

Minister of Justice
and Attorney General of Canada



Ministre de la Justice
et procureur général du Canada

The Honourable / L'honorable David Lametti, P.C., Q.C., M.P. / c.p., c.r., député
Ottawa, Canada K1A 0H8

September 15, 2022

The Honourable Randeep Sarai
Chair
Standing Committee on Justice and Human Rights
House of Commons
Ottawa, ON K1A 0A6

Dear Mr. Sarai:

On April 7, 2022, the Standing Committee on Justice and Human Rights presented its report entitled *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*, and requested that the Government table a response to the report's recommendations which are aimed at addressing intimate partner violence (IPV) and coercive control through legislative measures and programs/funding.

On behalf of the Government of Canada, and pursuant to Standing Order 109 of the House of Commons, I am pleased to respond to the Committee's unanimous report. I would like to thank the Committee for its comprehensive study of IPV and coercive control in intimate relationships. Addressing IPV, including coercive control and other forms of gender-based violence (GBV), continues to be a priority for the Government. The Government continues to take action and make significant investments to support services to victims, training of justice system practitioners, and to increase awareness of and end GBV, family violence, IPV and coercive control, as explained in more detail below. The Government agrees with the Committee that coercive control in intimate partner relationships often occurs prior to physical forms of IPV and may escalate in severity, and that both IPV and coercive control cause significant harms to victims.

Legislative Measures

The term "coercive control", or "coercive and controlling behaviour", is used to describe a pattern of controlling behaviour that takes place over time in the context of intimate partner relationships, as well as familial relationships, and serves to "entrap" victims, eliminating their sense of freedom in the relationship. A broad range of controlling conduct may be employed, some of which may constitute criminal offences in and of themselves, such as assault or uttering threats, but the focus is on how a pattern of such conduct serves to subjugate rather than the individual incidents in which abusers exercise

control. Coercive control is concerned with the cumulative impact of the abuser's conduct on the victim. The concept has been used in both family and criminal law contexts.

As separation and divorce can exacerbate an already violent relationship, the period following separation is a time of heightened risk for escalating and sometimes lethal violence. For that reason, the *Divorce Act* was amended to include a new evidence-based definition of family violence, which came into effect on March 1, 2021, and includes conduct that constitutes a pattern of coercive and controlling behaviour, or that causes a family member to fear for their own safety or for the safety of another person. The definition specifies that the behaviour does not have to constitute a criminal offence to be considered family violence. The *Divorce Act* specifically requires judges to consider whether there is a pattern of such behaviour when determining the impact of family violence on the best interests of the child in order to make appropriate parenting arrangements. In addition, several provinces include references to coercive and controlling behaviour in their legislation pertaining to family law and to civil protection orders.

Numerous existing *Criminal Code* offences can address the issues noted in the Committee's Report, including: homicide, assault, sexual assault, uttering threats, fraud and criminal harassment. In particular, criminal harassment prohibits engaging in conduct that causes another person reasonably, in all the circumstances, to fear for their physical or psychological safety or that of someone known to them. Like coercive control, criminal harassment is perpetrated through a pattern of conduct. This offence was enacted in 1993 to respond to certain types of psychological abuse that are known to occur in the context of family and intimate partner violence.

Additionally, former Bill C-75 (delays in the criminal justice system, 2019), strengthened the criminal justice system's response to IPV by: creating a reverse onus at bail for accused charged with a violent offence involving an intimate partner, if they have a prior conviction for violence against an intimate partner; requiring courts to consider prior IPV convictions when determining whether to release the accused or impose bail conditions; clarifying that strangulation, a form of violence frequently committed in the IPV context, constitutes an elevated form of assault and a more serious form of sexual assault, if committed in that context; clarifying that the term "intimate partner" includes a person's current or former spouse, common-law partner and dating partner; and, allowing for a higher maximum penalty in cases involving an offender who has a prior conviction for IPV.

The Government agrees with the Committee about the importance of increasing judges' awareness of coercive control. For that reason, the Government supports Bill C-233, *An Act to amend the Criminal Code and the Judges Act (violence against an intimate*

partner), which seeks to enhance judicial understanding of IPV and the role that coercive control plays in that context. Bill C-233 would amend the *Judges Act* to specify that the continuing education seminars that the Canadian Judicial Council may establish can include seminars on matters related to IPV and coercive control in intimate partner and family relationship and the Bill's reforms would encourage the Canadian Judicial Council to report on such seminars. Additionally, Bill C-233 proposes to amend the bail provisions of the *Criminal Code* to require a justice to consider whether an accused person charged with an offence involving the use, attempt or threat of violence against their intimate partner should wear an electronic monitoring device as a condition of bail release where requested by the Attorney General.

The Government is also carefully monitoring Bill C-202, *An Act to amend the Criminal Code (controlling or coercive conduct)*, which was introduced in the House of Commons on November 25, 2021 and proposes to create a coercive control offence (formerly Bill C-247). This offence is based on a similar offence first enacted in the United Kingdom in 2015, and then in Scotland in 2018 and Ireland in 2019. The United Kingdom's Home Office has evaluated its coercive control offence and the results of that evaluation were published in 2021.¹ The Department of Justice continues to monitor the experience of other jurisdictions that have implemented a coercive control offence.

The Government of Canada agrees with the Committee about the importance of federal, provincial and territorial collaboration in achieving meaningful results to address IPV, including coercive control in intimate partner and familial relationships, and welcomes the Committee's request that I engage with my provincial and territorial colleagues to discuss legislative reform. To that end, the Deputy Minister of Justice raised the Committee's recommendations at the June 2022 Federal-Provincial-Territorial Meeting of Deputy Ministers Responsible for Justice and Public Safety and I will raise the issue at the fall 2022 Federal-Provincial-Territorial Meeting of Ministers Responsible for Justice and Public Safety. Officials in the Department of Justice will also engage their provincial and territorial counterparts on the issue of enacting a new offence prohibiting coercive control, consistent with the Committee's recommendation.

Federal Measures

Addressing IPV and coercive control in intimate partner and familial relationships requires a multi-faceted and comprehensive response. That is why multiple federal departments have implemented programming and policy measures, supported by funding dedicated to preventing this conduct and assisting victims. An overview of that funding is provided below.

¹ *Review of the controlling or coercive behaviour offence*, available at: <https://www.gov.uk/government/publications/review-of-the-controlling-or-coercive-behaviour-offence>

Women and Gender Equality (WAGE)

The Government is continuing to implement its 2017 gender-based violence (GBV) Strategy entitled, *It's Time: Canada's Strategy to Prevent and Address Gender-Based Violence*, which focuses on the prevention of GBV, including coercive control, supporting survivors of GBV, and promoting responsive legal and justice systems to address these crimes. The 2021 Federal Budget invested \$601.3 million over five years, starting in 2021-22, to advance work towards a new National Action Plan to End Gender-Based Violence. Budget 2022 proposed to invest \$539.3 million over five years, starting in 2022-23, to enable provinces and territories to supplement and enhance services and supports within their jurisdictions to prevent GBV and support survivors. This funding will support provinces and territories in their efforts to implement the forthcoming National Action Plan. The Government of Canada is consulting with provinces, territories, Indigenous peoples, stakeholders, and survivors of GBV on the development of this National Action Plan, with the goal of ensuring that anyone facing GBV in Canada has reliable and timely access to protection and services, no matter where they live.² Early accomplishments under the Strategy include:

- Amending the *Canada Labour Code* to strengthen existing frameworks for the prevention of harassment and violence in the workplace;
- Strengthening sexual assault provisions and enhancing measures in the *Criminal Code* to better respond to IPV;
- Creating the Sexual Assault Review Team, which has completed a review of over 30,000 “unfounded” sexual assault case files;
- Launching the National Strategy to Combat Human Trafficking in partnership with a number of departments, including WAGE and Public Safety, and through which WAGE received funding to develop the Continuum of Care – Prevention and Interventions for Vulnerable Populations initiative;
- Developing training on cultural awareness and humility as well as trauma-informed approaches for all Royal Canadian Mounted Police employees;
- Launching the GBV Program, which has provided funding to approximately 60 projects to develop and test promising practices to support victims and survivors of GBV and their families;
- Launching the GBV Knowledge Centre’s online platform in December 2018; and,
- Conducting three national and recurring surveys to establish baselines on the prevalence of different forms of GBV, provide a deeper understanding of GBV in Canada, and measure progress over time.

² Additional information on specific initiatives funded through the GBV Strategy is available online: <https://women-gender-equality.canada.ca/en/gender-based-violence-knowledge-centre/gender-based-violence-strategy.html>. Additional information on the Budget 2021 funding is also available online: <https://www.canada.ca/en/women-gender-equality/news/2021/08/tbc---department-for-women-and-gender-equality-canada---gender-based-violence-program0.html>.

Department of Justice

As part of the Government's efforts to advance the National Action Plan, Budget 2021 announced \$112.1 million over five years for the following Department of Justice programs: the Justice Partnership and Innovation Program (JPIP), the Victims Fund, and the Canadian Family Justice Fund (CFJF). These investments include:

- **\$48.75 million** over five years to ensure access to free independent legal advice and representation for survivors of sexual assault and IPV in Canada (Victims Fund and JPIP). The objective of the funding is to reduce re-traumatization of victims when engaging with the justice system, and work towards increasing confidence in the justice system's response to GBV. To date, a total of 24 projects across the country have been funded under this initiative;
- **\$35 million** over five years to provide additional supports for victims of IPV to navigate the family justice system (JPIP). Five projects across the country have been approved to date and applications are currently under review with funding decisions anticipated during Summer 2022; and
- **\$28.35 million** over five years to support supervision services for parenting time in cases of separation and divorce, to protect the safety and well-being of children and families (CFJF). Seven projects across the country have been approved.

The Department of Justice provides annual funding to the National Judicial Institute, a judge-led organization that provides training to judges, independent from the Government, including on IPV.

Relevant initiatives include: the January 2022 "HELP Toolkit",³ which provides family law legal practical information and tips for identifying and responding to family violence, including coercive control, in a way that is trauma- and violence-informed; further research on important considerations for legal advisers when working with Indigenous family law clients who may have experienced family violence; the development of a series of free online courses about the amendments to federal family law, including a course on *Family violence and family law for legal advisers*, which provides information about family violence and family law, focusing on coercive and controlling violence and public legal education material on divorce and family violence.

Canada Mortgage and Housing Corporation (CMHC) and Indigenous Services Canada (ISC)

In May 2020, the Government committed \$44.8 million over five years through CMHC to fund the construction of 12 new shelters, which will help protect and support Indigenous women and girls experiencing and fleeing violence. This funding will help build 10 shelters in First Nations communities on reserves across the country, and two in

³ HELP Toolkit: Identifying and Responding to Family Violence for Family Law Legal Advisers (justice.gc.ca)

the territories, to support Indigenous women and children. The Government will also provide \$40.8 million through ISC to support operational costs for these new shelters over the first five years, and \$10.2 million annually ongoing.

Since 2020, ISC has also been providing \$1 million in annual funding to support engagement amongst Métis leaders and service providers to assess shelter needs and implement community-led violence prevention activities for Métis women, girls, and 2SLGBTQQIA+ People.

In the 2020 Fall Economic Statement, the Government of Canada committed \$724.1 million to launch a Comprehensive Violence Prevention Strategy to expand access to a continuum of culturally relevant supports for Indigenous women, children and 2SLGBTQQIA+ People facing gender-based violence. This strategy, a joint CMHC-ISC initiative, supports 38 new shelters and 50 transition housing for First Nations, Inuit and Métis peoples across the country, including on reserve, and in the North and in urban areas.

Missing and Murdered Indigenous Women, Girls and Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer, Questioning, Intersex and Asexual (2SLGBTQQIA+) People

Following the release of the National Inquiry into Missing and Murdered Indigenous Women and Girls' final report: Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls⁴, the Government, alongside Indigenous partners and organizations, families, survivors, and provinces and territories, launched the 2021 Missing and Murdered Indigenous Women, Girls, and 2SLGBTQQIA+ People National Action Plan: Ending Violence Against Indigenous Women, Girls, and 2SLGBTQQIA+ People⁵ on June 3, 2021.

On the same day, the Government's contribution to the 2021 Missing and Murdered Indigenous Women, Girls, and 2SLGBTQQIA+ People National Action Plan: Ending Violence Against Indigenous Women, Girls, and 2SLGBTQQIA+ People, the Federal Pathway to Address Missing and Murdered Indigenous Women, Girls and 2SLGBTQQIA+ People⁶ was released. The Federal Pathway outlines the federal government's commitments and contributions to ending violence against Indigenous women, girls and 2SLGBTQQIA+ People. This includes an overview of initiatives from over 23 departments and agencies that are moving forward with funding provided in the Fall Economic Statement 2020 and Budget 2021. Budget 2021 invested \$2.2 billion and \$160.9 million ongoing to address root causes that contribute to the tragedy of missing and murdered Indigenous women, girls and 2SLGBTQQIA+ people. The Government

⁴ <https://www.mmiwg-ffada.ca/final-report>

⁵ <https://mmiwg2splus-nationalactionplan.ca/>

⁶ <https://www.rcaanc-cirnac.gc.ca/eng/1622233286270/1622233321912>

has previously invested in initiatives to address the Interim Report of the National Inquiry into Missing and Murdered Women and Girls,⁷ including funding a review of police policies and practices with regards to their relations with the Indigenous Peoples they serve. On June 3, 2022, contributing partners to the 2021 Missing and Murdered Indigenous Women, Girls, and 2SLGBTQQIA+ People National Action Plan: Ending Violence Against Indigenous Women, Girls, and 2SLGBTQQIA+ People released the Progress Report on the Missing and Murdered Indigenous Women, Girls and 2SLGBTQQIA+ People National Action Plan⁸ and the Federal Government released the Federal Pathway Annual Progress Report⁹.

The Missing and Murdered Indigenous Women and Girls Secretariat at Crown-Indigenous Relations and Northern Affairs Canada is responsible for coordinating the work of all federal departments and agencies in the implementation, monitoring, and evaluation of the work related to Missing and Murdered Indigenous Women and Girls and 2SLGBTQQIA+ people, including working with other government departments on addressing gender-based violence, cultural revitalization, justice, policing and improved health and wellness. Moving forward, the Government has committed to accelerate the implementation of the Federal Pathway, and to continue engagement with Indigenous partners (including families and survivors) on the implementation of the 2021 Missing and Murdered Indigenous Women, Girls, and 2SLGBTQQIA+ People National Action Plan: Ending Violence Against Indigenous Women, Girls, and 2SLGBTQQIA+ People.

Public Health Agency of Canada (PHAC)

As part of the GBV Strategy, PHAC is investing more than \$8.5 million per year ongoing to support programs preventing teen dating violence and child maltreatment, and equipping health professionals to provide appropriate care to survivors. In 2020-21, through the Preventing Gender-Based Violence: The Health Perspective investment, PHAC supported 35 diverse projects that created a wide range of practical, evidence-based resources, including a tip sheet for educators on recognizing and addressing coercive control.¹⁰

As a part of Budget 2021's investments towards a National Action Plan, PHAC received \$50 million over five years (\$27.9 million in existing funds, \$22.1 million in new funds) to design and deliver public health interventions that promote safe relationships and

⁷ <https://www.mmiwg-ffada.ca/wp-content/uploads/2018/03/ni-mmiwg-interim-report.pdf>

⁸ <https://mmiwg2splus-nationalactionplan.ca/progress-reports2022>

⁹ <https://www.rcaanc-cirnac.gc.ca/eng/1652970859580/1652970882836>

¹⁰ <https://youthdatingviolence.prevnet.ca/wp-content/uploads/2021/12/Coercive-Control-Tipsheet-FINAL.pdf>. For additional information on the funded projects, please see:

<https://www.canada.ca/en/public-health/services/health-promotion/stop-family-violence/call-proposals-preventing-addressing-gender-based-violence-health-perspective-teen-youth-dating-violence-prevention/investment-overview.html>

prevent family violence, including supporting the health of survivors of family violence, through guidance and training for professionals, and through the delivery and testing of health promotion interventions for survivors.

PHAC is a member of the federal Family Violence Initiative, which brings together 12 departments and agencies, including Justice Canada, WAGE and ISC, in a multi-sectoral approach to addressing family violence. PHAC hosts and coordinates the *Stop Family Violence* webpages, a source of current information on family violence for health professionals and the public. *Stop Family Violence* also provides links to supports and services available in each province and territory.¹¹

Conclusion

Our Government agrees with the Committee about the importance of eliminating all forms of GBV, including IPV and coercive control in intimate partner and familial relationships. Ensuring victims of IPV have access to accessible, culturally relevant services and protection has been and continues to be a priority for this Government. We will continue to support victims and raise awareness of coercive control.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Lametti', with a long horizontal flourish extending to the right.

The Honourable David Lametti, P.C., Q.C., M.P.
(he/him)
Minister of Justice and Attorney General of Canada

¹¹ For additional information, please see: <https://www.canada.ca/en/public-health/services/health-promotion/stop-family-violence.html>