

Submissions to the Standing Committee on the Status of Women on Bill C-233, An Act to amend the Criminal Code and the Judges Act (violence against an intimate partner)

May 10, 2022, 3:30 – 5:30 pm

Cee Strauss, Staff Lawyer, LEAF

Good afternoon. My name is Cee Strauss. I am a Staff Lawyer at the Women's Legal Education and Action Fund - LEAF. I am grateful for the opportunity to appear today from the unceded lands of the Haudenosaunee and Anishinaabeg peoples in the place that is now called Montreal.

LEAF works to advance the equality rights of women, girls, trans, and non-binary people through litigation, law reform, and public education. For the past 37 years, LEAF has advocated for the need to improve the justice system's response to gender-based violence, including intimate partner violence, or IPV.

I'd like to start by thanking and recognizing Dr. Jennifer Kagan-Viater for her leadership in pushing for this important and necessary call for judicial education on matters related to IPV and coercive control. LEAF supports judges receiving this training. However, we believe the Bill requires specification about how the training should be implemented, details that I will discuss shortly.

On the other hand, LEAF has serious concerns regarding clause 1 of the Bill amending the *Criminal Code*.

I will begin with our support for judicial education.

Judicial Education

Intimate partner violence is the most widespread type of violence against women, accounting for 45% of all violence reported by women age 15 to 89. The risks of IPV are greater for women who are Indigenous, Black and racialized, as well as for women with disabilities and migrant women; these risks are also greatly increased for people who are Two-Spirit, Nonbinary, Trans, and gender non-conforming.

Victims and survivors of IPV have struggled to make courts understand both the impact of intimate partner violence on themselves and their families, and the risk that such violence will re-occur. It's because of legal system actors' lack of attention to family violence and its impacts that LEAF strongly advocated for and celebrated amendments to the *Divorce Act*. These amendments, among other things, added a definition of "family violence" to the *Act*, and mandated that family violence be a consideration when determining the best interests of the child. Significantly, IPV – including coercive and controlling behaviour that is not physical – constitutes family violence.



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Yet identifying the presence of IPV and/or coercive control in a partnership requires training. IPV is an umbrella term that encompasses complex, varied forms of abuse. It is often misrecognized due to gendered myths and stereotypes. This needs to change, and it will not change without training.

However, in order for such training to be effective, we believe the Bill requires specification in certain areas.

First, we recommend that training on matters related to IPV and coercive control should include social context. The way that the amendment is currently worded, “social context” is only relevant for trainings on sexual assault. Yet systemic inequality in Canadian society, including colonialism, systemic racism, ableism, homophobia and transphobia, has led to, and can exacerbate, intimate partner violence and stereotypes about survivors of such violence. In 2021, Indigenous women and girls made up 19% of femicides in Canada. Women with a disability are twice as likely as women without one to have been the victim of a violent crime. It is critical that judges are aware of these realities when assessing the presence of and impacts of intimate partner violence.

In addition, educational materials on IPV and coercive control should be created in consultation with survivors of intimate partner violence and organizations that support them. For this reason, we would recommend that a provision similar to section 60, paragraph 3 be added to the *Judges Act* in respect of training on IPV and coercive control.

Training should also include information on the different forms of IPV; the well documented social reality that family violence is a gendered phenomenon; and the impact of trauma on a survivor’s memory, demeanour, and well-being.

Finally, we would recommend predicating eligibility to become a superior court judge on a person’s undertaking to participate in continuing education on matters related to IPV and coercive control. This was a crucial element of Bill C-3 (formerly Bill C-5), as without it, one could not be sure that any judges would in fact attend trainings in sexual assault law at all. This Bill should provide the same reassurance.

Electronic Monitoring

Turning to the Bill’s proposed amendments on electronic monitoring, there are some concerns that should not be ignored.

It is important to note that electronic monitoring is already available to judges as an option when considering bail conditions. Electronic monitoring may make some survivors of intimate partner violence feel safer, and may serve to protect survivors and their children from harm in certain cases. However, this will not be the case for every person. For this reason, electronic monitoring should be a condition that is available to judges – which it already is - but should not be something that judges are



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required to consider, as is proposed in this Bill. This is because there is a significant likelihood that if judges are required by the *Criminal Code* to consider a particular condition, it will end up being added to bail conditions as a matter of course.

With electronic monitoring devices costing hundreds of dollars a month, the routine addition of electronic monitoring as a bail condition will have devastating consequences for low-income families. This may actually detrimentally impact the interests of at least some survivors.

Thank you for your time. I'll be happy to answer any questions you have.