Communities and Justice

NSW GOVERNMENT

Supporting victim-survivors to report coercive control to police

Tip sheet for frontline Domestic, Family and Sexual Violence practitioners to support victim-survivors of coercive control

Coercive control is when someone repeatedly hurts, scares or isolates another person to control them. It's domestic abuse and can cause serious harm.

In NSW, coercive control in current or former intimate partner relationships is a crime and can be reported to the NSW Police Force (police).

This tip sheet has been developed by the Department of Communities and Justice (DCJ) and the police. It aims to provide guidance to Domestic, Family and Sexual Violence (DFSV) practitioners who work with victim-survivors experiencing coercive control, who want to make a report to the police.

The tip sheet outlines:

- the coercive control offence in NSW
- examples of coercive and controlling behaviours
- what to expect when reporting coercive control to police
- advice on supporting victim-survivor making a report to police.

This tip sheet is not legal advice. Legal advice can be sought from Legal Aid NSW Domestic Violence Unit on 1800 979 529.

In this tip sheet, the terms:

- 'victim-survivor' refers to the person experiencing coercive control and who may be working with a DFSV practitioner.
- 'intimate partner' refers to people who are or have been married, in a de facto relationship, or an intimate personal relationship, whether or not the intimate relationship involves/ed a relationship of a sexual nature.

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What is the coercive control offence in NSW?

On 1 July 2024, coercive control in current or former intimate partner relationships became a criminal offence in NSW. The coercive control offence is called ‘Abusive behaviour towards current or former intimate partners’ under Division 6A of the Crimes Act 1900. The offence is punishable by up to seven years imprisonment.

The offence applies when an adult repeatedly engages in a pattern of abusive behaviour against a current or former intimate partner with the intention to coerce or control them.

Abusive behaviour consists of:

- violence or threats against, or intimidation of a person and/or
- coercion and/or control of the person who the behaviour is directed against.

Additionally, the prosecution must prove that a reasonable person would consider the abusive behaviour likely, in all the circumstances, to cause:

- fear that violence will be used against the complainant or another person (e.g. a child), and/or
- a serious adverse impact on the complainant’s capacity to engage in some or all of their ordinary day-to-day activities.

The prosecution does not have to prove the fear or impact was caused.

What are some examples of coercive and controlling behaviours?

Coercive control can include various types of physical or non-physical abuse. It can look different in every relationship. Some coercive and controlling behaviours can seem minor on their own but can cause serious harm when combined with other behaviours, or when the conduct is repeated over time.

Coercive control can be difficult to spot as it can be subtle and often happens slowly.

Coercive and controlling behaviours may include:

- deliberately harming a person’s mental health or emotional wellbeing e.g. constantly insulting and criticising someone, denying, changing or manipulating the truth of a situation to make the other person doubt their memories, perceptions and experiences (gaslighting)
- shaming, humiliating or belittling someone e.g. sharing private information about them or making jokes that harm their self-esteem and dignity
- using violence to hurt, control or intimidate someone e.g. physically hurting a person in any way, throwing or breaking things, or driving recklessly to make someone feel unsafe.
- making threats e.g. threatening to withdraw visa sponsorship, threatening self-harm as a way of controlling or manipulating the other person
- isolating someone from their friends, family and community e.g. taking away their phone so they can’t contact family and friends
- limiting someone’s freedom and independence or controlling their day-to-day choices e.g. making rules about what they can wear or preventing the person from leaving the house or going out alone
- controlling or limiting someone’s access to money or their ability to make money e.g. not allowing them to work outside the home to earn money
- monitoring or tracking someone’s activities, communications or movements in person or online e.g. reading their emails and text messages without their permission

- isolating someone from their culture or community or preventing them from expressing their cultural or spiritual identity e.g. not letting them speak their cultural language
- pressuring or forcing someone into sexual activity or controlling their reproductive choices e.g. making rules about when someone must have sex
- using systems, services and processes to threaten, manipulate or control another person e.g. making false reports to child protective or immigration services
- abusing children e.g. using a parent or caregiver's emotional bond with a child to control or intimidate them, abusing the parent or caregiver in front of the child so they see, hear and experience the abuse, and/or other forms of abusive behaviour aimed at the child directly, including threats, humiliation, monitoring, and physical abuse of the child
- abusing animals by using the emotional bond a person has with an animal to intimidate or control the person, e.g. selling or giving away a person's pet without their permission, hurting, threatening or killing someone's pet.

The offence only applies to current or former intimate partner relationships.

Coercive control is wrong in any relationship, but it is a criminal offence in NSW when a person uses these behaviours towards a current or former intimate partner. The law only applies to abusive behaviour that happens after 1 July 2024.

Other offences may still apply when coercive control is used in other types of relationships or if behaviour occurred prior to 1 July 2024. It can happen when people are casually dating, in a serious relationship or separated. The abusive person could also be a family member, co-resident or someone who provides care. Any form of abuse should be reported to police.

What steps may be followed when coercive control is reported to police?

It is the function of the police to investigate all criminal matters including coercive and controlling behaviours. DFSV practitioners and victim-survivors should not conduct their own investigations into coercive control as this could impact a criminal investigation.

Police will conduct a thorough investigation of all reported domestic and family violence, including coercive control.

The police investigation may include:

- obtaining a statement from the victim-survivor and witnesses
- gathering physical and non-physical evidence
- assessment of the appropriate offence based on the evidence available
- applying for an Apprehended Domestic Violence Order (ADVO) to increase the protection of the victim-survivor and any children, where sufficient grounds exist
- laying charges, where sufficient evidence exists to support a domestic violence offence (a coercive control charge may not always be the most appropriate offence, based on the evidence)
- providing the victim-survivor with police contact details and regular updates on the progress of the information.

How can I support victim-survivors who want to report coercive control to police?

Victim-survivor safety is the primary consideration. Victim-survivors should be supported if they choose to report domestic abuse to police, including to access an interpreter if required. Victim-survivors can report domestic abuse to police at any time without any supporting documentation. The police conduct thorough investigations into allegations made with the emphasis being on the victim-survivor's safety.

A DFSV practitioner may support an investigation by providing relevant documentation or a statement to police. This documentation, which may include case notes, may support the victim-survivor's report. Before providing case notes or a statement to police, DFSV practitioners should refer to their organisation's relevant policies and seek additional guidance as required on limitations on disclosure, such as consent requirements or the implications of disclosing confidential communications or those that may be covered by legal concept of 'privilege', including sexual assault communications privilege.

Examples of supporting information and documentation which may assist police investigations into domestic abuse include:

- emails, texts, phone calls, voicemail messages, social media messages/posts
- records of dates, times, places and details of behaviour and interactions in timeline order
- financial, medical, and employment records
- photographs (inc. property damage, personal injury etc.), CCTV footage
- documentation of emotional and / or physical abuse of other family members including children
- diary entries from the victim-survivor
- records of interactions with Police, support services and helplines
- applications or documents related to Government benefits e.g., housing, Centrelink
- results of IT 'sweeps' for spyware/malware/tracking/recording devices – at home, in cars, on phones, laptops
- documentation of animal abuse and neglect.

How should I prepare case notes which may be subject to criminal proceedings?

Case notes may benefit from the following inclusions:

- objective descriptions and facts
- first person quotes and expert opinion
- details of the emotional, psychological and behavioural reactions to the abusive behaviours
- details of the impact of abusive behaviours on the victim-survivor and family members including children
- witnesses who may be able to support the client's account
- updates as regularly as possible.

Should I advise victim-survivors to keep records?

If it is safe to do so:

- support victim-survivors to create logs and diary entries with methods to maintain their privacy, safety and avoid escalating behaviour by the perpetrator
- save all relevant documentation– you may need to take a photo, complete screenshots or print records (e.g. screenshots/prints of messages, contact lists and call logs). Do not delete these items.
- consider methods of preserving records (e.g. a 'preservation letter' to telco or social media profile/activity information such as Facebook's 'Download Your Information' function).

Maintaining and keeping records, including with Empower You:
Records can be kept in a traditional format (using paper and pencil) or electronically (for example in the 'Empower You' application (app)).

The 'Empower You' app is available in 11 languages and enables victim-survivors to maintain an electronic record of historical and/or current incidents (including photographs, emails and text messages). The 'Empower You' app also has a comprehensive list of support services. The app is not monitored by police or stored via a cloud service. All data is maintained by the user, stored on the device and can be secured by password.

What other laws may apply if coercive control is reported to police?

Where a charge is laid for a 'domestic violence offence', powers and laws can apply including:

- ADVOs, which are court or police orders that aim to protect a person from someone they are or were in a domestic relationship with by restricting or prohibiting the perpetrator from engaging in certain behaviour. Breaching the terms of an ADVO is a criminal offence. An ADVO can be made where a person fears on reasonable grounds the other person will commit a 'domestic violence offence' against them
- special police powers to investigate domestic violence offences, such as powers to seize and detain firearms.

Where matters proceed to court, the following may apply:

- police in certain circumstances can use video or audio recording of statements from a victim survivor as evidence in chief during court cases for domestic violence offences and related ADVO proceedings
- protections for complainants in court such as the right to have a closed court, a support person present when giving evidence, and giving evidence remotely or through other arrangements. Mandatory warnings by the Judge to the jury about considering absence of or delays in complaining about a domestic violence offence may also apply.
- sentencing presumptions that a person convicted of a domestic violence offence will be sentenced to full time detention or a supervised order unless the court considers another sentence is more appropriate and gives reasons for this.

Children and young people's safety and wellbeing:

- Practitioners are required by law to report suspected child abuse and neglect to government authorities. The Child Protection Helpline is available 24/7 on 13 21 11
- When mandatory reporters have concerns about the safety, welfare or wellbeing of a child or young person, including as a result of domestic abuse, they should consult their service's policies and use the NSW Mandatory Reporter Guide to determine whether a report to the Child Protection Helpline is needed; and identify alternative responses and supports.

How can additional support be accessed?

If a victim-survivor is in immediate danger, call the Police on Triple Zero (000).

For additional or after hours support with coercive control, victim-survivors can call 1800RESPECT on 1800 737 732 or visit 1800respect.org.au for support and information. They are available 24/7.

Men who use abuse in their relationships and are seeking to change their behaviour can call the Men's Referral Service on 1300 766 491 or visit www.ntv.org/mrs for support. This is a free, confidential and anonymous service available 24/7.

Additional information and links

For information on supporting victim-survivors whose case proceeds to court, and who may be required to give evidence in court, visit the Legal Aid website.

For more information on coercive control and examples of abusive behaviours visit the NSW Government's coercive control website.

For information about privacy and the Sexual Assault Communications Privilege Service, refer to this Subpoena Survival Guide.

For more information on the 'Empower You' app privacy policy please review: Privacy Policy - "Empower You" app.

To learn more about how to download information from Facebook for record keeping purposes, download this Facebook guide.

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