her hip were broadly consistent. I do not consider it to be of any particular significance whether she reported a single kick or more. It is understandable that the jury might have considered that the diagnosis caused her to rethink the relationship and stop making excuses for the applicant.

R v Hamid **[2006] NSWCCA 302 (20 September 2006) – Supreme Court of New South Wales - Court of Criminal Appeal** (sentence)

Johnson J commented:

[77] An adequate account of domestic violence should recognise that it typically involves the exercise of power and control over the victim, is commonly recurrent, may escalate over time, may affect a number of people beyond the primary target (including children, other family members and supporters of the victim) and that it contributes to the subordination of women; domestic violence typically involves the violation of trust by someone with whom the victim shares, or has shared, an intimate relationship; the offender may no longer need to resort to violence in order to instil fear and control: J Stubbs, "Restorative Justice, Domestic Violence and Family Violence", Australian Domestic and Family Violence Clearing House, Issues Paper 9, 2004, pp 6–7.

[403] I am satisfied that the father represents a real danger to the mother and the children of continuing his coercive controlling violence and that the mother ought to have the ability to bring up these children free of that behaviour and its consequential fear and the children ought to be able to escape the direct and indirect consequences of that behaviour and the actuality of that behaviour by the father.

District Court of New South Wales

R v Argyle **[2021] NSWDC 267 (18 June 2021) – District Court of New South Wales** (sentence)

Whitford SC DCJ observed:

> [50] On [the victim] Ms Argyle's meeting with and experience of [the accused] Steadman, and his influence over her, [the clinical psychologist] Ms Pratley observed:
>
> ...(her) anxiety and posttraumatic symptomatology meant that she believed she had no choice but to participate in the abuse by Steadman, or face physical or sexual harm herself, which she believed put her unborn child at risk. Ms Argyle's trauma history and low self-esteem contribute to her lack of agency...and... impaired problem-solving capacity... (which would be intensified with low cognitive capacity).
>
> ...(her) account indicates that she was subject to a pattern of ongoing intimidation by Steadman, which constituted coercive control...
>
> [69] [A factor that diminishes Ms Argyle's culpability is] her experience of the coercive controlling behaviour of Steadman and the attendant duress and fear that he would harm her unborn child and/or herself. Duress in relation to her fear for her unborn child was clearly raised with police in her interview and there is a foundation, in a combination of the agreed facts and the expert reports, for a reasonable conclusion that she was operating under a form of duress. In the whole of the circumstances, Ms Argyle was under the coercive control of Steadman and was unable to think through the consequences either of her actions or of her failure to respond differently to, and to report, what had happened to her sister.

R v Duff (a pseudonym) **[2021] NSWDC 146 (30 April 2021) – District Court of New South Wales** (sentence)

In sentencing the offender for multiple offences Colefax SC DCJ observed a number of aspects of the offender's controlling behaviour:

> [15]-[22] However, after she moved into your home unit, your attitude towards her soon changed substantially and you became increasingly controlling and violent. You began referring to her as your "slave" and you prevented her from leaving the home unit without your permission. Amongst other things, this caused the victim to lose her job because you refused her to leave the home unit to go to work. You often expressed yourself in terms of violence - for example, you told her that if she left the home unit that you would "take out her legs", which she understood to be a reference to the times that you had kicked or hit her legs with various items such as hammers or bolt-cutters, or when you would whip her with a phone cord. Your controlling influence extended to you demanding that she provide you with the passwords to all of her social media accounts, including Facebook, Instagram and Snapchat. You would go through all her private messages, which resulted in her deleting all of these accounts to prevent arguments. The victim was of Croatian descent

and she was accustomed to speaking with her mother in Croatian instead of English. You would get angry if she did so. Another, and quite bizarre, aspect of your controlling behaviour was that you would get angry if she wore clothes when she was in the unit. In June 2018, you told her that you wanted her to make you ejaculate multiple times a day and that, if she didn't meet your needs, you would punish her in different ways which included verbal threats and physical assaults.

R v Aumash **[2020] NSWDC 168 (1 May 2020) – District Court of New South Wales** (sentence)

Haesler SC DCJ observed:

[33]-[34] In earlier messages Aumash had sought to control, threaten, and demean Ms White. His intention this day was clear. It was part of a pattern of behaviour. He also sought to cajole her into dropping the charges and excusing his criminal actions toward her. I can infer from those facts that the messages were similar in content to those sent on other days. That conclusion can be drawn beyond reasonable doubt.

The extent of his harassment and the motivation for his actions this day make this a particularly serious example of offences of this type. It requires a custodial sentence: s17 *Crimes Act 1914 (Cth)*.

R v Bohun **[2019] NSWDC 807 (25 October 2019) – District Court of New South Wales** (sentence)

[33] That Ms Smit and the offender had been in a domestic relationship does not in any way mitigate the offending behaviour. It appears that Ms Smit was personally targeted. Given the breach matters, it does here show that there is pattern of physical and mental violence towards Ms Smit, requiring denunciation.

[34] Here, there could be no clearer example of the exercise of coercive power and control. It may be that at the time, Bohun thought what he did was justified. There could be no justification for such violence. Such behaviour poses a continued threat to victims. They never truly feel safe. Denunciation and appropriate punishment is required. In such matters, the way we do it is by locking someone up: *R v Dunn* (2004) 144 A Crim R 180.

[35] Gaol, however, puts this offender in cells with other men who are capable of or have demonstrated misogynist violence against their partners. Gaol breaks prosocial bonds. Gaol encourages links with other criminals. Gaols are intrinsically violent environments, and unfortunately can have a crime-producing effect rather than discouraging violent crime. Nevertheless, the vulnerable position of Ms Smit must be considered and her dignity vindicated.

Northern Territory

Supreme Court of the Northern Territory - Court of Criminal Appeal

Emitja v The Queen **[2016] NTCCA 4 (21 October 2016) – Supreme Court of the Northern Territory - Court of Criminal Appeal** (sentence)

Grant CJ and Kelly J noted the sentencing judge's remarks in relation to the course of conduct in which the appellant engaged with approval:

> [28]: It is clear that the appellant had in the years prior to the present offending subjected the victim to a course of repeated violence in the domestic context which left the victim in a state of perpetual fear for her person. This is reflected in the Victim Impact Statement dated 5 March 2014, in which the victim stated:
>
> > I get really stressed out by [the appellant]. I get scared when I see him cause I know each time he's going to hurt me. He goes and tells his family I'm to blame for him going to prison and then they come and threaten me. That DVO doesn't work. It doesn't stop him from coming near me and hurting me. The only time I feel safe is when [the appellant] is in prison.
>
> [29]: It was this course of conduct to which the sentencing judge was referring when he observed:
>
> > The offending is once again a very serious incident of domestic violence committed by the offender. The offender's moral culpability for this offending is very high. The offender engages in domestic violence in order to control the victim and to express his displeasure when she does not behave in a manner that he expects her to behave. The offence was committed while [the offender was] subject to [a] DVO once again. The victim was seriously injured.

Grant CJ and Kelly J held the offender's pattern of coercive controlling behaviour rendered spontaneity less relevant to the assessment of the objective seriousness of the offence:

> [52] We do not accept the submission made on behalf of the appellant that the objective seriousness of the offence was lower because it was not premeditated. First, the absence of a factor which would elevate the seriousness of the offending is not a matter of mitigation. Secondly, as the respondent submitted, the offending was the epitome of a particularly pernicious form of domestic violence in which a violent and controlling male seeks to exercise dominion over a female victim; a type of offending in which each episode is spontaneous but part of a pattern which renders spontaneity less relevant to the assessment of the objective seriousness of the offence than it might be in relation to other types of offence. The appellant's history of relevant offending has already been detailed. It shows that the offending the subject of this appeal was simply the latest incident in a deliberate and violent pattern of behaviour engaged in by the appellant for the purposes of intimidating and controlling the victim. The circumstances of the offence under consideration involved direct defiance of the domestic violence order then in place, as

have the circumstances of many of the other incidents which form part of the appellant's pattern of behaviour. The instant offence was in no way "an uncharacteristic aberration".

The Queen v Haji-Noor **[2007] NTCCA 7 (18 May 2007) – Supreme Court of the Northern Territory - Court of Criminal Appeal** (sentence)

Angel J highlighted the sentencing judge's comments that only the offender is to blame for his behaviour:

> [31] … It is not uncommon for men in your position to harbour a belief that their former partner had been unreasonable. Nor is it uncommon for violent men in your position to harbour a belief that the former partner has brought the violence on themselves by being unreasonable. You and others like you must learn that only you are to blame for the situation in which you now find yourself. The female victim is not the true cause of your violent behaviour over the years or in February 2006. You and others who are tempted to behave like you must understand that they are not entitled to use physical violence and, if they do, they will go to gaol.
>
> As to the male victim, it is not uncommon for men in your position to become angry and violent towards the new friend or partner. Those people are also vulnerable to attacks by men like you. It is not a case of saying they are men and can look after themselves. As your violence and the consequences well demonstrate, such men are vulnerable to violent attacks by men in your position and they too are entitled to the full protection of the law. Men in your position must understand that if they attack new friends or partners they will go to gaol. For this reason also, general deterrence is particularly significant.

Southwood J noted:

> [185] The crime committed by the respondent was nonetheless a serious crime. It was part of a pattern of fundamentally oppressive and coercive behaviour in which the respondent deliberately engaged to dominate and control Ms Hawksworth.

Supreme Court of the Northern Territory

The Queen v Kerridge **SCC21939935 (1 November 2021) (Sentence) - Supreme Court of the Northern Territory** (sentence)

Mildren AJ recognised the offender's controlling behaviour in sentencing:

> (p7) I have not dealt in detail with all of the assaults and bad behaviour you had exhibited towards the complainant over the whole period of the relationship. Suffice it to say that during the relationship, you were extremely controlling and demanding. She not only had fulltime employment, but she had to run the finances of your business which ran at a loss, obtain extra money by repairing bicycles and second-hand white goods and furniture, feed you and the children and attend to the children's schooling, ensure that your alcohol was ready for you when you came

home after work and to generally act as your personal servant.

You demanded that she send photos of her breasts to you on numerous occasions, as is evidenced by the text messages. You blame her for the fact that there was not enough money to meet all of the expenses, while at the same time, you indulge yourself in your hobby of repairing cars and other vehicles which you ordered both from Queensland and in Alice Springs.

When money was tight, you became angry and violent towards her, regardless of whether this was her fault or not. The level of violence, punishment and degradation that you dealt her was extreme. The words "domestic violence" are inadequate to properly describe the torment that you caused her to suffer. Your behaviour was callous, controlling and sadistic

The Queen v Lynch **SCC22033629 (4 October 2021) (Sentence) - Supreme Court of the Northern Territory** (sentence)

Grant CJ recognised the offender's coercive and controlling behaviours in sentencing:

[2] You entered into a relationship with the victim in 2018. She had a young daughter at that time. She then fell pregnant with your child, after which time you started to become more possessive and controlling of her. You would not let her visit friends and relatives, and you were verbally abusive to her, particularly in relation to her mothering skills. However, you had never hit her during the course of the relationship prior to the events in question in this case….She left the house where she was staying with you and returned with police so that she could pick up her infant son. That was because she was too scared to do so by herself. She then returned to Tennant Creek, but you continued to contact her and her family, demanding that she return to Alice Springs.

[3] You told your ex-wife that your purpose in going to Tennant Creek was that you were concerned about the welfare of your infant son. I think the objective reality is that you knew that the victim had resumed seeing her former partner, and that you were both jealous of that relationship and resentful that the former partner was having any part to play in your son's life.

[7] However, I do accept that alcohol was not a contributing factor in this offending. I am not sure whether that works in your favour or not. It seems to suggest that you are unable to resist your possessive and controlling urges even when you are sober…..The reason for that [the offender not showing any remorse], Mr Lynch, I suspect, is that you considered and you still consider that you were in the right, because you felt that the victim – your former partner – was not looking after your son in a manner which you considered to be suitable; and because you consider that you are entitled to impose your will in that respect on your domestic partners. That is reflected, as I say, in your long history of domestic violence offending.

Coroners Court

Inquest into the Death of HD (Name Suppressed) **[2021] NTLC 029 – Coroners Court (Darwin)**

The following extract provides an example of the way in which the deceased's vulnerabilities were used by the partner to justify his controlling behaviour:

> [70]: HD's partner was from time to time said to be manipulative and controlling. When questioned about his controlling ways he generally indicated that HD was an alcoholic and he needed to know where she was to either stop her drinking or so as to assist her when she was intoxicated. It appeared to explain his tracking her phone. Her alcoholism was provided as the reason he removed her from the house or used force to keep her there. The same might be said when he escorted her to the police station and asked that her bail be breached for drinking. Perhaps it might be seen in his insistence that he pick her up from work or when he intercepted her at the bus stop.
>
> [71] It is difficult however to see her alcoholism as the reason for him reading her texts and having access to her social media accounts. There are instances where he attempted to warn off a person he thought she was having an affair with using her own Messenger account. It also doesn't explain the constant messaging and telephone calls when she was with her father in Queensland. It appears they were more to do with his belief that she may be talking to another male.

Queensland

Queensland District Court

MNT v MEE **[2020] QDC 126 (20 May 2020) – Queensland District Court** (evidence underpinning making a protection order).

Byrne QC DCJ accepted that the first instance decision was based on "more than merely a finding of a singular act of domestic violence, being economic abuse constituted by the one act of the unilateral forgiveness of the debt." [73], holding that domestic violence was proved by evidence of the appellant's controlling behaviours:

> [75] Although I am not satisfied that the incident involving the unilateral forgiveness of the debt owed by the appellant's son amounts to economic abuse as defined, I do consider that it comprises an aspect of overall controlling behaviour or emotional or psychological abuse, in the relevant senses. It is, in my view, not sensible in light of the timing and sequence of events to reach any other conclusion. The forgiveness of the debt the month before the appellant spoke to solicitors about family law proceedings suggests on the face of it that it was deliberate attempt to remove the asset (i.e. the debt owing) from the property pool which would inevitably be the subject of focus in the family law proceedings. That neither the appellant nor his son could satisfactorily explain how and why that occurred supports that view.
>
> [77] I am satisfied, as was the Magistrate, that the evidence concerning the manner in which the respondent's property was dealt with amounts to controlling behaviour in the overall context of the relationship, and that contributed to the respondent's fear for her own wellbeing and safety. In addition to the express findings of the Magistrate, I also include the removal of the go-cart and placing it in the weather, the respondent being told what chairs she could sit on and the moving of her clothing and other property from the residence to variously the garage and into the weather in this class of evidence….
>
> [79] I am satisfied, as was the Magistrate, that the incident involving the appellant getting into the bed already occupied by the respondent, at a time after they had commenced living apart on the one property, forms part of that controlling behaviour as described.
>
> [81] I too am satisfied, as was the Magistrate, that the condition of the house and the lack of approvals for work done was another aspect of the appellant's controlling behaviour towards the respondent.
>
> [83] ….I am satisfied that the admitted failure by the appellant to attend in any meaningful way to the rectification in the roughly two months between the council notice and the hearing (i.e. more than the 20 business days allowed by the Council notice) is both domestic violence in that it is controlling behaviour which limited the lawful use of the premises and potentially affected the asset base for the intended family law proceedings, and evidences the nature of the previous relationship involving controlling behaviour by the appellant towards the respondent.

CPS v CNJ **[2014] QDC 47 (21 March 2014) – Queensland District Court** (evidence underpinning making a protection order).

Dearden DCJ observed:

> [18] I am not persuaded (contrary to the submissions made on behalf of the appellant) that the learned magistrate erred in concluding that "continuous contact and comments" made by the appellant were capable of constituting domestic violence.
>
> [19] The definition of "domestic violence" includes behaviour that is "emotionally or psychologically abusive"[Domestic and Family Violence Protection Act ["DFVPA"] s 8(1)(b)] and/or "is threatening"[DFVPA s 8(1)(d)] and/or "coercive"[DFVPA s 8(1)(e)] or "in any other way controls or dominates the second person and causes the second person to fear for the second person's safety or wellbeing of that of someone else". [DFVPA s 8(1)(f)] It was open to the learned magistrate to conclude, on the basis of the respondent's sworn affidavit .. and cross examination, .. that the appellant's conduct, verbal and by text, fell within one or more of the categories in DFVPA s 8(1).
>
> [20] I am therefore not persuaded that the learned magistrate fell into error in concluding that the appellant's conduct subsequent to the end of the relationship was harassment which amounted to "domestic violence".

MAA v SAG **[2013] QDC 31(28 February 2013) – District Court of Queensland**

McGinness DCJ was satisfied:

> [44] …The appellant's numerous complaints about the aggrieved to government bodies alleging child abuse and mistreatment were unjustified and an abuse of process as were his complaints to organizations about the aggrieved's doctor and lawyer. The appellant did not dispute that he lodged most of these complaints. I consider that one of the purposes of lodging these complainants was to harass and intimidate the aggrieved. I accept the aggrieved's evidence that she felt intimidated and harassed when she became aware of the complaints;
>
> The aggrieved and her daughters were also subjected to repeated investigations due to the appellant's complaints. For example, she and her children were interviewed by police on a number of occasions. None of the complaints were substantiated. This is further evidence of harassment suffered by the aggrieved and her three daughters at the hands of the appellant

SHW v ABC **[2021] QDC 151 (13 August 2021) – Queensland District Court** (evidence underpinning making a protection order).

In finding the learned Magistrate erred in refusing to grant a restraining order against the respondent because it was not necessary or desirable to protect the appellant from future domestic violence Richards DCJ found:

> [37] Even accepting the Magistrate's findings that the respondent was not likely to be violent towards the appellant in the future, his passive aggressive acts such as going to Paluma the day before she was due to arrive, refusing to hand over furniture, and handing over the wrong keys to his solicitors so when the appellant did attend Paulma, she would be unable to enter the cabin, all amount to controlling and emotionally abusive behaviour that has the potential to be repeated during the course of the property settlement. Contact is inevitable during that period.
>
> [38] In my view the magistrate erred in finding that it was not necessary or desirable to protect the appellant from future domestic violence.

Queensland Civil and Administrative Tribunal

NK v Director-General, Department of Justice and Attorney-General **[2021] QCAT 270 (30 July 2021) – Queensland Civil and Administrative Tribunal** (working with children application)

In confirming the decision of the Director-General, Department of Justice and Attorney-General on 28 February 2020 to issue NK a negative working with children notice Member Hughes observed in relation to the applicant's former partner's attempts to seek termination of a protection order made against the applicant:

> [18] More alarming is evidence of controlling behaviour since the Order. In seeking to terminate the Order, NK's ex-partner said:
>
> I feel I contributed to the incidence (sic) occurring due to my treatment of [NK] including acting verbally abusive towards him, I believe I provoked him to become angry with me.
>
> I was pressured by my friends to take on (sic) order out against [NK]. My friends were always unhappy that I didn't have time to socialise with them when I was spending time with [NK].
>
> I have a really good relationship with [NK's] family; they are very supportive of me. I don't wish to ruin the relationship I have with them by having this order.

> [19] I do not accept these statements as proof of their content. Rather, they are evidence of coercive control: victim self-blame and shame, social isolation and in-law pressure. Domestic violence manifests in many forms: physical, psychological, emotional and financial. They are all abhorrent and unacceptable.

Applicant SIL v Scheme Manager, Victim Assist Queensland, Department of Justice and Attorney-General **[2021] QCAT 237 (13 July 2021) – Queensland Civil and Administrative Tribunal** (victim's assistance)

Member Cranwell accepted that the applicant's husband had used complaints to the Queensland Police Service as a means to control the applicant:

> [41]… In relation to the incidents on 27 March 2018 and 5 April 2018, Person A made complaints to the Queensland Police Service. The applicant submitted that Person A used complaints to the Queensland Police Service as a means of controlling her. I would be inclined to accept this submission, given that the there is no record of the Queensland Police Service ever having conducted an investigation in relation to either incident. The Queensland Police Service simply recorded Person A's version of events without speaking to the applicant.

South Australia

Supreme Court of South Australia - Full Court

Warne v The Queen **[2020] SASCFC 124 (21 December 2020) – Supreme Court of South Australia - Full Court** (sentence)

Hughes J (Peek and Stanley JJ agreeing) noted a controlling course of conduct:

> [51] The course of conduct in February 2017 was sustained and violent. The appellant caused injuries to the victim and also sought to control her with frightening and dangerous behaviour tending to place her in fear for her life and to submit. That was reinforced by the explicit threat made by the appellant to the victim whilst he directed a firearm at her at close range. There has been no expression of remorse or contrition by the appellant, or any indication of insight on his part with respect to his conduct.
>
> [52] The February course of conduct perpetuated and escalated the earlier incidents of control exerted by violence by the appellant over the victim. This Court has recognised the need to place offending such as this within the context of the relationship and the manner by which such incidents effect control through fear. In *R v Saunders* [2017] SASCFC 86 at [41], Hinton J, with whom Peek J agreed, said:
>
> > In *R v Hamid* [2003] SASC 249 at [21], Johnson J, with whom Hunt AJA and Latham J agreed, said after referring to a number of authorities dealing with sentencing in cases of domestic violence: 'These judicial statements are complemented by criminological research concerning domestic violence. An adequate account of domestic violence should recognise that it typically involves the exercise of power and control over the victim, is commonly recurrent, may escalate over time, may affect a number of people beyond the primary target (including children, other family members and supporters of the victim) and that it contributes to the subordination of women; domestic violence typically involves the violation of trust by someone with whom the victim shares, or has shared, an intimate relationship; the offender may no longer need to resort to violence in order to instil fear and control': J Stubbs, "Restorative Justice, Domestic Violence and Family Violence, Australian Domestic and Family Violence Clearing House", Issues Paper 9, 2004, pages 6-7.

R v Saunders **[2017] SASCFC 86 (27 July 2017) –Supreme Court of South Australia - Full Court** (sentence)

In commenting on sentencing for domestic violence matters Hinton J observed:

> [41] In R v Hamid [2006] NSWCCA 302, at [77]–[78], Johnson J, with whom Hunt AJA and Latham J agreed, said after referring to a number of authorities dealing with sentencing in cases of domestic violence:
>
> > These judicial statements are complemented by criminological research concerning domestic violence. An adequate account of domestic violence should recognise that it

typically involves the exercise of power and control over the victim, is commonly recurrent, may escalate over time, may affect a number of people beyond the primary target (including children, other family members and supporters of the victim) and that it contributes to the subordination of women; domestic violence typically involves the violation of trust by someone with whom the victim shares, or has shared, an intimate relationship; the offender may no longer need to resort to violence in order to instil fear and control: J Stubbs, "Restorative Justice, Domestic Violence and Family Violence, Australian Domestic and Family Violence Clearing House", Issues Paper 9, 2004, pages 6-7.

And:

[43] Intervention orders comprise one component of the Government's response to domestic violence in this State. In concluding his speech on the motion that the Intervention Orders (Prevention of Abuse) Bill be a read a second time the Attorney-General said:

> In enacting these reforms, Parliament will be sending a clear message that it will not tolerate the use of violence to control or intimidate another person, particularly in a domestic setting; that it recognises and abhors the lasting psychological and emotional damage to children from exposure to such violence; that it expects perpetrators to accept full responsibility for their violent behaviour; and that the paramount consideration is always the protection and future safety of the victims of abuse and the children who are exposed to it.

[44]: It must be borne in mind that the abuse which intervention orders are intended to protect against, can take many forms. Physical violence is but one. Emotional and psychological harm is often debilitating and equally often profoundly so.

R v Ritter **[2016] SASCFC 88 (16 August 2016) – Supreme Court South Australia - Full Court** (sentence)

Parker J (Lovell and Nicholson JJ concurring) described the coercive control which the appellant subjected the victim to:

[17] At the time of the offending the appellant and the victim had been in a relationship for approximately two years. His behaviour towards her was violent and controlling.

[18] About one month into the relationship the appellant began verbally abusing the victim. This progressed to physical abuse occurring about twice each week. By the last year of the relationship the frequency of assaults had escalated to the point where the appellant was assaulting the victim on a daily basis. The assaults included punching, slapping, kicking, throwing items and spitting.

[19] When the victim was threatened or attacked by the appellant she would try to leave their flat, often running into nearby streets and parks and attempting to hide. The appellant would frequently chase her or track her down in order to continue his abuse.

[20] The appellant monitored the victim's movements and rarely let her leave the house without him. He also controlled her finances, regularly forcing her to withdraw money from her account for his benefit, including so that he could buy drugs and alcohol.

[21] The appellant regularly threatened that if the victim reported any abuse to the police or left the relationship he would harm her and her children. She was too frightened to leave or to report the abuse to police, friends and family.

District Court of South Australia

R v Rogers **[2020] SADC 72 (16 June 2020) – District Court of South Australia** (sentence/ evidence – note: case also considers uncharged acts)

Tracey J noted that abusive and violent relationships give rise to behaviours that are difficult to comprehend and that should not alone be the basis for disbelieving a complainant:

[273] SE's behaviour in contacting police, making statements on some occasions and not others, withdrawing complaints, denying incidents occurred, allowing the accused back into her life and seeking variation to intervention orders, are behaviours that too commonly feature in cases involving serious domestic violence. Abusive and violent relationships give rise to behaviours that to anyone who has not had that experience, may seem simply too odd or counterintuitive to be believed.

R v Trimper **[2020] DCCRM-20-152 (13 May 2020) unpublished sentencing remarks of Chapman J – District Court of South Australia** (sentence)

In sentencing Justice Chapman observed:

In her victim impact statement, the victim says that you isolated her from her friends and family. She was vulnerable. You tried to rationalise your behaviour. It made you feel powerful to see her terrified. She said you made degrading comments and she lost her feeling of safety. It is now hard for her to trust people. She lives with constant triggers for panic as well as flashbacks. She thought your violence and angry outbursts were her fault. She has now learnt a lot about the cycle of violence and control. She wants you to know that this has not just impacted her, but also her family. She is looking forward and trying to start over.

And later:

Mr Trimper, there is no doubt that the offences you committed against the victim are very serious. It concerns me that you have acted in this violent, controlling and disrespectful way to your female partner at such a young age. Your treatment of her is inexcusable.

R v Hanks **[2019] SADC 139 (16 September 2019) – District Court of South Australia** (evidence- complainant/witness credibility)

In her reasons for judgement Chapman J made a number of observations:
As to the complainant's fear of the accused:

> [127] In cross-examination, it was suggested to the complainant the accused did not threaten her with violence in any way if she did not park in that spot. She responded, 'When you're in a domestic violence relationship it gets to the point where they don't need to threaten you. I'm terrified. He controlled absolutely everything that I did, the whole aspect of my life he controlled. I'm not going to argue against him. If he says to me 'Park there', I park there because it's either park there and risk a fine and that later or don't park there and get hit, and to me I take the easy option.'

As to the impact of the complainant's lies on her credibility:

> [159] It is a serious matter for the complainant to have told those lies. I have considered the extent to which her admitted lies impact upon her credibility. Whilst I do not condone or excuse that conduct, there is a credible explanation. She was in a violent and controlling relationship with the accused. She was in fear of him. She knew that if he was angry, she was in danger of being harmed. She adopted behaviours which she believed would minimise his anger. They included not informing on him to the police and doing what she was told to do. I accept her explanation. I do not consider her admitted lies detract from her credibility.

As to the complainant's failure to mention specific incidents to police:

> [176] The accused controlled her through his violence. She tried to manage her safety by doing as he said and by minimising police involvement. I do not consider the failure of the complainant to mention various matters to the police in her subsequent statements about every aspect of the course of events that day (the accused fighting with Mr Cooper; the accused punching her in the car) detracts from her credibility or reliability.

As to the complainant's decision to seek the withdrawal of charges against the accused:

> [203] The fact the complainant changed her mind about pressing charges against the accused and said she was the one to hit the accused does not cause me to doubt her evidence about what happened. This assault is alleged to have occurred against the background of a violent relationship in which the accused controlled and manipulated the complainant. She was scared of him and what he might do to her if she proceeded with charges against him.

R v Booth-Pola **[2019] DCCRM-18-998 (25 September 2019) unpublished sentencing remarks of Tracey J – District Court of South Australia** (sentence)

In sentencing Justice Tracey observed:

> While I accept the more serious deterrent sentences in relation to these types of matters are directed to when courts are dealing with the advances of older, more mature men towards younger females, I do not accept that the nature of your relationship here can be described as being between equals. There was clearly an imbalance in your relationship that led to you taking advantage of a vulnerable teenage girl. Your behaviour has all the hallmarks of wanting to control and humiliate your sexual partner that is all too familiar a feature of domestic violence offending. It is disturbing that someone so young has engaged in this violent behaviour against a young woman.

R v Hanks **[2019] DCCRM-17-1889 (18 December 2019) unpublished sentencing remarks of Chapman J – District Court of South Australia** (sentence)

In sentencing Justice Chapman observed:

> Your former partner, the victim of your offending, prepared a very moving impact statement. She described life with you as degrading, terrifying and humiliating. She said the physical violence with you was torturous and dehumanising. Your emotional violence, threats and taunts made her feel worthless. She said you isolated her from her friends and family. She is left with scars that remind her of the torture that you inflicted on her.
>
> She is struggling to live a normal life and has a constant fear of you being able to find and hurt her.
>
> She said that everyone, including herself, tells her that she deserves good things in her life, but she finds it hard to truly believe that. Sadly, she feels ashamed and embarrassed that she stayed with you for so long. People ask her why she did not just leave. She tried to explain how hard it was for her to get away and how terrifying it was in every attempt. She then starts doubting herself and questioning whether she tried hard enough. She says it took her a long time to stand up to you but she finally did.
>
> She says you need to know she will not allow herself to be treated badly and disrespected ever again. The cloud is gone and she sees what you do. She said today is the day she finally gets to close this book for good and move forward with her life.

And later:

> Make no mistake, Mr Hanks, your offending against your former partner is extremely serious. There has been a lot of focus in the community upon domestic violence in the last few decades, particularly violence perpetrated by men against women. Long gone are the days when that is swept under the carpet because the violence occurred in a domestic setting. No woman should live in fear of their partner. It is a serious crime for a man to cause their partner physical, mental and/or emotional harm, humiliation, anguish and/or terror. The community now has zero tolerance of such abusive, bullying, dominating, controlling and cowardly men.
>
> The victim of your offending is a credit, both to herself and to victims of domestic violence in general. She reported you to the police and had the courage to follow through by getting

into that witness box and telling her story in front of strangers. She was an impressive witness. She is a strong woman.

Protection of the safety of the community is the most important factor in sentencing you for your crimes against her. I think there is a real need for the community to be protected from you.

Tasmania

Supreme Court of Tasmania - Court of Criminal Appeal

Director of Public Prosecution v Johnson **[2020] TASCCA 4 (8 April 2020) – Supreme Court of Tasmania - Court of Criminal Appeal** (sentence)

Wood J considered the appellant's behaviour as an attempt to control and manipulate the complainant to avoid prosecution and that the offender was aware of the danger he posed to the complainant:

[4] His moral culpability with respect to the crimes of assault and indeed, all the offences, was high. Before he committed these crimes, he knew he had reacted with violence towards the complainant in the past and he knew that he was prone to jealousy and possessiveness. In short, he knew he represented a danger to the complainant. … Subsequent to the assaults, his conduct of stalking was domineering, relentless and subsisted over days. The court orders protecting the complainant had no impact on his conduct. He then interfered with the prosecution in a way that was calculated to succeed by sending messages and letters while he was in prison. He was determined to control and manipulate the complainant to avoid prosecution.

Geason J considered Brett J's sentencing comments as to the appellant's attempts to control the victim and his own father with approval:

[29] …During that time, you constantly attempted to contact the complainant by telephoning her, and sending her text messages on numerous occasions. I have been provided with a sample of the text messages. They demonstrate an apparently obsessive persistence in seeking to bend the complainant to your will. There is a mixture of repeated threats and emotional manipulation, all of which are clearly designed to persuade the complainant to continue a relationship with you. It would seem that on occasion the complainant did engage in conversation with you about the future.

However, during this period, she also felt upset, scared and frightened and on at least one occasion, told you to leave her alone.

However, you were also persistent in your efforts to persuade [your father] to do what you wanted, and again relied on a combination of overbearing conduct and emotional manipulation. He attempted to contact the complainant, at your urging, on numerous occasions during the relevant period, although was only successful in actually making contact with her a couple of times.

Geason J considered the suffocation of the victim as a form of controlling behaviour:

> [33] The fact that the respondent's conduct included suffocation has significance to the assessment of the objective seriousness of the offending. Suffocation should be treated with the same level of seriousness as is afforded strangulation or throttling. Such conduct is inherently dangerous, and capable of causing serious consequences within a very short period. It renders victims incapable of acting to protect themselves. As Estcourt J observed in *DPP v Foster* [2019] TASCCA 15 at [26]- [27], it is a form of dominance and control which has the potential to cause grave psychological harm, serious injury and even death.

Geason J identified the stalking as part of pattern of behaviour aimed at controlling the complainant:

> [36] The stalking conduct is to be considered in the context of the earlier assaults and as part of a pattern of behaviour. It evidences the respondent's possessiveness. It was intended to engender fear in the complainant, and to make her comply with his wishes. As the learned sentencing judge noted, some of the messages demonstrated "an obsessive persistence in seeking to bend the complainant to your will.

Director of Public Prosecutions v Foster **[2019] TASCCA 15 (12 September 2019) - Supreme Court of Tasmania - Court of Criminal Appeal** (sentence)

Estcourt J (Brett J and Marshall AJ concurring) observed the controlling nature of strangulation:

> [26] Each of the identified incidents involved vicious and cowardly attacks by the respondent on a woman. Lest it be thought that grabbing the complainant by the throat and applying pressure is somehow less insidious than punching or kicking, it has been noted in an article by Heather Douglas and Robin Fitzgerald entitled "Strangulation, Domestic Violence and the Legal Response", published in the (2014) 36 (2) *Sydney Law Review* 231, that strangulation is a form of power and control that can have devastating psychological long-term effects on its victims in addition to a potentially fatal outcome.

Gregson v Tasmania **[2018] TASCCA 14 (31 August 2018) – Supreme Court of Tasmania - Court of Criminal Appeal** (sentence)

In agreeing with Martin AJ, Geason J observed:

> [4] Violence in relationships takes many forms. In whatever guise, whether physical or psychological, it involves the exertion of power and control over another. The victims of such violence are diminished by it, often succumbing to mental and bodily injuries that ruin their lives.

[5] It is a particularly insidious crime because it is difficult to detect. And an all too common consequence of this abuse is that its victims may be so broken or fearful that they do not report it.

[6] It follows that, in sentencing for offences of this type, general deterrence is a significant factor.

[7] The complainant is entitled to the full protection of the law, and the vindication of this Court.

Director of Public Prosecutions v Karklins **[2018] TASCCA 6 (20 April 2018) – Supreme Court of Tasmania - Court of Criminal Appeal** (sentence)

Geason J commented on the seriousness of systems abuse achieved by emotional manipulation:

[56] The respondent's attempts to frustrate his prosecution should also be seen as particularly serious matters. They were a cynical exercise in emotional blackmail. That these offences occurred while the respondent was subject to an interim family violence order is an aggravating factor. Domestic violence typically occurs behind closed doors, making detection inherently difficult. Relationship dynamics frequently militate against a prosecution. Conduct directed at interfering with the prosecutorial process undermines the system intended to afford protection to victims of violence, making an inherently difficult process more so. When it is effective the opportunity for court intervention is foregone. Such intervention might be lifesaving. This offending should be viewed as striking at the heart of legislative attempts to provide protection to the vulnerable. It should be accepted in cases of family violence that attempts to interfere with the due administration of justice by the means of emotional manipulation of a vulnerable victim is a serious matter the consequences of which will always be severe.

And noted that the lack of express threats to achieve that end was not a mitigating factor:

[86] Finally, I note that in sentencing, the learned sentencing judge said of the respondent's attempts to dissuade the complainant from pursuing a prosecution that, "as to the steps he later took to pressure the complainant to change her story, none of his approaches contained express threats of violence or intimidation". I do not consider that that in any way mitigates the conduct. Such conduct would be aggravating, but the absence of an aggravating feature, does not serve to mitigate the seriousness of the conduct which was admitted. Nor does the observation recognise that intimidation through manipulation can occur by means other than actual threats and violence, a proposition particularly pertinent in the context of relationships.

And required denunciation:

[94] The assaults perpetrated on the complainant were serious. They resulted in her becoming unconscious on two occasions. She feared for her life, and her baby. She was threatened with death. The subsequent interference with the prosecution of this offending

was perpetrated on multiple occasions, and sought to manipulate the complainant by playing upon her vulnerability. The respondent's methods were devious and require the strongest denunciation.

Supreme Court of Tasmania

State of Tasmania v Matthew John Davey **(Sentence) [2021] TASSC unreported (10 December 2021)** (sentence)

Comments on passing sentence per Brett J.

In sentencing Brett J acknowledged the extent of the accused's coercive and controlling behaviours towards the victim:

> … I am satisfied that in your case, the evidence established the tendencies asserted by the prosecution, and that it was these tendencies which defined your approach to the relationship. In particular, I am satisfied that you engaged in a continuous and marked pattern of coercive control over the complainant. I accept the complainant's evidence that you constantly monitored her whereabouts, including by conducting or making her believe that you were conducting electronic surveillance of her communications and movements. You restricted her movements, both by demand but also from time to time by disabling or damaging her motor vehicle. You restricted and controlled her relationships with others, and demanded and expected complete loyalty from her.
>
> You regularly utilised verbal threats and threatening conduct towards her in order to maintain this control. These included threats of burning, or the use of fire against her or her property. On a number of occasions, you made it clear to her that if she ever left you, you would find and kill her. You described to her the very specific ways that you would do this. In my view, the complainant's evidence about the extent of your controlling behaviour was vividly demonstrated by the telephone intercept and listening device recordings, and the surveillance footage, as well as the evidence of independent witnesses who saw particular events. I also accept the evidence of the complainant's mother about this issue. I found her generally to be a credible and reliable witness.

State of Tasmania v Levi Joseph David Hall **(Sentence) [2021] TASSC unreported (27 September 2021)** (sentence)

Comments on passing sentence Pearce J:

> I do not accept the submission however that this is not a serious example of the crime. It is possible to think of factors which might have made the crime even worse, for example permanent or disabling physical injuries or sexual crimes. However, over many months you exposed the complainant to a terrifying and degrading ordeal, apparently without any insight into the seriousness of your offending. You targeted her with the type of violent, abusive and controlling conduct which the community rightly condemns. You betrayed her trust and affection, took advantage of her vulnerability, blamed her for your own acts, all with the intention of making her fearful and compliant.

State of Tasmania v ARJ **(Sentence) [2021] TASSC unreported (11 March 2021) Pearce J - Supreme Court of Tasmania** (complainant/witness credibility)

Pearce J acknowledged that inconsistencies in the victim's accounts of the events did not detract from her credibility:

> (pp2-3) Mindful of the need for care in any case in which the prosecution depends substantially on the evidence of a single witness, the complainant's account was persuasive and compelling. There were some inconsistencies in the accounts she gave over time to the attending police, to the nurse examiner at the hospital, in the statutory declaration she gave to another police officer and her evidence to the jury, but those inconsistencies do not undermine my confidence in her general truthfulness. She was faced with describing highly traumatic events on multiple occasions mostly when she was in stressful and distressing circumstances, and when the specific instances of violence she was asked to identify and detail were, I am satisfied, not the only instances of similar violence she was subjected to during the indictment period. Some confusion or mistake is not inconsistent with the truth of her account.

Baker v Barratt **[2019] TASSC 28 (4 July 2019) –Supreme Court of Tasmania** (accused / witness credibility)

Geason J cited the Magistrate's reasons for decision (which focused on the defendant's controlling behaviour including Visa threats) with approval:

> [12]… The defendant appeared in his video interview to be a controlling person. He admitted that he insulted – sorry, he admitted that he insisted that he owned the two phones, which apparently the couple had between them, he insisted it was his phone, both phones were his phone, and he refused the use of the phone to his partner at will because he owned them, that's what he said. That he would threaten to contact the Immigration officer or the Immigration lawyer if he argued with his partner and gave evidence today that he did on the occasion of the 1st February. He made consistent references – numerous references, I didn't count them but well in excess of twelve references to the fact that she'd lacked respect for him and he didn't receive the respect from the complainant that he deserved. He freely admitted that he called her a cunt but denied that it was abusive and was surprised that the police thought that there was anything untoward in that language. He said that he owed – that she owed everything to him and that she was an ungrateful person. He did however support significant parts of the complainant's evidence and lots of the complainant's isn't really in dispute….
>
> ….The defendant's controlling manner, well I've referred to his own evidence, he denies he controls her, it's quite apparent to me that he does control her and he thinks that she – that she owes him something and that – in his evidence in chief – it was only when I brought up the question of love that he even mentioned it. A fiancé visa's not – this sounds more like a partnership, you keep – you do the right thing by me, you give me some financial support, you drive me around and I'll support you on a fiancé visa. Now he is

controlling, he admits – he doesn't admit he's controlling but what he's admitted to is controlling behaviour and it's consistent again with her version…

Magistrates Court of Tasmania

Lusted v MRB **[2013] TASMC 9 (19 February 2013) –Magistrates Court of Tasmania** (relationship evidence)

Magistrate Pearce admitted relationship evidence:

> [60] I have also determined to admit the relationship evidence. I consider that it is relevant to removing the implausibility that might otherwise be attributed to MG's account of the assaults charged if the assaults were thought to be isolated incidents, and any implausibility associated with the way each party is said to have behaved on those particular occasions. It may be relevant in supporting an inference that the defendant wished to exercise control and domination over the complainant and so acted violently towards her. It also tends to support the prosecution contention that MG feared MRB and, for a period of time, tried to hide what was happening, did not complain to others, lied about what really happened and that she tolerated violence to preserve the relationship.

Magistrate Pearce commented on the difficulty of prosecuting family violence matters:

> [68] … The nature of family violence is that it is difficult to detect and prosecute. It is frequently the case that offences are committed in private and with little or no independent corroborative evidence. Moreover, family violence offences are often characterised by reluctance on the part of the victim to assist in the prosecution of offences. That is so for a range of factors including fear and a wish to preserve relationships, even dysfunctional ones, for the sake of loyalty, affection, companionship, economic and domestic support and in the perceived interest of children. Sometimes those motivations are misguided but persist nevertheless. As a consequence of such factors victims sometimes act in a way that seems to an outside observer to be incongruous and difficult to understand, including by failing to complain about, or hiding or lying about violence directed at them. Even if victims are willing to give evidence then the success of prosecutions depends principally on credibility of the uncorroborated account of the victim, a factor often taken advantage of by perpetrators and further adding to the reluctance of victims to complain.

Victoria

Supreme Court of Victorian - Court of Appeal

Dunford v The Queen **[2021] VSCA 304 (9 November 2021) – Supreme Court of Victoria - Court of Appeal** (sentence)

In relation to the charges of attempt to pervert the course of justice Beach JA observed:

> [25] In relation to the objective seriousness of the applicant's offending and his moral culpability, the judge said:
>
> ……Only five days after you were remanded into custody on these charges, and an intervention order had issued, you were on the phone to your father and your brother asking them to ask the complainant to drop the false imprisonment charge, with a view to minimising the amount of time you would spend in custody for these matters. Though neither proceeded to contact the complainant, I understand another family member did speak to her.

Baker (a pseudonym) v The Queen **[2021] VSCA 158 (9 June 2021) – Supreme Court of Victoria - Court of Appeal** (sentence)

McLeish and Osborn JJA observed:

> [36] Moreover, this offending involved aggravating features which distinguish it from offending of less seriousness. It took place in the context of a history of violence, manipulation and coercion against Ms Anderson and involved an attempt to pervert the course of justice in respect of his own serious offending. That serves to make the attempt itself more serious. Further, the offending had the especially unpleasant features of seeking to exploit Ms Anderson's emotional and psychological vulnerability by threatening her ability to access the ashes of her stillborn child and also threatening her dignity and right to privacy with the exposure of intimate images.
>
> [37] An attempt by a perpetrator of family violence to prevent a victim from seeking the full protection of the law and their physical and emotional safety is a very serious matter which calls for general deterrence and denunciation….
>
> [40] … Charge 8 involved repeated attempts by the applicant to conceal his wrongdoing over the previous 18 months, by means of emotional and physical threats directed at Ms Anderson. It was distinct offending that called for significant additional punishment.

Mercer (a pseudonym) v The Queen **[2021] VSCA 132 (14 May 2021) – Supreme Court of Victoria - Court of Appeal** (sentence)

The court made the following observations relevant to coercive control:

[64] In our view, the answer to the applicant's contention regarding the 'attempt to pervert' sentence is to be found in the judge's sentencing reasons. As noted earlier, her Honour said:

> You attempted to persuade a victim to withdraw her allegation to police. This is reprehensible – it was motivated by your self-interest and need for control. While it was unaccompanied by threats or violence, it was protracted and repeated and it preyed upon [the complainant's] vulnerabilities. And of course it was also committed in breach of your intervention order, which was also unsuccessful in preventing you from continuing to control [her].

[65] In our view, the applicant's persistent and cynical assertion of control over the complainant, and his exploitation of her known vulnerabilities, made this case just as serious as if there had been explicit threats or actual violence. The transcripts of the calls make plain his exertion of coercive psychological pressure on her, encouraging her to think that they can 'work things out' between them and asking questions like 'Do you want me to get out or not?' The fact that the conduct about which he was asking her to lie involved his own criminal violence against her was a further aggravating feature. In our view, the applicant's moral culpability for this offence was high.

Pasinis v The Queen **[2014] VSCA 97 (22 May 2014) – Supreme Court of Victoria - Court of Appeal** (sentence)

Neave JA and Kyrou AJA observed:

> [54] The effects of family violence are now well documented. They are not confined to physical injury. Victims often feel responsible for the violence and ashamed that they were not able to prevent the perpetrator from offending. As occurred in this case, it is common for victims to deny or conceal that their partners have assaulted them until the violence becomes unbearable. This phenomenon was reflected in the behaviour of D, which is described at [5] and [8] to [10] above. Victims who have been dominated, controlled and beaten by their partners over a significant period experience serious and longlasting psychological trauma. As in the present case, the physical effects of the violence and its erosion of the victim's confidence can also affect their ability to participate in paid work and have [o]ther serious financial effects.

Supreme Court of Victoria

The Queen v Donker **[2018] VSC 210 (11 May 2018) – Supreme Court of Victoria** (sentence)

Having outlined a history of controlling and violent behaviour by the deceased towards the accused at [5]-[9] and the physical violence to which the accused was subjected immediately prior to the instant offending Croucher J noted:

> [72] While the law in this State does not excuse anyone – whether of uncommonly sturdy or brittle disposition – from criminal liability for otherwise unlawful actions based on provocation alone, the same law does not demand that victims of abuse of the kind and

extent to which Ms Donker was subjected be super-resilient before provocation can operate in mitigation of sentence. Rather, the law attempts to strike a balance that recognizes human frailty in the face of extremely difficult circumstances, and allows that moral culpability may be reduced in such cases. This is such a case. As I say, I think it is very likely that any ordinary person, facing the circumstances which confronted Ms Donker and fixed with her history of exposure to family violence by Mr Powell, would lose self-control and act in a violent manner towards him.

DPP v Paulino **(Sentence) [2017] VSC 794 (21 December 2017) - Supreme Court of Victoria** (sentence)

In sentencing the accused for murdering his wife Bell J observed:

[27] … The nature and gravity of this offending is significantly aggravated by the considerations to which I have referred, but particularly the contextual considerations, which are quite specific to the crime of murder that you committed as a man upon your estranged wife as a woman. By these I mean the threats that you made towards Teresa, the character assassination with abuse of various kinds, including promiscuity, and spurious allegations of involvement in pornography, the nuisance-calling, following and unwelcome contact, and the breach of the intervention order. These were not random measures but represented a pattern of coercive control. Teresa had a right to personal dignity and autonomy, to physical and psychological integrity and to live an independent and fulfilling life free of fear from your violence. While always being a loving mother to Daniel and Luke, she struggled heroically to realise that life, and won a lot of ground against great odds. She was trying to be a positive role model for her sons. Motivated by jealousy, hatred and rage, you first tried to defeat her and then you punished her, which led to the murder. While the murder would mean that Teresa no longer had a life to live, it was the culmination of a pattern of behaviour aimed at preventing her from living the life she chose. Such was the particular nature of the offending, which is all the more grave for it.

DPP v O'Neill **[2015] VSC 25 (11 February 2015) – Supreme Court of Victoria** (sentence)

In sentencing the accused Hollingworth J noted:

[47] In this case, you acted on impulse, immediately following an argument that had arisen suddenly. The argument involved a repetition of the controlling and belittling behaviour that had characterised Mr Rattle's relationship with you, in a situation where tensions in the relationship seem to have been increasing. This was certainly not the first time he had called you a "frigid bitch" for refusing his sexual advances. But, this time, you snapped. You felt angry and demeaned, that everything always had to be about what he wanted. You had finally had enough. You killed him in the heat of the moment. You then spent the next five days pretending that it hadn't happened, that you hadn't just killed the man you loved and on whom you were so dependent.

[48] Mr Rattle's behaviour in no way justified your killing him. But the circumstances in which you killed Mr Rattle, including the history of the relationship and your fragile

psychological state, mean that the sentence to be imposed for murder must be towards the lower end of the range for that offence.

Western Australia

Supreme Court of Western Australia - Court of Appeal

Lydon v Lydon **[2008] WASCA 8 (8 February 2008) - Supreme Court of Western Australia - Court of Appeal** (evidence underpinning making a protection order).

Le Miere AJA, with whom Pullin JA agreed, considered what is meant by the term 'emotional abuse' in determining whether the appellant had committed an act of family and domestic violence under s 6(1) of the *Restraining Orders Act 1997* (WA).

Le Miere AJA held that:

> [49] Emotional abuse is not defined in the Act. Emotional abuse involves improper or inappropriate behaviour, verbal or non-verbal, that adversely impacts upon another person's emotional wellbeing. Emotional abuse improperly excites strong unwelcome feelings in another. Emotional abuse may involve coercion by intimidation, inducing fear, stalking, or harassment, that is words, conduct or action, usually repeated or persistent that, being directed at a specific person, annoys, alarms or causes substantial emotional distress to that person.
>
> [50] There are two aspects to emotional abuse. The first is the adverse impact upon another person's emotional wellbeing. The second is the behaviour that causes the negative impact upon the emotional wellbeing of another.

Supreme Court of Western Australia

Riddoch v Chiera **[2020] WASC 114 (7 April 2020) – Supreme Court of Western Australia** (sentence)

In holding that the Magistrate's interruptions of counsel's plea in mitigation did not found leave to appeal McGrath J observed:

> [26] His Honour raised with counsel immediately his concerns regarding the description of the relationship as being 'toxic'. His Honour directly challenged counsel as to whether a submission was effectively being made that the victim was to blame. Counsel then positively engaged with the judicial officer, clarifying the submission. I do not accept the contention that the magistrate denied Mr Riddoch the procedural right to agitate an issue in mitigation. Mr Riddoch's counsel reframed this part of her submission, which concerned the improvements Mr Riddoch had made to his life since the offending.

Bropho v Hall **[2015] WASC 50 (9 February 2015) – Supreme Court of Western Australia** (sentence)

Mitchell J (as his Honour then was) considered the impact of the aggravating factor of an assault committed in circumstances of a domestic relationship and observed:

[16] An offence of this nature generally involves an abuse of the trust which one partner places in another, often where the victim is in a vulnerable position by reason of greater physical strength of the offender. The vulnerability of the victim is generally increased by the difficulty which she (it is usually a she) may have in extricating herself from the situation. As McLure P has noted, the readiness of many victims to return to, or remain in, a relationship with the perpetrator is a hallmark of domestic violence. Recognising that common feature, it remains important for a court sentencing an offender for that kind of offence to take account of the need to protect persons in that vulnerable position, so far as the courts can do so by the imposition of a sentence, bearing a proper relationship to the overall criminality of the offence, which has a deterrent effect and, in an appropriate case, removes the offender to a place where there is no opportunity to violently attack their partner.

Family Court of Western Australia

Ahmed and Gupta **[2020] FCWA 140 (31 August 2020) - Family Court of Western Australia** (parenting orders)

Duncanson J observed:

[139] Although I have not been able to make findings as to specific incidents of family violence I am satisfied that the father's controlling behaviour of the mother amounts to family violence perpetrated by him against her. I am unsure as to the extent to which the father's cultural beliefs may have contributed to this. The mother deposed that she believed the father's expectation of bringing her to Australia was so that she could be a domestic help and be a subservient [sic] to him and his brother in the house. In contrast the father said he had been living in Australia for 16 years, Australian culture comes first and the religion is his second option ...

Shelley and Dickens **[2020] FCWA 52 (3 April 2020) – Family Court of Western Australia** (parenting orders)

Tyson J observed:

[241] The father has also behaved in a controlling and coercive manner, which falls within the definition of family violence. For example, he prevented the mother talking to her family by removing the telephone from her on the yacht; he demanded the mother answer his calls when in hospital after G's birth and suggested the maternal grandmother required his permission to provide assistance with meals after G was born.

Dempsey and Brahms **[2017] FCWA 59 (12 May 2017) – Family Court of Western Australia** (parenting orders)

Thakray CJ observed:

> [15] Contrary to what some of his associates and family believe, I find that the father is an aggressive, controlling and manipulative man. He has a propensity to bend the truth, and appears skilled at turning accusations against him back onto the accuser. He demonstrated no insight into the way that he made the lives of the mother and her adult sons (and to a slightly lesser extent his own children) a complete misery. He is quite oblivious to the harm his violent, abusive and controlling behaviour has caused.
>
> [111] The father has engaged in coercive, controlling and abusive behaviour toward the mother and children over many years. Apart from his physical and verbal abuse of the mother, I accept that the father has damaged every vehicle she has ever owned (sometimes when children have been in the vehicle and sometimes when they have been observing).
>
> [112] In my view, all five of the mother's children have suffered psychological harm as a result of their exposure to the father's violence and abuse and the ongoing conflict between the mother and father. This is likely to be one of the main reasons for Child A's poor behaviour and also for Child B's nightmares and long-term self-harming, including her habit, developed very early in life, of twisting her hair until she was almost completely bald on one side of her head. It would seem the child least damaged by the father's behaviour has been Child C who has had significantly less involvement with him than the other children.
>
> [113] I accept that the mother remained in the relationship for as long as she did because of the father's manipulative behaviour and because she considered this was the best way to keep her and the children safe. The father's manipulation has included his efforts to drive a wedge between the mother and her friends and between the mother and the children.
>
> [114] I accept that the father has not been charged with any offences arising out of his conduct towards the mother but that is far from conclusive. As I have mentioned, the father is skilled at deflecting accusations.

Appendix: Cases discussing coercive control by topic.

What is coercive control? Describing and understanding coercive and controlling behavior.		
Jurisdiction	***Issue***	***Page No.***
	Sentencing	
Supreme Court of the Australian Capital Territory	*R v Smith* [2021] ACTSC 114 (3 June 2021) [25]	31
	R v NX [2019] ACTSC 131 (24 May 2019) [31]	31
	R v Brown [2015] ACTSC 65 (5 March 2015) [4]-[5]	32
	Roberts v Smorhun [2013] ACTSC 218 (1 November 2013) [81]-[82]	32
	Purcell v O'Reilly [2018] ACTSC 60 (9 March 2018) [48]	33
Supreme Court of New South Wales - Court of Criminal Appeal	*Yaman v R* [2020] NSWCCA 239 (25 September 2020) at [136]-[137]	34
	R v Hamid [2006] NSWCCA 302 (20 September 2006)	35
District Court of New South Wales	*R v Argyle* [2021] NSWDC 267 (18 June 2021) [50];[69]	35
	R v Duff (a pseudonym) [2021] NSWDC 146 (30 April 2021) [15]-[22]	36
	R v Aumash [2020] NSWDC 168 (1 May 2020) [33]-[34]	37
	R v Bohun [2019] NSWDC 807 (25 October 2019) [33]-[35]	37
Supreme Court of the Northern Territory - Court of Criminal Appeal	*Emitja v The Queen* [2016] NTCCA 4 (21 October 2016) [28]; [29];[52]	38
	The Queen v Haji-Noor [2007] NTCCA 7 (18 May 2007) – Supreme Court of the Northern Territory - Court of Criminal Appeal [31]; [185]	39
Supreme Court of the Northern Territory	*The Queen v Kerridge* SCC21939935 (1 November 2021) (p7)	39
	The Queen v Lynch SCC22033629 (4 October 2021) [2]; [3];[7]	40
Supreme Court of South Australia - Full Court	*Warne v The Queen* [2020] SASCFC 124 (21 December 2020) [51]-[52]	46
	R v Saunders [2017] SASCFC 86 (27 July 2017) [41];[43];[44]	46
	R v Ritter [2016] SASCFC 88 (16 August 2016) [17]-[20]	47
District Court of South Australia	*R v Rogers* [2020] SADC 72 (16 June 2020) [273]	48
	R v Trimper [2020] DCCRM-20-152 (13 May 2020) unpublished sentencing remarks of Chapman J	48
	R v Booth-Pola [2019] DCCRM-18-998 (25 September 2019) unpublished sentencing remarks of Tracey J	49
	R v Hanks [2019] DCCRM-17-1889 (18 December 2019) unpublished sentencing remarks of Chapman J	49
Supreme Court of Tasmania - Court of Criminal Appeal	*Director of Public Prosecution v Johnson* [2020] TASCCA 4 (8 April 2020) [4]; [29];[33];[36]	51
	Director of Public Prosecutions v Foster [2019] TASCCA 15 (12 September 2019) [26]	52
	Gregson v Tasmania [2018] TASCCA 14 (31 August 2018) [4];[5]	52
Supreme Court of Tasmania	*State of Tasmania v Matthew John Davey* (Sentence) [2021] TASSC unreported (10 December 2021)	54
	State of Tasmania v ARJ (Sentence) [2021] TASSC unreported (11 March 2021) Pearce J (p2-3)	55
	Dunford v The Queen [2021] VSCA 304 (9 November 2021) [25]	57

Supreme Court of Victoria - Court of Appeal	*Baker (a pseudonym) v The Queen* [2021] VSCA 158 (9 June 2021) [36];[37];[40]	57
	Mercer (a pseudonym) v The Queen [2021] VSCA 132 (14 May 2021) [64];[65]	57
	Pasinis v The Queen [2014] VSCA 97 (22 May 2014) [54]	58
Supreme Court of Victoria	*The Queen v Donker* [2018] VSC 210 (11 May 2018) [72]	58
	DPP v Paulino (Sentence) [2017] VSC 794 (21 December 2017) [27]	59
	DPP v O'Neill [2015] VSC 25 (11 February 2015)	59
Supreme Court of Western Australia	*Riddoch v Chiera* [2020] WASC 114 (7 April 2020) [26]	61
	Bropho v Hall [2015] WASC 50 (9 February 2015)	61
Evidence		
Magistrates Court of the Australian Capital Territory	*Love v Kumar* [2018] ACTMC 23 (31 October 2018) [207], [209] (evidence of coercive control)	33
Supreme Court of New South Wales - Court of Criminal Appeal	*Le v R* [2020] NSWCCA 238 (23 September 2020) [215]; [223];[225] (complainant/witness credibility)	34
Queensland District Court	*MNT v MEE* [2020] QDC 126 (20 May 2020) [75];[77][79]; [81];[83] (evidence underpinning making a protection order).	42
	CPS v CNJ [2014] QDC 47 (21 March 2014) (evidence underpinning making a protection order).	43
	SHW v ABC [2021] QDC 151 (13 August 2021) (evidence underpinning making a protection order).	44
Queensland Civil and Administrative Tribunal	*NK v Director-General, Department of Justice and Attorney-General* [2021] QCAT 270 (30 July 2021) [18]-[19] (working with children application)	44
District Court of South Australia	*R v Hanks* [2019] SADC 139 (16 September 2019) [127]; [159]; [176];[203] (complainant/ witness credibility)	50
Supreme Court of Tasmania	*State of Tasmania v ARJ* (Sentence) [2021] TASSC unreported (11 March 2021) Pearce J (p2-3) (complainant/ witness credibility)	55
	Baker v Barratt [2019] TASSC 28 (4 July 2019) [12] (accused/ witness credibility)	55
Magistrates Court of Tasmania	*Lusted v MRB* [2013] TASMC 9 (19 February 2013) [60]; [68] (relationship evidence)	56
Supreme Court of Western Australia - Court of Appeal	*Lydon v Lydon* [2008] WASCA 8 (8 February 2008) [49]-[50] (evidence underpinning making a protection order).	61
Use of legal system and process as part of coercive control		
Family Court of Australia	*Behn & Ziomek* [2019] FamCA 298 (10 May 2019) [245]-[247] (parenting orders)	29
District Court of Queensland	*MAA v SAG* [2013] QDC 31(28 February 2013) [44] (protection order)	43
Queensland Civil and Administrative Tribunal	*Applicant SIL v Scheme Manager, Victim Assist Queensland, Department of Justice and Attorney-General* [2021] QCAT 237 (13 July 2021) [41] (victim's assistance)	45
Supreme Court of Tasmania - Court of Criminal Appeal	*Director of Public Prosecutions v Karklins* [2018] TASCCA 6 (20 April 2018) [56]; [94] (sentence)	53

Inquest		
Coroners Court, Northern Territory	*Inquest into the Death of HD (Name Suppressed)* [2021] NTLC 029 Inquest	41
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Family Court of Australia	*Behn & Ziomek* [2019] FamCA 298 (10 May 2019) [245]-[247]	29
	Garrod & Davenort [2018] FamCA 825 (12 October 2018) [219][220]	30
Federal Magistrates Court of Australia	*Heilig & Cabiness* [2011] FMCAfam 97 (2 March 2011) [10]; [30]	30
Family Court of Western Australia	*Ahmed and Gupta* [2020] FCWA 140 (31 August 2020) [139]	62
	Shelley and Dickens [2020] FCWA 52 (3 April 2020) [15];[111]-[114]	62
	Dempsey and Brahms [2017] FCWA 59 (12 May 2017) – Family Court of Western Australia	63

Note: For cases discussing relationship, context, tendency and coincidence evidence in the context of domestic and family violence, see National Domestic and Family Violence Bench Book https://dfvbenchbook.aija.org.au/ [9.2.1] -> Cases