

REPORT ON PROCEEDINGS BEFORE

JOINT SELECT COMMITTEE ON COERCIVE CONTROL

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

At Macquarie Room, Parliament House, Sydney, on Tuesday 23 February 2021

The Committee met at 09:30 AM

PRESENT

The Hon Natalie Ward (Chair)

Legislative Council

Ms Abigail Boyd
The Hon. Rod Roberts

Legislative Assembly

Ms Trish Doyle (Deputy Chair)
Mr Justin Clancy
Ms Steph Cooke
Mr Peter Sidgreaves
Ms Anna Watson

The CHAIR: Thank you. Good morning. Welcome everybody to this, the second day of the Joint Select Committee into Coercive Control hearing. We had a full day's hearing yesterday and today is our second day. I would like to thank everybody for their participation and coming along today. Before we start, I would like to of course acknowledge the Gadigal People of the Eora Nation who are the traditional custodians of the land on which we meet and pay my respects to Elders of the Eora Nation past, present and emerging and extend that respect to other Aboriginal and Torres Strait Islander people who are here today or watching the broadcast.

My name is Natalie Ward. I am a member of the Legislative Council and Chair of the Joint Select Committee on Coercive Control. With me today are Trish Doyle, the Deputy Chair of the Committee and Member for Blue Mountains; Ms Steph Cooke who is joining us via Webex, Member for Cootamundra; Mr Justin Clancy, Member for Albury, also on Webex; Mr Peter Sidgreaves, Member for Camden, also on Webex; Ms Anna Watson, Member for Shellharbour; Ms Abigail Boyd, MLC, my colleague in the Upper House and also my colleague the Honourable Rod Roberts. So thank you to all of our members and colleagues for participating so proactively in the Committee today.

As I said, today is our second hearing for the inquiry into coercive control in domestic relationships and we will hold a further hearing tomorrow which will be our third for this month. The terms of reference for the inquiry require us to consider the New South Wales Government's discussion paper on coercive control and answer the questions posed in the paper. We have witnesses attending in person here at Parliament House today and also taking part via video conference. The hearing is being broadcast to the public on the Parliament's website.

ELOISE LAYARD, Program Coordinator—Sexual, Domestic and Family Violence, ACON, affirmed and examined

SARAH LAMBERT, Director—Community Health and Regional Services, ACON, affirmed and examined

The CHAIR: I thank everyone who is appearing before the Committee today. We appreciate the flexibility of everybody involved in the proceedings, especially those attending via teleconference. I just want to flag that on occasions, Committee members may get up and leave the room for various reasons. They will come and go and so please excuse us in advance for the flexibility that we need to be able to continue doing what we are doing during the hearing. It is no reflection on our witnesses or the evidence being given. Terrific. So before we start, do you have any questions about today's hearing process?

Ms LAYARD: No.

Ms LAMBERT: No.

The CHAIR: Terrific, thank you. Do either of you have an opening statement you would like to make to the committee?

Ms LAYARD: Yes.

The CHAIR: I might invite you to give that now and if you are able to give a hard copy to Hansard afterwards, we would be very appreciative. Through the Committee staff.

Ms LAYARD: Thanks so much.

The CHAIR: Thank you.

Ms LAYARD: Thank you Chairperson Ward and members of the Committee for inviting Sarah and myself and ACON to give evidence on behalf of LGBTQ communities today and thank you for specifically sourcing the voices of our communities. I would like to also acknowledge that we are on Aboriginal land and pay my respects to Elders past, present and emerging, and pay my respects to Aboriginal people who also identify as part of the LGBTQ community.

ACON has had a dedicated domestic and family violence project since 2004 because it is such an important issue for our communities. The work we do covers a number of areas including primary prevention, victim support, perpetrator interventions, bystander awareness and advocacy and research. Our expertise really lies in that area of LGBTQ sexual, domestic and family violence and we recognise that LGBTQ people experience high rates of violence including coercive control, while at the same time also experiencing barriers to reporting and accessing safety and support.

As ACON are not a legal service, we do not take a position today on whether coercive control should be criminalised. However we believe that if coercive control is criminalised, in conjunction with LGBTQ inclusive, non-legislative activities, such as training police and judiciary, community capacity building and awareness

raising and investment in support options for both victims, survivors and users of violence, that criminalisation of coercive control could have a number of benefits for victims, survivors and for the Australian community.

Conversely, if these non-legislative reforms are not undertaken or if LGBTQ people are not specifically named or included in these reforms, it is possible that coercive control laws could be underutilised or utilised by users of violence as part of legal systems abuse. So it is really critical that all those delivering services and working within justice systems are equipped to understand the needs and experiences of sexuality and gender diverse people and the ways that coercive control can be experienced in our communities. Thank you.

The CHAIR: Thank you, did you have a statement also?

Ms LAMBERT: No, thank you.

The CHAIR: No? Terrific. All right. I will open up to questions from the Committee and thank you for your written submission. I might go to Trish first. Thank you for your written submission which is very helpful and I know that you have assisted a number of Parliamentary committees in my experience so thank you for the work that you do and for your assistance today in an ongoing sense. The Committee members do have your submission and I note that includes a submission to the Senate Standing Committee on Legal and Constitutional Affairs as well. So thank you. I might hand to the Deputy Chair, Trish Doyle.

Ms TRISH DOYLE: Thank you very much Eloise and Sarah, is it? Yes, sorry. My glasses obviously do not work very well. I really appreciate the efforts that you have gone to, to make a submission and to speak to that today. I was just wondering in relation to the particular cohort of people that you would like to see included and represented through this process, whether you might speak a little to the ways in which current framework, the current legal framework can be improved to better address the patterns of coercive and controlling behaviours. I am thinking particularly of I have been approached by the Voices for Change group and hearing from the LGBTIQ community in that space, but as it pertains to the legal world. Can you discuss a little bit about how that framework can be improved?

Ms LAYARD: Yes. I think as I said, I suppose we do not have that same legal expertise to be able to point to perhaps certain legislation in the same way, but I think a lot of it is really around that education and knowledge and of how domestic and family violence can present in our communities. So for example, specific forms of abuse like identity-based abuse such as threatening to out somebody or controlling the way they might - their gender for example. So there are these specific forms of violence that perhaps are not recognised as criminal behaviours, or recognised as part of a pattern of coercive control or domestic and family violence. So we certainly have heard stories of police and other service professionals not recognising those dynamics of violence in our communities, perhaps dismissing them based on myths or not understanding maybe who that primary user of violence is.

So I have heard from community members who when they reached out for support were told things like, it sounds like your partner is having a really tough time and maybe she just needs some support where in fact, that was the person that was actually using violence against her. So I think that there is a little bit of a lack of understanding that domestic and family violence does happen in our communities and that plays out in some difficulties accessing support. Sarah, I wonder if you have—

Ms LAMBERT: No, I think you pointed out some good examples there. I think what we tend to see in our communities do not come forward because they do not feel represented within legislation or they have had particularly negative histories within legal services and so they often do not identify what they are experiencing as being domestic and family violence. Certainly the coercive control stuff is the elements that particularly impact our communities because it takes away their sense of self and their ability to, you know, even participate economically within the workplace, all these other things which have big knock-on effects.

I think when we look at particularly family violence and things, we also recognise things such as—my mind's gone a blank—

Ms LAYARD: Conversion.

Ms LAMBERT: Conversion therapy et cetera, it really plays out and is not always recognised within those realms for people to get the adequate support and for it to be recognised.

Ms TRISH DOYLE: Just a supplementary question. Would you go so far as to say that there is a double disadvantage in cases where needing to explicitly point out that there is domestic violence occurring and not having that sort of recognition?

Ms LAMBERT: I think there are two parts. One that our communities need to recognise it for ourselves and see it identified and named. The second part then is to have service support systems that recognise it and help with following up, particularly legal supports and social supports. At the moment, the wait is on the person and often it is very isolating and stigmatising and within a community the size of the LGBT community, there is often

a lot of protectionism that kind of happens because we have fought so hard for the identities and the relationships that we have. So they are difficult conversations, but having legislation and having community education campaigns and services really help that continue forward, which is what we are starting to see happen.

Ms LAYARD: Absolutely when we look at the barriers to disclosing domestic and family violence, we can look at the barriers that we know exist for cisgender heterosexual women like fear of escalating violence, these sorts of things and these still exist for our communities but before we can even really start to tackle those barriers that are actually really about the violence, we also need to tackle fear of experiencing homophobia and discrimination when someone is actually trying to access that support. Also because so many people in our community have experienced lifelong discrimination, people can also minimise the violence they are experiencing or consider it to be normal. So there are a number of barriers our communities face that are really on top of the barriers that cisgender heterosexual women face and they are barriers that we really need to work against. Certainly that is some of the work that ACON has been doing, but I think we do need that system-wide approach to that work.

Ms DOYLE: Thank you. I might have further questions later, Chair.

The CHAIR: Thank you. Questions.

Ms BOYD: Thank you, Chair.

The CHAIR: Ms Abigail Boyd.

Ms BOYD: Sorry, thank you and thank you so much for your submission which was really, really interesting. I think you know we heard so much yesterday about what coercion looks like in relationships and what coercive control, where it comes from and how it manifests, but then looking at your submission and some of the great submissions that follow today, we are really getting into that detail of how it plays out within particular relationships and particular communities. So thank you very much for bringing that forward. When we are talking about identity based abuse and these specific coercions within a coercive control framework and when we are focused on coercive control as being a gender-based phenomenon or as something that is caused by the gender inequalities within society, can you explain how that still has an impact in creating coercive control within LGBTQ relationships?

Ms LAYARD: Yes absolutely. I guess first we would say that we really do see domestic and family violence as a gendered issue and gendered for our communities as well. So when we talk about that and we look at the drivers of violence in LGBTQ relationships, it is really around those rigid expectations of gender and that privileging of a heterosexual cisgender masculinity. So those negative and discriminatory social attitudes and norms influence the violence against LGBTQ people including within relationships. So I think that is a really helpful framework to understand that the violence we experience is still gendered and many of the forms and examples of coercive control that you will have heard yesterday and probably throughout today will absolutely still apply to our communities as well, but also as you mentioned, identity-based abuse can be really specific so it is around again that power and control and one of the ways that power can be used by is looking at those differences in power and in social standing in adherence to gender norms.

So that can look, as we outlined in our submission, really differently it can look like forcing people to conform to gender norms, so controlling the way that someone might dress or the way someone might behave or even certain sexual acts that someone might not feel comfortable with, insisting that maybe this is how all gay men have sex, or how if you are saying you are a woman then you need to be doing this, this, this. So really controlling the way someone is actually expressing themselves and their own identity and I think it really goes to the heart of what coercive control is all about because it really is about controlling, changing or silencing somebody else's identity and that being the decision made by the user of violence.

The CHAIR: Anna Watson.

Ms ANNA WATSON: Thank you. Well thank you again for both coming in. It is great to hear from you both and I was very interested in your submission as well. It was very interesting. You talk about in parts of your submission about the systems of abuse and the misrepresentations of perpetrators in particular and then Sarah, you just spoke about community campaigns. I am very big on education and community campaigns. They have worked in the past and they will work into the future. So in your view, can you advise the Committee what sort of community campaign would be well placed in relation to coercive control and in what form would that look like?

Ms LAYARD: Yes look, I think it could look like a number of forms but I think the really big thing is that LGBTQ people in community organisations really be at the table when those campaigns are developed. So whether they are TV, bus side, that kind of thing, but really about including LGBTQ people in stories. So it could be a specific campaign and we have certainly had success running campaigns that are exclusively for our communities. We have really I think seen a difference in the number of LGBTQ people who are coming forward

to talk about domestic and family violence and we see that including in our program that is for people who are concerned about their behaviours in a relationship, is actually 100 per cent self-referred. So we know that these conversations are happening in community and I think that there is more we can do to support that.

So when we look at frameworks like Change the Story, they really are focused on men's violence—sorry, cisgender heterosexual men's violence against cisgender women, which I think is really certainly the majority of violence that occurs but what it does is it can leave our communities feeling invisible. So there is a saying in our communities, "if you do not write us in, we will write ourselves out". So we are so used to not being included that if we are not really specifically named and if our experiences are not explicitly spelled out, that we will assume that these messages are not relevant for us. So it is really about taking those messages and making sure that they resonate with communities, they feature a diversity of identities, and yes, highlight those diversity of stories.

Ms ANNA WATSON: So in other words, you are saying that in your view, that the education process for your community would be a priority?

Ms LAYARD: Yes, absolutely and you know, about what coercive control is, about people's legal rights, where they can go for support and including how as friends we can talk to our friends. How as community members we can support within our community, I think are really, really crucial pieces of work and in the primary prevention space as well where we will be doing a little bit of work in the next year or so. Yes.

Ms LAMBERT: These campaigns and education awareness raising activities need to be quite nuanced because we are very much aware our relationships are already stigmatised and to cut through that resistance that we have and that uncomfortableness we have about talking about our relationships, but also how the general population may view us is something that we really need to take a lot of care and thought in and ACON has got a history of doing this kind of work. So it is how do you do it without problematising, stigmatising, pathologising our relationships but at the same time, encouraging a really frank and honest conversation within our communities.

Ms ANNA WATSON: Would cost be a barrier?

Ms LAMBERT: Not necessarily. I would say that we have been funded since 2006 was it? Yes. It is very much short term, piloting of initiatives. It is never anything that really enables any embedding of change. So ACON has got a big history of that. We are the only service funded in the state for our communities and like I said, it tends to be very much piloting different initiatives, whether it is men's behaviour change programs, survivor support groups, sexual assault, you know, research et cetera. It does need a sustained effort and it needs to be not necessarily it is a big cost implication but there needs to be some resourcing most definitely because there isn't otherwise outside of the one project worker that we have which is Eloise for the state.

Ms LAYARD: I think we can look to our history of doing that work in the HIV space and the campaigns that we've run around—and some of that is really behaviour change because it is around, you know, using PrEP in different ways and so we certainly have that history of with sustained funding, but not necessarily excessive funding, being able to do that kind of campaign work with our communities in different ways.

The CHAIR: I might come back to those. I am just going to invite our colleagues on Webex if any have some questions, they might want to just let me know, but while they are considering that I just wanted to pick up on the education piece and thank you for your submission and the content there was really good. Just in relation to police specifically, because a lot of this will, if it happens in whatever form it may or may not happen, will fall to police. I know that we have GLLO [Gay and Lesbian Liaison Officers] officers. Could you speak to that and how it might be nuanced for police in terms of—and the judiciary potentially—but training and support in the event that this comes about.

Ms LAYARD: Yes absolutely and our GLLO officers certainly do a fantastic job as do the DVLOs [Domestic Violence Liaison Officers], but we don't have GLLO officers in every station—

The CHAIR: Yes.

Ms LAYARD: —and I think it is really important, if someone is responding to an emergency that they have that capacity to respond there and then and be able to provide that response. So it is really around yes, having that understanding as officers, not just about—I suppose I would start with an understanding of our communities and the barriers and discrimination that LGBTQ people can face and looking specifically as well around that history with police and what some of the impacts are there. Being educated about our relationships and the forms of violence that can be experienced. So both healthy relationships and those instances where relationships are not healthy, but then also really looking at those skills that officers might need to have to actually assess a situation and understand who that primary user of violence may be. So we know that in our communities threats like, "they are not going to believe you" or "I will just say that you hurt me", can be really powerful because we do have these myths that could lead people to think, I guess it will be the taller guy if I am attending a scenario—

The CHAIR: Right.

Ms LAYARD:—where there are two men involved. So it is really about helping police to assess for those coercive control and to determine that history over that course of conduct in terms of who might be resisting to violence and who might be really using violence as a way to control somebody else. So I think that there are specific nuances that need to be understood and able to be able to respond to those incidences appropriately.

The CHAIR: Did you have anything to add to that, Ms Lambert?

Ms LAMBERT: I would just say that our community's histories with the police means that we are often very hesitant to report and certainly having things like DVLOs, GLLOs, but even having community organisations supported to help facilitate that access is really crucial. Again, it goes back to history of prejudice and criminalisation of our relationships, so yes, having those supports that help navigate a system that feels quite—how would I put it—certainly feels big barriers and really the last resort often for our communities is a big factor. With that, I think police having the confidence to ask the questions, to listen and to understand what the relationships are, understanding one size does not fit all is really important.

The CHAIR: Yes and just knowing how much our police are dealing with. I think they have come a very long way—

Ms LAMBERT: Most definitely.

The CHAIR:—and have been phenomenal and I think there are good police and there are great police and—

Ms LAMBERT: Always.

The CHAIR:—are dealing with so much in a situation but interested in how we can equip them with more tools and understanding, like all of us in this process to try and understand and approach perhaps differently or with a view that is perhaps a bit more open-minded. I think Trish Doyle had some further questions?

The Hon. ROD ROBERTS: I don't have any questions.

The CHAIR: The submission is full and frank—

The Hon. ROD ROBERTS: It speaks for itself.

Ms TRISH DOYLE: Does Justin or Peter?

The CHAIR: No, it's okay. I'll go back to you—

Ms TRISH DOYLE: Okay.

The CHAIR:—and if you had something else Abigail and then I have got a couple more if we have time.

Ms TRISH DOYLE: Yes. So yesterday we heard from quite a number of people speaking to their submissions that they felt that legislative reform in terms of criminalising coercive control would not be their first choice and my view is that it offers another option. Not everyone has to take that option but it does offer an option and I am just wondering whether you might—and I am asking a lot of people who have that view to speak to this. Does leaving coercive control out of the criminal scheme send a message that it is less serious than physical assault? What is your view on that?

Ms LAYARD: I think that is a really interesting question and I guess in the context of our submission where we have sort of—I was going to say hedged our bets—I will not say that—where I think—I do not know that it sends that message but I do think that if coercive control was criminalised with those associated activities, with that additional community resourcing, that it really could send a message, that coercive control is exactly as serious and that domestic and family violence without physical violence is very serious. It can have lifelong impacts and trauma for people. I do not think criminalisation in and of itself will do that because our communities may not know that the law has changed, for example. So I think that whether or not those same—if we were to invest that same amount in community education without criminalisation we could get that same message across, I probably could not comment on that.

Ms TRISH DOYLE: We absolutely need both, I agree there.

Ms LAMBERT: I think not—potentially not having it does minimise and means that there is not an avenue for people where they are experiencing ongoing coercive control and how that can escalate over time and present in different ways. I think it is certainly worth considering and we are very happy to have the inquiry looking into it, because there are certainly lots of advantages. We do err on the side of caution knowing that for some people, it becomes a potential weapon within the legal system and so there needs to be protections around that, but certainly the perpetuated—perpetuated I guess misunderstanding that violence only is physical in nature is not particularly helpful and we're seeing that shift happen at a community level and therefore perhaps we need the legal responses to be able to appropriately respond.

Ms TRISH DOYLE: Thank you, thanks for that.

The CHAIR: Sorry, I've just got a question from Steph Cooke on Webex. Steph, are you with us there?

Ms STEPH COOKE: Thank you, Chair. Yes I am, can you hear me?

The CHAIR: Terrific. Yes very well, thank you.

Ms STEPH COOKE: Thank you. Good morning. Thank you for appearing with us today. In relation to identity based abuse needing to be recognised, do you see this recognition forming part of the definition of coercive control and if so, how do you believe that might be captured?

Ms LAYARD: I suppose again, coming back to—as we are not a legal service, probably not at this stage advising as to exact wording but I think it could look different ways. So it could be done through listing identity based abuse as a specific example of forms of abuse that might be a component in the perpetration of coercive control and that could be in the legislation or perhaps through providing examples in any explanatory memorandums that might come through or even if it is in that public communications. Or even if it is just looking at what the dimensions of identity-based abuse are and ensuring that those dimensions are included in wording that would be used to define coercive control. So at this stage I would say that there might be a few examples of how it could be done but that we would certainly be happy to undertake sort of further consultation discussions around making sure—

The CHAIR: If you'd like to, it is open to you to take it on notice if you would like to give it some thought and come back to us.

Ms LAMBERT: Certainly happy to—

Ms LAYARD: Yes—

The CHAIR: You are most welcome to do so, we just ask that you do that within seven days but the Committee will be in touch about that, but it is an excellent question because part of our remit is to look at the definition and try and come up with something substantive. So Steph, did you have anything further or am I right to move on?

Ms STEPH COOKE: Nothing further, Chair.

The CHAIR: Thank you, thank you. Ms Abigail Boyd.

Ms ABIGAIL BOYD: Thank you, Chair. I am just interested in your views on what effective perpetrator intervention looks like in the context of relationships within the LGBTQ community within that sort of coercive control framework?

Ms LAMBERT: It is a good question. There is not actually a lot of work that is done in this space for our communities. I think following us is the men's behaviour service who also have been doing some work. ACON has been funded to look at how we can do some more inclusive behaviour change interventions, recognising that particularly the men's behaviour change network recognised that for gay men and bisexual men, often the more mainstream service options are actually not safe for them and it's very difficult for them to facilitate. There also is no service options for women who perpetrate violence or non-binary and trans people and how they fit into the current quite gender binary prescription of those services. ACON has been doing some work. We have now run two or three now?

Ms LAYARD: Two now.

Ms LAMBERT: Two now and we are going through our own accreditation but even the accreditation process does not actually allow for our communities within it. So it is a growing space, it is a learning space. I think there are nuances for our communities when it comes to how we work with perpetrators of violence. It is not always clear cut who is the aggressor and there is certainly the different ways that gender norms and things play out that are relevant for both though.

Ms LAYARD: I think we can look at our Proud Partners program, which is the program that Sarah was just referring to and I see a lot of success there in the way that we have been able to engage communities. So as I mentioned, both of those programs have been run with 100 per cent self-referrals, so it is people who really recognised a need for themselves to change their own behaviours in relationships, that the behaviours that they're using aren't okay or are causing harm and really engaging with us and with community in that group format to be vulnerable, to learn from one another, to understand the impacts of lateral violence within community, all these sorts of things. So there are definitely specific content that we do include in that Proud Partners program that really aims to address those kind of nuances in our communities, but I think it really points to ways that we can engage users of violence to encourage accountability without perhaps shaming or demonising and I think that that's something that's quite crucial in our work.

The CHAIR: Okay, sorry did you have something—

Ms LAMBERT: No I was going to say certainly self-referral is not heard of outside of our community because it's usually mandated. We also had extremely high rates, almost 100 per cent of completion, but also in partners also coming forward to receive support. So we know where there is—there is a demand there for this and there is an openness for it. It is how it is done and I guess that we are actually able to make it available more broadly. Because like I said, it is very much establishing the evidence base.

Ms LAYARD: I would say so far in our program, we are probably looking at people who are maybe on like lower levels of behaviour and I think that that's a really important space to be in. So being in that space with people that might not be at that criminalised end and engaging there and I think having additional supports across Australia for those people would probably be really helpful. That goes back to that community education and things like that in schools. So it all kind of interplays together, doesn't it?

The CHAIR: Thank you. On that note, our time is up. Thank you very much for your assistance today and your work, representatives of ACON, here to the Committee today and thank you very much. The Committee staff will set up for the next witnesses. Thank you.

Ms LAYARD: Thank you.

Ms LAMBERT: Thank you very much.

(The witnesses withdrew.)

STEWART PRINS, President, Men and Family Centre, affirmed and examined

MARDI WILSON, Family Advocate and Support, Men and Family Centre, affirmed and examined

MICHELLE LYONS, Program Delivery Officer, Men and Family Centre, affirmed and examined

The CHAIR: Thank you very much everybody. We are back on. Thank you, terrific. Next we have witnesses from Men and Family Centre appearing before our Committee. Thank you for joining us today.

Thank you for the work that you do. Thank you so much for your written submission to the Committee members. We have had the opportunity to read and absorb that and I appreciate the work you've put into it, but also the ongoing work that you do in your area. It's very important so we appreciate it. Do any of you have an opening statement you would like to make first?

Mr PRINS: Yes thank you, Chair. I would like to make a short opening statement.

The CHAIR: Thank you, Mr Prins.

Mr PRINS: Can I begin by acknowledging that we are on the traditional land of the Gadigal People and pay respect to their Elders past, present and emerging and to all First Nations People here today. By way of introduction, the Men and Family Centre is a small, not-for-profit community organisation with offices in Lismore and Tweed Heads. We were set up over 20 years ago to address an identified need in our local communities and that was the need to help men who were concerned about how they were managing conflict within their own relationships and families. Today we seek to build safer families and communities by running programs for people who use violence, abuse, coercion and control, supporting people affected by others' violence, abuse, coercion and control and raising awareness and understanding of the cultural and social drivers that underpin these forms of violence. We are also the only organisation on the New South Wales North Coast that is accredited to run men's behaviour change programs.

Our key message for you today is that coercive control is complex and there is no simple solution. Introducing a bespoke criminal offence of coercive control certainly has some merit and our submission outlines some of the benefits, but it must also be recognised that criminalisation of coercive control does come with risks. Equally, criminalisation on its own will not address the reasons why people and predominantly men seek to control their partners or the social norms that support controlling behaviour within relationships. As you have already heard in the evidence yesterday and will hear again today and tomorrow, coercive control can encompass a wide range of behaviour and if you view these behaviours on a spectrum of seriousness, impact and malevolence, then a criminal offence inevitably will only pick up behaviours at the most egregious end of that spectrum.

There is much more that needs to be done to address coercive and controlling behaviours before they escalate to a level of serious criminality. So we welcome the Parliament's interest in this issue and we are extremely encouraged by the genuine desire for change from all parties and from all members of this Committee. We hope the Committee's recommendations will represent a turning point in our societal response to domestic and family violence in New South Wales and we urge you to take a comprehensive approach to this deep and insidious social malaise to consider criminalisation of coercive control as part of a much broader commitment to addressing the

drivers of domestic and family violence. Not just to catch and punish the worst offenders, but to build a society where people do not feel the need to control their intimate partners in the first place.

Although our submission is in my name as President of the Men and Family Centre, preparing it was truly a team effort and frankly the Committee will get much more benefit from mining the knowledge and expertise of my colleagues who are the experts in this field. Mardi Wilson manages our Family Advocacy and Support program at the Men and Family Centre, working directly with people who have been affected by violence. Mardi has just completed her PhD in sociology so she is soon to become Dr Mardi Wilson. It is worth noting that Mardi's thesis focused on how sexual coercion is normalised within heterosexual relationships, so her expertise is both as a working professional and as an academic.

Michelle Lyons also has postgraduate qualifications in domestic and family violence and for the past 10 years, has been working in this field. Michelle's experience includes coordinating local safety action meetings for the Safer Pathway program which many of you will be familiar with. For the past 12 months, she has been running intervention programs for men who use violence at the Men and Family Centre out of our Tweed Heads office. We are all grateful to have this opportunity and we thank the Committee for inviting us to speak with you today and we are looking forward to your questions.

The CHAIR: Thank you very much, Mr Prins and thank you to each of you. I very much appreciate that little bit about each of you and what you bring because we fly through these without really appreciating the detail of what you do, so thank you for that introduction. Before I throw to my colleague, I am just going to thank you for your recognition of the complexity of this issue. I think it is one of the least straightforward Committee inquiries that I have had the privilege of being on with my colleagues and I know that we're all working very hard to try and find a way through this very complex issue so I appreciate your recognition of that and also your very important work with men's behaviour change and intervention programs on the ground. So I will come back to me and my questions about that later, but the Honourable Rod Roberts I think has some questions.

The Hon. ROD ROBERTS: Well thank you for attending in person this morning and thank you very much for your submission. Although it is short, it's very succinct and sometimes we appreciate that. Look I just—a couple of questions. Page 2 of the submission under the potential risks of legislating or codifying coercive control and I will just—it says further involvement in the criminal justice system which has already shown to harm victims, physical violence is already a crime yet it still occurs. Making coercive control a crime would surely create some further understanding and recognition, but it will not stop it happening or change the culture. I perhaps tend to agree with that statement but I am looking—can you expand on that further for us? This is open to—I notice Mr Prins deferred to you two ladies as the experts so you choose who is going to answer.

Ms LYONS: I am going to start with a quote from Sandra Walklate who is a well-known researcher in this field, who says the law itself will never be enough. So no matter what is decided about the criminalisation aspect, I think you are all here because you all understand that it's a problem that needs resolution and that that resolution will not be just by the law, that there are other aspects that will ameliorate this problem, things outside the law like you know, improved housing for victims, crime and prevention activities, more funding for the kind of interventions that we do and that range of things that are not part of the criminal justice response. I think that's what we mean by bringing this to your attention, is that the law will never be enough by itself. That making it a crime may have benefits and might be a good idea, but just doing that is not going to make much difference. In fact it does raise those risks, the potential risk to victims and the other things that are outlined in there. The point of that is just to remind us all that we need a wider response than just whatever is decided about criminalising coercive control.

The Hon. ROD ROBERTS: Thank you.

Ms WILSON: Just to add to that. So when we talk about the fact that the justice system can do harm to people who experience violence, that is relating to many steps of the process but in the earlier phases when they are bringing complaints to whether it be first responders or to the police, there—and this is documented, there can be responses of dismissal or disbelief and that comes often when the—like what Stewart was saying in our introduction—when the type of violence that people are experiencing doesn't present as the most egregious high level physical or sexual violence and so when we think about coercive control, which often is, as it is a course of conduct, it is often more—it is a pattern of behaviours that people will, without adequate training, think of as more low level violence but actually together makes up very serious harm and it cannot involve physical violence at all.

So without that awareness and training, we fear that women coming or people who experience violence coming to first responders, the police, may be met with that disbelief, discouragement, dismissal, et cetera, and that will work to reinstate a feeling of that their experience is not worthy of protection or adequate legal response and I suppose that is, yes, relevant.

The Hon. ROD ROBERTS: Thank you for that, Ms Wilson. That actually answered my second question, so Madame Chair I have—

The CHAIR: Thank you. Can I just pick up on that before I throw to our friends online and then come

back here. I just wanted to pick up on that statement that the law is not enough and it is a very good reflection, but I'm going to just—and I agree with you entirely and acknowledge a wider response is absolutely necessary. I think that is common ground. This is not just one aspect although we are asked to look at one aspect, we are all very aware that it is a much bigger picture. However can I just say, can you comment on whether silence on the law, that is it not being a recognised criminal act, is a reflection on it? When you say it is lower level, can that be interpreted as a representation of its importance or its level of seriousness within the criminal justice system, if it's not there as a crime?

Ms LYONS: It is not—I mean let's start with the definition.

The CHAIR: Great. That is what I was getting to.

Ms LYONS: Yes, I mean I do not know the exact answer to your question but I do know that it has not been included in the definition and that there is a real need for a standardised national definition that undoubtedly includes coercive control. So like I said, whatever the decision that is made about the criminalising, that needs to be attended to, in my view, you know, prior to that and then that would reduce the possibility of silence on coercive control, were it part of the definition. Yes—

The CHAIR: When you say definition, you have just alluded to a national definition.

Ms LYONS: I did.

The CHAIR: Can I ask about whether you think that it is important to wait for agreement and an agreed definition nationally, or whether it is better that we lead the way and get on with a definition in New South Wales and to go ahead with something. Do you think it is worth the wait to nationalise or—

Ms LYONS: I do not know how difficult that might be. I mean the example of the—it took such a long time for AVOs for example to be nationally recognised and that was, you know, the possibility of standardising the AVO never came to be. We all have different AVOs in the states but we have recognised them nationally and I think part of that was the problem that you alluded to, the difficulty of reaching that consensus nationally was too great and we just said well let's just recognise them anyway. I mean there are sort of individual issues with that, cross-border issues and things like that but you know, it is a step. So perhaps just saying, this is the way New South Wales is going to go and waiting for everyone to catch up. Whatever—the definition that we currently have, does not include coercive control and it probably should. So whatever the answer to that question.

The CHAIR: Thank you, yes.

Ms WILSON: Chair, this is similar to the question that Trish asked later in the ACON session which I thought was a really interesting question, that is, is leaving this out actually therefore saying that it is not as significant or serious and I think that is obviously the risk we are taking with not criminalising. I think that when we are looking at the way that the current system works which is a criminal response to domestic violence and that is not—that is the way that things are done, why isn't coercive control included? I can really understand the arguments for that.

So whilst there are—I also really do see a lot of the risks that are possible and I do think the answer, as we have said before, is a multifaceted approach and in my opinion and my personal experience working with victims of domestic violence and attending the police and things like that, whilst some—you know, said before there are good police, there are great police, there are also some police that do have very ingrained beliefs about the way that women should behave and the way that relationships are and what is normal within a heterosexual relationship, that is actually kind of reflective of what coercive control actually looks like and therefore getting that assistance at that time can be quite difficult. So I think that those risks, if those things were to change and there was to be a lot of face-to-face in depth training about the constructs of gender and things like that, maybe then those risks would not be so prominent.

The CHAIR: Okay, thank you. Sorry, did you have something to add to that?

Mr PRINS: No.

The CHAIR: I am just going to ask Member for Albury who has—brings a different perspective to this, Justin Clancy, you have got some questions.

Mr JUSTIN CLANCY: Thanks Chair and thank you for your submission and for being with us today. I just want to focus for a moment on the work that you do in terms of the men's behaviour change programs and focusing perhaps on coercive control in that context. Do you—firstly, your referral pathways, are they self-referral or are they through the civil or criminal pathways and do you have men who are entering the program where coercive control forms either the whole part or a significant part of the DV that they are perpetrating and what benefits do you see through the program in the context of coercive control please?

Ms LYONS: Referral pathways are mixed. Very few of our attendees are mandated. So it is not something certainly in the Northern Rivers that the courts do. They just do not. So they can be encouraged rather than mandated by either the child protection or the corrective services system. So we get a lot of self-referrals and

we get some from those two sources, but they are not mandated. So they come along and they engage as they will. There is no punishment for them if they do not. As to your question about coercive control, it is huge. We see that in most people who use abuse. For the men that we work with who are using abusive, it rests in coercive control. Sometimes escalates into violence, but there is pretty much always coercive control. There are very few people for whom that is not part of the deal.

Ms WILSON: I think the second half of your question which was around what do we do in response to that or what is the benefit of our organisation. Obviously there is the working with men in helping them to understand the way that other types of abuse, not just physical violence, manifests in their behaviour and there is that side of things. Whether those men are open to that information or not is something we cannot hold that much sway over a lot of the time. However another really important part of our organisation is then the role that Michelle and I both do, it is my primary role and Michelle does that along with the men's behaviour change, that is working with women who have experienced this and as Michelle said, the vast majority of violence that we do see is based in coercive control. Whether or not it also contains physical violence or not, there is usually always coercive control and something that I find is very beneficial from our organisation is that from women coming in and talking about their experience, it gives us the chance to talk with them and to delve a little bit into whether coercive control is something they are experiencing and they often do not have a label for that.

So that comes back to that, what is the benefit of this recognition and understanding and that is something that we can do if there were more services like ours or more funding for services like ours so we could be working with more women who are experiencing this. They are actually getting the knowledge where they are equipped to understand their experience in a way where there is a label, a term and then they can go forth. Potentially they can go to the police with that label and that definition. So that is—yes.

Mr PRINS: Can I just add, Mr Clancy, a perspective from a man who has actually gone through a men's behaviour change program as a participant, that there comes a point which—and I have seen this a number of times now—where participants have a light globe moment and all of a sudden they can get a clear view of their own behaviour from the point of view or the perspective of their partner or their children, and behaviour that previously they thought was entirely justified and normal, they can suddenly see how it is coercive from another's point of view. It is a really powerful moment and I think it is the real power of the work that we do, with men who use violence and intimidation.

The CHAIR: That is phenomenal. Thank you for your—

Mr JUSTIN CLANCY: Thank you.

The CHAIR: —for bringing that to the Committee. Member for Camden, Peter Sidgreaves.

Mr PETER SIDGREAVES: Thanks Chair. My question is kind of touching on one of the comments that was just made by one of the ladies there with regards to coercive control existing in most of the cases that are relating to domestic violence. So my question is, for those cases where it does exist, is it a precursor to physical violence in all cases or in most cases?

Ms WILSON: For those where it does exist, did you say?

Ms LYONS: Yes.

Mr PETER SIDGREAVES: Yes so sorry, for those relationships where coercive control does exist, where there is family violence—sorry or domestic or family violence, is coercive control a precursor to that in many or most or all of those cases?

Ms LYONS: The short answer to that is yes and I think you will be getting some information from Death Review team and the statistic is something like was it 112 domestic violence homicides, 111—

The CHAIR: I am sorry to interrupt you. I am just going to ask you to pull the microphone closer because you are talking quite politely to the member online which—

Ms LYONS: He is not even here.

The CHAIR: —means you are away from the microphone, so addressing—

Ms LYONS: My apologies.

The CHAIR: Not at all.

Ms LYONS: Just the answer to that is yes and the Death Review team will give you the same sort of evidence; 111 of the 112 domestic violence homicides that they reviewed included coercive control. So short answer, yes.

Ms WILSON: I mean it is also important to note though that some women I support that might have been in a partnership or marriage for 25 years and would say—would not say that they have experienced physical violence but have experienced coercive control throughout that entire period. However once you dig a little bit deeper, there might have been certain incidents that have occurred time to time that were not necessarily resulting

in physical injury but were physically violent in some way, but that is again about how people perceive and describe their own experiences. So just also it is—with coercive control, that is something that I would not want to be mistaken when people do go to report or whatever and if there has not been physical violence, that it is not taken seriously enough. I am sure you all know that, but yes.

Mr PETER SIDGREAVES: Yes so just a quick follow up question to that, Chair.

The CHAIR: Go ahead.

Mr PETER SIDGREAVES: Given the answers, which I expected to be the case, I know that in your submission you took a multifaceted approach which is certainly what we are hearing a lot of. If we tackle coercive control, if that is a precursor to physical violence, would you agree that critically important to tackle coercive control where it exists before it raises into physical violence?

Ms LYONS: Yes.

Ms WILSON: Yes.

The CHAIR: It is a unanimous yes.

Mr PETER SIDGREAVES: Yes.

Mr PRINS: I think that is—yes, that is pretty much our clear message.

The CHAIR: Lots of yeses.

Mr PETER SIDGREAVES: Right, thank you very much.

Ms LYONS: Thank you.

Ms WILSON: Thank you.

The CHAIR: Thank you Peter, great question. Going through, Ms Abigail Boyd.

Ms ABIGAIL BOYD: Thank you. I will try to be quick because we are unfortunately running out of time. Thank you so much for appearing here today. We have heard from a lot of people that a change in the law would be good but not enough and that it must be accompanied by this whole of society reform, which of course is going to require funding and resources but we heard some caution yesterday based on the track record of receiving sufficient funding for these things, that although we may have great intentions right now, that that will not actually come to fruition.

I noted in the submission there was discussion of not only lack of funding but also lack of funding security, where you have this six month rolling contract. Could you just explain to us—because obviously us giving money but then it not getting used as effectively as possible is quite important. Can you explain to us what impact that funding insecurity has on your operation?

Ms LYONS: That is you, I think.

Mr PRINS: Can I just—

The CHAIR: I am going to ask you to be brief, I am sorry.

Mr PRINS: Yes I will and I will just start by saying we are very reliant on State Government funding and we are extremely grateful for that funding. It has enabled us to continue operating and without it we would be nowhere. The lack of funding security means that we struggle to provide our staff with secure ongoing employment and we have had to develop a business model therefore that relies on part time and casual staff. So most of our staff are part time. We have a pool of casuals who we can increase or decrease their hours as is required. While from my point of view, it has served us well, particularly in this year where we have had to ramp up, it does come at a cost and that cost is to the staff themselves in terms of their own financial security, and also a cost in the amount of time and effort that staff can put into their work.

If they cannot commit fully to the work, then the work inevitably suffers. For example, it affects the amount of research and training they can do because this is an evolving field. It affects how they can manage their own stress and if you think of the role of a female facilitator in a group of men who have used violence, it is an extremely stressful job. It affects motivation as well and our ability to attract and recruit staff which is a major issue from my point of view.

The CHAIR: Mr Prins, I am going to interrupt you. What I might do, it is an important question and we would like to hear your answer. I might ask if you would take that on notice.

Mr PRINS: Sure.

The CHAIR: If you can give us a written answer to that, that would be very helpful.

Mr PRINS: Thank you.

The CHAIR: I am just mindful of time and I have three members who want to ask questions in two

minutes. So I am just going to throw to Steph Cooke who is online, then I am going to come back to our members here. Steph, are you with us there?

Ms STEPH COOKE: I am, thank you and thank you Chair again. Thank you for appearing this morning. It is probably related somewhat to Abigail's last question. How do you measure the success of the programs that you are running and I guess following that, how can we have confidence that the work you are doing is successful and will have a lasting effect in this space going forward?

Ms LYONS: We are currently working with No to Violence on evaluation of our programs and it is a very good question and one that is not readily answered. Evaluation is always a difficult field, but we are mindful that it needs attention. Like I said, we are currently working with No to Violence on a whole system of evaluating and we follow the—ANROWS has a lot of very helpful stuff about it. So the answer to that is we are working on it because we understand the importance and value of those evaluations for things like this.

The CHAIR: Again, an excellent question and important answer. I might ask you to also add perhaps—

Mr PRINS: Yes.

Ms LYONS: Sure.

The CHAIR:—some of that more detail of that onto your answer on notice if you may and the Committee staff will be in touch with you about those questions, so great. Who is next? Deputy Chair, Trish Doyle.

Ms TRISH DOYLE: Thank you to the three of you. You have been really articulate and it is fantastic to actually hear some of what you have presented today. The comment that jumps out at me in your submission is that the criminal justice system does not necessarily provide meaningful justice for victims or meaningful interventions for perpetrators. That is absolutely a truth and I think all of us would agree around a multifaceted approach. We have to have education and training and awareness raising, absolutely. For all of those—and you heard my question to ACON—for all of those people who shy away from the idea and for good reason, you know, criminalising coercive control—my question is what would you say to victim survivors who want this change as an option, who want coercive control criminalised?

Ms WILSON: So something that I have experienced since this proposed criminalisation has been conversations with my clients who—there is some mixed response but a lot of people are very excited about the proposed criminalisation and when we—however it is very interesting for me because the same person will in the next breath talk about their very unsatisfactory, very traumatising experience that they have had when they have gone to address things that they have experienced with the police that are already criminalised and that those—or to try and upgrade an AVO, get an AVO applied for on behalf of the police instead of at the local court. There are some things like that which I have been with clients and experienced their dissatisfaction and I have also heard it from them afterward. It is common and so I think that there is this hope that this is going to make things different and I also hold that hope, but I would be very disheartened as I am sure they also will be if then that does not materialise in legitimate increase in recognition and again, more dismissal of what, quote unquote, lower level violence .

Ms TRISH DOYLE: Yes, thank you. Thank you for that. I am just going to make one comment for the record before we move on. That is thank you Stewart for sharing some of your story. I think that your insight is very rare—

The CHAIR: Hear, hear.

Ms TRISH DOYLE:—but it is good to know.

Mr PRINS: Thank you.

Ms TRISH DOYLE: Thank you.

The CHAIR: Thank you, very much appreciate it. If members have further questions, we will send them to you in writing. We are unfortunately out of time for this session. Very appreciative of your assistance, your written preparation and the work that you—the critical work that you do is so important. Thank you. Your replies that you send to the further questions and those you have taken on notice will form part of your evidence and they will be made public, just so you are aware and those further questions will be sent through the Committee members. Thank you for your assistance today.

Ms WILSON: Thank you.

Ms LYONS: Thank you.

Mr PRINS: Thank you.

The CHAIR: We will have a short break now. We will return at 10:45.

(The witnesses withdrew.)

(Short adjournment)

BRAD CHILCOTT, Executive Director, White Ribbon Australia, affirmed and examined

PATTY KINNERSLY, Chief Executive Officer, Our Watch, affirmed and examined

NATALIE GOUDA, Legal and Policy Officer, Rape and Domestic Violence Services Australia Inc, affirmed and examined

The CHAIR: Thank you very much. Welcome back everybody to the second day of the hearing by the Joint Select Committee on Coercive Control. Our next session we will be hearing from Rape and Domestic Violence Services Australia Inc, Our Watch and White Ribbon Australia. Thank you for those witnesses joining us in person and I think we have everybody in person for this session.

Thank you so much and before we begin and I pass to my colleagues, I will ask you for opening statements but I just wanted to say for those watching by webcast or anybody here today, for confidential advice, support and referrals related to domestic and family violence, you can contact 1800RESPECT which is well known to us all but I just wanted to reiterate, 1800 737 732 or the NSW Domestic Violence Line, 1800 656 463 or the Men's Referral Service on 1300 766 491, just if there is anything that triggers or makes you feel like you should be in touch with them today and we are thankful for their services as well. Can I invite you if you have an opening statement to give that to the Committee now?

Mr CHILCOTT: Sure. I did not think I was going first but—

The CHAIR: Oh well no—

Mr CHILCOTT: No, we will go for it. I am happy—

The CHAIR: We are very democratic here Mr Chilcott, if you would like to—

Mr CHILCOTT: I've very happy. It's great. No—

The CHAIR: —defer to your friends, we—

Ms KINNERSLY: We did.

The CHAIR: Thank you.

Mr CHILCOTT: It has been deferred to me.

The CHAIR: Lovely—

Mr CHILCOTT: So I do have an opening statement. So thank you for the opportunity to speak today. Firstly I would like to acknowledge the land of the Gadigal People of the Eora Nation and pay my respect to Elders past, present and leaders of the future. We know this always was and always will be Gadigal Land and it is our honour to gather and speak together on that land today. Thank you to the Chair and Committee members for inviting us to join you. You have got our written submissions so I do not want to go over that in detail now, but I would like to make a few comments.

The criminalisation of coercive control has become, as you know, a matter of some public debate in which a complex issue has often been reduced to a binary, either being for or against criminalisation. While there is some political pressure in different jurisdictions for swift legislative action to criminalise and then move on, for most people engaged in this conversation, there is far more nuance than just being for or against this reform. I want to touch on some of those deeper aspects of the debate a little today and recognise that people on both sides of that somewhat false binary have a lot in common.

White Ribbon Australia is one of the organisations who publicly called for coercive control to be criminalised for a range of reasons. One of those is the fact that we are regularly hearing from women, victims and survivor advocates who are saying that they can finally see themselves and their experiences in this description of intimate partner violence and who want to see an outdated law explicitly reflect what many women describe as the worst aspect of the violence they have experienced. Criminalising coercive control will improve the visibility of the complex nature of family and domestic violence, bringing the law up to date with something that has been understood for decades. We are essentially advocating for the criminalisation of the power and control wheel created by Ellen Pence which you would now be familiar with throughout this inquiry.

Secondly, laws help us articulate what society believes is okay and not okay. It is a very simple statement but it is true. We regularly hear from both men and women words to the effect of, I just thought that is how relationships were; or, I had never experienced another kind of relationship growing up; or even, this is the way it has always been in our family. This concept, laws determining or announcing what society thinks is okay and not okay, are why we have criminalised marital rape, why advocates have fought for strangulation offences or

even why there is a push to ban LGBTIQ conversion practices and myriad other laws that protect people's human rights to freedom and safety. Very simply, we know something is not right, we know the harm it does, we want to be unambiguous about that.

Thirdly, and perhaps the reason that I think has the most transformational potential of criminalising coercive control is shifting the social, cultural and institutional understanding of family and domestic violence from individual incidents of physical violence, to recognising that in the vast majority of cases, intimate partner abuse is actually a pattern of harmful controlling behaviour. Instead of focusing on specific moments of physical violence, the Criminal Code and the response can reflect the lives and experiences of victims by recognising, investigating and prosecuting a pattern of life destroying behaviour. We believe we must explicitly recognise coercive control as criminal violence in and of itself, not because it may lead to physical violence or murder, but because exerting this type of power is an ongoing act of violence.

Coercive control is a pattern of assaults, threats, intimidation, humiliation and other abuse that erodes a person's autonomy and ability to flourish, and this abhorrent misuse of power in a relationship is currently not a crime, but to address some areas of concern, no we do not believe that a law on its own is a panacea that will end intimate terrorism that goes on in our nation. Culture and practice change will be required in the police, in the judiciary and in broader society. There will need to be significant investment in training and education. There are challenges with crafting a law to ensure it does not further criminalise already over-criminalised communities or have other unintended consequences. Broad consultation and listening and learning to these communities as the detail of legislation is worked through will be essential. First Nations Australians in particular must be listened to and their advice taken on board.

These are some of the concerns raised by those who are not pushing for criminalisation. The police need to be trained, judiciary will not understand, there needs to be broad consultation and careful crafting of these laws to avoid further harming women. We agree with all of that, but because this is difficult does not mean it should not be done. We can learn from best practice globally, understand what has worked and where they would do things differently in hindsight and it also does not mean that other essential efforts are less important or that we can reduce our urgent advocacy for other reforms or that we do not continue our action towards cultural change.

Of course we need to keep addressing gender inequality and the gender norms that create space for the abuse of power and controlling violence. Gender inequality leads to entitlement; the expectation that your preferences, desires, opinions and decisions deserve to be prioritised over others. It breeds disrespect and creates an environment where not being in control undermines your entitled sense of self. This can lead to ever more controlling and coercive behaviours. So we continue to strive in primary prevention organisations like White Ribbon Australia to end gender inequality and eliminate all forms of men's violence and abuse, but along the way to that vision, a clear declaration to society that we will not tolerate or excuse the pattern of devastating torment that traps victims in relationships characterised by fear and manipulation will help protect women, it will change our collective understanding of what constitutes a healthy relationship and even more clearly articulate the horrific impact of gender inequality on our communities. Thank you Chair, Committee members and my colleagues.

The CHAIR: Thank you. Do you have an opening statement, Ms Kinnersly?

Ms KINNERSLY: Thank you very much. I would introduce myself again.

The CHAIR: Thank you.

Ms KINNERSLY: I am Patty Kinnersly, the CEO of Our Watch. Our Watch is a national leader in the primary prevention of violence against women and their children in Australia. We work in partnership with the Commonwealth and every state and territory government including New South Wales of course as well as with businesses, communities, sporting organisations, the media, education settings, all to address the underlying drivers of violence against women, with an aim of stopping it before it starts and promoting gender equality. We have one of the world's strongest research and practice bases, established over a decade of bipartisan leadership and support at all levels of government.

From the outset I would acknowledge my colleagues, both at the table with me today and also others that you have heard from in research, in response, in legal areas and in policing and defer to their expertise on those matters. Our expertise are around primary prevention, which is about addressing the underlying drivers of this violence so we are preventing it from ever occurring. If we think about this in a public health context, it is like addressing the causes rather than the symptoms. This is different to the work required to respond to violence such as counselling services, legal services and crisis accommodation. It is also different to other forms of prevention such as tertiary prevention, which works to stop the reoccurrence of violence such as men's behaviour change programs, or early intervention which seeks to stop early signs of violence from escalating.

Primary prevention works with the whole population to change the systems, behaviours, beliefs and practices that allow violence to occur. Coercive control is the ongoing pattern of domination, emotional abuse and intimidation that perpetrators use to isolate and control their victims. It is central to, and in fact underpins most, if not all, experiences of violence against women. Its impacts are severe and long lasting to victim survivors across

their physical and mental health and across their general state of well-being. We welcome the forum that this Committee has provided for a conversation across New South Wales and indeed across the country about what is needed to both prevent and respond to coercive control. These conversations are putting a spotlight on some really important questions. How do we start to shift and more squarely place the focus of responsibility on perpetrators, on their behaviours and actions? How do we better support and resource systems of policing that allow people to seek and receive help early before the cycle escalates? How do we improve the experiences and outcomes for victim survivors going through our justice systems?

Laws alone do not act as a sufficient deterrent and do not prevent violence against women from occurring. Decades of research across multiple countries show us that unfortunately, laws do very little to deter men from using violence or to reduce the scale of the problem. Legislation needs to be considered as one strategy alongside a broader cultural and social changes to address the drivers of violence against women of all kinds, including coercive control. Primary prevention offers us the evidence-based framework to drive multi-sectorial reform and proven strategies to prevent coercive and controlling behaviours from developing in the first place. These strategies are needed whether or not laws are introduced to criminalise this behaviour.

We also must increase our efforts to address the underlying drivers of violence continuing to embed gender equality across all levels of society to create lasting social change through a shared national goal that involves women and men, whole communities, governments, workplaces and diverse organisations from local sporting clubs to our universities. To address coercive control in a holistic way, we need a consultative process on the implementation plan as well as the drafting of the legislation. The wording of the legislation is obviously important, but the women's sector also needs to have input into the broader processes of implementation, including how to mitigate the risks posed to some groups of women. We need coordinated reform across multiple sectors where women are likely to seek help, not just the police and the justice system but also healthcare, legal and emergency response settings. This work needs to be coordinated.

Change the Story, which is Australia's national plan for the prevention of violence against women, provides us guidance for how we do this coordinated work. In depth training is required across multiple sectors that goes well beyond individual training on specific laws, but actually builds capacity to recognise all forms of violence against women, including coercive control. Our experience is this takes a lot longer than 12 months. We need work that shifts the harmful attitudes and social norms that underpin the use of coercive and controlling behaviours.

There is little evidence to show that laws alone are sufficient enough deterrent for violence against women, or to shift social norms. Our sense of what is right or what is normal is more likely to be influenced by what our peers think and do, what we see on our televisions, what we hear in our media, what we see in our workplaces, than by legislation alone. Legislation needs to be supported through primary prevention work across the social settings where Australians live, work, study and play and reinforced by awareness campaigns that are evidence based and nuanced to different community groups. Our advice is that these primary prevention approaches need to be employed and invested in, regardless of whether the New South Wales Government moves forward to criminalise coercive control. Thank you.

The CHAIR: Thank you. Ms Gouda. Do you have an opening statement. Yes.

Ms GOUDA: Yes.

The CHAIR: Please go ahead, thank you.

Ms GOUDA: Thank you. Thank you to the Committee for the opportunity to appear today. Firstly I would also like to acknowledge the traditional owners of the land on which we meet and I pay my respects to the Elders past, present and emerging. Rape and Domestic Violence Services is a national non-government organisation that provides a range of specialist trauma counselling to people whose lives have been impacted by sexual, domestic and family violence. Rape and Domestic Violence Services Australia welcomes the discussion about coercive control and believes it should be recognised and reflected in New South Wales law.

New South Wales first needs to develop a statutory definition of domestic and family violence that includes non-physical manifestations of violence including coercive control. This definition must be accessible to the community and consistent with public messaging about what constitutes domestic and family violence and how the law, criminal and civil, responds to it. In our view, the Crimes (Domestic and Personal Violence) Act 2007 which deals with apprehended violence orders does not currently clearly recognise coercive control as a basis for obtaining an apprehended domestic violence order. We strongly advocate for the amendment of this Act to ensure that the type of conduct that amounts to coercive control can clearly and unambiguously form the basis of an application for an apprehended domestic violence order.

This would have a number of benefits including to reflect the ongoing repetitive and insidious nature of domestic violence. It would bring New South Wales into line with the other jurisdictions in Australia. It would serve to educate the community that coercive control is a form of domestic violence warranting legal intervention. It has the potential to disrupt abusive behaviour and provide opportunities for intervention before the abuse

escalates and it provides protection and avenues for support to those experiencing it. These amendments should include a reference to the court's power to have regard to any pattern of behaviour in determining whether conduct amounts to coercive control.

Rape and Domestic Violence Services Australia also supports the greater use of evidence of coercive control in existing criminal proceedings for offences that currently exist, including as part of the context in which an offence occurs and as a matter to be taken into account at sentencing in order to reflect the true objective criminality of an offence. Ongoing training for prosecutors and judicial officers in this regard is essential. We also support the New South Wales Law Reform Commission's recent recommendation in its report on the review of *Consent in relation to sexual offences*, to the effect that a person does not consent to sexual activity if it occurs because of force, fear, coercion, blackmail or intimidation, whether that occurs in a single instance or as part of an ongoing pattern. At the moment, the legislation provides that consent may be negated in circumstances because of—based on intimidation or coercive conduct. Our view is that this should never amount to consent and that is something that can be done as a legislative measure in the near future.

There are a number of benefits of criminalisation of coercive control which we have identified in our submission. However we have also identified a number of concerns. We recommend caution in introducing a criminal offence. We believe lessons can be learned from experiences in other jurisdictions, but assumptions should not be made based on outcomes where there are different demographics, cultures and frameworks operating. A significant investment in consultation prior to the introduction of any offence is essential, including the technical drafting of the offence. Monitoring, training and community education is also crucial. So any steps to introduce a criminal offence should be accompanied by a broad community education campaign, targeted training for police, prosecutors, judicial officers and other service providers, a fundamental shift in how we view coercive control and domestic violence and careful monitoring and review of how the reforms are implemented and willingness to revisit the legislation to address any unintended consequences. Thank you.

The CHAIR: Thank you to each of you and thank you for your very helpful written submissions. Would you be happy to provide copies of your opening statements to the Committee staff for Hansard would be grateful, not right now but just in due course. I wanted to pick up on your point, Ms Gouda, about the definition and thank you for each of your submissions but in particular, we do have terms of reference. We do have to answer some very specific questions on coercive control and I just wanted to thank you for addressing those in particular and pick up on your definition. I think you made some comments about that it should be in your view and your organisation's view consistent with the public messaging and how the law responds to it. We have heard a bit about that. I think part of our remit is clarification of what exactly it is. Could you talk to that and also talk to your comment about AVOs? Because one option is we do not go the criminalisation route, we go the AVO route and you have made some comments about that, that it is not clear enough. So I just wanted to pick up on those two points, the definition and the AVOs, if you could comment on those.

Ms GOUDA: So if you look at the Crimes (Domestic and Personal Violence) Act, there is no definition of domestic violence or domestic and family violence per se. There is a definition of a domestic violence offence which then makes a cross-reference to another provision, which defines a personal violence offence, the domestic violence aspect being whether there is a domestic relationship. So it is quite a convoluted definition and it is based on an offence and that is limited to what is recognised as either a personal violence offence or some other offence that is in substantially the same circumstances or even that involves—I think there is an aspect of the definition that includes an element of coercion but it still needs to be an offence that is recognised. So—

The CHAIR: Just to be clear on that, why? Because it elucidates what the offensive behaviour is, to give clarity to the community and also to our—

Ms GOUDA: It is important to understand what a domestic violence offence is because that is a basis for obtaining an apprehended domestic violence order. There is also intimidation and stalking, but it is not clear that some forms of coercive and controlling behaviour would amount to intimidation and I think that is one of the things that requires clarification, because intimidation is defined as conduct amounting to harassment or molestation, certain approaches, conduct that causes a reasonable apprehension of injury or damage to property. So there are more subtle forms of abuse that are not clearly captured in that definition. They may be, they may not be and so our position is that the community is entitled to know, to have some clarity about the definition of domestic violence, what is the basis for obtaining an apprehended violence order and particularly an apprehended domestic violence order, and that coercive control as it is recognised in every other jurisdiction in Australia, should be recognised as a basis in clear terms under the Crimes (Domestic and Personal Violence) Act.

The CHAIR: I think that you have made the statement—and I found it very helpful—that says that this behaviour warrants legal intervention. It makes it clear that that behaviour is not okay or as Mr Chilcott said, we know it is not right, to put it in lay terms. There is a threshold but there is also we just know it is not right and recognising that pattern of behaviour as something that in those circumstances is not right.

Ms GOUDA: Correct.

The CHAIR: Thank you. I have some more but I will hand over to Anna Watson.

Ms ANNA WATSON: Thank you, to all three of you, you have certainly already given us an abundance of information that we can reread your opening statements, to start with very interesting, so thank you for that. I think I would be right in saying to all three of you that you are supportive of coercive control legislation, given it is an obvious gap within the Crimes Act, but there needs to be obviously some more work done with around the edges of what it looks like, what it means, what a definition is. I am interested first to you Brad, your counterpart in London, Anthea Sully, I think she is still the CEO of White Ribbon over there. I met with her a few years ago now and had almost the same conversation with her as to what you have just read out in your statement. Can you maybe advise the Committee about what had occurred in the UK and how they got to the position that they got to, keeping in mind that they also had a committee and there was a very big emphasis on how the NHS would interact with any legislation that may be introduced.

Mr CHILCOTT: Yes thanks. I have not spoken to my counterpart in London so I do not have that perspective but we have spent quite a bit of time with Laura Richards who was one of the key advocates who led the campaign for the criminalisation of coercive control in England and Wales and also a bit of time with Dr Marsha Scott from Scotland as well and seeing the differences between those two situations. I guess what I can reflect from speaking with Laura in particular is that although there are some challenges and gaps in the law in England and Wales that you may have heard articulated in other sessions throughout this inquiry, she is very positive about the culture change aspect of what has happened since those laws were introduced. I think Patty mentioned earlier, it needs to be present in media and public discourse and start changing the culture in that way. Laura talks a lot about how now there are stories on *EastEnders* and *Coronation Street* about coercive control and how it really has changed the collective understanding from an incident of physical violence to a pattern of behaviour and that that has been a net positive for victims and survivors and for I guess the collective consciousness of understanding family and domestic violence.

The other thing I have really learned from Laura is that the training aspect in UK—sorry in England and Wales was left a lot to be desired, that the Home Office did not invest in training police and judiciary and it was left to charities to kind of raise money and fill those gaps. I think they, from her perspective, made an admirable effort to do so but that the difference in Scotland was that the government there invested in police training and her perspective would be—without speaking for her—but that the questions that a first responder asks when they attend a domestic violence callout can set the path for what happens next. If they are asking about an incident, did the person hit you, or asking questions that dig deeper into the nature of the relationship, really changes the trajectory and avoids sometimes the wrong person being prosecuted for a crime when there is a pattern of abusive behaviour behind the incident, for example. So to summarise that, I think the culture change in England and Wales has been significant just in those few years and that again, stressing the importance of training for police and judiciary and prosecutors is a really strong theme coming out of all those jurisdictions.

Ms ANNA WATSON: Just supplementary to that—

The CHAIR: Do other witnesses want to comment on that question?

Ms ANNA WATSON: Yes.

The CHAIR: No? Okay.

Ms KINNERSLY: No, I do not have anything to add.

The CHAIR: Thank you.

Ms ANNA WATSON: So in terms of—Ms Gouda, what you were saying in relation to the actual crime itself or what could be perceived as a crime and the pattern of behaviour, would it be a conversation where we would be talking about how it made the victim feel rather than the action itself?

Ms KINNERSLY: Sorry, is that—

Ms ANNA WATSON: To either one of you ladies, yes?

Ms KINNERSLY: I think it would depend on what perspective you are taking. So if we are talking about changing the underlying cultures and attitudes of people in our community, then we would come at it from different strategies. So obviously understanding how it impacts on people and how it limits their—women mainly—and how it limits their ability to make decisions, to interact with their friends, to be a part of life, then that is an important strategy. I do not think it would be the strategy on its own, which is our prevention kind of message about we need our experts looking after the victims in the moment, we need our legal and other systems doing their bit but we also need the whole community to understand that this coercive control is part of a broader issue around violence against women, all forms of violence against women.

So my slight concern about—or we would recommend that you look at talking about all forms of violence against women or gendered violence because some coercive control happens outside the domestic setting. So it could be stalking or it could be stalking from a stranger or online abuse or abuse from a carer for example who is

withholding medications or somebody with a disability who is not being cared for in the right way. So I will let Natalie answer the question about how you would work with a woman in this matter but in terms of how we bring the whole community along, systems and structures, we need to make sure that we place it inside that broader context.

Ms ANNA WATSON: Thank you.

Ms GOUDA: In terms of legislation, I think it would be different depending on whether you are looking at an AVO provision or whether you are looking at a criminal offence. So there are different drafting aspects to those two exercises. I think they can be complementary, but I think you need to look specifically at the AVO provisions in terms of the conduct that can give rise to an application for an apprehended violence order, which is a separate issue but a related issue to drafting a criminal offence and what the scope of that offence would be.

The CHAIR: Great, thank you. I will go to the Honourable Rod Roberts.

The Hon. ROD ROBERTS: Thank you, Madame Chair. Thank you all for attending this morning. Ms Kinnersly, I agree with you entirely, prevention is definitely better than cure and is so in many cases and I wish you well in your endeavours in that regard, but Ms Gouda my questions are to you. I really thank you and appreciate your detailed submission. I read all 31 pages last night and then went back and reread it all again because I found it one of the most—probably one of the more informative submissions that we have had and it goes to the fact of addressing our terms of reference and in particular, the questions as posted in the discussion paper so I thank you for that.

Ms GOUDA: Thank you.

The Hon. ROD ROBERTS: Point 4 of your submission is where you talk about your organisation supporting legislative amendments to the ADVO legislation. I am enthused by that. Can you explain to us why you have chosen that pathway?

Ms GOUDA: I think the AVO legislation is a step that can be taken fairly swiftly. It can provide that protective structure for obtaining protection and it is also something that can be done on a civil standard of proof, so it is the balance of probabilities. It does not raise some of those more tricky questions about criminalisation. I am not saying that that is not something that we would support, but there are issues relating to criminalisation that do not arise at that same level when you are looking at AVO legislation and it is something that I think can and should be addressed because it is something that is recognised throughout Australia other than—other than unambiguously and clearly in New South Wales. It also gives rise to some of those other legislative protections, so things like protection for women who need relief in terms of their tenancies and also gives rise to those provisions about firearms licences. So even having an apprehended domestic violence order has those flow-on benefits that can be realised in the near future.

The Hon. ROD ROBERTS: Just one further question—

The CHAIR: Yes of course.

The Hon. ROD ROBERTS: —Chair if you do not mind. Paragraph 28 of your submission on page 9, again you are talking about the ADVOS and you mention about conditions that could be imposed by courts. Could you expand on that proposition for us please?

Ms GOUDA: So my understanding is that the court has a fair degree of discretion in the conditions that can be made. It is just a matter of those conditions being crafted to take into account these nuances in behaviour and just being very careful about what conditions are necessary in each case to protect the person who is in need of protection. So sometimes that is going to be the sorts of conditions that are often imposed, whether it be not to approach, not to contact, not to stalk or intimidate but sometimes there might be some further conditions that might be crafted to restore someone's autonomy or property or ensure that they are not subject to the particular forms of harassment or abuse that are going on in that coercive and controlling relationship.

The Hon. ROD ROBERTS: Would it be a fair summation then—and I am not putting words in your mouth—that conditions could be tweaked to suit the individual circumstances that appear before the court in relation to that particular dynamics in that relationship?

Ms GOUDA: I think there is scope for that. Currently there are provisions that allow for ancillary property orders. So there are ways of not just having negative orders but perhaps some positive orders.

The Hon. ROD ROBERTS: Fine, thank you very much.

The CHAIR: We will go now to one of our members online. Justin Clancy, there Justin?

Mr JUSTIN CLANCY: Thank you Chair and firstly to acknowledge and thank each of you for being here today. My question is likewise to Ms Gouda as well and I just want to return to the—as you said, the importance of a statutory definition of DV and something that is accessible to communities and in paragraph 25, you take a look across the various Australian jurisdictions. Do you form a view as to is there one of those definitions there that perhaps most appropriately captures the definition and/or is there a—looking across all of

those jurisdictions, if you find one that is most appropriate, is there still gaps there? Can we expand on it? So I suppose part of the thinking there is we have heard a call for the definition, but also for a level of harmonisation across the nation so I am just seeing if you have got a view as to one that perhaps most appropriately captures the definition. Thank you.

Ms GOUDA: Thank you. I mean there is a fair bit of overlap in some of those definitions. I think it would be useful to have something that does incorporate some of these quite recognised manifestations of domestic and family violence. So recognising emotional, psychological, economic abuse, coercion and control and domination of another person, some of these can be I think combined to form a model definition for New South Wales, causing someone to fear for their safety or well-being. I think a combination of those factors would be something that we could embrace in New South Wales.

The CHAIR: Can I just ask—sorry Justin, have you finished on that question? I just had a follow up to that.

Mr JUSTIN CLANCY: Yes, that is fine Chair, although in that sense acknowledging—

The CHAIR: No you go ahead.

Mr JUSTIN CLANCY:—that is there—when you look across the jurisdictions, do you see that in one jurisdiction that sort of is a standout there to follow?

Ms GOUDA: Well I think if—without playing favourites amongst the jurisdictions, I think Victoria has quite a comprehensive definition. Because it includes emotional, psychological, economic coercion control, domination and causing someone to fear for their safety or well-being or that of someone else.

Mr JUSTIN CLANCY: Thank you. Thanks Chair.

The CHAIR: Thank you Justin. I am happy for you, if you would like to take this on notice or if any of you would like to give further information if it assists with time today. I am sorry we are limited. My question was in relation to—and we have to deal with the question of the definition. My first question is regarding whether it is appropriate for us to wait for agreement on a national definition of coercive control or whether you think it is better that we just lead the way and jump in with both feet and come up with a definition that as you say, I think may well potentially be a model definition. Do you have a view on that, whether it is worth the wait to get it right or whether we do not let the perfect be the enemy of the good and get on with something here? Ms Gouda.

Ms GOUDA: I do not know if it is for me to say whether we should wait or not. I think—I am not sure what the pace of those discussions are on a national level so—

The CHAIR: Generally not exceedingly fast, if I can say that respectfully to my colleagues. Do you think there is benefit in getting one cohesive—obviously there is but do you think it is worth the trade-off or do you think it is better just that we get on with something and it is not intended to be a loaded question. It is literally—

Ms GOUDA: National consistency is ideal, but we are in a federal country and there are always going to be differences in this area of the law. So I think if there is some model that we can strive for in New South Wales, then there would be benefit in proceeding and perhaps bringing other jurisdictions along with us.

The CHAIR: Okay and I will ask you to take it on notice because my colleagues are entitled to some time, but I just—the second question we have to address is how that definition should distinguish between ordinary behaviour, behaviour present in ordinary relationships, and as distinguished from that which forms a pattern of abuse and that is a much bigger question. I am happy for you to take it on notice if you like, if you would be happy to.

Ms KINNERSLY: Could I just take half a step back to the previous question about the definition and just note that in this country, we do have a National Plan for the prevention of violence against women and children which is signed up to by every jurisdiction and it is a world leading plan and actually puts us ahead of a lot of other countries in terms of there is a—1800RESPECT comes from that plan, Our Watch comes from that plan, ANROWS comes from that plan. Change the Story, which is the national framework for the prevention of violence against women comes from that. So in a way, there is a national framework that can be used. How you deal with the matter of the definition of coercive control, but it is important for us to attend to the fact that most violence against women is gendered. It is mostly perpetrated by men.

So we do need to attend to that question about what about the forms of violence that are gendered against women that sit outside family and domestic violence. There are—whether that is sexual assault in the workplace or street harassment or online abuse. So I would just urge you to consider the framing of this legislation as it sits within our national context and to be mindful that we do not inadvertently narrow the focus of work and leave some pretty important gendered violence outside.

The CHAIR: Thank you for that. We do have terms of reference. We do have some other things that we can add into that so we will balance that off in the course of our discussions. I did promise Abigail Boyd and then we will go to Trish Doyle. Thank you.

Ms ABIGAIL BOYD: Thank you, thank you so much and thank you so much for your very detailed submissions and your attendance in person today. It is really fantastic to see you all. I am interested in—I am picking a little bit about what we mean about gendered violence. So we have heard a lot about coercive control as a product of gender norms, unhealthy gender norm, but I think outside in the public, we still have this growing acceptance that women are exposed to violence because of gendered norm or gender norms, but then when we come to why men perpetrate violence on women, we do not as readily associate that with gender norms. So people will say, you know, anger problem or whatever. Could you explain to us how gender norms impact on men in a negative way and how that then leads to them exhibiting these coercive control behaviours?

Ms KINNERSLY: I think it is a really good observation you make that we have spent a lot of time focusing on women as victims and I think that the community attitudes and the conversation in this country are evolving to the point that we are now able to speak more freely about what about what is happening for men. Why are men perpetrating, the perpetrators of violence? When we have done that in the past, it has derailed the conversation but I think the community and the country is mature enough to say hang on a minute, we cannot just keep looking at why women are victims of this violence. So we know that we have got a really strong evidence base that says gender inequality in all of the places we spend our time, the things that—the gender harmful norms and attitudes that devalue women set that environment and that is in our workplaces, that is in our government policies, that is in our sporting organisations. It is in relationships, it is in all of those places. In order to attend to that, we are going to need to flip that. We are going to need to promote gender equality in schools, in sport and so forth.

As a part of that work, one of those gender drivers is that the unhelpful gender stereotypes and rigidity around those. Now we are not talking about masculinity and femininity being problematic of themselves. It is a rigid adherence to a certain type of those stereotypes. So for men, we have done some great work in this country over the last couple of years that looks at, what is the relationship between a rigid adherence to a certain type of masculinity and its relationship to violence against women. So men who hold that rigid version that men should be the boss, they should be dominant, they should not ask for help, they should not be emotionally available, all of those sorts of things, part of that is, and a dominance over women. That women should be submissive. That they should do what they are told, all of those sorts of things and that relationship, those men are proving to be the high levels of perpetrator of violence against women.

Those men do not exist in a vacuum. They exist in the whole community. So we know that we need to support those men, whether that is through men's behaviour change program or individual work, but we also have to change that whole environment so that we are not bringing up boys and men to think that they have to be brave and stoic, that they always have to be in charge, that they do own a woman once they are in a relationship. So we are now having a conversation that is much healthier in this country about we are not saying masculinity is bad. We are not saying femininity is bad. We are saying that the evidence is telling us that a certain rigid adherence to this type of masculinity is contributing to violence against women and that those men who hold that attitude are more likely to perpetrate violence. They are also more likely to show other forms of discrimination around racism and homophobia and transphobia and that sort of stuff.

So in any work we do either in response or in prevention, as a country actually we need to go further in our understanding of masculinity, certain versions of masculinity and its relationship to violence. That is also not good for men. Those men are also more likely to show up in rates of suicide, risk taking behaviour, less likely to ask for help, all of those sorts of things. We will certainly be advocating in the next National Plan that there is a greater focus on men as perpetrators, men who are perpetrators on rigid version of masculinity and anything that this inquiry can do to promote that that is—that is the next phase. That is the place we need to be going. Because we cannot keep looking at women and what is happening, why are they victims. We need to flip that conversation.

The CHAIR: Thank you. Trish Doyle.

Ms TRISH DOYLE: That is a good segue into something that I wanted to note. Absolutely, but not at the cost of funding to women's services and dealing with the huge issue that is violence against women and children in this country. Thank you to each of you, Brad, Patty and Natalie. I really appreciate your opening statements. I appreciate your work. Mere words do not go anywhere near expressing that appreciation. Brad, you are doing fantastic work in that space now, in the White Ribbon space and it is really good to see you there and for the record, I would just like to note also that we need men with that very rare insight that you have, calling for the need for effective criminal legislation against perpetrators of coercive and controlling abuse. So thank you.

Mr CHILCOTT: Thank you.

Ms TRISH DOYLE: Patty, I just wanted to reiterate, support each of your recommendations that are really clearly articulated in your submission, particularly number 2 which you just spoke to in pointing out to our Chair with her question around the fact that Change the Story is the national framework and alongside that, not either/or, we have to have implementation of a whole plan that looks at myriad ways in which we address this issue. My question I am actually going to throw to you Natalie if that is okay. Can you tell us how effective sexual assault laws are and what are the percentage of cases that are reported, prosecuted and charged and would you say

that it is still important that sexual assault is a crime?

Ms GOUDA: Well I think there has been some recent data and studies into this quite huge problem regarding sexual assault. That it is vastly underreported, that prosecutions are often not resulting in convictions. There is a high rate of attrition throughout the proceeding. So there are withdrawals of prosecutions and then the conviction rates are significantly lower when compared to conviction rates for other serious crimes. This is a huge concern. It was highlighted in the New South Wales Law Reform Commission's recent report on consent and also in the Australian Institute of Criminology's recent study about looking at attitudes to sexual assault and reporting and those things like attrition.

So Rape and Domestic Violence Services Australia is very interested in the recent report of the Law Reform Commission. We think there are some very positive recommendations coming out of there and we think it actually connects a fair bit with this issue of coercive control because that issue of consent and what amounts to consent and when consent is negated is addressed in that report. It is focused on that issue of consent which is part of a much bigger picture of sexual assault, but there are some steps that I think the Government can take in terms of implementing some of those recommendations and particularly recognising that there is no consent to sexual activity when it is undertaken in circumstances involving coercion or intimidation, should be clearly recognised in the law. It should not be a circumstance where it may be negated. It should just be clearly, there is no consent in those circumstances.

Ms TRISH DOYLE: Excellent. So in short yes, it is still important that sexual assault is a crime. So what would you say to victims who want to access coercive control laws now?

Ms GOUDA: Well I suppose what do you mean by coercive control laws now? Because at the moment—

Ms TRISH DOYLE: Well who want to see coercive control criminalised now.

Ms GOUDA: Criminalised—well I suppose I would say that we need very careful drafting of the legislation because of some of the concerns about the scope of the offence and things like being—ensuring that the offence is implemented effectively and that there is an infrastructure for that such as training, guidelines for the prosecution, investigation and treatment of these offences. Meanwhile there are things that I think we can do in terms of having apprehended domestic violence orders that on breach would constitute a criminal offence and also having that sort of context of coercive control taken into account in existing criminal proceedings at the trial and sentencing stages.

Ms TRISH DOYLE: Thank you.

The CHAIR: Thank you. I just want to pick up on that point if I may. In terms of whether—I am just getting back to the terms of reference which after all we do have to answer, I think for context my question was in relation to the Council's Attorney-General and the legislative definition. I just wanted to go to the question of whether the law as it presently stands allows coercive control to be adequately taken into account in sentencing proceedings in ADVOs and your view on that, Ms Gouda. Because I think you referred to that earlier but I would just like to understand that a bit better and whether there are gaps there or whether what is available is just being underutilised.

Ms GOUDA: In terms of apprehended domestic violence orders, I think I have just made the point that it is not clearly recognised as a basis for obtaining an AVO. So—

The CHAIR: As the primary driver for—

Ms GOUDA: —there is that issue. In terms of sentencing, I think there is scope for taking into account that broader history and the context in which offences occurred to reflect the criminality of an offence and recognise that—because historically offences committed in a domestic relationship were seen as less serious than offences committed against a stranger. So that has been changing in recent years and that is a very encouraging development, but I think even more so, courts can recognise it and prosecution lawyers can put forward evidence that this is not an isolated incident, that there is a history there and take that into account in assessing things like the need for general and specific deterrents in sentencing, protection of the community, reflection of the harm to the victim and reflecting the real criminality involved in an offence at the sentencing stage.

The CHAIR: That we might expand on that. Lovely, thank you so much for your attendance today. I am afraid our time is limited and we have to keep moving on but I do very much appreciate your assistance and your ongoing work which is very important. If members have further questions, we may put those to you in writing if you are happy to accept those. Your answers will form part of your evidence and will be made public. I think there might have been a couple that I put to you on notice. I would be grateful for your answers on those. Thank you for your assistance and that completes this session today. Thank you.

Ms GOUDA: Thank you very much.

Mr CHILCOTT: Thank you.

Ms KINNERSLY: Thank you very much.

TRISH DOYLE: Thanks everyone.

(The witnesses withdrew.)

KAREN WILLIAMS, Consultant Psychiatrist, Royal Australian and New Zealand College of Psychiatrists, affirmed and examined

ANGELO VIRGONA, Chair of New South Wales Branch, Royal Australian and New Zealand College of Psychiatrists, before the Committee via videoconference, affirmed and examined

KYLIE COVENTRY, Senior Policy Advisor, Australian Psychological Society, before the Committee via videoconference, affirmed and examined

The CHAIR: Welcome back everybody to the next session of day 2 of the Joint Select Committee on Coercive Control inquiry into coercive control in domestic relationships. Our next witnesses are from the Royal Australian and New Zealand College of Psychiatrists and the Australian Psychological Society. Welcome, thank you for joining us and we have one in person and two on Webex and we also have some of our members of our Committee on Webex so we are a truly hybrid hearing today.

Thank you for your written submissions which Committee members have received and have had an opportunity to review. Can I ask if any of you have an opening statement that you would like to make?

Dr WILLIAMS: I do.

The CHAIR: Yes, why don't you start with yours, thank you.

Dr WILLIAMS: Thank you everybody. Coming from the Illawarra first, I would like to thank my local Member Anna Watson for your courage and drive to bring this issue to Parliament. Thank you so much.

Ms ANNA WATSON: Thank you.

Dr WILLIAMS: So as a psychiatrist, we deal with survivors of family violence every single day and we see the consequences of it in PTSD [post-traumatic stress disorder], depression, anxiety, self-harm and suicide and we know intimately that domestic violence is not like other kinds of violence. As much as we want to treat it the same as that of an assault at a pub or in a brawl, domestic abuse is a vastly different beast. The problem that we have is that the systems that we have traditionally used to manage violence was designed for the other kind. So when a man hits his partner for example, it is very different from when a stranger punches an innocent bystander. It is much more complex. The innocent bystander does not share a bank account with a person who hurt them. The innocent bystander can stand up in court and report what happened freely, knowing that the person who hurt them has no reason to hurt them again. The innocent bystander has not spent years being threatened and degraded by the person sitting opposite them. The innocent bystander does not have to leave their children with someone they know to be dangerous.

So in discourse around coercive control, I keep hearing people talk about how it would be difficult to legislate coercive control because there are no injuries, there are no bruises, they say and no broken bones, but I argue that there are tools involved in coercive control. There are predictable behaviours used by abusers that I can elaborate on. There are neurobiological changes and injuries that we can see and measure. You actually cannot fake being under coercive control very easily at all. The process of coercive control is an active one. It is well planned and sustained and in fact it continues all of the time, even if there is physical distance between them. So it is this behaviour that we are saying needs to be made illegal.

I argue that the injuries of coercive control are much more dangerous, longstanding and life-threatening than most of the physical injuries that we may see in domestic violence and these injuries can last a lifetime and have a huge economic cost well after the relationship has ended. Unfortunately, our legal system as it stands today is something that perpetuates the fear and exacerbates the state of utter helplessness that coercive control induces. It is a system that repeatedly fails to keep women safe, despite the fact that there can be a clearly defined and known perpetrator. The system is a failure .

So in my opinion, the fact that we do not have any deterrent at all for coercive controlling behaviour is what allows it to spiral out of control. Almost every survivor and clinician will describe how it starts slow and gets persistently worse. The more control they get, the worse it becomes. The more they get away with, the more obsessed with the control they get and legislation will act to deter this. I argue that to leave the system as it is now, to leave women with absolutely no legal pathway to escape this behaviour is not only negligent, but it is an act of complicity in the ongoing abuses of women and children. Thank you.

The CHAIR: Thank you. Ms Coventry, do you have an opening statement?

Ms COVENTRY: No, thank you. Happy to speak to the submission.

The CHAIR: Okay, terrific. Thank you and Dr Virgona, did you have anything to add?

Dr VIRGONA: Yes well I wanted to go before Dr Williams but she beat me to the punch, but I will just—so I will give you a little bit of background. So the Royal Australian and New Zealand College of Psychiatrists is a membership organisation that prepares doctors to be specialists in the field of psychiatry. We support and enhance clinical practice, advocate for people affected by mental illness and advise governments on healthcare. New South Wales, we have 1,400 members—we have sorry, 1,200 psychiatrists and over 400 trainees and I am the chair of the branch in New South Wales. I want to thank the Committee for the opportunity to speak this morning and I want to thank Dr Williams and Anna Watson and others for bringing this serious societal problem to prominence. I also want to thank Dr Manjula O'Connor from our College's family violence expert network for her contribution to our submission and deliberations.

So we come to this inquiry as clinical leaders in the field of mental health. Our College made a submission because the consequences of family violence are unfortunately core business for us and we seek to participate in any interventions that will improve the lives of victims, survivors and their families who are our patients or are going to be. I am going to speak to the details in our submission, will reinforce the data contained in the consultation paper. The scope of the problem is obvious and the facts speak for themselves. I want to make some general comments on the consequences of coercive control and the hope that the proposed legislation heralds and understand—Dr Williams has given more specific information.

Clinically, all psychiatrists see the direct and indirect effects of family violence daily. We know that in the PACER service, that is the recently established Police and Ambulance Clinical Early Response service, where mental health clinicians are embedded with police and ambulance first responders to mental health emergencies, 40 per cent, up to 40 per cent of these are domestic violence related, these emergencies. Of course our frontline mental health workers—nurses, our trainee psychiatrists and psychiatrists working in EDs [emergency departments] and psychiatric emergency care centres—are also dealing with this on a daily basis.

As psychiatrists, we get frustrated with dealing with the consequences of family violence. High rates of family violence are observed in the histories of those with child and adult psychiatric disorders. Their consequences occur across the lifespan. Child anxiety, depressive and behaviour disorders and developmental difficulties, then later anxiety and trauma disorders, with the deleterious impacts on the developing self and personality. The corrosive effects on self-worth and self-esteem linked to passivity, submission, loss of autonomy and agency and the inevitability of persisting depressive disorders. We are frankly sick of always dealing with the consequences, never prevention, in a society that almost seems reactive and rarely proactive.

Many of us have had patients in coercive control relationships and have advocated and supported them, tried to counteract the insidious cancer of the corrosion of self-esteem and autonomy, but such changes are extremely difficult to achieve with the individual when the victims, survivors cannot escape these environment. In my experience, I have referred a few women to the excellent Start Safely program and I thought in my practice that these were reasonably isolated examples. Only recently have I become more aware of the pervasiveness of the dangerous phenomenon of coercive control and its consequences. I now know it is the norm rather than the exception in family violence and like others, I was shocked by the most compelling statistic in the consultation paper, noting a universal prevalence of coercive control in the lead-up to domestic homicide.

Legislation is needed. You cannot fix such a serious societal problem with goodwill and interagency agreements. Dr Williams and others argue this point more expertly, that the current civil and criminal offences do little to intervene and change the trajectory for the victims, survivors and their children. The force of specific legislation is required to protect them. The law is needed not only for perpetrators to learn what will not be tolerated, but also victim survivors, ground down by years of abuse to know what they experienced is not normal, that it is unacceptable, it is illegal and that they must have paths for intervention when their rights are being denied in these intimate relationships.

Speaking to my point earlier, if I as a clinician have been dealing with family violence for decades and did not know much about the ubiquitous nature of coercive control, what then does mainstream society know? Of course we get respect and family violence awareness campaigns, but these are short lived and soon disappear into the ether without having any ongoing impacts. This legislation, if nothing else, will be a lightning rod for this issue and will fuel societal shifts in attitude and such shifts will only occur with targeted and sophisticated education, particularly for adolescents and youth developing their relationships. Kids need to know what is reasonably expected in relationships, but it also requires education and awareness-raising of the broader community and across all cultures. It also means education and training for clinical, support and emergency services especially the police. This will be critical in ensuring the success of any such legislation.

Again, legislation and education will be useless without appropriate funding of wraparound support services—clinical, housing support, legal. For people to escape and survive such relationships, they need packages of support that are accessible. Not waiting lists, not bouncing endlessly between services and falling through cracks. If not, the financial necessity will see people remain in these relationships, imprisoned in them with the inevitable consequences. So the problem here today is that we have all been hamstrung. Victim survivors are

hamstrung, police are hamstrung, clinicians and support workers are hamstrung and more than anyone else, the community is hamstrung by ignorance. We need to shine a light on an issue and we need to do something different and this legislation will be the catalyst for change. Our College is keen to work with legislators and other stakeholders to make that change. Thank you.

The CHAIR: Thank you each for those introductory remarks and for your written submissions which are very helpful and the Committee members have. Just by way of clarification, I just want to be absolutely clear and I acknowledge your comments in relation to the great work by Anna Watson. However, I just would like to clarify that Abigail Boyd has also brought legislation to the Parliament and that in fact this Committee was brought about by the Government's motion. So all of the members as you quite rightly say are contributing to this discussion and this Committee is not here to be partisan in one way or another. We are focused on the terms of reference. So I will ask all witnesses to do the same.

Can I just turn to the submission, Ms Coventry, in your submission on page 3 if you have that available. I just had a question about admissibility and the law allowing evidence of coercive control to be adequately taken into account. I think this is a critical question for us, a threshold question, about whether the existing infrastructure can be better utilised or whether we could be looking for ways to improve how we can bring evidence of coercive control into our justice system to better utilise what is there. I do not have a strong view either way, but I think the Committee has heard some evidence in support of both options. Can you just speak to that because you have specifically addressed that at point 6 on page 3 of your submission?

Ms COVENTRY: So point 6, just to clarify?

The CHAIR: Yes.

Ms COVENTRY: Okay. I guess concern about that—that had been raised in my colleague's opening remarks in terms of education and awareness around coercive control and the legal system and justice system being completely aware of what coercive control is and courts having capacity to assess and truly appreciate what coercive controlling behaviours are and how they might manifest. Another point to this is around the difference between the perpetrator's intent and the impact on the victim and that both of those need to be assessed in terms of evidence and sentencing.

The CHAIR: If I can clarify, I think you have made the point in there—

Ms COVENTRY: Sorry.

The CHAIR: No, it is fine. I just wanted to—I might be clearer in my question perhaps. That in terms of your concerns about evidence gathering and sentencing, there is a question about how we get—how we identify coercive control and how we identify what constitutes that behaviour and how we put that before the courts and the judiciary in order to act on it as it presently stands. So you have spoken to that briefly at page 3 and I just wanted you to expand on that for the assistance of the Committee.

Ms COVENTRY: In terms of identifying coercive control or in terms of gathering—

The CHAIR: Yes and getting that evidence. In your practice, getting that evidence with your clients and your patients, getting that evidence before courts. So identifying it, documenting it, recording it, how can we better assist you to do that?

Ms COVENTRY: So that would be in terms of both interview and gathering evidence from victim survivors in the sense of their experiences and the impact of the experiences on them and also there are measures that we can use to look at gathering evidence around the different aspects of coercive control that they have been experiencing and the impact that that coercive control has had on them, and making a psychological assessment around the impact of that. It is I guess a verbal evidence system that we have to undertake—

The CHAIR: Well I think that is—no I think that is right. I think that is one of the challenges that we have, isn't it? Because it is not a bruise, it is not something you can take a photo of. It is something that is a pattern of behaviour over time that we need to somehow document.

Ms COVENTRY: Correct.

The CHAIR: So I guess I am asking for you to assist the Committee by letting us know your thoughts on that process and what is presently done or whether that could be—whether your work could be assisted by greater clarification in a legislative context. By identifying coercive control. Or would perhaps the other witnesses like to make a contribution on that. Dr Virgona? You may need to unmute.

Dr VIRGONA: Sorry about that. Yes we are expert in taking histories from people and doing comprehensive psychiatric assessments. I mean we have got a whole industry that is created based on, as Ms Coventry said, getting verbal reports from patients about their experiences. So we have a medico-legal industry for example that relies wholly and solely on the reports that claimants make about the experiences that they have and we are able to come to reasonable diagnostic conclusions based on the information that is provided. I think certainly as you indicated, there needs to be a great deal of education about coercive control.

I mean that is going to be very helpful I think to clinicians to understand sort of the scope and the nature of this problem better because you know, I have been around for a long time and I did not have a great grasp of this until it was brought to my attention more in recent years. So I think that if I am the mean or average psychiatrist, well then you know, we need more education in this field for everybody, so that everybody has a clear understanding of it and knows the right sorts of questions to ask. I mean I am confident that we are capable of providing independent and sound clinical assessments of people so that we do get reliable evidence of their experiences.

The CHAIR: Thank you. I have a question from the Honourable Rod Roberts and then I will go to one of our colleagues online. Thank you.

The Hon. ROD ROBERTS: Thank you, Madame Chair. Dr Williams, I will address it to you simply because it is from your submission and you are in the room rather than—but Dr Virgona, you feel free to jump in if you think so. Page 5 of your submission, you talk about the shortcomings and disadvantages of a coercive control offence and in particular, talk about the burden of proof in a criminal matter versus the lesser, if I could say, burden of proof in a civil matter and what effect that that might have on victims. So how do we overcome this in the criminal law then, bearing in mind the victim's safety and mental health should always be of priority?

Dr WILLIAMS: Well also I suppose this goes to what we were just talking about before about sort of making sense when there is not a physical injury. I think we are very much—our culture is used to describing physical injury and that is the same in medicine because you can see it and you describe it and we have treatments that would manage a physical injury, but when it comes to psychological injury, we can sometimes—we can believe that it is not as dangerous and that it is not as life threatening and we think we can say that there is not as much evidence of it, but actually there is quite a lot of evidence that I think that would be able to bring to the table if it did become part of legislation.

So true patterns of coercive controlling behaviour are surprisingly easy to spot and they are repetitive and they all use the same tools. The methods that are used to control somebody have been very well described in the literature and they have actually been described as forms of torture when they are used on prisoners of war. So to give you—

The Hon. ROD ROBERTS: May I rudely interrupt, Doctor. I am not disputing any of that at all and I am one of the firm believers that psychological injuries can be explained to courts and tribunals of fact. There is no dispute in that at all. What I am drawing your attention to though is your submission where you talk about the shortcomings of making this a criminal offence, in that the burden of proof may be difficult to achieve in some cases. So what I am asking you for then, if you have identified this as an issue, do you have a method to solve that issue?

Dr WILLIAMS: So are you saying that—well I am actually saying that the things that we, for example, being able to document the tools that the controller is using and actually being able to write—that that would be admissible in court, that kind of thing.

The Hon. ROD ROBERTS: I understand that but I will take you directly to some sentences then:

In criminal law, the court must be satisfied beyond reasonable doubt that the controlling behaviour occurred. It is a far higher threshold that must be reached. Where coercive control cannot be proven—

—and we are talking in a court sense here, not on victim to doctor or something like that:

– prosecution is unsuccessful. This can result in the matter ending without judicial system acknowledgement of the harm caused.

There are more examples of that in the paragraph above it. So that is what I am saying. You have suggested that there is a likelihood perhaps that conviction does not occur as a result of the prosecution and harm can be created as a result of that. How do we avoid that happening there?

Dr WILLIAMS: Well I guess that is part of the education process and making people be able to understand what tools are used. That it is broadly understood by not just the medical profession or people like myself that work with both perpetrators and survivors of domestic violence but that it becomes part of our language and that people start to recognise all of the things that are involved. Because you actually can, when you do work very closely with families, we actually can build up an evidence base of what is going on, just like we would with a returned serviceman for example, we are able to gather our information around what has happened for them. We can do the same with victims of domestic violence.

The CHAIR: Okay Justin.

Dr VIRGONA: I think it is a really important point. Is that all right if I rudely interrupted?

The CHAIR: If you just wait—just yes, okay.

Dr VIRGONA: Sorry.

The CHAIR: All right, yes.

Dr VIRGONA: You had not finished?

The CHAIR: No that is okay, go ahead.

Dr VIRGONA: I have forgotten the point I was going to make but I think the issue around what happens if the burden of proof is not satisfied is a really important one and I think that goes to the point we made earlier about the point we made earlier about the importance of wraparound services. We must anticipate and I think the legal profession needs to anticipate this as well, is that things are not always going to work out perfectly in these instances, and that we need to make sure that there is capacity in the system to be able to look after people when things are not going to go according to what their plan was. Yes, it is the importance of really you cannot have this legislation there and then just do nothing with it. There has got to be an awful lot that goes with it, a whole package of care surrounding it to make it work.

The CHAIR: Thank you. I am going to pass now to our colleagues—I am sorry, did you have something to add to that, Ms Coventry?

Ms COVENTRY: If I could, I just wanted to say that I think that part of the issue around burden of proof too needs to come down to whether or not the legislation defines proof as being objective or subjective, and that I think that psychiatric and/or psychological assessment needs to be an integral aspect of evidence-gathering.

The CHAIR: Yes, thank you. We are going to now pass to our colleague online, Justin Clancy.

Mr JUSTIN CLANCY: Thank you Chair, and I would just like to start by acknowledging and thanking each of you for being with us here today. In looking at crafting legislation, a key issue is around distinguishing between behaviours that may be present in ordinary relationships versus those that form patterns of abuse. So appreciate your response, both parties in regards to that and in particular the APS with your touching on unequal power dynamics, but I just would like to expand on that. I suppose with law, that is law tends to take a fairly black and white view of matters, how is it that we ensure or can we ensure that there is an ordinary relationship and then moving into what is clearly criminal behaviour? So would appreciate your thoughts on that. Thanks.

Ms COVENTRY: Again, I think that it may be beyond just a legal evaluation of the situation. It may need to be a psychiatric and/or psychological evaluation in terms of the subjective experience of the victim survivor and there are some objective measures that we can look at or characteristics I think that we can look at within a relationship where coercive control is present. So for example around management of money, around decision-making, around allowances for each party to if you like live their own lives and have their own social contacts, remain engaged with family. Those sorts of aspects that are very common in coercive controlling relationships are not common in ordinary relationships and they are features of the power inequity.

The other aspect that I think is really important as we have outlined in our submission is the presence of fear. In ordinary relationships, one party is not in fear of the other party and that can be around a number of different factors, again around decision-making, around time with children, time with family, time with friends. That in their everyday activities, they are restricted or experiencing fear. So I think we can very clearly, objectively define some of those features that exist in a coercive controlling relationship that do not exist within an ordinary relationship and they can be assessed, I think, fairly objectively and they can be assessed legally but I think again, it would be good to have the psychological considered. Hopefully that answers your question.

The CHAIR: Justin, is that sufficient?

Mr JUSTIN CLANCY: Thank you.

The CHAIR: Lovely, thank you. Yes, Anna Watson.

Ms ANNA WATSON: Look, thank you to all three of you and can I congratulate you on your submission. That was very insightful and I read it a number of times so thank you very much for that. My question is for Dr Williams. You mentioned that the current system perpetrates or perpetuates coercive control. Can you explain what you mean by that?

Dr WILLIAMS: Yes. So I mean what is happening in coercive control, I think it can be really helpful to understand first of all what tools are being used by the controller. So the controller is using very—they are really well described and what they do is they start with a pattern of making you trust them, making you love them, making you think that they are these really wonderful people and that is the goal of a controller right at the beginning. They convince the woman that they are actually better than they deserve and it is even more effective of a tool if the abuser can make everyone around them think that they are also really wonderful people too.

Then what they do is they try to make the person dependent on them. So that is where they start to break down all the support networks that she might have. So that is banning her friends directly or by saying that her friends are not trustworthy and turning her against the people in her life, isolating her from her family and then sort of introducing the financial dependence on him by not allowing her to work or giving her an allowance. That sort of behaviour is insidious and slow to build up, but it is actually seen in all of these patterns. Once we all start to see it and describe it more easily, I think that is when you can start to build up a case for what is going on in

the relationship.

Then you have to make—if you are the controller, you have to make the person believe that they are completely dependent on you and that they would never survive without them. So beyond being financial dependent on them, it is this sort of slipping in of derogatory remarks and it starts of again like a little bit, how ugly they are, how stupid they are and then that increases more and more as her self-esteem deteriorates further. The controller wants the person to be fearful of them so—or of a consequence. So not necessarily a physical consequence but of a consequence. So there are these ongoing threats to the woman as well as the children and her family and then a punishment that comes with that.

Then that behaviour as it is going on, it is causing—it is an ongoing injury. So what is happening to her on a biological level is what happens to any animal under threat and it is a state of hypervigilance which is orchestrated by the nervous system. High levels of cortisol. So in the face of that predator, she tries to get into his mind to understand what she has to do to keep him happy and to stop him from hurting her further. So she is trying desperately to think of what she needs to do to avoid getting hurt herself or her children getting hurt. So controllers, they use really simple conditioning methods. So she is rewarded for behaviour that he likes—"I am so glad you are not like those other women"—and then punished for behaviours that he does not like—"why are you wearing that, you look disgusting". So after a while, her own needs and desires become lost because she is too busy trying to survive by meeting his, and where he ends and she starts, it begins to blur.

So these are really normal responses to trauma and I think it is a big failure that we cannot see that. So for the rest of us when we look in at that, we can see why does this person keep going back to somebody who has beaten her and cannot quite understand what is going on, and think there is not a lot of point in helping somebody like this, but this ongoing behaviour, it results in the victim being in a state of constant checking and assessment. Women in this situation are actually weighing up risks every single day all of the time. It is an ongoing process. It is thinking of the risks of everyday activities like choosing what to wear or whether the food is right or she is chewing too loudly, that kind of thing, to big things like what might happen if she might leave.

So what we see clinically is identical to what we see in first responders and the Defence personnel with PTSD is exactly the same. These women are operating using their primal brain. They lose their creativity, executive function is impaired. There is poor sleep. You do not want to sleep if there is a predator in the room. You get restless, distractibility. The symptoms are exactly the same except that you do not really call it post-traumatic stress disorder because they have not yet left the warzone. So what happens—when you asked before, you mentioned how do we continue or how are we complicit in that? So she is already in a state of hypervigilance in her own relationship, but then you have got to remember that the backdrop here is that we are in a safe, modern country but every single week in the media she will be reading a story of a woman exactly like herself who is murdered, set on fire, run off a bridge or stabbed. So that is what she is seeing and hearing that almost all of those stories, those women have also tried to get help and how they have tried to leave and how it is her fault because she has tried to deprive him of the children.

So you have got this sort of background level of anxiety caused just by the media itself and so she fears she is going to be killed and you and everybody in this room knows this, because she really might be killed. That is a real risk. So she has to run through every possibility of escaping this. At the same time that she is dealing with him, she is looking at how can she go out into a world that is actually really very unsafe as well. Even if she wants to run away and go into hiding, our system could attack her and accuse her of kidnapping her own child. Then she has to think about child protection. Should she call them and ask for help, but if she calls for help, they might remove her children or if she does not call for help, they might remove her children. So which one does she do? Then she has got to think about going to the police. If she goes to the police, will they charge him? Because a quarter of the time—that is all, is the time that they will charge him. We all know this. Women get to know that this is going to happen.

Then even if the charges are actually laid, a third of the time they will be dropped and then even if it goes to court, you are talking about 10 per cent of these men might get found guilty and even if they are found guilty, less than two per cent are going to go to jail for that. Even if they go to jail, less than two per cent will do the whole course. So is it worth all of that and making more of an enemy? Because these are an active aggression, right? If you report your partner, you are being aggressive back to them. You are going to inflame the anger that they have already got. Even if they get an AVO, the Family Law Court can override the AVO as well. So the Family Law Court, that is fraught and I am sure other people have spoken about that or will speak to that, but again, even the questions around that for women is, "do I tell the court that he is beating our children as well?" Because if she does, she will get accused of being a parental alienator but if she does not, then child protection say she is not doing a good enough job of protecting her children. So it is this constant state of going, "I have got an enemy at home but the whole system is also an enemy as well", and that is what I mean.

The CHAIR: Thank you. I am sorry—

Dr WILLIAMS: Sorry, sorry.

The CHAIR: —to cut you off. We are very limited for time. I have two members wanting questions. We might just go very slightly into lunch with the indulgence of my colleagues. If you would like to add further to that, please do so. You can do that in writing to the Committee. I am just going to throw online to Steph Cooke and then come back to Abigail Boyd. Steph, are you there with us?

Ms STEPH COOKE: Yes I am. Thank you Chair and thank you for appearing before the inquiry today. My question is to Dr Williams and/or Dr Virgona. Page 6 of your submission question 10 in relation to the legislative regime governing ADVOs. Your response to this question I would perhaps go so far as to say is in contrary to other evidence that has come before the inquiry. Can you please elaborate a little further on your response to that question and why improvements to the ADVO will not potentially in your view have any impact whatsoever in the area of coercive control?

The CHAIR: Ms Williams.

Dr WILLIAMS: Are you going to answer—you are going to ask me to answer, okay. So—

The CHAIR: In the couple of minutes we have, thank you.

Dr WILLIAMS: Sorry?

The CHAIR: We just have a couple of minutes, just letting you know. I do not want to cut you off but we are limited. Yes.

Dr WILLIAMS: Okay, yes. So I guess when women are trying to escape somebody like that, I think it is really important to know that when they are at that stage, those abusive men who are using coercive control are really, really dangerous at that point and releasing these men into the community have a completely different set of risk factors. The abusive man, at that point he believes he owns his victim and he believes that she has betrayed him and he will not go away easily. So I think decision-makers do need to be aware that the coercive controller has a very different risk profile. A lot of people think that they are less of a risk to the community but it is actually not true; they are more of a risk and they have a vendetta and they have a particular person in mind and they feel entitled to her.

So when these men are released with very little consequences and an AVO is not a consequence. When they hurt her, this impacts the whole community as well as her because it has resulted in a community where the vast majority of stakeholders—all of us, the police, the legal system, the health system—we are completely aware of the failures of this system and I think it has left police knowing that we cannot protect women and they tell women not to bother charging and the lawyers feel very similarly to that. Even I as a treating doctor, I often cannot argue when a woman is telling me that it is actually safer for her to stay than for her to leave and have an AVO.

The CHAIR: Thank you. Ms Abigail Boyd who has been very, very patient today.

Ms ABIGAIL BOYD: Oh thank you, Chair. Thank you and thank you so much everyone for attending. Thank you, Dr Williams, for painting that picture of the dynamics that is going on in that situation of coercive control, and particularly the impact of the trauma on the way that the victim survivor is behaving, both while still in the relationship but also then when seeking help. I am wondering—and it is a question to all of you—how easy is it then to provide to the police and other sort of first line responders with a checklist or with something that would help them to be able to see that psychological or emotional injury as clearly as they would see a bruise?

Dr WILLIAMS: I personally think it would be really easy. I think I could—if I worked with somebody who was really truly interested in it but there has to be a whole lot of change, cultural change and the police have to consider who they are employing as well and demonstrate that within their ranks, that it is unacceptable to treat women the way that they have been treating—so it is not going to be—I do not know—without difficulties but I do not think it is impossible. We have seen cultural shifts already in our lifetimes of how we treat people and things that were acceptable back in the 80s are not acceptable now. So I cannot see it as something that would delay us actioning this right now.

Ms ABIGAIL BOYD: Thank you. Dr Virgona, did you want to speak?

Dr VIRGONA: Yes, I agree with Dr Williams' answer. I feel that we would be able to upskill people well. I think even with the PACER rollout, there is anecdotal evidence that having the embedded mental health workers—and usually nurses I think more often than not, mental health nurses—with first responders is already sort of leading to some of these sorts of cultural shifts. We are talking more in terms of how they deal with mental health problems in general rather than domestic violence in particular but I think that it can form something of a template I think for how education could be rolled out, not only at the police academy and in Ambulance New South Wales but throughout—you need to be happening throughout the course of their work. We have to, in our work, have regular brush-ups on various aspects of social problems and there is no reason why this should not be happening also in the emergency services sector and this should be a part of it.

Ms ABIGAIL BOYD: Thank you and Ms Coventry?

Ms COVENTRY: Yes, I agree with my colleagues. I think that we could develop that sort of checklist

and education quite easily. I just also want to make the point though that one of the things we would need to be careful with around this and particularly for first responders, is to educate them around the fact that with respect to the fact that this is often or most often an issue for women and children, there is a need to be non-gender specific because it does occur in the other direction. Also I think we need to be really careful about having a purely heteronormative perspective, because it does also happen in same-sex relationships.

Dr VIRGONA: Yes.

Ms COVENTRY: So I think that is another part of educating people, that would need to be really, really important. Just in terms of assumptions being made based on cultural norms needing to be addressed.

Ms ABIGAIL BOYD: Thank you.

The CHAIR: Thank you. Yes we have had some information and evidence about that today which has been very helpful. So we are into overtime, but Trish Doyle was going to ask you a question to take on notice, which means you will give us a written answer through the Committee after this. Thanks Trish.

Ms TRISH DOYLE: Can I firstly say thanks to Ms Coventry and to Drs Virgona and Williams for your work in this space. Some of the content today has been difficult to hear but it is important to speak. As a child victim survivor, it is really tough material to work through. On notice, would you consider that so far, a day and a half into these hearings, we are receiving quite a bit of commentary around the fact that we should leave criminalising coercive—or leave coercive control out of the criminal scheme. Would you answer please, given the work that you do, this particular question—do you think that sends a message that coercive control is less serious than physical assault, and given that there are already challenges with proving physical and sexual assault and intimidation and stalking, do unsuccessful prosecutions of these offences provide a sufficient reason not to criminalise these behaviours? Thank you.

The CHAIR: All very good questions, thank you. They will be provided to you on notice. Thank you very much everybody for your participation today. I just wanted to reiterate again if these sessions have raised issues for you, please do seek out help. Confidential advice, support and referrals related to domestic and family violence can be obtained through 1800RESPECT, 1800 737 732 or the NSW Domestic Violence line, 1800 656 463, or the Men's Referral Service, 1300 766 491. Thank you to our witnesses for your assistance and your ongoing work in this area. It is very important. We thank you for your submissions to the Committee. You have taken some questions on notice. The Committee staff will be in touch with you about those and we ask that you return those to us within seven days. Thank you very much. That concludes this session and we will be back at just after 1:30. Thank you.

(The witnesses withdrew.)

(Luncheon adjournment)

MANJULA O'CONNOR, Executive Director, Australasian Centre for Human Rights & Health, affirmed and examined.

PETER DOUKAS, Chair, Ethnic Communities' Council of NSW, sworn and examined.

NEMAT KHARBOUTLI, Strategic Support, Muslim Women Australia, sworn and examined.

MENAKA COOKE, NSW Executive Member, Women's Electoral Lobby, affirmed and examined.

The CHAIR: Thank you everybody for your patience and welcome back to the hearing of the Joint Select Committee on Coercive Control. In the next session today we have witnesses from the Australasian Centre for Human Rights and Health; the Ethnic Communities' Council of New South Wales; Muslim Women Australia; and the Women's Electoral Lobby. I thank them for their assistance. Welcome everybody.

The CHAIR: Thank you so much, each of you and we very much appreciate your written submissions, which the Committee members have received and have had an opportunity to consider. We will ask you some questions about those. Before we do so, can I ask if any of you have a brief opening statement you would like to make to the Committee? I need a nod or a yes.

Ms COOKE: Yes.

Ms KHARBOUTLI: Yes.

The CHAIR: I might just conveniently start on my left. Mr Doukas, do you have one? You do not have to, there is no obligation.

Mr DOUKAS: Thanks Chair, mine is encompassed in our submission, thanks Chair.

The CHAIR: Okay, terrific, thank you. Ms Kharboutli?

Ms KHARBOUTLI: Yes, I would like to make an opening statement. Muslim Women in Australia was

established in 1983 to allow for the full participation of Muslim women in Australian society. For four decades, we have supported culturally and linguistically diverse communities and faith-based communities as a specialist provider of domestic and family violence services. We established and operated the first ever Muslim women's refuge in Australia, which came to end under the New South Wales Going Home Staying Home reforms. Our current service delivers holistic support options focusing on prevention and early intervention, safe and supported crisis accommodation, rapid rehousing and intense complex case management for clients with complex needs.

In relation to coercive control, MWA does support a shift from an incident-based approach towards a patterns-based approach in responding to domestic violence as it does reflect current best practice. While we support the criminalisation of coercive control in principle, we do have a number of concerns about the potentially problematic implementations of criminal provisions in practice. We believe that the criminalisation of coercive control in isolation is insufficient to adequately protect and empower victims of domestic and family violence and that systemic reforms and extensive community consultations must occur alongside any proposed revisions.

The reason for that is due to giving voice to marginalised communities in order to identify unintended and potentially negative consequences of any proposed reforms. We think that criminalisation should be considered only as part of a larger integrated strategy to combat coercive control. Criminalisation, without adequate funding of relevant services at the community level or comprehensive frontline training will result in either very little application of the law or worse, harmful implementation of the law in marginalised communities.

MWA would like to encourage the Committee to centre the perspectives of women and culturally and linguistically diverse [CALD] and faith-based communities to ensure that the potential risks are mitigated as best as possible, with greater recognition given to their intersecting needs, particularly including that of migration status, communication barriers and cultural diversity. Coercive control reforms and legislation must balance the comprehensive protection of victims against the risk of over-criminalisation of marginalised community to ensure that we advocate and facilitate for a community approach and not a corrections approach. Thank you.

The CHAIR: Thank you very much. Ms Cooke.

Ms COOKE: I represent the Women's Electoral Lobby, which as you know was established in 1972, the year before I arrived in Australia. It is a national independent body which only engages in advocacy and lobbying. It is a feminist group and I think it has been respected for the equity and empowerment that it brings in women's affairs. So I am really pleased to be here before you today, the Joint Select Committee, because we look at you recommending laws, at least, with regard to coercive control which are not just based on an incident-based approach, but on a pattern of behaviour, which is what we are talking about in coercive control.

We have written a fairly extensive submission and then a supplementary submission which we dealt with, with regard to affairs in the CALD community, as my friend Nemat has also talked about. So we are wanting not for a tokenistic approach, which as I realise you are not going to do, but that criminalisation should actually make a material difference to women's lives. So what we would like is a clear definition of coercive control, so we gather evidence which has a criminal standard of proof and we also then put aside funds for specialised services and groups, including the police and many services such as the ones in the CALD community who can provide that support and understanding to police and other legal-based agencies.

So I look forward to hearing and understanding from you what else you need because some of the material that I have presented includes case studies from my own work as a therapist and counsellor and a worker with the Indian subcontinent community and I look forward to a very interesting afternoon. Thank you.

The CHAIR: Thank you very much. Dr O'Connor.

Dr O'CONNOR: I represent the Australasian Centre for Human Rights and Health and we are very grateful for the opportunity to present this submission today. We are in favour of coercive criminal behaviour. Primarily this –type abuse that occurs in the communities, the South Asian communities, the abuse that happens is quite unique and specific, they may be multiple perpetrators, the practice of dowry which constitutes substantial gifts that are given in the context of marriage and the gifts may be that they flow from the bride's family to the groom and his family.

What happens is that because of the Australian residency status of the man, brides who are coming from their home countries, from South Asia, often see him as a prized catch and the dowry amount increases and the Australian resident, ex-pat resident, they take advantage of this. The patriarchal structure and gender inequality leads to further opportunities for coercive demands for dowry. When they are not met, it gives rise to violence, abuse, emotional abuse as well as deaths and murder. Two have been recorded in Sydney and in Victoria, we actually discussed this and filmed this in a film called *Dowry Deaths* in Australia, produced by Al Jazeera and it has already had more a million views.

Based on action research, we believe that the issues that affect our communities, such as domestic servitude and appropriating the woman's income and controlling her to the extent where her every communication may be watched, isolating her from her friends and communities, as well as the nature of temporary visas in which the sponsor has enormous power over the victim, the coercive controlling behaviours, they actually go unnoticed. So

dominance, intimidation, isolation, threats, deprivation of resources, are not recognised by such communities and we need a law that can name it and that has actually got teeth in it so the perpetrators are brought to justice.

If you would give me another minute, I would say that the criminalisation, we believe, should be a graded response, meaning that it does not have to be an immediate go to prison. For example, in the UK data we find that majority of the perpetrators who were identified did not receive custodial sentence, they actually did have a number of responses, for example, given a caution. So the data I have here, 10 cautions; of the 516 proceedings, 388 were convicted, that is 65 per cent; 32 per cent received a suspended sentence or a community sentence; 1.9 per cent received a fine or a conditional discharge. So the thing is, the naming and having that provision of criminalisation will give it the power so that the perpetrators recognise that their activities will not go unnoticed. Thank you.

The CHAIR: Thank you very much and if you do not mind providing copies of those opening statements to the Committee staff, that will assist us greatly and that will go into Hansard as part of your evidence as well. Thank you very much, we do appreciate it. I am going to hand to my colleagues. We will rotate some questions, so our Deputy Chair Trish Doyle.

Ms TRISH DOYLE: Thank you Chair. Can I just begin by acknowledging all of you and thank you for your work that you do in often very difficult circumstances and advocating for vulnerable people; I appreciate your submissions and you speaking to those today. Can I also acknowledge in the room today Jozefa Sobski as well, who has been working in this space in the Women's Electoral Lobby for many decades.

I am going to put something to each of you and if you would briefly answer that, it is based on some commentary that was put to us as a Committee yesterday around arguments against criminalising coercive control and in asking this question, I acknowledge that for a range of communities there are some complexities here with criminal sanctions. So I will acknowledge that. What do you say to this, leaving coercive control out of the criminal scheme, does that send a message that it is less serious than physical assault? If you would not all mind answering that.

Dr O'CONNOR: I am sorry, could you please repeat that question because I did not hear it properly.

Ms TRISH DOYLE: There are a number of – I will come back to that.

The CHAIR: Dr O'Connor, you have put us on hold, if you do not mind taking us off hold; we might go to Mr Doukas in the meantime.

Mr DOUKAS: Thanks Chair. So the question, if I understood, was will criminalisation cause more problems?

Ms TRISH DOYLE: Well there has been a suggestion that the risks of criminalising coercive control, there has been some suggestion that that outweighs the benefits. I am asking your opinion on whether leaving coercive control out of the criminal scheme actually sends a message to our communities that it is less serious than physical assault.

Mr DOUKAS: Thanks Member. I will start with the simple answer, yes, there are risks. I think the risks are prevalent, as we see in domestic violence in all our CALD communities, because we are dealing with an Australia in a point in time where our democratic values are under threat from various aspects and that is then referenced through to the different CALD communities that we see. When I say values, I mean it is something that is relevant to not just the recently arrived CALD communities, this is something that we have experienced within the council, from very ingrained communities, such as the Greek and Italian communities as well. We saw it as part of an elder abuse inquiry that was relevant too.

I think looking at the existing suite of laws, certainly in domestic violence and also drawing on our own experience as a council and my experience also as a lawyer, that the threat of criminal prosecution is often a double-edged sword, because people blame their partners if the result is a criminal record and no more job, for the outcome that the criminal justice system has determined. That is something that we identified. The other side of that is, and I take your point and I embrace it, I think the central point is if it is not criminalised, then what happens? So cautiously, our position is that a very careful approach to criminalising these matters is the sensible one, but it has to be done in context.

I would say that, again in the domestic violence world, there have been significant reforms and significant reforms championed by the Chief Magistrate of New South Wales, of how the AVO and apprehended personal violence orders in the family context is dealt with. That regime, I think, has been relatively successful. Some of the data that we have seen has been relatively successful. Having similar protections, or at least parallel protections that that regime entails, in this, would, in our view, be sensible.

Ms TRISH DOYLE: Thank you. Nemat?

Ms KHARBOULTI: Thank you Trish. I really do take your point about what are we saying symbolically if we do not do this at this particular moment in time and that is something that unenviably you really do have to consider in terms of the message that we are sending out. However, when we are talking about culturally and linguistically diverse communities or specific communities that do not always—there are well documented,

structural barriers that limit engagement within service provision, or limit engagement with the criminal justice system, or have a double-edged sword, as Peter said, in relation to how they impact these communities.

What we can also potentially do, if you do not do it well and if it is not part of a larger, broader integrated strategy to combat coercive control, is then push the progress that has happened within the last two decades within these communities further underground. We have seen that before in different policy areas and that is something that we do not want to see in this space, because there are pluralistic natures to the way that CALD communities respond to family dispute resolution or arbitration. These need to be carefully considered so that there needs to be a specialised element and a well-thought-out criminal response that really meets victims, survivors and meets them at their intersection of law, at gender bias and racialised discrimination.

Muslim women, for example, specifically in dealing with police, it intersects with experiences faced due to terrorism or discrimination and it has adverse impacts on women's safety. It has adverse impacts on their opportunities and their interactions with other services. It does need to be done very, very strategically and very well considered and if it is not going to be done adequately well-resourced, then it is better to consider other options like civil law processes, or how can we expand existing stalking and intimidation offences to better support women as they engage with services and police.

Ms TRISH DOYLE: Thank you. Ms Cooke?

Ms COOKE: Thank you. I could not agree more with Peter and Nemat. I think it has to be a very well thought out and very targeted approach. It cannot be holus-bolus that we are going to throw the law at you. Because one of the things that we have discovered is that two-thirds of the domestic violence laws and statutes require the victim to prove that they have had physical violence or were threatened with such. Yet coercive control is the whole gamut of financial, emotional and other abuses, isolation and trauma, "I will have your visa pulled, I will do this and do that to you". So it can be much more devastating to a person than just being smacked around. I am not saying being smacked around is not bad, but this is where we really need to have real care that we have a very well-thought-out definition of abuse to better match the reality of what is happening with regard to abuse from an intimate partner.

What Nemat has said is totally correct. So we actually need an investment, not only in primary prevention in having a very clear definition of what will constitute coercive control, but we need early intervention services as well. It is no point you arriving, well not you, but the woman or whoever it is, arriving at the court system and believe me, nine-tenths of the women do not arrive at the court system. So therefore, to support services, such as the Muslim Women's Association and some of the services that I work with, looking for support and if you ask them, do you want to sue the husband through an AVO, they say no because culturally that is not what they are expected to do. Marriage is very precious or if not precious, it is so respected. I know of Indian women who have said, "my husband is my god and how can I go against him?"

We need not only critical intervention, but we need education of the police and the legal system so as to actually be able to understand where the coercive control is happening. Then, it could be either through education programs, I am not saying that that is the be all and end all, because sometimes what is culturally imprinted in you cannot be educated out of you, I know that well enough, but there has to be some way of supporting those women and also the men who may want to change their behaviours. Here I am taking the view that 99 per cent of the abuse is perpetrated by males against the females.

Another thing I just want to, very briefly, because in another life, in my corporate life I used to talk about and you may well know it, Eastern society is very collective based. The family system, society, what your family says, is super important. So even if the woman feels that she is going to get murdered, she will still try to find a way around it because leaving the family is considered a huge shame. It is a big shame-based approach. Whereas in the Western system, which is what I have come to absorb, it is very individualistic. I think, "hey this man is beating me up, I will tell him to get lost, I will change the locks and tell him to piss off", you know? That does not happen in Eastern society. Telling you to have CCTV, et cetera, I have put in case studies, none of that has worked because then the woman goes back to the same abuser. That is what I would like to get to you.

Ms TRISH DOYLE: Thank you. Dr O'Connor?

Dr O'CONNOR: So I think I absolutely agree, before any law is instituted, there needs to be a lag time where the communities are educated and they become aware of the definition of coercive control and that there are focus groups that are conducted in communities, that they make an input into what coercive control is. Those kinds of definitions need to be put into the law so they actually accurately represent what is happening within the communities.

The number two point is, that all the migrants who are coming into the country and I am speaking on behalf of the migrants at this moment and not so much the Indigenous communities, that as they are coming into the country, they are now having a hybrid identity that is forming, which is like a mixture of Australia and their home country. People are very keen to do the right thing by their country, the new country they get in, they want to be the best possible citizens, they want to be on the right side of the law.

Education of those migrant communities is to learn about what domestic violence actually is that is the

coercive control. It is not just a one-off slap once a year, because that is easily dismissed. It is the pattern of being continually abused, controlled, humiliated, criticised, their money taken and their dowry demands. All of those things they need to understand is coercive control and that the law will take a very serious look at their behaviour. But at the same time, the system is there to support the woman and the man to change their behaviour. What I am trying to say is the education of the communities and like for example, England took four years to implement the law.

The CHAIR: That is a very good point. Thank you, Dr O'Connor. I might just interrupt you there if I may and if you would like to add further information, you can do that in writing in answer to that question. We are just a little conscious of time. I will hand to Ms Abigail Boyd.

Ms ABIGAIL BOYD: Thank you so much for your very interesting submissions. I really loved reading them because they give us that context of what different forms of coercion might look like in different communities and different contexts. I think that that is one of the reasons why we are consulting and why we need to consult so broadly, because you cannot draft a provision to address a problem when you do not understand what the problem properly is.

So getting to how that impacts on the legislation, we have heard a lot about the types of abuse that needs to be covered in a definition of coercive control, but what we have not heard much about is how we define the domestic relationship. We have had submissions saying it should only be current or former spouse or de facto and then others saying it should be much broader than that. Could you reflect on that and give me your views on how it should be defined based on the information you provided?

Dr O'CONNOR: I can start here. In our Eastern communities and South Asian communities, extended family system is the norm and the recent Australian research is showing that the number of extended families are now increasing; currently about 15 per cent of all families. What happens in an extended family system is that you have three generations of family members living together, it could be four generations and also the lateral family members, for example the brothers-in-law and the sisters-in-law are also living in the same house.

What happens in this system is the newest member of the family is usually the daughter-in-law because the husband's patrilinear means the daughter-in-law actually moves into the husband's house, which is an extended family and so there she is, often the newest member of the family. Other family members who are more senior than her have more power than her and it sets up a huge amount of power inequality. It opens up situations of abuse and a lot of the family violence I have seen and we see in our research, is actually family-based multiple perpetrators, mothers-in-law to daughters-in-law, brothers-in-law to the new bride and the husband often stands back and does not support the new partner, his new wife, because he has more sympathy for people that he has been born and brought up with.

We would argue for a much wider definition of a family as compared to intimate partners in a way that is the English definition. We prefer that. Thank you.

Ms ABIGAIL BOYD: Thanks, Dr O'Connor.

Ms KHARBOUTLI: If I may, in relation to defining relationships, MWA does recommend an expanded definition, one that is not limited to just intimate partner violence but extends to family-based violence and incorporates post-separation abuse as well. The reason we recommended adopting the definition of domestic relationship in the Crimes (Domestic and Personal Violence) Act, so that it is more accessible and can be utilised for some of the cases that we see and we experience in supporting domestic, so not just intimate partner relationships but elder abuse and the extended family-based abuse, as mentioned before as well.

One thing I would like to note though, in expanding that definition and should coercive control be criminalised according to that, is that there is a need then in expanding the definition and the expansion of a criminalisation approach, that once women enter or seek support from police or enter the criminal justice system, that there are then no longer any avenues for diversion opportunities should they not wish to participate or should it be in the victim's best interest to participate. That could be because of safety, because of the risk of victim or child safety and post-escalation abuse.

That is MWA's position. It can be a broader definition so that it is more accessible to the nuanced cases, however there should be careful consideration about what that means in practice, if there are not diversion and referral systems built into those responses.

Ms COOKE: I agree with what Nemat has said. I think it needs to be coercive control not just intimate partner, but the larger family as Dr O'Connor has also said, because yes, it is true, mothers-in-law and fathers-in-law, even people back home in the home country are also participating, that is going to be very hard to catch them. So there is this coercion happening within the community, but we need to be very careful because sometimes women are intimidated by that and they may not particularly want the mother-in-law or father-in-law, brother-in-law taken into it.

What I would also like to add is it is adding not only to the trauma that the woman suffers, but I am personally seeing a lot of mental health issues coming to me because of DFV, domestic and family violence is a

better way of putting it, because of that approach. I think we need to be very careful in the way that we define coercive control, that it not become a holus-bolus definition.

Ms ABIGAIL BOYD: Thank you. Mr Doukas.

Mr DOUKAS: Thank you. My view is there is no point to a law if you cannot prosecute it. I think it is a Pandora's box ultimately because you will end up with siblings using this law to achieve other family provisions, outcomes or money outcomes. I think the risks associated with it and our position is that much like domestic violence, there are clearly identifiable factors that stem from intimate partners and they should be part of any legislation or any criminalisation of coercive control.

I think there are broader examples, as my colleagues have correctly identified, but criminalising that behaviour, if it is to be criminalised, I think the challenges for the legislators, not us, would be establishing how such an act could be effectively prosecuted, things that challenge, that you probably do not have with respect to personal or life-partner relationships. Our view is one of caution with respect to broadening it outside of intimate relationships.

Ms COOKE: I do believe you would need to look at it carefully, because in my own experience, I have seen what I call accomplice behaviour in the domestic and family violence, going to as far as extending to murder or the so-called suicides when the woman's sari has been set alight. So there is a lot of not coercion, but there is a lot of criticism and bullying that also goes on within the family. How are you going to encapsulate that, I do not know, more legal minds would have to look at that. If there is any form of being an accomplice or pushing the intimate partner to commit a crime, then that needs to be looked at.

Dr O'CONNOR: Can I add to that, in that I do see that in my own practice as a psychiatrist and I see the victims who are being almost driven to suicide by the extended family members, in particular the mothers-in-law. So the woman-to-woman violence in the families can be quite heinous and it can be incredibly powerful at the same time. So we do need to include these people and we do know that their incitement even to murder occurs by family members.

It cannot be ignored and in my clinical practice, which is largely gender based violence in South Asian communities, it is ubiquitous that the extended family members get into these domestic violence situations and I see women over 10, 12 one-hour sessions over a period of one, two years and I have intimate knowledge of what goes on. I would thoroughly recommend that the family members be included in this.

The CHAIR: Thank you very much. Ms Kharboutli.

Ms KHARBOUTLI: Thank you. The reason MWA took a position on defining relationships more broadly was to make it more accessible to the different forms of coercive control that CALD women experience. However, in our submission I would like to point out that we did refer to the need for additional checks and balances to be built in to protect the criminal overreach that could also then exist within those communities. Such measures included a minimum legislative threshold consisting of three types of coercive control being present, to ensure that there are measures in place that address the risk of over-criminalisation of relationship behaviour that while unhealthy, may not be reaching a criminal threshold.

We did have a lot of these internal conversations and we landed at that, or more broadly at a position where additional checks and balances are built in to make legislation accessible, not re-traumatise the victims, but at the same time, not create an overrepresentation of communities. Additionally, on that point, we also recommended the inclusion of an explanatory memorandum to form part of any legislation so that there is greater nuance to the intersections of law, gender bias, racialised discrimination and also cultural competency.

The CHAIR: Thank you, that is very helpful. Can I thank you for your, before I hand to my colleague, Rod Roberts, that your submission was particularly thoughtful in that regard and you responded to each of those questions and considered those issues and raised that particularly with those concerns. So thank you, I will just acknowledge that. The Hon. Rod Roberts.

The Hon. ROD ROBERTS: Thank you, Madam Chair. Just to echo the Chair's comments there, Ms Kharboutli, your submission was extremely helpful.

Ms KHARBOUTLI: Thank you.

The Hon. ROD ROBERTS: I was impressed by the case studies that you gave to show differences in different forms of coercive control. That is not to exclude the other participants today as well, I thank you for your submissions as well. But Ms Kharboutli, I only have one question and it goes to the heart of your submission, in particular your summary of recommendation on page 20. I will just read it to you and then we will comment. Also this same recommendation is on page 11 of your submission:

The definition of coercive control should include a minimum legislative threshold consisting of a combination of three or more forms of coercive behaviour.

Could you just speak to that a bit further please?

Ms KHARBOUTLI: Yes. So I would like to begin by acknowledging that legal semantics are not the

expertise of MWA. I think having read the submission, you will see that the purpose of our submission was to provide nuance and cultural consideration and specialist pluralistic understanding of how these issues intersect for victim survivors. So these are not firm positions in terms of the legal semantics that we have provided.

What we hope to do in providing such a recommendation will show and give food for thought to the ways that we could be methodical, strategic and considered in the way that we would potentially criminalise or choose to utilise other available options such as expanding existing intimidation and stalker offences, or also seeing if this outside, is it more accessible, making sure it is not client-centred and re-traumatising victim survivors. This is not a firm position, but it was an example of how it could be a methodical way of adding checks and balances while making it accessible, not placing too high an evidentiary burden on victim survivors. This is something we consider very difficult. It is not simple. It is a very nuanced conversation and it is the role of this Committee to see how best to do that.

The Hon. ROD ROBERTS: Sure. Can we just address this? I may be able to assist you and again, if I am not and I am misleading, please stop me. Would it be—and I accept that you are not criminal law experts nor drafters of legislation—so where you talk about a combination of three or more forms of coercive control, would it be more, well better phrasing would be three or more incidents of coercive control, rather than three or more forms?

Ms KHARBOUTLI: Yes.

The Hon. ROD ROBERTS: Because forms, to me, indicates three different types of coercive control, maybe emotional, maybe financial, maybe some other type. Whereas I think what you might mean is three or more incidents of coercive control. Would that be correct?

Ms KHARBOUTLI: In drafting this submission, when we said three or more forms of coercive control, you are right, we were thinking more along the lines of financial or physical, verbal, emotional, psychological, because that is what we see presenting to us in our service delivery, not so much the fact that the incidents have happened several times. However, it is an important consideration and I would recommend that consideration to be further considered. It was not in our consideration when drafting.

The Hon. ROD ROBERTS: Thank you.

The CHAIR: Thank you. Any other questions from Members? Yes, Anna Watson.

Ms ANNA WATSON: I just want to direct a question to Dr O'Connor. You were discussing from the outset about dowry abuse. Are you talking about dowry abuse in Victoria or more broadly other places?

Dr O'CONNOR: So we are seeing dowry abuse across Australia. We just did a survey of the whole of Australia and 182 participants took part in that survey. Majority of the respondents were South Asian, but it was actually represented across all cultures and communities. In that survey, 32 per cent of participants said that they either had experienced dowry themselves, I think they were about 19 per cent and the rest were people who said that they knew of someone who had in their personal lives experienced dowry abuse. So 32 per cent had either experienced it themselves or they knew someone, so that was Australia wide.

Basically what I have seen is that in my own practice, that the dowry abuse was present when we started this campaign through Australasian Centre in 2013, it was a Victorian campaign. In my own practice in psychiatry, 75 per cent of my patients, victims, were complaining of dowry abuse. Then the media hyped it up because we actually made a submission to the Victorian Royal Commission into family violence in 2015 and there was enormous media coverage around that issue. We had a number of victims who had come forward with their stories. I had noticed an impact and with the threatened law coming in, the dowry abuse dropped within my own patient groups down to half and then down to almost just about 30 per cent.

Then we got the law and at the moment I am seeing roughly around 48 per cent of victims have dowry abuse in my own practice. But if you talk to people from Brisbane and people in Sydney, they are all very concerned about the extensive form of abuse that is occurring within the communities there. It is a kind of subtle and it can be also very direct. It can be associated with bullying, it can be associated with humiliation, control and our research said that it is associated with numerous types of coercive controlling behaviours, some of them I just mentioned and that we need to really think about including that into the coercive control legislation because that will have a significant impact.

A lot of the women who are giving dowry are actually those who are in India and coming to Australia as brides on temporary visas, so the dowry acts as a kind of enticer to the groom, who is an Australian resident and it raises the social status of the bride as well. It has become quite a toxic practice, so it needs attention, although dowry itself is not a problem in itself, gift giving, but it has given way to abuse, demands and coercive demands, murders, suicide, in Australia. That is why we believe that it needs to be included in this legislation.

Ms ANNA WATSON: Dr O'Connor, is it not outlawed in India?

Dr O'CONNOR: It was outlawed in India in 1961 and where it went wrong was, that they outlawed the practice of dowry rather than the abuse associated with it. When they put the abuse associated with it, which came later on in 2005, it had more of an impact, but the practice of dowry itself continues.

The CHAIR: Dr O'Connor. I am going to say thank you very much. If you have got further information, I would love for you to provide that in writing to the Committee, if you are able, but we are very tight for time now and we do need to have a very short meeting before our next witnesses. So thank you very much, I am sorry our time has finished.

Dr O'CONNOR: Thank you.

The CHAIR: If you have further information you would like to provide to us, you are most welcome to do so in writing in response to specific questions.

Dr O'CONNOR: Will do, okay, thank you.

The CHAIR: Thank you. Members may have additional questions that they may wish to put to you in writing and if they do so, the answers that you provide and the answers to any questions taken on notice will form part of your evidence and will be made public. I just want to, on behalf of the Committee, say thank you so much for your assistance. Thank you for the very important work that you do and for taking time out of your very busy schedules to come and assist the Committee in person and online today. We are very appreciative. Thank you very much. This concludes this session. If I can ask all of the public to leave please, we need to have a very quick Committee meeting.

(The witnesses withdrew.)

The Committee adjourned at 14:26.

KATHRYN McKENZIE, Director, Operations, NSW Ageing and Disability Commission, affirmed and examined.

SERA YILMAZ, Systemic Advocate and Policy Officer, Disability Royal Commission Advocate, Multicultural Disability Advocacy Association of NSW, sworn and examined.

The CHAIR: Thank you so much, we are resuming the hearing into the Joint Select Committee on Coercive Control and have our next witnesses from the Disability Royal Commission Advocate for Multicultural Disability Advocacy Association of New South Wales and the New South Wales Ageing and Disability Commission. Welcome, thank you for joining us.

Thank you so very much. Thank you for your written submissions, extremely helpful and the Committee is grateful for the time you have invested in providing us with those submissions and also attending today, we are sure you are extremely busy, but we very much appreciate the efforts you have come to help us today. Could I ask if either of you have an opening statement you would like to make to the Committee first of if you are happy to go straight to questions.

Ms McKENZIE: I have got a few quick points that I would be grateful to make if that is okay with you.

The CHAIR: Thank you. I am going to keep saying your name because our friends online are having issues with the webcast, so I am going to say thank you Ms McKenzie, if you would like to give us your opening statement.

Ms McKENZIE: Thank you. There are just a few key things that we wanted to emphasise at the outset. So our focus, the Ageing and Disability Commission started on 1 July 2019. One of our primary roles is to receive and respond to reports about adults with disability and older people who are subject to or at risk of abuse, neglect and exploitation. From the outset, a significant proportion of the reports that we have received have involved coercive control of adults with disability and older people and overwhelmingly the reports to the Ageing and Disability Commission involve women, so women with disability and older women.

A few quick points that we wanted to make. Most of the matters that we have received and that involve coercive control involve family members and relatives, as well as spouses and partners. Two, the impact of coercive control on the adults with disability and older people that we have worked with in relation to the reports that we have received, can be absolutely devastating, as it is for many of the other women that you are hearing evidence about. But for adults with disability, or women with disability and older women, there are additional factors that add to the impact on them of coercive control. Primarily the pre-existing reliance that many of them have on support from others and the very real difficulty of them being able to change the situation without additional assistance or to be able to get help.

Three, the behaviours in some cases, coercive and controlling behaviours, have been happening for some time at the time that we have received the report. What we have found is that in some cases the behaviours have been very hidden and the individual themselves is quite hidden. In other cases, what we have recognised is that the behaviours have been accepted and it has not been recognised for what it is, which is coercive control. Part of the reason that they have not been recognised is that the additional factors involved in these cases is that the existence of a disability and perceived frailty of the individuals, the women involved, very much clouds the ability for external parties to adequately recognise coercive control, as distinct from care that is being provided to the individuals, so we see a failure to recognise these matters for what they are.

I just wanted to very quickly address some of the information that we have identified in some of the submissions that have argued for the scope to be kept to intimate partners and not broadened beyond that and some of the arguments that we have noted is that the scope of intimate partners reflects who are more likely to be victimised by coercive control and the nature of the victimisation and that extending to family or broader would dilute the weight of the offence as a means of stemming abuse. With enormous respect to those arguments, we strongly disagree. What we have seen through the matters that we have dealt with at the Ageing and Disability Commission is that women with disability and older women are regularly subject to coercive control in family relationships as well as intimate partner relationships. It is ongoing and, in our view, broadening the scope would not dilute the message and there are other ways to ensure that that does not occur.

Just very quickly, in our view, it should not be that if you are subject to coercive control by an intimate partner you have access that that is recognised as being an offence and you have access to protections. But if you are subject to those exact same behaviours in your home by a family member or other party, you do not. I think it is important to recognise the experience of the people that the reports to the Ageing and Disability Commission have been about. Thank you.

The CHAIR: Thank you, that is very helpful.

Ms YILMAZ: First of all, thank you for the opportunity to be here.

The CHAIR: Thank you, Ms Yilmaz.

Ms YILMAZ: Thank you. So with the Multicultural Disability Advocacy Association, we primarily service consumers across New South Wales, as you would already know. But the main focus of this submission is that we have had two consultations with women, some of the women are known consumers to us and some of them are part of our women's network where women can get together and talk about issues such as these and just network and carry out different activities. But primarily, the focus is around women from multicultural backgrounds. A lot of the women have expressed that these coercive and controlling behaviours have become quite normalised in their cultures. Some of them do not even know that it is actually a coercive and controlling behaviour and basically how it impacts their lives. In addition to that, many of them do have disabilities.

The main theme out of this is that they have said that there needs to be a need for broadening the definition of coercive and controlling behaviour, obviously needing to be included in the criminal code. They have provided suggestions for further improvements in addition to non-legislative reform. They do believe that non-legislative reform is something very important, especially in multicultural communities and they have touched upon things like doing a campaign in communities, going out to cultural networks and speaking to them about what coercive and controlling behaviour involves. So I just wanted to let the Committee know that that is the main gist of the submission.

The CHAIR: Thank you very much for that and we would be appreciative if you would be able to provide us with copies of your opening statements just for *Hansard* and the Committee staff to assist afterwards.

Ms YILMAZ: Sure.

The CHAIR: Thank you, your submission is fantastic, both of you. I just wanted to ask you quickly about the reference and thank you for your consultation with your participants with lived experience, Ms Yilmaz. I think it is important and the stories that you have given about the particular examples are very helpful in that context, so thank you.

I wanted to ask, you had stated on page 3 that the legislation has a large gap in the law when it comes to protecting women and punishing perpetrators and you have advocated for a wider definition. I was interested in your sentence that:

...because participants express that negative behaviours usually occur over a long and gradual period and are not apparent to the victim at first, giving reason for the importance of publishing.

Could you elaborate on that, what your feedback was from your participants and why you have come to that view in your submission?

Ms YILMAZ: Yes. So a lot of our participants, who we did speak to, are from multicultural backgrounds and particularly some of them were from particular faiths and I am from the same faith myself. A lot of them have alluded to the fact that their partners see them as subordinate to them and so a lot of them did not actually have a bank card until later on in the relationship. Some of them actually did not have a bank card to use at all; they had to seek permission. They assumed that that was something normal because according to them, it was normalised in their communities. So that is some of the conclusions that I got that from.

Another one was an individual who would make food for her spouse and he would not like it and he would throw it on the ground and say, I do not like it, make it better. He would compare her to other people who could cook better and she dealt with that for the rest of her marriage. She did not think that that was coercive or controlling behaviour. As I was sitting down and listening to these statements, I thought, "well it actually is because you are fearing, you are walking on eggshells and you feel like you need to make a better meal for him not to perhaps

commit violence towards you or make those statements towards you". So that is the conclusion that I came to just observing, that these women, it might look like every day behaviour, but really it is not because they have fear instilled in them.

The CHAIR: Yes, thank you. Did you want to comment on that aspect at all Ms McKenzie? No? That is okay. It was specifically in relation to your submission. Can I just follow up on that then?

Ms YILMAZ: Sure.

The CHAIR: One of the things that we are grappling with as a Committee is the specific question about how we should distinguish between behaviours that are present in ordinary relationships with those taken together form a pattern of abuse and where that line is. Can you comment on that? It is complex, I recognise, we are not going to solve it here, but it is a complex issue that we are going to have to try and address in these questions. In the context of multicultural and cultural environments, can you comment on that? Is it just the one dinner or is it the pattern?

Ms YILMAZ: Yelling, raising; I will backtrack. I am just thinking a lot of things in my head. But what I have realised is that when I have had these consultations, some of the women genuinely did not believe it was coercive control and behaviour because they thought it had to be physical, they thought that, "well if I go to the cops and say that he did not like my food, he is not going to do anything about it, because that is the answer that they gave to me". I said, "well do you feel like this is controlling behaviour and do you understand that this is not actually acceptable?" They said, "well if I go to the police, what are they going to do, laugh at me?"

Another example is an individual who constantly received menacing messages and ongoing contact from somebody that she no longer wants to speak to and this extended about two to three years. When she did go to the police to say he does not stop and they did have an AVO before, the police did say, "well did it have any criminality behind this, did he threaten you?" No. A lot of the perpetrators know, they are very smart actually, they know that they cannot threaten you via message. But her life, she lived in fear and she still does live in fear because every time she goes outside to her car, she looks around to see if he is around because he just does not stop messaging. When she changes her email and her number, he creates a new email and the police just keep saying, "well keep blocking it". But it does not end.

I guess even when I think about it, it is just well okay, there is no actual threat, but look at what it is doing, it is making her fear for her life and she cannot live happily throughout every day of her life just like everybody else who does not have any of these problems. Just that ongoing fear, that feeling of being sick and trapped because he just does not stop contacting you, it is literally stalking. But if there is no criminality to it in terms of, okay, he said he is going to kill me, nothing gets done.

The CHAIR: Ms McKenzie, did you want to comment on that aspect and the definition and how that would make a difference?

Ms McKENZIE: I think the matters we see, it is the pattern of abuse and I recall the discussion in the previous session about the different types of coercive and controlling behaviours. In a lot of the matters that we see that involve those behaviours, there are multiple forms of coercive and controlling behaviours and over an extended period of time. I think it is the pattern of abuse and also, I have to say, from the matters that we see, it would pass a reasonable person test about what is acceptable, what other people would deem as acceptable, if you take out potential to be coloured by views about disability and caring relationships, a lot of these matters would not pass a reasonable person test.

The CHAIR: Sorry to follow on, then I will pass to my colleagues, but do you think a reasonable person test should be included potentially?

Ms McKENZIE: Yes, that is our view, that the focus should be less about being able to demonstrate harm to the individual, that it actually, certainly from our matters, there are some challenges with that aspect, but they would easily pass a reasonable person test.

The CHAIR: Thank you. Colleagues? Anna Watson, thank you.

Ms ANNA WATSON: This same question is addressed to both of you, in your view and your experience, what are the challenges and what are the barriers in relation to coercive control and the criminalisation of it and your communities that you represent?

Ms YILMAZ: What I find is that a lot of the challenges from when I was speaking to these participants is that they feel like when they go—because they do, some of them do complain about it, but nothing gets done because it is not considered to be criminal or they just say, "well block them or do something else". The ones that do not report it, they genuinely believe that it is part of the culture, they do not believe that, "oh he is my husband, I have to listen to him, he has got every right to tell me what to do, he is not hitting me, so that should be fine". It is actually an ongoing cultural belief. So I think there are two issues. One is that some of these things that are happening are not considered to be in that line of criminality of yes, let us punish this guy or put him in prison, or even give him a phone call to warn him and the second one is there are belief systems out there that it is actually acceptable because you are subordinate.

The CHAIR: Ms McKenzie, did you have a comment on that before I go to our online participants?

Ms McKENZIE: Yes, thank you. So the key barriers that we see in our matters relate to having coercive control recognised, so some of the factors that I mentioned earlier where the existence of a person's disability and their reliance on needing care tends to colour the ability to recognise those matters. We have had some reasonably extreme matters where the response from police and other external parties has been to see it through the lens of the burden on the carer rather than actually seeing it for what it is, which is domestic violence and coercive control. I think that is a critical barrier.

What we have identified in our submission as well is the need for support within the justice system. What is missing in a lot of the cases that we deal with is an actual focus on hearing the voice of the person with disability or the older person. Even where in some cases we have service providers raising concerns with us about what they are seeing in the home and the relationship, but at the same time they are going to the partner or the family member for consent and decisions, despite the person with disability and older person being able to make their own decisions, so they are exacerbating the existing situation.

What we have flagged in our submission is just the need, there are witness intermediaries that exist certainly in relation to child sexual abuse matters, that we think that there is a real need to extend that scheme to vulnerable people more broadly, certainly people with disability, cognitive impairment and communication difficulties.

The CHAIR: Can I just pick up on that, at what point? Then we will go to Justin Clancy, but at what point?

Ms McKENZIE: Yes, so they are valuable in two key areas, so in contact with police, so for those individuals to be able to give full evidence, to give best evidence to police but then also before court, so through that process they have been demonstrated to be really effective. In the UK but also in the limited cases where that scheme has been slightly broadened to include vulnerable adults in New South Wales, it has been effective.

The CHAIR: Thank you. I might go to online, Webex, to our member there, Justin Clancy.

Mr JUSTIN CLANCY: Thank you, Chair and firstly thank you to each of you for your submissions and being here today. My question is directed to Ms McKenzie. I found chapter 7 of your submission was really an important contribution around aspects of constructing an offence of coercive control. I would be interested in you in expanding a little bit on the state of mind of the offender and the defences as well. Please, I would also like to return to the scope, because I know you touched on that at the start and I think that is a really important aspect that you have touched upon and in acknowledging your comments, there have been some submissions that have perhaps suggested a narrower scope and they have drawn into play the possibility around parental/dependent type interactions, say, withholding finances and so forth. I would just be interested in your thoughts in that regard but thank you.

Ms McKENZIE: Thank you. I might address the last past first. In our view that it definitely should be—the scope should include family and relative relationships within the scope of domestic relationships, consistent with what is in the Crimes (Domestic and Personal Violence) Act at the moment. We were not considering a parent/child relationship, sorry, a child under the age of 18. It is important to recognise in a range of the matters that a lot of the matters that we handle involving abuse, neglect and exploitation of older people, it involves a child, it is just that it is an adult/child and the abuse is against the parent. Our view is that family and relative relationships should be included but not children under the age of 18. That was not envisaged and it is not something we are recommending.

In relation to the state of mind of the offender and the defences, the information that we have put forward, both of those areas go to our earlier points about the impact of disability and perceptions of disability. In our view, rather than requiring that intention be proven or recklessness on the part of the alleged perpetrator that they were intending to cause specific harm to the victim, we support the approach that it should be that the perpetrator knew or ought to have known that their behaviour would have been abusive or likely to have caused harm.

The CHAIR: So more a negligence level than a fully intent?

Ms McKENZIE: Yes. The issue for and certainly the impact on our matters is that the nature of the care, in inverted commas, the care relationship that exists in a range of our matters would make it harder to prove intent to cause harm. More recent matters involving protections, or COVID-19, we saw a range of matters where family members use the argument about preventing older person or adult with disability from accessing the community, from accessing family members, they put a framework around that, well that is completely reasonable because that related to COVID-19 and protecting them from a greater vulnerability from exposure to that.

Except when we looked at a range of those matters, what we found was that that behaviour existed prior to COVID-19 and continued to exist well after the lifting of restrictions and what would have been a reasonable approach. In our view, while we have noted in the discussion paper that there is a risk that that would set the threshold for criminal conduct too low, we see that the alternatives, having to demonstrate that there was an intent to cause harm, it is too high a threshold and would unfairly disadvantage the vulnerable and certainly the communities and the individuals that we receive reports about and support.

~~Similarly with defences, we saw in terms of the Scottish legislation, that it was a defence to show that the~~

course of behaviour was reasonable in the particular circumstances and that in England and Wales, if an accused believes that they are acting in the best interests of the other party and the behaviour is not, in all the circumstances, reasonable, that is a defence. Our concern is that one, the accused only needs to adduce evidence sufficient to raise the defence, it is obviously then on the prosecution to prove beyond a reasonable doubt. Our concern is that it is relatively easy and it is overly well accepted by a range of parties introducing an argument about, well those behaviours were in the best interests of the adult with disability or the older person, are incredibly common in the matters that we see and are too well accepted by a whole range of external parties, police and other parties that are involved in some of these matters.

We would have significant concerns about the ability to or the introduction of legislation that would enable the alleged perpetrator to introduce an argument that the disability kind of the basis or the vulnerability of the person was the basis of their defence. What we have also noted in our submission is that the concept of best interests, there has been, rightly, an active push away from that in the disability sector. It is seen as a historical legacy and patronising kind of approach to people with disability and who require additional support, that it is a more rights-based approach.

The CHAIR: Thank you. Anything further, Justin? Did that complete your part of the submission?

Mr JUSTIN CLANCY: Thanks Chair.

The CHAIR: Thank you. Members, any further questions? I just want to, on behalf of the Committee, thank you very much. You bring quite a different perspective to our thoughts around this issue. It is obviously very wide, but we are appreciative because there is a whole range of additional considerations that we really should take into account here, but more importantly, to thank you for your work. I know it is ongoing; we are very appreciative of all you do out there. There may have been some questions taken on notice and some additional questions from members, which we will send to you, knowing that your answers in writing will form part of your evidence and will be made public as well. Thank you very much. That ends our session today. We will be in touch, thank you.

(The witnesses withdrew.)

(Short adjournment)

DIXIE LINK-GORDON, Senior Community Access Worker, First Nations Women's Legal Program—Women's Legal Service New South Wales, affirmed and examined

LIZ SNELL, Law Reform and Policy Co-ordinator, Women's Legal Service New South Wales, sworn and examined

PHILIPPA DAVIS, Principal Solicitor, Women's Legal Service New South Wales, affirmed and examined

The CHAIR: Welcome back to the second day of the Joint Select Committee hearing on Coercive Control. In our next session, I would like to welcome our witnesses from Women's Legal Service New South Wales. Thank you very much for attending in person and we appreciate your assistance to his inquiry and in particular, your very important work. So thank you for all you are doing and for taking time out to assist us today with your evidence.

The CHAIR: Thank you, very much and just to let you know, we have some members attending via Webex so they are there. They may pop up on the screens from time to time and if you will go with us, some members may need to get up and down during the session. It is no reflection on you or your evidence, it is just us coming and going as we need to throughout the day. Do any of you have an opening statement you would like to make to the Committee? Can I invite you to do that now? Thank you.

Ms LINK-GORDON: I'd like to open on behalf of Women's Legal.

The CHAIR: Thank you. Just for those online, I will clarify that that is Ms Dixie Link-Gordon with her opening statement.

Ms LINK-GORDON: On behalf of Women's Legal Service, I would like to acknowledge we are on the land of the Gadigal of the Eora Nation and all respects to everybody here in attendance to hear evidence from us today. First, I would like to go—share about First Nations Women's Legal Program. What is it? What do we do? Well we are basically a pathway for Aboriginal women and Torres Strait women to access legal justice around family violence, sexual abuse, family law and victim services, to name some of the stuff that we do. Anybody who is familiar with how Aboriginal women have had access to justice and that, it has been a long, hard road. The service has been running—our particular program within Women's Legal has been operating for near 20 years. So within the—my role and my two colleagues, our role really is around being there with women when they are getting legal service—legal support. We do a couple of rural—we actually do a whole nine rural trips a year. So we get around the state and talking to women. Getting them hooked up with the appropriate legal advice and support they may need.

With this, we have been able to—this issue here we are talking today around the legislation around coercive and control, we have been able to talk to a few women. We have just come off a big week-long trip up the coast so there is a lot of conversations that we've had and the biggest thing that came out for us was around language. So here we are, the Select Committee is here. There is going to be big decisions made, probably after this and we are talking about the language and how it is getting out to Community. So how do women, when they go in and report any abuse that has happened to them, how is it going to be picked up? How is it going to be interpreted? So for us, Community-based education is very, very valuable. People having access to what the common languages around violence, domestic violence abuse, financial violence abuse, verbal abuse. All that has to be a common language between what the legal people are doing, what community services are doing and what people—just your average person who is not—may not be particularly working in those fields but may have the experience of being abused on some level. So that was a common theme.

When women—and of course, how Aboriginal women get to report when they do go to the police station. What is their experience? That was another factor that came through and I would like to talk about some of the good practices that happens for—especially for—that does happen in communities and can be improved and be better. One of those are the police and Community meetings. If Community get access to sit down and have—they're called PACC meetings. If they can sit down and talk to their local police and—it starts to build up a trust. The police start being involved in what is happening for Community people. They start to know faces. They start to be able—and have good conversations instead of someone randomly ringing up the police station and not getting a very good response to acts of violence they may be witnessing or they may be experiencing.

So there are big concerns how people have—which a lot of people feel they have been racially profiled when they are ringing up about a violent incident that may have happened and it is only just about that incident. It is not about—that may have been ongoing. They have asked if this was an ongoing thing when they do eventually get to report. So there is a lot to be discussed and a lot for Community and police to do a lot of catching up together on how we are going to look at the abuse that is happening out there around domestic and family.

The CHAIR: Thank you. Who would like to go next? Ms Davis?

Ms DAVIS: Thank you. So I would like to just start by thanking you for the opportunity to give evidence today and just to briefly identify the other work that Women's Legal Service New South Wales does. So in addition to the work of the First Nations Women's Legal Program, Women's Legal Service is a specialist state-wide community legal centre and we were established over 35 years ago. What we aim to do is to achieve access to justice and a just legal system for women in New South Wales. So we provide specialist women's—sorry, we provide specialist legal services relating to a range of issues that tend to be gendered. So those issues relating to domestic and family violence. So apprehended violence orders, sexual assault, family law, discrimination, victims support, care and protection. While responding to violence against women and children is central to our work, I do just want to make it clear that we do not practice in criminal law so there will be some limits to the types of evidence that we are able to give today.

The CHAIR: Understand. Yes, understand. Thank you.

Ms DAVIS: At the outset, what we want to do is to acknowledge that coercive and controlling abuse or domestic abuse is harmful and it is unacceptable and to acknowledge as well that it is endemic in so many relationships. We also acknowledge that there are some victim survivors who seek further criminalisation of victim surviving domestic abuse but that there are other victim survivors, including many First Nations and refugee and migrant women who have had such negative experiences of the criminal justice system and particularly with police that they lack the confidence in police being given more powers and do not believe that further criminalisation will improve the current situation. So their experience of police and the Department of Communities and Justice, or DCG—DCJ, child protection intervention, has often been one that they characterise as being of coercive and controlling state violence. Of police and the DCJ workers emulating coercive and controlling behaviours that are similar to those of the perpetrator. It has often been their experience that police and DCJ workers do not understand domestic abuse and may inadvertently collude with the perpetrator and fail to keep women and children safe. So in considering this really important issue, what we are trying to do is to be respectful and to listen to all of the views and to provide a space for all of those voices to be heard.

Ms SNELL: In reflecting on the police—

The CHAIR: Thank you. I will just interrupt you there, just for those online. I am getting feedback that I must introduce you so they know who is talking.

Ms SNELL: Oh, thank you.

The CHAIR: So, Liz Snell. Thank you, Liz.

Ms SNELL: In reflecting on the policing of sexual and domestic abuse, we acknowledge the work of many police in responding to domestic abuse on a daily basis. It is demanding and stressful work. We acknowledge

there are many police doing the best they can with the limited time and resources that they have. We also acknowledge the nature of our service means that women contact us when things go wrong and so these are the stories that—and the experiences that we hear rather than those stories of good policing responses.

The women with whom we work say they want a better response to domestic abuse. They want police to listen, to investigate the abuse they are reporting, to be more trauma-informed and responsive and culturally safe. They are frustrated by police victim-blaming attitudes, the minimising of domestic abuse and systemic racism. If they are involved in court processes, they want it to be—to end quickly. They fear cross-examination with good reason. We fear that further criminalisation is viewed as the panacea to a system which is currently working in ways that fall well short of how it could and should be working.

We fear adding new law to the system which needs significant reform will not result in the change that we are all so desperately wanting. This is why we are taking a cautious approach and encouraging extensive consultation. It is why we are also calling for immediate action or reform in some areas while this consultation continues. In our conversations with our colleagues in Scotland, it seems that police undertook extensive cultural reform in their response to domestic abuse before introducing the stand-alone domestic abuse offence and that this work continues.

In Australia, there is significant support for transforming policing of domestic abuse through significant cultural reform. For greater training on the nature and dynamics of domestic abuse, the importance of context and perpetrator tactics, trauma-informed and responsive practice, cultural safety, challenging victim-blaming attitudes and conscious and unconscious bias. For police to be supported to identify and act on compassion fatigue and vicarious trauma. We also need greater transparency in policing of domestic abuse. Regular audits of policing of domestic and sexual abuse are important because audits do not rely on a complaint being initiated, regular audits can highlight gaps in police responses and identify steps that will be taken to improve policing and ultimately the safety of survivors of such abuse. It would build confidence and trust in police because it signals that police take seriously their responsibilities and are interested to reflect and improve their practice where required.

We also need accountability frameworks to address the systematic racism as recommended by—in the Aboriginal and Torres Strait Islander Social Justice Commissioner's June Oscar's recent report following extensive consultation with First Nations women across Australia. Other immediate actions while consultation continues include introducing a definition of coercive and controlling abuse or domestic abuse in our apprehended violence order legislation to help build a common language and understanding of domestic abuse and of course it would be great to get national consistency so we have a common language across all our systems. Across family law, care and protection, domestic violence, housing, victims support, immigration, income support, et cetera.

We also call for the immediate injection of significant additional funds to properly respond to domestic abuse for specialist sexual and domestic violence services and other services. For specialist legal services. For broader social support systems—services systems as well as for primary prevention to stop domestic abuse before it starts. Much can be done to improve the safety and support of women and children experiencing domestic abuse. The issue that is most urgent is improving police responses to domestic abuse.

The CHAIR: Thank you very much. Thank you for all of your submissions and your work in the area. It is vitally important. We will turn to questions in just a moment but I appreciate your comments come from dealing with every day with these issues so thank you. I just ask if you are happy to make those opening statements available to the Committee staff? That will just assist with Hansard. Thank you for that. I will open up to questions from Ms Abigail Boyd?

Ms BOYD: Yes.

The CHAIR: Thank you.

Ms BOYD: Thank you. Fantastic to see you all. Thank you very much for coming along and for your very thorough submission and I apologise that we did not get to review it in great detail because it came in late but I have certainly read as much of it as I had time and I will read the rest later but one of the things that did leap out at me and I think it is a theme that keeps coming out in a lot of the evidence we have been getting, is around a lot of the wrap-around services and education, all the rest of it that we are talking about as being absolutely vital with any criminalisation of coercive control is stuff that the sector has already been calling out for, for so, so long and never received funding. So people are necessarily—sort of, I guess, it's not surprising that they are perhaps cautious about trusting that all of those wrap-around services would occur. From your submission, it seems like the police and the police response is one of those areas that you would see as being most critical and in the list of things that we could be doing something on now. Is that correct and can you talk me through a little bit more about the concerns about the way that policing is perhaps getting in the way of women in particular getting help?

Ms SNELL: Thank you. Absolutely we think urgent action can be taken in improving response in—police responses in domestic abuse. Part of our concern is that when women—if they present to police, they may present in ways that are not seen necessarily as a way that people would expect a victim-survivor to present. So it

might be that they are not able to explain exactly what is going on in a logical or coherent—what people would say as a coherent manner. We have heard people being described as deeply distressed. It might be that they have concerns in reporting to police because if so what will happen to them as a consequence of reporting to police and how their behaviours might be misconstrued.

It also is that often women—and this is a very significant issue in our practice that women are misidentified as the predominant aggressor when in fact they are the person most in need of protection and there is a whole range of reasons why that misidentification is happening but if women have a bad first response with police, they are unlikely to report again and there is already a problem with women not reporting to police in the first place let alone if they report the first time and then have a bad experience. So we really see the police as being a fundamental part of the solution of improving response to domestic abuse.

As we said in our opening statements, we are conscious that police are doing the best they can with the resources that they have but the experiences that we frequently see with our clients are experiences that would seem to suggest they need to be more trauma-informed. They need to understand domestic abuse and they do not seem to understand domestic abuse. They look at incidents in isolation instead of looking at the context and the systemic racism as we have indicated in some of the case studies and I am—do not know if Dixie would like to speak further to that issue as well but that is—there are many issues caught up in just how important a trauma-informed policing response could be. We would also see that part of the solution to that, which is why we are so focussed on police, is having a co-responder model with police so that police are working alongside domestic violence—domestic abuse experts to help them correctly identify the person most in need of protection. Understand all the dynamics of what is going on. Understand the perpetrator tactics that are happening. Understand all those issues so the co-responder model is being part of the solution and the other part that we just think is so crucial and we have seen it in jurisdictions overseas and we have seen it down with Victoria Police as well, is having an accountability mechanism.

So regular—we are recommending regular audits—auditing of sexual and domestic abuse police matters. Random auditing and we really believe this will build confidence in policing because it means that police are open to hearing when they have made mistakes. It means they are open to self-reflecting on where they have—may have not responded as well as they could have and it is not reliant on a complaint system because so many of our women are so exhausted and disempowered by the process that they cannot face making a police complaint but that does not mean that their experience has been positive and it would be great if there could be learnings from that to improve the system.

The Chair: Thank you. Ms Gordon, did you want to add?

Ms LINK-GORDON: Yes, I will just share a bit about—on what happened with one of our rural trips. We had—we met with a group of women. Mature-aged women who were not afraid to speak up in their community about lots of stuff. One particular lady shared with us last week that she—there was an incident of violence happening. Family violence happening down the corner from her street. She said she had had enough of it. Rang the police and the police at the other end said "are they black or white?" So what does she do? Does she take on the black or white statement? That is the barrier straight up for her to report the incident of what was going on down the street. She got herself—felt so turned off you know? We are talking about a 60-year-old woman felt quite confident ringing up and then that is the response. This is last week. 2021, we cannot be doing that. Women are dying every week. We have to be more responsive and more caring about—who cares if the person is black or not? It is an Australian women who is getting beaten down the road, can you come and do something about it? That was the response so you—you are damned if you don't. It is just not good. It is not good enough.

The CHAIR: Thank you. We are limited for time, I apologise, but I will keep us moving before I—if anyone online wishes to ask a question, just let me know. Thank you, I think it is a huge task that we have and we also have good police and great police as I call it. Some that have had better training and better experience than others and they are equally exhausted and equally trying to deal with it. I agree with you, we need to equip them as best we can to try and make this our shared problem and shared resolution to work together on the best possible approaches to begin with at the outset through the entire process. That said, I will turn to Deputy Chair, Trish Doyle. Thanks.

Ms DOYLE: Thanks, Chair and thanks Liz and Pip and Dixie. I really appreciate the work that you do, not just in this area at this time but every day with some of our most vulnerable people. I wanted to reiterate some of the points that you have made in your submission and today, just for the record so that you know I have heard them and then put a question to you. I think it is absolutely imperative that there is an emphasis on proper consultation throughout an entire process. That there is—and we have established this for decades, there is a desperate need for additional funding for specialist services and I like your recommendation about amending ADVO legislation to stipulate orders only be made for the person most in need of protection. We do need consistency across jurisdictions and the co-responder idea is actually happening at the moment so we know it can work between paramedics and mental health experts. So I agree with you there. Can I—just before I ask a question,

also acknowledge fantastic work in raising awareness that you have done, Dixie, with breaking silent codes.

Ms LINK-GORDON: Thank you, Trish.

Ms DOYLE: Yes, I encourage anyone who is listening or watching to get a hold of that. It is great learnings there. So my question is a bit tricky and I am going to put that to you because I have been putting it to everyone. Does leaving coercive control out of the criminal scheme send a message that it is less serious than physical or sexual assault?

Ms SNELL: All aspects of coercive and controlling abuse are serious and we want to improve understanding of coercive and controlling abuse across all the sectors. Across all the legal systems, across all the support systems. So as I was talking before, family law, care and protection—

Ms LINK-GORDON: Agree.

Ms SNELL: —victims support, income protection, immigration. All of them. So that is why we think the starting point should be a common understanding and a definition in our AVO legislation as the starting point to try and get that consistency. The definition that we have suggested is the Australian Law Reform Commission's definition from 2010 which has also been adopted in the Family Law Act as well. Ideally, it would be great to have national consistency as well. So we think it is really important that all aspects of coercive and controlling abuse are acknowledged and we think it would also be beneficial in that definition in the AVO Act to provide a non-exhaustive list of examples of both physical and non-physical abuse.

Just picking up on what Dixie was saying before about language, domestic violence has been a term that we—well used. We have used for a very long time but women frequently indicate to us that it is not a language that resonates with them. They do not see their experience as violence. They see their experience as abuse. They see violence as only about physical violence and abuse as inclusive of all forms of abuse. So we are really keen to shift the language too that is reflective of victim survivors experience as well. So the definition in the AVO legislation, we have suggested in our submission, using the language domestic abuse. We think there needs to be more consultation on that to be—it may be better—be family abuse to be more inclusive of kinship and other relationships as well but it would be consistent with the domestic relationships definition being proposed in the—well that is currently in the AVO legislation.

Ms DOYLE: Excellent. Agree but it is not an either/or case, is it?

Ms SNELL: No but we would see the AVO as the starting point.

Ms DOYLE: Yes. I hear you. Thank you.

The CHAIR: Thank you. Anna, did you have a—Anna Watson?

Ms WATSON: Yes, look, I did have a question for you Dixie and thank you ladies for coming in. It is lovely to meet you face to face. I know we have had some phone hook-ups which have been really nice and this has been going on for a long time so it is nice to meet all of you. Dixie, my question to you is—and I have quite a large Indigenous community in my electorate. Do we need to deal with coercive control in a different way or a different form or a different model for the Indigenous community?

Ms GORDON-LINK: I think there has to be lots and lots of conversations. Whether it is women gathering together, whether—I did actually put down here, places where—I think points where we can have that conversation. There is—like drop-in centres. Where you are having a morning tea and you are talking about and go—when we say domestic violence, everyone goes "oh, no, I don't get bashed", but you may be getting your key card—all your funds in your key card ripped off. Your house may be getting smashed up and no one gets hit but everybody gets traumatised in the house. So you know, have—extending that conversation to really looking at covering it all, really. What happens when there is abuse happening in anybody's home or in anybody's environment socially. So yes, we do need to have different conversations and we need to have them whether they are in women's groups.

I always think of the PCYC [Police and Community Youth Club] because it is a centre point. Because usually, the—with the PCYC, they get to know who the parents are because kids are coming down and they want to know. Why can't that be a space for parents to engage and just—because kids are going to go and talk about lots of stuff down there when they are having a good time and they trust the people that are there. No one goes down and says "I am not going to talk to this person". You have to engage because they are in your face and—

Ms WATSON: Yes, exactly.

Ms GORDON-LINK: I just think that is another good place. Yes, we do need to have lots more opportunity to get out and be able to talk about—and pull apart everything, what abuse is about and we can understand. If you go for years and years and years of handing your money over to someone, that is just how it is but it is not how it is. If you worked for it, you earned it on your control of looking after the home, you need to

know where your money is going and stuff like that. That is just an act of abuse for someone to take it and you not have access to it.

Ms WATSON: So you think there is not a real understanding there of what coercive control or coercive behaviour actually looks like?

Ms GORDON-LINK: Yes. So we do not even use the word coercive.

Ms WATSON: Right.

Ms GORDON-LINK: That is—we talked over this for weeks. I said, it—we—I said, people do not use it and on our trip, a week-long trip, people were saying after the COVID, of course not going anywhere, "what do you mean coercive control?" I—we were talking to other colleagues. You know, I am talking about—we met—the majority of people we met were Aboriginal women and—who are out working, doing the best they can in their communities – and "oh no, well you are talking about like—oh yeah, that is like another—like domestic violence." I said yes, but we need to pull it apart because it is not a physical violent act as such when we start to break stuff down around the financials of—the emotional, the verbal. The psychological. Even talking about gaslighting when you thought you did this, you thought you did that. Yes, those—and they are—I felt they were very meaningful conversations that we had and we knew that the women around that we—all servicing the families had to talk—have more opportunity to talk about it.

Ms WATSON: So education is going to be key—

The CHAIR: I am sorry, I am going to have to stop you there because we are on time for our next witnesses.

Ms WATSON: Sure.

The CHAIR: I am sorry.

Ms GORDON-LINK: Yes.

The CHAIR: But if you would like to provide further information, our members are able to give you further questions if you are prepared to take them in writing and we would love for you to answer those. They will—and the answers will form part of your evidence and they will be made public also. I am sorry we are on a tight timeline. We are trying to hear from everybody as much as we possibly can. Thank you for your assistance today and any further information will be provided by the Committee members to you. Thank you.

(The witnesses withdrew.)

(Short adjournment)

YUMI LEE, Manager, Older Women's Network New South Wales, affirmed and examined

MARGARET DUCKETT, Board Chair and President, Seniors Rights Service, before the Committee via videoconference, affirmed and examined

The CHAIR: Yes, so I think we are back on broadcast. Thank you very much and welcome back to the Joint Select Committee on Coercive Control. We are in our last session for today and I would like to welcome witnesses from the Older Women's Network and Senior Rights Service. I think we have in person with us, Ms Lee. Welcome, Ms Lee.

Do we have our witness online yet? She is just connecting? That's okay, we can come back to that in a moment. I just wanted to say thank you very much for your written submission to the Committee. We are very appreciative of the time that you have put into that. It assists all of us and that has been circulated and members have had an opportunity to consider that, so thank you. We may ask you if you would like to make an opening statement?

Ms LEE: Yes, please. I would like to.

The CHAIR: Sorry, not may. I will ask you if you would like to.

Ms LEE: Thank you.

The CHAIR: Forgive me, I am getting tired. While we are waiting for our other witness, I might ask you if you might commence our opening statement. Thank you.

Ms LEE: All right. I would like to begin by acknowledging the traditional custodians of the land on which we are meeting and pay my respects to elders past, present and emerging as well as to any Aboriginal

persons while present and listening today. Thank you very much for this opportunity to present the perspectives of the Older Women's Network New South Wales. Having been personally involved in women's issues since the Beijing Conference, so that will tell you how old I am, where I coordinated the Australian NGO response to the critical area of concern of women in armed conflict, I find myself sitting here 26 years later, now advocating for older women on issues which do not seem to have changed much over time. Hello Margaret, would—does she need to take the oath before I continue?

The CHAIR: No, that's okay. No, I will Chair, you just give your opening statement. Thank you.

Ms LEE: Thank you. The Older Women's Network New South Wales would like to highlight a few key points from our written submission. The first is to request the Committee to consider the fact that women's experience of coercive control is not limited to intimate partner relationships. If we are to protect women from domestic and family violence and abuse, we need to look at her entire lifespan and that includes the time when she is older. Women say they become invisible when they grow older. Just looking at the statistics of violence against women proves this. Older women are not there in the statistics. They are excluded. Not because they do not experience violence against women but because types of violence they face are classified as elder abuse. So, for older women, gender-based violence and elder abuse often form a double jeopardy.

Older women sit at the intersection of ageism and sexism. The invisibility of older women in gender-based violence, especially domestic and sexual violence, illustrates the conventional social norms that only younger women are susceptible to these forms of violence. Apart from the invisibility of older women in the stats on violence, we just need to look at the submissions to this Committee on coercive control. How many submissions actually considered the fact that older women experience coercive control and that this coercive control may be perpetrated by others in a domestic relationship beyond that of an intimate partner. We therefore thank this Committee for providing all New South Wales an opportunity to highlight the fact that older women experience coercive control and that their experience of this could be different to that of a younger woman with dependent children. In fact, older women can be subjected to coercive control by their adult children and even grandchildren.

In our written submission, we mention an investigation which we did last year. We took advantage of the fact that we had an intern who speaks fluid Arabic and decided to conduct a small investigation of how older women from Arabic speaking backgrounds experience ageing in Australia. We wanted to know what their experience of health and housing was. Out of the nine older women interviewed, four described lives impacted by domestic and family violence. This was sobering to us because these women were randomly chosen from a group which meets in a partner organisation. Coercive control was evident in their lives. It ranged from husbands who control their movements to a son-in-law who controls how frequently their daughter can visit them. One woman is married to a man who is nearly 30 years her senior whose son attempted to rape her. So much so, she has to sleep with her back against the door and a rock by her side. Another described how her daughter took all her payments from Centrelink, made her do all the housework and child minding. As noted in the written submission, her son-in-law threatened to break her back if she wanted to move out.

These stories are not unique. As an organisation which aims to empower women as they age and which provides a range of activities for older women to participate in, we hear the personal stories of older women who have lived with violence for years. So much so that they have grown old with violence. For some others, they experience violence for the first time in their later life either through a new relationship or because their partner's behaviour changes due to illness or dementia. Then there are the older women who face coercive control exercised by their adult children or grandchildren. What we hear from our members is that these cases frequently involve money. The older woman is isolated from the other members of the family and forced to sign away her property or money to the perpetrator.

Our plea to the Committee is simple. Please do not forget older women. They experience coercive control and their perpetrators extend beyond intimate partner relationships. The fear, anxiety, trauma and stress caused is no less than that experienced by younger women at the hands of their intimate partner. For this reason, we do not support the restrictive definition adopted in Scotland which limits the coercive control act to intimate partners only. The disadvantages to criminalising coercive control where older women are concerned should not be dismissed. How do we draw a line between what is appropriate care for an older person with challenging behaviours and when does it cross over to care becoming abusive and controlling? We are also faced with the fact that some older people do not have the mental or physical capacity to follow their case through the judicial system. There is also great reluctance on the part of many older people to report abuse, especially if it is perpetrated by their children or primary carer. They fear the consequences of losing family ties or of not having anyone else caring for them, thereby placing them in an even more precarious situation.

The situation of older people who come from different cultural backgrounds also determine how they view abuse. What constitutes abuse in one culture may not be considered abusive behaviour in another. So this makes it really difficult to identify and address. We are also concerned by how badly conceived and implemented coercive control legislation can negatively impact Aboriginal and Torres Strait Islander peoples. However, these

challenges should not be used as an excuse to reject the criminalisation of coercive control. As older women who have seen social changes take place over decades, we would like to put it to the Committee that now is the time to take the bold step to think outside the box and to start from a position of principles rather than a position of what should be done given the current limitations. We ask the question, is it right for coercive control to be legal? The answer is no. We need to start from that point and to work out what needs to happen in order for women and children to live a life without fear. So what do we need to change? Policing—

The CHAIR: I am going to ask you just for another 30 seconds because we will have to get to our other witness—

Ms LEE: Right.

The CHAIR: —and to some questions but you are most welcome to give the entire introductory statement to the Committee and we will publish that.

Ms LEE: Okay. I would like to say that it is extremely difficult for services like ourselves and for your consideration to the Committee that it is extremely important for issues such as social housing and public housing to be addressed as part of this response because we have older women who come to us and say they need help and we are unable to assist with housing. Two hundred and thirty people are turned away from homelessness services and a majority of them are women and children. We ask—it is an ethical dilemma for us. How can we tell an older woman you are facing a situation of abuse, knowing full well she could end up homeless?

The CHAIR: Yes, thank you. We appreciate that. That is slightly outside our terms of reference. I very much appreciate you raising it and it will be on the record but we do have some specific questions that we do have to answer. But thank you for that.

Ms LEE: Yes.

The CHAIR: Can I ask Ms Duckett, are you with us there online? Do we have you? Can you hear us? We can't hear you but we can see you. There we are. Do we have you now?

Ms DUCKETT: All right, great.

Ms DUCKETT: My name—my full name is Margaret Duckett. I am the Board Chair and President for Seniors Right Service New South Wales. We receive over 7000 calls each year for legal and advocacy support for older people. A significant number of those calls include concerns and issues including abuse of the older person. Senior Rights Service in its submission and in my words today, is not addressing all of the points in the discussion paper but rather focussing on the areas in which we believe we have clear knowledge.

We support the clear language of the Scottish legislation which limits misunderstanding and unusual interpretations of what is meant by abuse and also bases assessment on what a reasonable person would accept. However, any legislation should not be limited to an intimate partner only. Many of the cases raised with Seniors Rights Service include children and grandchildren. Perhaps learnt behaviour and have an intergenerational component. Psychological abuse is almost always involved and then it becomes accompanied by a range of other abuse, e.g. neglect, financial, social, [inaudible], physical, sexual. We are aware that there is very limited research on older people in this area, especially for older women. For example, what are the motivating factors that cause this abuse? This research needs to be encouraged.

We also see that early prevention is key and apprehended violence orders do not currently include coercion. SRS feels that there needs to be some disincentives in place to cause perpetrator to desist in continuing the abuse. We require much more training of police, including of the taking of witness statements and the benefit of that training is exemplified by the amount of effort that went in when the Scottish legislation was brought down and the immediate response in terms of the cases that were considered – compared with the situation in Tasmania here where very little training occurred and very little change in circumstances occurred. So to our minds, it is very clear that police are busy people, they do not want to waste their time but need to be trained in what sort of evidence and how you collect that evidence that will be worthwhile to present before a court and to achieve some amelioration of the abuse. Particularly in places where often the abused person is not willing to publicly say that they have been abused.

An older person needs a huge amount of support to exit coercive behaviour in a relationship, especially where they have been accustomed to this for decades and it has become their norm. It might often mean that since the marriage, a woman has been treated by her husband with great disdain and that is what the children have seen and then later the grandchildren have seen. "Grandma is silly and doesn't understand, this is the way we talk to her and talk about her and it is quite reasonable that she lives in a shed and gets fed bread and water". The women will often accept this because that has become their norm. So what we need is that Scottish approach of what would a reasonable person think is appropriate behaviour. There is a massive gap in supports, for example, for older women. There is only one shelter in the whole of New South Wales which older women can access. So they are the sorts of issues that our clients raise with us.

The CHAIR: Thank you.

Ms DUCKETT: They are the sorts of issues that I would be really happy to answer questions on or explore issues with the Committee.

The CHAIR: Thank you very much, Ms Duckett. Can you hear me right now as I am speaking with you?

Ms DUCKETT: Yes.

The CHAIR: All right, terrific.

The CHAIR: We very much appreciate it and on behalf of the Committee, we would like to acknowledge both our witnesses for their work that you do day to day. It is critically important and it is very important that this committee hears from your perspective because it brings a different perspective to our considerations in relation to coercive control. I understand there are wider issues and we would love to be able to tackle all of them but we have a specific set of questions that we have been asked to consider in the terms of reference for this Committee so we may ask some questions in relation to that. We also may give some further questions in writing. So questions from Committee members? Ms Abigail—Abigail Boyd.

Ms BOYD: It is getting late in the afternoon.

The CHAIR: My mouth is working.

Ms BOYD: Thank you, Chair and thank you so much for both of you for your submissions and for coming along to speak to us today. We have heard from a number of different organisations today about the specific types of coercions that occur within particular communities and one—I guess one group we have not heard much about until now is the older women and it was—I think in the submission from the Older Women's Network, there is a fantastic statement about the invisibility of older women as they become treated first and foremost as aged people instead of women. Could you talk to us about the intersection of being both an aged person as well as a woman, and how that creates additional risk factors for coercive control?

Ms LEE: Margaret, would you like to go first? Or I go first?

Ms DUCKETT: Well I barely heard that last bit. Is that a suggestion I go ahead?

Ms BOYD: Yes, please.

The CHAIR: Yes.

Ms DUCKETT: Yes, I will give you a case study because about 70, 75 per cent of our calls about abuse are from women. It is totally disproportionate in terms of older women versus older men. It is the women who are the recipients of the abuse and as an example, Mary is in her early 80s. Lives in regional New South Wales in a house she owned. She left her abusive, controlling husband when her only son, Jim, was a teenager. She is struggling to live on the aged pension and her 55-year-old son has lived with her for over 10 years. He does not pay board, contribute to rates or food, insurance or utilities. He has a very bad temper. She never knows when he could blow up. She feels anxious all the time and this has affected her health. She does not sleep at night because sometimes Jim is awake all night and she is scared. Mary needs him to take her to the shops because she does not drive anymore but she cannot ask him to take her anywhere because he gets so angry. As a result, she has to wait until he happens to want to go into town and sometimes there is no food for her. When she has to wait for days, he does not seem to mind going without meals. He uses her pension money to buy things for himself and he tells her she owes it to him as he had a bad life because of his unhappy childhood.

That is the sort of representative scenario of what people contact us about and because it is their children, they do not want their children to be arrested by the police and go to court. They still love them. What they want them to do is just stop doing what they are doing and make their life slightly better. Our staff have a perception that having a legal restraint in the form of formal coercive control order could ameliorate that situation for a number of our clients.

The CHAIR: Thank you, very much. Ms Lee?

Ms LEE: Thank you. Can I address that question from a different perspective? That is that I think there is a systemic problem here with a third of all the women living in poverty. The problem is that you cannot separate the systemic issues of economic inequality, ageism and sexism from how older women experience abuse in their later life. Also, the different ways that society looks at older women, as has been—and not contributing members of society. This is also illustrated in the narrative of the Treasurer when he talks about the pension and all of that. So I think the worth of older women is not recognised and they are not given the dignity and respect that should be accorded to them for their contribution to the nation.

I give you an example of an event that I went to two years ago outside of Sydney. It was a small gathering

of older women and I was trying to persuade them to come for the National Conference. I said look, we have got three great panels. We have got Jane Campbell coming to speak about feminism and ageing and please come. I was about to leave the meeting and one of the older women, she came up to me. She held me by the elbow and she said, "I would really like to come but I do not think my husband will give me permission to come. I even—I had to get his permission to come here. I do not think I can afford it". So it is not a question of poverty for her, it was a question of him controlling her every move. It cost \$2.50 to attend that afternoon tea and for that, she had to ask him for permission. So I will—I was—you know, very disturbed by that. To think that an older woman is not given agency as to how she can live her life. Yes.

The CHAIR: Thank you. Questions members?

Ms DOYLE: Yes.

The CHAIR: Trish Doyle.

Ms DOYLE: I just wanted to say thank you, Margaret and thank you, Yumi, for your submissions and for speaking to those today and for some of the harrowing examples that you have shared with us. I think that is really important for us as a Committee to hear those and for those to be on the record. I was just going to say to Yumi that I was also at that 1995 Beijing Conference Action for Equality and never imagined that I would end up here but here we are. Can I just—can I go to this idea of older women feeling invisibilised and therefore not having the capacity to access services or legal systems in the way in which others might? And just acknowledge that you have raised that as a major concern. How do we improve the current framework to address patterns of coercive and controlling behaviour with that in mind where in the first instance, women feel and are invisibilised as they age? Yumi?

Ms LEE: I think it is important for there to be cross-party commitment to addressing domestic and family violence as an issue of national priority and it should go all the way from Federal, State to Local Government. It should not be a party political issue. It should be a concerted effort by all parties to fund. Properly fund services and initiatives which tackle this problem. I recall two years ago, three services were about to be de-funded and they were services at the frontline. It took a lot of lobbying for that—those services to be up and running again. So, for women's services to constantly have to live on the edge and worry about funding is not a good way to deal with this problem at all. If you do not fund service properly, you cannot train staff properly. If you cannot train staff properly, staff are not going to be able to look out for the marginalised groups who come to their services, such as older women. I can assure you that despite their best intentions, a lot of services are not really aware of the problems that older women face, which are particular to them, given their age and their health and economic situation.

Ms DOYLE: Thank you.

The CHAIR: Questions from members? Anna Watson.

Ms WATSON: Just more of a comment to both Margaret and you, Yumi. Thank you so much for your—

Ms DUCKETT: Could you speak just a little bit louder, please?

Ms WATSON: Yes, I just wanted to say thank you, Margaret for your contribution today and Yumi as well. You might be the last on our agenda for today but you have certainly brought something that I had not thought about, to be honest, and given me much to think about. When you look at the—our ageing population, people are living longer. Women particularly are living longer, which puts more women at—older women, at risk. Just by listening to both of your contributions today, I can relate that straight back to women in my own electorate and I will now be much more aware of that. So I just wanted to say thank you, very much. I do not disagree with what you have just said in relation to services closing and funding—that funding needing not only to be there but be recurrent so we are not having to scratch around for a small bucket of money every year just to keep going. I think that was very appropriate that you raise that with us today, so thank you so much.

The CHAIR: Further questions from members?

Ms DUCKETT: Yes, one of the things Seniors Rights Service is doing is increasing our advertising via radio to reach out to people because particularly women often listen to a number of the smaller radio stations and we are trying to reach them to just draw their attention to their rights. The other thing is Seniors Rights Service and the Older Women's Network have been involved in the United Nations Convention on the Rights of the Older People. For 11 years, various clauses in that UN convention have been debated and unfortunately, Australia has been one of the countries that has opposed the adoption of such a UN convention. I suppose, being very aware of the major improvement where people with disability when the UN convention on the rights of disabled people was adopted, it really gave one strength to acknowledge the rights of disabled people in all aspects of their lives and I would like to see some support for that UN convention on the rights of the older person as a framework acknowledging that older people do have rights. That they do not suddenly lose their rights when they turn 75 or something. They have rights to all aspects of life including enjoy and engagement with the society in which they live.

The CHAIR: Absolutely. That is absolutely right and I thank you for your comments on that. You have brought quite a different perspective to us this afternoon, which we very much appreciate and particularly, I think it has resonated, the invisibility of older women and that they face quite different challenges, so thank you. Again, thank you so much for your work day to day in this field. We are very grateful. As one of our members said, it may be the end of the day but we have very much heard what you have to say. If there are further questions from members, they will be sent to you in writing if you are happy to take those.

Ms DUCKETT: Yes.

The CHAIR: Your answers provided to us will form part of your evidence and will be made public. They will be published as well. If there are any questions on notice, we ask that you provide those answers in writing and the Committee staff will be in touch with you about those. That concludes our hearing for today. I ask my colleagues to stay, we just have a one-minute meeting and I thank you very much for your assistance today. Thank you, that closes the broadcast and the meeting for today. Thank you.

(The witnesses withdrew.)

The Committee adjourned at 16:33.