

# Why is it important to better understand and assess coercive control within law enforcement in Canada?

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## The problem

Coercive control involves a range of physical and non-physical tactics of abuse that aim to instill fear in the victim as well as remove their autonomy, liberty, and the capacity to think for themselves and make decisions, impacts that all cumulate over a period of time.<sup>1</sup> The Canadian criminal justice system; however, treats intimate partner violence (IPV) as an episodic event, failing to address or provide the capacity to recognize these repetitive tactics of abuse that include exploitation, isolation, and the micro regulation of everyday life.<sup>2</sup> There may not be any visible form of physical violence or a threat of physical violence, but the fear for the victim is real.

As the first point of contact when responding to a domestic call, police officers have a responsibility to determine when IPV is present, including coercive control and the severity of risk posed to the victim.

## Current legislative gaps in responding to coercive control

The Canadian government does recognize that coercive control is part of the dynamic of abuse in intimate partner relationships.<sup>3</sup> However, to date, there has been no discussion about how to incorporate coercive control within the *Criminal Code of Canada*. With such absence, cases involving these tactics of abuse are deprived of an effective judicial system response.

The current criminal code offences that are used to prosecute IPV perpetrators rely heavily on the presence of physical altercations and treat such events as an isolated incident. Arguably, section 264 (criminal harassment) recognizes the pattern of repeat behaviours; however, this section does not encapsulate all forms of behaviour that constitute coercive control.<sup>4</sup>

## Coercive control in other countries

The importance and prevalence of coercive control is currently recognized in other countries. England and Wales adopted the first coercive control offence in 2015,<sup>5</sup> followed by both Ireland<sup>6</sup> and Scotland<sup>7</sup> in 2019. These offences close a gap that is not covered by criminal harassment and emphasize patterns of harm towards a victim that are repetitive and continuous. These laws demonstrate that it is possible to create legislation that approaches IPV as a pattern of behaviour rather than a single incident.<sup>8</sup>

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1 Arnold, G. (2009) A battered women's movement perspective of coercive control. *Violence Against Women*, 15(2), 1432-1443; Bettinson, V. (2016) Criminalising coercive control in domestic violence cases: Should Scotland follow the path of England and Wales? *Criminal Law Review*, 3, 165-180; Stark, E. (2007) *Coercive control: How men entrap women in personal life*. Oxford University Press.

2 Gill, C., & Aspinall, M. (2020) *Understanding coercive control in the context of intimate partner violence in Canada: How to address the issue through the criminal justice system?* Report prepared for the Office of the Federal Ombudsman for Victims of Crime, Department of Justice Canada

3 Department of Justice (2015). *Enhancing safety: When domestic violence cases are in multiple legal systems (criminal, family, child protection): A family law, domestic violence perspective*. Government of Canada.

4 Gill, C., & Aspinall, M. (2020). *Understanding coercive control*

5 Serious Crime Act (2015). Retrieved from <https://www.legislation.gov.uk/ukpga/2015/9/section/76/enacted>

6 Domestic Violence Act (2018). Retrieved from <http://www.irishstatutebook.ie/eli/2018/act/6/enacted/en/html>

7 Domestic Abuse (Scotland) Act. (2018). Retrieved from <http://www.legislation.gov.uk/asp/2018/5/contents/enacted>

8 Gill, C., & Aspinall, M. (2020). *Understanding coercive control*

## Policing and risk assessment

In addition to determining whether an IPV incident warrants criminalization, police officers are often expected to conduct risk assessments on scene. Purposes of assessing risk are to prevent reoffending and escalation of violence, hold perpetrators accountable for their behaviour, and to help with decision making regarding the victim's safety needs and the perpetrators arrest and release conditions.<sup>9</sup> However, like many of the criminal code offences, the most widely used risk assessments in North America emphasize physical violence which leads to the minimization of non-physical tactics of abuse.

## Implications

Police officers have a responsibility for assessing and managing the risks that are posed by IPV perpetrators,<sup>10</sup> yet the perceptions of what constitutes IPV may be strongly influenced by legislative definitions and the content provided within risk assessment tools.<sup>11</sup> Research has identified that victims are contacting the police when they perceive the situation is escalating or becoming life-threatening.<sup>12</sup> A review of femicide cases in Canada confirmed that coercive control tactics had been used by the perpetrators prior to the victims death,<sup>13</sup> and interviews with police officers in the United Kingdom identified that many domestic homicide cases were initially analyzed as "low-risk".<sup>14</sup>

What is perceived to be life-threatening by a victim may be perceived as minor in the eyes of a responding police officer if they do not recognize the severity of non-physical tactics of abuse and the context in which they occur.<sup>15</sup> Focusing solely on individual incidents allows for the disregard of escalating patterns of violence, the dynamics of abuse, and further understanding about barriers that prevent victims from leaving.<sup>16</sup>

## What impact will this have?

It is important to consider how coercive control is understood and assessed by law enforcement in Canada as police officers are the first ones to determine if IPV is present, even in situations where physical violence is not evident. As Brennan et al (2019: 647) stated "if they get it wrong at that first point of contact then you're sending the wrong resource or you're not sending another resource at all, you're not correctly identifying the risk".<sup>17</sup>

Defining IPV as "coercive control" will improve the focus on the experiences of victims, will allow space for their stories to be told, and place a spotlight on the impact that coercive control has on a daily basis.<sup>18</sup> Shifting the paradigm of how IPV is viewed and understood by the judicial system will better prepare police officers to respond to more complex situations, which will ultimately increase the safety for all involved.

<sup>9</sup> Hart, S. D. (2010). *The critical role of perpetrator risk, victim vulnerability & community support factors*. Paper presented at the Second Annual Canadian Domestic Homicide Prevention Conference, Calgary, Alberta; Northcott, M. (2012). *Intimate partner violence risk assessment tools: A review*. Department of Justice: Research and Statistics Division; Robinson, A. L., Pinchevsky, G. M., & Guthrie, J. A. (2018). A small constellation: Risk factors informing police perceptions of domestic abuse. *Policing and Society*, 28(2), 189-204.

<sup>10</sup> Belfrage, H., Strand, S., Storey, J. E., Gibas, A. L., Kropp, R. P., & Hart, S. D. (2012). Assessment and management of risk for intimate partner violence by police officers using the spousal assault risk assessment guide. *Law and Human Behaviour*, 36(1), 60-67.

<sup>11</sup> Gill, C., Campbell, M. A., & Ballucci, D. (2019). Police officers' definitions and understandings of intimate partner violence in New Brunswick, Canada. *The Police Journal: Theory, Practice and Principles*, 1-20.

<sup>12</sup> Meyer, S. (2011). Seeking help for intimate partner violence: Victims' experiences when approaching the criminal justice system for IPV-related support and protection in an Australian jurisdiction. *Feminist Criminology*, 6(4), 268-290.

<sup>13</sup> Dawson, M., Sutton, D., Carrigan, M., Grand' Maison, V., Bader, D., Zecha, A., & Boyd, C. (2019). *#CallItFemicide: Understanding gender-related killings of women and girls in Canada 2019*. Canadian Femicide Observatory for Justice and Accountability.

<sup>14</sup> Wiener, C. (2017). Seeing what is "invisible in plain sight": Policing coercive control. *The Howard Journal of Crime and Justice*, 56(4), 500-515.

<sup>15</sup> Bishop, C., & Bettinson, V. (2018). Evidencing domestic violence, including behaviour that falls under the new offence of "controlling or coercive behaviour". *The International Journal of Evidence & Proof*, 22(1), 3-29; Crossman, K. A., Hardesty, J. L., & Raffaelli, M. (2016). "He could scare me without laying a hand on me": Mothers' experiences of nonviolent coercive control during marriage and after separation. *Violence Against Women*, 22(4), 454-473; Wiener, C. (2017). Seeing what is "invisible in plain sight".

<sup>16</sup> DeJong, C., Burgess-Proctor, A., & Elis, L. (2008). Police officer perceptions of intimate partner violence: An analysis of observational data. *Violence and Victims*, 23(6), 683-696; Gill et al., (2019) Police officers definitions

<sup>17</sup> Brennan, I. R., Burton, V., Gormally, S., & O'Leary, N. (2019). Service provider difficulties in operationalizing coercive control. *Violence Against Women*, 25(6), 635-653.

<sup>18</sup> Tuerkheimer, D. (2007). Renewing the call to criminalize domestic violence: An assessment three years later. *George Washington Law Review*, 75, 613-626; Walklate, S., & Fitz-Gibbon, K. (2019). The criminalisation of coercive control: The power of law? *International Journal for Crime, Justice and Social Democracy*, 8(4), 94-108