

REPORT ON PROCEEDINGS BEFORE

JOINT SELECT COMMITTEE ON COERCIVE CONTROL

**INQUIRY INTO COERCIVE CONTROL
IN DOMESTIC RELATIONSHIPS**

At Macquarie Room, Parliament House, Sydney on Wednesday 24 February 2021

The Committee met at 09:00 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

The CHAIR: Thank you very much. I think we're broadcasting now. Good morning, everybody. Welcome to the third day today of the Joint Select Committee on Coercive Control hearing here at Parliament House. I want to thank everybody for their attendance and, of course, before we start, I'd like to acknowledge the Gadigal people, who are the traditional custodians of this land. I pay my respects, on behalf of the Committee and our colleagues, to Elders of the Eora Nation, past, present and emerging and extend that respect to other Aboriginal and Torres Strait Islander people who are present or watching via webcast today.

My name's Natalie Ward. I'm Chair of the Joint Select Committee on Coercive Control. With me today are my colleagues, Ms Trish Doyle, Justin Clancy, Peter Sidgreaves, Anna Watson, Abigail Boyd and Rod Roberts. Some of our Committee members are taking part today via our videoconference facilities. So, welcome to those members and welcome to those watching on our webcast. Today is the third hearing for our inquiry into coercive control in domestic relationships. 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. That is available either as a link on the Parliament's website for the discussion paper.

I will say it throughout the day, but if the evidence we hear today raises any issues for you, you can contact 1800 RESPECT, 1800 737 732, for confidential advice, support and referrals related to domestic and family violence, or the New South Wales Domestic Violence Line, 1800 656 463, or the Men's Referral Service, 1300 766 491. I thank you to the people on the end of the phone at each of those services. We have witnesses attending in person at Parliament House today and also taking part via videoconference. The hearing is being broadcast to the public on the Parliament's website.

I appreciate and thank everyone who is appearing before us today and in particular thank our Committee staff, highly capable and ever supportive. So, thank you very much. I appreciate everyone's flexibility in attending the proceedings, especially those attending via broadcast. Just to flag, please be aware that Committee members may need to get up and leave the room during the course of the hearing for various reasons. It's no reflection on anyone's evidence or attendance, we just have, sometimes, matters that need our attention outside.

JESS HILL, Author and Journalist, affirmed and examined

The CHAIR: So, with that, we will begin this morning with our first witness, Ms Jess Hill, journalist and author. Thank you, Jess, for joining us today. Do you have a short opening statement you'd like to make to the Committee?

Ms HILL: Yes. Feel free to cut me off if I'm going too long.

The CHAIR: All good. Thank you, no, terrific, you might give us that now. Thank you.

Ms HILL: So, I, too, want to pay respects to the Gadigal people of the Eora Nation, who are the traditional owners of this land. This is an historic inquiry and I really want to thank the Committee for doing this really difficult, but necessary work. We have, over the past decade or so, successfully broadened our understanding of domestic violence to include non-physical forms of abuse, like financial, spiritual, psychological and emotional abuse, in the way that we understand it as a society and certainly the way we report it in the media. But what we haven't done so well at in communicating is the stark and predictable reality of coercive control, where different types of abuse and the removal of rights and independence combine in a predictable and all too often lethal pattern.

Perpetrators of coercive control use behaviours that we've defined for decades. Scottish laws require proof for two or more behaviours that a reasonable person would think would have caused the victim-survivor to suffer physical or psychological harm, including fear, alarm and distress. Now, the list of those behaviours is pretty long, but I just want to cite a few of them to give a sense for people tuning in today. Isolating a person from friends and family, depriving them of basic needs, monitoring them through online communication tools or spyware, taking wages and benefits, threats to reveal or publish personal information, threats to harm a child, threats to hurt or kill, criminal damage like destruction of property and other complex issues that are really important and difficult for our systems and our courts to grapple with, such as forcing or coercing the victim to take part in criminal activity, like shoplifting, or abuse or neglect of the children, in order to encourage them to self-blame, and prevent them from disclosing to authorities.

Now victim-survivors of abuse often say that when they hear these behaviours listed, it's like this light-bulb moment, especially for those who don't realise what they experienced was domestic abuse and especially those who were never or were rarely physically assaulted. This is why the framework of coercive control in the law is so important. Nothing else captures this typical plotline. Ultimately, the domestic abuse of coercive control is not defined by incidents. It's not even really defined as a form of abuse, it is a pattern of entrapment. This is the massive paradigm shift that we are seeking in this country, in law enforcement and throughout our systems, a shift that would see the community stop asking why didn't she just leave and start asking why did he hold her hostage

and how on earth did she manage to leave and survive?

Now, of course, coercive control may include physical and sexual violence and that can be sadistic in its extremes. These physical assaults are also included in the Scottish legislation. All of the potential harms of coercive control are listed in the one charge and that is the genius of it, according to the former Scottish Police Head for Domestic Abuse. They are all considered, because that is how the victim-survivor experiences it. So, in this paradigm shift on domestic abuse, our focus moves from assessing seriousness based on physical violence alone, to the level of control and oppression. Now, as many have testified here, coercive control extends from the domestic space to our institutions, the places that some of us, not all of us, entrust to protect us. Too often we see the family law system order children into the custody of an abusive parent they've just fled, a child protection system that punishes the mother for her children's abuse, while allowing the perpetrator to remain invisible.

New laws will not magically transform these systems, but I do believe that coercive control laws will help drive the reforms that victim-survivors so badly need. That is the conversation that is so dangerously overdue in this country. I think the essential question we're asking today is should this behaviour be legal? A law against criminalising coercive control is not just about safety for existing victim-survivors, it's about stopping perpetrators from believing they can abuse with impunity and simply move from one partner to the next, repeating the modes of oppression again and again. Let's be clear, nothing to date has demonstrably reduced domestic violence. Not one strategy, not even the National Plan, which was established to reduce violence against women and their children by 2022, has affected this. Yet, we keep going.

The move to criminalise coercive control does not signal the failure of past and current strategies and nor should it be measured in terms of success as to whether we reduce violence in the short term. Rather, it is the logical extension to all of the hard work and success of thousands upon thousands who have worked in this field for more than over five decades. Fewer than 20 per cent of victims being victimised right now have ever reported to police. We will never get even close to 100 per cent and nor should we try. The criminal justice system is right for some and not for others. For those who want to use it, we must make it more responsive and protective. For those who don't, we must ensure and fund other pathways to safety. I think valid concerns about these laws have been raised and it's vital we attend to them, but evidence from overseas shows that we can and must act to mitigate against these risks. I hope we can attend to some of these questions today. Thank you.

The CHAIR: Thank you so much, Jess. I really appreciate it. Thank you for your work in this space. Your book was a light-bulb moment for me. It educated me and opened my eyes to things I thought I knew about, but actually articulated for me what coercive control is and all the things that I'd been blind to. I left my copy of your book home, and thank goodness, because all of the pages are turned down in the corners and underlined throughout the whole book, so it's in quite a state, but I thank you very much for it. I commend your book to anybody who is watching who has not read it. It's the tome in this area, so, thank you.

Ms HILL: Thank you, Chair.

The CHAIR: I wanted to ask and then I'll turn to my colleagues, but if I may jump in, I have many, many questions, but we don't have time. But we may put further questions to you in writing, if you may.

Ms HILL: Yes, no problem.

The CHAIR: But thank you for your submission, which is sensational. It really is fabulous, because it approaches coercive control in a different way from other witnesses, to articulate where I would like to get to, which is your identification and shining light on others' work on really the—I'm trying to find your words—but the techniques used in prisoner of war camps. That, for me, was a revolutionary moment, that this is something that is a technique. I'd ask if you could just articulate that, for the record. We have your submission, which is part of our evidence, but if you might just speak to that, because it really shows that there are techniques that are virtually identical, as you say, to those used by perpetrators of domestic abuse. Could you speak to that specifically and how they work?

Ms HILL: Yes, it's a fascinating history. I think this is why advocates for criminalisation really try to put the emphasis on the fact that this is actually a well-defined method of torture that has been used in various contexts. So, we first learnt about the techniques of coercive control from the work of a US Air Force sociologist, Albert Biderman. He developed this chart of methods from talking to returned prisoners of war from the North Korean prisoner of war camps after the Korean war. Because these US prisoners of war had cooperated with the enemy in ways that were just unprecedented. They were trained to give their name, their number and not much else and they had done so in previous instances of being taken prisoner, but in this it was different. They had made false confessions to atrocities. They had informed on fellow prisoners.

When they returned to America—and some didn't, some defected to Communist China—the response from the media and even from people as high as the Head of the CIA [Central Intelligence Agency] was that they had been brainwashed and there was some magic tool the Soviets had used to get them to act in this way. But the Air Force and this social scientist, Biderman, was not convinced. They took the rather radical measure at that time,

in the 1950s, to actually speak to the people who were affected. That was not a common way of adducing what had happened to someone. They went and interviewed these POWs [prisoners of war]. What Biderman established was that there were these techniques that were used against them that were common to each man, even though they were not talking to each other about what had happened to them. They basically affected what Biderman called DDD, dependency, debility and dread.

He outlined eight techniques by which that was achieved, which includes all of the classic techniques that we understand to be used in coercive control relations today, such as isolation, degradation, threats, monopolising the victim's perception by making, in the domestic situation, making them think, is it me, what do I need to fix about what I do, or how can I fix this person, in a prisoner of war situation was really making them focus on the fact that they were very hungry, or they needed to attend to themselves. So, what we learnt from this and subsequently after Biderman gave evidence in Congressional committees and people were like, is it really the case that using just these techniques you could affect these changes? Biderman said, basically—and I'm paraphrasing—this is perhaps the most pernicious thing that the Communists have done. Since then, we've seen it used in hostage situations. We've seen it used by sex traffickers. From the 1970s onwards, we saw it identified as the classic techniques of control and coercion used in domestic abuse.

The CHAIR: That's fantastic. Thank you. I just picked up on your sentence, before I pass on to my colleagues, that what Biderman's chart of coercion showed was that acts of cruelty that appeared to be isolated were actually connected. It's only when these acts were seen together did the devastating picture of coercive control become visible.

Ms HILL: That's exactly right, Chair. That's why I think we're pushing for coercive control to be articulated in the law and for these acts to be seen together. That comment from Gordon McCreadie from Scottish Police that the genius of their legislation is to include all the harms in one charge, it's not just for the effectiveness of prosecution, it's for understanding that each technique, each behaviour, is a strand of the cobweb being pulled tighter and tighter. It is not until you see these written out and presented before you that you start to understand how this becomes a system of entrapment.

The CHAIR: Absolutely. I have a thousand questions, but I'm going to politely defer to my colleagues. I might start with Ms Abigail Boyd.

Ms ABIGAIL BOYD: Thank you. Thank you so much for being here today, Jess. I think I share the Chair's comments in relation to that light-bulb moment when I read your book. For me, it was I'd only just started being an MP [Member of Parliament], so I'd only just been elected and just spent a few months just tearing my hair out at why governments wouldn't take domestic violence and abuse seriously enough to fund it, to put in all the resources and to read everything that was coming from the domestic violence sector saying, we need this, this is what we need, this whole-of-community reform. Then I read your book. What struck me was this idea that we could reignite the National Conversation around coercive control.

I wanted you to reflect on, you've been listening to the witnesses we've had over the last couple of days, a lot of them are very cautious about criminalising coercive control because of the government track record on funding appropriately. They're worried that it might make it worse if we don't have all of those wraparound services in place. Could you talk to us about how criminalising coercive control could actually improve the focus of community and politicians?

Ms HILL: Yes. I mean, I can just reflect from also my own personal experience, when I was first commissioned to write about domestic violence and I had no understandings of control or even the power and control models. I was not that interested. When I just thought about a man going home, beating his wife, there wasn't much to say or think about that. It wasn't until I started thinking about questions like why does he do this, but primarily, when I started to understand that power and control was central to this system and then how that played out, that's when I became fascinated and determined to be part of this movement and have been now for seven years.

So, I feel like there's this gap that politicians, by and large, still do not understand domestic abuse for what it is, and so don't really understand how to respond to it, even though the sector has given very clear instructions on how they need the response to be formed. But because I think parliamentarians generally don't understand it and cannot get their heads around it and, I mean, the history of responses to violence against women, we don't need to go into that, but I feel like there's a resistance there, aside from just our misogynistic history of underfunding women's services. I say that, not as a form of judgement, but as a reflection on that's where I came from too and that my thinking on this has turned 180 degrees.

In terms of actually, first of all, the concerns. The concerns are not just valid, they are absolutely necessary. There is—we have to be vigilant against all of the possible pitfalls against this. The sector knows better than anyone how laws have been misused, mandatory arrest, pro-arrest policies that seemed really positive in the 1980s were then used against victims who were misidentified as primary aggressors and sometimes jailed,

especially First Nation's women, who will often resort to violent resistance, because they don't trust the justice system to protect them. So, all of these concerns are absolutely vital for the Parliament to consider. I think what the opportunity is exactly what you've said, Abigail, which is this is about reigniting the National Conversation.

But it's also about reframing this for politicians and showing and getting them to understand it from the ground up, instead of being told by the sector what they need, getting them to actually understand viscerally why they need it and why it's urgent. I think when you understand coercive control and how it extends beyond the domestic space and into the systems, when you really understand that and you hear this evidence, I'm hoping and certainly I'm determined to make sure that the Parliament acts on what is something akin to torture happening in tens of thousands of households across Australia.

Ms ABIGAIL BOYD: Thank you.

The CHAIR: Thank you. Deputy Chair, Trish Doyle.

Ms TRISH DOYLE: Thanks, Chair. Thanks a million, Jess. I think it is important, for the record, as we have each done so far, is to thank you for your work. Whilst others may allude to it being a light-bulb moment, I think you know that, for me, it's actually a language and a framework from my childhood.

Ms HILL: Yes.

Ms TRISH DOYLE: So, the fact that it is—the national discourse is a relief, as well as it is alarming, but we need to have the conversation, absolutely. I'm going to put a question to you, based on your research and the way in which you are able to articulate so well indeed, a question that I've put to many other people. There is a number of organisations and individuals who feel that criminalising coercive control is too problematic, because the risks of doing so outweigh the benefits. So, I'm going to turn that around a little bit and ask you to speak to this question, knowing that it is important to have a multitude of approaches in dealing with coercive control, so across that gamut of education, training, awareness raising conversations, does leaving coercive control out of the criminal scheme send a message that it is less serious than physical assault?

Ms HILL: I believe so, yes. I don't think there's any other conclusion you can reach. There's been a lot of talk over the last few months since this became a conversation nationally that a patriarchal system cannot protect women and children. I agree. Ultimately, it can't deliver absolute protection for women and children, but it's the rules-based system that we live in. Laws set the rules by which we live. I think about kids, like you, Trish, kids who are growing up now and the normative change and by that, I mean the cultural change that could happen when you set a law against modes of oppression and you make explicit that these modes of oppression are no longer what society will accept. When I say no longer what society will accept, I say that advisedly, society has accepted this by leaving it out of the criminal law. You are telling those children, not only you are advising them on how to be in relationships, but you are also telling the children who have grown up like you did that what they experienced was wrong, it was a crime.

It was not just behaviour that we should encourage perpetrators to stop, it was not behaviour that we should give you a sheet of paper for and say that if they do it again, we'll get them in trouble, it was behaviour that we drew a red line under. I don't think that there's any other way in our society to do that, aside from the criminal law. That's—I sometimes feel really troubled by this conversation that the law is a blunt instrument, or that we should just include this in the ADVO [Apprehended Domestic Violence Order] legislation, because laws set the standards by which we live. We've seen with law changes that have been resisted against, that massive cultural change is possible.

I mentioned in my submission, marital rape. There was opposition to marital rape from every corner you can imagine, including the women's sector. Their concerns were absolutely valid that it would be underutilised, it would be under-prosecuted, it would be difficult to prove. All of that has been true. But when that was made illegal in 1976 in South Australia and then lastly in the Northern Territory in the '90s, the normative change that happened to our culture was that women had the right to refuse consent in marriage. Now, is that enforced by the law reliably? No. Have we learnt that implementation is important when you make a new law? Yes. Was there implementation around marital rape? No. We can say the same for other laws around sexual assault. But I can't imagine anybody in the women's sector or anywhere else who would go back and say, we shouldn't have made marital rape a crime.

Ms TRISH DOYLE: Thank you.

The CHAIR: Can I pick up on that point before I invite my other colleagues to ask questions, Jess, in a couple of minutes that we have—I'm sorry—left. I think an earlier witness—and I'll ask if you'd agree with this proposition—an earlier witness said, it sends a message that this is behaviour that warrants legal intervention.

Ms HILL: Precisely. I think that when we talk about law being a blunt instrument, actually the law is a point of intervention. Anybody who's worked in this area, worked with police, worked with the courts—and I've done education with both police and the courts—would see that actually a great deal of discretion is exercised

once that intervention point is made. There can be safety notices. There can be diversion programs in court. But that point of intervention is absolutely necessary, not just for justice, but for safety. For the women who use the criminal justice system right now and we're talking about, at the moment, fewer than 20 per cent of victims right now have ever reported to police, how many that might be if the police started responding more reliably, or responding to the entire system of abuse and not just incidents, remains up for debate and development. But the people who use this system deserve for this system to be improved. They deserve for their concerns to be listened to and paid attention to. They deserve for us to pay attention to the fact that control and oppression is the most reliable indicator of future homicide.

The CHAIR: I think that's the point, isn't it, that we also perhaps have an educative role, in that, in my experience, I have said to—people have said, what are you working on at the moment and I said, "oh, it's the inquiry into coercive control." Half have said, "oh, that's amazing, important work." The other half have said, "what is that?" I think that 50 per cent is telling that we've got some work to do with politicians, with everybody out there, to have a better understanding of what this is, before—as part of this process. I think that your book has done that.

Ms HILL: Chair, can I just add to that? I was speaking to somebody from the domestic violence sector yesterday in Brisbane and she was telling me about how her mum—she's English, her mum is English—and she was talking to her mum about the fact that she was working on coercive control in Queensland. Her mum's not part of the domestic violence sector and doesn't have much to do with her work. Her mum said, oh, coercive control, oh, that's what they had on *Coronation Street*. They have had storylines on coercive control in *The Archers*, a very popular radio drama, *Coronation Street*, very popular television show. So, the normative change that comes from criminalising coercive control means that it actually ends up not just being on Government to conduct these education campaigns, it becomes part of culture. In England and Wales, as different to Scotland, where the conviction rate has been very high, in England and Wales, where the conviction rate has been low, I'd say the cultural change in education has been exemplary.

The CHAIR: So, I think that answers my next question, which is, is conviction rate the only measure of success? I think that's a no.

Ms HILL: It think it's an important measure of success, but I don't think it's the only one. I think we need—as always in domestic violence, data can be very misleading and we need to have more understanding around what is happening on the ground in England and Wales, why the conviction rate is low. In Scotland, the specialist domestic violence prosecutor over there, Anne Marie Hicks, provided me with data recently and that is that within the first year there were around 1000 charges laid. Ninety-six per cent of them were referred for prosecution and between 79 and 81 per cent of those got a conviction. The evidence was so conclusive in the vast majority of these cases that the offenders pleaded guilty and the victims did not even go to trial.

So, there is—I mean, we could talk and we won't have time in this particular inquiry to talk about the legislative differences and the differences in implementation, but there are clear differences between England's legislation and Scotland's legislation and pretty obvious reasons why that difference exists. But I do think it requires some extra study as to why exactly we're seeing that and what the response in England and Wales tells us about how well these laws are working or not.

The CHAIR: I just want to finish on that note. I'm sure we will have further questions to send to you in writing, but on that note is that part of this process and I'll ask you to comment on this and the implementation models overseas in the United Kingdom [UK] and in Scotland, a lot of this is being put on the police. We've come up with this great thing in our Parliament. Here we are, we hand it over and the people that need to implement it are the police. As I say, in my personal view, there are good police and there are great police, they are doing this work. But I think it's imperative that we have—we equip them and we train them and we provide the resources to help them do the job that we're asking them to do. They're swamped, they have huge discretion. They need to use their judgement on a whole range of fronts. But can you comment on your views about how much infrastructure we need to put around this, in terms of the training and implementation, if this were to be criminalised?

Ms HILL: Yes, sure. Our views on police slightly diverge. I think that there are good and great police and there are also terrible police. But what is important and what I really want New South Wales Police to hear is that they are swamped with repeat offenders and the same households calling over and over again. Effective intervention may actually reduce that workload. It may be top-heavy and labour-intensive in the first instance, but what we're not doing is actually stopping this from occurring. In Scotland, where they've done some exemplary police training, what they're really doing in their day of face-to-face training is getting police to talk about all their frustrations, like "why does she keep calling, she doesn't turn up to court," all the rest of it. Then reframing that and showing how these are actually typical responses from someone who's being coercively controlled.

I think for—this doesn't go to New South Wales Police, but to people who are worried about giving police more powers, this is not about giving more power, it's about asking police to do a better job. It's about asking police to ask better questions, collect better evidence. Some of those better questions that Scottish police have

been coming up with when they go to a house and they confront a victim-survivor who cannot articulate what is happening to her, or him, they say things like, "what's the first thing you think about when you get up in the morning? Do you feel like you're walking on eggshells? What are you prevented from doing?" That is part of their risk assessment. That's so vital to understand. It's not as police mostly do now, what's happened here?

I have to say, the incident-based model that we have criminalises victims by default, because when victims respond with violence, as many do, or when they are set up by a manipulative perpetrator, when you are only trying to frame someone for one incident, it is much easier. When you want to try to frame someone as being a coercive controller, that is a much harder task. So, I think that what we're seeing, and certainly testimony from Scottish Women's Aid has said, that the misidentification of victims has been reduced since the Domestic Abuse Bill there was introduced.

The CHAIR: Perhaps we might give them more tools in their armoury to do that job through this.

Ms HILL: Mm.

The CHAIR: I'd like to thank you on behalf of the Committee so much for your work. I wish we had more time. I'm sure that we may put further questions to you in writing. If we do so and if you do respond to us, those responses will form part of your evidence and will also be made public.

Ms HILL: Wonderful.

The CHAIR: Jess Hill, thank you so much for joining us today. Thank you.

Ms HILL: Thank you, everybody.

Ms TRISH DOYLE: Thanks, Jess. Keep doing all you do.

Ms HILL: Thanks so much, Trish.

(The witness withdrew.)

SIOBHAN BRYSON, Chief Executive Officer, Weave Youth and Community Services, affirmed and examined
KATE MUNRO, Chief Executive Officer, Youth Action, affirmed and examined

The CHAIR: Well, good morning and welcome back to this our Joint Select Committee on Coercive Control. I welcome our next witnesses this morning from Youth Action and from Weave Youth and Community Services. Welcome. Thank you so much. Do you either of you have an opening statement you'd like to make to the Committee?

Ms MUNRO: Yes. Look, certainly from Youth Action's perspective, I just wanted to say thank you for giving us the opportunity to speak to the submission. We're really grateful and thankful for the opportunity to be able to present the views of young people, because I guess, for us, young people very much are a unique group, with unique experiences outside of perhaps some of the other groups that are spoken about. Also, just to say, I really want to acknowledge the expertise and the knowledge that our fellow peaks have shared and the other experts and also the very courageous stories of victim-survivors that I know that you've heard and also of young people that spoke to us.

The CHAIR: Absolutely. Thank you. Ms Bryson.

Ms BRYSON: Again, I would also like to, on behalf of Weave, commend the Parliament and this Committee for this inquiry. It's such a critical issue and a really important one for us to be addressing. I'd also like to acknowledge the traditional custodians of the land that we're meeting on today, the Gadigal people of the Eora Nation and pay my respects to their elders, past, present and emerging and extend that respect to any Aboriginal people here today and everybody here today. Thank you.

The CHAIR: Terrific. Thank you. I'll open to my colleagues for questions in just a moment, but can I say, before I do, thank you for your submissions, they are fantastic. We appreciate the time that you've put into them and assisting the Committee today and also for coming along. We know you're extremely busy and we thank you for the work that you do day to day, it's extremely important, helping our youth. I'll have some questions in a moment, but I might open to my colleagues to begin with.

Ms TRISH DOYLE: I'll start, yes, thank you, Chair.

The CHAIR: Deputy Chair, Trish Doyle.

Ms TRISH DOYLE: Thank you, Kate and Siobhan. I really appreciate you acknowledging all of the other contributors to this inquiry as well. I note that you talk about all of the wraparound support and a multitude

of approaches that we need to raise awareness of coercive control, education campaigns, especially that work with young people. Community education is absolutely critical and we can't do one thing in isolation. I'm just wondering whether you wouldn't mind commenting on what we have heard from a variety of people and that is that they are not too sure that there are benefits that outweigh the risks of criminalising coercive control. So, we've heard from a number of people who say we shouldn't actually take that step. In your view and particularly working with vulnerable young people, does leaving coercive control out of the criminal scheme send a message, do you think, that it is less serious than physical assault?

Ms BRYSON: I think it does, yes. In our submission, in Weave's submission, so I'm—we've got a domestic violence program supporting women who want to leave abusive relationships. We've been working on the frontline in that with those women for over 10 years. That coercive control is that behaviours are present in all of the situations that our women who come to us are in. Given that there is such a strong correlation between coercive control and intimate partner homicide, I actually don't think that it's an option to not have it considered a criminal offence, just as physical assault and violence are.

Yes, it also sometimes and yes there's a lot of other things that need to change, including community attitudes, community understanding about what coercive control is, even a lot of the women who come to us don't even realise that there's anything wrong with it, because it's so connected to what is considered normative, gendered behaviour. So, there's a lot of work to do on a lot of levels. It is insidious. It is very easy for women to be really confused about what's happening to them and to question whether or not it's they're going crazy and all of those things. So, I feel like there's a lot of work to do. It's critical that we do take this seriously and consider this a criminal offence. It's tricky, but I think we can do it. There's a lot of smart people in this room and there's a lot of smart people in the Parliament and there's a lot of smart people in the community. I think if we all work together, we can actually get this up and make it work, to keep women and children safe and alive.

Ms TRISH DOYLE: Excellent, and alive, exactly. Thank you, Siobhan. Kate, did you want to add anything?

Ms MUNRO: Yes, look, I mean, obviously I wholeheartedly agree with everything that Siobhan has outlined. I think that, as you said, it's complicated and it's tricky and it's a whole-of-community approach. I know certainly that the Domestic Violence NSW peak has recommended that approach. We would agree with that. For us, for young people in particular and for young people that we've spoken with, the educative part for them is probably the most important. So, one is about recognising it, so that they understand that it has serious consequences if it's criminalised, that it's an offence. But also, about the other part for us with young people and the other space in the educative discussion for young people is about how do we also educate young people who have the potential to become perpetrators and how do we stop this behaviour?

There is, again, both young men and young women who we've spoken to. It's complicated and it's confusing. As Siobhan says, there are young people who are victim-survivors who didn't realise and didn't know that until afterwards. There are young people who are definitely stepping into spaces of unacceptable behaviours, who perhaps, with some education prior to that would have understood that. There is the whole space of education around bystanders and how do people call out their peers, as well as how do young people provide support and have conversations. I think, for us, it's very much around that how do we normalise discussions about what is a healthy relationship, what is a safe relationship?

A number of the young people we spoke to said that what they didn't—they felt had been missed in their education was that they didn't actually know about domestic and family violence and the red flags and what to be worried about and what to be concerned about. That's not to say—I mean, their answers were that they didn't feel they received it in school education. It may well be that they did, but it obviously wasn't impactful enough. Certainly, we've seen that in the media this week, with all of the discussions around the online petition around sexual assault, that whatever is happening is not impactful enough for young people to have it make sense to them. So, I think it all goes hand in hand, the legislation, the education. One without the other won't work.

Ms TRISH DOYLE: Excellent, thank you.

The CHAIR: Thank you, both. Questions from colleagues, otherwise I will jump in. You'll have to talk over me. Oh, yes, I have a question. Thank you, online from Steph Cooke. Are you there, Steph?

Ms STEPH COOKE: Yes, I am, Chair. Thank you very much. Thank you for appearing before us today. My question is for Ms Munro, in relation to your submission, so the Youth Action submission, page 13, in the conclusion paragraph 1, I guess, just to sort of paraphrase it:

Any definition of coercive control needs to encompass the serious impact it has on young people, including as primary victim-survivors.

Can you please elaborate on that point, as I didn't feel like your submission had explored that to its—yes,

throughout. Could you elaborate, please?

Ms MUNRO: Yes, absolutely. So, I think, I mean, obviously one of Youth Action's aims is always to encourage the voices of young people are included in any policy decisions. But for this one in particular, for what young people tell us, young people have a mixed experience as they're often still seen in the space of women and children. But young people have their own experiences. Whether that's in a family, so whether that's as a victim-survivor from domestic and family violence or coercive control in a family context, so whether that's a parent, or somebody else in that family. But then, also, in the context of their intimate relationships and what that looks like. So, there's for us and for what we heard from young people really clearly is that they have some very unique experiences, very unique lived experiences and very unique views that they want to have heard that are very separate to perhaps what their mother might speak about, or what their younger siblings might speak about. So, there's some complexities there for them. Does that answer—

Ms STEPH COOKE: Yes.

The CHAIR: Ms Bryson, did you have anything you wanted to add?

Ms BRYSON: No, I totally agree with Kate.

The CHAIR: Great. Does that—thank you, Steph. So, I also want to join my colleagues in thanking you for your submissions and just ask, there are some concerns around this and I just wanted to put those to you, to see if you had a view on them, which is that this potentially could interfere in people's home lives, in the normal functioning of a—what is normal—a respectful home relationship, in terms of disciplining of children, or partners where there's agreement that one will take care of the finances, while the other does—has other duties. I just wanted to, in particular in the youth perspective, ask you if you could address that and whether you think that is a real risk of this legislation and how potentially that we could deal with that as a Committee. I accept it's not an easy question.

Ms MUNRO: No. Look, I think it still comes down into that space of education. In my mind, it's no different to other conversations that we have with young people about how do you decide, again, in a relationship space, what is okay, what's within your boundaries, what feels comfortable, what doesn't feel consensual, what feels like somebody's exerting power and control over you and that far extreme about what then causes fear. So, I think that there's—I think young people are really good at understanding those nuances. It's about having the conversation with them. I think humans are good at understanding those. Like you said, that is a discussion that happens in homes all the time.

But I think by not—or I think by putting some parameters around what is acceptable behaviour and what's not and we do that in so many other circumstances, I think that young people can understand that and I think they find that helpful. I think the difficulty for young people is when it's murky and it's confusing. One of the examples we had where we've got really good at talking about things like that is in a bullying sphere. So, we talk a lot about bullying. Young people are very—that conversation is normalised. It's okay to talk about that. It's okay to explore what is bullying, what is not bullying, how do you judge the seriousness of it? I think this is the same. I just think it's about normalising the conversation and normalising society's views, to make it an—it's not behind closed doors anymore, that it's actually something that's in the open. If you, as a young person, feel that something is compromising your boundaries, that you feel fearful, that you feel like someone has power over you, that you don't feel shame and stigma about speaking out about that, but you can go—you're encouraged to seek support and talk about that. Then there's some line that says, actually at some point that's not okay and that's not normal healthy behaviour in a family.

The CHAIR: Did you want to add to that, Ms Bryson?

Ms BRYSON: Yes. I think it's one thing for two people in a relationship to have an arrangement or an agreement around who looks after the finances, who takes the garbage out and that's a consensual kind of negotiated arrangement. It's another thing—and that, in and of itself, is not coercive control. Coercive control obviously is more about a pattern of behaviour. If someone really feels like they couldn't just say, "actually, hang on a second, I want to be more involved in the finances", for example. Or it's more things like, so there's an example recently, my colleague, Regan Mitchell, is not with us today, she was going to be appearing, but she got caught up supporting someone who's in a coercive controlling relationship, that's her job.

The CHAIR: Well, actually, much more important than this, so, thank you.

Ms BRYSON: This particular woman, her partner, he is Mr—presents extremely well to the world, has a respectable job, a nice car, is, yes, as Regan would say, Jesus-material when you meet him and a great guy. But actually, he drives her to work every day in her car, so that he can control her. Early in their relationship he made her or suggested that she get a new sim card for a fresh start and controlled her phone, her emails, her text messages, there's cameras in every single room in the house. He's got a tracker on her car, her phone. So, she's not allowed to go to the—she didn't even know where the local Coles was, which is four minutes away. She's not

allowed to go to the—she hasn't gone and played netball with her friends, been to the beach in God knows how long, things she loves to do. Again, didn't know where the shops were, completely—that's coercive control. Someone saying, I'll look after the bills and the finances if you do XYZ is a negotiated, healthy relationship arrangement, very, very different. So, I think we can figure out the nuances and the differences, if we really try.

The CHAIR: As you referred to—and thank you, that's very helpful—I think you referred to it being murky. If there were to be a definition, whether it's perfect, or good, whether it's national, or New South Wales, but if there were to be some kind of definition around what is included, which is the pattern of behaviour, which I think is common ground and some sort of idea around reasonable personal consent or some other element that recognises the ability to contribute or make a decision about that relationship and how that occurs, would that be helpful in containing and wrapping around some definition, so that those examples are not included?

Ms MUNRO: I think, certainly to speak from a young people's perspective, absolutely. Young people are at a developmental stage where working out what's right and okay in relationships is complicated anyway. Certainly, again, what young people consistently say and what you've seen from the online petition, young people stay in situations, in contexts, in relationships, much longer than they should have for their own health and safety, because they didn't know that it wasn't okay and they didn't realise that it wasn't okay until they left. So, if there's—I think for young people, the murkiness makes it difficult just from a developmental stage anyway. If it's difficult for an adult woman to figure it out, how on earth does a 16-year-old in their first relationship figure that out?

The CHAIR: As in the conversation—I'll turn to my colleagues, because I'm in their time—but as in the conversation around bullying, as you used the example and I think we had an example of marital rape earlier, that these things, the conversation around them is normalised, so that we know that that's not okay, that is not okay behaviour, as opposed to me telling my teenage kids that they can't go to a party on the weekend, or something that is relative to our normal existence. To have that clarity and to have the conversation, not just the police frontline, which is a huge element of course, but to also have the conversation amongst the rest of our community to understand that better, I think. Would you agree with that?

Ms MUNRO: Absolutely.

The CHAIR: Okay, thank you. I'll turn to my colleagues. Ms Abigail Boyd.

Ms ABIGAIL BOYD: Thank you. Thank you both so much for everything that you do. One of the things that I love about Youth Action in particular is the way that you don't speak for young people, you speak on behalf of them. I think bringing their voices in is really, really vital work. I really appreciate that your submission had some quotes from younger people. One of the things when we're talking about the education campaign and this great discussion about how young children can understand what coercive control is, I was reflecting on the conversation around sexual consent. Now, in my experience, 18 to 24-year-olds have a very nuanced understanding of what sexual consent is, as opposed to the average perhaps 50-year-old. So, I find that very interesting, but I also have observed that they tend to get that information not from the traditional places, but from social media, TV programs, friends, et cetera. Can you explain to us, if coercive control was to be criminalised, how most effectively that education campaign could be rolled out?

Ms MUNRO: Yes. So, certainly out of the young people that we spoke to, what they did say that they had seen was social media campaigns, large-scale community campaigns. So, they see those, that, I guess, filters into their consciousness. But then, I think the other thing for—that young people are asking for and again, I keep referring to that petition, but I just think it was such a timely example of young people stepping up into a space and telling us what they want, they want—that education needs to be more than standalone, late high-school years programs. There are some really good programs. I've worked for Siobhan before, as a young worker, I've worked in the youth space for a long time, I've done—I've run those programs in schools. So, it's not that—I think they're good programs, but clearly, they're not having the lasting impact that young people want.

So, I think what they want is an ongoing sustained conversation about it. So, whatever that education is, that it becomes part of what happens in a school over a period of time. I mean, I think social media obviously is really great. I think, again, young people are very good at telling us what works for them and they're very good at telling us what they would see. I think peer education is always a successful model and again, has that capacity to sustain it. So, if we teach young people how to have conversations around this, then that will have a lasting impact. If there are young people in schools who feel comfortable having these conversations, that's going to flow into their peer groups, to their friend groups, through into their community, outside their school group.

I mean, again, so many of those young women that replied to that petition that I saw in the media and, again, it's only what I've seen in the media, but it's nothing that I hadn't heard before, but so many of those young people didn't tell anyone. They didn't feel like there was someone that they could have a conversation with. Nor were there, for young people who were bystanders, for young men, whose peers were involved in those behaviours, they didn't feel like they had the tools to be able to have the conversation about that's not okay and do you need help, or that's not okay and you need to stop doing that behaviour, because that's not all right. There

needs to be a space for young men to have a conversation, again, a 15, 14-year-old young guy is trying to work out what is okay, what's not okay.

If they're not talking to their family, or maybe they're getting input from their families, but they're also getting input from their peers, there needs to be a really open, supportive space, where they can have a conversation about what is okay? Maybe I'm seeing something on television, maybe I'm seeing something that my friends are doing; is that okay? Is that really a respectful way? We sort of hope that young men will figure it out, because they're intuitively good, but I think it's tough, it's really tough for them to understand that. There's an opportunity for us, and a responsibility for us as a society to provide them with those tools.

Ms ABIGAIL BOYD: Thank you.

The CHAIR: Questions? Anyone online? No? Terrific. Is there anything further you wanted to bring to our attention? We have your submission, but is there anything you wanted to add arising out of today? We've got plenty of material. We've got no shortage of information.

Ms BRYSON: I know, which is great.

The CHAIR: We certainly can provide further questions to you in writing if you'd be prepared to take them from us?

Ms MUNRO: Yes, absolutely, very happy to take them in writing.

The CHAIR: Terrific, thank you.

Ms MUNRO: Yes, look, I just want to reiterate again, we put out this, the call-out to young people and we had 49 respond really quickly. It was a short time period, it was super-fast. I know that this is something that young people really want to be engaged in. So, I think that there's—yes, don't—yes, if I can just emphasise, they are there, they want to talk about this.

The CHAIR: Absolutely. I appreciate that. I'm getting a look, yes. Thank you.

Ms ABIGAIL BOYD: It's Justin, yes.

The CHAIR: Thank you. I can see my colleague, Justin Clancy. Justin, do you have a question for our witnesses?

Mr JUSTIN CLANCY: Thanks, Chair. Firstly, thanks, Kate and Siobhan. Kate, just following on, in terms of education, because I think that's obviously a really important space and it's a perhaps simple question, but if we're getting positive relationships and conversations around positive relationships, we can, through the same type of programs, obviously, have a positive impact on bullying also then domestic violence as well in the household. So, that's—if we're educating around positive relationships, we can lead to improvements in both areas. Is that a fair conclusion to draw there?

Ms MUNRO: Yes, I think anything, any education that helps young people feel more skilled and equipped to deal with whatever though, whether it's an intimate relationship in a partnership setting, whether it's a friendship relationship, whether it's a family relationship, again, it's that understanding of what is okay, where are the boundaries. When something's not okay, where do I go and seek support and how to help friends. So, absolutely, I think the flow-on effects are huge.

Mr JUSTIN CLANCY: Thanks, Kate. Siobhan, I was just interested in the submission, it talked about once an offence is created, the importance of systemic oversight, in terms of the police and, I suppose, a level of auditing, or going back and exploring the incidents that police are picking up. But would you be happy to expand on that a little bit please?

Ms BRYSON: Yes. I do think it's without the—I mean, I think the Scottish model's been particularly good, in terms of having a long lead-in time to allow for that education and training of the people who are then on the front, are the gate keepers, who are looking for this offence. If, for example, I mean, just off—and again, I reiterate that it's important for leaders in the police force for example to be leading the charge and undertake that training and to be really ensuring that their area commands are properly questioning for those, looking for that offence. Because, in our experience, policing tends to be dealing with the matter in front of them and not really that interested in anything around that. That makes it very easy and it has happened on many occasions, I'm sure it's happening all the time, to miss coercive controlling patterns of behaviour.

So, the auditing part would be, for example, those senior police and some kind of process whereby if there's low—if there's not many coercive control offences, charges being laid at particular area commands, that needs to be looked at, because it could be an education piece, it could be an attitude, or it could be a whole range of things. It just needs to be examined, why aren't there more coercive control charges coming out of these particular area commands. I accept and I appreciate that police have a difficult job and it's not easy, but I think a lot of effort and resources will have to go in to make sure that if this becomes an offence, a criminal offence, that

there is enough education and training to roll it out properly.

The CHAIR: Thank you, Justin.

Mr JUSTIN CLANCY: Thank you. Thanks.

The CHAIR: Any other further questions, otherwise we'll move on. Thank you so much for your assistance today, your written submissions and your critical work. We really do appreciate it.

Ms BRYSON: Thank you.

The CHAIR: That concludes this session. Thank you very much.

Ms BRYSON: Thank you. Thanks again to all of you for doing what you're doing.

Multiple Speakers: Thank you.

The CHAIR: Terrific.

(The witnesses withdrew.)

LAURA VIDAL, Head of Social Policy, Good Shepherd NSW, affirmed and examined

PETRA JENKINS, State Manager Family Violence, The Salvation Army, sworn and examined

The CHAIR: Thank you. Welcome back to our third day of the Joint Select Committee on Coercive Control. We have witnesses from The Salvation Army and Good Shepherd New South Wales. Welcome to you. Thank you for coming along today. Do either of you have an opening statement you'd like to make to the Committee? Yes. I invite you to do that now. Thank you.

Ms JENKINS: Okay. I would first like to acknowledge the traditional custodians, the Gadigal people of the Eora Nation, on whose land and waters I live and work and pay my respect to elders, past, present and emerging. I acknowledge their continuing relationship to this land and the ongoing living cultures of Aboriginal and Torres Strait Islander peoples across Australia. I would like to thank the Committee, on behalf of The Salvation Army, for the opportunity to present our evidence and share our experiences. The Salvation Army is an international Christian movement, with over 130 years of service delivery experience in Australia.

Today we are one of the largest providers of social services and programs for people experiencing hardship, injustice and social exclusion. We offer a wide range of services, including family violence and youth refuges, accommodation, children's and parenting services, financial counselling, recovery services, emergency relief and support and advice to women and children who are experiencing, or have experienced family violence. We also deliver family violence prevention and intervention programs to over 1000 men across Australia. We support the Committee's recognition of the scope and complexity of coercive control and the need to focus on evidence of non-physical violence and the significant harm that flows from it.

We firstly draw to the Committee's attention that any legislative approaches rely heavily on victim-survivors' willingness and ability to involve police. Sometimes referred to as intimate terrorism, we recognise controlling coercive behaviour can be terrifying for victim-survivors. Any legislative approaches will require the creation of a highly coordinated legal and non-legal workforce and a system response that addresses the risk of coercive and controlling behaviours in all risk identification, assessment and management practices across New South Wales. In many cases, victim-survivors just want safety for themselves and their children, rather than punishing the perpetrator. The current criminal controls in place in prosecuting certain slavery and trafficking offences identifies that the major impediment to prosecution is the reluctance of people to give evidence, as they may have been subject to threats of violence, or because the allegation is that a family member is also involved in the offending.

From our experience, community education that identifies that violence is not always physical, or visible, remains critical. Our Moneycare and Doorways staff identify that many victims living with coercive behaviour in the form of financial abuse, do not realise that they are experiencing—that what their experience is actually family and domestic violence. Our experience also identifies that cultural influences, those living in rural and remote regions and those with disability and mental health are particularly vulnerable to coercive and controlling behaviours. Prevention must also extend to respectful youth relationships within primary schools and healthy peer to peer and early intimate relationships in high schools, including the ability to navigate online relationships and appropriate use of technology and social media.

We believe the Committee may find our family violence categories of behaviours, in particular, the non-physical forms of violence, helpful when considering a definition of coercive control. We continue to advocate for a national, consistent approach to defining family and domestic violence that includes coercive and controlling

behaviour. We also ask the Committee to be cognisant of the extent of coercive controlling behaviours, including the use of domestic and international third parties in facilitating technological abuse, financial controlling behaviours that withhold a victim-survivor of all financial intellectual property and coercive control inflicted by immediate family members, carers and guardians and relatives or other family groups, are recognised by various cultures and communities.

Victim-survivors must be empowered to understand that abuse comes in all forms, that it is not their fault and to seek support from all first responders beyond just the police. Perpetrators must remain accountable for their coercive controlling actions, with opportunities to promptly access a variety of perpetrator intervention options that support positive and long-term behaviour changes. Finally, all policy responses must be driven by actual lived experience, to ensure responses address all forms of violence, are effective and do not re-traumatise victim-survivors. Thank you again for your time.

The CHAIR: Lovely. Thank you very much. Ms Vidal.

Ms VIDAL: Yes, thank you. Thank you to the Committee for inviting us to speak with you this morning. I appear today as the Head of Social Policy for Good Shepherd Australia New Zealand, with extensive experience on the issue of gender-based violence, exploitation, including domestic and family violence, forced marriage, dowry abuse, modern slavery and human trafficking. Before I begin, I would like to acknowledge the Aboriginal and Torres Strait Islander people of the land in which we meet today, the Gadigal people of the Eora Nation. I acknowledge elders, past and present. Good Shepherd recognises the perspectives and voices of First Nations peoples and that they should be at the forefront of conversations about family, domestic and sexual violence in Australia.

Good Shepherd Australia New Zealand was established to address the critical contemporary issues facing women, girls and families. We work to advance equality and social justice and to support our communities to thrive. We do this through the provision of services, such as the No Interest Loan Scheme, financial counselling, domestic violence crisis support, among others. Good Shepherd provides extensive services across Australia to women, children and families facing domestic and family violence, including services directly addressing the experience of violence, case management, crisis accommodation and counselling. In addition to this, we interact with women who have experienced financial abuse through our No Interest Loan Scheme, financial counselling program and the Financial Independence Hub delivered in partnership with the Commonwealth Bank of Australia.

At the outset, I'd like to acknowledge the growing support for criminalising coercive control. Good Shepherd understands and strongly supports the desire for improved justice system responses to coercive control and we unreservedly agree that the justice system can and should be improved in this respect and the pressure to do so is welcome. However, I also acknowledge that this particular debate has been polarised, with many experts advocating against the creation of an offence of coercive control, with concerns that the offence may decrease victim safety and perpetrator accountability and may also be misapplied to victims of domestic violence who have not demonstrated a pattern of behaviour constituting coercive control.

Good Shepherd cautions against the criminalisation of coercive control at this particular point in time, [inaudible] vision on this issue is our commitment to ensuring safety, protection and opportunity for women and children experiencing violence and the recognition that this comes in many different forms. The criminal justice system provides one remedy, but there are many different pathways to remedy, recovery and justice, which need to be recognised and understood as critical first steps in reform. It is our view that effective change requires strong emphasis on non-legal responses and non-legislative mechanisms for achieving remedy, recovery and justice are powerful tools in supporting women and children to rebuild their lives, as determined by them. These tools are worthy of significant Government investment.

For the purposes of this hearing, I will focus on four key areas that we believe will drive significant and systemic change to securing the lives of women and children. These areas form the basis of the recommendations made in our submission for strengthening New South Wales' response. Firstly, we would like to address the absence of a comprehensive definition of domestic violence in the current New South Wales legislation. The question about criminalising coercive control as a first step to reforming this legalisation appears pre-emptive, especially where that offence is intended to deal with conduct that has not yet been defined in existing legislation. We believe the inquiry must look at the shape and structure of the New South Wales legislation addressing domestic violence.

The core foundational steps to take, in our view, is inserting a definition of what we mean when we talk about domestic violence into this legislation. We have an opportunity through this inquiry to create a holistic definition which includes physical and non-physical forms of violence, which could then be applied across criminal and civil procedures. We believe that that explicit definition which encompasses coercive control will provide an opportunity to categorise different forms of violence and shift away from understanding only some forms of violence as complex.

This leads me to my second key area, which considers why a conceptual framework and a definition of coercive control should be the first priority in improving system responses. Our submission points to the development of a conceptual framework that enables the community, as a whole, to improve their recognition, understanding and response. This should coincide with the development of an integrated referral system for those working outside the specialist sector and updates to professional codes and practice guidance, to ensure consistent responses to coercive control and domestic violence in all of its forms. An integrated system is necessary, because women experiencing coercive control often face multiple legal and other complex issues, such as risks of homelessness.

Thirdly, we discuss the need to institute tailored training and system improvements across the justice system to support police, legal and non-legal practitioners' capacity to exercise their existing policy, professional practice and legislative responsibilities. We believe that police require career-long training on the issue of coercive [inaudible] and it is often the most junior police that are out in uniform who are required to identify this pattern of abuse. We would be keen to see a process of identifying coercive control, whereby junior officers make the initial assessment and then refer the matter on to more experienced and specialised officers for formal investigation. Given the difficulties police already face in identifying coercive control, we would be concerned if a new criminal offence were to be introduced. This is not a quick-fix problem and the processes of criminalisation are not quick-fix policy options.

Finally, whilst we caution against criminalising coercive control, if the Committee were to recommend the creation of a new offence, we would advocate for a general offence of domestic violence. This is to avoid the pitfalls of particularism, identified by legal scholars such as Julia Quilter. As Quilter argues, such an approach to criminalisation reform is unlikely to reflect the continuum of harms experienced by many victims of family violence and, more worryingly, may operate to minimise the criminal justice response to domestic violence. We would also strongly advocate the Committee prioritise improvements to the civil intervention order process. Currently, experiences of coercive control, such as economic abuse, cannot be properly accommodated as they do not satisfy the test of an intervention order without the presence of physical violence. This must change.

Improving the intervention order process to better respond to coercive control would enable earlier intervention and an opportunity to provide wraparound support to victims before the point of crisis. Ultimately, we believe that non-legal responses are just as important as legal responses in addressing the long-term impacts of coercive control. In this way, we recommend the Committee consider piloting a model for cross-sector service delivery outside the legal service sector. Our submission details an example which seeks to address the recognition of financial abuse as part of domestic and family violence; the establishment of debt-abuse clinics. Assisting victim-survivors to recover from debt abuse is a crucial aspect of ensuring they recover from violence and are not forced to return to a violent relationship in order to make ends meet. Thank you again for the opportunity to appear today. I welcome any questions you have in relation to our submission and Good Shepherd's experience of providing family, domestic and sexual violence services in Australia.

The CHAIR: Thank you, both. Are you happy to make copies of your opening statements available to the Committee staff?

Ms VIDAL: Yes.

Ms JENKINS: Yes.

The CHAIR: We appreciate that. Thank you. On behalf of the Committee, thank you for your submissions that are comprehensive. We very much appreciate them. They've been provided to members and they've had the opportunity to consider them before today. So, thank you. Thank you also for the work you do in the community, it is vital, and for taking some time out to assist the Committee today. We have some of our Committee members joining us via videoconference. Our first question is from Peter Sidgreaves. Thanks, Peter.

Mr PETER SIDGREAVES: Thanks, Chair. I'd like to echo your sentiments about the submission and the evidence that you've been giving today. I thank you for that and I thank you for the work that you do. My question is particularly towards The Salvation Army submission, but I'd be happy to hear from both of you. It doesn't address—and which we've heard from some other witnesses—a definition of coercive control requiring some intent. It would just be interesting to hear your thoughts on that, please.

Ms JENKINS: Yes, well, I think, when it's something quite intangible, like the intention behind it, we are just—we're not purporting to be legal experts in that area and so we obviously have defined the behaviours of coercive control in our submission. But I could take that on board as something that possibly we need to review.

The CHAIR: You're most welcome to take questions on notice at any time and provide a written response if you'd like some time to consider it.

Ms JENKINS: Yes, we'll take that one. I'll review that question. Thank you, Peter.

Mr PETER SIDGREAVES: Great, thank you. Thank you very much.

The CHAIR: Ms Vidal, did you have any comment to that?

Ms VIDAL: I mean, I just have a brief comment around intent. I think where the question of intent comes in, it's useful to review other areas of the law that look at coercion as key elements of offence. So, at the Commonwealth level, the trafficking and slavery offences rely heavily on the presence of coercion and [inaudible]—let me just start that again. The prosecution experience around trafficking and slavery offences is that it is very difficult to build a brief of evidence which looks at things like intent and is able to really prove the presence of coercion. So, my only comment really would be to look at other areas of the law which are using coercion as key elements for criminal prosecution and to look at that case law experience around how you would potentially write that into the law, or look at how that could be addressed across the full gamut of civil and criminal protections.

Mr PETER SIDGREAVES: Okay. Great, thanks very much

The CHAIR: Thanks, Peter. Yes, there's no doubt that this is a complex area and we will need to look at all available elements to get the balance right in this. Colleagues? Deputy Chair, Trish Doyle.

Ms TRISH DOYLE: Hi. Thank you very much, Petra and Laura, for the work that you do and for the efforts that you have made in contributing to this inquiry and speaking to your submissions today. It is appreciated and it is important work. I have put a variation of the same question to lots of people and I note that you caution, both have expressed caution against introducing an offence of coercive control. I would go so far as acknowledge and agree with you that we need to have non-legislative approaches around education, training, awareness raising, absolutely. We need to strengthen elements of our Crimes and DV Act [*Crimes (Domestic and Personal Violence) Act 2007*] as well and processes within that. But my question to the both of you is does leaving coercive control out of the criminal scheme send a message that it is less serious than physical abuse, do you think? What would you say to victim-survivors who want this change? They want to see coercive control criminalised as an option. Not everyone will choose that option, but what do you say to that?

Ms JENKINS: The Salvation Army's position is that we completely support in the end result to be a criminalisation of coercive control. But at present, we would like to have, in the early stages, the planning and the preparation and have a frontline force, not just the police, be aware, be trained in risk assessment and be able to support victim-survivors through their journey, rather than have it criminalised in the first instance. So, just making sure that there is a support network there, a system. The systemic barriers have been addressed and so that there is more likely to be a successful outcome with regards to legalising coercive control.

The CHAIR: Okay. Laura?

Ms VIDAL: Yes, so similarly, for us, it's not about whether or not it's more or less important. Our submission speaks to a broader acknowledgement of the reform that's required across the full spectrum of the family violence response in New South Wales. When we talk about coercive control, and as other witnesses have provided extensive commentary around what constitutes coercive control, it is a pattern of violence that intersects with a whole range of other offences that pre-exist in the legislation. So, our caution is really around introducing a standalone offence, that then does not necessarily speak to the offences that already exist within the legislation.

So, what we're really asking for is a holistic reform agenda that looks at how we define and understand domestic violence, which is inclusive of physical and non-physical forms of violence, which may very well lead to the inclusion of language like coercive control. But as we indicated, we find it a little bit pre-emptive at this particular moment in time to introduce a standalone offence of coercive control without those other considerations and reforms being put in place. So, our position really is that we would like to see a phased approach, where we then embed monitoring and evaluation across each of those phases, to ensure that what we are introducing is actually achieving the intended outcome.

Ms TRISH DOYLE: Excellent. Can I just put a supplementary question to you then, Laura? Do you think modern slavery should not be a crime?

Ms VIDAL: It's an interesting question that you pose. I don't think our comments are really around whether or not something should or should not be a crime, we're really talking about the fundamental framework which looks at the utility of the law in responding to these very complex issues. As you've rightly identified, some people use it and some people don't use it. So, we aren't necessarily suggesting that it should or should not be a crime, I think the introduction of modern slavery, I mean, there's a whole other conversation around how that found its way into criminal law, which time would not permit us for today—

The CHAIR: Nor the terms of reference, can I point out.

Ms VIDAL: Yes, so—

Ms TRISH DOYLE: No, it was just—

The CHAIR: So, we might move on.

Ms VIDAL: Thank you.

The CHAIR: Yes, terrific. All right. I'll go to Abigail Boyd. Thank you.

Ms ABIGAIL BOYD: Thank you, Chair. Thank you to both of you for your really detailed submissions and for not just addressing the question of whether or not we should criminalise coercive control, but also all of those great suggestions for the other things that we could be doing. One thing that we haven't heard much about yet—and I know that we will have some witnesses in March who may touch on this a bit more—is financial abuse. I think there's been a growing awareness of financial abuse as being part of domestic violence, but not really within that coercive control framework. Are you able to talk about the experiences your organisation has had with people who are suffering financial abuse and how that plays into the coercive control framework?

Ms JENKINS: Most definitely. The Salvation Army has vast experience in the financial counselling, Moneycare and emergency relief Doorways programs. We have frontline staff that are trained to recognise financial abuse as coercion. We find in our experiences that it is a chain to the violence and a person, particularly people that have limited access to products that allow them to be financially independent to leave violence, remain with partners that are coercively controlling their finances and their economic situation, because the fear of not being able to support either themselves alone, or with children. So, financial abuse, for us, is one of the main areas that we believe and support to have wide sector training in recognising that and also to the frontline services that can speak directly to a victim-survivor who may not be aware that they are actually being coercively controlled, or don't know what options they have to remove themselves from it at that earlier stage in the phases of coercion control that can lead to intimate partner homicide. If we can address and arrest the situation earlier on and allow that person to escape the violence, we can really make some differences there and that—not go down a justice path, so to speak.

The CHAIR: Thank you.

Ms VIDAL: A good—large amount of the work that Good Shepherd does is in the area of financial abuse. Our submission does speak to a pilot model around debt-abuse clinics and ways in which we can be identifying early indicators of coercive control or domestic abuse through financial pathways. So, we would support wholly some dedicated focus around financial abuse as constituting a form of domestic and family violence and to see that embedded within a definition of domestic violence is something that we would strongly support. Then what we would really also be calling on is a framework which looks very specifically at the financial services sector and the role that they may be able to play in an early intervention context around domestic abuse.

So, what we would really be saying is that responding to domestic and family violence is a whole-of-community responsibility. Legislation is one part. When we talk about non-legal frameworks, we also just don't talk about the sector that's known to be providing these services being boosted, we're talking about buy-in and investment from corporate Australia, from Government and from civil society. The opportunities that exist within corporate Australia to be doing that early identification work, particularly in the area of financial abuse, is something that I think we really need to be seriously looking at, as a State.

Ms ABIGAIL BOYD: Sorry, to follow up, just could you give us, I guess, some examples of when people think about financial abuse, to say, oh, the victim-survivor doesn't have any money, but it's much more complex than that and can you perhaps elaborate on what that sort of early intervention through financial institutions might look like?

Ms VIDAL: There was a key example that was in the media not too long ago where the banks had identified one-cent transactions that were being sent to partners with very abusive messaging in the reference material. It was threats and other fairly abusive behaviour. So, that sort of control into the bank account was actually flagged by a bank as an example of violence, which was then taken up with relevant authorities and/or support services. So, that's one example. Beyond that idea of not having any money, there's working and not getting access to your own wages, not having access to a bank card. Then there's very subtle forms of financial control which, as you've identified, are not things that come into common understanding about, oh, this person doesn't have any money, but it's the ability to make decisions about life choices which would then have a financial implication.

Not owning property but being solely responsible for the running of all of the other material aspects of a household. Not being able to do anything without seeking permission. So, all of those things. I've noted some other submissions and questions throughout the hearing around, well, how is this different to, say, for example, a relationship where one person is the key financial controller for that marriage, or relationship? I think the difference is consent and knowledge. If you do not have knowledge also of the ways in which somebody else is controlling money that you earn, then you've got a very serious question to be asked and answered there.

Ms ABIGAIL BOYD: Thank you. Did you want to add?

Ms JENKINS: I was just going to say that we'd like to support the broadening of the definition of

financial abuse to include withholding financial intellectual property that is very wide ranging. It can include things like not letting your partner see your will, if you have children. If you have children from a previous relationship and you're spending money from a joint account and you're not talking in where those payments are going. It's just to coerce and control that person into not being—having future planning and having a relationship themselves with the money that they're earning.

Ms ABIGAIL BOYD: I have also heard examples of where women have been unable to get records to set up a new bank account. So, their partner has their passport and all of the—yep. Sorry, Chair.

The CHAIR: Thank you. The Honourable Rod Roberts.

The Hon. ROD ROBERTS: Thank you, Madam Chair. Thank you both for your submissions and for attending in person today, it's much appreciated. I'll just address my question to you, Ms Vidal, if you don't mind, because I'm taken by some of your submission. Am I correct in saying that certainly Good Shepherd supports and encourages an investigation further into coercive control and legislation surrounding same, but your approach at the moment is not at this point in time, which I think probably may well be a tempered and pragmatic approach? But in the interim, am I correct in suggesting that you would like to see changes to the Apprehended Domestic Violence Order process as an interim measure, not the full stop and not the end of conclusion of this, but an interim measure? In doing so, I think you allude to changing the definition of family and domestic violence under the, I think, it's Section 6 of the Act, or whatever it is, to incorporate areas of coercion and controlling behaviours? Am I right in that summation?

Ms VIDAL: Yes.

The Hon. ROD ROBERTS: If so, would you like to speak further to that?

Ms VIDAL: Sure. Yes, you've made a very good summation about the key premise of our submission. It's not at all suggesting that we wouldn't be supportive of a potential offensive criminal—of coercive control into the future. But as I indicated earlier, we really are seeing the opportunity that this inquiry has brought to look at the entire system of how we respond to family violence in New South Wales and to have a phased approach, where, as we're phasing various different elements of reform, including a good, hard look at the ADVO process, what is it that we learn, what is the evidence that can be gathered and how do we then implement that so that we can ensure that if we do reach a point of criminalising something like coercive control, we have both effective implementation and effective outcomes.

The Hon. ROD ROBERTS: Certainly. Can I just—one last question, page 9 of your submission under Discussion Paper question 8 is the heading and it's basically:

Good Shepherd recommends the New South Wales Government does not introduce an offence of coercive control unless there is sufficient evidence demonstrating that a new offence is necessary and that an offence will achieve the state of objectives of improving—

—and I'm going to change the word women's safety there to victims' safety, because I think that's a much fairer summation, because there is evidence and we'll hear evidence and we've already got evidence that men sometimes are victims of family and domestic violence as well. So, going to that statement there, unless there's sufficient evidence to demonstrate a new offence is necessary, can you just talk to us further—

Ms VIDAL: Yes, so that speaks again to the previous point around if we look at this as an entire system reform and we start to implement changes to various other aspects where there are gaps in the law, or gaps within processes and response, what is it that we learn from that? I think our caution also comes from the point of when we look at the law and we look at the gaps within the law, we're looking at a system that has been established and we see those gaps and when we're trying to find solutions to fill those gaps, radically, we would also suggest that we really need to look at the system at its core and really question whether or not it is gap-filling that we want to be doing, or if it's overhaul that we want to be doing. That's really where that not-at-this-point-in-time comment comes from and also around the need to build the sufficient evidence base around the efficacy of a coercive control offence, as part of broader system reform.

The Hon. ROD ROBERTS: Sure. One last thing, Chair, if that's okay?

The CHAIR: Mm-hm, of course, absolutely.

The Hon. ROD ROBERTS: Again, and I don't want to be putting words into your mouth, but I'm just looking for either confirmation or denial of this, legislation on its own is just one path in this process. I think you talk about that. Lots of non-legal responses needed, including education and community awareness and all those sort of things, police training, judicial training, specialist police units perhaps, specialist courts even, with magistrates that are experienced in family law. Would it be a fair summation to say, though, that this Government, or any future Government will really need to dig deep into their coffers to support a whole holistic approach to

this?

Ms VIDAL: Absolutely, without significant investment, any order of reform will be challenged in its efficacy to achieve the desired outcomes, absolutely.

The Hon. ROD ROBERTS: Thank you. I have nothing else to—

The CHAIR: Thank you very much. We'll turn to our colleagues on videoconference. Justin Clancy, do you have a question?

Mr JUSTIN CLANCY: Thanks, Chair. Firstly, thank you to each of you for your submission and for being here today, in particular that you both touch on financial abuse as a part of coercive control and also domestic violence in itself, so thank you in that regard. My question is to Petra around I found another really important part for me was on page 15 in your submission for The Salvation Army around the risk assessment and management and just to say the line that says:

—ensuring victim-survivors are met with an appropriate response on first disclosure.

That's obviously a really important part of building trust in the system. So, I just might ask you to expand a little bit on the risk assessment and management framework and perhaps touch on the MARAMs [Multi-Agency Risk Assessment and Management] that you mentioned from Victoria please.

Ms JENKINS: Yes. So, risk assessment is key in everything, in every interview and client support response. You can identify whether they're at risk serious, or escalated risk with regards to their safety. Then sometimes, when you're going through a risk assessment, you can develop insight with the client into recognition and have agency with regards to the abuse that might be occurring. The MARAM is a comprehensive risk assessment tool for both adults and children. We adopt that in all of our case management practices. The Salvation Army prioritises the safety of children and acknowledge that children are clients in their own rights.

The risk assessments are in place and there is a risk assessment that identifies the 25 behaviours of coercive control. That can be a really powerful tool for someone to recognise, when you're going through that with them, how seriously they might be in danger. So, we would recommend, as Laura said, to increase funding within our sector, so that we can set up a platform and a framework and a baseline, so that we can address coercive control as it becomes part of the narrative of what we're dealing with and we have the supports, we have the expertise. It's not just left to the police and the criminal justice system to respond to this and address this. It is a whole-of-community response. That is why we, too, think it will be fundamental to the safety of victim-survivors and justice for them, but the first thing we need to do is prepare and support and fund the—and resource our sector appropriately, to be able to do this successfully.

Mr JUSTIN CLANCY: Thank you. Thanks, Chair.

The CHAIR: Terrific. Thank you, both. I just wanted to turn to—and I just wanted to thank you for structuring your submission in accordance with the discussion paper questions. Our task is limited, well, limited, it's quite wide, but we do have discussion paper questions that we are being asked to address. So, I appreciate you putting them in that format. I just wanted to turn to, Ms Vidal, one of your points in your paper about ADVOs and follow-up on my colleague's question about those. I think you've stated in there that you're interested in, or you propose that cautioning against introducing the offence, but also noting that there's other improvements to the justice system that can be useful. One of those you suggested is ensuring in ADVOs that victim-survivors are able to obtain an interim ADVO without the presence of physical violence. Could I ask you just to speak to that and expand on that for the Committee? If you have any comments on that, Ms Jenkins, you're welcome to do so also.

Ms VIDAL: Our experience of the ADVO system is that you need something fairly explicit and visible for those interim orders to be put in place. As with the challenges that we've heard through the course of the inquiry, the challenge is that a lot of experiences of family violence are defined by the physical nature of that violence. So, really, we're asking for a consideration to be made around non-physical forms of violence being sufficient enough to have interim ADVOs put in place to alleviate the burden of victim-survivors being able to demonstrate physical injury in order to have that level of protection instituted.

The CHAIR: Thank you. Ms Jenkins.

Ms JENKINS: Yes. I would also add just to that, last year's edition of pets onto ADVOs was a key response in recognising that often perpetrators use coercive control and threaten the family pets. That can be devastating and traumatising, not only for the partner, but for the children, where the pet might be their number one fan and the love there. Sometimes when they do leave, they have to leave pets behind, that can be just very re-traumatising for the child. So, that was, those kinds of amendments are really fantastic and progressive and do assist in removing some of the chains that hold people in their homes of violence.

The CHAIR: I love that analogy. Thank you for your recognition of that. I think we all agree, that was an important step and something that was just so obvious. I mean, there are some things that we potentially could do, criminalising coercive control is a big step in a sense, so there is a lot that goes with that. We've heard a lot of evidence about that that should take time and that there should be a lot of infrastructure around that, quite rightly, but this is potentially, with ADVOs, one area that could be implemented reasonably efficiently and quickly. You're nodding. So, just for Hansard, can I just get you to comment on that?

Ms VIDAL: Yes, I mean, we would be absolutely supportive of measures that the Committee has understood throughout this process that are less intensive being implemented quickly along that spectrum of reform, yes.

Ms JENKINS: We agree, yes.

The CHAIR: You see that suggestion not necessitating physical—or the nature of defining it by a physical nature as necessary as one of those options?

Ms JENKINS: Yes.

Ms VIDAL: Yes.

The CHAIR: Thank you. A couple of minutes left. Trish Doyle.

Ms TRISH DOYLE: Thanks, Chair. I do hear you and agree that we need a whole-of-community approach. I would say, as a child myself, and there's been some steps towards reform in my lifetime and it will probably be another generation before we see the kinds of good outcomes that you're actually talking to. I want to thank you both for articulating the importance of that across the board. My question is to The Salvation Army. Petra, you talk about prioritising children and children are doubly disadvantaged at times in situations where one of the parents is traumatised through coercive control, as you know. Do you think that explicitly recognising financial abuse as a crime will increase protection for some of the victims that you support? What other recourse do they have, if we don't actually criminalise it?

Ms JENKINS: I think, just recognising and increasing protective factors for parents that are experiencing trauma through violence, to be able to support them to be capable and caring and loving parents that they can be. Just having the ability to gain financial independence and release themselves from debt abuse and financial abuse will allow them to see that there are other options. So, I think, to hold space for the child, where they would—they often choose to stay because their options are so limited or they just don't want to leave, take the child away from a home and go into a refuge, however they may think that that would look like.

The Salvation Army supports children as clients in their own right and case manages them and has child-focused programs. So, for us, it is just broadening the options for someone so that they don't feel like they have to remain in the home. I think, as we've said earlier, there is definitely merit in criminalising coercive control once we have the foundations within our sector to be able to support the families and the victim-survivors going on that journey of leaving violence and recovering from the trauma that they've experienced. Often the system inadvertently creates an environment of secondary trauma, as they navigate the symptoms of that violence and the consequences of being financially abused for so long.

Ms TRISH DOYLE: With all due respect and just a quick point, thank you for that response, when one lives in poverty and as I child, my family was visited by The Salvation Army and St Vincent de Paul with boxes of food, but we were stuck for decades in that situation. So, that sort of help meant that we could eat and countless other families out there do as well, but until we actually recognise that sort of abuse as a crime in a pattern of behaviours, then the reality is those things don't change.

The CHAIR: I'll take that by way of comment. Thank you so much. We have to end our session there. We really appreciate your time today.

Ms VIDAL: Thank you.

Ms JENKINS: Thanks.

The CHAIR: I think you've taken some questions on notice and we do ask that you return your answers within seven days. The Committee staff will be in touch with you about those. If members have any further questions, they may put them to you in writing. Your responses will form part of your evidence and will be made public. Thank you so much for the work you do and for assisting us today.

Ms JENKINS: Great.

Ms VIDAL: Thank you very much.

Ms TRISH DOYLE: Thank you, both.

The CHAIR: We'll go to a brief break and we'll resume at 11 o'clock. Thank you.

(The witnesses withdrew.)

(Short adjournment)

ANN PEREIRA, President, Catholic Women's League Australia NSW, sworn and examined.

LYNDA DUNSTAN, Family and Domestic Violence Advisor, Anglicare Sydney, sworn and examined. Before the Committee via videoconference.

KELSIE HEDGE, Manager, Homelessness and Housing, St George Sutherland, St Vincent de Paul Society, sworn and examined. Before the Committee via videoconference.

The CHAIR: Welcome back to the Joint Select Committee on Coercive Control, day three of our hearing. Thank you for joining us. We have in the next session witnesses from Anglicare, Catholic Women's League Australia, St Vincent de Paul Society in this session, so welcome everybody. Can I ask, Ms Dunstan, do you have an opening statement you would like to make to the Committee?

Ms DUNSTAN: Yes, I do.

The CHAIR: Go ahead with that now, thank you.

Ms DUNSTAN: Coercive control is a violation of human rights. Anglicare supports criminalisation but desires to see legislation that is carefully crafted after extensive consultation with survivors and their advocates so that the nature of coercive control is clearly identified and great care is taken to create legislation that will not misidentify victims as perpetrators. Legislation to be successfully implemented requires specific training of police and judicial officers and service providers so they are able to recognise the pattern of behaviours that is coercive control. We also recommend that ADVOs should be reformed to take account of victims' specific needs for safety and breaches need to be recognised and enforced.

Anglicare Sydney particularly wants to emphasise that coercive control has significant negative impacts on the wellbeing of children and family functioning. It includes specific attacks and undermining of survivors' parenting capacity and ongoing and often escalating after separation. We believe that the criminalisation of coercive control in a New South Wales legislation will have flow-on effects in the family law area and may lead to the recognition of the ongoing abuse that is so often perpetuated against the survivor and children in that legal arena.

We can commend to the government a range of non-legislative initiatives around ongoing public awareness raising, primary prevention education and improve funding for both victim services and men's behaviour connect programs. We also note that coercive control has specific challenges and impacts for women from different religious and cultural backgrounds and that their voices and experiences need to be heard as part of the engagement process. We, at Anglicare Sydney, have specific expertise and interests in the area of supporting women from conservative Christian backgrounds who experience coercive control and in educating our religious community to better recognise and respond and also how religious values can be misused to justify this. Thank you.

The CHAIR: Thank you very much and we would be appreciative if you would be able to forward a hard copy or electronic copy of your opening statement to the Committee staff. There is no rush now, but that would assist with Hansard. Thank you.

We also have by videoconference Ms Hedge. Do you have an opening statement for the Committee?

Ms HEDGE: Yes, I do.

The CHAIR: Yes, if you would like to go ahead, thank you.

Ms HEDGE: First of all I would to acknowledge the traditional owners of the land in which we meet today, the Gadigal people of the Eora nation. As I mentioned, my name is Kelsie Hedge and I am here on behalf of St Vincent de Paul. As Vinnies, we often are a trusted name within the community and at the heart of the work that we do is supporting those most vulnerable in our communities. We provide a broad range of services from those with material aid and community centres, through to professional services for people experiencing or at risk of homelessness. As part of this suite of services, we offer 12 specialised domestic and family violence [inaudible] crisis accommodation and transitional accommodation in Sydney and the broader New South Wales. In the financial year of 2019 and 2020, we supported 2400 people dealing with domestic violence through these homelessness services.

In our daily work, we see the impacts of coercive control and with similar to the testimonies prior to me in this inquiry, we see that there is a pervasive nature to the problem and that it has devastating psychological and emotional damage caused as a result of coercive control. We also see the many challenges of trying to prove coercive control in the court and how this further disadvantages the very people in the system that it sets out to protect, typically women and children. We are therefore supportive of the efforts to strengthen the legal system's

capacity to recognise and respond to coercive control and to strengthen this. We are really grateful to be here as part of this process.

However, we feel strongly that in order to achieve the goal and to better protect the victim-survivors in our system, we feel that there is a clear need for a definition on coercive control and that there are indicators and tools to measure its presence in relationships. We feel that this process, it is critically important that this work is done correctly and in consultation with the very people that may be victim-survivors, as well as those from diverse backgrounds and the service systems that support them. We would also hope to see that there are changes in the broader criminal justice system and how they respond to victims and in our submission we have made a number of recommendations of how we feel that the police and the broader system could respond better to victim-survivors.

I also know that many organisations have put an emphasis on training and awareness raising as part of this work. We feel that this work should be done both in the human and criminal justice sectors, but also the broader community. Lastly, we want to ensure that there are the right supports for people who choose to leave abusive relationships are able to access. We feel that accessible and affordable housing is crucial to this, as well as an integrated and coordinated service response, so that when people make that really brave decision to leave or to speak out about the abuse, they know where to seek support and that support can be tailored to their needs.

The CHAIR: Thank you very much, that is terrific and we appreciate you being here also, so thank you for that. Miss Pereira, do you have an opening statement for the Committee?

Miss PEREIRA: Yes, briefly. Basically stating that we focused on several points which we felt require significant investigation, research and study. When does coercion become an offence? We use it every day in the home, bullying the children into doing their homework or the husband to mow the lawn. When does it become an offence? There is a need for clear guidelines as, in a multicultural society, many customs, traditions and religions hold different values, some which may be seen as coercion.

The domestic family violence laws currently cover many forms of abuse: emotional, psychological, sexual, physical. This is another layer to those activities. Should it be treated as a separate offence? First responders, frontline staff, doctors, nurses, police, schools, baby health clinics, et cetera, often associate domestic violence only with the physical. Therefore, education needs to be a high priority.

In regard to penalties, there is a need to determine the frequency and duration of control to determine the penalty. Our belief is: will this break up a family; is the relationship salvageable; will a custodian sentence help or hinder; is it possible to unravel the cause of this behaviour; if this is inherited behaviour, are we able to break the chain; is it possible to rehabilitate, perhaps referring to services, for example, Interrelate, maybe cognitive behavioural therapy or ultimately a community treatment order followed by imprisonment if the behaviour continues. Education appears to be the key to managing this as an offence. As mentioned before, education of first responders and frontline staff as well as the courts. Thank you.

The CHAIR: Thank you very much. Again, if you would be able to make a copy of your opening statement available to the Committee staff, we would be appreciative. Thank you all at the outset on behalf of the Committee for the important work you do in the community, for taking the time to provide written submissions, they were very helpful. They have been circulated to our colleagues and Committee members and we have had the opportunity to absorb those, so thank you, we will ask specific questions in the limited time we have.

I wanted to turn, if I may Ms Dunstan, to you and to your submission and I also, sorry, just wanted to thank each of you for framing your submissions in relation to the discussion paper questions which we are tasked with answering, or attempting to answer, so thank you for helping us in that task. Ms Dunstan, in relation to your submission, on page 3 you talk about at point 5 legislating, and I will quote from you:

Legislating coercive and controlling behaviour as a criminal offence should widen the opportunities for the victim to present evidence of the pattern of abuse which is currently not available.

I am interested in why in that sentence and if you would elaborate on it, why you say that and what opportunities we might have to be able to assist with that challenge.

Ms DUNSTAN: Yes, thank you for that. I think I can speak to two things. One is the need for a broader understanding of coercive control, which I think is pretty fundamental to the nature of domestic violence and shifting the criminal approach, the policing approach, from incident-based to pattern-based behaviours and being able to identify that pattern. I think we really feel that for the victim-survivor, there is that need for them, right from the beginning of disclosure, whether that be to the police or later on when the matter might end up in court, being actually able to present in more detail the evidence of the history and the pattern of this behaviour and how it has impacted her as the victim-survivor.

We are really aware that the individual behaviours themselves viewed alone might seem small and

insignificant and it is only when you get that full picture of the pattern of behaviours and the ongoing impact of fear and intimidation, psychological and emotional distress that is being caused to the victim-survivor, that you can really understand the nature of what is happening. That is what we would really like to see, is better avenues for the victim to be able to tell that story and present that bigger picture, so that we don't look just at incident-based, but we look at that pattern of behaviours.

The CHAIR: Yes, thank you for that. I think that we have heard other evidence of that and appreciate that that is a challenge and an opportunity for us because while there may be evidence gathering at the moment, the opportunities to present that in a holistic way as a pattern as opposed to, as you say, incident-based, is something that we could perhaps readily do with ADVOs or other more immediate means. But this certainly might present an opportunity to do that through the coercive control charge as well.

Did any other witnesses want to comment on that aspect about producing and getting before the courts and the justice system evidence of the pattern of behaviour?

Miss PEREIRA: Ann from the Catholic Women's League. Yes, I think we need to be very careful that we are using the correct patterns and we are not just seeing one-off issues that are occurring. I think that we have to provide both the perpetrator and the victim with the support to step forward and admit to their issues and problems. If they feel that by admitting to something along these lines that they are going to end up in a criminal situation, they may be reluctant to actually admit that they have an issue.

The CHAIR: I am sure. Ms Hedge, did you have a contribution to make that on that?

Ms HEDGE: Yes, absolutely. I think from St Vincent de Paul we also would support being able to recognise that pattern of behaviour and perhaps understanding that as a broader issue, not just having that higher threshold for physical instances of domestic violence. I think for us it is really important to acknowledge that, for often these patterns of behaviour can be really debilitating for people's emotional and mental health and that often that will then create extra barriers for people seeking support.

We also acknowledge that within the broader service sector, often access or having an AVO or an ADVO gives—opens more doors for support, but often when we are seeing these patterns of coercive control, access to those supports can be quite limited because there is not a system that recognises coercive control as that element of domestic violence, so it can create extra barriers to seeking support when women, or typically women or the victim-survivors, are required to provide evidence of the domestic violence.

The CHAIR: Thank you. If we have further questions, we might put them to you in writing. I might have a couple on that and how we explore that in your day-to-day work and how that might assist in a very real and practical sense.

Ms HEDGE: Great, thank you.

The CHAIR: I have a question from one of one of our members participating via videoconference. Justin Clancy, are you there Justin?

Mr JUSTIN CLANCY: Thanks Chair and firstly, thank you for each of you for your submissions and being here today. My question is to the Catholic Women's, to Ann please. Just found it interesting that in talking about sentencing and other avenues for reform, Questions 13 and 14, you touch upon that incarceration or sentencing in that regard may not always be appropriate and you have said that:

A sentence of imprisonment might be considered only if the evidence of the outcomes of incarceration for victims and perpetrators is gathered and supports such a conclusion.

I would like to, I suppose, expand on that. Would it be fair to say that giving magistrates a level of, I suppose, tools at their disposal that might include jail sentence, but might include other courses of action such as diversionary behaviour change programs, things like that, is that what you are alluding to there?

Miss PEREIRA: Definitely. I think it comes back to the frequency and duration of the type of behaviour we are talking about, depending on the severity as well and when the person comes before that court, that we do explore other avenues before we go to the incarceration imprisonment.

Mr JUSTIN CLANCY: Thank you, Ann and I might open that up to the other witnesses as well, if they would be interested in speaking to that please.

Ms DUNSTAN: I think there is definitely a need for a range of sentencing options. We would particularly encourage judicial officers to be referring people who use violence, men who use violence against women, to recognise an accredited men's behaviour change programs as part of the outcome, or being to bring about change wherever possible, but to really prioritise the safety of the victim. I think one of the things we are particularly interested in is how the victim's safety and her needs, what she identifies as will be helpful for her safety, could be

part of that decision about sentencing.

Mr JUSTIN CLANCY: Thanks Lynda and I suppose just drawing that out, so I suppose through a victim impact statement or similar?

Ms DUNSTAN: Yes, because again, the behaviours themselves may seem small and insignificant to an outsider, but the power of them and the devastating impact on that survivor's wellbeing, on the family functioning, her fear for her life, may be enormous because of the nature of the relationship and that ongoing pattern of behaviour. I think we really need to be taking that into account, what is the victim's actual lived experience and not just simply a pattern of behaviours that might look fairly benign to an outsider.

Mr JUSTIN CLANCY: Thank you. Thanks, Chair.

The CHAIR: Thank you very much, everyone has contributed to that? Is that sufficient, Justin?

Mr JUSTIN CLANCY: Thanks Chair.

The CHAIR: Lovely thank you. I might go to Ms Abigail Boyd.

Ms ABIGAIL BOYD: Thank you Chair and thank you to all of you for your detailed submissions and for coming along today to give us evidence. I wanted to pick up on something that I think you have all mentioned to an extent in your submissions or your opening statements and that is this issue about what does a normal relationship, in inverted commas, normal relationship look like versus one that is a relationship marred by coercive control? I think when we are looking at particular religious or cultural values, that this becomes a quite vexed question. Some people have said that the distinguishing features are fear, control, lack of consent, but from your perspective, in the context of some religions being a very authoritative father sort of model, in some religions there is, I guess an acceptance or a value around a man having certain control over a woman, how do we, I guess firstly make sure that we are not imposing outside values on that relationship, but also capturing people who are wanting to flee a coercive control relationship? Shall I start with you, Ms Dunstan?

Ms DUNSTAN: Yes, thank you for that. I think that is always an ongoing challenge and particularly in the education realm and I do education programs for Anglican Churches in Sydney in particular, so thinking about it in that context as well, how you distinguish between normal relationship conflict and a pattern of coercion and control. I really see the key element is fear and intimidation and lack of capacity for autonomous decision-making. I certainly don't feel that that is justified, particularly in our religious context or in any religious teaching or understanding. I think that key element about fear and intimidation that the victim is experiencing is pretty central to understanding that this is not just relationship conflict, this is a pattern of power over one person over another and it really does undermine autonomy, a sense of self and capacity for any sort of decision-making as an individual.

Ms ABIGAIL BOYD: Thank you. Ms Hedge?

Ms HEDGE: Yes, I would just like to expand on that and just to reinforce it, it really is that pattern of behaviour, it is not those one-offs. I also acknowledge that are a variety of behaviours that can be employed by abusers as part of this coercive control and that they use various tools as part of that, so things like using technology, which is ever evolving and ever changing, as a way of using or employing control over their victims. I also want to really reiterate the point of having the victim-survivor's voice at the centre of any of these decisions and discussions that we are having. It is really essential that we are consulting with them and to understand from them what coercive control means and how it feels and how, as a service system, we need to be responding to those patterns of behaviour.

Ms ABIGAIL BOYD: Thank you. Miss Pereira.

Miss PEREIRA: Yes, one of the things that comes to my mind is in my community we have a large Sikh community and they have arranged marriages; they go back to India to find a bride or a groom. That is normal to them. To us, we feel that that is probably a bit outside the realm of our understanding. The same with women wearing a burqa. We don't necessarily agree with it from our Anglo-Saxon background, but it is the accepted norm, the same as in a mosque, they have separate rooms for men and women. I don't see that these can be—these things need to be considered when we are looking at how deep control goes and patriarchal societies do value their women. Yes, they do abuse them as well, no different to any other society, but I think we need to remember that they have a certain level of normal behaviour which we probably consider outside our normal level of behaviour.

The CHAIR: Thank you, that is a good point that needs to be potentially nuanced and have some discretion in there for different situations and different people, so thank you for that. My colleague, the Hon. Rod Roberts.

The Hon. ROD ROBERTS: Thank you, Madam Chair. To all three of you, thank you very much for your submissions and your time today. Miss Pereira, this is not so much of a question to you, but more of a statement on your submission. I think you have nailed it, if I can use that vernacular, in terms of the caution that we as legislators need to take in terms of making any changes to legislation around coercive control, because the outcomes may not be what the victim wishes for. It may be the case that a victim does not want the perpetrator to end up in jail, they

simply want the action to stop. I think that is what you are alluding to there and that is something that we must obviously consider and be very mindful of.

To that regard, and it has only just come to me whilst we are sitting here this morning and this is the first time I have floated this, but perhaps in terms of if a conviction is recorded, that we need to look at something like a victim impact statement where the victim can say to the magistrate, after a conviction, look I really do not want him or her to go to jail, I just want them to stop that course of action, I want us to remain in a functioning normal relationship and I want some boundaries imposed on his or her behaviour, which may well satisfy both parties.

Miss PEREIRA: Yes.

The Hon. ROD ROBERTS: Not necessarily cart somebody off to jail which turns a dysfunctional family even more dysfunctional. That is something I suppose we can consider at a later point in time. So that was just mainly a comment and a support and recognition of your approach to it. Ms Dunstan, my question is to you. Recommendation 7 on page 11 of your submission talks about the need for carefully drafted legislation, which I agree with entirely, hence that I have just touched upon there in extensive consultation. Where I have got concerns and issues with your submission, it says:

Consultation with women's groups active in this space.

Ms Dunstan, what about men's groups? Would it be fair and equitable to have them involved in the process too, bearing in mind there is a plethora of evidence to suggest that men are victims of this too? Why have you excised them from the consultation?

Ms DUNSTAN: We would have no objection to you also engaging with men's groups or men's organisations. I think our submission is based on the known statistics that the majority of victims of domestic violence are women and children. That it is a gendered phenomena and particularly when you look at the nature of coercive control, that that in particular is a very gendered nature crime, I will call it crime, that the pattern is primarily men who are perpetrators and women who are the victims of that coercion and control. Of course that does not mean to say that men cannot also be victims, but that is the fairly well recognised statistical position and that is why, I guess, we learned our submission towards consulting with women's services who are engaging with those survivors. But please, feel free to consult as widely as you are able.

The Hon. ROD ROBERTS: And we will, but just to rectify, perhaps, something that you have said, when you talk about statistics, I want you to be aware of the fact that 42 per cent of domestic violence related murders, the victim is a male, 42 per cent. So when we start quoting statistics—

Ms ABIGAIL BOYD: Order.

The Hon. ROD ROBERTS: —let us just be careful about what we are quoting.

Ms ABIGAIL BOYD: Point of order.

Ms DUNSTAN: Yes, I would be very interested where you get that statistic from in particular—

The Hon. ROD ROBERTS: Bureau of Crime Statistics.

Ms DUNSTAN: —but what I would say is one thing we know about homicides, so we know that it is about one woman per week and about one man per month are killed in a domestic violence or family violence related incident, but we also know that there's a significant number of the men who are victims are actually killed by other male members of the family. The pattern is really variable and I guess that is why we all have to be careful with arrogations of statistics because we have to really look and unpack what is actually going on in those individual cases. But yes, I totally acknowledge that men also do die in domestic violence-related incidents.

Ms ABIGAIL BOYD: Order. I need to take a point of order here.

The CHAIR: Thank you. If you just excuse us for a moment, there is a point of order. Ms Abigail Boyd.

Ms ABIGAIL BOYD: If I could ask the Chair to caution members against presenting what they believe to be evidence when they are not in a position to have that evidence examined by Committee members. It is inappropriate in this context.

The CHAIR: Thank you, okay we might deal with that. That is noted. Deputy Chair, Trish Doyle.

Ms TRISH DOYLE: Thanks Chair and thanks to each of you for the work that you do in this space, awareness-raising for your submissions and speaking to those today, we do appreciate it very much. I just wanted to, for the record, note in your submission, in the Anglicare submission, on page 8 and in answering point 5, the question could the current framework be improved to better address patterns of coercive and controlling behaviour and how, I would just like to thank you, Lynda, for outlining that the framework needs to be underpinned by not

just an understanding of the patterns of behaviour, which constitute abuse, but by the predictability of those patterns that can lead to homicide. I think this is absolutely critical for us all to note and I just wanted to single that particular point out that you make so well.

I am going to put now a question to each of you, if you wouldn't mind answering briefly. There are a number of organisations and individuals that are either cautiously backing the criminalisation of coercive control or are outright against criminalising this. What do you say to this? Does leaving coercive control out of the criminal scheme send a message that it is less serious than physical assault? We will start with you, Ann.

Miss PEREIRA: I certainly don't think so. I think we need to have it recognised somewhere in the system. But the Domestic Violence Act already covers things like stalking, phone monitoring, digital surveillance, all those types of things, so maybe we are duplicating something that is already in place just by calling it another name.

Ms TRISH DOYLE: Lynda?

Ms DUNSTAN: I think Anglicare's position is very much that coercive control needs to be specifically criminalised and that we need that recognition of this insidious pattern of behaviours and the devastating impact it has on its victims, primarily women and children and particularly its high-risk links to lethality in domestic violence cases. While, yes, the current legislation does address some of the individual types of behaviours that may make up that pattern, there is currently not that recognition of the pattern. As I said previously, sometimes the elements of that pattern of behaviours are behaviours that would seem benign to an outsider and unless you are looking at that overall pattern and the impact on the victim and really recognising the severity of that impact, I don't think you are ever going to really address the issue of domestic violence in this state.

Ms TRISH DOYLE: Thank you very much. Ms Hedge?

Ms HEDGE: Yes, I think St Vincent de Paul are in line with the Anglicare submission in ensuring that we do feel that it is important that it is legislated, this coercive control and the pattern of behaviours. I think we also feel that there is caution needed when creating this legislation and creating the behaviours, which is why part of our submission is that we felt it was important that we create, I guess an element of articulating certain behaviours as well as developing some screening tools that can be used in a systematic way within the sector to both increase awareness of what this phenomena looks like in practice, but also to create a more standardised approach to it so that there is a more structured way of addressing the matter.

Ms TRISH DOYLE: Excellent, thank you for your answers.

The CHAIR: Lovely. Any other questions from members? Lovely, on time, on budget. Thank you very much, that concludes this session. I very much appreciate your assistance to the Committee today and thank you for the great work you do out in the field. If you have taken questions on notice, we ask that you return your answers within seven days in writing and members may pose additional questions to you in writing and if you are prepared to take those and provide us with answers, that would be very helpful. Those answers in writing will form part of your evidence and will be made public as well. Thank you for your assistance today, thank you.

(The witnesses withdrew.)

LEITH ERIKSON, Founder, Australian Brotherhood of Fathers, before the Committee via videoconference, sworn and examined.

CODY BECK, Principal Lawyer, ABF Legal, before the Committee via videoconference, sworn and examined.

MICHAEL JOSE, Research Consultant, Australian Brotherhood of Fathers, before the Committee via videoconference, affirmed and examined.

The CHAIR: Thank you, we might get started. I understand we have all three of our next panel of witnesses on webcast, so thank you to each of you. Welcome back to the Joint Select Committee Inquiry into Coercive Control. Our next witnesses are from the Australian Brotherhood of Fathers. Welcome. We also have some of our Committee members participating via webcast also. Thank you. I appreciate you and your assistance today. Thank you for your written submission, which is very helpful and for the work that you do. Do you have an opening statement? I am going to ask if there is one person that has an opening statement.

Mr ERIKSON: Yes, I have an opening statement.

The CHAIR: Thank you, go ahead.

Mr ERIKSON: Okay thank you and initially I would like to acknowledge all the victims of domestic violence in Australia, particularly Nathan Katterns and his family who had his daughter recently murdered by their mother in 2019; the family of Daniel Surtees who was burned alive by his wife in 2019; James McLeod whose four

children were murdered by their mother in May 2019; Aaron Cockman and his family whose four children and ex-wife were murdered by their grandfather in 2018; the family of Darren Reid who was burned alive by his partner in 2016; the Guode family who had their three children murdered by their mother in 2015; the Thaiday family who had eight children murdered by their mother in 2014; and I would like to acknowledge the Clarke and Baxter family who are left with the deaths of their children and grandchildren because of Rowan Baxter's actions and ultimately the reason why, I guess, we are here discussing coercive control behaviour.

I mention these names, the names of these victims, as a reminder to you, our elected leaders and policy makers, that domestic violence victims are not defined by their gender, that your job in making recommendations to government on new laws is to do so with the goal of ensuring all victims of family and domestic violence are provided with protection regardless of their gender. I would like to remind the Committee that the Australian Brotherhood of Fathers has been talking about coercive controlling behaviour for the last seven years publicly. We have been running a campaign called Not Your Right, which talks specifically about coercive controlling behaviour post separation and we thank the Committee for an opportunity to speak today.

The CHAIR: Thank you very much, that is very helpful. Mr Jose, did you have an opening statement or is that on behalf of all of you? Thank you, I will take that as read. Members, colleagues, questions?

The Hon. ROD ROBERTS: I thank you for your detailed submission, it is very extensive. I am not going to ask any questions other than to congratulate you on your gender-neutral submission. It is recognised and should be recognised and reinforced that unfortunately domestic violence touches upon all members of society, whether they be male or female and it should be acknowledged and recognised that perpetrators and offenders are both male and female as well. I have no questions because your submission speaks to itself, as far as I am concerned, but I congratulate you on taking a pragmatic approach to your submission. Thank you.

Mr ERIKSON: Thank you.

Mr BECK: Thank you.

The CHAIR: Colleagues, any other additional questions?

Ms TRISH DOYLE: I don't have a question. I am just going to make a comment.

The CHAIR: Just for those colleagues online, thank you, Deputy Chair Trish Doyle.

Ms TRISH DOYLE: Thanks Chair. I am just going to make a comment that in the main victims are defined by their gender. Over 90 per cent of victims are women and children. But that is not to say that there aren't victims from time to time that are men. Thank you.

The CHAIR: Thank you. It is great to hear from you. Our job here is vast and we do appreciate the opportunity to hear from a wide variety of stakeholders and appreciate your input and also the detailed submission that you have made, which is helpful. It has been circulated obviously to Committee members. I just wanted to ask you about the current framework and whether you think that there are immediate steps that could be taken in relation to coercive control and the gathering of evidence that might assist to gather that evidence and put it before courts and judiciary at the early stages through perhaps the ADVO system or other ways that, in your experience and in your work, might assist.

Mr ERIKSON: Michael, did you want to have a go?

Mr JOSE: Except just to identify the fact that gathering evidence, I think, is going to be difficult under the proposed legislation and obviously we have both the UK and Scotland to turn to in relation to the implementation of the legislation, the potential elements and construction of it and how it is actually being effectively applied within those jurisdictions. I think the general commentators state that within the UK and Scotland it cannot be considered to be an unconditional success and there are various reasons for that, which I will briefly talk to. But it is worth noting that for every single unsuccessful conviction, there are obviously wasted resources or tied resources, there is a cost to society and there is a loss for the opportunity to assign those resources and that funding to address other crimes.

The forces within the UK have stated that coercive control charges have shown to be very hard to achieve, are challenging to prove. I think within the first two-and-a-half years of the legislation within Scotland and the UK, the majority of cases were dropped without a charge. In our submission, we have got statistics such as 12 out of England's 29 police forces have brought fewer than one charge under the legislation per 100,000 people under their jurisdiction. There is data in relation to 33 police forces within England and Wales across 2016 to 2018 showing that there were 7000-odd arrests, but only 1100 cases had resulted in someone being charged and that the Home Office said there had only been 235 successful convictions since the law was introduced. What that represents is a phenomenal burden to both police forces, police investigative resources and also the administration system, sorry, the justice system.

Need I point out the burden in relation to domestic violence on our judicial and justice systems across the

country; by way of example, in 2018 in New South Wales, there were some 33,000 domestic violence orders applied for and that is increasing about 10 per cent per year. So the cost to administer justice in relation to some of these legislations is incredibly high. The prosecution rate and the very low prosecution rate may indicate deficiencies with the offence and difficulties of the police in proving the cases. It may also indicate that there is a pressing of false and malicious charges that are never going to succeed.

We know within Australia in some jurisdictions, there is a pro-prosecution policy in relation to domestic violence. We think that is disproportionately harmful because it means the burden falls upon the accused to attempt to defend themselves, so we know we are dealing with many men that as soon as they are charged with an offence, even if that offence has no chance of succeeding, they are already incredibly burdened in relation to the costs to defend themselves against a potential criminal charge and criminal conviction. They also suffer phenomenal stress and duress in going through that process when in many cases those charges were never going to succeed. We know that police frequently state that they take a pro-prosecution approach and they let the courts sort it out. That, we believe, is not the way justice should occur.

We also note in the UK and Scotland that the custodial sentence for those sent to prison under the new laws was 17 months or less and the average amount of compensation paid to victims was £413. So definitely a lot of work needs to be done in relation to how the offence is going to be worded and how it is going to be potentially administered and prosecuted by police and whether there is a cost/benefit analysis associated with that.

Mr ERIKSON: I think to add to that as well, if we look at the current system where a temporary order can be made or a final order can be made, for that matter, without evidence being produced other than hearsay evidence, we believe that it will further impact negatively on innocent people who, for no fault of their own other than having a relationship that has ended, they are finding themselves before the courts, restricted access to their children and facing penalties that are a result of a relationship ending. We see it on a daily basis. We see the impact of coercive control predominantly on men, because that is the work we do, we work with men and dealing with DV and family law matters and the courts, the police, under the current system are failing those men. We see the systemic discrimination.

It is really concerning for us, particularly when the Private Members' bill was made initially, that they were talking about penalties of up to 10 years and I can assure you, we want to hold perpetrators accountable. If men or women are doing the wrong thing in their relationships and harming their partners and their children, they absolutely should be held accountable. But I don't think this is the vehicle to make that happen. I think the focus should be intervention and prevention and taking care of people when they come out of relationships to ensure that they are safe and protected, rather than trying to generate penalties post-separation, again, without producing any tangible evidence.

Mr JOSE: Yes and poorly drafted legislation and poorly administered legislation may just be another additional avenue for abusers to weaponise such courses of action in tandem with the Family Court actions. We have spoken extensively in relation to how actions in relation to domestic violence tend to go hand in hand with Family Court actions in relation to both property and parenting matters. We see it as a potential opportunity for a continuation of abusive control through system abuse. We consider it to be domestic violence in itself. We have also extensively written in our submission how there are significant issues in relation to false allegations, particularly where there are no ramifications for false allegations within applications in relation to, say for instance, AVOs or allegations within the Family Court. Without a doubt, an action under coercive control will no doubt have a Family Court action in parallel.

Mr BECK: If I can just jump in as well, I can just talk from personal experience in relation to my family law practice. I have been a practitioner for over 12 years now, predominantly with family law. My experience with current domestic violence legislation is that, as Leith said, it is blatantly discriminatory. You could have the exact same set of facts presented to a magistrate and if it was a male applicant, it would be dealt with differently to if it was a female applicant.

Just in terms of your question in relation to the current evidence-gathering, what we are seeing happen quite frequently is a DVO application is made by a female, there are allegations made in there. I am not talking—on occasions there, there is actually some independent evidence, being there might be injuries, there might be text messages, things like that. They don't need to have those things for an interim order to be made. They can be just allegations of things that have been said, they go along to court, they'll file the application on the day, they will generally be in front of the magistrate on that day, an order would be made ex parte without the other party being even aware of it and then a lot of the time, an ouster order is made where police show up at the house and then the respondent is ousted from the property. We see this all the time.

The vast majority of women's applications are heard ex parte and an order is made straight away very often with ouster orders. Very rarely, when we have got a male applicant, are orders heard ex parte. Generally they will file today, they will get a court date in a couple of weeks' time and then the respondent can come and give their side of the story. In our view, that should take place at all times, particularly in circumstances where you have got

children involved and where the applicant is asking for an ouster order where somebody [inaudible] from their house and be given no type of accommodation, they get no kind of support or any other kind of support from the government at that time. There is a massive difference there and I see it weekly.

The CHAIR: Thank you, great. I am going to stop you there, thank you very much, I appreciate your response. If you would like to provide further information, you are most welcome to do so in writing. I appreciate your day-to-day experience; they are wide issues and wide questions. We have, however, terms of reference so we have to deal with these questions that we have been given. So I am going to ask you just to take a question on notice and provide an answer to me in writing on notice. I believe my colleague has the same and then I have two questions from members appearing via videoconference.

If you could just take on notice—and I take on board your comments about the challenges and I appreciate your contribution in that regard, I just want to ask if you would take on notice discussion paper question number 8, which I think talks to some of the issues you have raised, which is:

How might the challenges of creating an offence of coercive control be overcome?

I appreciate your raising those challenges and just wanted to see, I couldn't—I may not have read it closely enough, but what your suggestions might be for meeting some those challenges from the perspective that you have brought. The Committee staff will provide those questions to you.

I will just briefly ask my colleague, Abigail Boyd, to let you know her question on notice and then I will go to Justin Clancy.

Ms ABIGAIL BOYD: Thank you Chair and thank you to our witnesses for appearing today. Part of our job as a Committee is to not only receive submissions and give people a chance to have their say, but also to test the veracity of the evidence that we have received. Given the previous history with the Australian Brotherhood of Fathers, I want to say this in a respectful way, but coming up with figures based on anecdotal evidence instead of statistics and I refer in particular to the 21-deaths-a-week campaign which you ran, I believe a few years ago, which was based entirely on a conversation somebody had with a paramedic, I believe, and was referred to as anecdotal but then the quote was:

We're waiting for somebody to come and tell us it's wrong.

You quote a lot of things in your submission, some of them have footnotes, there are a whole bunch that don't. There is one, for example, saying:

The consensus is that men comprise one-third of all victims.

I don't think there is consensus. My question on notice is could you please go through and every time you make an assertion about particular statistics, if you could back that up with actual evidence so that we can understand the veracity of the evidence in the submission, that would be fantastic. Thank you.

Mr ERIKSON: No problems, thank you for that question. Just to add to that—

Ms ABIGAIL BOYD: If you could you just take that on notice.

Mr ERIKSON: Yeah, happy to, but just in regards to the comments referencing the 21 fathers campaign, we actually still run that campaign because it is of significance and concern for us. That campaign was started because of media reports by some of the advocates that have been working with men for the last 40 years, Lone Fathers Association. We produced the campaign because the numbers that were being talked about between three and five men a day taking their lives because of family [inaudible] we took as quite a serious subject.

Ms ABIGAIL BOYD: That you made up.

Mr ERIKSON: We produced the campaign as an awareness campaign to ideally have government research the topic and produce some sort of evidence that would give us a better idea of the impact of suicide in men dealing with family separation and the policies that we are currently working on.

The CHAIR: Thank you, Mr Erikson. I appreciate that and what I am going to do is ask you, I am just conscious of time and I have got two members who would like to ask you questions, if you would like to provide that further information please do so on notice in writing to us. The member has invited you to do that and we would love to hear your answer in that regard, so thank you for that. I am going to hand now to one of our members online, Justin Clancy.

Mr JUSTIN CLANCY: Thanks Chair and gentlemen, thanks for your submission and for being here today. In terms of the elements of the offence, and I appreciate your contribution in that regard, I want to ask you to expand on page 21 of your submission in terms of course of conduct frequency you touch upon, that two occasions you

would consider too low a threshold and you propose a reference to an ongoing and sustained pattern of behaviour. So can I ask you to expand on that and how you might define that ongoing and sustained pattern?

Then secondly, the last paragraph on that page, you draw a—you say a large number of crimes are expressive crimes and that in some way those that are influenced, say by alcohol, should be distinguished from patterns of behaviour. So I would just ask you to expand on that as well please. Thank you.

Mr ERIKSON: Michael, did you want to expand on that? I think we have lost Michael, so can we take those questions on notice?

Mr JOSE: Sorry about that. In the UK and Scotland, one of the elements of the offence is in relation to the course of conduct or frequency and I believe that is proposed to be an element in the Australian offence. It has been suggested that maybe it could be as little as two particular actions. We are suggesting that two actions in relation to an offence of this type would probably be quite inadequate. Whilst not actually identifying the exact number, we think it must actually be a series or pattern of offences that comprises coercive control to an extent where it might be provable at law. The reason being that, certainly in our experience, both professionally and legally and also in an analysis of the research, which is actually extensively referenced in our document, we will provide a summary of that, all of the most significant resources in the world, is that a lot of domestic violence is situational.

A lot of it is reciprocal, a lot of it is explicable in terms of the interaction between the individuals involved and that a lot of it is expressive, that is, it is in relation to duress, stressors, other triggers, such as mental health issues, as I said, incident-related drug or alcohol abuse or other psychological disturbances and in many cases, as I said, it is reciprocal so there is fault on behalf of both parties. That is in the research. That is also in the Jud Com [Judicial Commission] surveys from 20 years ago. So we believe that trying to identify something as little as two particular actions is going to be woefully inadequate to distinguish between what are expressive or situational crimes, mutual crimes or mutual actions, versus an ongoing pattern of asymmetrical control.

Mr JUSTIN CLANCY: Thanks gentlemen. Michael, in that regard, appreciating your comment about the threshold in some way that an expressive crime could be in some way considered differently and I find that—I suppose it is a part that I find challenging to suggest that it might have, say, alcohol as—could in some way be an ameliorating aspect. But you do not need to answer that, that is just a thought there. But thanks gentlemen, thanks Chair.

The CHAIR: Thank you very much, Justin. Another one of our colleagues online, Steph Cooke, are you there Steph?

Ms STEPH COOKE: Yes, I am, Chair, thank you very much.

The CHAIR: Thank you, go ahead.

Ms STEPH COOKE: Thank you very much for your submission, gentlemen, and for appearing before us today. My question is in two parts and I refer you to page 13 of your submission. Under section 3(b), paragraph, I guess, 2 in that section, you state:

The current system is too easily weaponised to cause harm to good people and often the children are caught up within it. The system also little power to prevent or respond to the committing of tragic violent offences. We argue it may even perpetuate such.

And then the following paragraph being:

The enacting of coercive control within the current paradigm may be just yet another weapon that causes harm and fails to protect.

Are you referring, when you refer to the, quote, current system, unquote, is it the AVDO system that you are referring to and regardless, could the current legislative regime governing ADVOs better address coercive and controlling behaviour and if so, how?

Mr ERIKSON: Did you want to make comment, Michael?

Mr JOSE: By current system, I am referring to all of the laws, legislation, policies and procedures that have been put into place to address domestic violence historically and at present. So it does include the Family Courts, the Federal Courts, the state jurisdictions in both their civil and criminal jurisdictions, so it is the entire regime or paradigm and legislative regime that has been in place now for decades. One of our key issues is that I don't believe it's possible to demonstrate with any degree of veracity that that has had an impact upon reducing domestic violence within our community, within our homes or reducing domestic violence tragedies within our community.

~~There is no correlation between the spend, the application of new legislation and a downturn in relation to domestic violence rates. So we believe that at present it can't be demonstrated the current system is working and~~

we have argued in our documents and in substantial other literature that in fact we believe the current system is failing in many ways, not only to reduce violence, but also it may be acting to cause, perpetuate and escalate violence through multiple pathways. One of those is in relation to obviously false allegations and the fact that the current systems can too easily be accessed and weaponised to be used in Family Court actions. In our document under false allegations, we express extensively in relation our issues around that. We also in our document talk about how the system currently is, we believe, causing more harm than good to society.

Mr ERIKSON: I think just to add to that as well, that it is not just our comments and our evidence that are suggesting that the current system is failing vulnerable Australians. It is also the view of many in the legal industry and also the judiciary. Unfortunately with the judiciary is it is only when they retire is that we hear their true opinion on how the system is failing victims. I think the one that sticks in my mind is I think—

Mr BECK: Magistrate on the Gold Coast.

Mr ERIKSON: On the Gold Coast, yes, his name escapes me for a minute, but he raised concerns that our domestic violence laws that were produced to provide a shield to vulnerable families are now being used as a sword where there are children involved and in parenting matters. We see on a daily basis how the current system is failing victims and failing to interact appropriately with perpetrators, where you can consent without admission to a protection order and basically get away with that scot-free after committing an act because you haven't—there hasn't been a finding of fact against you. I think it is just a ridiculous method used nationally in the chance of [inaudible] instances of domestic violence.

We have spent close to \$1 billion over the last 10 years with no significant changes in the rates of domestic violence in our society. Wouldn't that suggest that we have got it wrong and that we need to—and I am thinking, while we support coercive control laws and we would like to see perpetrators held accountable, frankly I think it is just another tool to be used against men who are left in a position where they have restricted access to their children and the system is used to enable violence against them.

Mr JOSE: The retiring magistrate that we referred to was Magistrate Ron Kilner of the Southport Magistrates Court. We also made reference to the retiring Family Court Justice David Collier. Their comments are in our documents. We have also made extensive reference to both the Jud Com surveys within Queensland and New South Wales, which are incredibly insightful across a whole spectrum of issues in relation to the domestic violence industry. One can only ask why decades later those surveys haven't been rerun.

Mr ERIKSON: I think that is a really valid point for the Committee to consider, that the judiciary was screened in regards to their views on the laws and the use of allegations in domestic violence matters, yet those same surveys have stopped. I think it corresponds with what we see as a failure of the policy that state and federal government has delivered relevant to domestic violence.

MR JOSE: Currently both in relation to the—

The CHAIR: All right, thank you so much. If you have got further comments, I appreciate—sorry, we are just limited in time and we would invite you to put those further comments in writing. I am just mindful that the Committee here does have terms of reference that we are required to—that is our purpose and that is what we are required to address and appreciate your—

Mr ERIKSON: I understand. Just in regards to your term—

The CHAIR: No, I'm afraid—

Mr ERIKSON: Just in regards to the terms of reference, sorry, just a quick question, in regards to your terms of reference, if you are producing legislation in New South Wales, underneath the—is it the COAG agreement between states on domestic violence, what decisions you make or what laws are passed in New South Wales potentially affect the entire country, would that be a true statement?

The CHAIR: Thank you very much. We are going to finish that session here. Thank you for your contribution. If you have got further information and the questions on notice, we invite you to provide answers to those in seven days and your answers will form part of your evidence and will be made public. Thank you for your assistance and your great work and your contribution to the Committee. Thank you. We will now complete this session and we will resume at lunchtime, thank you.

(The witnesses withdrew.)

(Luncheon adjournment)

KATE FITZ-GIBBON, Associate Professor, Director, Monash University Gender and Family Violence Prevention Centre, before the Committee via videoconference, affirmed and examined.

JULIA TOLMIE, Professor, Criminal Law, Faculty of Law, University of Auckland, before the Committee via videoconference, affirmed and examined.

The CHAIR: Thank you and welcome back to day 3 of the Joint Select Committee on Coercive Control. The next panel of witnesses we have today are from Monash University and the University of Auckland. Do we have our witnesses there by videoconference? Can you just wave if you can hear us and say hello so we can hear you. Excellent. We've got you there. We have some members participating by videoconference as well, so welcome to everybody and those watching by webcast.

Thank you both, and thank you for your assistance to the Committee today. We have received your written submissions and are very appreciative of the time you have put into those and providing them to members. We've had the opportunity to consider those. Do either of you have an opening statement you'd like to make to the Committee before we commence questions? Both of you? No? All right.

Professor TOLMIE: No, I just have the written statement.

The CHAIR: Associate Professor Fitz-Gibbon, why don't you go ahead?

Associate Professor FITZ-GIBBON: Thank you very much, and thank you very much for the opportunity to participate in today's hearing. I am extremely grateful for the opportunity to answer questions based on our submission. I would also like to take this opportunity to congratulate the New South Wales Parliament for recognising the need for this inquiry and the urgent need to improve system responses to coercive control. While there are obviously mixed views on the direction that reform in this area should take, I do believe this inquiry represents an important opportunity to better understand and improve responses across the whole system to coercive control. While this inquiry doesn't have national jurisdiction, I support early calls that have been made this week for a national definition of domestic and family violence.

I would urge the Committee to take this opportunity to recommend and set a reform agenda for whole-of-system response to coercive control, and in particular, I believe that any roadmap for reform should, at a minimum, do four things: the first being to expressly acknowledge coercive control in the definition of domestic violence included in the Crimes (Domestic and Personal Violence) Act and expressly state that domestic violence is a pattern of behaviours, and this has already been done in some other Australian jurisdictions. I believe there is an urgent need for all risk assessments, risk identification assessment and management practices in New South Wales to be reviewed and reformed to ensure that coercive control is embedded in all relevant domestic violence risk policies and practices state-wide.

Effective risk identification, assessment and management are vital to facilitating women's help-seeking behaviours, to meeting their support needs and to better identifying and responding to the high level of risk that this form of family violence presents. Thirdly, I believe that any reform should set out that NSW Police and required criminal justice practitioners develop consistent and mandated training on identifying and responding to coercive control. Related to this, it is essential that NSW Police commit to a significant investment in establishing specialist family violence units with a dedicated team of officers in every station state-wide with clear and appealing career advancement and acknowledgement of the importance of this work.

I would urge the Committee to consider the approach taken by the Victorian Royal Commission into Family Violence, where each of the reforms were accompanied by a recommended timeframe within which they should be implemented. This has been vital in Victoria for holding those charged with the implementation of the policy and practice reforms to account. I acknowledge that there is significant pressure and a groundswell of advocacy to criminalise coercive control. I would emphasise that the law is not a tool for prevention or early intervention, both of which I believe must be the key and ultimate goal.

I have set out what I believe should be done by this Committee. These are recommended actions to create whole-of-system awareness and effective responses to coercive control. Only once that has been achieved do I believe that there then should be consideration given to criminalisation. Without ensuring that we have whole-of-system training and understanding of coercive control, the unintended risks are too high for criminalisation, and we are sending victims of others into a system that is not designed to facilitate their safety and security needs. Thank you for the opportunity to appear before you today.

The CHAIR: Thank you very much, and if you are able to provide the Committee with a copy of your opening statement, we would be appreciative so we get that to Hansard to assist in their great work for us. Thank you.

Associate Professor FITZ-GIBBON: Of course.

The CHAIR: Terrific. We have some members appearing by webcast as well as those of us that are here in the New South Wales Parliament, and I will now open up to questions from members. Ms Abigail Boyd.

Ms BOYD: Thank you very much, Chair, and thank you to both of you, Associate Professor Fitz-Gibbon and Professor Tolmie. It's fantastic to have you here. I have read a lot of your work and found it to be incredibly valuable in this field. So thank you for everything that you've done. I guess you've been presumably watching some of the inquiry so far. We seem to have broad agreement from the witnesses who have come forward so far that we—coercive control is a real thing and that understanding it is vital in framing sort of interventions and responses, including policing, when it comes to domestic violence and abuse.

Everyone seems to have agreed that we need to focus on the whole-of-system reforms, whether or not coercive control is criminalised. But where we seem to get differences in views is whether we should be criminalising coercive control first, after reforms and further consultation or not at all. So I guess I'd like to ask—at the moment we have this kind of anachronism in our criminal law where the offence, the domestic violence offence doesn't reflect our modern understanding of domestic abuse in all its forms. Do you think that if that was corrected that it could provide the impetus and the understanding for politicians especially, and I think particularly politicians, to provide that whole-of-system reform? I'll start with you, Ms Fitz-Gibbon.

Associate Professor FITZ-GIBBON: Thank you very much. I do think it's important, if I've understood your question correctly, that the legislation reflects all forms of domestic violence, which it currently does not do. So it's essential that coercive and controlling behaviours and the various different manifestations of that are reflected in the legislation, and from that we would then see that a lot of organisations and agencies and policy and practices that stem from that legislation would need to be adapted to better respond and to intervene in cases of coercive control. I think that that is an essential step forward, and ideally we'd like to see that across all of Australia. I do not think that we're yet at a stage, though, where a standalone criminal offence would be supported by whole-of-system responses in a way to make it effective, and my significant concern would be that we're sending women into a system where they'd not receive justice, where their safety and security needs would not be met and that the processes could be potentially extremely harmful to them.

Ms BOYD: Is that because of a lack of faith in government's ability to carry out the commitment that would be required around any legislative reform? Or is it something different?

Associate Professor FITZ-GIBBON: It's not at all a lack of faith in government. I think that it's about the timing and it's about acknowledging the time—the order, I think, of reforms that needs to take place. We need to ensure that we get these vital first reforms in and underway and that we have that wider whole-of-system understanding of what is coercive control, how do we identify it effectively, how do we assess the seriousness and the risk of different incidents of coercive control, because we know that it manifests in such a wide variety of ways. Then how do we manage that risk? We know, for example, that many of the cases of domestic homicide where coercive controlling behaviours are noted as present in the death reviews, there's also a history of criminal justice system intervention.

So criminal justice system intervention does not, in and of itself, prevent intimate partner homicide. We need to assure that risk assessment and management practices are effective. We know that coercive control is a significant precursor to intimate partner homicide. The way to prevent that is risk assessment and management, ensuring that then we have the support and safety needs, we have effective referral pathways, we know what victim-survivors need and we have the demands—the resourcing to meet those demands. The criminal law will not do that. We've seen that time and time again.

What we also need the time to understand is once we've built these risk identification assessment and management practices, we need specialist responses across our criminal justice system. That will take some time. We cannot bring in a criminal offence until that is done. We need specialist police trained to understand how coercive control presents, to understand the range of different ways that that may look when they attend a domestic and family violence incident. We need investigation training.

Ms BOYD: Yes, absolutely agree. Can I just clarify, though, if we brought in an offence in the next year or year and a half but it had a delayed—now I've forgotten the word, basically a—

The CHAIR: Implementation.

Ms BOYD: Yes, it doesn't come into effect until 12 months or longer after it was actually assented to. Would that address the concern, because then you set the standard that this will not be tolerated but then you give all of—basically give time to do all of that great work that needs to be done to make sure that when it comes into effect, that we're all ready for it.

Associate Professor FITZ-GIBBON: I think that would certainly be a better approach than an immediate introduction of an offence, and I think making sure—building in a review to ensure that the necessary safety standards and protocols and training have been put in place will be essential to that.

Ms BOYD: Thank you.

Professor TOLMIE: Can I also comment on—

Ms BOYD: Please do.

Professor TOLMIE: [Inaudible] I think it is right in saying that the criminal justice response even to traditional offences is not necessarily great, so I'm not quite sure why we would think that creating a more complex and difficult offence would have a better response. I do accept that there is some promise that if we criminalise something, people will take it seriously and educate themselves, but the costs of criminalisation are fairly high, and the advantages are things that I think we can do by other means. I think asking the question whether we criminalise is asking the wrong question first. I think the problem with family violence is that we are—can you hear me or am I just talking to myself?

Ms DOYLE: We can hear you.

The CHAIR: No, we can hear you. Thank you.

Ms BOYD: We can hear you.

The CHAIR: Yes. No, we can hear you loud and clear. Thanks very much.

Professor TOLMIE: In family violence, we are in the complex space and we are dealing with a wicked problem. In the complex space, every reform has consequences. Sometimes unintended and sometimes deleterious. I think what we tend to do with family violence is take very simple responses to it, but it's not able to be resolved by simple things. The first question we need to ask is how do we design an effective family violence safety system, because a criminal justice response is not a safety response. Once we have designed a family violence safety system, which I think is what Kate is referring to, we then can ask, well, how can a criminal justice response serve that safety system? A criminal justice response is one area in which we can coerce people to do things that we want them to do, but it's not actually going to provide victims with safety. It's about reacting to past abuse and punishing someone.

Ms BOYD: Thank you.

The CHAIR: Thank you very much. I'm just going to—excuse me—before I hand to my colleague just point out that we—this Committee does have a remit in terms of reference that we are required to answer, so while the broader questions are somewhat relevant and interesting and will form part of our consideration, we do have a task before us to specifically answer the discussion paper questions. On that note, I'll hand to Trish Doyle.

Ms DOYLE: Thank you, Chair, and hello to the both of you. Thank you for your submissions and speaking to those today. In looking at problems with the current framework and how we improve that to better address patterns of coercive and controlling behaviour, I just want to acknowledge and agree with you that we do need a whole-of-system reform. I don't personally, politically or professionally think that that it's an either/or case. I think we can have both, and I was just going to put to you a question, hope that you can understand where I'm coming from here too. If we go to victim agency, by opposing a criminal offence, are you not narrowing the options available to victims who may wish to engage with the criminal justice system to achieve that safety and justice?

Professor TOLMIE: Can I just say that most situations involving coercive control will also involve physical violence, so it's not really an either/or. There are some circumstances involving coercive control that won't involve the use of physical violence, but I'm imagining those are not a high percentage of cases. So violence and threats of violence is one of the tactics of coercive control. One of the risks that we have, of course, is that if we criminalise coercive control, police officers will code exactly the same cases involving family violence as coercive control, which experience in the UK anecdotally suggests means that they get significantly less by way of urgent and resourced responses, but they are the same cases.

Ms DOYLE: Professor, I didn't ask about physical violence. I'm not comparing physical assault and coercive control. I'm saying if you actually—if we go to victim agency, then opposing a criminal offence for coercive control, are you not narrowing the options available to victims who wish to pursue—who wish to engage with the criminal justice system in pursuing that safety that you were talking about before and justice? I'm not comparing physical and coercive controlling behaviours. I'm asking about options available to victims. What do you say to victims who may wish this to be an option? What do you say to victim-survivors?

Professor TOLMIE: My point is that the option is to charge already. There are crimes at the moment that are available if victims wish to use a criminal justice response. That was my point.

Ms DOYLE: I don't agree. Associate Professor Fitz-Gibbon, what do you say to that question about narrowing the options available to victim-survivors who may wish to engage with the criminal justice system? Are you—in opposing criminalising coercive control, are you narrowing those options?

Associate Professor FITZ-GIBBON: No. So I believe there's two responses here that I'd like to make, and one is supporting what Professor Tolmie has said, that in a significant percentage of cases of coercive control, there is also physical violence present, so in those cases, there is the option of criminal justice intervention. In cases where there is not physical violence present in a coercive controlling relationship, I think it's incredibly important that we don't promise and fail the response to women and that we don't promise a false sense of security. At the moment, our criminal justice system, in many cases, does a very flawed job at responding to physical violence, which can be evidenced. Coercive control would be incredibly challenging to evidence, and we're seeing that come out of the UK. We need to make sure that we do not set women up in a system that will further traumatise them and that will not deliver them the safety supports or the justice that they're looking for.

Ms DOYLE: Well, we don't have that now, to be honest, and we haven't for generations. Anyway, I'll leave it there for the moment.

The CHAIR: Thank you, Deputy Chair. I think on our—with our members participating online, there may be a question from Justin Clancy. Justin, go ahead.

Mr CLANCY: Thanks, Chair. Firstly, Professor, Associate Professor, really appreciate your submission and being with us and, to be honest, Kate, you probably just answered where I was going, but it was probably to call out what Julia speaks of as a functional family violence system and part of that is not setting it up to fail in terms of women entering the criminal justice system and then being failed by that system. That's—I think fundamental to that issue is that risk management framework so that they are getting assessed and IDed [identified] properly so that they are getting the right assistance. So it was probably just to acknowledge and to say thank you, but if I return to, Julia, your functional family violence system and to say—this is just me trying to make sense of that, that that includes a well-defined definition of domestic violence, that it doesn't—the risk management system that Kate speaks of, that it speaks of education, positive relationship education in the community that we heard from earlier today and it speaks of protocols and training for police and other agencies. That's probably my sense of where you directed when you talk about a functional family violence system.

Professor TOLMIE: I would say a functional family violence safety system is one where we have multiagency responses, not just police responses, that wrap around the family and that provide different tiers of safety responses depending on the assessment of risk of that family at that particular time and that deal with issues that are broader than just family violence. So, for example, addiction issues, a whole range of issues. Then when we have that kind of system, we can ask, well, how can the criminal justice system serve that? Now, what we're talking about when we talk about that system, because we're talking about patterns of harm, all the criminal justice system does at the moment is provide a one-off reaction.

It doesn't provide for the ongoing management of harm which we require in these kinds of cases. So if we had a functional family violence safety system, we could then use the criminal justice system with the coercive potential that it has to force people to do what they don't want to. But at that point we would have policies as to how we could shift that system so that it could support the family violence safety response as opposed to just punishing things that occur in the past in a one-off kind of reaction. So we might develop systems, for example, built around victim safety.

If you think about, well, how can we contain the abuse, how can we escalate the consequences for continued abuse, how can we hold people using violence in spaces where if they seek support, they can choose to be responsible, which is a very different strategy from just punishing someone for something they did in the past. So those are the really tough questions and the tough issues that we need to be facing, in my view, in this space rather than just do we expand our one-off reactions to include different sorts of behaviours.

Mr CLANCY: Thanks, Julia. Thank you.

The CHAIR: Very good.

Mr CLANCY: And—

The CHAIR: Yes. Sorry, did you want to say something further?

Associate Professor FITZ-GIBBON: Sorry, if I may just—sorry. If I may just add, I think, just to what I said before and in terms, particularly of the question asked around what we would say to people who seek a criminal justice intervention, I think one of the key pieces of evidence that we don't yet have in Australia and internationally is what victim-survivors believe that criminal justice intervention will give them and what they're seeking. In many areas, we know that in the majority of cases, victims want the abuse to stop. That is their key outcome they are seeking, and the family violence system, effective safety system that Julia has just detailed there and you have also, is what will stop the abuse. A criminal justice intervention will not, and we've seen that in many cases where there are fatal outcomes in cases where the woman and the male were going through criminal justice intervention at the time. So we need to understand support and safety needs.

Mr CLANCY: Sorry, Julia, I was just going to ask—thank you, Kate—we looked at Scotland as, it's

talked about as that gold standard from the criminal justice perspective. What you've put in front of us there, Julia, are there models out there that we should be looking at in that regard?

Professor TOLMIE: Well, one of the problems we have in family violence, because we're dealing with a complex space and we have a wicked problem, is that no one has really got it right. Some like Victoria are further down the track than others. The Family Violence Death Review Committee in New Zealand has outlined in its fifth report what it thinks such a system would look like and how we could head in that direction. I'm not saying that there aren't things that we can't do in the interim. I think, for example, we could have a definition of family violence that makes it clear that it involves coercive control in our apprehended violence legislation and indeed I believe that we should.

New Zealand has produced one. I don't think it's particularly brilliant, but it is possible to legislate and have a shared definition without creating another criminal offence. It's possible to ensure that when we do try people for acts of physical violence, that we have a broad range of evidence, make it very clear that if we are dealing with physical violence in the family space, we are likely to be dealing with a pattern of harm that contains a much broader range of abuse, and I think we should probably be introducing that evidence at a trial so that when we come to sentencing, sentencing judges are able to actually realistically accommodate victim safety when they are sentenced rather than just reacting to the act that the person has been convicted for.

The CHAIR: Thank you very much. Is that sufficient, Justin, for your questions?

Mr CLANCY: Thank you, Julia. Thanks, Kate. Thanks, Chair.

The CHAIR: Terrific. Thank you so much. I might hand back to Deputy Chair Trish Doyle.

Ms DOYLE: Thank you, both. Just a further question. After three days of hearings, we're beginning to notice a bit of a divide. Well, I'm certainly noticing a bit of a divide between the views of victim-survivors and frontline workers on the one hand and academics in this field on the other, and I'm just wondering is it possible that as academics investigating what is wrong with our system, you might have greater focus on the smaller percentages of matters where things went wrong as opposed to the vast majority of cases that go right, that work?

Professor TOLMIE: I'm sorry, I'm not quite sure that I understand the question. You mean the criminal cases that work?

Ms DOYLE: Yes.

Professor TOLMIE: Meaning that we have a negative perspective of the criminal justice system?

Ms DOYLE: So there's just a real difference of opinion between academics that work in this space around criminalising coercive control and victim-survivors and those who work on the frontline saying this has to be an option, and there are cases that do work in terms of—I mean, no one would ever suggest that we decriminalise domestic violence or sexual assault across the board because there aren't enough prosecutions going ahead. I'm going back to the point of offering more options to victim-survivors through seeking safety and justice in this way, but there's a real difference in opinion. Why do you think there is a divide between what victims and frontline people are saying and what academics are saying here about criminalising coercive control? It's just an interesting divide.

Associate Professor FITZ-GIBBON: So I am—in responding to that, I would state that I don't think that it is as simple as academics recommending against the introduction of an offence and frontline practitioners and victim-survivors recommending for. I would caution the Committee from representing that they have heard from all victim-survivors and that they are in support of criminalisation. We know in Australia that there has never been a large national study done of victim-survivors' views on coercive control. Myself and colleagues at Monash have recently received funding from the Australian Institute of Criminology to do that, and that study is in its early phases.

But the victim-survivors that have been heard from—that is, incredibly important views—as part of this Committee, represent some views but not all views of victim-survivors. We also know that the diversity of voices, for example, members of the Aboriginal and Torres Strait Islander community and culturally and linguistically diverse communities, hold significant fears when it comes to criminalisation, and rightly so. As academics, and I can only speak for myself and certainly a submission from my colleagues at Monash, we are drawing on over three decades of evidence of the ways in which the criminal justice system has failed women.

That is not to suggest that the criminal justice system does not have a role. It absolutely does. It plays a role. But we should not see it as playing the entire role, or nor should we see it as necessarily playing the first role or being the first step, and we're really guided by our understanding of the evidence of the ways in which women victims of intimate partner violence have been failed by criminal justice system interventions in urging this Committee to first do the incredibly difficult work, the resource-intensive work, but the essential work of creating a system that provides support and safety to victim-survivors of coercive control, and then as a next step, we could

look at whether there's the opportunity to also provide justice.

But we need to make sure that people are safe first, that there are the referral pathways and the services to meet their needs and the needs of their children before we send them into a system which, frankly, over the last two to three decades has done a very poor job, in many cases, of intimate partner violence. So I don't think at this stage we should be sending more people into that system if we know that the challenges for them in the investigation phase and in evidencing their experiences of family violence are going to be even harder than the cases that are heard at present.

Professor TOLMIE: I will just also add that I—my own views come from six years of experience in the Family Violence Death Review Committee, in which we had victim-survivors around the table, and we had wide ranges of experts around the table. We also consulted broadly amongst the community and we had access to death reviews in which we had decades of agency engagement with the lives of the families involved. So I wouldn't say that this is an academic view that's detached from on the ground. It's a realistic look or realistic perspective on just how much we lack a safety system at this point, and that often our reactions to victims and survivors are to make the situation worse for them, including in the criminal justice system at present.

The CHAIR: Okay.

Professor TOLMIE: I think—

The CHAIR: Sorry, I thought you'd finished. Go ahead. Go ahead.

Professor TOLMIE: Sorry, I was just going to suggest that victim-survivors may, in fact, be asking for coercive control to be taken seriously.

The CHAIR: Thank you very much.

Ms DOYLE: We certainly are.

The CHAIR: Further questions from members? Abigail Boyd.

Ms BOYD: Yes, I may just pick up on one of the statements that you just made, Associate Professor Fitz-Gibbon, just in relation to the failings of the criminal justice system, of which I absolutely agree with you. It has failed women for decades. Do you think that, I guess, reflecting on how much of those or how much of that failing has been as a result of having such a lack of understanding of the gendered nature of violence being present not only in the minds of the actors within the system and the way the system is structured but also in our laws, and is there a possibility, in your mind, that by introducing this correct version of what domestic violence looks like within our laws could actually help improve the justice system for women?

Associate Professor FITZ-GIBBON: Yes, I think it's a really interesting question, thank you, and what I say is that that wouldn't be done necessarily through a standalone offence but would be done through amending the legislation and the definition of domestic violence to ensuring that all legal practitioners—and that includes lawyers, that includes members of our judiciary and also includes police officers—have training on coercive control and all forms of domestic and family violence and the gendered nature of that behaviour. I think, picking up on what Professor Tolmie has already recommended, that we consider the other ways in which judicial education, judicial guidelines, sentencing guidelines can be utilised to ensure that the full pattern of behaviours that constitute domestic violence can be recognised throughout criminal justice system interventions. I think that wider criminal justice system reform is essential, but it's not actually achieved through a standalone offence. Creating more law will not create effective law.

The CHAIR: Go ahead.

Ms BOYD: May I?

The CHAIR: Yes, go ahead.

Ms BOYD: So I guess the next question on that is it's been argued by many that the biggest advantage of criminalising coercive control is that standard-setting and the way it educates the community. Do you not think that that broader education would also impact on, again, the actors and the systems? Not straight away, obviously, but eventually to change those systems for the better?

Associate Professor FITZ-GIBBON: I think that can be done through legislative change of the definition. I don't think creating legal [inaudible] sets community standards, and we've seen that. We live in a country where one woman a week is killed by an intimate partner. We live in a country where family violence is pervasive. Having physical forms of family violence and having murder and manslaughter as criminal offences have not set a standard that this is unacceptable behaviour that should not occur. What we need to ensure is that we do that community awareness piece, and that should and absolutely must be done, but it's actually separate to having a criminal offence. We need to ensure these behaviours are recognised in a legislative definition of domestic violence, and as part of our prevention piece, our education piece, we should be ensuring that that

community awareness is out there and that it's educated at all levels of our community and at all ages of our community.

The CHAIR: Thank you very much. Any further questions from members? No. On that note, thank you very much. I have one question I'd just ask you to take on notice, and if you could provide a written answer, just because we're out of time. But that's to question 8 of our discussion paper questions, how might the challenges of creating an offence of coercive control be overcome. Be very interested in your thoughts on that, and thank you so much for the information and evidence you've given us today, together with your written submissions, which are very helpful. We've appreciated your participation and your thoughts. Members may have further questions they may wish to put to you in writing, and the Committee will be in touch with you about those and any other information that we request. So thank you for the work that you do. Thank you for your contribution to the Committee. We're very appreciative of it. That ends this session. Thank you.

(The witnesses withdrew.)

JANE WANGMANN, Senior Lecturer, Faculty of Law, University of Technology Sydney, affirmed and examined

HEATHER DOUGLAS, Professor of Law, Melbourne Law School, before the Committee via videoconference, affirmed and examined

The CHAIR: Welcome back to the hearing into the Joint Select Committee on Coercive Control. Welcome, Dr Wangmann, from the University of Technology Sydney, and we also have, by videoconference, Professor Heather Douglas from the Melbourne Law School. Welcome. Can you hear us, Professor Douglas?

Professor DOUGLAS: Thanks very much.

The CHAIR: Terrific. We also have some of our Committee members participating by videoconference, so they may ask you some questions as well. Thank you very much. Do you both have opening statements for the Committee?

Dr WANGMANN: Yes, I do.

Professor DOUGLAS: I have one, yes.

The CHAIR: Okay. Excellent. So we'll start with Dr Wangmann. Thank you.

Dr WANGMANN: Good afternoon, Madam Chair, and fellow members of the Joint Select Committee. Thank you for this opportunity to give evidence on such an important issue. My submission aims to bring to the fore some of the complexities that are inherent in law reform in this area. So whether and how the legal system responds to coercive control, which it definitely needs to do, involves more than simply a discussion around criminalisation. Many victim-survivors do not approach the law at all, and others navigate multiple areas of law, often at the same time, in order to obtain an effective response.

Given what we know about the fragmentation of legal responses and the extent to which women victims are positioned differently depending on what area of law they are currently within, we should be thinking more broadly than criminal law. There are potentially key interactions with family law, child protection, immigration and other areas of law that need to be taken into account. Implementation of current offences remains a critical issue. In my submission, I have referred to the work of Julia Quilter, and she really captures one of my central concerns, which is if we keep talking about coercive control as though it is a gap that can be filled, this implies that the current criminal law is working well, and this is simply not the case, and we can see that in multiple homicide cases that are continuing to point to inadequate responses.

The extent to which training and education of police and other key professionals has been repeated in reports since the 1980s points to the critical need to really unpack what is meant by training and education. So one of the things—and I have been listening to some of your evidence—one of the things that continuously gets repeated is the need for training and education. Well, really, what does this mean? We need to look at what the past training packages have been about, why they haven't translated into the really transformative change that we would have liked to have seen. So we can't just keep saying "training and education" without really talking about what that means.

As other submissions have noted, we need to be attentive to the particular context of New South Wales and Australia, and I have talked about some of those in my submission. Of critical importance is the history of, and continuing impact of colonisation. In terms of domestic and family violence, a number of tensions arise for Aboriginal and Torres Strait Islander women. They experience very high levels of violence, but they have lower

reporting rates. There is over-policing of their communities but under-policing of family violence. There is higher rates of incarceration for both offenders and victims, and intersections with child protection. These all point to important considerations in the debates about criminalisation.

In my submission, I address some of the concerns and risks associated with criminalisation, and I just want to address one of the points that I make in that submission now, because I think it is one that hasn't been addressed as much. I know that Women's Legal Service mentioned it yesterday, but it is a need to really consider the process of a criminal trial. Creating an offence does not in any way address what victims report is a traumatic experience. There is a possibility, depending on how the offence is drafted, that it will make victims more central in the trial, with all the negative processes that go with that.

In my submission, I raised some questions that we need to consider when we look at the offences in the UK. Very little is known about how they are actually operating in practice. What we know is gathered from newspaper reports and some crime data, and there are two questions that I think are particularly important: whether the new offences have, indeed, shifted the incident framework, which is, after all, what the goal of all of this is, and recent research from England by Charlotte Barlow and colleagues would suggest that this hasn't happened there, that the police are still looking at incidents, just more of them. The second question is whether there is any information about how the new offences are being used by or experienced by marginalised groups of women.

Finally, I just wanted to make a comment about the characterisation of some of the discussion around criminalisation. I think it is really limiting to view it simply as arguments for and against. The discussions are much more nuanced than this, and there is much that is shared. Those who raise positive comments as well as those who raise more critical comments are all raising important issues that need to be factored into any development of the law. Thank you.

The CHAIR: Thank you. That's very helpful and we'd be appreciative if you were able to provide a copy of your opening statement to the Committee staff. Thank you. Professor Douglas.

Professor DOUGLAS: Thanks very much for the opportunity to speak to you all. I want to begin by acknowledging the Wurundjeri people on whose unceded lands I am speaking to you from. I want to acknowledge their elders past, present and emerging. Based on my submission, I would briefly highlight three main suggestions that I think can actually take place fairly soon in New South Wales. The first is reform of the definition of domestic and family violence to include coercive and controlling behaviour. This would be in line with the NSW Law Reform Commission's 2010 Family Violence report that it did with the Australian Law Reform Commission, and many other states have now done this, but New South Wales does lag behind.

Second, I think that the state could include an evidence provision relating to family violence in relevant legislation, whether that be evidence law or criminal law. While it may be argued such provisions actually simply restate the existing evidence law, the experience in other states where this has been implemented, like Victoria and Western Australia, is that these provisions influence the decisions around charging of police and prosecution officers, lawyers and courts and their approach to family violence evidence in these proceedings in a very positive way.

Third, I would say that if a new offence is introduced, the pace should be slowed so that—really building on what Dr Wangmann has said—so that training and resourcing can occur appropriately across systems and negative consequences can be appropriately addressed in advance, and I think this is actually likely to take several years if it was to happen appropriately. I would say that while there's no evidence that criminalisation per se improves women's safety in the longer term, there are some advantages which I would admit. I think it ensures public recognition of the experience of survivors and denunciation of this behaviour. In some cases, it does hold perpetrators accountable, and sometimes it will fast-track understanding of coercive control in the community and the service sector and might help shift resources to that service sector, but I don't know that you need criminalisation to do those things.

Furthermore, I think there are at least six serious risks with criminalisation that, in the current climate or framework, are not appropriately addressed and I think would play out if the offence was introduced. First of all, I think there is a serious risk that victims of coercive control will be criminalised under the offence. We know already that women are routinely misidentified by police and magistrates as perpetrators of violence in protection order applications and breaches of those orders, which perhaps have the most similar connection to the proposed coercive control offence. We also know that criminalisation in the domestic violence context particularly targets Aboriginal and Torres Strait Islander people, especially Aboriginal women, and they are the fastest-growing group in the prison population and their imprisonment is often associated with domestic violence offending.

People in culturally and linguistically diverse communities have also expressed concerns about the impact of such an offence in their communities. Also related back to Dr Wangmann's comments, an offence of coercive control does widen the net of criminal liability, and women who have come with their families to Australia, for example, on insecure visas potentially do face greater risk of deportation if it is introduced here.

Furthermore, particularly women from culturally and linguistically diverse communities and Aboriginal and Torres Strait Islander communities do often face coercive controlling behaviour from members of their broad extended family, and it is not clear how that kind of behaviour will be appropriately dealt with under any proposed offence.

Any proposed model that does not require the person who is being coercively controlled or allegedly being coercively controlled to give evidence or make a complaint has the advantage that she doesn't need to be involved, but also there is a significant disadvantage that a prosecution can proceed even when the abused person does not perceive it is in her own best interests, and I think this risks a form of state control replacing the abuser's control. So real care would need to be taken there. We know that there is a lot of pressure already placed on women, in some cases, to proceed with prosecuting criminal offending, and they spend a lot of time and energy trying to get out of those prosecutions. So that is already a problem.

There is also, obviously, a resource issue. The offence will require money being spent on criminalisation and its associated costs. These include policing, prosecution, legal aid, magistrates, bail, punishment and so on, which are already under pressure. We know this approach to criminalisation rarely changes abusive behaviour, and, in fact, in some cases it does make it worse. Even if the perpetrator is jailed, this is unlikely to make that woman or other women safer in the longer term. It might have a short-term advantage of incapacitation, but in the longer term it often has negative effects on that abuser's behaviour, and maybe they don't go back to that woman who they were originally charged with offending against, but maybe there is a new one to move on to and they develop new skills in custody.

So I would ask whether money is better spent on all those other safety options, and I think that connects to what Dr Wangmann has said, and in my submission I did talk about some of those other safety options that might be expanded if money was redirected in those directions. Thanks.

The CHAIR: Thank you both, and if you're able to provide a—if you have a written copy of your submission to the Committee staff, that would be appreciated. Members questions. Trish Doyle.

Ms DOYLE: Thank you. Thank you very much, Dr Wangmann and Professor Douglas. I appreciate the work that you do in this space, your submissions and your time speaking to those submissions here today. It's been a long two and a half days. But it is really important work that we are doing. I want to acknowledge first up that I also believe, and I think many of us who understand anything about domestic and family violence, there is a need for a well-resourced response across all sectors, that the multifaceted approach to reform here does go beyond just law reform. Absolutely. So thank you, Dr Wangmann, for pointing that out. The holistic and well-resourced response. Absolutely essential.

I just want to ask a question, and I'll frame it first by saying that all three of the peak organisations in New South Wales—that's Domestic Violence NSW, Women's Safety NSW and No to Violence—believe that we should criminalise coercive control as part of a package of reforms, and we heard from author Jess Hill this morning who said we are a society that lives by rules and it's time that we actually put a rule in place that said this is not acceptable. Each of those peaks refer to the views and experiences of victim-survivors and frontline domestic and family violence specialists that support them. What would you say to victim-survivors who want to see this change? They want the option of engaging in the criminal justice system, and if we fail to criminalise coercive control or we delay it substantially that it actually doesn't happen, is that sending a message that non-physical and ongoing patterns of control and abuse are less serious? Dr Wangmann?

Dr WANGMANN: I think that's a very complex question, and I've heard you ask the same question of other witnesses. To—the complexity that's been articulated by Professor Douglas and myself and also other people before you means that we do actually need to take time, because if it's rushed, yes, you might have a great offence that works for some women, and you might have a great response around that offence, but what we know about coercive control, that understanding has to come to police responses to other offences. It has to come to how women are represented when they're charged with killing their violent partner. It has to come to understandings of civil protection orders.

So there is a risk in moving to a discrete offence too early that that's the only location where coercive control is identified rather than other areas of criminal law and rather than other areas of legal responses. Coercive control is already recognised in law, and that seems to be lost a little bit. It's specifically recognised in the Family Law Act, in some civil protection order regimes, but not in New South Wales. So we need to ask why they haven't shifted some of the discussions, because it is already there, and so why haven't we seen some of those shifts in family law? Is it because there hasn't been the dedicated training? What would that dedicated training look like?

So I think from my point of view, I'm asking, well, how do we make this offence actually work for the diversity of women, because there are some victim-survivors who are saying, no, I'm a little bit cautious. I'm a bit worried about this. Women who've already been through the criminal justice system. How do we get it to work for them too without replicating what the criminal law already does?

Ms DOYLE: Yes. Thank you. Professor Douglas?

Professor DOUGLAS: Look, I agree with Dr Wangmann's points, and that's partly why I would suggest that there are other legal reforms that could be offered in the interim while we establish a system which can offer this net of safety to women. It's not there now. We have a police service that doesn't really get coercive control. But a way to start that conversation would be, for a start in New South Wales, to reform your domestic violence legislation. It's incredibly complex. I find it actually really difficult to read and follow how it works compared to other jurisdictions which have quite clear protection order legislation, and I really think that that's important to get that right in New South Wales, and introducing a domestic and family violence definition in that legislation which includes coercive control would be a way to have that conversation started and that education start rolling out in police services and so on.

I do think that one of the things, one of the very strong arguments that a lot of the services make is that if we make coercive control a criminal offence, more resources will go into recognising it and supporting it. Now, I would worry that our society needs to criminalise things in order to recognise them and support things. So I think that there are other ways to do that. As I say, the domestic violence definition and a reform of your domestic violence legislation to make that work more effectively, and also possibly this prospect of introducing evidence legislation that allows very clearly evidence in domestic and family violence to be presented in perhaps criminal cases and civil cases across the board. Make that very clear that that is a form of behaviour that is recognised in that legislation as well. That would really set up the groundwork, I think, for revisiting this question of an offence in some time.

We have a lot of problems, as I say, with the current approach to domestic violence through the criminalisation process. Too often, abused women are getting caught up in that process at the moment. So we really need to have the ground changed before we go down that path, I think. We just put too many people, too many women at risk going down that criminalisation path at this early stage.

Ms DOYLE: Thank you both. I think it is important that we keep referring back to question 4 of the discussion paper for this inquiry about what can we do within the current framework to improve and better address this issue. I did want to just note—and if you want to respond to this, by all means, let's put it on notice. There actually is overwhelming support for this reform, provided it is done in consultation with diverse women and communities such as First Nations women, multicultural women, women with disabilities. I'm hearing that quite loudly and clearly from the sector and from victim-survivors, but I do appreciate the points that you both eloquently put. Thank you.

The CHAIR: Thank you. Ms Abigail Boyd.

Ms BOYD: Thank you, Chair. Thank you to both of you for coming to give evidence today and for your detailed submissions. I wanted to touch on this—the current problems within the criminal law system and within the justice system more broadly, and, in particular, current rates of women being misidentified as the aggressor and the risk of women being, I guess, once coercive control legislation—if coercive control legislation came in, that this would increase their risk. I guess from a non-academic perspective, I look and think, well, how much of that misidentification is based on the fact that our criminal system only recognises one form of—or focuses, shall we say, on one form of domestic abuse, being physical violence. If we were to change the law to recognise the full forms, all forms of domestic abuse, then perhaps we would actually logically see a reduction. So I guess—sorry, reduction in the number of women being misidentified. So I guess my question is what evidence do you have? Is there evidence from overseas jurisdictions? What evidence do you have that introducing this kind of offence would actually increase misidentification of women as aggressors?

Professor DOUGLAS: Do you want to talk to that, Jane?

Dr WANGMANN: I haven't said it will increase the risk of misidentification, but just that the risk of misidentification is there. I think that evidence sits within our criminal—our civil protection order system. So I've done research on cross-applications, as has Professor Douglas. Civil protection orders were set up to address the incident framework of the criminal law. It was designed to do exactly what we're trying to talk about now in adjusting the criminal law. Yet, we still have seen incidents dominate a regime where we should be talking a narrative of domestic violence. The complaint asks women to say what has happened to them. So it can be about a physical violence offence, but generally you will see the narrative has potential to include financial abuse, controlling behaviours and so on. Yet, policing practice has remained around incidents, even within that regime. So that's where my concern comes from. I think—the evidence from overseas, so the UK, looks positive, and I agree with that. But I also think it's the high point of the implementation of those offences. Training has just happened. They're very much talking about gender. I think the risk of—whether or not there's misidentification is a question to ask a little bit later where the offence has been bedded down and normalised and maybe we start to see some of that policing frustration come through in practice. It will really require a concerted effort to make sure that misidentification doesn't take place.

Ms BOYD: Just before we move to Professor Douglas, just on that point, we had the ODPP coming and talking about the process for prosecutions and saying that under the current law, police only have time and only have, I guess, incentive to record one incident. They don't have any—because we don't have a pattern of behaviour-based offence in our criminal law, there is no reason for them to take a pattern of evidence. If we had that course of behaviour offence, then they would be able to do that. So wouldn't that then address the problem you just raised?

Dr WANGMANN: Look, it could possibly, but when police attend an incident now—and even if it's cast as an incident—they're meant to be informed about the history. They're meant—I mean, it assists them with their own risk. But how are they meant to assess the risk of a victim if they haven't taken account of the fact that there's been five callouts before and the nature of those callouts. So they're already meant to be doing that now, even if it's a single charge. So I actually just think there's some challenging questions for current practice, let alone overlaying a new offence which may or may not add to our understandings. The reason why I point to some of the current problems is I think unless we unpack those, we risk replicating them in the new offence if it continues to look at incidents.

Ms BOYD: Yes. Sorry. The whole point of coercive control legislation is that it doesn't look at incidents, though, that it looks at a pattern of behaviour.

Dr WANGMANN: I pointed in my opening statement to the recent research by Charlotte Barlow, so the only one that I'm aware of coming out of the UK, which says the police are still looking at incidents and not—so an additive kind of response, if you want to think about it, rather than a cumulative response. So if we don't want to follow the English and Wales model, if we want to follow the Scottish model, then we really need to think about if they're still doing that but just adding more, how do we actually do something in education and training that means it's cumulative.

Ms BOYD: I think we can agree on that. There would need to be that wraparound education and training so it's implemented properly. Sorry. Professor Douglas.

Professor DOUGLAS: The closest information I would have on that is the breach offences which are closest to coercive control offences. They can be coercive controlling behaviour in Victoria and Queensland, and we know that a lot of those breaches are being charged against women as well. So I think there is certainly that risk. So—but I don't think it's a risk that—we could potentially avoid that with appropriate police training and understanding and so on with these broader tools that you're talking about. My concern is just rushing through a law and order response like this. It's a very blunt instrument, and I would want to see the commitment to all of the other things that go alongside it, and with resource constraints as they are, I'm not confident that that will happen.

Ms BOYD: Fair enough. Thank you.

The CHAIR: Thank you. Questions from members. That being so, thank you both for your evidence and assistance to the Committee today. We very much have appreciated your attending in person and via telecast, and thank you for your written submissions. We'll now complete this session. If there's any questions on notice, I think I had one, we ask that you return those answers in writing and within seven days. The Committee staff will be in touch with you about that. Thank you again.

Ms DOYLE: Thank you both.

Dr WANGMANN: Thank you.

Professor DOUGLAS: Thanks very much. Thanks.

(The witnesses withdrew.)

(Short adjournment)

MARILYN McMAHON, Professor of Criminal Law and Deputy Dean, Deakin Law School, before the Committee via videoconference, affirmed and examined

PAUL GORDON McGORRERY, Lawyer and Researcher, Deakin Law School, before the Committee via videoconference, sworn and examined

The CHAIR: Terrific, well welcome back, everybody to the Joint Select Committee on Coercive Control, Day 3 of our hearing. Can I welcome our next witnesses and if I get my witness list, I will have your names. There we are and thank you, I think you are both online if I can see you there. We have witnesses from

Deakin Law School assisting us by videoconference and also some of our members of our Committee are also joining by videoconference. Welcome. Thank you for attending today, for your assistance to the Committee in providing your written submission which has been provided to members for their consideration before today. We very much appreciate your assistance in our inquiry. Can I ask if either of you have an opening statement you would like to give before we ask questions? That is a nod from—

Mr McGORRERY: We do. We anticipate—

The CHAIR: Yes? Go ahead.

Mr McGORRERY: We anticipate taking up about eight minutes of the Committee's time so we do hope you will indulge us. We're honoured to be speaking today from the lands of the Wurundjeri people of the Kulin Nation. For the last five years, Professor McMahon and myself have published extensively on the topic of criminalising coercive control, including a book published early last year. We're indebted to the inquiry for inviting us to appear and speak to our research.

My work in this area started a decade ago as a prosecutor here in Victoria, where I had oversight of criminal proceedings involving indictable offences, some of which were family violence cases. It was that work, and especially the courage of the victim-survivors I worked with, that inspired my recently submitted PhD thesis into whether the infliction of purely psychological harm is and/or should be criminalised in Australia. My thesis finds that not only should the infliction of psychological harm be criminalised, but in fact it already is, and yet has never been prosecuted in Australia. In turn, it was while undertaking that research that England and Wales passed their new offence of controlling or coercive behaviour, based largely on Evan Stark's model of coercive control.

According to that model, there are at least five dimensions of coercive control. It includes physical and sexual violence – it is not, contrary to how I have seen it represented by many in the last few weeks, separate from such violence; it includes intimidation such as threats to harm the victim, a loved one, a pet or even for the perpetrator to self-harm; it includes isolation, such as stopping victims from going to work, from seeing family and friends, or even from talking to them via social media; it includes degradation such as verbal abuse or humiliating acts such as making victims eat their dinner from a dog food bowl or making them sleep on the floor; and finally, what Evan Stark has called the ultimate goal of perpetrators, it includes regulation – monitoring everything the victim does, demanding they answer the phone while out of the house, demanding proof of parking receipts that show where they went, and imposing rules on their behaviour, what they wear, what they eat, what they buy, who they speak to.

Our research has been particularly focussed on how the coercive control offence has been operationalised in England and Wales – who has been prosecuted, and what behaviours were they prosecuted for? We have seen those various behaviours of coercive control, many of which are not currently recognised by existing criminal law, manifest time and time again in successful coercive control prosecutions in England and Wales.

I have just one example, and we can happily provide the Committee with hundreds more, two weeks ago a 54-year-old man was sentenced to 12 months' prison for coercive control. He locked his partner – with whom he had a child – in their home, disconnected the internet and phone after seeing that she had messaged a friend, told her what to wear, destroyed any clothes he deemed inappropriate, would call her abusive names, wouldn't let her go to work but then criticised her for not contributing financially, would push her during arguments, waved a knife around during arguments, he took out loans in her name and then didn't make repayments, and frequently changed her social media passwords to stop her speaking to family. In her testimony she said that at the start of their relationship she was "outgoing with lots of friends and interests ... but over the years, [he] put a stop to that. Her world shrank." He used to tell her that everyone thought she was abnormal and no one would want a relationship with her. She said it "felt like I have got a long way to go to feel like a worthwhile person again."

At the moment we have a justice system that tries to understand abuse by looking at pieces of a puzzle – pieces that in isolation look like minor assaults or property damage. But as a good friend told me recently, when we criminalise coercive control and demand the justice system see the abuse in its entirety, victims will finally see themselves in the legislation.

To that end, we congratulate the members of this Committee. I have been watching the live stream for the last few days, and you have each very clearly done extensive research, compassionately engaged with this incredibly complex and sometimes divisive topic, and have done so with a cross-party respect and decency that is far too rare in this country. Thanks to you, New South Wales has the potential to set the new gold standard for what a coercive control law can look like. When Tasmania's laws were passed, they did so without fanfare, and lived in obscurity for a decade. When the England and Wales law was passed, they did so without accompanying system reforms, and to this day they are still playing catch-up in training their police force, let alone everyone else. Scotland and Northern Ireland had the benefit of drawing from the lessons learned in those jurisdictions, and now we have a chance to learn from them.

The CHAIR: Excellent. Thank you, very much, Mr McGorrrery. Professor McMahon?

Professor McMAHON: Good afternoon, members of the Committee. I endorse Paul's acknowledgment of Country and thanks to the Committee. My name is Marilyn McMahon and I am a Professor of Criminal Law and Deputy Dean of the Law School at Deakin University in Victoria. I have taught criminal law and procedure in universities for three decades. In addition to my background in criminal law, I have a Master's Degree in Forensic Psychology and I am a registered psychologist. It is my dual background in criminal law and psychology that has driven my long-standing interest in domestic and family violence and the particular issue of coercive control.

As Paul mentioned, we have been conducting research into the issue of criminalising coercive control for the past five years. We are the only researchers to have closely examined the offences of emotional abuse and economic abuse that were introduced in Tasmania in 2004. We have analysed and followed the introduction of offences in the United Kingdom and been in contact with leading international researchers on coercive control. We conducted a national workshop on this issue in November 2017 and I visited Scotland and England in 2019 and met with police and advocates involved in the introduction of the new offences there. It is on the basis of this research and related experiences, as well as an awareness of the current limits of the criminal law, that I favour the introduction of a new offence that criminalises coercive control.

As our submission indicates, our research has led us to favour the introduction of a new offence for the following reasons: First, multiple studies have established that psychological, emotional and economic abuse are core features of domestic and family violence.

Second, repeated psychological, emotional and economic abuse within intimate and family relationships can cause significant harms to victims. I know that the Committee has already heard from expert psychiatrists that the effects of these forms of abuse can include a range of psychological harms (including anxiety, depression, post-traumatic stress disorder) as well as suicidality, physical ailments, and homelessness. Victims themselves have described this type of abuse as worse than all but the most extreme physical violence.

Third, psychological abuse within domestic relationships has increasingly been recognised as a form of human rights abuse. This awareness contributed to law reform in the United Kingdom and is already reflected in relevant domestic legislation in New South Wales (for example, section 9 of the *Crimes (Domestic and Personal Violence) Act 2007*, refers to enacting provisions that are consistent with certain human rights instruments).

The fourth point we make is that currently the criminal law does not adequately address the issue of repeated non-physical abuse in domestic relationships. Recognition of psychological injury is limited and the single incident focus is limited in most criminal laws means that the cumulative effect of repeated psychological, emotional and economic abuse is not adequately acknowledged.

In particular, the failure of the criminal law to recognise psychological abuse as domestic and family violence is not adequately addressed by the issuing of hybrid apprehended violence orders. While these orders will deter some from engaging in family violence, there are multiple deficiencies and problems associated with them, including that they do not deter the most severely abusive men.

Finally, as a consequence of these matters, currently victims of psychological and economic abuse within domestic relationships experience adverse health impacts and human rights abuse without adequate protection by the criminal law. Properly developing, enacting and implementing a new criminal offence that prohibits repeated psychological and economic abuse, introduced as part of a whole-of-government response to the issue, would go some way to assisting these victims.

The CHAIR: Terrific, thank you very much. We would be very appreciative if you were able to provide a copy of your opening statement to the Committee members and I will open up for questions. I have one from our colleague online, Peter Sidgreaves. Are you there? Go ahead, Peter.

Mr SIDGREAVES: Thanks, Chair, and thank you to Professor McMahon and Mr McGorrery for both their joint submission and their opening statements. Just if I could touch on something that Mr McGorrery towards the end of his opening statement spoke about with regard to the English version and not having put around those support and funding and training measures while they introduced the law. Look, it is certainly clear that both of you are in favour of criminalising coercive control, my question is, if we were to do this in New South Wales, in what order would we actually address this? Would we do it simultaneously by providing the funding and the training, all the wraparound services as we were introducing the law or do we need to actually provide the training and the funding and all that—all those resources, do they need to—do we need to do that first before we actually criminalise it?

Mr MCGORRERY: I am happy to start with that one. I think that my answer is to look to the draft bill that the Greens and New South Wales put forward, which was to delay commencement of this legislation until 12 months after it has been enacted because that 12 months is the timeframe when, first, we will know exactly what this offence would look like and then we can draft the appropriate training packages, the awareness campaigns and better understand fiscally the likely implications for the domestic violence service providers, for the judiciary,

for police, for prosecutors and they can come back to Government and ask for the appropriate resources.

I think that it's been mentioned that there is some divisiveness in this debate but about one thing there is a special unity and that is the need for systemic reforms. I think from what I have heard, the Committee has very much heard that and they have understood that. I think that the accountability for Government in resourcing this is higher than ever before and I think that everyone, both for and against this particular reform, will be watching very closely so I anticipate if you have that 12-month lead in time, everything will be ready to go.

Mr SIDGREAVES: Thank you very much for that.

The CHAIR: Thank you. Professor McMahon, did you want to add anything to that?

Professor McMAHON: I'd simply add to what Paul has said that you've got two models. One was England where they introduced the offence without adequate prior training of police and it's resulted in a very patchy and generally recognised to be inadequate implementation process. You can contrast that with Scotland where the introduction of the offence was done in collaboration with the leading organisations representing women who have been subject to domestic violence. It involved extensive training provided to police and prosecutors before the offence came into effect and it is generally recognised to be a far superior way of doing things.

Mr SIDGREAVES: Thank you.

The CHAIR: Thanks, Peter. Questions from members? Ms Abigail Boyd.

Ms BOYD: Thank you, Chair. Thank you both for all of your work in this area. I could ask you about 200 questions. I am going to ask you this one. We have heard from a lot of people that they don't want to criminalise coercive control necessarily as a stand-alone offence but they do think that there are some legislative changes that we could make instead. I wanted to ask you, in your view, why it's not sufficient to make those kind of piecemeal changes to the legislation? Two of the main ones we have heard is through amending the ADVOs or through introducing a definition, preferably a nationally consistent one, of domestic violence that incorporates coercive control. Who wants to go first?

Professor McMAHON: I am happy, Paul?

Mr McGORRERY: Yes, absolutely.

Professor McMAHON: If I could respond to yes, some of those. I think you have mentioned a number of very significant issues there. My response globally to what you have said is that the new offence that we are discussing is radically different to what has gone before so the idea that you simply amend, you adjust, you reform existing laws. You tinker with an existing legal mechanism to regulate the sorts of behaviours we are talking about, I think is misguided. I think that course of conduct offences that require psychological and emotional harm as part of the key components of the offence are not readily incorporated into existing offences.

Certainly, we have—and you have in New South Wales, a number of relevant offences but what I think you will end up doing is shoehorning into those offences significantly different concepts involved in the repeated course of conduct of coercive and controlling behaviours resulting often in non-physical as well as physical harms. So I can come back, I have got a particular view on the adequacy in particular of apprehended violence orders which I know some people advocate and I would like to return to that but I think I would like also to give Paul the opportunity for a response.

Paul McGORRERY: Very much so at this point all I can do is echo what Marilyn said and lead into the intervention order discussion.

The CHAIR: Terrific. Why don't you go ahead and do that?

Professor McMAHON: Sorry, I missed that.

The CHAIR: Why don't you proceed to go ahead, Professor McMahon, to talk about your comments on the adequacy of ADVOs?

Professor McMAHON: Yes, okay. Look, I think that is really an issue that needs to be discussed at some length because apprehended violence orders and their parallels in other jurisdictions in Australia are often identified as a key way of addressing coercive and controlling behaviours because the legislation in many states includes some reference to coercion or control or relevant concepts. It is also argued, because a breach of these orders can result in criminal prosecution, that in effect, we have an indirect criminalisation of coercive and controlling behaviours. Well—so some argue, I think, that that is an adequate mechanism for dealing with the issues before this Committee; Paul and I strongly disagree with that approach. We have a number of reasons for arguing.

We know that for victims of domestic violence, the key thing is to stop the abuse and we acknowledge that for many victims, obtaining an apprehended violence order or similar will be a successful strategy insofar as

it will be associated with a cessation or at least a reduction in the abuse. But for some, the order will be ineffective and the violence will continue or escalate. I can think of no clearer example of this than we had a case in Victoria with Kelly Thompson who in 2014 was murdered in her home by her ex-partner, Wayne Wood. Ms Thompson had an intervention order out at the time of her death. A coronial investigation subsequently found that she had telephoned police 38 times in the weeks preceding her death. The breaches of the intervention order were not regarded as significant by police. The continued harassment [inaudible]. It was not regarded seriously. It is a problem with these orders.

The case also isn't an outlier. In 2016, the Bureau of Crime Statistics and Research [BOCSAR] in New South Wales estimated that 20 per cent of final apprehended violence orders issued in New South Wales were breached. BOCSAR also reported that nearly 80 per cent of these orders, where there had been a breach, the most serious penalty was either a bond, a fine or a community service order. Research in Victoria by the Crime Statistics Agency gives us some more detailed information into who are breaching these orders.

The agency identified that a small group of recidivist family violence perpetrators, about seven per cent of all family violence perpetrators, account for nearly one-third of family violence incidents reported by police. Those repeat family violence perpetrators were likely to be recorded by police as being controlling or jealous in related to their victim. They were likely to have committed crimes against other persons and to have been substance-affected at the time of the family violence breaches. Also disturbing was the fact that the proportion of offenders who engaged in breaching these orders appeared to be increasing.

Now, in light of this information, it is unsurprising that the Victorian Royal Commission into Family Violence singled out family violence intervention orders for criticism, arguing that many breaches of intervention orders are not prosecuted and describing police and court responses as inconsistent, delayed and uncertain.

In summary, we would argue that apprehended violence orders and similar work well for some victims and should be retained but they should be supplemented by a new law that criminalises a course of conduct and which will more adequately deal with a growing group of recidivist offenders who engage in these forms of violent—family violence.

Ms BOYD: Thank you.

The CHAIR: More? No?

Ms BOYD: I could keep going but I want to give someone else a chance.

The CHAIR: Thank you. I am sorry, I think I intervened there but thank you. Questions from other members?

Ms DOYLE: Yes.

The CHAIR: Trish Doyle.

Ms DOYLE: Professor McMahan and Mr McGorrery, I just wanted to thank you both very much for the research and work you do for your submission. I have found this to be one that is succinct yet comprehensively covers the essence of our discussion paper questions and just really straightforward. I wanted to put to the two of you, I think you both actually deviate a little from other researchers, the academic world which we have heard a lot from today, who are advising either against criminalising coercive control or incredibly cautious and you have both talked about the need for whole-system reform. To implement a whole range—a multitude of approaches, non-legislative as well as a stand-alone law.

For others who may look at this simply as either/or, I say it is not either/or, we can do both and I would really like you to speak to the question that I have put to a number of people and that is, particularly for our victim-survivors and those who work in frontline services, does leaving coercive control out of the criminal scheme send a message that it is less serious than physical assault?

Mr McGORRERY: I am happy to here, Marilyn—do you mind if I start, Marilyn?

Professor McMAHON: Yes, go ahead.

Mr McGORRERY: Absolutely. I think it creates a false hierarchy of physical and sexual violence being considered more serious as isolated incidents than what many victims describe as the worst part of the abuse. They describe it as walking on eggshells. The GREVIO [Group of Experts on Action against Violence against Women and Domestic Violence], the national body that oversees the implementation of the Istanbul Convention in Europe, receives state reports on how they are doing in implementing the recommendations and requirements of that convention. Universally and uniformly, each jurisdiction has found psychological and economic violence to be both more prevalent than and to create more serious harms than overall physical and sexual violence.

It creates homelessness in victim-survivors. It increases rates of suicide. It increases the rate at which they are prisonised. It has massive mental health and physical health implications and I think for too long the

justice system has held physical and sexual violence onto a pedestal without recognising the seriousness of the non-physical component of coercive control.

Ms DOYLE: Excellent answer, thank you. Professor?

Professor McMAHON: I would agree with what Paul has said. I think that a failure to criminalise really would get the criminal law stuck. Fail—it is not progressing. Not recognising psychological abuse as a harm from which victims should be protected. We have seen changes in recent years. We have seen the introduction of stalking laws in the 1990s. New South Wales, like other jurisdictions has introduced offences relating to image-based abuse and now we have the Commonwealth Government looking at schemes—civil schemes, admittedly, but to deal with cyber-abuse of adults. All of those offences and schemes recognise the harms that can be done by non-physical abuse and I think it would be remiss of the criminal law to miss this opportunity to acknowledge the severity of these harms.

Ms DOYLE: Thank you.

The CHAIR: Terrific. I think I may have a question online. I am just trying to get around to everybody but I will come back to that perhaps. Ms Abigail Boyd.

Ms BOYD: Sure. Thank you. Another one of the issues that we have seen pop up in a lot of submissions is a fear or a caution around whether the experience of victim-survivors in the criminal justice system would be worsened with a criminal justice—sorry, coercive control offence being brought in and so whether it is misidentification of women as the perpetrator or it's a kind of greater re-traumatisation through the justice process, there is a concern that we effectively create—if we were to criminalise coercive control we would be effectively creating a whole new offence for those things to occur under. What is your view on whether that—what you think that risk is and how that would interact with the levels of misidentification and trauma being experienced under existing offences alongside the criminal coercive control?

Mr McGORRERY: Marilyn, with your permission, I might take misidentification and then you with secondary victimisation?

Professor McMAHON: Sure.

Mr McGORRERY: So the risk has been raised numerous times that a coercive control offence would result in a perpetuation of an issue we know exists in the current system and it is one of the greatest issues and that is that in the issuing of intervention orders and in the prosecution of breaches, women are far too often are treated as the aggressor and that is because the justice system currently takes an incident-based lens and asks what happened tonight. Who hit who? Who broke the phone? Who made a threat? When quite frequently, her behaviour is a momentary reaction to weeks, months or years of abuse.

But more importantly, we have seen evidence in overseas jurisdiction that this risk—and this is even without the training in England and Wales, isn't eventuating. The offence is being operationalised in a highly gendered manner. In our review, 106 of the first 107 convictions that we found were male perpetrators against female victims and the one exception does read as though it was a genuine case of coercive control. Even in police recording statistics before you get to the conviction outcomes, in England and Wales and Scotland, between 95 and 99 per cent of recorded perpetrators have been men.

Marsha Scott, the Head of Scottish Women's Aid has been quite heavily involved in liaising with police over there and what she said is quite salient. That is that it would be naïve of us to think that some of that five per cent of females recorded as perpetrators weren't misidentified as primary aggressors but we don't know of a single case where that has happened and as the matter has progressed through the justice system, that number gets even higher to 100 per cent so we shouldn't assume that it is been working perfectly but the figures are very encouraging.

Professor McMAHON: If I could speak to the aspect of re-traumatisation, which has been mentioned by many victims. I think that clearly it is a really significant issue and one that requires deep consideration. In relation to the matter we're discussing, I would suggest that in the formulation of an offence, concern should be directed to ensuring that the construction of the offence itself doesn't maximise the requirement of victims to relive their experience in court. For example, the construction of an offence could involve requiring actual proof of psychological harm in the victim which may involve victims having to go to court to give evidence about the effects on them and in an adversarial criminal justice system, that could be again a significantly re-traumatising experience. One that we want to avoid.

So one—a particular aspect might be then not to require actual proof of harm but make the offence based on a likelihood that harm would occur through the behaviour of the perpetrator. So I think that I acknowledge regrettably that those matters of re-traumatisation still exist and are still so strongly voiced by victims who have been through the criminal justice system and I think that we definitely should take those criticisms and experiences on board when constructing a new offence and I have just given one example of how that might be done.

Ms BOYD: Thank you.

The CHAIR: Thank you very much. We might turn to one of our Committee members and colleagues online. Steph Cooke. Steph, are you with us?

Ms COOKE: I am. Thank you very much, Chair, and thank you both for appearing today. My question relates to the terms of reference of the Committee as it examines the New South Wales Government discussion paper in relation to this area and just wondering whether you have a view on whether provisions with respect to sentencing regimes need to be amended and if so, what that might look like and how?

Mr McGORRERY: I think—personally, I haven't looked into it. I would have to take that on notice.

The CHAIR: You are most welcome to take that on notice and give us a considered and written response. Thank you.

Ms COOKE: Chair.

The CHAIR: Professor McMahon, are you in the same—

Professor McMAHON: Likewise.

The CHAIR: Likewise? Yes, thank you both. Yes.

Professor McMAHON: Likewise, I would have to write that one.

The CHAIR: No, understand, thank you. I might just take up the mantle there in the last minute or so that is left. I also would like to address one of the questions that the Committee has been asked to consider in the discussion paper and that is No. 8 and if you would kindly take this on notice, and I know that you have partially addressed it in your submission, thank you, but that is Question 8 which is, how might the challenges of creating an offence of coercive control be overcome? I think this may well be the central question of the inquiry so your considered thoughts on that are very, very, welcome. Can I just canvass if any other members have questions? If not, we will move on.

I would just like to thank you both so very much for your important work in the area, for your particularly articulate evidence today and your submission paper which is very helpful and the work that you do, we appreciate. You have taken some questions on notice. We ask that you provide responses to those within seven days. The Committee staff will be in touch with you about that and if there are further questions that members have, we may pose those to you in writing as well. The Committee staff will be in touch with that. Other than that, thank you so very much for your assistance today.

Mr McGORRERY: Thank you so much for having us.

Professor McMAHON: Thank you.

Ms DOYLE: Thank you.

The CHAIR: That concludes this session. We will be back in just a moment, once we have our next witnesses.

(The witnesses withdrew.)

(Short adjournment)

HELEN SILVIA, Chief Executive Officer, Women's and Girls' Emergency Centre, affirmed and examined

MOO BAULCH, Director of Primary Prevention, Women's and Girls' Emergency Centre, affirmed and examined

The CHAIR: —shall resume, thank you very much. We are back with our next panel of witnesses in this, the Joint Select Committee Inquiry into Coercive Control and these witnesses are from the Women's and Girls' Emergency Centre Incorporated. Thank you so much for joining us today. I am sorry you are so far away. We are conducting a COVID-friendly distant hearing so thank you. We appreciate you coming in person today and thank you also for your written submission provided to Committee members which has been circulated and we have had the opportunity to consider that. So we appreciate the time you have put into that as well as the work that you do that is very important day-to-day. We appreciate you coming along, taking some time out of that to assist the Committee today in person. So thank you.

The CHAIR: Terrific, thank you. Just to let you know, we also have some members participating via teleconference so if you get some questions from them, don't be worried about that and we are live webcast. So

can I ask if you have an opening statement you would like to make to the Committee first?

Ms SILVIA: Yes.

Ms BAULCH: We do just briefly, thank you.

The CHAIR: Sure, thank you.

Ms BAULCH: I would firstly like to acknowledge that we are on Aboriginal land this afternoon and pay our respects to Elders past and present. This was, is and always will be Aboriginal land and sovereignty was never ceded. I'd very much like to thank you for the opportunity to share some insights from Women's and Girls' Emergency Centre [WAGEC]. We are based in inner-city Sydney. We have three refuges across inner-city Sydney and the inner west as well as some transitional housing as well. We have been around for about 40 years. A little bit more than 40 years, so we really appreciate the opportunity to present some of the insights from our service delivery to this Committee, even though we are not able to respond in great detail to some of the more technical legal questions. So thank you for giving us some time this afternoon. We are a not-for-profit charitable organisation. We are primarily funded by NSW Department of Community—hang on, what are they called again?

The CHAIR: DCJ.

Ms BAULCH: DCJ. Sorry, I have been around too long, through too many iterations. To provide homelessness and domestic violence services. We have weathered the storm of multiple sets of Government reforms in the domestic and family violence and homelessness space. We are one of the lucky women's services that survived Going Home Staying Home. The 2013, 2014 reforms, which I am sure most people in this room are aware of. WAGEC has been known for many years as a place within local communities around Sydney, particularly people who are not able to access other services for a range of reasons, as a really welcoming drop-in space.

Our core work is providing crisis support to women and children through our crisis accommodation but we also seek to address the underlying causes of domestic and family violence as well and we provide some services for women and children and young people impacted by trauma that sit outside the Government funding space as well as some programs supporting economic security for women who have survived domestic violence and we work in and around the community in a range of contexts.

Just to give you a little bit of context about our clients because I think this is important—probably one of the most useful things that we bring to the table here this afternoon. The women and children who we support are really diverse. Twenty-eight per cent of the women that we supported last year are Aboriginal or Torres Strait Islander. A large proportion of our clients are culturally and linguistically diverse. We represented—we supported women of 75 different nationalities last year in 2020 and so many of the women who are living in our crisis accommodation are also often women on temporary visas or have precarious visa status. They are usually precluded from accessing state health and legal and other supports and welfare support, things like childcare, housing, all of those sorts—parts of the system that are supposed to support victim-survivors of violence the way that we have the system set up now and they have multiple and intersecting barriers to be able to access the legitimate parts of the system that we have as it stands.

Our submission pretty clearly doesn't support the proposed criminalisation, primarily because we think we are not quite there yet. We think using criminalisation as a—as the strategy to drive change around coercive control and to create community awareness and understanding, changing the system and changing people's behaviour and attitudes, this is not the right way to do it and really happy to talk in more detail around how we think that should be done. Just to summarise, we recommend a five-year research and co-design process, a community campaign, resourced along the lines of other major public health campaigns and a really careful process that has Aboriginal organisations leading the core of this work. We've seen multiple sets of reforms that really are not addressing the issues for the most vulnerable in our society. Thank you.

Ms SILVIA: I would like to ask the Committee as well, our colleague, Christine Robinson who is the coordinator of Wirringa Baiya Women's Legal Centre, I was chatting to her this week and I just wanted to read out a brief statement from Christine who said that:

Our main issue is that there is so much work to be done before this legislation can be put in place. The bottom line is that it cannot be rushed. Conversations and consultations need to be had prior to implementing any changes but it will be essential to have other things in place such as training. Not only for the police but for everyone. If an offence, then what will be the penalties and how can we be assured that this will not impact negatively or at the detriment of Aboriginal women which is our experience is usually the case and I would ask that the Committee, if you have not already, to accept Wirringa Baiya's submission, which I understand was submitted at the end of last week.

The CHAIR: Thank you, is that the—conclude your statement?

Ms SILVIA: Yes.

The CHAIR: Thank you very much. Yes, I can confirm that they—we have received that and—

Ms SILVIA: Wonderful.

The CHAIR: —they are in the mix.

Ms SILVIA: Thank you.

The CHAIR: Thank you so much for your opening statements, for your attendance and for your written submission and, as I said, for the work that you do. I just wanted to start by asking about the process and my question—and your clear point that you think more work needs to be done, if I can phrase it that way?

Ms SILVIA: Mm-hm.

The CHAIR: Any consideration of that. I would ask you to assist the Committee by letting us know what you think needs to be done, what those steps are, and I hear you say training and consideration of—particularly for—not to be the detriment—to the detriment of our Indigenous women in particular, but also what other things you might be able to propose for steps going forward but also whether you consider the Scottish model of introduction but long time between introduction and what was the word we were searching for Abigail?

Ms BOYD: Implementation.

The CHAIR: Implementation, thank you. Whether you consider that to have been appropriate or whether that might be applicable in this case?

Ms SILVIA: Perhaps I will start and then I will hand over to Moo. I mean, I think the question of what needs to be done is probably a broader and a deeper question than what we have got time to pick apart today—

The CHAIR: I am sure it is. Yes. Can I interrupt you?

Ms SILVIA: Yes.

The CHAIR: I am very happy for you to take that on notice and to come back with some written points if—and some more time to consider it. Very happy to do that.

Ms SILVIA: And I think, in that broad context, or as a broad response to that, there was some of the indication that is contained in our submission.

The CHAIR: Yes.

Ms SILVIA: Essentially, there is an alignment around seeking a whole-of-system reform and really looking at that in terms of the nuanced complexities for different population groups that we have talked about and looking at broader sections of the system that sit outside the very topic of whether or not to criminalise coercive control. So I think unilaterally we see the insidious nature, the prevalence and the seriousness of coercive control and its impacts on victim-survivors. So there is no question that the impetus for us—for Government and for whole-of-community to really shine a light and to look at how we incorporate that into our whole-of-system response and into community's understanding is really fundamental. So I think that you would find that our submission sort of sits in line with that sense of there is a broader piece of work that really does need to be done and that it is not just in terms of one isolated action to lever that whole-of-community change and response. But to that note, I will pass on to Moo.

Ms BAULCH: If I had a magic wand, the way that I would do it tomorrow—and limitless funds because it is a fairly—

The CHAIR: Yes, they are the two implements, yes.

Ms BAULCH: —expensive exercise, I think we—I mean, certainly a really clear message that this Government takes coercive control very seriously and the reason we are proceeding as a state in this direction is that we recognise that this is—this impacts on women particularly. That it is a gendered issue but more broadly, this is something that we are not taught—teaching kids about in schools, we don't have a legal or a justice system that is set up to deal with it yet but this is going to be the thing that we will go after over the next five years and it will be a multi-prong strategy.

So yes, there will be expertise in DCJ that is able to lead some of this work but there is an awful lot that needs to be done outside of that and I think some of the experts who have presented over the last few days have given off some sense of the vastness of the task that is behavioural, attitudinal and systems change that this would require. A huge public community campaign, which—we have done stuff like this in New South Wales before. Things like the ending HIV campaign that ACON ran over a number of years with the aim of stopping behaviour and changing a whole community's behaviour. Very similar sort of approach to that. Seatbelts. You know—

Ms SILVIA: Drunk driving.

Ms BAULCH: Drunk driving. All of those sorts of things. At the same time, having—bringing together all of the stakeholders and co-design has been done quite well by parts of DCJ around the sexual consent stuff that was done probably three or four years ago now. DCJ, FACS [Family and Community Services] at the time, let really good community consultations and if we seriously want to understand what victim-survivors think about legislation and what the impact is going to be on them, we need to go out and do that at a state-wide level. That means going out, community conversations, toolkits. Different communities. We need to speak to people in rural areas. We need to speak to people across a diversity of communities.

To do that, you need to resource those community-controlled organisations to lead and facilitate those conversations because, no disrespect, but bureaucrats going in and doing that, even sector services going in and do that, you are not going to get the genuine community buy-in that you need if you are going to have that kind of level of change which needs to occur and set a deadline on it. Say we are going to do this over a period of five years. We are going to have a massive community campaign. We are going to train every part of the system that needs to be shifting their thinking away—around the way that we police this and at the same time, proper resourcing within the pretty broken service system that we have now which just gets buffeted around in the winds of another piece of reform being bolted on to make sure that you have got everybody on the same page.

Ms SILVIA: That, in turn, that perhaps the very—this inquiry in itself is perhaps a catalyst for that broader change and exactly as Moo described there. So I think that one of the things that really speaks very clearly across a central narrative of so many submissions and certainly in ours is around actually the level and depth of what needs to be done in order to really address the system and society at large. So I would see that this is a really welcome opportunity to shine that light on actually that really core piece of work and not seeing one thing in isolation from another.

The CHAIR: Thank you, that is very helpful and I think you have really summed it up there in talking about the vastness of the task and the complexity. We know that this is not a simple fix. It is not just—it is one part in a much larger conversation. That said, can I ask if you think that—we don't want the perfect to be the enemy of the good and while we would love a magic wand and endless funds, we don't have either and I just wonder if you—I would like your view on whether you think arriving at a definition of coercive control would be helpful in leading that and whether you think that is something that we could do fairly soon to assist leading that discussion? Then another follow up after that.

Ms SILVIA: Mm-hm, well—

Ms BAULCH: Do you want to go first?

Ms SILVIA: Yes is the short answer.

Ms BAULCH: Yes.

The CHAIR: Yes. Yes.

Ms SILVIA: That is a fundamental principle to moving on with anything is actually having an accepted definition of what coercive control is and how that is understood.

The CHAIR: It may well be a starting point. It's not going to fix everything but it's a starting point and—

Ms SILVIA: Correct. Yes.

The CHAIR: We could well be accused of just coming up with a nice name and definition for it and not doing anything else but I don't think that is the intent. I think the intent is to lead by defining it to start with.

Ms SILVIA: Yes.

The CHAIR: Secondly, and I think you alluded to this, it's not just DCJ. It's not just police. It's not just a Committee. It's not just services. It is a comprehensive involvement. How would you see that? I think you alluded to the consultation done by DCJ. How would you see those entities all working together over that five years? What kind of—I hate the word but what sort of—

Ms BAULCH: It is a huge challenge.

The CHAIR: Yes. Structure.

Ms BAULCH: I have—in my previous life, I have seen what whole-of-government looks like when we attempt to do it and I have seen very little evidence of it in New South Wales. Not to put too fine a point or disparage any of the work of—

The CHAIR: So what works?

Ms BAULCH: I think it would require absolute leadership from the top. As I said, so it would require—

this would be—would have to be something that sits with the Premier and within her jurisdiction to say actually, this is what we are going after and this is one of our top priorities. One of our top—not a Premier’s priority but this is one of the top things that we are going to do. One of the reasons why we talk in our submission around having a five-year process is this needs to sit across parliamentary terms and it needs to sit outside of the process.

I know in New South Wales we have got a pretty reasonably good history of having a bipartisan approach to the big things when it comes to domestic violence and associated reforms. However, I think when it gets down to the next level, that is where you start to lose some of the nuance. So it would have to be driven as a whole-of-government piece and bringing Education to the table. Bringing Health in there. It would require something similar to the sort of structure, governance and commitment that's occurred in Victoria with the Royal Commission and I am not suggesting we need to have a Royal Commission in New South Wales in any shape or form but that level of investment. We are talking billions of dollars and that's what it will take. It will also be about accountability for all departments and that needs to be at the very top of those departments again. We are talking cultural shift and we are talking about embedding gender equality at the very core of this, which is—it's a big ask.

The CHAIR: Okay, thank you. I will just for the record note that we will be consulting in regional areas, we just haven't publicly announced that yet but that is very much on our agenda and—

Ms BAULCH: Fantastic.

The CHAIR: —in a very fulsome way and that we have representatives here to ensure that happens as well. I will turn to my colleagues and [inaudible], Trish Doyle.

Ms DOYLE: It's really good to see Helen and Moo and I will begin by thanking you for all the work that you do. Not just in your submission to this inquiry and articulating so eloquently what needs to happen but the work that you do every day on these issues. So thank you.

Ms SILVIA: Thank you. It is appreciated.

Ms DOYLE: It is a big ask to change entire systems and to bring about the kind of reform that we need that will ensure safety of victims of domestic and family violence. I just want to acknowledge, before I ask you a question that I have put to a lot of people, that I want to acknowledge the points that you make in your submission that we do need to incorporate strategies that do seek to avoid unintended consequences and that do address the fears that some of our cohorts in different communities have outlined and we do need to have a look at alternative justice outside the civil and criminal justice system. I do acknowledge that.

When we hear from our peak organisations though, in New South Wales, they tell us that victim-survivors who have been consulted with at length, many victim-survivors want this change. They want to see coercive control criminalised as an option. So if we do leave coercive control out of the criminal scheme, does that send a message, do you think, that it is less serious than physical assault?

Ms SILVIA: I think that the message to victim-survivors is that as an organisation, frontline services, as a Parliamentary Senate Committee, as a bipartisan approach from Government and whole-of-community, that we see you. We hear you and we need to address the whole-of-system and community to take the prevalence and impacts of domestic and family violence seriously. That we understand that it is entirely preventable and what we need is ambitious and bold changes to bring about safety for whole-of-community. So I think that there are many things that victim-survivors would want to see and need to see. If not for themselves, then for their sisters, their cousins, their friends and their colleagues and I hope that in our generation, we will.

Ms BAULCH: I think the other thing I would like to add, Trish, and I understand completely why we are where we are here now. My concern is that the people who are locked out of the system now, the people who are disenfranchised, the people who are not accessing either the criminal, the civil justice part of the system, the people—the women who have had guns held in their mouths and told you will never tell anybody about what is going on. The Aboriginal women who are never going to report to police no matter how good we make the police force and how sensitive and how many multicultural liaison officers we have. All of the good work that has occurred in terms of reforming the systems over the last 10 plus years, there will be people who can't access this system and what I think we should be doing is trying to design a piece of legislation but also a broader system that supports them and puts them at the centre.

Unfortunately, we are never going to be able to reflect every victim’s voice, right? Having worked in a peak body, I know we are able to gather pretty good strong evidence around what services on the ground think and also what victim-survivors think now and I think we have come a long way but there are a whole tonne of victim-survivor’s voices that we are not hearing in submissions here and we won’t for those range of reasons so I think one of the first parts needs to be about actually, working out how we would do that. How do we listen to victim-survivors in a way—and incorporate what is going to be a whole plethora of different views about what should happen in terms of the system response.

Ms DOYLE: I appreciate your responses.

Ms BAULCH: Thanks, Trish.

The CHAIR: Thank you. Ms Abigail Boyd.

Ms BOYD: Thank you. Awesome to see you both. So I think we—there seems to be broad agreement that we need a whole-of-society, whole-of-government reform to deal with coercive control and whether or not we criminalise it, we still want to do that. And Moo, when you were saying it's a big ask, it is a big ask regardless. I guess I share some of the caution that I have seen in some of the submissions around whether this Government or the Government after it or whoever will actually carry through on the good intention and it can be easy to be cynical and I am cynical. However, do you think that politically it is more likely that we will see those reforms with a law or with an internal policy statement of the kind that we see just get dropped so, so often?

Ms SILVIA: That is a big question.

Ms BAULCH: Yes. It is a good one.

Ms SILVIA: I think—I am careful to not deviate from the contents of our submission in my response but I think there is something that I have seen emerge and I have seen this also over the course of the last few days with the hearing is not—the sort of conflation of looking at this piece—this potential piece of legislation as a criminalisation of coercive control in of itself but actually is an appetite and an understanding and a growing awareness around other things that absolutely fundamentally need to be addressed.

So I think how that is committed to, it needs to be done. So I think that our—I think at the heart of our submission is that we are saying that we are not ready to be moving towards a criminalisation of coercive control because of these other reasons and these are the priorities that absolutely need to be starting to be put into train to do but it needs to be done and we are—and this—this may be a catalyst for actually a broader recognition of really, what is at the heart of this, which is that there are many pieces of the existence of domestic and family violence in our state, in our country, and its impacts on those in the community and the different areas of our entire—not just within the criminal justice system but within our other forms of structural and systemic and social policy that really do need to be looked at and those pieces of systems need to be looked at as a whole ecology and if we just pull apart the individual pieces, I think that is the caution you are hearing in so many people's submissions. That it really—it runs the risk of not doing what it is intended to do. So I guess in short response to your answer is that actually, I am hopeful, optimistic, in seeing that this is an acknowledgment of the veracity, the—there is a gravitas around this issue and there is a swell of not just appetite for support but absolute fundamental need to address multiple areas of the system and not just this one isolated piece of legislation. But do you want to add to that?

Ms BAULCH: No, I mean, I just think we are at a point now where we have a level of public awareness and community conversation around domestic and family violence, intimate partner violence. I think incrementally we are having a better and more informed conversation and while I do see that legal definitions and legislation can play a really important part in shifting the way that systems work, I don't think they necessarily shift the way that people think about an issue. I think there are much more powerful ways of doing that. Particularly if you think about it through the public health lens.

I think from—we—this is not a new problem or a new approach or a new thing that we are talking about. The domestic and family violence sector have been talking about coercive control for decades now and I think the fact that we have a hundred and however many people have submitted to this inquiry and that there is such a level of—

The CHAIR: Too many.

Ms BAULCH: —interest and it is making the front page of *The Sydney Morning Herald*. You know, that people are reading about coercive control on their phones or their physical papers now. Things have shifted a lot in the last five to 10 years and this—us being here today marks the next step in the way that New South Wales thinks and talks about domestic violence and that is super exciting. I think we have to embrace that opportunity and say there is a legislative—there is a place for legislation and there is a place for fixing up the pretty messy system that does not work for lots and lots of people but there is also a bigger place for talking about how we are going to shift the community conversation around this.

Ms BOYD: I agree with you that the law is a small part of it and looking at the way that laws and cultural change go together is really interesting and when Jess Hill was here earlier and she was talking about marital rape laws. I mean that is a really good example of a law that—it is not about how it gets enforced, it is about the message that it sends. Do you think that there is an advantage in—and I put this in the context of a Federal Government that just abolished the Family Court. Do you think that there is an advantage in taking advantage of a parliament that wants to actually embrace a reform and put that very clearly into law at this time?

Ms BAULCH: I don't think they are reforming the right bit, sorry. I feel like—I feel that there is a much more effective way. If we are really going to fix this system up for the people that it is failing, this is not it. For me personally, I think there are other ways of doing it.

Ms SILVIA: Yes and I guess in terms of representing the submissions content, it is not that we are universally opposed to criminalising coercive control, it is really around prioritising the work that needs to be done to get there. I guess that we cannot say that strong enough. Not just on the basis of the feedback that we got to put into the submission but the sort of collective evidence and I guess that which you have seen in other people's submissions—

Ms BOYD: Yes.

Ms SILVIA:—that it is—no matter how many ways that we would like to say that this would be a silver bullet or the right catalyst, there are so many other considerations that we absolutely need to address before we can even get to that point.

Ms BOYD: Thank you.

The CHAIR: Thank you. I think if there are no further questions from my colleagues, I will say to you, thank you so much and it is a vexed and complex and vast question. A number of clichés come to mind. I can't stand clichés so I won't repeat them but which do we do first? So thank you. I am very appreciative of you coming in today to assist the Committee in person. I think you have taken some questions on notice and we would be very grateful if you could provide those answers within seven days in writing. The Committee staff will be in touch with you about that but in the meantime, please know that we very much appreciate your work day-to-day and all your assistance to the Committee. Thank you, very much.

Ms BAULCH: Thank you. Thanks for—

Ms SILVIA: Thank you. Thanks for having us.

Ms BOYD: Thank you both.

Ms BAULCH: Yes, thanks for having us and thank you for the work that the Committee is doing on this issue.

The CHAIR: [Inaudible] and had questions but you have already answered them so they said no, they have answered the questions that we have. So just as long as you know that and—it happened a couple of times throughout so thank you very much.

Ms SILVIA: It may be the problem of talking without taking a breath in between sentences.

The CHAIR: Yes—

[Audio malfunction]

(The witnesses withdrew.)

(Short adjournment)

SALLY GRIMSLEY-BALLARD, General Manager for Domestic Violence Service Management, affirmed and examined

BRIANNA ATTARD, Case Manager, Lou's Place, before the Committee via videoconference, affirmed and examined

The CHAIR: Thank you. Lovely. Welcome back to the Joint Select Committee Inquiry into Coercive Control. Thank you for joining us. In this next session we have representatives and witnesses from the Domestic Violence Service Management [DVSM] and from Lou's Place. Thank you very much for joining us today. We very much appreciate it. We have some members of our Committee also on videoconference as well as our witness from Lou's place. Do either of you have an opening statement you would like to make to the Committee?

Ms GRIMSLEY-BALLARD: I do.

The CHAIR: Thank you. Yes, we might start with—

Ms ATTARD: I do as well.

The CHAIR: Yes.

Ms ATTARD: Sally can go first.

Ms GRIMSLEY-BALLARD: Thanks, Brianna. Thank you. Okay, so I would firstly like to wish—I would wish to acknowledge the Gadigal People of the Eora Nation and pay my respects to their Elders, past,

present and emerging. I am the General Manager at Domestic Violence Service Management which I will refer to as DVSM. We are a small specialist domestic and family violence not-for-profit that supports women and their children. We provide outreach supports and refuge accommodation in Sydney and remote New South Wales. In this financial year to date, we have supported 1077 women and children. Each of these women's situations are complex and interact with multiple systems. Coercive control is in every domestic and family violence case we support. DVSM thanks the Joint Select Committee for the opportunity to share our experiences in frontline delivery.

We work closely with Insight Exchange and we wish to share or table with you two resources today which may assist in considering cultural change, training and implementation. Follow My Lead and My Safety Kit and we have copies for everyone. Both resources we use regularly and are recommended in the *New South Wales Domestic Violence Death Review 2017 to 2019*, recommendation eight. DVSM stresses that a specific offence of coercive control must be considered within a broader framework of intersecting system changes to ensure its intention can be effectively applied. Education and training is essential to all frontline responders such as police, magistrates, healthcare workers, education—educators, child protection services and in addition, to comprehensive community education. We would urge time is taken to consider changes and implementation to minimise any unintended consequences. We need to understand and be tuned into victims' resistance to violence and how women navigate their safety. This assists our understanding and recognition of the patterns and history of abuse. This also provides a broader scope for accuracy and evidence gathering of the situation the victim is experiencing. It ensures victims are not misidentified as the perpetrators of the situation.

Many victims do not want to see their—the perpetrator go to jail. They just want the abuse to stop. The coercive control offence provides an additional option for victims and most importantly, legitimises the experiences of victims and acknowledges that what is happening is a crime. It is critical to have voices of lived experience at the table and included in assessment, co-design and implementation of any potential changes. It is also imperative that all voices—the voices of all marginalised groups are also heard and considered including Aboriginal women, children and young people, women with disabilities and women on temporary visas. We all need a broad national definition—a national broad definition of domestic abuse to ensure consistency of approach, understanding and legislation. The impacts on children and young people directly and indirectly experiencing coercive control within the family is damaging, long-lasting and often goes unheard and I would just like to advise a trigger warning before I share a story.

Jane is 16 years old. She is in Year 12 and she is a bright student planning to go to university. Jane is experiencing high levels of stress resulting from the physical and verbal abuse directed towards herself, her mother and her sister over a prolonged period from the father. Jane is experiencing ongoing harassment, manipulation and intimidation from the father, as does the mother post-separation. Some of Jane's experiences include continual derogatory remarks about her, her possessions stolen to finance his gambling activities, threats of self-harm by the father. Constant calling and texts. Jane shared being in a class and receiving 45 texts from her father with photos of her mother in the community. Terrible mistruths being spread about the family to friends and the school community to isolate them. Jane has also been punched in the back of the head and dragged to the floor by her father and he has attempted to burn her. Jane recognises that her father is also applying similar psychological abuse and manipulation to her younger sister who is nine years old.

Jane first started experiencing mental health issues, including an attempt of self-harm at which time she was brought to the attention of State Services. For—last year, Jane experienced the feeling of not being able to breathe which coincided with escalations of her father's controlling behaviours. This led to two overnight hospitalisations for Jane. Two child protection reports of psychological abuse due to the father's influence and pressure to influence the mother have had to be submitted. A further third child protection report with regard to the younger sister followed. To our knowledge, there have been no outcomes from these reports and no communication with DVSM.

Jane has reported her fears and experiences to her school and she is known to the school psychologist. Her studies have been impacted. Jane is currently undertaking specialist youth counselling. Additional security has been added to the home after the father stole a key from the youngest child, let himself in, hid in the laundry and later proceeded to threaten and then swallow bleach. Jane has advocated for her mother's safety and intervention with services and police when the mother was—felt unable to do so. There is a current ADVO in place for the mother or—as the primary victim but no specific mention of the children. The police advised DVSM that adding children to the ADVO was not necessary as it was psychological abuse.

We share this example from Jane's perspective to highlight the importance that coercive control is just as damaging to young people in families as it is for the mother and that any changes of domestic abuse and coercive control definitions must recognise the children and the young people in these family units. In addition, this case highlights a disconnected system in that, although Jane and her mother came to the attention of several authorities over many years, coercive control remains present in their lives and continues to having—to have an ongoing damaging effect. Thank you.

The CHAIR: Thank you very much and if you're able to provide a copy of that to the Committee staff, we would be appreciative. Terrific. Thank you, Ms Attard, would you like to give us your opening statement, thanks?

Ms ATTARD: Thank you, I'd also like to acknowledge the Gadigal people of the Eora Nation and pay my respects to First Nations Elders past, present and emerging. Thank you for having me here today and it is a pleasure to appear beside Sally from DVSM. I support her submissions—the DVSM submissions and their assertions in her opening statement. So I wanted to come here today and speak about healing and I am sure you have heard lots through the submissions and through the oral testimony about different ways this could be legislated and how and why we need to respond to this as a community but I do not think we can truly respond to this issue without having healing at the centre of our discussion.

From sexual abuse, child abuse, to all forms of interpersonal violence, women are disproportionately and systematically targeted. This creates trauma. Then, our culture and our institutions suppress their voice and their autonomy when they try to get help for their experiences. This compounds the trauma. Our system lets them down. When legislating an offence of coercive control, we have to remind ourselves why we are doing it. We are doing it to promote healing. We are doing it to allow women to be heard. To have their experiences acknowledged and validated and adequately responded to. To try and give back a sense of power and of autonomy. This requires giving women a choice and knowing that whatever way they choose to heal themselves, this is possible, available and adequate.

Healing looks different for different women. For some, it involves an adequate legal response. It involves going to the police, being heard and taken seriously. Having their case looked into and evidence followed up. It involves the perpetrator being held accountable in the courtroom. It requires a just penalty with their safety as paramount. For others, healing involves accessing the social support they need easily and freely. This is not 12 sessions of counselling with a psychologist that is assigned to them randomly after filling out a million forms. This is a therapist of their choosing for as long as they need at a price that is accessible to them. For others, healing involves going somewhere like Lou's Place, meeting other women who are also in classes or through educational groups where they can learn about their experiences of abuse and understand that they are not alone.

For others, it is getting help for their kids who they so desperately try to protect and most often do in many—in ways onlookers will often not understand. It is about keeping kids and mums together in a compassionate, family-focussed response, rather than an aggressive child protection or Family Court response. It is about keeping kids and mums together. For others, healing will be getting themselves financially back on their feet through compensation that is accessible and takes into account the limitations of reporting when trapped in abuse. Right now, we have victim services which so many women at Lou's have not been able to access as, even though they reported as required through the scheme, to police and their general practitioner [GP], there were issues with the recording of that from the GP or the police and this limited their access to financial compensation. For many women, healing will be a combination of these things or something else altogether.

So yes, we need an offence of coercive control and we need protections built into the legal system to ensure the offence actually works for survivors. We also need whole-of-system change. The education of first responders and campaigns for the broader community and ensuring adequate social support and economic protection for women leaving violence and abuse and we can get to this through thorough and extensive consultation with those with lived experience. The reason we need all of this is for healing because women are disproportionately and systematically targets for violence and abuse in our society. We need to ensure our response is one that gives women a choice, restores autonomy and empowers them to move on with their lives in a way where they are safe, happy, secure and flourishing and where they are not just surviving but they are recovering.

The CHAIR: Thank you very much, we appreciate your opening statement. If you could provide a copy through the Committee staff, that would be terrific, too. Can I just at this point just point out that if anything that we have heard today raises issues for anybody here or listening, that you can contact of course 1800 RESPECT, 1800 737 732 for confidential advice, support and referrals related to domestic and family violence. The New South Wales Domestic Violence Line, 1800 656 463 or the Men's Referral Service on 1300 766 491.

Thank you both very much for the important work that you do day-to-day but taking time out from that to assist the Committee and attend. Can I acknowledge the two—I will call them documents, that you have put forward to the Committee and we will table those with your permission. I would like to just quote from one of those if I may, which we should have done and you have stated:

Most significantly our thanks goes to all people with lived experience of domestic and family violence who have courageously shared their insights for the benefit of others.

So can I acknowledge that also and thank all of those who have done so in their submissions, the examples that you have given and also doing so today.

Can I start by asking both of you to consider, we are—while I very much appreciate your written submissions and we have a lot to consider here, it is very broad, we do have a remit of terms of reference with very specific questions that we have been asked to address. One of those is about the appropriate definition of coercive control and can I ask whether you consider agreeing on a definition of coercive control and potentially criminalising it will assist to send a message that certain behaviour is not acceptable. Certain behaviour within that definition merits legal intervention. Can you comment on that?

Ms GRIMSLEY-BALLARD: Brianna, would you like to go first?

The CHAIR: We might start with you, Ms Attard.

Ms ATTARD: Okay. Sure. No worries. So as I wrote in my submission, a clear nationalised definition would—

The CHAIR: You have. Yes.

Ms ATTARD: —assist in creating uniformity of how coercive control is conceptualised and addressed and I also want to point to the quote in my submission that talks about that coercive methods that enable one human being to enslave another are remarkably consistent. So I think that having a clear definition would help the community understand what we are considering a crime and what we are considering a breach of human rights and what we are considering is not okay. Yes.

The CHAIR: Yes, thank you and I did see that in your submission and I have a question about the nationalisation in a moment but can I invite you, Sally, to comment on that also?

Ms GRIMSLEY-BALLARD: Yes, we would agree with that as well that it will give it the gravitas and the—I think being able to expand on—provide a proper definition and words around coercive control that we don't have in our language or in any of our definitions—or we do have it in some of the definitions but I think it would help, yes.

The CHAIR: The challenge of course is to try and get the balance right and not encapsulate behaviour that might not warrant criminal—

Ms DOYLE: Sanctions.

The CHAIR: Sanction, thank you, and I just asked if you might like to comment on how we might approach that vexed question?

Ms GRIMSLEY-BALLARD: Yes. Brianna?

Ms ATTARD: I think that in approaching that question—oh, sorry, Sally, if I am speaking over you—

Ms GRIMSLEY-BALLARD: No, no, please, please. No.

The CHAIR: No, just go.

Ms ATTARD: It is really hard to see. I think that we—and I am not sure—exactly sure how this would be put into legislation but we need to be talking to the victim-survivor and their supports to understand whether this is coercive control. Often a victim may not understand that what they are experiencing—experiencing is coercive control but with the help of supports, they can help identify whether that behaviour is indeed coercive control or not and I wrote in my submission how many frontline services don't have much difficulty in identifying the differences of what is normal in a relationship and what constitutes coercive control. So I think listening to those with lived experience and, where appropriate, their support services, that would assist that and if there is some ability for that to be built into the legislation, we would support that.

The CHAIR: Thank you.

Ms GRIMSLEY-BALLARD: I would agree with that. I also think there is an opportunity to focus on behaviours as a crime and the intent of the perpetrator to humiliate or harm. Not the effect and the responses of victims as obviously they differ depending on who you are talking to and how the person is presenting et cetera. We would really like us to see movement from the victim responsibility to the perpetrator accountability. That is really important.

The CHAIR: I think that is really important. Can you expand on that before I turn to my colleague and I take up your point about intent? Can I ask you to address that and also whether you consider the reasonableness test should be included?

Ms GRIMSLEY-BALLARD: So at the moment, our system is asking the victim to share their stories and all those sorts of things. There is so much—so much relies on the victim and if there is a way and I am not going to pretend to be of a—versed in the law or anything but if there is a way to move that accountability and ask—be getting the perpetrator to be doing more, that is what I would—that is where we really recommend that

should happen.

The CHAIR: Thank you. Did you want to add anything to that, Ms Attard?

Ms ATTARD: No. In terms of the—oh, just a small comment. In terms of the balance, I think there is an issue with at the moment, we don't give enough voice, to victims' experiences and then yes, balancing that with what Sally was saying, which is requiring them to do all the work and that is why I think in that definition and in striking that balance, we can look towards behaviours that are generally and often part of coercive control but then also having the option where that could be assessed against a standard of reasonableness and what would cause a reasonable person fear and then taking into account that—what causes a reasonable person fear may—or what causes the victim fear in domestic violence may not cause a reasonable person fear because of the pattern of coercive control that is being used against them in the relationship.

The CHAIR: Yes, thank you, which would come about through context and discretion and—

Ms ATTARD: Yes.

The CHAIR: Yes, the pattern, recognising the pattern. Thank you. I will hand to the Deputy Chair of our Committee, Trish Doyle.

Ms DOYLE: Thank you, Chair and thanks a million, Brianna and Sally, for the work that you do. The efforts that you have put into submissions and speaking to those today but generally, I think it is important to acknowledge the work that you do every day in this space. I wanted to say to you, Sally, that something you mentioned in your opening statement is something that I think we should be repeating as often as possible and that the focus has to be on safety. Brianna, you brought in this element of healing and how that needs to be at the centre of what we do and that should be not just about surviving but recovering and healing. I am going to link those couple of comments to one of our questions in the discussion paper and that is No. 12 about jury directions that would specifically address domestic and family violence and what should a proposed jury direction seek to address. Can you just talk a little bit more to that point? About what we need to actually shift there in that element of the system?

Ms ATTARD: The way I look at jury directions—well the way I look at anything in the system is that it can be an opportunity for education. So if somebody is appearing as part of the jury and they might hold some patriarchal values or—and—or values that are quite common in the rest of society, that that can be an opportunity to dispel those myths to ensure that the jury—that the jurors are applying the law to the facts in a way that is—that promotes justice for victim-survivors. So in my submission, I have spoken about using jury directions to dispel domestic violence myths and provide greater clarity on the dynamics, complexities and patterns of domestic violence and coercive control. So, you know, some of those is that domestic violence is not just physical. What acts of resistance might look like. The impacts of abuse and how a victim-survivor might appear on the stand as a result of the trauma and the abuse that they have experienced.

Ms DOYLE: It is not an easy task, is it? To cover off all of those?

Ms ATTARD: No and I think going back to my point before about the reasonableness and striking that balance, another direction can be around that. So behaviour that appears innocuous to the public might have specific meaning to the victim-survivor such as a sideways glance or something like that.

Ms DOYLE: Thank you. Sally, did you want to add anything to that about what should a proposed jury direction seek to address?

Ms GRIMSLEY-BALLARD: I am happy to take that—

Ms DOYLE: Take that on notice?

Ms GRIMSLEY-BALLARD: Yes, take that on notice.

Ms DOYLE: Great.

Ms GRIMSLEY-BALLARD: But I definitely agree with what Brianna shared and I—we think language is a huge part of the puzzle piece as well.

Ms DOYLE: Great, thank you.

Ms ATTARD: Yes.

The CHAIR: Terrific. Thank you. Questions from other members? Questions from members remotely? No? I think that we—therefore we—I just had a couple actually about—unless my colleague would like to jump in with any? No? Thank you. Good. I was taken by your comment about the opportunity for education and just ask you both to comment on that. We have had a range of views, it is fair to say, over the past three days and in the written submissions about what we should be focussing on. We have the terms of reference, of course, to focus on. There is a—one, well I think universal view, that there is a lot more to do and it is a lot wider than just this.

There is also a view about caution in what we are doing but also, I think one that we might not have explored as much as perhaps we should, is the opportunity for education. I love the way that you phrase that, that potentially even having the discussion and I know the work that you do every day does that but we are, I think, affecting that internally here as well. Can I ask you to comment on that and opportunities for that, either through legislation or through the Committees or in other ways that you see might be appropriate? That relates to question 12.

Ms GRIMSLEY-BALLARD: Brianna, do you want to go first?

Ms ATTARD: You can go first this time.

Ms GRIMSLEY-BALLARD: Okay. All right.

The CHAIR: Oh, sorry, not question 12, question 15. Sorry.

Ms GRIMSLEY-BALLARD: Fifteen, yes. So what—we definitely feel there is a wonderful opportunity here. I have heard a few people speak today, Moo and Helen before just mentioned about whole-of-government, Education, Health, everybody being part of the picture. I have 20 years public sector experience and four years—almost four years on the Royal Commission that looked at child sexual abuse—

The CHAIR: Thank you for your work in that. I really appreciate it.

Ms GRIMSLEY-BALLARD: Thank you.

The CHAIR: I practiced in the area briefly so very much appreciate the work you have done.

Ms GRIMSLEY-BALLARD: Yes and I do think that there is significant opportunity for cultural change here. I think what you are doing—and thank you for what you are doing, is part of this. Is part of the whole conversation. I haven't even seen *The Sydney Morning Herald* but I was thrilled to hear that it was on the front page. I think that there are many people who don't even—didn't even know what coercive control was in New South Wales a few months ago, six months ago but yet it is being talked about. It can't just be a sector and then people intersecting with the sector that know about it and I have really—I have really tried to think about the cultural change here and how I think that it could change. I think that community education is a key part. I think our workplaces are a ginormous opportunity. Educating people, employers, business, corporate so that they understand what domestic violence is. We have put—we have got the two weeks' leave and we have done things like that but there is more to this. They need to know the nuances and they need to understand it.

Then the whole education system. We have got reasonable relationships. It starts in kindergarten. I have got teenagers in high school. I know that they are getting the education but it is not working and if you are aware of the Me Too movement and there is an online petition at the moment from high school girls in Sydney saying we got the education but it is still consent. All those sorts of things. So there is so many layers to this. Extreme opportunity. I think that together, we can all do it and I also think that if it is—so that social impact framework that it is Government, it is business and it is not-for-profit all at the table working on this together. It is all of our problem. It is all of our solution.

The CHAIR: I think that is right and I think the—isn't the saying that the journey to the top of the mountain begins with the first step?

Ms GRIMSLEY-BALLARD: Yes.

The CHAIR: I was remiss. We do have one question from my colleague, Justin Clancy online. Are you with us, Justin?

Mr CLANCY: Thanks, Chair, and firstly, just thank you for that last comment. That was very much it. Brianna, also for your introductory remarks around healing as well and the fact that healing means different things for different people. I think that is really a message for us as well. My question is actually to you, Brianna, it was just in Section 5 of your submission you talk about ADVOs and that potentially there is an opportunity for training on coercive control could assist in terms of how we address issues with ADVOs and you have experienced some issues with ADVOs as it is. So just hoping you might expand on that a little bit please? That was breaking up, was it?

The CHAIR: No, we heard you. That's all good. Yes, go ahead. Brianna? Go ahead.

Mr CLANCY: We might have lost Brianna.

Ms ATTARD: I apologise but you did cut out yes, in part of that. I think you are talking about—are you asking me to comment on—hello?

Mr CLANCY: Yes.

Ms ATTARD: Okay, am I—can you still hear me?

Mr CLANCY: We can hear you, Brianna, yes.

The CHAIR: We can hear you, we can see you. Yes, go ahead.

Ms ATTARD: Okay. Can I just clarify, are you asking me to comment on ADVOs?

The CHAIR: Yes. Justin? Yes.

Mr CLANCY: That's it. Yes. You're back with us, Brianna. Yes, Brianna. Yes.

The CHAIR: I think the issue is between you two because we are fine just hear—yes, Brianna, that is correct. The question was about ADVOs, yes, if you can comment on that? What we might do is get you to take that on notice. Justin, you might—

Mr CLANCY: Yes. Thanks.

The CHAIR: Yes, we might if that's all right, just get you take that on—so I am sorry, Brianna, I don't want to cut you off but we want to give you the opportunity to answer, unless you would like to go ahead now?

Mr CLANCY: Thanks.

Ms ATTARD: Hello?

The CHAIR: All right, I think it is a sign that we are towards the end of the day. We will give you that question if you are happy to take that on notice?

Ms ATTARD: Okay. I think I had two main points around the ADVOs and—

The CHAIR: Great.

Ms ATTARD: —number one was taking into account the context. I think with all this community—can you hear me?

The CHAIR: Yes, we absolutely can. Just keep pushing on. Yes.

Ms ATTARD: With all of this—I am going to try and—

The CHAIR: No, you are absolutely fine at our end so just keep on going. Yes.

Ms ATTARD: Sorry. No, that's all right. I am not sure if you can hear me?

The CHAIR: We can absolutely hear you and see you. Do not worry about anything else, just go ahead.

Ms ATTARD: Yes, that's fine. Sorry.

The CHAIR: All right, we will have to wind up.

Ms ATTARD: Okay.

The CHAIR: So we might take your questions on notice, thank you very much and did you have anything you wanted to add to that?

Ms ATTARD: Okay, so I—

The CHAIR: No, we are going to take it on notice now, I'm afraid.

Ms ATTARD: Okay.

The CHAIR: We are just getting tight for time, I'm sorry. I'm so sorry.

Ms ATTARD: All right.

The CHAIR: Yes, we do want to hear from you in a fulsome way and I do not want to cut you off again.

Ms ATTARD: Sorry, yes, I think I just had two points. One was about taking into account the context in which the offending occurs in order to not misidentify the primary aggressor and this is a point that goes to education as well because with an increase in community awareness on—oh.

The CHAIR: Great. Thank you very much, we appreciate that very much. I am going to have to finish this session now, we are out of time but I am very grateful for your assistance. You have taken some questions on notice; we will ask for your answers to be provided within seven days. The Committee will be in touch and your answers will form part of your evidence and will be made public as well. Thank you so much for the work you do and thank you for the attendance today.

Ms GRIMSLEY-BALLARD: Thank you. Thank you all.

The CHAIR: Thank you. We will go to our next witness.

(The witnesses withdrew.)

(Short adjournment)

HAYLEY FOSTER, Chief Executive Officer, Women's Safety NSW, sworn and examined

The CHAIR: Thank you so much and welcome to the last session of Day 3 of our hearing into—for the Joint Select Committee on Coercive Control and our witness today from Women's Safety NSW, I welcome you Ms Foster and thank you for joining us. You have given a substantial submission in writing, thank you for that, which we all have. Would you like to make an opening statement to the Committee?

Ms FOSTER: Certainly. Thank you.

Ms DOYLE: Can you just pull the microphone a little bit closer to you, Hayley?

Ms FOSTER: Certainly, yes, no problem. Thanks very much. I would like to begin by acknowledging the traditional custodians on the land on which we meet today, the Gadigal people of the Eora Nation and pay my respects to Elders past, present and emerging. I would also like to extend that respect to any Aboriginal and Torres Strait Islander people in this room and to all of those who are joining us on—via webcast as well. I would like to acknowledge the strength, wisdom and resilience as well as the vision of First Nations women and communities working to end violence, racism and ongoing discrimination against their peoples. We seek to walk and work alongside you. I thank the Joint Select Committee for the opportunity to give evidence at today's hearing and acknowledge the commitment that each of you have demonstrated throughout these proceedings to the safety, justice and wellbeing of women and their children impacted by domestic and family violence. Thank you.

About Women's Safety. Women's Safety NSW is a peak representative body for women's specialist domestic and family violence services in New South Wales, including each of the women's domestic violence court advocacy services, well known as WDVCSs. WDVCSs operate in every part of the state. Last year, WDVCS supported 53,527 women, a diverse range of them, experiencing domestic and family violence in New South Wales. That included 7333 First Nations women, 10705 culturally and linguistically and diverse women and 5139 women with disabilities. They also provided to these women 286,721 occasions of service. The vast majority of these women had contact with our criminal justice system. Most had contact with the police. Many were supported in apprehended domestic violence order matters and charge matters in the local court.

Women's Safety NSW also has associate members from a range of other essential women's specialist domestic and family violence services such as women's health and counselling services, Staying Home Leaving Violence services, women's shelters and refuges, women's resource and case management services and women's legal services. As a women's specialist peak, we advocate on behalf of our members for systemic reform to increase women's safety, justice and wellbeing in the context of domestic and family violence. We also have a women's safety advocate program which assists us to do this. This program offers opportunities for women with lived experience of domestic and family violence to have direct input into policy, practice and law reform and to speak about their experiences in a safe and empowering way.

This week, we have had the privilege of hearing from a wide range of experts from the domestic and family violence specialists, from law practitioners and police, from prosecutors on the frontline, to those in research and systemic advocacy and thought leadership, working to improve prevention and response efforts to gender-based violence in our diverse communities. It is heartening to see so many committed individuals dedicating themselves to the safety of women, children and communities impacted by domestic and family violence and this is cause for hope.

The Committee has received Women's Safety NSW's submission of more than 300 pages. This submission draws upon the experiences and viewpoints of 72 victim-survivors and 42 frontline domestic and family violence specialists right across New South Wales. Within this submission, we make 36 recommendations for reform which go to both the drafting of a coercive control offence and the accompanying system reforms that are needed to make them work as intended. I will not attempt to summarise these now. Today we call upon the Committee to please listen to the voices of domestic abuse survivors. Whilst there have been some submissions this week recommending against the criminalisation of coercive control, Women's Safety NSW submit that the overwhelming majority of victim-survivors themselves want to see this reform happen. 97 per cent of the 72 victim-survivors that we surveyed and 81 per cent of 104 that answered that question in the Domestic Violence NSW submission, supported criminalisation of coercive control, provided it was accompanied by system reform. Each one of these victim-survivors deserves to be heard. We are all here in this place at the service of those impacted by domestic and family violence. Our ultimate accountability is to them.

Women's Safety NSW note that there are domestic abuse survivors and experts in this field who do

oppose this reform and there are concerns across the board that we take care in the crafting of these laws and the scaffolding of them to ensure they work to afford much needed safety and justice to victim-survivors of abuse. No one who has given evidence in this inquiry that I have heard have advocated for law change on its own. Nevertheless, it is critical that we listen carefully to the voices of those opposed to the criminalisation of coercive control, particularly victim-survivors who have had previous experience with the justice system. Whilst we must not, as the Honourable Chair has suggested, make perfection the enemy of the good, we must make our best efforts to engineer these reforms in a way that will address the concerns that have been raised as far as possible within a democratic process so that we are not leaving anyone behind.

I am sure you will all agree that within the written and oral submissions to this inquiry many, many system gaps to—in our response to domestic and family violence have been brought into sharp relief. This is vital information if we—but I am confident, actually, that the New South Wales Government will utilise to inform the reform agenda beyond this inquiry. But this task and the task that is at hand today, is to consider whether to criminalise coercive control and if so, how best to do it? To this end, we would reiterate that 97 per cent of the victim-survivors surveyed by Women's Safety NSW and in fact 100 per cent of the members that answered our surveys on coercive control, said that they—this is the right thing to do and we need to do it and we need to do it with a level of urgency whilst also with care.

In closing, the New South Wales Parliament has the opportunity through this inquiry to enact critical reforms that will literally change the lives of hundreds of thousands of women and children in New South Wales living now with domestic abuse. Enacting this law alongside sensible reforms to make them work will send a powerful message to each and every victim-survivor of abuse that they have been heard and that they matter. I also wish to send a message to the people using abuse, well it well send a message to people using abuse that this behaviour will no longer be tolerated. It will no longer be regarded as a private matter and that it is time to change and that we will help them change.

If done well, these laws will increase women and children's access to protection and to justice. It will recalibrate both law enforcement responses and social services to respond effectively to victim-survivors and abusers who come into contact with them. If done right, these reforms will work for everyone, regardless of gender, race, culture, language, religion, age, sexuality, ability, income and geography. Everybody deserves to be safe in their own home. I would like to end this opening statement with the words of a woman who shared her story with Women's Safety NSW so as to have her voice heard in this inquiry. We have called her Tamara to protect her identity. Tamara is in her 40s, has a disability chronic health condition and lives in regional New South Wales. She says:

coercive control is dangerous, life threatening and damaging. We need laws that protect our basic human rights. That provide deterrents and administer consequences. Lives are literally counting on it. If my experience is for anything, it is to use my voice and do my best so that this does not continue to happen for my daughters and for my granddaughters.

Thank you.

The CHAIR: Thank you, very much, for your very comprehensive submission and thank you to those who assisted in producing that. I know that there has been quite a lot of work put into it.

Ms FOSTER: Thank you, Chair.

The CHAIR: Thank you also for the work that you do which is very important and for taking time out to assist the Committee today in our inquiry. Also for bringing up the end of a long couple of days. Please know that we are grateful to have you here. We do have some members online, just so you may be aware you get some questions from them. Would you be able to provide a copy of your opening statement to the Committee staff?

Ms FOSTER: Of course.

The CHAIR: So that we can put that into Hansard as well. I just wanted to thank you for the detailed recommendations that Women's Safety has made about the potential offence and the construction of it. I just wanted to ask, you may—I am sure you have seen some of the prior evidence that we have received about some of the challenges potentially of that.

Ms FOSTER: Mm-hm.

The CHAIR: I just wanted to ask you about those and how you think some of those challenges can be overcome. Particularly in relation to the definition and what your thoughts are around that?

Ms FOSTER: Yes, thank you. Look, our response about—in the submission about how to define coercive control was very much based on what members, what—of frontline specialists and victim-survivors have told us. We put to them the Scottish definition and those examples and there was broad, as you would see in the submission, there is really broad support for that. That that captures what people had experienced. There were a

couple of examples in there around it perhaps not being clear enough from financial abuse and perhaps not clear enough, although we do have intimidation offences, that people wanted to see really clearly in that pattern of abuse offence, threats to animals, children and other people who are—who they care for. So that is in terms of the definition. Are you going to the—some of the practical difficulties?

The CHAIR: Well I just wanted to gain your thoughts on whether in that definition, some of the concerns could be addressed by, for example, including a reasonableness test? Or an intent component? Do you have a view on that given the work that you do in the courts system already—

Ms FOSTER: Yes.

The CHAIR: —can you see how that might alleviate some of the concerns? Do you have a view on that?

Ms FOSTER: Yes, look, I think for us it is really, really important that there is an objective standard and that that looks to what a reasonable person would likely to consider that person—would cause that person physical or psychological harm. So—and that is because we do not want women on the stand having to prove their victimhood. Having to prove their harm. We have learnt a lot in sexual assault matters as to what that can do and it will deter people from actually coming forward and reporting that this is happening to them. So I think we need to make sure the offence is accessible. Women's Safety NSW have taken a position that we do think that two examples, proven to a criminal standard—two examples of that harmful behaviour proven to a criminal standard is appropriate. In terms of intent or knowledge, look, I think that we surveyed our members and slightly more of them thought that intent or recklessness would be sufficient but quite a significant number of them thought that that would be too high and thought that a knowledge test would be more appropriate. I hope that answers your question?

The CHAIR: Thank you. I might turn to my—I have a number of questions but I will turn to my colleagues to begin with. Abigail Boyd, thank you.

Ms BOYD: Thank you. Thank you very much, it is great to see you at the end of a long day and thank you for your submission, which is not just incredibly thorough but really valuable in terms of putting forward the actual words of victim-survivors. Yes, it is really, really useful so thank you, very much. So we have heard a lot as I know you have been following, we have heard a lot about as you say, people are generally in agreement that we need a whole-of-system reform but we have disagreements about that, the criminalisation aspect. Some whether it goes before or after or whether it happens at all. With your position and your in-depth knowledge of WDVCSs not just across the state but across different types of diverse communities, what is your view on the idea that introducing another offence will actually make the court process worse for victim-survivors? I mean, no one wants to go through the court process so why would you suggest that a new offence is a good idea?

Ms FOSTER: Look, importantly at the moment, what victim-survivors tell us and those at—WDVCAS workers that are supporting them, is that at the moment, a lot of what they are experiencing, what women report to us that they're experiencing is not captured in the law as we currently stand. Of course we have intimidation and stalking and that has been a really good improvement but it does not cover all of those coercive and controlling behaviours. So far too often, we see police throwing their hands up in the air and saying look, there is not much else I can do until X, Y, Z happens. Usually physical assault is going to be the best example of that or a threat in writing, for example. So many women feel that they're absolutely—and time and time again, turned away.

I think it is really important, and I know that you have heard evidence today much to this point, but I think it is really important that Women's Safety NSW make this point as well about women being criminalised at the moment inadvertently in our criminal justice system. This is a significant problem and when a woman is criminalised inadvertently and misidentified as the primary aggressor, what that means is, it sets off a whole chain of events which can absolutely destroy any access to safety and justice and also has implications down the track in terms of contact with her children and the children's safety as well.

So I think it is really important that we address that. So what I would say to you is that 99 per cent of those WDVCS workers surveyed as well as the other workers that do fantastic work and important work, 99 per cent of them believe that this will actually reduce misidentification of women in the system and purely going to the evidence that you heard from Professors McMahon and McGorry, that—this morning. It is sort of—I guess you talked—you articulated a non-legal understanding of it but it makes sense that finally we will be looking at a relationship. The whole context of it instead of coming up and turning up and saying okay, what happened here at this particular incident? We know, and this comes directly from our Aboriginal specialist workers across the state and Aboriginal victim-survivors themselves, that they have really big concerns about that current incident-based approach and they are very much behind this change to make sure that we finally recognise that pattern of behaviour and the dynamics of power control in relationships.

Ms BOYD: Thank you.

The CHAIR: Thank you. Further questions? Trish Doyle?

Ms DOYLE: Yes. I am also going to add for the record, Hayley Foster, my deepest thanks and regards for the huge amount of work that has gone into compiling your submission to this inquiry but also could you please extend to your team and throughout all your members throughout New South Wales, for the work that they do every day in the name of working towards and providing safety for women and children. So thank you.

Ms FOSTER: Thanks so much. I appreciate it.

Ms DOYLE: Throughout your submission, you highlight again and again, the views and the lived experience and the desires of victim-survivors and I think that they are critical to any work that comes out of this inquiry. So I just wanted to state that from the outset. You have been following, I understand, the last three days of hearings as well and you would have heard that there is—or appears to be, a divide between some—what some of our academic experts and researchers have to say about the timing and the need to criminalise coercive control and then what victim-survivors and domestic and family violence specialists at the coal face have to say. There seems to be a bit of a divide there and so the question that I have put to people is—and I will to you as well because I think that it is important that we look at everyone's responses to this question. Does leaving coercive control out of the criminal scheme actually send a message that it is less serious than physical assault?

Ms FOSTER: Well, I am just going to go back to the victim-survivors of domestic abuse that we have consulted for this and that is a resounding yes. So everybody who we have spoken to have said that it absolutely sends the message, not just to family and friends and community but right across the service system when they are trying to practically access help and trying to practically access safety, it de-legitimises people's own experiences. It tells them that what you are experiencing is not serious. So it is an absolute, unreserved yes.

Ms DOYLE: Thank you.

The CHAIR: Further questions from colleagues? No? Thank you. Online they said that no, they are good. Thank you. I think you have given a lot of information here, which is terrific and we will certainly look at that. I just wanted to acknowledge, I think there was some assistance provided by Bartier Perry which is noted on the front and I wanted to thank them on the record and also I note in another submission, there was assistance provided by Hall and Wilcox. For those lawyers who do that work, very appreciative and I would just like to, on behalf of the Committee, acknowledge those and any other—others who have provided pro bono assistance and a lot of that work is undertaken very quietly and very much appreciated. Any other further questions from Committee members?

Ms DOYLE: I was just going to ask, given your—the huge amount of knowledge that you retain and huge amount of work in compiling this submission, you would have had to have allude to research and statistics alongside the statements and lived experience of victim-survivors. We often hear that some of those statistics put forward as fake allegations or fake news. Just wondering, for the record, whether you might speak to that for a moment about the gendered violence that is coercive control in domestic violence situations?

Ms FOSTER: Absolutely. I guess what I would say first up is that we do know currently that around 20 per cent of domestic violence offenders in New South Wales are actually female and that reflects our very incident-based system at the moment. That also reflects the issues that we have been talking about around the misidentification of the primary aggressor, which is extremely concerning. What we know from the Australian Bureau of Statistics personal safety survey is that 95 per cent of those who experience a physical assault actually name a male perpetrator. So I think that it is really important that we ground our knowledge in the actual evidence base and that is a problem if we have got 20 per cent of our domestic offenders—domestic violence offenders in New South Wales not reflecting what we know to be the actual case behind closed doors.

I think the other thing I would say is that the benefit—one of the benefits of a coercive control offence is that it very much goes to the heart of that power and control imbalance and I think that is what we have seen reflected so far overseas with over 95 per cent of prosecutions in both jurisdictions involving a male offender or a male accused. So I think that clearly that is a demonstration that this offence very much goes to the heart of what is actually being experienced by victim-survivors and therefore it is much more accurate reflection. Whilst domestic violence offences as they stand as an incident-based offence, largely, we will continue to see high numbers of women being criminalised. Particularly marginalised women. But if we actually look at coercive control and the core of coercive control, it is extremely gendered.

The CHAIR: Thank you very much. I am sorry, we are out of time. We will have to finish there. Hayley Foster, thank you for assisting the Committee today. If you have taken some questions on notice, we ask that you provide your responses within seven days. Committee members may have further questions for you and if you provide responses to those in writing, they will form part of your evidence and be made public also.

Ms FOSTER: Thanks so much, Chair.

The CHAIR: Thank you very much and appreciate your assistance today and your great work. That concludes our public hearing for today. I thank all witnesses who appeared in person and via videoconference. I

would also very much like to thank our Committee, my colleagues on the Committee and those members who have been here throughout. Our Hansard staff who very quietly continue to record every word diligently and probably improved upon them slightly and in particular, the Committee staff who have been just outstanding and have managed a whole lot of things behind the scenes very quietly to ensure this runs effectively and we hear from as many stakeholders as possible. So thank you, very much, to the staff.

Ms DOYLE: And for bringing us coffee.

The CHAIR: That concludes the hearing and the webcast. Thank you.

(The witness withdrew.)

The Committee adjourned at 17:15.