



EXPERT EVIDENCE ON COERCIVE CONTROL IN SUPPORT OF SELF- DEFENCE

ROUGH WATERS AHEAD...BY ELIZABETH SHEEHY





TERESA CRAIG ON TRIAL FOR 1ST DEGREE MURDER

- Unique challenge posed by Teresa's evidence
- 1st Canadian trial (2008) to use Coercive Control evidence for self-defence
- US expert Dr Evan Stark hired by defence
- 37-day, hard-fought trial
- Crown theory
- Defence theory



OUTLINE

- 1. Prosecutorial strategies used against Teresa
- 2. How Coercive Control evidence can improve women's access to self-defence, over Battered Women's Syndrome
- 3. Coercive Control evidence presented at Teresa's trial
- 4. Trial and appeal rulings on self-defence
- 5. Limitations of a Coercive Control strategy
- 6. Impact of our new law of self-defence?



1. THE PROSECUTORIAL STRATEGIES

- 1. Exclusion of Teresa's support and defence team advisor from the court room
- 2. Teresa presented as remorseless killer: opportunistic, self-centered, a bad mother, indifferent wife; racialization
- 3. Relentless campaign to limit the admissible evidence in order to remove any "air of reality" to self-defence...in order to make Coercive Control irrelevant



“PREJUDICE TO THE CROWN”

- “we have this element of sympathy being introduced”
- “a growing body of insinuations”
- “an effort to float these prejudicial balloons”
- “this negative character evidence is cropping up again and again”
- “this is not open season on Jack Craig”



2. WHY COERCIVE CONTROL EVIDENCE MATTERS

- Self-defence and the use of expert evidence to inform the jury of battered women's realities and to interpret legal criteria: Battered Woman's Syndrome and PTSD
- "BWS and PTSD require proof of severe traumatic episodes, proof that may be impossible in cases characterized by repetitive, but minor acts of abuse embedded in an ongoing pattern of control" Dr Evan Stark 1995
- Coercive Control as risk factor for fatality (Campbell, Sharps & Glass 2000)



3. DR STARK'S EVIDENCE ON JACK CRAIG'S COERCIVE CONTROL

- Isolation
- Commandeering Teresa's resources
- Use of force against Martyn
- The "battered mother's dilemma"
- Shaming
- Monitoring
- Entrapment



4. TRIAL AND ONTARIO COURT OF APPEAL RULINGS

- Editing of Dr Stark's report
- Objections to Dr Stark's testimony
- Ruling on self-defence and Dr Stark's report
- Confusion and conflict over available verdicts
- Jury verdict
- Sentence
- Appeal rulings



5. LIMITATIONS OF A COERCIVE CONTROL STRATEGY

- Crown no holds-barred attack
- “Advocacy” vs “science”
- Dearth of available experts to testify
- Defence unfamiliarity with the theory
- Limits of self-defence, s 34: A must actually and reasonably believe she is being assaulted; must actually and reasonably fear death or GBH; AND must actually and reasonably believe cannot otherwise preserve self from death/GBH; s 37 (defence of others) even narrower



6. NEW LAW OF SELF-DEFENCE

- **S.34.** (1) A person is not guilty of an offence if
 - (a) they believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person;
 - (b) the act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force; and
 - (c) the act committed is reasonable in the circumstances.
- (2) In determining whether the act committed is reasonable in the circumstances, the court shall consider the relevant circumstances of the person, the other parties and the act, including, but not limited to, the following factors:



6. NEW LAW OF SELF-DEFENCE

- Factors continued
- a) the nature of the force or threat;
- (b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;
- (c) the person's role in the incident;
- (d) whether any party to the incident used or threatened to use a weapon;
- (e) the size, age, gender and physical capabilities of the parties to the incident;
- (f) the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat;
- (f.1) any history of interaction or communication between the parties to the incident;
- (g) the nature and proportionality of the person's response to the use or threat of force; and
- (h) whether the act committed was in response to a use or threat of force that the person knew was lawful

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7. CONCLUSION

- Potential for Coercive Control to describe women's experience of captivity and endangerment
- Should be augmented by "social entrapment" analysis: ie Coercive Control succeeds in part because social, economic, and legal structures reinforce batterers' power over women and shut down potential avenues of escape
- New self-defence law seems to widen scope for evidence
- But until Coercive Control criminalized, possible to conceptualize as merely "miserable life of subservience"



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SUR LA VIOLENCE
POST-SÉPARATION**

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