



REGROUPEMENT DES MAISONS
POUR FEMMES VICTIMES
DE VIOLENCE CONJUGALE

Tool 2



Criminal Law: Detection and Intervention
in Cases Involving

Coercive control



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In addition to this toolbox, the Regroupement offers training on coercive control for social/legal professionals. [Contact us](#) for more details on the proposed modules and modalities.

The analogy of hostage-taking, sequestration or sectarian control is often made when describing the impact of coercive control on victims and their children.

It is useful to invite legal professionals to consider how forcefully police and the courts would respond to someone who took a stranger hostage, a rictly regulated how the person dressed, walked, talked, and spent their time or money.¹

In the context of domestic violence, criminal justice actors can play a key role in identifying patterns of controlling behaviour, whether criminalized or not.

Documenting non-criminalized manifestations of control gives justice professionals a better understanding of the true dynamics of conjugal violence, in particular by facilitating the evaluation of homicidal risks, identification of the primary aggressor in cross-complaint cases, and by consolidating the file in the event of prosecution.



¹ Accessed from the no longer operational site <http://www.coercivecontrol.us/what-is-coercive-control/>.

A – Coercive control, the hidden face of conjugal violence

While it is at the heart of conjugal violence, coercive control can be difficult to recognize, for both victims and legal professionals. It may be overlooked or dismissed as a “relationship problem,” “conflict” or “separation dispute.”

Why?

- Coercive control does not necessarily involve physical or verbal abuse.
- The imposition of micro rules, harassment and humiliation happens in the private sphere, far from view.
- Traditional gender roles and gender stereotypes mask some of its manifestations.
- Victims may not be aware that they are being controlled or may minimize the controlling behaviour for fear of retaliation.
- Manifestations of coercive control, when seen as occasional and isolated, may be considered less serious or socially acceptable.

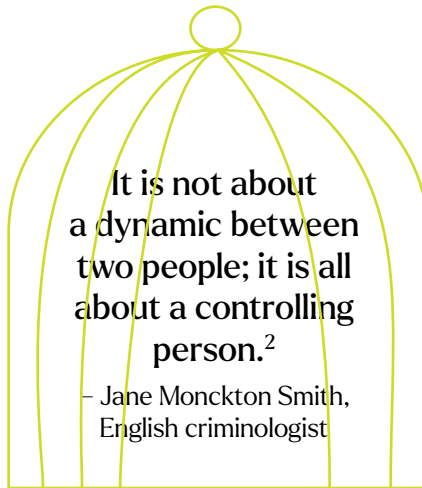


“I almost wished he would hit me because then I would know it was abuse, and there would be proof.” – Victim

[our translation]

B – Things to keep in mind when working with a victim

1. Conjugal violence or conflict: three distinguishing criteria



In a non-abusive relationship, conflicts arise, concessions and compromises are made, but each person remains free to make his or her own choices and does not feel compelled to submit to the other person's wishes. In an abusive relationship, decisions made by a dominating partner become rules that, when broken, lead to consequences for the victim.

² J. Monckton Smith, *In Control: Dangerous Relationships and How They End in Murder*, Bloomsbury, UK, 2021, p.19.

Ellen Pence, an American pioneer in promoting innovative strategies to combat conjugal violence, has proposed three helpful criteria for distinguishing conflict from a dynamic of conjugal violence.³



Is there a pattern of behaviour?

(a pattern of abusive behaviour designed to isolate, humiliate, exploit or dominate a person)

Does the victim change her habits and choices as a result of this pattern of behaviour?

(e.g. stops seeing family and friends, changes clothing or eating habits, changes behaviour in the presence of a partner, etc.)

Does she fear the consequences of this pattern of behaviours?

(e.g. fear of reprisals, fear for her physical integrity, her own life and that of her children or loved ones)

Further guidelines for differentiating between conjugal violence and conflict can be found in the Regroupement's brochure **Et si c'était de la violence conjugale ?**. We encourage you to consult it for more details.

³ *Ibid*, p.12

2. Identifying the primary aggressor

When the police arrive at the home of a victim of conjugal violence, they are not always able to determine at first glance which person is the abuser and which person is the victim. It is important not to conflate the abuser's violent behaviours with the victim's reactive violent behaviours.

Omitting to check for manifestations of coercive control can lead to misidentification of the primary aggressor, particularly in a cross-complaint context.⁴ According to the International Association of Chiefs of Police (IACP), the primary aggressor is the individual who poses the most serious and ongoing threat. According to the International Association of Chiefs of Police (IACP), the primary aggressor refers to the individual who poses the most serious and ongoing threat. He is not necessarily the initial aggressor in a specific incident.⁵



⁴ H. Nancarrow et al., "Accurately identifying the 'person most in need of protection' in domestic and family violence law." Australia's National Research Organisation for Women's Safety (ANROWS), Sydney, 2020 [<https://www.anrows.org.au/publication/accurately-identifying-the-person-most-in-need-of-protection-in-domestic-and-family-violence-law/>].

⁵ *Intimate Partner Violence Response Policy and Training Content Guidelines 6*, International Association of Chiefs of Police, USA, 2017, cited in Stop Violence Against Women [https://www.stopvaw.org/determining_the_predominant_aggressor].

Here are some cues and questions to support police in determining which party is the primary aggressor.

Identifying the primary aggressor, some useful cues:⁶

- It is the determination to control the other at all costs that truly defines the primary aggressor.
- The primary aggressor may be the first to call the police.
- The primary aggressor may use cross-complaints as a coercive control strategy.
- Rather than simply taking a single incident approach, focus on the pattern of behaviours and their manifestations.
- The primary aggressor may not be the person who struck the first blow in a specific incident.
- When both parties are perpetrators, the violence committed by the victim will not usually be associated with a history of violence or efforts to terrorize, subdue, dominate or control the other person.
- A victim's injuries may not be immediately visible, for example, those due to a sexual assault or strangulation. On the other hand, in defending themselves, some victims may scratch their attacker, leaving visible marks.



⁶ Drawn from *Warning Signs - Abuse and Relationships*, Michael Samsel, USA, 2018
<https://www.abuseandrelationships.org/Content/Contact/author.html>



Useful questions for identifying the primary aggressor:⁷

- Who makes the rules? For example, who decides: choice of friends, clothing and appearance, type and frequency of sexual expression, food choices, shopping and social activities?
- Who, if anyone, manipulates others (children, relatives, acquaintances and friends) to turn against the other partner?
- Which party seeks to isolate the other socially?
- Which person assumes all rights and expects the other to fulfill them (e.g. having sex or cooking favorite dishes on demand, controlling the family's economic resources)?
- Who was hurt, frightened or intimidated by the violence and abuse?
- Which person fears the other?
- Which person's acts of violence or abuse caused persistent fear or psychological, physical or sexual distress or harm to the other?

⁷ Drawn from "Determining the Predominant Aggressor," *Stop Violence Against Women*. The Advocates for Human Rights, USA, 2018 [https://www.stopvaw.org/determining_the_predominant_aggressor/].

3. Understanding and supporting a victim who wishes to remain in the relationship

Victims often stay or decide to return to their abuser. This can be difficult for outsiders to understand. They may be quick to insist that an abusive relationship end immediately.

Why doesn't she leave him?

For a victim, decision-making is a much more complex process, and can be difficult or impossible, especially when children are involved. Beyond fear of her partner's reaction, many factors can lead a woman to choose not to leave a partner:

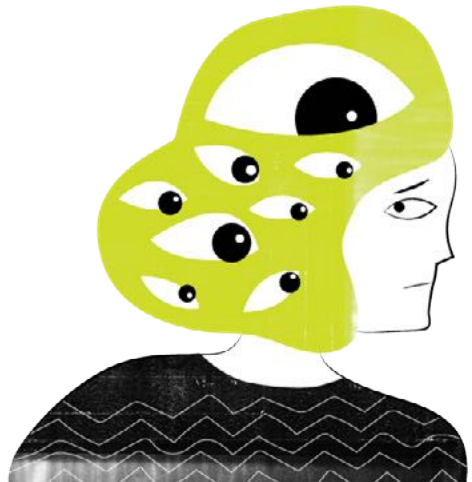
- Hope that she can change him, re-discover the love relationship as it was in the beginning
- Doubts about her own responsibility for the violence
- Insufficient financial resources, financial dependency that pre-existed the relationship or resulted from coercive control
- Threats to her physical integrity or that of her children and extended family
- Low self-esteem
- Fear of losing her children or not being able to protect them in case of separation
- Fear of being judged or disowned by family and community
- Physical and financial dependency for a woman with a disability or diminishing autonomy (elderly, ill, etc.)
- Immigration status linked to that of the partner, etc.

Considering the dangers and difficulties that victims of conjugal violence and their children face in the post-separation period, it is understandable that some women make the rational decision to stay with their partners despite the violence.



In this context, you can take the following approach:

- Ask yourself why her partner won't leave her alone, won't let her go, why he won't stop his violent actions.
- Get the victim to verbalize her fears and how she expects the abuser to react to her leaving.
- Ask the victim what can be done to keep her and her children safe.
- Systematically refer her to victim services.
- Tell her you'll be there when she's ready.



C – Focus on the abuser's behaviour

Unlike victims, men who coercively control their partners may appear more composed because they do not suffer the consequences of the controlling behaviour. They seem sympathetic, appear calm, have a coherent story, and may even be the first to call the police.

1. Tactics to divert the attention of legal professionals⁸

In their interactions with coercive controllers, justice professionals need to be aware that abusers draw on a variety of tactics to distract others from their harmful behaviours or minimize the victim's experience.



Here are some of the tactics abusers employ:

- Diversion: attempts to shift your attention to another issue
- Alliance: attempts to direct your attention to experiences, behaviours and beliefs that you and he have in common
- Intrusive, threatening or intimidating behaviours to impose his rules: attempts to take control of the support process by overstepping the limits of the intervention framework
- Downplaying, denial and distortion: tries to minimize his actions and the impact on the victim(s); denies his actions or gives a biased interpretation of the facts
- Depressive attitudes, threats (veiled or not) of suicide, destructive behaviours

⁸ Excerpt from the tool Vigie-VC - Carrefour sécurité en violence conjugale (CSVC) [<https://csvc.ca/>].

2. Attitudes or beliefs indicating support for or tolerance of violence⁹

It is common for perpetrators of coercive control to exhibit attitudes or beliefs that indicate they support or condone violence:

- Behaviours that indicate patriarchal attitudes or support male domination of women
- Forceful downplaying or denial of the seriousness of the violence
- Normalization of violence
- Blaming the victim or approving the use of violence to control her
- Violence considered a right or privilege

3. Threats and intimidation of the victim and her loved ones during the legal process

- Threatening to inform social services or immigration authorities
- Communicating with the victim through a loved one
- Sending people to the victim's home to scare her
- Blackmail using the children
- Coming to court with a large group of people (family, relatives, friends) to intimidate the victim
- Using non-verbal attitudes to intimidate the victim (insistent looks, smirks, etc.) ;
- Pressuring the victim to withdraw the complaint
- Finding every possible way to circumvent the conditions (peace bond, restraining order, etc.) in order to reach the victim

⁹ *Ibid.*

4. Using legal tactics to maintain control

During the judicial process, many abusers also use legal tactics to maintain power and control over their partner or ex-partner.

Here are some examples of behaviours observed in a conjugal violence context:

- Refusing to file court documents, filing late, or filing incomplete or inaccurate documents
- Filing a complaint against the victim (cross complaint)
- Reporting to youth protection
- Initiating delaying proceedings
- Filing multiple appeals before various judicial bodies
- Making incessant and abusive demands in family law, small claims, defamation, repeated mailings of formal notices, etc.
- Refusing to comply with court orders
- Seeking a parental arrangement that requires face-to-face or ongoing communication with the other parent



D – Legal process in criminal law

Prosecutors' or probation officers' implementation of protective scenarios and documentation of coercive control throughout the proceedings can have a significant impact on the support and security of the victim during the judicial process.

These are some of examples of good practices.

1. Victim protection scenarios before and during proceedings

Posture

- Use simple and clear language.
- Show genuine interest in the victim, regardless of her behaviour.
- Keep in mind that these proceedings are very frightening for her.
- Be sensitive to each woman's specific needs, as the impact of trauma varies from person to person. Take nothing for granted.
- Offer options: check with the victim to see which options are best for her.
- Provide interpretation if needed.
- Continue to look at and talk with the victim, even when support workers or interpreters are present.
- Check the victim's needs regularly as they may change over time. Ask simple questions: How are you? Anything new since last time we spoke?

Support

- Make sure that the victim is well supported before and during the legal process (e.g. CAVAC, shelters, Rebâtir, CALACS, relatives).
- Offer the opportunity to visit the courthouse, the courtrooms.
- Explain that it is normal for the defence lawyer and the prosecutor to talk with each other, or for the interpreter to talk with the accused.
- Clearly explain to the victim what to expect, what is expected of her, the process and what follows.
- Explain the prosecutor's role and the obligations he or she has to the victim (e.g. duties to inform and consult).
- Favour face-to-face meetings to encourage the development of a bond of trust.
- Make sure the victim can speak confidentially.
- As much as possible, get back to the victim quickly when she has questions and ask for help from support workers to facilitate quick communication.

Implementing safety measures and addressing the impacts of trauma

- Ensure that the wait at the courthouse is in a safe room (e.g. CAVAC/ Victims' Room).
- Ask for a police officer or security guard to accompany her and introduce them to the victim.
- Arrange or ensure that the victim can be escorted out by a police officer and that the parties do not leave at the same time; be vigilant about breaks, arrivals and departures from the courthouse.
- Give the victim the opportunity to tell you what kind of help she wants.

- Invite the victim to notify any justice worker if a concern for her safety arises during the day (code word, stares, lip smacking, texting, etc.).
- Suggest the use of testimonial aids.
- Examine the environment to find and correct elements that may cause harm to the victim, especially those who have suffered post-traumatic shock (layout, light, colours, furnishings, adaptation for reduced mobility, adaptation for the visually impaired or deaf, etc.).

2. Documenting coercive control throughout the judicial process

Documentation throughout the various stages of the process is a key element for better intervention in the context of conjugal violence, whether for prosecutors in authorizing and conducting the case and assessing violent partners, for probation officers in drafting pre-sentencing reports, or for CAVAC workers in informing and working with victims.

Conjugal violence continues during the legal process. Recording information related to coercive control provides a continuum of information, despite the multiplicity of stakeholders, making it possible to monitor the evolution of risk during each intervention, while keeping the overall situation in mind.

Verify the existence of other legal proceedings that could have an impact on the current case

In most jurisdictions, criminal, family and immigration law matters are heard separately. However, there are often overlapping issues, such as concerns about contact between parties.



- Communicate and collaborate with stakeholders in the different judicial systems, paying attention to legal manipulation strategies used by the abuser such as:
 - ✓ Dragging out court proceedings to put the woman in a financially precarious situation, discouraging her or causing her to change her mind
 - ✓ Making false statements to the police, youth protection, tax authorities or social assistance to harm the victim
 - ✓ Failure to comply with custody agreements ordered by the court or agreed to by the parties
 - ✓ Threaten to seek legal custody or call youth protection
- Try to get quick access to the conditions (peace bond, restraining order, etc.).
- Keep in mind the consequences for someone who is not a Canadian citizen, such as a victim who may be charged in a cross complaint.

Consider the impacts of conjugal violence and the risks to the victim

- Acknowledge the victim's sense of fear, immediate or chronic
- Take into account the trauma she has experienced and its impact on her ability to testify, both in conducting the interview and in assessing her credibility
- Always consider the specific vulnerabilities of certain victims (immigrant women, Indigenous women, women with physical or intellectual disabilities, women in precarious financial situations, etc.) and refer them to local organizations that have developed expertise in these areas.

- Call attention to the cumulative impact of controlling and coercive behaviors on the victim before and after separation: limitations on daily activities, restrictions on her freedom, change of habits, relocation, etc.
- Determine the consequences for the victim of following or not following the abuser's rules.
- Recognize the role that witnesses (neighbours, family, co-workers, friends, etc.) can play in documenting the impact of coercive control.
- Identify immediate risks and safety concerns (see Tool 3)
- With the accused's consent, use the service for domestic violence assessment at the bail hearing stage [Service d'évaluation des personnes accusées en matière de violence conjugale au stade de la mise en liberté provisoire] during the investigation on release from custody.
This assessment involves:
 - ✓ Documenting controlling and coercive behaviors, linking them to associated risk factors with a view to providing a better safety net for the victim
 - ✓ Obtaining information and assessment material to facilitate the decision on whether or not to release the abusive partner, the list of specific conditions to be imposed, if any, and the abuser's referral to resources for abusive men
 - ✓ In this context, systematic consultation with the victim by the officer responsible for assessing the accused is also recommended.

- Use victim impact statements at sentencing as an important step in allowing victims to express their concerns about the consequences of coercive control, whether physical, psychological, financial, or related to fears for their safety or that of their loved ones.
- Use the pre-sentencing report to educate the court about the accused's behaviour, possible aggravating risk factors for the victim such as the accused's obsessive behaviour, the victim's intuitive fear of the accused, or the victim's vulnerability.

**Pay attention to the abuser's behaviours
(see section C for more details)**

- Watch for changes in the abuser's strategies for maintaining control as they impact the victim and her intentions in the proceedings.
- Be alert to tactics used to get the victim to return to live with the abuser.
- Detail the variety of control and violence to highlight his pattern of behaviour.
- Hold the perpetrator accountable and oppose allegations that blame the victim for not leaving or opposing the tactics.
- Document the frequency and intensity of tactics.
- Penalize breaches of conditions.





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