



Submission cover sheet

Inquiry into the Crimes (Coercive Control) Amendment Bill 2026

Submission number: 013

Submitter: ANU Centre for Social Policy Research

Date authorised for publication: 5 August 2026



Australian
National
University

Submission to the Standing Committee inquiry into the Crimes (Coercive Control) Amendment Bill 2026 (ACT)

Submitted by Dr Hayley Boxall^a and Professor Lorana Bartels^b

Senior Research Fellow, POLIS@ANU: The Centre for Social Policy Research, Australian National University

Professor of Criminology, POLIS@ANU: The Centre for Social Policy Research, Australian National University

Summary of recommendations

This submission raises four principal concerns with the Bill as currently drafted and recommends that the Committee:

- Reconsider the fault element in proposed section 72J(1)(c), given the evidentiary difficulty of proving intent to coerce or control even where a perpetrator is conscious of their own motivations, and the risk that this requirement functions inconsistently — too weak a shield for defendants whose conduct is not intentionally coercive, and too high a bar for prosecutors seeking to hold accountable defendants who are adept at constructing an alternative narrative.
- Require the ACT Government to demonstrate how the resourcing of this offence sits alongside, rather than in place of, investment in interventions with a more established evidence base for improving victim-survivor safety and perpetrator accountability, including expanded men's behaviour change programs, and refuges and supported accommodation.
- Require that the Bill or accompanying regulations, rather than operational guidance alone, include an explicit mechanism for identifying the person most in need of protection before a charge proceeds, to reduce the risk of victim-survivors being misidentified as primary aggressors — a risk this submission argues is currently unaddressed on the face of the Bill.
- Direct the section 72K review to specifically examine implementation issues for defendants with neurodevelopmental and cognitive disorders, and require judicial and police education on coercive control to include disability-specific content.

1. Introduction and expertise

This submission addresses the Crimes (Coercive Control) Amendment Bill 2026 (ACT) (the Bill), which would insert a new offence of coercive control of a family member into the *Crimes Act 1900* (ACT).

Dr Boxall is a Senior Research Fellow at POLIS@ANU: The Centre for Social Policy Research at the Australian National University (POLIS) and a nationally and internationally recognised criminologist specialising in domestic and family violence (DFV). Their research focuses on the life-course trajectories of DFV perpetrators, intimate partner homicide, and desistance, and they have developed a relational and life-course perspective on DFV perpetration and behaviour change that has informed national policy. Over the past decade they have published more than 30 peer-reviewed articles, multiple book chapters and a sole-authored monograph, and in the last three years have secured over \$1 million in competitive research funding, including projects commissioned by ANROWS, the ACT Government and the Queensland Department of Justice. Their work is cited in the *National Plan to End Violence Against Women and Children* and they are regularly asked to provide expert advice to government departments and service providers, including as an advisor to the Queensland and ACT Domestic and Family Violence Death Review and Advisory Boards.

Lorana Bartels is a Professor of Criminology at POLIS, Adjunct Professor of Law at the University of Canberra and University of Tasmania and Fellow of the Australian Academy of Law. Professor Bartels has published five books, over 135 peer-reviewed journal articles and book chapters, and numerous consultancy reports for the ACT, Australian, Queensland, Victorian and Tasmanian governments. She has worked in a range of criminal justice roles for over 25 years, including coordinating a DFV stakeholder committee for the New South Wales (NSW) Attorney-General's Department and working on DFV-related cases at the NSW Office of the Director of Public Prosecutions and Public Defenders and Family Court of Australia. She has undertaken extensive DFV-related research in her roles at the Australian Institute of Criminology and as an academic, including leading the 2019 review of the *Family Violence Act 2016* (ACT) for the ACT Government.

We support the ACT Government's intention to strengthen the legal system's response to coercive control. However, we raise four concerns about the Bill as drafted:

- the difficulty of proving the proposed intent requirement;
- the risk that criminalisation without adequate DFV service funding may be counterproductive;
- the absence of any safeguard against the misidentification of victim-survivors as offenders, a risk that falls disproportionately on Aboriginal and Torres Strait Islander women; and
- the implications of the reform for defendants with neurodevelopmental and cognitive disorders.

We discuss each of these issues in more detail below.

2. The intent requirement sets a high and difficult-to-satisfy evidentiary bar

Proposed section 72J(1)(c) requires the prosecution to prove that the defendant intended the course of conduct to coerce or control the family member. This mirrors the approach taken in NSW and departs from the tests adopted in England and Wales (knowledge, ie whether the defendant knew or ought reasonably to have known the conduct would have a serious effect on the complainant) and Scotland (recklessness).

As we have articulated previously (see Cowey, Bartels & Boxall 2025), ascribing motivation to a person accused of coercive or controlling behaviour is notoriously difficult, for reasons that go beyond a perpetrator's incentive to minimise or deny. People who use these behaviours often find it difficult to articulate why they are abusive towards their partners, even when they recognise the behaviour is not making them happy and/or feel ashamed of it. Where someone is conscious of their motivations, they may construct — consciously or not — an alternative narrative, both to others and to themselves, that reframes their conduct as a response to provocation, rather than a bid for control. This is consistent with the broader feminist literature on how perpetrators of intimate partner violence account for their own conduct.

This has two consequences the Committee should weigh. First, an intent requirement risks under-enforcement: prosecutors may be reluctant to proceed, and factfinders reluctant to convict, whenever an intelligible alternative account of the conduct — as emotional dysregulation, poor communication, or a response to relationship stress — can be advanced, even where the conduct meets every other element of the offence. Second, and specifically relevant to the population our research often examines, some conduct that meets the behavioural elements of the offence may be genuinely motivated by something other than a desire to coerce or control, for example, by the rigidity, sensory sensitivity, or difficulty with goal-directed flexibility associated with some neurodevelopmental and cognitive disorders. This means the requirement functions inconsistently: too weak a shield for defendants whose conduct is not intentionally coercive and too high a bar for prosecutors seeking to hold accountable those defendants who are simply adept at constructing an alternative narrative.

3. Comparative experience suggests intent-based offences struggle for uptake

The early data from NSW, where the equivalent intent-based offence commenced on 1 July 2024, illustrate the practical implications of this approach. The NSW Bureau of Crime Statistics and Research publishes quarterly data on this offence and its June 2026 report records only 231 coercive control incidents in the 12 months to March 2025, rising to 347 in the 12 months to March 2026. Over the same 12-month period, NSW Police recorded 38,314 total domestic violence (DV) assault incidents and 26,179

incidents of DV intimidation, stalking and harassment, a category of conduct that substantially overlaps, conceptually, with coercive control. Coercive control charges are therefore running at roughly 1% of the volume of the closest comparable offence category.

Some of this gap will reflect the normal ramp-up period following commencement of any new offence, as police develop familiarity with identifying and charging it. However, the year-on-year increase (231 to 347), although sizeable in its own right, is modest against a system recording tens of thousands of DFV assaults annually and does not on its own suggest the offence is approaching the scale of the conduct it is intended to capture. While BOCSAR's report does not identify a cause for the low volume, it is, in our assessment, consistent with the evidentiary difficulty described above, and with earlier commentary that the NSW intent requirement would make the offence a challenging charge to successfully prosecute and could minimise the practical impact of the legislation.

We **recommend** that the Committee treat this as a live risk for the ACT offence as drafted, given the two provisions share the same fault element, and consider directing the section 72K review to specifically report on charge and prosecution rates relative to other DFV offence categories.

4. Symbolic reform without commensurate service investment risks reinforcing social entrapment

Research by Fitz-Gibbon et al (2024) on victim-survivors' views of the need for, benefits, risks and impacts of coercive control criminalisation has found that victim-survivor safety was consistently identified as the least likely benefit of criminalisation, even among those who supported such reforms. Many participants who supported criminalisation did so because they believed it would improve community understanding and awareness of coercive control and would improve the system for future victim-survivors, not because they believed it would have improved their own safety. Importantly, this same body of research found that victim-survivors themselves identified specific risks associated with criminalisation, including concern that the offence would not be used in practice and could increase the risk of victim-survivors being misidentified as perpetrators. These are not merely risks identified by researchers or advocates from the outside; they are concerns raised directly by the population the legislation is intended to protect. As such, we **recommend** the Committee give them significant weight.

This creates a specific risk, when criminalisation proceeds alongside constraints on specialist DFV service capacity. Laws of this nature have an important normative function, but if the legislation succeeds in its stated aim of improving community and system awareness of coercive control, it may prompt more victim-survivors to identify what they are experiencing and seek support. If that support is not forthcoming — whether because of service capacity constraints or because misidentification (discussed further below) leads services or police to treat the victim-survivor as the

respondent, rather than the person in need of protection — the effect may be a chilling one: victim-survivors who reach out and are failed by the system may be less likely to seek help in future. This dynamic is consistent with the concept of social entrapment developed by Julie Tolmie and colleagues, which highlights how legal and service systems can themselves function as a mechanism that entraps women in abusive relationships, independent of the abuser's own conduct.

More fundamentally, the Committee should weigh the opportunity cost of this legislation. The desire for symbolic law reform that signals community condemnation of coercive control is understandable; we do not doubt the Government's good faith in pursuing it. However, the evidence set out in this submission together suggests that a standalone criminal offence is unlikely, on its own, to be the intervention that most improves the safety of people experiencing coercive control. The resources required to implement this offence (police and prosecutorial training, court time, the advisory committee and statutory review provided for in proposed Part 21 and section 72K) represent a choice about where scarce DFV funding is directed. This is particularly noteworthy, given recent discussion about the dearth of support for DFV victims (see eg Fenwicke, 2026) and demand on victim services generally (see eg [Savyasachi](#), 2026).

We therefore **recommend** the Committee consider whether some portion of that investment would deliver greater safety returns, if directed instead towards interventions with a more established evidence base for improving victim-survivor safety and supporting perpetrator accountability and behaviour change, including:

- expanded provision of men's behaviour change programs in the ACT, so that referral pathways (including any arising from this Bill) are not limited by service capacity;
- increased funding for refuges and supported accommodation, so that leaving a coercively controlling relationship is a practical option, rather than a theoretical one; and
- dedicated in-patient treatment capacity for men who use violence and are also affected by mental health, alcohol and/or drug dependence, given the well-established associations, for example between substance use and both the frequency and severity of DFV.

None of this is an argument against the Bill's underlying objective. Instead, we are reinforcing that criminalisation should not be treated as a substitute for adequate investment in wraparound support services, and the Committee should ensure the ACT Government demonstrates how the resourcing of this offence sits alongside, rather than in place of, funding for these more evidence-based interventions.

5. The Bill contains no safeguard against misidentification of victim-survivors as respondents

A recurring and well-documented risk in DFV systems generally, and one with particular salience for coercive control offences, is the misidentification of the primary victim-survivor as the primary aggressor. Misidentification occurs when a victim-survivor is wrongly identified as the perpetrator, or as engaging in ‘mutual’ violence, typically because a system response focuses on a single incident, rather than the pattern of coercive control operating within the relationship (Brown & Boxall, 2026). Perpetrators frequently engage in image management or systems abuse — for example, presenting as calm and cooperative, pre-emptively accusing the victim-survivor of instability or aggression, or deliberately using police, child protection and family law processes as tools of continued control — which can lead authorities to misidentify the person most in need of protection.

The consequences of misidentification are severe: victim-survivors may face criminal charges; lose custody of children, employment and housing; and experience profound psychological harm. Misidentification has been linked to continued or escalating violence and, in a small number of cases reviewed by the ACT Domestic and Family Violence Death Review Advisory Board (ACT Government, 2026), homicide and suicide. Critically, this risk is not evenly distributed. NSW Police data show that women identified by police as DV perpetrators were misidentified victim-survivors in nearly 48 percent of cases overall, rising to 57 percent among Aboriginal and Torres Strait Islander women, compared with 40 percent for non-Indigenous women. Victorian data show a similar pattern: 79 percent of Indigenous female respondents to family violence proceedings had a prior recorded history as victims, compared with 59 percent of female respondents overall (Brown & Boxall, 2026).

Despite this, the Bill as drafted contains no mechanism directed at reducing misidentification. The only safeguard available to a wrongly-charged defendant is the defence, in proposed section 72J(3), that the course of conduct was reasonable in all the circumstances — a defence the accused bears an evidential burden to raise, and which operates only after charges have been laid, not as a threshold safeguard in the investigation or charging process. This is a materially different position from other jurisdictions. Queensland’s civil protection order framework requires courts, in cross-application matters, to determine which party is the ‘person most in need of protection’ and to dismiss the other application; the Northern Territory has explicitly framed improved information-sharing between police, courts and services as a strategy to reduce misidentification, in preference to creating a standalone criminal offence. The Bill’s own supporting materials note that the ACT’s Risk and Assessment Management Framework, due for release later in 2026, will include guidance on avoiding misidentification and collusion with primary perpetrators (Boxall was involved in drafting the relevant sections of that guidance). However, that guidance sits outside the Bill itself and operates at the level of practice guidance, rather than a statutory requirement.

We **recommend** the Committee consider whether the Bill or accompanying regulations should incorporate a more explicit safeguard against misidentification — for example, a requirement that police and prosecutors have specific regard to identifying the person most in need of protection before proceeding with a charge, drawing on the approach taken in Queensland’s civil protection order framework. Placing such a requirement on the face of the Bill, or in regulations, would provide a more durable and auditable safeguard than reliance on the post-charge reasonableness defence in section 72J(3) alone.

6. Implications for defendants with neurodevelopmental and cognitive disorders

As set out in Cowey, Bartels and Boxall (2025), the criminalisation of coercive control raises distinct issues for defendants with neurodevelopmental and cognitive disorders, including intellectual disability, ADHD, and autism, — who are already substantially overrepresented in the criminal legal system. Some behaviours associated with these conditions (for example, rigidity in response to a perceived loss of control, or aggression used to manage sensory or emotional dysregulation) may understandably be experienced by a partner as coercive and controlling. However, such acts may not be motivated by a desire for coercion or control as such. Australian case law analysis has found limited judicial awareness of and adjustments for affected defendants in relation to such conditions (see eg Bartels, 2022; 2024).

These concerns interact directly with the intent requirement discussed above: an offence that depends on the factfinder correctly distinguishing coercive intent from disorder-driven behaviour that happens to have a coercive effect places a significant burden on judicial and legal education, which the Bill does not itself address.

Accordingly, we **recommend** that the Committee require that any judicial and police education developed to support implementation of this offence include specific content on neurodevelopmental and cognitive disorders, and that the section 72K statutory review report on implementation issues for this cohort specifically, alongside its consideration of impacts on Aboriginal and Torres Strait Islander people and other groups.

7. Conclusion

We support the objective of this Bill and recognise the Government’s stated commitment to designing legislation that is evidence-based and avoids unintended consequences. The desire for legislative reform that visibly condemns coercive control is understandable. However, the evidence set out in this submission suggests that a standalone criminal offence, on its own, is not the intervention most likely to improve the safety of people experiencing coercive control. Critically, resourcing for it should not come at the expense of investment in measures with a stronger evidence base for improving safety and supporting behaviour change. In summary, we recommend the Committee:

- reconsider whether the intent requirement in proposed section 72J(1)(c) is the appropriate fault element, in light of the evidentiary difficulties documented above and the early NSW prosecution data, and direct the section 72K review to report on charge and prosecution rates for this offence relative to other DFV offence categories;
- require the ACT Government to demonstrate how resourcing this offence sits alongside, rather than in place of, investment in men's behaviour change programs, refuges and supported accommodation;
- require an explicit, auditable mechanism for identifying the person most in need of protection, rather than relying solely on a post-charge reasonableness defence; and
- direct the section 72K review to specifically examine implementation issues for defendants with neurodevelopmental and cognitive disorders.

References

- Bartels, L. (2022). Paying attention to Attention Deficit Hyperactivity Disorder: An analysis of cases in an Australian Supreme Court. *Criminal Law Journal*, 46, 245–268.
- Bartels, L. (2024). 2023 sentencing review. *Criminal Law Journal*, 47: 406–432.
- Boxall, H., Dowling, C., & Morgan, A. (2020). Female perpetrated domestic violence: Prevalence of self-defensive and retaliatory violence. *Trends & Issues in Crime and Criminal Justice* 584. Australian Institute of Criminology.
- Brown, C. & Boxall, H. (2026). *Misidentification of Aboriginal Women as primary aggressors in Domestic, Family and Sexual Violence: 2026 Policy Brief*. Her Story Mparntwe and Australian National University.
- Cowey, E., Bartels, L., & Boxall, H. (2025). The criminalisation of coercive control: Implications for defendants with neurodevelopmental and cognitive disorders. *Alternative Law Journal*, 50, 52–60.
- Fenwicke, C. (2026, May 22). DV levy to rise, but emergency calls will still go unanswered. *Region Canberra*. <https://region.com.au/safer-families-levy-to-rise-in-attempt-to-keep-pace-with-demand-on-domestic-and-family-frontline-services/967983/>
- Fitz-Gibbon, K., Walklate, S., Meyer, S., & Reeves, E. (2024). *The criminalisation of coercive control: A national study of victim-survivors' views on the need for, benefits, risks and impacts of criminalisation*. Report to the Criminology Research Advisory Council, CRG 24/20-21.
- Hulme, S., Morgan, A., & Boxall, H. (2019). Domestic violence offenders, prior offending and reoffending in Australia. *Trends & Issues in Crime and Criminal Justice* 580. Australian Institute of Criminology.
- NSW Bureau of Crime Statistics and Research (2026). *NSW Trends in Domestic & Family Violence: Quarterly Report*. <https://www.bcsr.nsw.gov.au/research-and-statistics/publications>
- Bageshri Savyasachi, B. (2026, July 5). ACT victim registrations soar amid review of prison release program. *Canberra Times*. <https://www.canberratimes.com.au/story/9288398/victim-support-act-sees-238-per-cent-increase-in-registered-victims/>
- Tolmie, J., Smith, R., Short, J., Wilson, D., & Sach, J. (2018). Social entrapment: A realistic understanding of the criminal offending of primary victims of intimate partner violence. *New Zealand Law Review*, 2018, 181–217.