



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY
Mr Peter Cain MLA (Chair), Dr Marisa Paterson MLA (Deputy Chair)
Mr Andrew Braddock MLA

Submission Cover Sheet

Inquiry into Family Violence Legislation Amendment Bill 2022

Submission Number: 01

Date Authorised for Publication: 16 March 2022

To the Justice and Community Safety Committee,

Thank you for the opportunity to make this short submission on the Family Violence Legislation Amendment Bill 2022. Please note that this submission is made in a personal capacity only.

I commend the ACT Government's intention to better protect victims of family violence and to ensure that people who use violence are held accountable. However, this submission draws on my professional and lived experience to challenge how the Bill seeks to achieve these aims.

An increasing amount of research indicates that the criminal system overwhelmingly fails to facilitate justice and healing for victim survivors, people who use violence and communities. This is partly due to the ableist, colonialist and patriarchal orthodoxy which pervades the punitive design of the criminal system. Collectively, these norms have failed to provide a mechanism through which to challenge a complex interplay of factors, including gender norms and intergenerational trauma, which contribute to instances of family violence.

Although these factors can lead men to perpetuate gendered violence, they also "see men catastrophically [impacted] by a system which robs them of full emotional development and coerces them into rigid stereotypes and hierarchical identities."¹ These identities are heavily informed by patriarchal norms which can prevent men from "becoming interdependent, collaborative, relationally focused human beings."² These norms can have devastating consequences. Specifically, research indicates that many men who use violence experienced family violence as children. Thus, theorists argue that the coalescence of unaddressed trauma and rigid gender norms can cause some men to re-enact violent and harmful forms of masculinity.³

The criminal system is inadequate in addressing this re-enactment, as it perpetuates feedback loops between harmful patriarchal gender norms, and the feelings of inadequacy and trauma that are widely experienced by men who use violence. Moreover, it fails to support people who use violence to develop emotionally and engage in healthy relationships; instead, it can perpetuate these issues through additional trauma experienced in prison. In this way, the criminal system fails to reduce violent behaviour, repair harm and protect women and children in a meaningful and enduring way.

Additionally, the criminal system also fails to meet the needs of many victim survivors. This is because the victim survivor may not want their family member to be imprisoned or to suffer further. Rather, they often want the person to receive support so that they can stop using violence and so that they can repair their relationships.

I am one of these women. As someone who grew up with a violent father, I appreciate the barriers to accountability, justice and recovery. However, I am also aware that my father experienced significant family violence as a child. Accountability is important, yet introducing harsher criminal penalties will neither change what happened, help repair the harm, nor prevent him (or others) from continuing to communicate in a violent manner. In fact, Australian research indicates that "harsher punishments that aim for general deterrence ...and specific deterrence, to deter the individual from re-offending in

¹ Canberra Restorative Community Network's submission on the Draft Plan to End Violence against Women and Children (February 2022).

² Ibid.

³ American Psychological Association, (2018, September), 'Harmful Masculinity and Violence.' *In the Public Interest*, available at <<http://www.apa.org/pi/about/newsletter/2018/09/harmful-masculinity>>.

future, is unfounded.”⁴ Rather, punishment actually “makes it more likely that people are going to re-offend.”⁵

For these reasons, I firmly believe that is essential to move away from the criminal system. Rather, we must move towards mechanisms which focus equally on accountability and connection. Our systems must support people who use violence to engage in healthy communication and relationships, to promote healing for everyone.

As a result, rather than introducing harsher penalties, I encourage the ACT Government to invest in restorative practices which promote accountability whilst also supporting positive behavioural change. These may include greater investment in:

1. Preventative programs and intervention tools which build relational skills in children, particularly young boys;
2. Men’s behaviour change programs, which may or may not be enforceable by civil orders; and,
3. Free psychological support for families and individuals who have or are experiencing family violence.

Finally, I also note that harsher criminal penalties disproportionately impact already marginalised communities; for example, people with disability, lower socio-economic groups or First Nations peoples.⁶ In this way, they perpetuate existing social inequality and should be avoided.

Thank you for your consideration of this submission.

[REDACTED]
Lived Experience Advocate
[REDACTED]

PhD Candidate, Social Policy Research Centre
University of New South Wales

⁴ Ben Knight, (July 2020), ‘Do Harsher Punishments Deter Crime’, *University of New South Wales News Room*, available at: <<https://newsroom.unsw.edu.au/news/business-law/do-harsher-punishments-deter-crime>>.

⁵ Ibid.

⁶ Mirko Bagaric, (2015), ‘Rich Offender, Poor Offender: Why It (Sometimes) Matters in Sentencing’, *Law and Inequality*, 33(1), available at: <<https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1219&context=lawineq>>.