

REPORT ON PROCEEDINGS BEFORE

JOINT SELECT COMMITTEE ON COERCIVE CONTROL

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

At Macquarie Room, Parliament House, Sydney on Tuesday, 30 March 2021

The Committee met at 9:05.

PRESENT

The Hon. Natalie Ward (Chair)

Legislative Council

Ms Abigail Boyd
The Hon. Rod Roberts

Legislative Assembly

Ms Trish Doyle (Deputy Chair)
Mr Peter Sidgreaves

PRESENT VIA VIDEOCONFERENCE

Legislative Assembly

Mr Justin Clancy
Ms Steph Cooke

The CHAIR: Good morning and welcome to day five of the Parliament's Joint Select Committee into Coercive Control inquiry hearing. Before I start, I acknowledge the Gadigal people, who are the traditional custodians of this land, and I pay my respects to the Elders past, present and emerging of the Eora Nation and extend that respect to other Aboriginal and Torres Strait Islander people who are present or watching via webcast. My name is Natalie Ward. I am the Chair of the Joint Select Committee on Coercive Control. With me today are Trish Doyle, the Deputy Chair of the Committee and member for Blue Mountains; Ms Steph Cooke, the member for Cootamundra; Justin Clancy, the member for Albury; Peter Sidgreaves, the member for Camden; Ms Abigail Boyd, MLC; and the Hon. Rod Roberts, MLC. A number of our Committee colleagues are taking part in the hearing via videoconference.

This is the fifth 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. If the evidence we hear today raises any issues, you can contact 1800RESPECT. For confidential advice, support and referrals related to domestic and family violence, the New South Wales domestic violence line can be contacted on 1800 656 463 or the men's referral service on 1300 766 491. We have witnesses attending in person at Parliament House today and taking part via videoconference. The hearing is being broadcast to the public on the Parliament's website. I thank in advance everyone who is appearing before us today. We appreciate the flexibility of those participating in today's proceedings, especially via videoconference. I note that Committee members may need to get up and leave the room during the course of the hearing today. I hope witnesses will not take offence. We just have some things that we have to duck out of the room for occasionally. It is no reflection on you or your evidence in any way. We thank you for participating.

MARSHA SCOTT, Chief Executive Officer, Scottish Women's Aid, before the Committee via videoconference, affirmed and examined

The CHAIR: Do you have a short opening statement that you would like to give to the Committee before we commence with questions?

Dr SCOTT: I have put together a couple of points. I am a little reluctant to do that because I am so aware that your setting and the landscape of Scotland are very different in many significant ways. I do not wish to presuppose any of the assumptions that you might be bringing to this about why a potential piece of legislation on coercive control would be a good thing, but I think that I might just very quickly sketch out what I think some of the key learnings were from our perspective.

The CHAIR: Yes, please. Go ahead.

Dr SCOTT: I think the two biggest things for me, which are probably quite transferable to your setting, were about why to do this legislation. I think the first is that your survivors will, I suspect, have been giving you the same messages and telling the same stories over recent decades as have the ones in Scotland. We had more than four decades of survivor stories from both children and women that have described experiences of domestic violence, and what we call domestic abuse in Scotland, that were really very different from what the laws in Scotland prosecuted as domestic abuse. We did not have what we call a "specific offence", so most domestic abuse was prosecuted under other laws like breach of peace or stalking and harassment laws. We were aware that there is a four decade study of 70 countries that says that those countries that have specific legislation that sketches the outline of an offence are much more likely to be effectively prosecuted, just because the tools are fit for the purpose.

It was really clear to us that the laws and prosecutions that were very focused on physical violence that we were seeing were really only one and—for many survivors—a smaller part of their experience. We were working with a hugely flawed set of tools. The second reason was—and this is a point that I have to nod at Evan Stark, who wrote the book literally, *Coercive Control*, from his observations over decades of the battered women's movement work in the United States. Those were that, despite millions of dollars spent and many laws passed and lots of work to end domestic violence, there was no evidence—and there is still no evidence and there is no evidence yet in Scotland—that the prevalence of domestic violence was reducing. We were certainly seeing reductions in secondary trauma and secondary victimisation because you had services that were much more appropriate. But the root of the problem, which is women's inequality and the structural inequalities that enable abuse, were not being addressed. The way that domestic abuse was being defined fit nicely with criminal justice priorities and ways of traditionally measuring and prosecuting crime. Yet we are really making no inroads on the absolutely massive scale of domestic violence.

I will just remind you that we are talking probably about one in four women and one in four men who perpetrate. In Scotland I can say that our estimate is that one in five children live with domestic abuse. This is not just another social problem. This is a massive phenomenon that drives so many harms and negative outcomes across all domains in both government and public life. So there were two really compelling reasons to do a really difficult job, which was to figure out and start from what we needed the law to do rather than what was easy to craft a law for. Essentially what that meant was the status quo was not adequate and certainly did not fulfil the obligations that Scotland had under international law. I believe that Australia signed up to many of the same international conventions like the Convention on the Elimination of All Forms of Discrimination against Women and the United Nations Convention on the Rights of the Child. If, as a state, we were interested in being serious about protecting the human rights of children and women, we had to be willing to grasp the nettle of defining coercive control and defining a criminal and civil—but mostly criminal—justice in the beginning approach to it that had a prayer of actually changing the prevalence.

I would say that that is the landscape that we were looking at. It is probably pretty close, I would hazard to guess, to the landscape that you all are looking at. I would say that some of our learnings from the process—it took us about at least four years of development to create this law. It is a complicated law in Scotland. We are proud of that rather than reluctant about it because we think that the reason that it is complicated is that it was developed in a really iterative consultation process with survivors and stakeholders that said that a simple description of coercive control and its impacts—or as the law calls it in Scotland, its "effects"—was unlikely to deliver the outcomes that we wanted. We got resistance from a number of areas. I know you are not going to be strangers to resistance there.

I think that one of the things that I would say is that everybody needs to be prepared to deal with that and that the resistance in our experience came from institutions that had the most serious vested interest in the status quo. They saw the law as what it really was which was a huge challenge to institutional sexism and racism and all of the forms of structural inequality that drive domestic abuse. They are the things I thought of when I always think about the top-line issues. There is one more thing and I really noticed this in the discourse in Australia that I have been involved with and that is it is difficult to keep people's eye on the experiences of children who live with domestic abuse. They were often in our system initially treated as collateral damage. Their single biggest value to the system was as witnesses in a criminal justice trial rather than as victims in their own right who had a right to be protected as much as anybody in their community. They were really invisible in the way people conceived of this phenomenon of domestic abuse.

I remember saying to the justice committee in Scotland that it was absolutely critical to get it right. If there is domestic abuse in a family it does not matter if the children are in the room or in the house or even in the country, if they are in the family they are experiencing domestic abuse. Perpetrators of domestic abuse do not control just one member of the family. That abusive behaviour would certainly impact them given how our society structures caregiving. The control would be directed at them specifically also. I would really recommend that people think through what that means in terms of legislation and court responses to protect children, and to include them in the crafting of your law.

The CHAIR: Absolutely. Thank you very much. That was many years of work articulated in a few minutes. On behalf of the Committee I thank you for the incredible work you have done and continue to do and for assisting us.

Ms ABIGAIL BOYD: I am a big fan, Dr Scott. You were saying that there is no real data showing the reduction in domestic violence or domestic abuse and it is early days still in Scotland. What can you tell us about the cultural change and the impacts of the discussion in those four years and then after the law was put in place? How has that impacted people's understanding of coercive control and what you understand we need to do to have that education program out there so that people understand what this means?

Dr SCOTT: That is a big question. I will do my best. I am always a little cautious with questions about culture. I think we tend to default to using culture as an explanation for resistances when really power is the explanation. That is over-egging it a little bit. Culture is really, in my mind, another representation of the way that resources are distributed in our families, in our communities, and in our workplaces et cetera. If the reality of women's and children's lives is that they are poorer, they are less safe, they have less power and they have less say about the decisions that are made about their lives then that is your culture. There is no easy way to suddenly change people's attitudes and change their culture without actually grasping the nettle and reducing the inequalities that people experience. I am sorry, I wish there was another answer. I think that is the crux of what the job is in front of us.

I would say that I was very happily surprised by the extent to which the debate about coercive control and the new law in Scotland did foster, I think, a significantly improved understanding of domestic abuse and the

fact that it does not require physical violence to be abuse. And the fact that we do not use a hierarchy of harms. It used to be that a serious domestic was if there were broken bones or blood or it required a trip to the accident and emergency. It has been gratifying to see that people have begun to shift that notion. I still see in Scotland people defaulting to notions that they will pay lip service to that wider definition. They still struggle with being able to identify the impact of coercive control which is actually the more insidious element of it and reduces peoples agency and freedom.

I think changing the culture also requires a change in the way resources are distributed in your society. That requires being willing to challenge a whole variety of things, including the amount of unpaid work that women do, the fact that children need to have a voice and participate in decisions about child contact and custody. That kind of thing reveals the way the patriarchy operates in our societies. That is all very vague but essentially what it says is that there are a few tools to change the culture but there is not one tool that does. I will give you a little bright light though and say we have a structure in the Scottish Parliament—I am not sure if you have a similar one—called cross-party groups. My organisation, Scottish Women's Aid, provides the secretariat for the cross-party group on men's violence against women and children. It was one of the first cross-party groups set up in Scotland when we had the reopening of the parliament in 1999.

A sitting member of that cross-party group is White Ribbon Scotland. Not too long after the bill was implemented we had a session just on the implementation of the bill and Davy Thompson from White Ribbon Scotland told us a story about going and working with some men in one of the communities. He did a sort of pre-check post-check, simplifying it, a sense-check of what are the attitudes that the men in this group had about how much responsibility do women bear for being raped—if they wear a short skirt, if they have been drinking—the typical questions that you ask to assess people's understanding of violence against women and girls. They did not do all that well on those questions.

However, when he came to the questions about domestic abuse and coercive control he said he was stunned to find out that they could actually define coercive control. It does not mean that they were willing to overturn the patriarchy but they had a much more sophisticated understanding than we would have predicted. One of the benefits of taking a long time to do this and having a lot of public discussion—just like you are doing right now—is that it gives an opportunity for the debate to be wide. That is the best thing for implementation that you could have. Sorry, that was a long answer.

The CHAIR: No, I am sorry that we are constrained for time.

Ms TRISH DOYLE: Dr Scott, thank you so much, it is an absolute joy to hear you speak. It is riveting. On a professional and political level it is so important that we hear from you today. On a personal level as a child victim-survivor I am quite moved by you focusing on the impact upon children and how we need to incorporate that in our deliberations and the outcomes of this Committee and hearing. To play the devil's advocate, which I am doing with a lot of detractors as we discuss whether we will criminalise coercive control and there is a lot of understandable caution, I just wondered from the perspective of your insight and wisdom do you think that leaving coercive control out of the criminal scheme actually sends a message to our community that it is less serious than physical assault?

Dr SCOTT: I think that is one of the unintended negative consequences that you need to prepare for. It certainly was not an outcome in Scotland, I don't think. I think the reality is that understanding, or that concept, of domestic abuse is there and it is embedded now and the passing of a piece of legislation about coercive control—one of the choices that was made in Scotland was that we embedded all of our domestic abuse legislation in one law. The implication of that was that there is no part of this that is better than any other part of it; it is all a part of the overall phenomenon. But the other issue really is that there is no getting around the fact that people will continue to assume that physical violence is more harmful until the criminal justice system responds robustly to coercive control. Because at the end of the day it is a social message that you are sending about what people really value and what people will not stand for, and at the moment they are standing for a lot of coercive control.

The CHAIR: There is so much I want to ask you, Dr Scott. I will ask if you will take further questions from us in writing after this session if that is possible, just because there is so much.

Dr SCOTT: I will hedge my bets a little bit with how much time I would have to require to do that but what I would be very happy to do, if you want to send me questions, is to have a conversation with somebody and point them in the direction of resources to answer them or answer them myself.

The CHAIR: Sure. Thank you.

Ms TRISH DOYLE: Dr Scott, are you seeing some evidence of an increase in misidentification of the primary aggressor at all?

Dr SCOTT: Yes. One of the issues that seems to have come up routinely, and I am really delighted that it is part of the discourse and debate about this law, is the issue about the response to criminalising women and certainly also women of colour. I think that is an absolute concern. Lots of credit and kudos for the frank discussions that are happening there about how the racism is embedded in criminal justice responses now and whether we are worried that a new law will just give them another tool. I am just going to underscore that I think that is critical that that gets addressed. We had some research in Scotland about dual arrests and some pretty engaging evidence that was very gendered. It showed the number of cases in which there was a dual arrest and what happened to the female and to the male perpetrator was hugely different.

I am very happy to share that research. It was done by the Scottish crime and justice research centre. That led to a piece of work, as we were developing our new law, that was done by the Crown office and the police and developed a protocol that was essentially aimed at discouraging dual arrests. In order to do that, what they were doing was to say that you must identify a primary aggressor and that these are the elements that you would be looking at when you are identifying a primary aggressor. The Crown office was actively discouraging the police from dual arrests. Our take, at Scottish Women's Aid, on the phenomenon of dual arrests, and subsequently on the phenomenon of women calling for help and them being arrested as perpetrators, was that it is a huge training issue. It is not that difficult to identify a primary aggressor if you understand coercive control and domestic abuse and you have access to the appropriate criminal justice records, such as previous arrests for domestic abuse.

The CHAIR: Thank you. Forgive me for being so rude and interrupting you. We do want to hear the rest of that. We are just absolutely out of time. But I am going to ask our Committee staff to follow up with you on the balance of your answer to that question. I also have a further question if you would be kind enough to take it on notice, which is about your earlier statement in your opening about existing offences and the ability to prosecute under existing offences before coercive control was introduced. You spoke about how it is more likely to be effectively prosecuted under a coercive control specific offence. If you could talk to that, we will send those questions through to you following this. Thank you so very much. We are very grateful, Dr Scott, for all of your work and for assisting our Committee today.

Dr SCOTT: I am delighted to be of any help that I can.

(The witness withdrew.)

JULIE INMAN GRANT, eSafety Commissioner, Office of the eSafety Commissioner, sworn and examined

SHARON TROTTER, Acting Executive Manager, Prevention and Inclusion, Office of the eSafety Commissioner, affirmed and examined

The CHAIR: Do you have a short opening statement that you would like to make to the Committee before we start with questions?

Ms INMAN GRANT: Thank you so much, Chair, and to the Committee, for the opportunity to appear before you today. I would also like to begin by acknowledging the Gadigal people, the traditional custodians of the Eora nation and the land on which we meet today and pay my respects to the Elders past, present and emerging. As eSafety Commissioner, and for the purposes of this inquiry, my primary area of focus is the impacts of technology-facilitated abuse [TFA], which I will define further shortly. This is a very important inquiry, at a critical moment in time. It is really time to shift the dial and take concrete action in how we understand and address violence against women, in all its forms. I am hopeful that, by demonstrating how technology is used to abuse and control women, we will be able to move a step closer to tackling what has become, and remains, a persistent societal scourge.

But first, let me give you a quick overview of eSafety and the horrific stories we hear from women who have been subjected to coercive control through technology day in and day out—stories which vividly and graphically depict why change needs to happen, and stories which illustrate what a manipulative and destructive force coercive control is, how insidious it can be through covert technological means, and how it can wear a victim down, make her question her sanity, dominate her, control her, trap her and ultimately break her without any visible evidence. eSafety is the first online safety regulator in the world. We lead, coordinate and advise on online safety issues to ensure all Australians have safer and more positive experiences online. Australians can turn to us for help, knowing that we can investigate serious online abuse, help with removal of that abuse and hold perpetrators to account. Since you said "short", I may present this to the entire record, but I will truncate as I go along.

The CHAIR: Thank you. We are happy to take a copy of your written opening. That will be incorporated. We are happy to receive that as well. Just go ahead.

Ms INMAN GRANT: I will truncate it, but I think it is important to highlight some of the horrific examples we see every day and what we are doing now to address. Obviously, COVID has supercharged all abuse vectors. We saw a 114 per cent increase in image-based abuse reports, which is the non-consensual sharing of intimate images, also a factor of TFA and coercive control, a doubling of child sexual abuse reports, a 50 per cent increase in adult cyber abuse—we did not have a formal scheme at the time, but there is proposed legislation that will soon go before the Federal Senate—and a 30 per cent increase in youth-based cyberbullying. The harmful experiences that are reported to us—70 per cent of all of these cases are of women and girls. Obviously, it is gendered. It is rooted in misogyny. Back to Dr Scott's talk about racism: It is almost always intersectional. Through research we did earlier last year—if you are of Indigenous or Torres Strait Islander background, if you identify as LGBTQI or you have a disability, you are two times more likely than the national average to have a negative online experience.

Through our image-based abuse scheme, we commonly see domestic violence victims having their intimate images and videos shared broadly online as a form of what we call relationship retribution. We steer away from using terminology like "revenge porn". Revenge for what? We do believe that the lexicon matters and we should not be using language which leads to victim blaming or trivialises the abuse. We focus very heavily on prevention and education and awareness. It is not just taking down harmful content after the damage has been done. We also look at issues like what we call proactive and systemic change programs like Safety by Design, where we are working with the industry to ensure that they assess risk up-front and build safety protections in and embed them at the beginning, like we do with cars where we require them to have seatbelts and airbags that work and deploy.

Technology has never been guided by international standards. We are the first to really attempt to regulate the social media sites. But we also do things like put out emerging technology trends and issues, looking at the trends that we are seeing around sextortion, around doxing, around deep fakes—AI that can be used to facilitate image-based abuse—and make sure that we have got an early warning system out there so that people understand how the technology could be misused. We have certainly seen creative and myriad ways that that could happen. Technology-facilitated abuse is when a woman—I guess I have not defined it. TFA is what it is in short form. Let me talk about how it manifests.

Technology-facilitated abuse is when a woman is so tethered to her abuser through technology that she is forced to send a photo of herself and her surroundings to him every half-hour so that the perpetrator can confirm that she was where she was meant to be and still dressed in the same clothes as when she left home. Technology-facilitated abuse can be multimodal and suffocating, making the woman feel that her former partner's presence is omniscient in her life, even after she took the brave step of separation. It is worth noting that post-separation is when we tend to see more technology-facilitated abuse as an extension of that violence—in 99 per cent of domestic and family violence cases or even when a woman becomes pregnant and is giving less time and attention to her partner.

There was another instance of a predator who used a drone and spyware in conjunction with physical stalking to constantly monitor a mother and child in a very small community, where there was literally no escape. Technology-facilitated abuse can manifest as total domination, as when an abuser set up cameras in every room of the home so that there were no areas in that house where the woman and her children were not in constant view. So there was literally nowhere in their own home that they felt safe or unwatched. TFA happens when an abuser fits kill switches in cars to shut down the engine, preventing a woman from leaving the home and ensuring she can only drive as far as school and back. These are real, tangible examples of where technology has facilitated further abuse to occur. It is any behaviour that uses technology to isolate, harass, monitor, stalk, impersonate, threaten or humiliate someone. With that someone, the vast majority of the time we are speaking about a woman.

Again, I have got more examples that I can put forward, but I do want to also note that technology-facilitated abuse affects children. This can be profound. Recent research we conducted last year shows that 27 per cent of domestic violence cases involve the technology-facilitated abuse of the child. Often children are used as pawns to facilitate the surveillance of the other parent, filling them with anxiety, guilt, fear and a sense of immense grief and helplessness. In almost 70 per cent of cases that is how children say they felt, like when a particularly determined perpetrator texted his child to obtain information while the mother was at court obtaining a domestic violence order against him or another instance when a father used his child's social media account to identify the school uniform, to track him down and to attempt to abduct him after he and his mother had fled interstate to escape his past violence. The mother and child were again forced to flee their new home to another undisclosed location.

There are obviously myriad and creative ways that perpetrators can use to misuse technology. We do have a program called eSafety Women, which we established in 2016. We have trained about 15,000 domestic frontline workers in how to identify and address technology-facilitated abuse. We also have extensive resources on our website, including technology diagnostic tools. Again I guess just to close, we do know that technology can be used as both a tool and a weapon. We want any sort of legislation around coercive control to recognise the ways in which technology can be misused and to recognise it as a potent force in coercive control but to also recognise that technology can be a lifeline for a woman, to her access to support services, maybe her only connection to friends and family and that we need to continue doing more training to make sure that she knows how to anticipate when there might be spyware on her phone or the iPad that was gifted to her children, that she knows how to turn off her GPS settings, all of these things that we are trying to do.

But I think we also need to address and provide further training to judicial and law enforcement institutions. So many women that come to us have first been to the police. They are often told to just get off the internet or just change your number. I think, as we all know, it is not as simple as that, particularly when you are talking about cutting off someone's lifeline. What we need to tackle is how the technology is misused rather than to prevent women from having technology as a free mechanism for them.

The CHAIR: Thank you. That is extremely helpful. If you are happy to provide a copy of that to the Committee, we would be very grateful. Ms Trotter, are you happy to align yourself with that opening statement, and we will move on to questions?

Ms TROTTER: Absolutely.

The CHAIR: Wonderful. We have a lot to ask and limited time. I know we have one question online. Thank you for the examples because I think they are very useful in illustrating the way this can be such a weapon. I assume it is not illegal to have a drone or tracking software or to demand that someone contact you—

Ms INMAN GRANT: No. Again, it is how it is misused. We have certainly seen drones flying over safe houses. There was one woman who again had escaped in her state, and she could not figure out how her husband knew who had been visiting her for tea and her movements. She was feeding her chickens and heard the drone whirring above. We have even seen people use remote-controlled access to the thermostat to either freeze the family out or heat them out, and the kill switch on the car. Increasingly technology has become inextricably tied to our lives and will become even more so. So everything we do can potentially be weaponised.

The CHAIR: You say that it should be included in the definition of coercive control—that technology be addressed—to recognise that. Can you elaborate on that?

Ms INMAN GRANT: Absolutely, and, you know, we have spoken to members of the judiciary and said that we know that enforcing Apprehended Domestic Violence Orders [ADVOs] or Apprehended Violence Orders [AVOs], depending on your terminology, is difficult when you are talking about physical stalking but too often, when women are being gaslit, surveilled or literally terrorised and trapped by technology, it really is not recognised as a significant harm. While that may not leave significant scars we also know that it is a red flag to future catastrophic harm. I thought Jess Hill's statement was incredibly powerful to illustrate that in the case of Rowan Baxter and Hannah Clarke, that he had not necessarily exhibited what you would think is overt domestic and family violence. But once she left him, that is when the real technology-facilitated abuse and started to ensue.

The CHAIR: Incredible. And you have recommended adding prohibition of technology-facilitated abuse to standard AVO conditions—adding that in to recognise that—that is just a part of that and facilitating—

Ms INMAN GRANT: Yes. You know, I think they think they are using covert technological terrorist tactics, really. If they are allowed to do that, they are still continuing to abuse the woman. So that recognition, I think, would be very important.

The CHAIR: Yes, and capturing that. One of the challenges in this is the evidentiary burden of proof and how on earth do you prove these things and move away from incident-based physical assaults to this whole sort of era that is in the ether out there somewhere. That is a very helpful thing. Before I move online to Justin Clancy, I will ask this final question: Only a number of our witnesses have addressed the question of jury directions. On that evidence base, I am grateful that you have indicated your support for jury directions, similar to those in the Victorian Jury Directions Act. Can you speak to that briefly?

Ms INMAN GRANT: Right. Well, you know, I think we have to recognise that even when women have not experienced physical abuse, there is often a lot of trauma, post-traumatic stress disorder and perhaps, you know, it could be her victim's statement or her ability to deliver a testimony may not really convey the extent of domination—gaslighting—she might have experienced. So I think jury directions are really important. I also wanted to note in response to your last question that one of the things that we do provide on our website are

different ways to collect evidence in these cases and perhaps making sure, even things like impostor accounts or fake accounts might be used in some ways. But often technology-facilitated abuse is low tech so, you know, it is harassing emails, it is harassing text messages. It is even abusive messages, or what we call micro-aggressions over online banking transactions when men are making their child support payments, for instance. So being able to screen capture that and having that serve as evidence I think would be very helpful as well because, again, we do not want to those that are more technologically sophisticated to be able to game the system.

The CHAIR: Yes, absolutely. Thank you for your incredible work and education role in that as well. It is very helpful for a woman to even recognise that it is gaslighting or recognise that it is inappropriate, let alone get to the point of a statement level and let alone get to the point of a hearing and appearing before a jury so far down the track.

Ms INMAN GRANT: Well, we also hear that when women, who are experiencing that, they will admit to feeling a bit of paranoia but I think that is the impression; sometimes they walk away when the law enforcement official or judicial official thought they were paranoid, may have been making things up. And until we really inculcate into our broader cultural institutions how invasive and destructive TFA can be, we are going to continue to have these struggles.

The CHAIR: Yes. Terrific. Thank you so much. I will stop hoarding all the time and go to my colleague online.

Mr JUSTIN CLANCY: Thanks, Chair. Thank you for your submission and for being with us today. Firstly, let me first acknowledge the eSafety Commissioner's support for criminalisation of coercive control, but I really wanted to explore question four, your response to that around current frameworks and how we can improve those more. You spoke of inter-agency cooperation and memorandums of understanding that would help to reduce red tape and help a consistency of response. How does Government help to enable that, so that there is better inter-agency cooperation? Are those pathways available now and, if so, perhaps why are we not making more of that inter-agency collaboration at this point of time?

Ms INMAN GRANT: I think that is a really excellent question. I think hearings like this are a perfect example because they will serve as a way to bring different stakeholders together and recognise similarities and crossover. You know, having spent 22 years in the technology industry with very flat hierarchies and having spent four years in government, my observation is that even where there are areas of clear overlap, there is a lot of siloing. There tends to be siloing between various government agencies and functions so I think, whether it is state, territory or federal Government, we could all function better even if we can just map out all the different players, where they exist, what they are focused on doing. I think while we all need to understand our respective remits, having a situational awareness of the other agencies, we actively make referrals, for instance, when victims come to us. We will try to help them with removal, but if we think they need legal assistance or we think that there is a criminal element to it, we will refer on and we also refer on to a lot of mental health and support agencies, depending on the person and the issue. I think we all need to do a better job at looking above, you know, our own parapets and thinking about how we can more effectively work together because I do think we see a lot of women and their children in these cases falling through the cracks.

The CHAIR: Thank you, Justin. Terrific.

Ms INMAN GRANT: Great question.

Ms TRISH DOYLE: Thank you, Ms Inman Grant and Ms Trotter. We know that the police experience difficulty and prosecuting for technology-facilitated abuse. I am just wondering what other suggestions you have for reform to improve our ability to prosecute these sorts of matters.

Ms INMAN GRANT: Right. Well, part of the narrative I skipped over was that we are never going to arrest our way out or regulate our way out of these issues.

Ms TRISH DOYLE: Yes.

Ms INMAN GRANT: Obviously, there are deeper societal and cultural issues that we need to tackle.

Ms TRISH DOYLE: Yes.

Ms INMAN GRANT: There is no question in our legislation pending before Parliament right now it is proposed that we be given powers to tackle serious adult cyber abuse with intent to harm. Well, section 474.17 of the Commonwealth Criminal Code has been on the books for 16 or 17 years, but you rarely see prosecutions for "Using a carriage service to menace, harass or cause offence" because, first, most law enforcement agencies are underfunded and are not investing in the technological skills. Technology investigations like this are very hard, particularly when people use more sophisticated anonymity or masking technologies. We also need to remember

that going to court costs a lot of money. A lot of these women or families do not have that and it takes a long time and it reopens wounds based on having to. I think what the Federal Government is trying to do here with our powers is we are given a whole range of civil powers and remedial actions so we will be able to issue warnings or formal warnings and user notices. We will be able to fine perpetrators for cyberstalking up to \$111,000 but also fine content hosts up to half a million dollars. So, looking at other tools, not just the criminal route, I think is another thing to consider.

Ms TRISH DOYLE: Can I just add another question to that, if no-one else is jumping in? In the light of that, what sorts of behaviours would you like to see captured in this offence that are not properly covered now? Do you think having this course of conduct offence will make it easier to access justice?

Ms INMAN GRANT: Well, I mean, if women are listened to, if they are understood, if they are believed and we can demonstrate that technology-facilitated abuse causes its own harms and they can get some restitution for that, I think that goes a long way. I wish I could give you more in terms of how you actually draft the offence. That is always the key, is it not: making sure you get the balance right. Technology is always going to outpace policy too, so if we do get it wrong then going back and trying to fix it can be challenging. But I think that recognition is important. The fact that you are taking a whole-of-community approach I think is very important. A lot more education and training needs to happen and, frankly, cultural change in these institutions because we are going to be seeing more technology-facilitated abuse, I fear. So we really need our legal and regulatory frameworks to keep pace.

Mr PETER SIDGREAVES: Thanks for coming along, eSafety Commissioner. Following on from Mr Clancy's question, do you think that victims are aware that they can go to—let us say, for TFA—the eSafety Commission? But further to that, do you think there need to be more services provided similar to what you are doing?

Ms INMAN GRANT: I think we could always do more, we could always be bigger, we could always be better. Whether I think we should have other eSafety Commissioners in this country—

Mr PETER SIDGREAVES: I was thinking more along the lines of, for example, other services like the court advocacy services in that technology space.

Ms INMAN GRANT: Right, yes. We are looking at a range of different proposals. Right now we are focusing on areas of vulnerability. For instance, there may be benefits in how we create this and how we scale this of providing technology services, for instance, to women, so if they think that they might have spyware or are being surveilled in some way, to have some technical support to be able to assess that would be, I think, very useful. Do you have any other ideas in terms of what we think might be missing that could be useful?

Ms TROTTER: I think it is that training and awareness raising and having more capacity to do more of that. As Julie mentioned, we could always do more to raise awareness, and I think while we have reached 15,000 frontline workers we know that there is more that we could do in that capacity. So raising awareness across the board.

Ms INMAN GRANT: Yes, scaling that training. The reason we go to domestic frontline workers is because, again, we know that women and families themselves are vulnerable and maybe feel so dominated and put upon that they need that support around them. So, again, if we could scale out more of our training to the judiciary and to law enforcement, I think that would be useful, so that we were all working on the same trajectory, we all had that same level of consciousness, if you will, that these are issues.

Ms TROTTER: I think as well, just to add, recognising that some people have particular needs and then being able to customise what we offer to meet those particular needs. For example, at the moment we are offering a program for women with intellectual disability around recognising the impacts of TFA. So being able to target our program I think is very important.

The CHAIR: If you would like to add to that purview, you are most welcome to take it on notice and give us more information on that if you like.

Ms INMAN GRANT: Sure.

Ms TROTTER: Thank you.

Mr PETER SIDGREAVES: Just a comment: I spent 20 years prior to coming here in the IT industry and, yes, I am very familiar with what eSafety does. However, I never would have thought that it was possible that you could go to the eSafety Commission for TFA matters.

Ms INMAN GRANT: I agree. I am hopeful if the legislation goes through that we will have even more that we can do. We have never had any advertising or marketing budget so we are doing what we can just to get out there and hear and talk about what we do.

The CHAIR: Just on that, could I ask if you would be kind enough to send us some information? We may have the ability, if members so wish, to communicate some of that information to our constituents and we would be very happy, I think, to do so.

Ms INMAN GRANT: That would be fabulous.

The CHAIR: If you could forward that on to us through the Committee, we would be grateful. Ms Abigail Boyd?

Ms ABIGAIL BOYD: Super quickly because we have run out of time, unfortunately, I just wanted to drill down into the ADVO conditions and the comment you have made there. It surprises me that we do not already have standard conditions in relation to TFA within the ADVO conditions. Is this something that has been raised before and people have said it is part of something else, that it does not need to be explicit?

Ms INMAN GRANT: I think it is in the too-hard basket in many respects. That is what I have heard some say. It is hard enough to stop a determined predator physically; how are we going to prevent that technologically if we do not know what they are doing? But, again, I think it goes back to education, helping women know how to collect this evidence, making sure that the people that they are going to for support and help understand this. We have also seen a few cases where the Family Court orders have actually invalidated ADVOs in terms of allowing the former partner or the parent to continue to have communication or custody with the children. We have done a whole study that we will send on to you around children's experiences with technology-facilitated abuse because it really is harrowing what former partners will do to use their children as pawns and create huge levels of distress for their children too.

Ms ABIGAIL BOYD: That is a really good point about the Family Court system overriding ADVOs; it is another layer for us to consider. Thank you.

The CHAIR: Thank you so much. I apologise, we have run out of time. We are very grateful for your assistance and, on behalf, the fantastic work that you do. In your organisation, thank you for your work and your assistance to the Committee. There will be some further questions to you and I think you have taken a couple on notice. The Committee staff will be in touch and your answers will form part of your evidence and will be made public also. Thank you again. We appreciate it.

Ms INMAN GRANT: Thank you so much for the opportunity.

(The witnesses withdrew.)

JAMAL HAKIM, Managing Director, Marie Stopes Australia, before the Committee via videoconference, affirmed and examined

GAYATRI NAIR, Member, Economic Abuse Reference Group NSW, affirmed and examined

REBECCA GLENN, Founder, Centre for Women's Economic Safety, affirmed and examined

The CHAIR: Welcome. Thank you for joining us today. Do you have a short opening statement that you would like to give to the Committee? We might start with you online, Mr Hakim.

Mr HAKIM: Yes, I do, thank you very much, Madam Chair. Good morning, Madam Chair, Deputy Chair, members of the Committee, fellow panel members and listeners. I am speaking today as managing director of Marie Stopes Australia. I would also like to start by acknowledging that we are meeting on various stolen lands. I join you from the unceded lands of the Bunurong and Woi Wurrung Wurundjeri peoples of the Eastern Kulin Nation. I pay my respects to their Elders past and present and extend that to all others across the country. I would like to also extend that to any Aboriginal and Torres Strait Islander people who are joining us today.

It is important for us to acknowledge the key aspects of reconciliation and the facts that came out of the Mabo case—the recognition that sovereignty has never been ceded and what that means in governing a country that, with over 60,000 years of continuous governing [audio malfunction] simply to challenge our thinking and how we approach complex problems outside the constraints of our existence. I will come back to this in a moment. First, I would like to recognise the obvious: The prevention of coercive control is critical. This goes without saying, you would think, but we must say it, declare it and discuss it. Only through the stigmatisation, open

conversation and setting acceptable behaviours across our community can we resolve issues that have plagued our communities for so long.

Coercive control in itself is complex, and so preventative strategies are complex and require investment in a long-term commitment to achieving results. The health system is a central part of that prevention, as it provides health care for victims and perpetrators. Critically, we also recognise a person's bodily autonomy in making choices and maintaining their own agency. As a healthcare organisation that has a hyper-awareness of coercive control—and a particular a subset of that, reproductive coercion—we need to be able to have open conversations about coercive behaviours in order to provide health care and to prevent further violence. We do this with sensitive inquiry [audio malfunction], both a preventative and a response mechanism.

In considering the question of criminalisation, we must consider it critical that any criminalisation of coercive behaviour must not adversely or unintentionally have consequences for people already over-policed and over-represented in the criminal justice system. We all know the circumstances around Ms Dhu's death in custody. She was arrested by police after she called them for help with a domestic violence situation and died in custody. Aboriginal and Torres Strait Islander people, people of colour, migrants and refugees, people on temporary visas, people with a disability, sex workers and LGBTQIA+ people may, in some form, be subject to adverse outcomes as a result of rushed legislation.

I would like to come back to my earlier comment on governing on unceded lands. I urge the Committee to consider the knowledge, history and governing experience over 60,000 years by First Nations people and how this can form part of the solution to this question. We have the longest continuous culture in the world, so why would we not learn from that? Whether legislation is introduced to criminalise coercive control, we believe there needs to be a number of investments and initiatives [audio malfunction]. As we have identified in our submission, the health system has key responsibilities for the prevention of and response to coercive control yet it lacks strategy, investment and resourcing.

First, let us make sure our health professionals, the police, the legal system—everyone involved—is properly trained. A significant and long-term investment in training for all health and hospital services is required to ensure that health practitioners and professionals across all services are equipped with the tools required to support their patients and meet their legal obligations. When we get our driver licence, we all start on our Ls and we receive training instruction. This is no different. Second, we cannot just burden an already burdened and under-resourced health system without any investment. This is too important. Additional funding, including for things like Medicare benefits schedule item numbers that are specific to family violence and that do not require a mental health plan referral, is needed so that health professionals—including nurses—are able to dedicate their time for extended consultations, safety planning and referrals. These are so needed to support patients. Let us ensure we tackle upstream as well as downstream.

Finally, a long-term funded policy and strategic approach to the prevention of family violence and violence against women and children needs to start now. Education in schools for respectful relationships and strong definitions of family violence and coercive controls are necessary. We cannot change what we do not define properly. This must also take into account any and all impacts on already marginalised populations. I thank the panel for the opportunity to speak and I look forward to answering a few questions.

The CHAIR: We will move straight to other witnesses. Ms Nair or Ms Glenn?

Ms NAIR: Thank you for the opportunity to provide evidence today. Before I begin, I would also like to acknowledge the traditional owners of the land which we meet on, the unceded lands of the Gadigal people of the Eora Nation, and I pay my respects to Elders past and present. I also want to acknowledge the clients who we work with and their lived expertise, which has informed our work and informs our work every day, and our colleagues Ms Glenn—who I appear with here today and who is a member of Economic Abuse Reference Group [EARG] in New South Wales—and also Mr Hakim. The EARG is an informal group of community organisations, which work collectively to influence government and industry responses to reduce the financial impact of family violence. Members include domestic and family violence services, legal and financial counselling services, and community legal services. Our input is narrowly focused on responses to economic abuse based on our casework experience.

Coercive control, as the Committee would be well aware, is complex both in nature and in understanding not only by victim survivors, but by the judiciary, the police and the broader community. Even within the sector itself, there are differing views on approaches to the criminalisation of coercive control. The EARG New South Wales also recognises that domestic and family violence does not occur in a vacuum, and that introducing a new offence quickly criminalising coercive control will have broader impacts that need consideration such as how it would interact with the family law system, the migration law system and social security. It will also have policy and practice implications for services that support victim-survivors, including the banking industry.

Our New South Wales members are of the view that coercive control, which should include economic abuse, should be recognised as part of domestic and family violence. We have serious concerns, however, that introducing a law quickly to criminalise coercive control will not necessarily achieve better outcomes for the clients we serve, especially without a robust, thorough consultation, education for all sectors and proper funding. However, if New South Wales does decide to introduce coercive control, we are of the view that we would welcome recognition of economic abuse within that in any subsequent changes to laws and policies.

Ms GLENN: Thank you for inviting me here today. I would also like to acknowledge we are meeting on the stolen lands of the Gadigal people of the Eora Nation and pay my respects to Elders past and present and any Indigenous people joining us today. I am the founder of the Centre for Women's Economic Safety, a new not-for-profit operating under the auspices of registered charity Domestic Violence Service Management. The centre, as Ms Nair mentioned, is also a member of the Economic Abuse Reference Group New South Wales. The mission of the centre is to raise awareness and understanding of intimate partner economic abuse and to advocate for systemic changes that better support women's economic safety and opportunity. We support the introduction of laws in New South Wales that recognise coercive control is at the heart of most domestic and family violence, and we ask that economic abuse be named and defined in any new laws—be they civil or criminal. However, we acknowledge that an estimated 80 per cent of victim-survivors never call police, and so our response as a society must be about more than just a new law.

Economic abuse is an under-recognised form of domestic and family violence yet it is often hiding in plain sight, underpinning other forms of abuse and interconnected with them. When we talk about coercive control, we talk a lot about social isolation. There are many ways a perpetrator achieves this. Often an abuser has restricted their partner's access to a phone, to money and to transport. That is not just emotional abuse, it is also economic abuse. The abuser may be harassing the victim at work, even causing the victim to resign just to save her workmates from the worst of it. That is not just harassment or stalking, that is also economic abuse. An abuser may physically harm or threaten a victim unless they pay all the bills or take out a loan they do not want. That is not just threatening behaviour or physical abuse, that is also economic abuse. Economic control can be exerted when a victim has been repeatedly told how useless they are with money. That is not just psychological abuse, that is also economic abuse. Up to 85 per cent of people experiencing domestic and family violence are experiencing economic abuse as part of the abuser's pattern of controlling behaviour.

Like coercive control, economic abuse is not well recognised by society at large, nor by police and the legal system. It is vital if we are to create an offence that captures economic abuse that a significant and ongoing investment is made in educating people about it. For police, there is emerging evidence from England that training in economic abuse helps them better understand coercive control and identify tangible evidence in support of domestic abuse charges. The Centre for Women's Economic Safety also believes that if police were trained in economic abuse this could open up the potential to have financial protections incorporated into provisional ADVOs. But education must go further. Training in economic abuse is also needed for other frontline responders, and that must be matched with an effort to raise the community's awareness and understanding of coercive control and economic abuse. Similarly, training in economic abuse for financial institutions must be matched with an effort to raise the regulatory and compliance requirements to prevent, identify and respond to economic abuse.

Victim-survivors of economic abuse face enduring and compounding financial consequences. The law does not hold all the answers but it can start by reflecting and validating their experiences. With careful consultation, appropriate training, a significant uplift in funding and a review mechanism built into the implementation of any new law, a new offence could become a useful tool for victim-survivors by which we can hold perpetrators accountable and, ultimately, save lives. I do have a couple of very brief case studies that further illustrate some of my points, which I am happy to share with the Committee. To any member of the Committee interested to learn more about economic abuse or the work of the centre, I would be happy to provide a briefing either outside of this Committee or as part of the inquiry.

The CHAIR: Thank you. That is terrific. If you could provide those to us it would be very helpful. I thank each of you for your assistance to the Committee and for preparing and providing written submissions. They have been circulated to members and you can assume they have been read. We very much appreciate your work in that and your appearance before us today, which takes you away from the important work that you do. We thank you for that.

I will turn to members, but I had a question in relation to the definition that you just spoke about, Ms Glenn, regarding the definition of "coercive control" and recognising that this economic abuse—and thank you for the way you phrase that—that all of these things are also economic abuse. You have suggested that a definition of coercive control that recognises economic, emotional and psychological abuse in addition to physical and sexual violence is optimal and that you support that.

You have talked about the definition recognising abusive behaviours as having the effect that a victim's daily life is unreasonably constricted. I know it is very helpfully in your paper, but could you talk to that specifically? The questions that we have in our terms of reference are quite specific, and that goes to that. It is not something you can go to the police and say: "I don't have any money for transport." Can you elaborate on your motivation for that recommendation?

Ms GLENN: Often a perpetrator's behaviour will be about controlling what activities a person participates in. When I say "unreasonably constrict" I mean that they are not undertaking the activities that they would be but for the perpetrator's behaviour. That can mean their freedom of movement is restricted. For instance, as I said, perhaps they cannot afford transport, or the keys to the car have been hidden. It also goes to a range of ways in which wellbeing is supported by having material resources.

If you are given a very strict allowance by a perpetrator you may not be able to afford a prescription for either yourself or, perhaps, your children's medication that is vitally important. It may be that while you are free to move about and see friends, they ask you to go for coffee and you do not have money for a coffee. There are all these little humiliations, and you may not want to confess to friends or family because it is humiliating that that is what is going on. It is kind of death by a thousand cuts—all of the small ways in which, if you do not have material resources, you are not really fully participating in life as a citizen.

The CHAIR: Thank you, that is very helpful. I have lots of questions but I will share the time with my colleagues. Ms Abigail Boyd has the call.

Ms ABIGAIL BOYD: Thank you all for your detailed submissions. I wanted to just refer to an article today in *The Sydney Morning Herald* that was talking about how a pay rise that means a woman is earning more than her male partner is correlated with an increase in her risk of domestic abuse. I wanted you to talk about the gender norms around who holds the financial power in a family and how that plays out through economic abuse.

Ms GLENN: I think that article is really interesting. To me it says a couple of things; firstly, as you say, the importance of the gendered norms around how we manage money, and opening up a conversation that recognises that, actually, a human right for a person to fully participate, work and do things that fulfil them as a person is what we should be focused on, not some of the traditional norms of the male as a breadwinner, which I think is just as restricting for a man as it is for his wife and family. I think it also goes to a really important point, which is that it challenges stereotypes around who experiences domestic violence and economic abuse. We know that women at all socio-economic strata experience domestic violence, in every postcode and from every cultural background. I think there are two things there. One is, do not assume that only people in lower socio-economic areas experience economic abuse and domestic violence. It takes place in a whole range of contexts.

Ms NAIR: Just to add to that—thank you for that question—it is a lot about including education for all sectors and prevention in this aspect of domestic and family violence. Coercive control is very complex and is not well understood, especially by marginalised communities and, broadly, lots of communities. I feel like that is also something that is already being called for by the sector with adequate funding to prevention and education because, without that, introducing a law will not be useful.

I would also just like to add to the definitional issues. From some of the research, which I am sure the Committee is already aware of—what Ms Glenn was talking about around the way that it looks—it is not always obvious, but basically coercive control aims to encapsulate the patterns of abusive behaviour that occur in domestic and family violence and they may seem like small incidents to police. If you are reporting to police one incident of harassing or stalking, that might not seem like a big deal. But coercive control encapsulates the nature of domestic and family violence, which is often a repeated pattern of behaviour that may seem like small incidents to an outsider but are actually significant. I guess it has the impact of removing freedom, autonomy and agency from the victim-survivor. That is not always apparent from one report to police.

The CHAIR: Mr Hakim, did you have something you wanted to add to that?

Mr HAKIM: Thank you, Madam Chair. If I can just add to that comment on definitions, I think this goes to the importance of the intersection of the definition around coercive control and family violence, and training as well. Having a well-defined definition around coercive control and harmonisation across the country, but also how that interlinks with family violence and violence against women and children in general—that definition, and how the training goes across to everyone working within the sector so that identification—it is not necessarily always obvious. It is not things that just come about.

I can talk to some of the experiences or share some things that happen through reproductive coercion, for example, that we work in. We have a choice fund that supports women and pregnant people who cannot afford to access abortion services, in particular, but contraception care as well. We do see a gap where women who might not necessarily be seen as—they are not lower socio-economic, they have got well-to-do jobs, but they may be

under that economic coercion, or some sort of other coercion, and actually come to seek our services of support in some way, shape or form due to the lack of access to services as a result. While it may be seen initially as a lower socio-economic issue, it does happen the other way as well. Often the victim themselves also does not see the behaviour as coercive at the time. There is a lot of education that needs to happen within the population with more people as well, similar to what we see in family violence in general, where we often can see that victims find themselves in a situation where they do not actually realise that they are in that situation at that point in time until much later on.

Ms NAIR: I will just add to that. I just want to reiterate that our clients often come to us and have not realised they are experiencing economic abuse, and often, as Ms Glenn has said in her opening statement, it is hiding in plain sight. It usually co-occurs with other forms of domestic and family violence.

The CHAIR: I wrote that down as a quote so thank you for that.

Ms STEPH COOKE: Thank you for appearing before us today. My question is mostly directed towards Ms Glenn and perhaps Ms Nair. My particular interest is in relation to the experiences of people in rural New South Wales. My electorate is enormous and is predominantly agricultural. Do you have experience with people who live on farms and their experience with the social isolation that you have mentioned including economic abuse? Do we need to do things differently in your view in relation to rural people in this space?

Ms NAIR: Thank you for that great question. The Redfern Legal Centre's financial abuse service serves all of New South Wales, and I think rural and remote areas are areas that are often not supported well enough in this space. I think definitely, as Ms Glenn has said and as you would all know, the social isolation that occurs in living in rural and regional areas is compounding to any other form of domestic and family violence. In terms of economic abuse, I think there is a lot of work that needs to be done in accessing those communities and ensuring outreach is available to them. That also includes funding to regional and rural domestic and family violence services. I hope that somewhat answers your question.

Ms STEPH COOKE: Yes, thank you.

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

Ms GLENN: Yes. I think it goes to the importance of context, and, as you say, if you are living in a rural area, you are living on a farm away from other people. That is a significant and important piece of context to understanding what a person's options are, which are significantly fewer options than you might have in a city, so I think Ms Nair's point about needing more funding for services in rural and regional areas is important. I do just want to take the opportunity to say that something we do not talk enough about is that most victims and survivors, particularly where economic abuse is a factor, need cash to have options and we have been very shy about giving people cash. We do not think they know what to do with it or will not use it responsibly, and I think that is both a society attitude that we need to address and in very practical terms we need to provide options to people who seemingly have few, and cash helps give them those options.

Ms TRISH DOYLE: Thank you all for appearing today and speaking to your submissions. You were comprehensive and succinct. My question is to Ms Nair. We have not heard any organisation advocate for this reform to be undertaken without the system-wide reforms that are needed, and that includes community education. Can you please clarify whether your organisation supports the creation of this course of conduct offence, provided it is undertaken alongside training and review mechanisms for police, courts and all frontline staff and the community consultation and education as well? My second question is: What would you say to victim-survivors who have overwhelmingly told us they want this reform?

Ms NAIR: As I said in the opening statement, we are a network of member organisations so I am not sure I can officially speak on behalf of all the organisations that we represent. But I can say that certainly we do believe that coercive control should be recognised in domestic and family violence and we definitely believe that financial or economic abuse—however we want to define it—should be recognised as part of that. I also want to note that New South Wales is the only jurisdiction in Australia that does not recognise economic or financial abuse, so definitely we support—

Ms TRISH DOYLE: Thank you, that is good. Mr Hakim, thank you for your huge contribution. I am really interested in a quote that I pulled out of your submission:

Ideas about abusive or controlling behaviour being a sign of romantic love and the sanctity of marriage prevented young women from identifying their experiences as abusive and/or disclosing that abuse.

Can you speak briefly to that in terms of your research with young women as far as reproductive health care is concerned because that is the space you are coming from?

Mr HAKIM: Thank you. Yes, definitely. When we talk about reproductive coercion—and I am not sure if the Committee has had a chance to read the white paper we released, the second edition of hidden forces on reproductive coercion in particular and in the context of family and domestic violence. This white paper was done in consultation with a large number of organisations across the country as well. A key issue is institutionalised coercion and the way that our social constructs create the environment for coercion—and this is just one of those—and our recognition of what respectful relationships are and how they should be conducted. This institutionalised culture of coercion, but in reproductive coercion, is one that we speak about in our white paper and has come about through obviously a history of these practices. That is really where it is coming from around that comment and where we are talking to. Often because of that institutionalised coercive practice, it is seen as alternative or it is dismissed as something such as "this is part of love" or "this is how marriage works" or "this is how X and X happens". It is the legacy or the old conversation of, "We have always done it this way." I hope that addresses your question.

Ms TRISH DOYLE: Yes, thank you.

Mr JUSTIN CLANCY: Thank you to each of you for your submissions and for being with us today. I just go back to Ms Cooke's questioning. For me, it provoked a line of thought—it is more just a comment—around situations of small businesses and farming operations and the intersection with family and decisions in that regard. Perhaps, Ms Glenn, you could answer this question first. In terms of defining economic abuse, you refer to the domestic abuse bill of the UK but then you say that there is a lack of emphasis on coercive debt. I am just interested in you expanding on that and whether you feel that there needs to be an explicit definition or inclusion of coercive debt. How do we elevate that or give that the emphasis that you feel is lacking in the UK and Victorian legislation?

Ms GLENN: Economic abuse is really about one person's attempts to restrict or exploit another person's resources in a way that limits their potential for self-sufficiency and also their economic security. What you see, I think, in both the domestic abuse bill to a lesser extent but certainly in the Victorian bill is a real emphasis on the restriction element of that definition. Ms Nair can probably talk about her practice as well. Anecdotally, I am certainly seeing many women experiencing coerced debt and the exploitation of resources and this comes to your point, Ms Boyd, about women with higher incomes experiencing more and more violence and abuse and the ways in which economic abuse is happening where the higher-income person is actually being abused. So, I think there needs to be a slight shift in the emphasis, to make sure that we capture "exploit" as much as we capture "restrict".

Ms NAIR: Just in relation to the definitional issues, I also want to direct the Committee—I am sure they have seen that the UK Home Office has done a five-year review of recent UK coercive control legislation, which has found that it is too early to find whether this offence has actually been successful. I would also like to note that an analysis of the UK case law was that all of the offences that were prosecuted were in conjunction with physical abuse. I just want to raise that; I know it may have been in our submission but I think it is important to note because it goes back to the issue of education with the judiciary, the police and the community.

The CHAIR: Old habits—it might be easier. It is what we know.

Mr PETER SIDGREAVES: My question is mostly towards Mr Hakim, but I would like contributions if you have them. In your introduction you spoke on a number of occasions about preventative measures. I think early intervention is always one of the most effective tools. Can you speak on what some of the ideas for coercive control preventative measures may be?

Mr HAKIM: Certainly. Thank you very much for that question. It is a really important question. Preventative measures ultimately attack the upstream or downstream—it depends on where you are looking at the river—source of the issue. It comes to the last question that we talked to around our institutionalised, socialised and cultural drivers of coercion. We have to start with education. We have to start with destigmatisation and a conversation in community and society around what coercive practice is, why it is unacceptable behaviour, why it something that we need to change, what it looks like, what it does not look like and what acceptable behaviour is. I think that starts ultimately in schools. It starts really early. It starts with us having these conversations right here, but having them across the board, as well.

It is obviously around supporting others who have already been institutionalised to change behaviour, too. That education is really, really critical. To what are all the aspects within our community, within our society and within our institutions that touch on the different parts of coercive practice—I think this is where the complexity of this issue is. It is really broad. We have to ensure that health organisations and the police, but also our workplaces, shelters and counselling services—a whole range of services and places where we interact—are supported, trained and resourced in order to be able to tackle this issue. For many, health practitioners in particular are a source where there is a regular connection with community—and obviously, where we work, not just doctors

but also nurses and administrators. How do we create opportunities for the open conversations to continue to happen and for support to occur, as well?

At the moment the way we resource our health services—we know health services are under-resourced—makes it really difficult for services across the board to support coercive control and to ensure that coercive control is identified, that responses to it are put in place, and that patients and their families are educated in what is coercive control, what is unacceptable behaviour and what are their educations of that. Simple things that we do, for example, are around sensitive inquiry along the entire pathway of a patient's journey. That is to ensure that we are able to identify things that may indicate either past or future coercive control—particularly reproductive coercion—and spending the time to be able to identify ways to support that patient to go onto referral services to support them. This is much more complicated than you would think in the current climate and with the resources available.

All family violence organisations are under a lot of stress and are never resourced enough to be able to best support and respond in that way. Ultimately it starts with education of our boys; education of our girls; education of our men, women and all genders around what reproductive coercion and coercive control means and how it links with family violence and domestic violence; and supporting the organisations that can address any existing practices that go on as we change behaviours and cultures across the country. I do not know if that answers your question completely, but they are some of the things that we believe are really critical. It is a complex issue and it is not one that I can definitely give all the answers to, but the start is to actually identify all the elements. They are hiding in plain sight, as we have been saying. This is part of the issue and this is the complexity of it. They have formed part of our institutionalised existence.

The CHAIR: Ms Glenn, did you want to add anything to that?

Ms GLENN: I did want to add that I am obviously hugely supportive of a significant investment in training across society, and it is a whole-of-society issue. But with particular regard to the introduction or not of a new law, I want to acknowledge that victims, survivors and perpetrators are very aware of the responses of others, both at an individual level and at a systemic and institutional level. Having raised the issue and having had a Committee like this listen to debates about whether there should or should not be a law, if the Government does not now take this opportunity to say, "No, we are going to draw a line in the sand and this behaviour is not acceptable," that is sending a really unfortunate signal to both perpetrators—that they can get away with it—and to victim-survivors. That is particularly dispiriting. Many of the women that I speak to talk about a poor police response that they have experienced, and that they are then taunted by the perpetrator afterwards. "Go ahead, call the police. You know they are not going to do anything." I think we need to be mindful that this very Committee is a social response to people who are experiencing or perpetrating domestic and family violence.

The CHAIR: Thank you. We are almost out of time. Is there anything further that any of you would like to add before I close?

Mr HAKIM: Apologies, Madam Chair. If I can add to that, as well—just reflecting on two really critical things from our perspective. Sexuality and relationship education has to happen throughout the lifespan, as I was saying, which is really critical. Having really strong sexuality and relationship education is important—additionally, funding around things like Medicare Benefits Schedule items for face to face. But telehealth care is something we should really consider as a strong tool that is now becoming much more used since the pandemic. It is something we should look at that provides access privately in situations where victims cannot reach out or attend a clinic. It is really important for us to provide those additional item numbers with some sort of funding to enable that, so that victims are not having to scramble for funding in order to access services, and they can get to someone who can help.

The CHAIR: Thank you for the work that you and your organisation do in that space. It is very helpful. That concludes this session. We may have further questions to you from Committee members and we will send those to you in writing. If you would be happy to accept those and provide written responses, your responses will form part of your evidence and will be made public. Would you be happy to take further questions if they are sent through?

Ms GLENN: Absolutely.

Ms NAIR: Sure.

The CHAIR: Thank you to each of you for your assistance today, your submissions and the work that you do. We very much appreciate it.

(The witnesses withdrew.)

(Short adjournment)

JASON ELMER, Acting Commander, Tasmania Police, before the Committee via videoconference, sworn and examined

PENELOPE REARDON, Acting Inspector, Safe Families Coordination Unit, Tasmania Police, before the Committee via videoconference, sworn and examined

MADELEINE FIGG, Crown Counsel, Office of the Director of Public Prosecutions, Tasmania, before the Committee via videoconference, affirmed and examined

The CHAIR: Welcome back. We had some technical issues that we have managed to resolve. In our next session we will hear from Tasmania Police and the Office of the Director of Public Prosecutions [DPP]. Thank you for joining us and for your written submissions, which the Committee members have. They have been circulated, and you can take them as read. We appreciate your time and assistance in the preparation of the written submissions and in your appearance today. Would any of you like to make an opening statement to the Committee before we turn to questions?

Ms FIGG: No, thank you.

Acting Commander ELMER: I would just say thank you for the opportunity to participate today. As I mentioned, I have with me Acting Inspector Reardon from our Safe Families Coordination Unit, and we are happy to answer any questions in relation to the submission provided by Tasmania Police and the office of the DPP, and any other questions that you may have in relation to the arrangements down here in Tasmania. I am in your hands and those of the Committee in relation to any questions that you may have.

The CHAIR: Thank you. I will address the questions generally. If you would like to indicate, you can choose who answers. We very much appreciate your assistance to this Committee. Your jurisdiction has introduced specific coercive control offences. It is very helpful for us to take learnings from you. I know we have your written submission, but I will open by asking you to cut to the nub of it. What are the learnings that you have had in the process to date?

Acting Commander ELMER: From the Tasmania Police perspective, the specific offences, if we talk in relation to coercive control, have been implemented for quite a significant period of time now, so back in 2005. They have been around for about 16 years. As the paper indicated, in the early years there were very few prosecutions in relation to the specific offences. That increased, if you look at the numbers provided in our submission, heading into 2016, and those numbers increased significantly compared to previous years. There are a number of reasons for that increase. I guess part of that was around community awareness, an increase in our focus on family violence offences, but also a change in terms of the statute of limitations for the prosecution of that offence in question—six months to 12 months. The six-month statute of limitations was quite problematic because some of these matters, particularly if we are looking at financial issues, are lengthy in terms of investigation and involve detailed financial accounts et cetera. So the six months was a bit of an issue. That was amended in 2015 to take that out to a 12-month statute of limitations, so we saw an increase as a result of that.

We also had a change with our Family Violence Units within Tasmania Police. Previously they were our Victim Safety Response Teams [VSRTs] with an absolute focus on the victims. In line with some changes implemented across government, we changed our approach and implemented—the VSRTs, as they were known, became our Family Violence Units, or FVUs, with a real focus on the perpetrators and with some enhanced training around those units and a real focus then on perpetrator behaviour. We also realigned our Family Violence Units to come under our Criminal Investigations Branch and under the guidance of the detective inspectors, so a real focus there on investigating these matters and holding these perpetrators to account. Part of that saw an increase in a focus on implementing some of these, particularly sections 8 and 9 of the Family Violence Act in relation to coercive behaviours. So we saw that we jumped significantly in terms of our prosecutions from 2016 onwards.

They are still not big numbers in terms of the prosecution, and there is a number of reasons for that. There are some difficulties around proving some of these behaviours, and there is also an element of some of these behaviours at times go to proving other family violence matters. Where there are specific behaviours in relation to, say, emotional abuse or economic abuse, that is all wrapped up in the family violence picture. It is not very often, although there are in some cases, where it is specifically only offences of sections 8 or 9 being the coercive behaviours. In the majority of cases, these behaviours are attached to other forms, such as physical assaults, sexual assaults et cetera. There has not been just the specific charges laid. Like I said, there have been some cases in the minority where this has occurred, but on the whole we have not seen a lot of these charges just on their own. So, yes, there are some issues still around the prosecution of these offences. Madeleine might have something to add in relation to the prosecutorial side of things but, as I said, these laws have been in place for a

significant period of time, and we have seen a significant increase over the last four or five years, but we still face some challenges in relation to prosecuting those offences on their own.

The CHAIR: Thank you. I will come to you, Ms Figg, in just a moment. We have read what you have said about those issues in your submission, thank you. We note the UK experience, which is only five years old, and the similar feedback that a lot of the prosecutions have been combined with other physical assault charges. So I understand that, but it is early days there. Can I go back to introduction? One of the challenges for us is packaging this up, handing it over to police and saying, "Thank you very much, go and fix family and domestic violence." What is it that helped or you have found has helped best to assist police in investigating, gathering evidence, prosecuting and even awareness and training in this space? What are the learnings from your early days with that and your ongoing educational training with police to optimise—I do not accept that it is just the responsibility of police, but could you elaborate on your experience with that and what has helped?

Acting Commander ELMER: Sure. I guess from a police perspective, our change in focus from our Victim Safety Response Teams to our Family Violence Units was significant and also the re-location of who they reported through to—so putting them under our criminal investigation branch, which I guess is an indication of the seriousness that we were treating this type of offending, coming under the direct control of detective inspector. So a real change in focus fed into the perpetrator behaviour to investigate in these matters and to holding these people to account. That was all wrapped up in a whole-of-government approach to family violence. As our submission also says, at around the same time we introduced our Safe Families Coordination Unit, they had a focus of looking overall at our family violence incidents and concentrating on our high-risk offenders, and being able to tap into the resources across government and all the different information pieces of being able to advise in respect of some of these high risk offenders.

I guess a change in focus really assisted in how we went about investigating these matters and how seriously family violence was taken—not that it was not taken seriously prior to that, but we just had a look at how we were doing things, how it was aligned, who they were reporting to and how we thought we could get the best investigative tools into these units to respond to these issues and be able to ensure that our Family Violence Units were able to ably support our police officers out on the road and provide them with high-level advice in relation to investigations. We have put some training into our Family Violence Units and we continue significant training at recruit level around family violence, including the use of sections 8 and 9 of those coercive behaviours.

Our Family Violence Unit staff are engaged in further training to be able to then provide further advice to our members on the ground. I guess a change in focus in reporting arrangements, in training and in our response to these particular matters has probably contributed to this increase. Family violence incidents have continued to increase as you would see in our submission. Again, that is probably reflective of the national picture. It is reflective of the fact that people are more willing to come forward now and report family violence. That would reflect national trends, but I guess the one thing we would note is that although we have had an increase in the overall number of family violence incidents, we have had a decrease in the number that have been assessed as high risk.

Mr JUSTIN CLANCY: You actually just answered my question in terms of prevalence of family violence in Tasmania and reporting rates in that regard. Perhaps for Ms Figg, the police have mentioned about 253 charges. What sort of prosecution or successful prosecution rate are you experiencing on those numbers?

Ms FIGG: Well, I should point out that my office does not prosecute those crimes or those offences. Those offences are summary offences contrary to the Family Violence Act so it is police prosecution who primarily prosecute them. I do not have that data, unfortunately. I am not sure if Acting Inspector Reardon or Acting Commander Elmer know the statistics on the prosecution side of it. I might need to defer to one of them, I am sorry.

Acting Commander ELMER: Sorry, just specifically you were referring to the 253 charges since 2008—what was the question relating to that figure?

Mr JUSTIN CLANCY: That was the number of charges laid, I understand. Do we have a sense of how many of those actually went through to a successful prosecution?

Acting Commander ELMER: I may have to take that one on notice, if I could. I do not have that exact figure in front of me right now, but I can certainly ascertain that and provide it for the Committee if required.

Mr JUSTIN CLANCY: Thank you for that. Acting Commander, in terms of the challenges around—you mentioned difficulties in proving these behaviours. Are there other aspects that would assist police in admissibility of evidence or are there ways that would help enable the outcome in terms of being able to place charges in that regard?

Acting Commander ELMER: I might return back to Ms Figg here because I know the Office of the Director of Public Prosecutions submission mentioned some of the difficulties around prosecuting these offences.

Mr JUSTIN CLANCY: If I may reframe that question along the lines of: What further could be done to enable police to do their job from your perspective? That is perhaps just another way of framing that question.

Acting Commander ELMER: I guess in terms of those two specific sections relating to coercive behaviours—and I know that Ms Figg will touch on this around the difficulties—they are just inherently difficult matters to investigate because of the ability to prove economic abuse and emotional abuse. Ms Figg will probably touch on a matter in the Magistrates Court, where proving intent and impact on the victim is quite difficult. To be able to sit here and say how we could improve our ability to investigate and successfully prosecute those matters is probably a little bit difficult to say given how the legislation is currently worded. It may require a tweaking of the legislation. If New South Wales was looking at implementing similar legislation, our learnings might prompt to look at how it is actually written to see whether there might be a better way to enhance prosecutions. I might see if Ms Figg has anything she may be able to assist with in respect to the prosecutorial side of things.

Ms FIGG: Yes, so even though these offences have been in place for around 15 years, I suppose in the context of the developing law in the courts that is still not that long, so there is not a huge amount of case law that has come out of the Magistrates Court surrounding mental elements of offences against sections 8 and 9. I would say, though, that on a reading of the sections and anecdotally from what I have heard from police prosecutors, because it is not a fully objective test like they have in jurisdictions like Scotland, where they have a reasonable person test, and because our legislation is worded slightly differently, I understand that often it is only cases where it is clear that the particular behaviour would be obvious to the offender that it would be likely to cause fear, apprehension, harm et cetera for the complainant.

There are some barriers, I suppose, with the mental element that the sections create, but at the same time obviously it is a balancing process that you have got to have when you are drafting this legislation. So, again, unfortunately I have not personally had any experience prosecuting these matters so my knowledge is, as I say, a bit anecdotal. But I understand that there have been some issues and that it is not always easy to prove these offences in a magistrates court. One matter that I wanted to draw the Committee's attention to—this is an appropriate time to raise it—is that in Tasmania we have a legislative regime that complements these particular summary offences and we have also got an indictable crime of family violence.

This is something that I referred to in my written submission. I understand that that is still a relatively unique crime within Australia. I believe only Western Australia has a similar crime. Coercive control type offences in the Family Violence Act can be used to support a prosecution under the criminal code for persistent family violence. In my experience it can work quite well even though persistent family violence is also a new crime. It has only been in place in Tasmania since late 2018 so, again, there is limited data and case law. But, as has been said, often it is the case in our experience that these coercive and controlling type behaviours do not occur in a vacuum from other acts of family violence unfortunately. When you are looking at trying to criminalise or address a continuous course of conduct so that a court is given a truer and fuller picture of offending behaviour, then it can be quite useful to be able to incorporate formally these types of behaviours into particulars of a crime such as a persistent family violence charge.

Acting Commander ELMER: Could I just add two things, Chair?

The CHAIR: Sure. Go ahead.

Acting Commander ELMER: Just back to in relation to what might assist police, I guess one of the important things—and it is touched upon—in the introduction of similar laws in New South Wales or elsewhere is community education. I think there is a real lack of awareness from a lot of members of the community, even in Tasmania, that some of these laws exist around that coercive behaviour. A lot of victims would perhaps think that there would be no point in going to the police because perhaps it does not constitute family violence. That [audio malfunction] area is certainly changing but I think any changing laws or introduction of laws around coercive behaviours particularly on their own really need a strong community awareness campaign so that victims out there know that these matters can be prosecuted on their own. They do not need to wait until all of a sudden they are assaulted or abused in some manner. If this behaviour is being exhibited and someone is controlling your life, that on its own is enough to constitute—in Tasmania certainly—family violence. So I think community education goes hand-in-hand in relation to the rollout of any laws around coercive behaviours.

I will come back to the question in relation to prosecutions. I do have some figures here in relation to the prosecutions. It does not give us the entire period but, as an example—we mentioned that in the first three years of the offences coming in there were no charges laid. By the end of 2017, 73 charges had been finalised across the two offences with 34 guilty pleas, six convictions after hearing, two dismissals after hearing and the remainder

withdrawn as part of plea negotiations or because police were simply unable to proceed. I guess that is a bit of a snapshot up to the end of 2017, but I can certainly provide up-to-date figures in relation to our prosecutions across any of those areas.

Mr JUSTIN CLANCY: Thank you, acting commander. I appreciate that information.

The CHAIR: That is very helpful. I want to pick up on one of those points around community education. I do not mean to be trite but there was a time when we did not wear seat belts in cars and we could have a drink and go for a drive. That was all perfectly fine. The education piece around that means that probably nowadays we do not have many prosecutions for not wearing a seatbelt, but we all know that that is not okay. So I understand and accept your point around that. One of our challenges is how, if we were to go down this path, we might equip police to set them up for success in this space. I know in policing successful prosecution is a measure and quite rightly so, but is it the only measure of success? Or is it the case that awareness of coercive and controlling behaviours not being okay feeds into the awareness around domestic and family violence and your ability to police those issues, because that is so much of what police work is? Could you comment on that?

Acting Commander ELMER: Yes. While it sounds strange, I guess the increase in reported behaviours like that is a measure of success of getting the message out to the community that these matters can be reported and will be investigated and we will put them before the courts where we have evidence to proceed. Yes, in one respect prosecutions are a measure and certainly by no means the be all and end all in relation to our measures of success. But initially when we changed our family violence laws, we certainly saw a significant increase in the amount of reporting of family violence and we still continue to see that. Initially there were questions around implementing all of these changes, policies and procedures in relation to family violence. "Why are we seeing these cumulative increases?" I mentioned we landed on the fact that this is a good thing because people are no longer afraid to come forward and they are not suffering in silence. We continue to see that increase and if we continue to see an increase in the number of charges for these coercive type behaviours, again, I think that is a measure of success that the messages getting out there through the community.

The CHAIR: That is very helpful.

Ms ABIGAIL BOYD: Looking at the legislative framework in Tasmania, there are certainly some encouraging aspects that give a nod to what we now know about the impact of coercive control. By dealing with economic abuse in section 8 and emotional abuse in section 9, we are recognising that domestic abuse is more than just physical. I also think that that persistent family violence charge is really important in terms of recognising that behaviour over time. I have two questions. What do you think the impact is of having those section 8 and section 9 offences only summary with a maximum two years imprisonment and a 12 month statute of limitations versus the penalties available under the physical family violence heads of offence? Also, do you think, knowing what we know now, that it would be better to have had a standalone coercive control offence where each of these behaviours could be considered in context? With that, could you perhaps comment on the prosecutions and how many of them you think might have been limited by only being able to be under one section instead of having, for example, a section that covers emotional, economic, physical abuse et cetera.

Acting Commander ELMER: Are you able to speak in relation to that, Ms Figg?

Ms FIGG: Yes, I can try. In terms of the impact of the offences under the Family Violence Act being summary offences, clearly that is the decision that our parliament has made. As I mentioned, yes, the benefit of having the persistent family violence crime is that you can incorporate those behaviours into an indictable prosecution. The real benefit of that is that it does tend to put the behaviours into context and present the truer picture to the court of the victim-survivors experience. We have guidelines that are published by our director of public prosecutions and those guidelines state that to proceed with a prosecution under section 170A, the persistent family violence section, you do need three serious indictable acts. However, in particular circumstances it may be that if you have those coercive and controlling type behaviours that fall under section 8 or 9 that they could fall under those three acts. When you look at the framework as a whole, in our experience it is reasonably effective in capturing the different types of behaviour and there is a way in our legislation to deal with those coercive-type behaviours under the indictable framework. Could you repeat the second question that you had?

Ms ABIGAIL BOYD: The second question was whether you think that the prosecutions would be easier, from a legal perspective but also from an evidence collecting prospective, if you had just one offence of coercive control which included those section 8 and section 9 behaviours within it?

Ms FIGG: Potentially. It would depend on the wording of the section on what we were required to prove to substantiate the charge. Often these offences are not charged on their own, they can be in the context of each other. You might have the emotional abuse and the economic abuse coupled with a physical assault or sexual assault. To answer that question properly it would depend on how the section was worded and what the

requirements were on the prosecutions in terms of the evidentiary onus and how we go about prosecuting those matters. I am sorry that is not a very helpful answer but it does depend on the context.

Ms ABIGAIL BOYD: My final question: Is it possible under that persistent family violence charge to make that charge without any evidence being substantiated of physical domestic violence?

Ms FIGG: In theory, yes. The section that creates the crime does not specify the physical acts. I will just check because I have it in front of me. All it requires are three separate instances of unlawful family violence acts and that can include emotional abuse, intimidation or economic abuse or things like unlawfully damaging property that occurs in a family violence context. As I said before, at the moment our guidelines do suggest that it is intended to be reserved for very serious cases of continuous ongoing very serious family violence and that is the approach that has been taken by our office and as a result the sentencing that has emerged around the crime reflects the very serious nature of it. That being said there is nothing that I can see in the actual wording of the legislation that would prohibit prosecution only for coercive controlling type behaviours.

The CHAIR: You said earlier that you do not need to wait for an assault to happen before you prosecute. We know many homicide cases—the death review team indicated 99 per cent—are preceded by coercive controlling behaviour. We will hear from witnesses this afternoon that, in fact, in some of those there was no preceding physical assault to the homicide.

Ms TRISH DOYLE: Thank you for your work. We have heard from witnesses speaking to their submissions, researchers and those who work on the front line about the need to work hand-in-hand with police. I thank you for appearing today and speaking with us. I am wondering why there is still a 12-month limitation period when we know that it can actually take some time for victim-survivors to come forward. In your view might this place victims at risk in a situation where they have to wait for more recent offending in order to access protection and justice?

Acting Commander ELMER: I guess that is the reason it went from six to twelve because it was part of the problem around why there were very few prosecutions. There is the same argument for the 12-month statute of limitations. I guess there could be. As I have said before, particularly some of the economic abuse charges can be quite complex investigations. Is there a risk because it is 12 months. I guess we cannot categorically say there is not. In terms of the intent of the legislators with the 12-month statute of limitations I am not able to offer up the reasons in relation to that in the statute of limitations. Would they increase significantly again if that went outside of 12 months, I think it is little bit hard to say. Ms Reardon or Ms Figg may wish to contribute to that.

Acting Commander ELMER: The only thing that I might add is that we do review every single family violence incident that is reported statewide. In the review they are reviewed at two different levels outside of the reporting agency. Sometimes through that process it is picked up and they are referred back for investigation. It may not be something that the victim herself reports but can be picked up through the process which may also assist in our increase in the number of charges that we have laid. In that investigation process we are picking them up within that 12-month period because they are picked up at the first point of contact. Whilst there is the impediment with the 12-month period some of the processes we have implemented have helped negate that.

Ms TRISH DOYLE: You have acknowledged there is an impediment. I understand that Women's Legal Service Tasmania have suggested that it would make a marked difference if the statute of limitations period was extended.

The CHAIR: I will take that by way of comment. I thank you on behalf of the Committee. We appreciate your assistance and in particular the time you have taken to prepare the written submissions, your time today and your important ongoing work. Committee members may have further questions that they will provide in writing. Your answers will form part of your evidence and will be made public. Are you prepared to accept those questions?

Acting Commander ELMER: Yes, absolutely. We are entirely happy to answer any questions that the Committee has that may assist you moving forward with the development of the law in New South Wales. Thank you very much for the opportunity to participate today and we look forward to answering any further queries that you might have.

The CHAIR: We very much appreciate your great work in this area, the challenges that you deal with every day and the time you have taken to assist us today.

(The witnesses withdrew.)

NITHYA REDDY, sworn and examined

The CHAIR: Before we commence the next part of our hearing, I will say for confidential advice, support and referrals related to domestic and family violence people can contact 1800RESPECT on 1800 737 732, the Domestic Violence Line on 1800 656 463, or the Men's Referral Service on 1300 766 491. I welcome our next witness. We very much appreciate you coming along today and your assistance. Please feel free to take the time that you need and let me know if you need anything to assist you. Do you have an opening statement you would like to make to the Committee before we go to questions?

Dr REDDY: Thank you for inviting me to be part of this public hearing, to the Chair, the Hon. Natalie Ward, and the rest of the Committee. Some of the members I have had the privilege of meeting in the past. I am here as a trainee in psychiatry. I work in NSW Health in the public system in psychiatry. But more so because of very deeply tragic and personal reasons with my sister, my elder sister, Dr Preethi Reddy, having been killed by her ex-boyfriend two years ago now, in March 2019. In that relationship, there had not been any physical violence, only coercive control. She did not recognise that she was in danger and nor did people around her and neither did I. It is really edifying to see that this inquiry is happening and the conversation is going on around this topic all around our country. It is timely, it is necessary and the fact that this is a joint select committee, with every party being part of it, is very gratifying to see. Thank you for inviting me. I do really hope that I can be of assistance to furthering this inquest.

The CHAIR: If you would like to give us some background—some of us do know your sister's story and appreciate your advocacy and all your work. I am sure it is not at all easy. We very much appreciate you taking the time to assist us today and your ongoing work with Committee members.

Ms TRISH DOYLE: Thank you for your bravery and your courage and your commitment to seeing change on a practical, legal level when the hurt is so painful, raw and personal. I just wanted to put that on the record. I really appreciate the efforts you and your family have made in honouring your sister. Let us keep speaking her name. Thank you for honouring Preethi today. We have had quite a number of people who have spoken to submissions, a number of organisations, a number of jurisdictions, those who are victims-survivors, those domestic family violence support workers, police and a range of organisations. There is quite a bit of caution that has been expressed about taking steps to criminalise coercive control and I was just wondering, in your view and because of the situation that you seek to represent today, do you think that if we leave coercive control out of the criminal scheme it actually sends a message to society that it is less serious than physical assault?

Dr REDDY: Yes, absolutely. I do think that it does. I think that the conversation that has happened around legislation, particularly in New South Wales—because New South Wales is the first state where there are bills sitting in front of government, it is the first state that has taken practical measures to try to rectify, to try to address coercive control. I do think that leaving it out does send a message, and I think one of the big factors in why I have advocated for coercive control to be legislated, to be legalised and to be recognised within the criminal justice system is the educational value that it has. As I was saying, my sister did not know. I did not recognise it. That is because the culture, community and society tells us what domestic violence and domestic abuse are, and there is such a strong impetus for us to establish our norms and values based on that. This conversation has been happening, and there are so many young women, and there are so many women, who have come to realise that they are in coercively controlled relationships, or had been in coercively controlled relationships, because this has been happening and because there is so much conversation around it. Because of that, they in many ways are able to keep themselves safe. So yes, absolutely, I think it does.

Coming into the advocacy space, and specifically around coercive control, I have come to it being for it. I have spoken to the experts within the women's sector and within the legal sector, and I have had the privilege of being able to speak to the wonderful people here. But I recognise the nuances and the difficulty of this mammoth challenge that you have taken on to do an inquiry and to see if and what a coercive control bill within New South Wales should look like. I recognise how difficult it is and the more that I am listening, the more that I am learning, the more I can see every part of the picture and everybody's point of view. As Dr Marsha Scott said this morning, and I listened, starting with what is it that we are trying to get the law to do—that is such a big thing. That will be such a unifying factor because it is not about the battle of whether we should legislate or not. It is about what we are trying to achieve at the end.

The CHAIR: Can I just pick up on one of those points. Your words are absolutely telling. With Preethi, she did not recognise that she was in danger. Sadly, that is still, from my understanding, very much the case for so many women and victim-survivors. You said also neither did the people around her. Could you speak to that and, if you are able, some of the factual circumstances that inform that? Because I think, when I heard that story, that filled in some gaps for me, that it was not the normal picture that you see—her financial independence, her

residential independence. Can you just talk to some of those factors that do not necessarily fit the DV box traditionally?

Dr REDDY: Yes. I think the way that Scotland has legislated and the conversations that I have heard around that speaks to this so well. It is bespoke. Every perpetrator will target their coercively controlling behaviours to their victim. That is why it can be so difficult to point out. There are some things that different draft bills and bills overseas do—specifics that they do refer to, like financial coercion, using children in custody battles, all of that. But it is really important to recognise that it is. My sister was financially independent. She had her own career. She never lived with him. So that isolation, all of that was not there from a practical perspective, but it was definitely there psychologically. I think that is what really needs to be understood.

Some of the other things specific to her and the specific tactics that the perpetrator used, her ex-boyfriend was—he had more experience within their career. They were both dentists. He graduated earlier. He had more experience. So he would use that to undermine her confidence but also use that as a bargaining chip, I suppose, to try to manipulate her. That is something very specific to them. I think that is what needs to be recognised. It is the intent behind the actions. It is not necessarily the action. It can look different in different circumstances and for different women, for different people, but that is the crux of it.

I have been in the space and listening and learning from everybody. What I have come to realise is that it is not a separate form of abuse. It is not about that. It actually encompasses domestic violence, domestic abuse in totality, because physical violence is a tactic of control. Sexual violence is a tactic of control. Abuse of animals is a tactic of control. The underlying purpose for men and perpetrators that use coercive control is to gain control, and paradoxically—I think in my sister's case this is the truth—as literature and research shows us, for women and men in higher socio-economic demographics, there is less likely to be physical violence and more likely to be non-physical coercive control. That is because why would you resort to physical violence to control somebody? That would not be a smart thing to do, because you are going to get caught out for it.

The CHAIR: This is an intelligent, independent woman who was setting up her dental practice, went to him for advice—

Dr REDDY: Yes. They had met during a course that they did together.

The CHAIR: Then he sought to have a lot more control over a way of help than setting up a practice.

Dr REDDY: Yes. I think it is really important to recognise that it is about the control rather than the specific actions and mechanisms.

Ms ABIGAIL BOYD: Thank you. I think I was momentarily speechless when you came in, because I think the last time that we spoke was before we had got buried in this technical process. A lot of our discussions have been around what particular behaviours look like and what the law should look like. But when we started this process, it was about stopping women and children from dying. I think that gets lost sometimes. We are not just talking about somebody who cracks one day. We are talking about a predictable pattern of behaviours that, if not prevented, lead to homicide. Could you perhaps talk about looking back in hindsight at the escalation of behaviours in Preethi's case and how that now fits in with what you know to be a pattern of coercive controlling behaviour?

Dr REDDY: Yes. At the time that her ex had killed Preethi, they were no longer together. She had moved on with her life. She had planned to move to Melbourne, had a partner who she was wanting to marry and to settle down with. The months before the most horrible time of our lives—I now know that he had been contacting her, messaging her, had tried to blame her for his predicament, his sadness around their relationship no longer being there and blame her for certain career things that he felt this relationship and the ending had prevented him from being able to perform—very much externalising blame. He tried to appeal to her sense of empathy and compassion that was there throughout the relationship. He had a sense of entitlement in terms of the attention and time that she gave him. But it got more and more.

It is really hard to talk about this. It is really, really difficult to think about what happened. I love thinking about my sister. She was my best friend. It is not okay that she is not here. It is not okay that somebody could do that. It is not okay for so many women. It is not okay that it is the biggest risk to our lives. Between the ages of 18 and 45, it is the biggest risk to our lives. I work in medicine. If there was a medical condition that posed as much risk, the status quo would not be to accept it. It just would not. I know that does not fully answer your question. After she was killed, my contact with him led me to understand just how manipulative he is. I did not realise the full extent of it before.

Ms ABIGAIL BOYD: And criminalising coercive control is about preventing these things from occurring.

Dr REDDY: Preventing these things, yes—absolutely. That is why I have come here and come to this space. Thankfully, not every woman and every child gets killed, but working in psychiatry I know the impact, the psychological impacts, of trauma, of complex trauma, the lifelong impacts that it can have. I actually have worked in child and adolescent psychiatry and I recognise the potential that is within the health field to try to put in strategies into having initiatives where we break the cycle, because it is a cycle; little girls, yes. When it is normal and when it is accepted, it repeats.

Ms TRISH DOYLE: Can I just note—

The CHAIR: Just before you do, I just want to thank you very much. I know this is difficult. We acknowledge that and thank you for your bravery, but it is also very important.

Dr REDDY: It is. It is.

The CHAIR: It is extremely important that we have this as part of the evidence and part of the information before the Committee. We have had other conversations but it is just so important that it is part of this, so we thank you for your bravery in that and acknowledge that this is extremely difficult and we thank you.

Ms TRISH DOYLE: Thank you, Madam Chair. Dr Reddy, it is cases like Preethi's that make this reform an absolute must and I appreciate how difficult it is to talk through that whole raft of controlling behaviours that you did not necessarily see at the time and need to document now in order for that reform to come into being. Thank you again for your commitment.

Mr PETER SIDGREAVES: Thank you so much for coming in and telling us your personal story. I would like to acknowledge the courage that you have in doing that. You mentioned in your introduction a bill for coercive control.

Dr REDDY: Yes.

Mr PETER SIDGREAVES: For example, would expanding the definition of domestic violence in an existing Act to include a definition of coercive control and examples of coercive control behaviours also achieve the same outcome?

Dr REDDY: No, I do not think it will and that is because, as I have spoken, it is really, really complex. This is a complex area to legislate. We know what is happened overseas with Scotland, which has the gold standard bill, and other British countries—the UK, for example, where it has not pragmatically practically turned out to achieve the outcomes that were hoped for, and they did introduce a bill and, I suppose, it was not an amendment to the existing legislation, the wording around it. It is because it is not about the wording, it is not only about what is on the piece of paper; it is about the systems around it; it is about the policing response; it is about the response from the criminal justice system.

And I know that there have been so many wonderful experts from each of those fields that have spoken here and can offer vastly more than I can. But, yes, in order for this to be effective and to work—that is the only reason that I know you guys are sitting here, wanting to be part of this for it to work—we need other things. We need to follow very closely the model that Scotland followed: the training. I have come across sources where, prior to this legislation being introduced, 85 per cent of the Scottish police force were trained specifically about this. That has actually resulted in police themselves understanding this more and in some cases it has been destigmatising for police.

Mr PETER SIDGREAVES: Yes. Thank you for that. That is a very common theme from everyone we have heard.

Dr REDDY: Yes.

Mr PETER SIDGREAVES: With regards to the education, the resourcing, funding and definitely training of groups such as the police in this.

Dr REDDY: Yes.

Mr PETER SIDGREAVES: It is a very common theme. Thank you.

Dr REDDY: Thank you. Could I add something to that?

The CHAIR: Yes. Please do.

Dr REDDY: You know, yes, I think what Scotland did, we should very closely follow that but we are a different society. You know, we have a different landscape. We have different composition in our democracy. We do have our First Nation people that we do really, really extensively consult with and, you know, have specific

initiatives and strategies so that there is not undue criminalisation, you know, within certain societies and, you know, we have so many different ethnic communities in our country as well.

What I would like to say is that, when it comes to police training, yes, we need to do that and it is not just police; because, I think, working in health, health has perhaps the biggest blueprint, from a public service perspective, in terms of how much we get in contact with the community. Most people have a general practitioner. You know, most people at one stage in their life come to the emergency department so there is a lot that we can do to assist with that and, you know, wide-scale training and cultural change to recognise that this is everybody's responsibility is very important. But I also do think that it is important that we do recognise the need for specialisation in terms of having a coercive control law work, yes.

The CHAIR: Thank you. Are there other questions from members? We are almost out of time, I am afraid, if there is anything else that you wanted to add. But I would love to quote your earlier statement about if this was a medical condition.

Dr REDDY: Yes.

The CHAIR: I think that was so telling and I very much appreciate your perspective that you bring to this because as my colleague Ms Abigail Boyd said we are looking at this in a theoretical legislative perspective—

Dr REDDY: Exactly.

The CHAIR: But actually we need to remind ourselves that this is about saving lives.

Dr REDDY: Yes.

The CHAIR: We thank you for your courage. We thank you for the work you are doing. Know that this Committee in particular is very appreciative of everything you are doing and we hope to do our best in coming to a sensible report in this space. It is very difficult. It is very big.

Dr REDDY: Yes.

The CHAIR: We have no doubts about the task before us, but we are doing our very best. Thank you for assisting us in that. If there are further questions that Committee members would like to send to you, would you be happy to receive those?

Dr REDDY: Yes, absolutely.

The CHAIR: They would be in writing and any responses that you provide would form part of your evidence and would be made public as well.

Dr REDDY: Yes, absolutely.

The CHAIR: We thank you for that and, once again, thank you so very much.

Dr REDDY: Thank you.

The CHAIR: We will conclude this session. Thank you.

(The witness withdrew.)

(Luncheon adjournment)

KAY MARIE SCHUBACH, affirmed and examined

Ms SCHUBACH: My position is head of philanthropy at the National Breast Cancer Foundation, but I am representing myself today.

The CHAIR: You are here in your personal capacity today.

Ms SCHUBACH: That is correct.

The CHAIR: Do you have an opening statement you would like to give?

Ms SCHUBACH: I do. I first of all acknowledge the traditional owners of the land we are on today and pay my respects to Elders past, present and emerging. I wrote a memoir about my experience with domestic violence in 2012. The background to that was that I had quite a wonderful life managing the financial affairs of celebrities, including Nicole Kidman and Tom Cruise. I had a beautiful apartment in Sydney and plenty of friends. Then I met Simon Lowe, also known as Simon Monteiro, the playboy rapist—he is quite well-known. He had just

been released from jail for rape and assault two days before he met me, but he sold me a story of lies and I absolutely fell for it. He was so charismatic and audacious, but within two months he had completely destroyed my life—physical and psychological abuse. Coercive control played a large part of the obliteration of my self-esteem.

After those two months I went into hiding with some police supervision and I left to live overseas to write a book about what happened to me. It became a Penguin best seller and has been translated into three languages. At the time, I was too terrified to press charges against Simon. I had seen firsthand his complete disdain of the legal system, yelling at magistrates, and there was no way that I could uphold the AVO. So he skipped merrily onto the next financially independent woman looking for a partner. He is a real parasite—he needed a new host. I know now of nine other women he has raped, assaulted and terrified and I carry terrible guilt about not being able to stand up and stop him. He is currently in jail and that is partly because I lobbied successive Prime Ministers, the Police Minister of New South Wales and two New South Wales Attorney Generals. Then I started a petition to keep high-risk recidivist sex offenders in jail by changing the legislation.

I received 50,000 signatures and presented it to the State Parole Authority, and I do feel that that had some effect. I have probably done 100 speeches and media appearances to raise awareness of red flags around recidivism and to stop the parole board experimenting with the lives of women in order to rehabilitate an offender within the community. I understand their need to do this, but I disagree. I teamed up with a lawyer to help women leaving affluent marriages to be financially prepared and protected. We no longer run that legal firm. I have been a finalist in the NSW Women of the Year twice and a runner-up in the Westpac and *The Australian Financial Review* community awards. I am currently the patron of two women's shelters in New South Wales, an ambassador to Domestic Violence NSW and I am currently the head of philanthropy at the National Breast Cancer Foundation for medical research. Thank you.

The CHAIR: Thank you. Ms Schubach, when I first encountered you some years ago I did not know what you were going to speak about and you gave a very personal story which surprised and shocked and mystified me, not knowing very much about domestic violence. I wonder if you might assist the Committee, if you are able and to the extent that you are comfortable—and if not, that is fine too—to talk about your journey from being the strong, capable, independent person that you are through your experience with that perpetrator and, looking back, how, in the context of coercive control, what the steps were and what that journey was for you.

Ms SCHUBACH: I had absolutely no idea of what domestic violence was, let alone coercive control. It was never in my upbringing. All of my personal and professional relationships were born out of respect. I had a great workplace and, actually, a wonderful life, so I was completely ill-prepared for someone like Simon—and I must say he is one out of the box; he is not your usual domestic violence perpetrator, if there is such a thing, but there is a textbook that they do use and he was quite extreme. He was very, very charismatic and, I would say, psychopathic with no remorse. He bamboozled a lot of people and A-listers and very, very capable people. So I really looked like the pathetic one in the relationship and I was the one that people were not believing compared with him.

In the course of my journey now I have met so many women. Every time I speak out I have about 10 per cent of the audience come and disclose to me that they have been victims of abuse, and so often—because I speak to corporations, medical professions, judiciary and I get lawyers, doctors, judges, all kinds of very, very capable women coming to me who have just been destroyed, their self-esteem has been destroyed—they are just sitting in a pit of shame and silence and I really, really think that is deadly. So for me, in a way, I was lucky that Simon was very, very well-known to the police, but he persuaded me that it was us against them. He had an answer for everything. We did not Google people back then—that was 2003—and I even had his name spelt incorrectly. He moved on me so fast; he love-bombed me, he threw my life upside down. I lost my job within weeks.

The CHAIR: Can you just take us through some of those facts and fill in the gaps for those that do not know your story with the factual progression of how that happened?

Ms SCHUBACH: Yes. I was with a friend in a cafe one day and he walked in and he sat a little bit too close to me next to us. I was talking with my friend about a concert that I had been to the night before and some of my business plans. He was actually listening in and very quickly gleaned a lot of information about me, like my aspirations, my musical tastes. Then he joined in on the conversation and soon he gave me his business card. I was really quite affected by him, so later that day I thought, "I will just text him, that will be low-risk," and straightaway he moved in so fast. He found a lot of information. I gave him a lot of information because I think what happens with people like us is we are very trusting, we are loyal and we respect boundaries, and someone like that does not. So he came in like a tornado and he learned so much information about me.

He learned who I was living with and where I worked. He just upset everything. My work was very—I was in a small, discrete group, so when he started texting me 70 times a day at work and disrupting everything,

I tried to hide that. I could see that he was in the classic cycle of abuse. You get the excitement that goes through to this edginess that builds up to tension that is released in some form of violence or criticism, and then there is remorse and then you go through this cycle again. You never know which part of the cycle you are in. It is very upsetting and also the modus operandi is isolation from your family and friends. He quickly criticised everyone I knew and he was so mean and rude to them that people were saying, "I do not think we will have them over for dinner tonight. He is a bit of a livewire," and we quickly got struck off the social set.

My family were interstate and it quickly isolated me. I really had no idea what on earth was going on. I was on the back foot all the time. I was being gaslit. You are probably familiar with that term now, where everything I did or said was fed back to me with a different interpretation so that I could not trust myself any longer. He would say that with such veracity and people would back him up as well because he was the favourite, he was the more convincing. He would constantly twist things around. He was actually building a case. I realised years later that from the moment he met me he was building a case to discredit my mental health. He knew inevitably I would press charges or go to the police and he had this body of evidence that had completely discredited who I was. He had suggested I go to a doctor and get some pills to calm me down. He then hid those. He was saying, "You're crazy." He actually came into the doctor's with me so that I was not able to disclose my growing list of injuries. He was surveilling me everywhere I went.

He completely obliterated my self-esteem within weeks and it was because I had always been a solver. My job was to problem-solve. I was a production manager. I used to go in, roll my sleeves up and fix it. I thought that I could fix him and I thought that I had the capacity to fix myself and change my behaviour so that I would always stay on his better side. I was being judged constantly by him. I had no self-concept any longer. I had a concept of myself that was built by him. He told me he had the savoir faire in the relationship and that I should just watch and learn, that I did not know how to dress, that I was past my use-by date, I was old, ugly and fat, and so were all my friends—everything about me was substandard. That builds a platform for me to fall off, so it was very easy for him to push me into a place where I had no sense of myself. Then he escalated the aggression so that it was not just verbal or public humiliation—screaming at me in public or embarrassing me in nice restaurants. One time he asked me for money so I took something like ten \$50 bills out of the ATM machine and gave them to him in the street in Darlinghurst Road in Darlinghurst. He looked at me and he threw it all up in the air so the bills went scattered down the street with cars swishing them. I am down on my hands and knees trying to pick up the money that I had just loaned him. So it is that kind of humiliation.

Extraordinary stories. I became fearful that he had stolen my bank account details. He was stealing money from my wallet. He had the keys to my house, my car. I could not get him out of my house. This was happening very quickly too. He had moved into my house, he had the keys. I could not get him out and I was also very stubborn. It was my house, I was paying the lease. It was full of all my treasures. He had a pair of fake Guccis in there, that was about it. I did not want to pack up a bag and leave. I did not know what a women's refuge was. If I thought of it I thought maybe a run-down place in Penrith with lino on the floor and a sad old squeaky bed. I did not want to do that; I had a great life in Sydney. I did not know what the options were. I finally went to the police when he punched me and tried to smother me. I got very frightened and I ran down the road to the Rose Bay Police Station. He followed me in and while I was making a statement, he was making a counter statement that said that I was aggressive, that I was mentally unstable, that I was an alcoholic, a drug taker—all kinds of things. So he was quickly setting up that dynamic of my word against his. But, as I said, I was fortunate that the police knew him and so they took me very seriously.

I still did not know what an AVO was, except that I thought that anything—because he had set us up like Bonnie and Clyde against the police and the authorities. I felt like I was betraying him every step of the way, but I knew my safety was an issue. The police gave me an interim AVO and I said, "I do not want that in my bag. I do not want a paper copy of that because that will be a red rag to a bull," and, in fact, it was. The next day he made me promise to retract the statement. I said, "No, why would I do that?" He called the police station and I think twisted my arm or frightened me so much that I got on the phone and said, "I wish to retract my statement," knowing that the police probably would not believe me and said that I will be down there the next day.

The next day he actually frogmarched me down to the beach. He cleared a patch of sand and said, "If you don't retract that statement—" and he wrote the address of my elderly parents, who are in their 80s, in the sand. I was absolutely mortified that A, he knew their address and B, he would threaten me in that way. He also said if any of my friends tried to intervene, he would be at the bus stops where their children were heading to school. I have got a filing cabinet full of threats and intimidation, surveillance, controlling behaviour, threats of litigation, complete disdain for the judiciary, the legal system and the police, listening in on my phone calls—definitely creating an atmosphere of fear and alarm the whole time.

The CHAIR: Thank you for your bravery, your advocacy and your work, and particularly for assisting us by sharing your story today. Before I turn to my colleagues, I wanted to ask your view on this process being

part of—it will sound like a loaded question, but in terms of education, is it true that going through that process you were not aware that what was happening was domestic violence and coercive control? In the context of our remit to look at coercive control, could you comment on whether that might assist others in similar situations to at least understand what it is?

Ms SCHUBACH: Absolutely. The reason why I felt impelled to write my book and then become a public speaker and advocate was to educate people, in my case, specifically in domestic violence in higher socio-economic groups as well. I felt that was a niche, and I think there is a particular set of parameters and circumstances that are relevant to that socio-economic abuse. There is a lot of financial abuse. There is a lot of fear and intimidation, which is then underpinned by once successful women not being in positions of power any longer because they are homemakers, and so often they are asked to stay at home so that the home is perfect. It is a big job looking after the children and keeping them in private school.

Keeping up appearances of the golden couple is very misunderstood. It is the gilded cage. There are a lot of mothers, sisters, cousins and women on the school run who keep you silent because there is so much shame in saying that your marriage has failed—you are not the golden couple and it is not the relationship that is being put out to the world. There is a lot going on behind doors. There is that judgement: "Why aren't you strong enough to fix it? You are a strong, capable woman" or "This doesn't happen in these neighbourhoods." I wanted to speak to as many high-level corporations and educated audiences with means, but also to children, teachers, magistrates, doctors, mechanics—so they know how to look for surveillance devices under cars—and hairdressers, as you know. It is a whole-of-community education.

The CHAIR: It is awareness.

Ms SCHUBACH: Yes.

The Hon. ROD ROBERTS: Thanks very much for coming along today, Ms Schubach, and having the courage and fortitude to come forward and tell your story in public. I am aware that you do it regularly but, again, I appreciate your efforts today. I do not want my statement to be misconstrued, because I am getting to a particular point, but I think the perpetrator in your matter got out of prison just before he met you, is that right?

Ms SCHUBACH: Yes.

The Hon. ROD ROBERTS: I will put this proposition to you—and, as I say, I do not want you to think I am trivialising what we are doing here. But in that particular circumstance with that particular offender, no law in the world would have prevented him doing what he did to you and to others previously, would that be right?

Ms SCHUBACH: Well, in fact, I did manage to stop him by helping, I think, influence some of the changes in legislation that Mark Speakman put through about three years ago to make it tougher for high-risk recidivist sexual offenders to be out on parole or bail, or at the end of their sentence. Simon did—someone else prosecuted him and was successful, and he was sentenced to seven years. At the 10-year mark he was eligible for parole, and I got the fright of my life because I thought he would be out in 2020 and I would be living in Paris by then and long gone. All of a sudden it was on my doorstep that he was going to be out. I was incredibly fearful. I had just broken my arm, as well, so I felt so, so vulnerable. I did not know if he was going to come after me or pay someone to throw acid in my face or anything like that. That is when I lobbied everyone. I was in David Elliott's office. I was talking to Malcolm Turnbull and to Gabrielle Upton, the Attorney General at the time. I went to town—all the media I could get—to make sure that everyone knew that this should not happen.

When I lobbied the State Parole Authority it was quite interesting. They said they did not think that their remit was to listen to community voices. They were not sure whether they should accept my 50,000-strong petition. But in the end—and I argued, I think on television, that they are supposed to be representative of the community and community standards when it comes to releasing these high-risk people into the community—their counterargument was that he is never going to be reformed if he does not actually enter the community with some restrictions over him that can be monitored. But he broke them every single time, and often that was not picked up for a week or so. How effective that is. Minister Elliott assured me in his office that if Simon scratched himself there would be helicopters over him instantly, and then I found out two weeks later that he had threatened three people and it was only just getting picked up and he was being sentenced and put back. Sorry, that was a long answer to your question.

The Hon. ROD ROBERTS: No, certainly.

Ms SCHUBACH: But I think there are mechanisms.

The Hon. ROD ROBERTS: Yes, certainly. I am clearly on the record about my position on parole and the parole board. I tend to support where you are coming from, as a matter of fact. But there are some people,

I would suggest—and I look forward to your response to this—who you just cannot reform. He would fit into that category, do you not agree?

Ms SCHUBACH: I agree 100 per cent.

The Hon. ROD ROBERTS: Where I am coming from is that legislation alone will not stop people like him. But I hear what you are saying about education, and I think hand in hand is the way to go forward with that because community education is needed to identify these people. It is never going to stop them, but it is going to make victims more aware of their circumstances.

Ms SCHUBACH: I agree. I think education and legislation are part of a toolkit. I think it is really interesting we need to look at the psychopathology of perpetrators and those who are perpetrating coercive control because that psychopathology is a spectrum. On one side, we see it manifesting in extreme cases like Simon, but on the other side we see narcissism condoned at every level of our community—and in Parliament. That is the other end of the spectrum. When victims are not believed and they are questioned, and the onus is put on them to prove that this coercive behaviour is aberrant when in other areas of the community it is not an aberration—it is actually celebrated—I think we need to look at that very carefully. I would suggest that it would be something like an autism spectrum, where we are looking at people case by case and we can look at all of the indices of coercive control and say, "Where does that person come on that, and if we put all of that together then what overall picture do we have of that individual in this case, and what should we do with a whole-of-community response?"

Ms TRISH DOYLE: Thank you very much, Ms Schubach. I join my other colleagues in thanking you for your courage in speaking out. There is an important role for those victim-survivors and advocates for reform and change to tell their personal story. Those stories are very powerful. I note from your address to our Committee that you have had access to some powerful people in powerful places yet you still felt fearful; that you are able to articulate your concerns in a way in which many cannot yet you still felt fearful. For all of those victim-survivors who are desperate for change, and for all of those workers who are on the front line supporting those victim-survivors, what would you say to our Committee in terms of the message it sends to society if we leave coercive control out of the criminal scheme?

Ms SCHUBACH: I think it is important that the victims believe that the system is doing everything it can to support them. It is easy to disbelieve that when we see the shenanigans that see in Parliament, when we see budget cuts continually, or when we have had a couple of Australians of the Year now who have been advocates for women's rights yet you kind of feel at the same time that this is not being backed up with funding and legislation. It seems a bit cynical, I must say, that successive Prime Ministers are paying some lip service. I think people feel let down. That sense of hopelessness is being compounded from the coalface right through to the police stations, with stories being dismissed.

I think the most powerful thing we can do to solve domestic violence is to believe the women who are coming forward with their stories. We have got to believe them. Women do not make this up and if there are extenuating circumstances where it is a grey area—he-said, she-said—that needs an educated all of community resource to get behind it to unpack what is going on there. You can see that traumatised women do not present very well. There is a number of reasons why this might look muddy. It could be fear. We think we can fix them. We think that we can solve the problem.

At every step along the way we need to see respectful relationships in schools. We need to see that the police are being educated before coercive control legislation is probably up and running like in Scotland. I think the key to Scotland was that the police force had their training prior to the legislation being passed—or so I am led to believe—so that it could be implemented holistically and quickly. It has got to be backed up in corporate boardrooms. It has got to be backed up in the halls of Parliament. I think if it is not, it is really devastating and disheartening and people just shut up because they cannot go through that system any more. They cannot face a court. They cannot face the police anymore if they have been disbelieved. I think we need to really put in action our words.

The CHAIR: We will have to leave it there. Thank you so very much. We very much appreciate your ongoing work and you taking the time to join us. I know you have travelled to be here today and we are very grateful for that, particularly at the moment.

Ms SCHUBACH: Thank you.

The CHAIR: Thank you for your assistance to the Committee. We may have some more questions that we might put to you in writing.

Ms SCHUBACH: Certainly.

The CHAIR: If you are happy to accept those, your responses will form part of your evidence and will also be made public.

Ms SCHUBACH: Alright, and I will submit this as well.

The CHAIR: Terrific. Thank you very much.

(The witness withdrew.)

JANE MATTS, Survivor Advocate and Board Member, Victims of Crime Assistance League (Hunter) NSW, affirmed and examined

KERRIE THOMPSON, Chief Executive Officer, Victim Support Unit, Victims of Crime Assistance League (Hunter) NSW, affirmed and examined

The CHAIR: Thank you for the work that you do on an ongoing basis and for taking time out from that important work to join us today. Thank you also for your very comprehensive written submission. That has been circulated to members and you can assume that has been read, but you are welcome to speak to any part of that. Do you have an opening statement that you would like to make to the Committee?

Ms MATTS: I would just like to begin by acknowledging the traditional custodians of the land, the Gadigal people of the Eora nation and pay my respects to their Elders past and present and extend that respect to Aboriginal and Torres Strait Islander peoples here today.

Ms THOMPSON: Victims of Crime Assistance League [VOCAL] has been helping survivors of crime throughout New South Wales for the past 30 years. We assist men, women and children who have suffered violent crimes and trauma and we provide emotional support, practical assistance, advocacy and support through various legal systems. A significant portion of our work is in the area of post-separation domestic abuse, and our responses to this inquiry are based on women's experiences of leaving an abusive relationship where children are involved as well as with AVOs, the Criminal Court and the Family Court systems.

Coercive control is an insidious form of abuse, one that severely impacts the physical and mental health of women and children, and it has a ripple effect on a person's employment capacity, the children's education and emotional development, on finances and social impacts. As a society, we publicly announce that domestic violence is a crime. Women are advised, encouraged and supported by their friends, family and support agencies to report domestic violence to police. Yet in reality, it is extremely difficult for abuse survivors to get police assistance when reporting non-physical abuse such as harassment, intimidation and stalking. Police responses are often, "Keep a diary of what is happening. Put CCTV cameras in your home. Change your locks. Get off social media." A lot of the response is put back onto victims for their safety and often women tell us that they are not prepared to report ongoing abuse to police again because nothing happened last time. Change needs to occur within policing and the legal sectors if New South Wales is going to reduce the impact of domestic and family violence.

This inquiry has created in-depth discussions on both the advantages and disadvantages of criminalising coercive behaviours and VOCAL acknowledges that criminalising coercive control is not something that could be or should be implemented quickly. But what we see daily is that coercive control, both during a relationship and post-separation, causes severe socio-economic harm to women and children, is detrimental to their mental health and it disrupts and undermines their parenting capacity. It is the experience of our women and children survivors that drives us to advocate for coercive control to be legislated and for it to be formally recognised and responded to within the criminal justice system and the family law system.

Ms MATTS: One of the good things about the work that I do, apart from being a board member—I work with a lot of women in the cross-jurisdiction between the state and the federal. So I work with women in supporting them putting together materials to go to the Family Court. With that experience, I think that I can offer some opportunities to discuss some of the issues that are happening in that space. As a member and board member of VOCAL, I would just like to also commend the exceptional work of women in regional New South Wales because it is a very hard space to be able to get funding, to get action and quite often you have people in areas where they cannot access services within 200 to 300 kilometres. In relation to criminalising or moving on this particular matter, we need to understand some of the limitations that sit with services trying to assist women.

The other thing as a survivor advocate—I can tell you that I did not realise some of the aspects of the abuse that had occurred to me until after I left the relationship. With that understanding from a survivors perspective, some people will not realise what aspects of domestic violence have affected them until after they have left. I am proud to say that our regional service has also featured in the Hanson inquiry. Some of the things

that we are talking about today—and it is already in our report—are repeated and have been published in both the first and second Hanson family law inquiries. I am really proud that our service has been able to have some of the important things featured in that particular process.

The reasons why we need legislative reform in relation to coercive control is that we realise that if we are going to have a mature model of dealing with women's experience in particular around abuse, then we need to incorporate something that is serious, common and is part of the homicide model for women that are killed. I can say from my own experience that coercive control is insidious. It is something that is really hard to talk about. It was really hard to get traction. What happened with me—I was demonised and marginalised. My issues were minimised and they tried very desperately to make out that I had mental health problems, rather than the issues that were happening before me. There was a whole redirection around how those particular issues were perceived within a Family Court jurisdiction and a state jurisdiction, although I would like to commend the police I worked with when I first went to them regarding my violence order.

They were very receptive and understanding of that particular process and the issues that were happening to me. One of the biggest things that I would like the Committee to consider is the cross-jurisdictional conflict. We work with women—and I have worked with women individually—where they have risk of significant harm determinations by child protection. They have AVOs. They go to Family Court and those AVOs—it was mentioned this morning by the eSafety Commissioner—are set aside. You have to start to wonder why. The Family Court appears to have a co-parenting agenda, not a risk and safety agenda. That is something that I think we need to consider at a legislative level. How are we going to manage that cross-jurisdictional divide and differences? I think that is it. I am open to questions.

The CHAIR: Thank you both very much. That is wonderful. We appreciate it.

Ms ABIGAIL BOYD: Thank you to both of you. It is lovely to see you. Thank you for your submission and everything that you do. This issue of the family law system overriding elements of state law and ADVOs is a really good area to look further into. Could you tell us some examples of how the family law system can be used as a form of coercive control—so, examples of coercive controlling behaviour using the family law system—and also how things might change in relation to that family law system aspect if we were to criminalise coercive control?

Ms THOMPSON: One of the main things that we see is that when people do go to report to police post-separation to try and get an AVO for the harassment, intimidation and violence to stop, as soon as there is mention of children, police say it is a family law issue. On many occasions there is not even a report that the woman has attended the station and asked for advice, assistance or intervention in that space. She walks away from the police station and has been told by police to get a family law solicitor. Unfortunately—I can only speak for the Hunter area—there are some family court solicitors who advise women not to raise allegations of domestic violence. "Do not mention anything about sexual violence to either the mother or the children," they say, "because you will have your children removed."

So, she is silenced at the police level. There is no protection. Then she goes to the Family Court with significant issues, whether it has gone through child protection or not, but she is not validated and encouraged to tell the truth. And then, the financial abuse that goes on through the Family Court, where litigants can draw out the process for as long as they want—that is probably one of the major impacts that we have. Unfortunately offenders will say, "I will take you through Family Court until you have got no money. I will take your house." We see that often played again and again, yet no-one—solicitors or anyone in the Family Court—intervenes and says, "This matter has been here for three years. We need to do something about this."

Ms MATTS: I would like to add to that. Both Ms Thompson and I have a client who we have worked with who had significant coercive control in her matter. Child sex abuse was identified as a particular issue. Risk of significant harm was identified as a particular issue. She was advised by her solicitors not to mention the put-downs in front of the children that she was inadequate—"Don't listen to your mother, she's stupid. What a stupid mother you've got." Those types of sayings—the solicitor said, "Don't mention it. Don't put it in your affidavits. It will go against you because the court system itself is trying to do a co-parenting model." Under section 4AB the Family Law Act actually states that coercive control is to be recognised, but is to be recognised where there is fear.

For those of us having the definition of coercive control that we have used in our submission, fear is not always part of it. Even from my own experience, there was no fear to do with the financial abuse. It was just that financial abuse was occurring. Perhaps there needs to be some synergies and changes in that space, Ms Boyd, around how the state determines it—a reinvigoration of the definitions. Other people have already mentioned that a universal and national approach to definitions of domestic violence and coercive control would be highly

beneficial. But the other side of it is under the Family Law Act, the disconnect between—you can imagine. Here is a woman who has gone to the police and said, "I am feeling fear. These behaviours have happened."

They have got an AVO—it has been tested and proven—but every second weekend they have got to meet that person. They have got to exchange the children, who are fearful. I think that disconnect needs some form of in-depth discussion with Federal counterparts to see how that can be better managed. I think women deserve better than to have to deal with trauma. That process of working with children—I understand that parents need to be involved in children's lives. It is a thing that is standard. But we should not, as women or even survivors of violence, be subjected every fortnight to someone who is doing some little jibe or further prong that builds on the domestic violence that they have already experienced. I think we can do much better in that space.

Ms ABIGAIL BOYD: By criminalising coercive control, do you think that situation would be helped either legally or from an education perspective?

Ms THOMPSON: The Domestic Violence Safety Assessment Tool [DVSAT] is a very good example of—someone goes in and reports to police and they are asked 20 to 25 questions about the context and history of their relationship. Service providers can do that and police are meant to do it; sometimes that does not happen. What we find is that it determines the level of risk that a survivor is at—so, her level of fear in sexual violence, stalking and intimidation. Is he jealous? It covers quite a bit. We think it needs to cover quite a lot more. But that rating of the safety assessment tool does not go anywhere.

It does not get submitted to local courts for AVOs. Police and service providers are doing this, trying to manage this space, and they have an assessment tool which says, "This woman and her children are at high risk. She has got 19 out of 20, so she is at serious threat." Safety action meetings come in. We do that victim space very well. But if it goes to AVO court, criminal court or Family Court, that first base assessment is not considered. It is just ignored. So, I think the systems are there. There just needs to be more weight placed on them.

Ms MATTS: I also think that there is a problem at the moment, Ms Boyd. If someone goes to the police and they say, "We've got a family law matter," and then they want to report coercive control—if it was criminalised. In the current state and practice—I am sure Ms Thompson would probably support this—the police would say, "That's a Family Court matter," and they would be very unlikely to report it. I think there needs to be a shift in culture in the management of it. But if it was positively viewed, the capacity of the court to take that evidence and say, "This person has been convicted at a state court of coercive control," may give a survivor a greater leverage in the understanding of the depth of the domestic violence within the relationship.

There is capacity, in my opinion, to create real change to support survivors so that can be used in another jurisdiction in a positive way. The evidence would be tested; it would be proven. The other side of it is—having a look at the NSW Bureau of Crime Statistics and Research, in a local court the period of time between when a matter starts and when a matter finishes is a year, or maybe a little bit over a year. So I guess there are some constraints in there from a Family Court perspective if we are waiting a year for a result, then to be used to leverage in a Family Court, then we need to look at what do we use in that interim from a Family Court perspective to say that this matter is progressing through the courts from coercive control.

Mr JUSTIN CLANCY: Thank you both for your submission and for being with us today. Before I ask the question I certainly want to acknowledge your comments around those cross-jurisdictional divides. I found it interesting that you cite on page 14 the NSW Department of Communities and Justice and its definition or their statement that domestic and family violence includes any behaviours that are coercive or controlling. I find that interesting—that a New South Wales agency says that but it is not fully reflected in the law in that regard. Thank you for raising that. I was going to ask a question on the DV safety assessment tool. You have already spoken to that. I am hoping you might expand on that from your submission and from what you have just said now: calling for reform of the DV safety assessment tool, particularly about including coercive behaviours, the definition, the questions that are included, and what you have just spoken to there—that it is actually where it is employed, in terms of across jurisdictions, and made better use of. Would you like to expand further? Is there anything else there in terms of perhaps reform around that particular tool?

Ms THOMPSON: It is quite interesting when we get the DVSAT rating that police have done. It is significantly lower than what a survivor would talk to someone at an agency. So police may assess it as six and then a DV agency might go 13. So there is quite a difference in some of the ratings. We believe that because police are so under-resourced and under the pump sometimes they are not doing that as correctly as they should be. They are not asking the questions, whereas support services generally have a lot of time, and women are more comfortable sitting down and talking about the context of the relationship. That is the problem with incident-based: Police are—and I understand it—it is based on one incident. When did this happen—time, date—and what happened?

But coercive control happens—we know it is a lot of behaviours that happen over a lot of time. I think that redoing the DVSAT, just taking some of those questions out of there that we have recommended that police would already have the answer to, and asking a little bit more of the survivor about what her experiences are. How do she feel if he comes home drunk? How does that make her feel? Is she scared or is that okay with her? Just going a little bit further and then seeing the impact on her of his behaviours: "What would happen if you said no to him or if you changed your outfit before you left the house? What would happen?" Quite often they are not thinking of those questions, but when once you just start to have the discussion you will see there will be a lot of disclosures.

The CHAIR: Thank you. Does that answer your question, Justin?

Mr JUSTIN CLANCY: With that, just a question, and you may not know this: Is there a model of a safety assessment tool in another jurisdiction that you might be aware of that we could explore a bit further?

Ms MATTS: Justin, I would like to bring your attention to the new tool that has been put into the Family Court as part of the Lighthouse Project. It is a tool that is emailed out to each participant, each responding person, and I think there needs to be more correlation between that tool and what is happening at a state level. I know—just basics—that it is very different. I think this whole process of understanding what is happening at the federal and state level around these tools would be of great benefit to the management of domestic violence.

Ms TRISH DOYLE: Thank you so much for your work, for speaking your truth and doing so on behalf of those who cannot. It is really important to bring those powerful personal stories to this place and through the work that you do. For us, having spent many long days on this Committee and in hearings, a lot of people have expressed considerable caution around criminalising coercive control, and there is an understandable suggestion that a criminal offence on its own is not good enough. You have raised lots of really important points about jurisdictional issues, but for the purpose of hearing from everyone who has those concerns around caution or those who want us to move full steam ahead with reform of some kind, do you think that leaving coercive control out of the criminal scheme sends a message to society that it is less serious than physical assault?

Ms THOMPSON: Absolutely, and we know, not only through the people who we work with but research says that it is the worst type of violence for women who suffer from coercive control. So many women say, "I wish he'd just hit me. I've got a bruise, I'll have a broken arm, I can be recognised and I can get assistance", whether that is through the court or with AVOs. But trying to prove that you are fearful of someone is hard. War veterans are recognised. We know the impact of child abuse on children through the royal commission. So we know that trauma has a significant effect on mental health. This is another trauma. This is a form of abuse, so we would argue for it to be criminalised.

Ms MATTS: I think you hit the nail on the head, Trish, in that there needs to be a good thinking process around how we implement this. It has already been mentioned—some training, education needs to be part of all of this. We just cannot implement a law. That consultation process—I think has been recommended by a lot—would certainly be of benefit here, and lived experience. I think we need more lived experience, especially from regional women, regional men, children around domestic violence, what their experiences are, how we can better manage it. It is so important that something like coercive control is not a "gotcha", is not something that people are not aware of, and they have not been educated to understand what constitutes a criminal offence. Police really are subject matter experts in this space, but I guess our challenge is then providing that education to expand that knowledge around how that will work, that people are educated so they can make good calls around domestic violence.

The CHAIR: Thank you. That completes this session unless members have other questions. We may send further questions to you in writing. Would you be happy to accept those knowing that your answers will form part of your evidence and will be made public as well?

Ms THOMPSON: Yes.

Ms MATTS: Sure.

The CHAIR: I really appreciate your assistance today and, more importantly, the work that you do every day. On behalf of the Committee, thank you for helping us and for your written submission, and thank you for appearing before us today.

(The witnesses withdrew.)

(Short adjournment)

CHLOE McCARDEL, affirmed and examined

The CHAIR: Welcome back to day five of the Joint Committee on Coercive Control hearing. We appreciate your attending in person today and your written submission, which has been circulated to members and you can assume has been read. If you would like to speak to any part of that we would welcome it. We also have two members participating via Webex. Do you have an opening statement you wish to make?

Ms McCARDEL: Thank you, it takes about five minutes. On 2 January 2018 I rang the police because I had been assaulted and I felt unsafe. Within an hour or so they had evicted me from my home due to false allegations. Why did not the senior police officer [REDACTED BY RESOLUTION OF THE COMMITTEE 20 MAY 2021] look at the history of callouts to this property over the last seven years, as there were several. Did she even have access to those reports. I do not know. If she did she would have seen in those reports that I had been locked out of my property before by the man in question. On previous police attendance at my home this man was noted as intoxicated and claiming to the attending constable that we had separated, which we had not, hence why I was not allowed on the property. This was detailed in a police report by a previous constable from the incident attending this very same address involving the very same man, and I was also named.

A copy of this report has been provided to the Committee. So on the other night when I could not access my home the police told me that because I could not access the house and apparently I had separated from the person in question that it would be best that I just stay with a friend or family member somewhere else or hire a hotel. The constable who attended that night operates out of the very same police station as [REDACTED BY RESOLUTION OF THE COMMITTEE 20 MAY 2021], who evicted me from my home. Why do not police consider past police reports and criminal history of people involved in a domestic violence call out? Or at least if they do sometimes, why did they not on this occasion? The man I am telling you about has been escorted from a home by police in the past for allegedly assaulting a woman whilst intoxicated while children were present. I know this only now because of police records that have been released only after a very lengthy and expensive legal battle in the magistrate's court where I had to fight Victoria police to not have my rights taken away again by the Australian court system. The committee has a copy of that police report.

Why is covering up and excusing perpetrator's domestic violence action considered a more important value than the safety of victims and potential future victims. Are not civil societies supposed to protect the vulnerable. As perpetrators are often repeat offenders and are known to commonly claim that they are the real victim I believe creating a nationwide reporting system that police can access when attending domestic violence incidents would reduce the incidence of victims being mistakenly treated as perpetrators by conniving and narcissistic abusers who are experts in coercive control. Sometimes the expertise is so manipulative that they successfully brainwash the police. I believe that the police I interacted with about these issues should have been able to take the initiative to inform me about the previous allegation where this man was alleged to have assaulted someone in a home whilst intoxicated and let me know that police had escorted him from the premises on that occasion.

I know that the police on 2 January 2018, the night when I was evicted, did not have access to that particular information at the time because it was suppressed. But, suppressed for whose benefit. Clearly not for future victims such as myself. I believe the Committee should consider a scheme similar to that in England and Wales called Clare's Law. I am sure you are across that. For anyone listening it is officially known as the Domestic Violence Disclosure Scheme or similar. It designates several ways for police officers to disclose a person's history of abusive behaviour to those who are deemed to be at risk from such behaviour—which would have been me on that night. It is intended to reduce intimate partner violence. Clare's Law is named after Clare Wood, a woman murdered in England by a former domestic partner who police knew to be dangerous. Clare's Law gives any member of the public the right to ask the police if their partner may pose a risk to them.

Under Clare's Law a member of the public can also make inquiries into a partner of a close friend or family member. I thought my perpetrators behaviour claiming to be the victim to police was a rare occurrence. I had never heard of it before. I learnt differently years later—only recently. I believe people who are concerned for their safety should be able to, in a very sensitive and controlled manner, access information to find out if the person they are in relationship with or live with has a history of police reported domestic violence and/or a criminal record. Access to more than just criminal record checks as I know my perpetrator did not have a criminal record in either Victoria or New South Wales as of May 2018. In fact, perpetrators claiming to be victims is such a common phenomenon it has its own label: deny, attack, and reverse victim and offender, DARVO.

Jess Hill, a leading domestic violence investigator and campaigner, explores this in her Stella prize winning book *See What You Made Me Do*. My perpetrator was using classic DARVO behaviour. DARVO refers to a reaction perpetrators of wrong doing may display in response to being held accountable for their behaviour.

The perpetrator or offender may deny the behaviour, attack the individual doing the confronting, and reverse the roles of victim and offender such that the perpetrator assumes the victim role and turns the true victim or the whistle blower into an alleged offender. This occurs, for instance, when an actually guilty perpetrator assumes the role of falsely accused and attacks the accuser's credibility and blames the accuser of being the perpetrator of a false accusation. Institutional DARVO occurs when the DARVO is committed by an institution, or with institutional complicity, as when police charge rape victims with lying.

Institutional DARVO is a pernicious form of institutional betrayal. Not only had the police ripped my rights away from me when they evicted me from home and placed restrictions upon me. They continued to pursue and control me and label me as a dangerous person through the court system. I believe the actions of Victoria police against me is an example of institutional DARVO. Not only did my perpetrator display DARVO on the night of the incident, he continued it when he brainwashed the police legal counsel and others. If intimate terrorism, or coercive controlling violence occurs when one partner in a relationship, typically a man, uses coercive control and power over the other partner, then what do you call the state actively supporting intimate terrorism? I would call that state-sponsored terrorism. It was very successful. I was terrified.

My perpetrator used the resources and might of the Victorian police and in particular the police legal counsel who grilled me under cross-examination questioning my testimony from an incident in 2014. She said that "being grabbed by the neck by [the man in question] and being put to the ground couldn't have been that bad because on that particular occasion you didn't call the police". The police legal counsel minimised and excused my perpetrator's violence in an Australian court of law and used an example of the perpetrator's violence against me to support their case to further restrict my rights. I did not really understand why the police legal counsel—who was a woman by the way—asked me that question at the time. I stood under cross-examination confused. Now over three years later I see it for what it was.

In regards to tackling the problem of domestic violence there is a lot of focus on perpetrators. Although I agree with this focus, where is the focus on the broken police system that further traumatises victims through police action and inaction? Just imagine you have a perpetrator turn on you. You call the police for assistance because you have been assaulted and you feel unsafe and you want to leave your home but you cannot. The police arrive and immediately evict you from your home. Now imagine over the next four months the entire state police force are aiding and abetting your perpetrator. During the court hearings the police counsel minimises and excuses the violence you have experienced and accuses you of being a dangerous person.

They ask the judge to again take away your rights. It was not something I imagined. It was a nightmare, but worse than a nightmare because it was real. Isn't this just the most brilliant act by a perpetrator? They become the victim and the police do the work of controlling, further traumatising and taking away the rights of the victim. It is brilliant and it is utter madness. And it must stop. I believe this type of action is state-sponsored terrorism and a violation of human rights. I am not asking you to imagine something that is happening in North Korea or China. This is happening in Australia.

It may come as a shock to some of you for me to say that I am now living in New South Wales because I do not feel safe living in Victoria because I do not trust the Victorian police. This has had a negative impact on my business and has taken me away from all my family members, who live in Victoria and who are an integral part of my support network. I do not believe I will be free from post-traumatic stress disorder for as long as I cannot trust the Victorian police, which I believe, if the status quo continues, will be forever. On a much nicer note, I would like to thank a lot of good people at the Moorabbin Magistrates' Court, and a few very good police officers, who supported me and saw that justice finally prevailed.

The CHAIR: Thank you very much, Chloe. We really are very appreciative. You are brave and this is extremely difficult, I can understand. We are so grateful that you would share your story with us and be so brave as to assist the Committee with the facts. I am so sorry for your experience. Thank you for your written submission, which is very helpful and answers the questions posed in the discussion paper and also puts your personal experience right before this Committee. We are here to listen to you. We are here to acknowledge what you have been through and we thank you for letting us know.

Ms TRISH DOYLE: I am just going to echo our Chair's comments. Thank you for your bravery, Chloe. Thank you for speaking your truth and being able to give voice to your lived experience as part of this process where we contemplate legislation that deals with the sorts of things you know only too well about. Thank you for your courage, and thank you for your submission. Each submission is a little different and it is good for us to be able to dive down into some of what you just spoke to in terms of our deliberation on what law might look like in this space, what it needs to cover and the gaps that exist in current law. I just wanted you to comment, as I have asked many people in playing devil's advocate here, if we leave coercive control out of the criminal scheme, if we

do not criminalise coercive control, what sort of message does that send to society in terms of it being less serious than physical assault?

Ms McCARDEL: I think that society does not even understand coercive control. I tried to explain what I experienced to someone and they said, "Did he hit you?" and I said, "No." They said, "Thank God for that, then." I do not think the average person has a frame of reference for domestic violence being outside physical violence. Therefore, I do not think the average person really sees coercive control as domestic violence and therefore probably cannot comprehend the enormity of it or understand how it is so closely linked to murder of intimate and former partners. So I think the status quo will just continue and I don't think the status quo in Australia is acceptable.

Ms TRISH DOYLE: Just in short, to clarify, you would like to see these behaviours that you have unfortunately experienced, and told us about, criminalised?

Ms McCARDEL: Yes, with conditions. For example, when I was asking for support from police, they would say things like, "That is a civil matter. It is out of our scope." So they would not intervene and this, I believe, emboldened my perpetrator because he thought, "The police are saying it is not an issue. Therefore, what I am doing is fine." I think the message to the perpetrator at the time was that, because what they are doing is not a criminal act, it is not actually that bad. It was just maybe someone not having a great day in a relationship. So it limits the police powers and it limits the respect that some—I do not want to make broad accusations about the police force because there are some very good people in there. But it limits the seriousness of what coercive control is if it is not criminalised.

But I have a big concern that there are a lot of perpetrators who are very good at turning the tables on victims, making themselves out to be the victim like I have experienced now. If coercive control is criminalised, then my perpetrator could have claimed that I was criminal and potentially convinced the police to lay charges against me and then drag me through another court case. This was a civil case that I am talking about where my perpetrator wanted to put a two-year full intervention order against me, which I fought him through multiple court hearings for. He could have found more grounds, if coercive control was criminalised, to charge me with, to get me charged with lots of things and then it would have become a criminal case which I would have been standing in court trying to defend myself against.

I think you need to empower potential victims, like I am suggesting. They should have access to information. The police officers should have had more understanding of the context rather than turning up at a doorstep and just taking whatever they see in front of them as the whole case. Because I am sure, if they had known about the history, they would have taken into account what this man was like, because he has a history. His story would have been less convincing on the night if they had access to other things. That is another legal issue. It may not be exactly out of coercive control. I am potentially opening a can of worms to lots of other legislative issues but, if you are going to criminalise coercive control, you are going to have to be super careful that perpetrators are not turning on the victims and the victims ending up with worse outcomes than are happening right now. They become criminalised.

The CHAIR: You referred to, in the recommendations about police practice and procedure and some other options that are not outlined in the questions posed in the discussion paper, some other options, and one is a national database to support police work. Can you talk to that because that is a unique suggestion that I think I find somewhat attractive. In the situation that you have talked about, some of our members have raised issues with other witnesses about cross-jurisdictional issues and perpetrators having ADVOs in one jurisdiction and then being able to move to another one and there being no consequence. Can you talk to that and talk to that national database issue and cross-jurisdictional issue, from your experience, and why you have felt it necessary to put that into your submission?

Ms McCARDEL: Yes. I can only talk to my own lived experience because I do not work in or research this particular area. I think, if the police had turned up on that night and had been able to access not just criminal records because my perpetrator did not have one for sure at that point in time but also allegations of domestic violence, then that could have informed them when trying to balance up who is telling the truth. And in fact that night I did not make an allegation, even though I had been assaulted, for various reasons, which I can talk about. So it empowers the police to help make better decisions in that moment and for the community in general. It could have bypassed that whole entire court case which used an intensive amount of police resources and court resources, further traumatising me et cetera.

I had to do—actually, I did not do a search. I guess if the police had access to some sort of database, I believe, they would be able to make more effective decisions. The status quo at least for Victoria at the time that I was living there was that—I do not believe police were allowed to access that because it was suppressed information, the court records. Here is how manipulative some perpetrators can be: My perpetrator actually ran a

criminal check on me. That is how I found out that there was this allegation that he had assaulted a person while intoxicated and children were present. He actually accidentally revealed that information to me. The police did not run that check. My private lawyer I paid did not run that check. He believed somehow that—anyway, he organised that check to be run. They not only checked criminal history. They checked intervention orders and then police action. That is how that came out.

Even when it got to court hearing stages, the police did not even run a check on him. They were representing him as the complainant, the one that wanted the two-year intervention order. But they did not even think, "Well, why don't we just in case just run a check on this person we're representing. We're going to put all these police resources into representing him. Potentially, if he is actually a perpetrator, we're victimising this other person. Why don't we just run a check." Why is there no procedure? Why did no-one think? It could not have taken long to just run a check on their own person. They would have had the power to do that at that stage. All I am saying is, much earlier, when attending the home, why can't they access a database there? Yes, there would be so many potential issues with that being potentially abused within the system, but, hopefully, there could be checks and balances to prevent that issue happening.

The CHAIR: You can understand there would be concerns around misreporting or misidentification. There are a lot of—you have acknowledged that—issues around it. But I think you did say in your opening statement that if there had been reference to the number of call-outs to that address, there might have been some informed context to that other situation following all these other events.

Ms McCARDEL: Yes. Not just the number of call-outs but what was happening. He was listed as intoxicated. He was listed as not letting me onto the property. Very similar to that night, I was saying he was intoxicated. I was saying I was not able to access my car. So the narrative was consistent with what their own police constable had noted at the same premises earlier. I do not think that those police officers even looked into the internal reports of their own station.

The CHAIR: We are out of time. I am so sorry. There may be further questions we would like to put to you. If we do, we will do that in writing, if things occur to us. Are you happy to take those questions, knowing that your answers will form part of your evidence and will be made public as part of that evidence?

Ms McCARDEL: Yes. Definitely.

The CHAIR: Thank you for appearing before us today, taking the time to prepare and provide a submission and for your bravery today. We very much appreciate it.

Ms McCARDEL: Thanks for the opportunity to speak and be listened to.

(The witness withdrew.)

(Dinner adjournment)

IAIN BRENNAN, Professor, Department of Criminology and Sociology, University of Hull, before the Committee via videoconference, affirmed and examined

Ms TRISH DOYLE: Good evening, everyone. I am Trish Doyle, the Deputy Chair of the Joint Select Committee on Coercive Control. I will be chairing this session of today's public hearing. This evening we are hearing from two witnesses who are based in the United Kingdom. The Chair of the Committee, the Hon. Natalie Ward, and Ms Steph Cooke and Mr Justin Clancy are taking part in this evening's session via videoconference. Ms Abigail Boyd and the Hon. Rod Roberts are present with me in person in Parliament House. This hearing is being broadcast to the public on the Parliament's website. We will begin with our first witness this evening, Professor Iain Brennan. Hello, Professor Brennan, can you hear us?

Professor BRENNAN: Good evening.

Ms TRISH DOYLE: Before we proceed, do you have any questions about the hearing process?

Professor BRENNAN: No.

Ms TRISH DOYLE: Professor, would you like to make a short opening statement before we begin the questions?

Professor BRENNAN: Sure. Firstly, thank you very much for having me. It is a privilege to be asked to speak to the Parliament. I should begin just by providing some context on myself and the research that I have done. I have been researching violence for about 15 years, but I feel like something of an imposter when it comes

to domestic abuse. I have only recently begun researching in this area, and it is through an opportunity through my other research in evaluating what works and what does not work in criminal justice, in particular in policing, that I moved into the area of coercive control. Several years ago I collaborated with the College of Policing to evaluate a training program called Domestic Abuse Matters. Domestic Abuse Matters is a training program developed by the College of Policing in collaboration with SafeLives and Women's Aid, which are two of the larger domestic abuse charities in the UK.

Domestic Abuse Matters is a training program that was developed for delivery to police officers to improve their response to domestic abuse in general, to improve their understanding of the dynamics of domestic abuse, to understand the reality of domestic abuse and, through that, to improve their response to victims of domestic abuse. That training was developed in response to an HMIC report. HMIC is Her Majesty's Inspectorate of Constabulary, who is the regulator of police forces in England and Wales. That training was developed in response to a clear need to improve police's response to domestic abuse with an eye on the coming criminalisation of coercive control. That report came out in 2014, and the Domestic Abuse Matters training began in 2015. I undertook several small-scale evaluations of that, which were to an extent not very satisfying in that they simply measured awareness of issues around domestic abuse immediately before the training and immediately afterwards. What was always dissatisfying about that was that there was no measure of behaviour, so one of the things that I set out to do in a larger evaluation, which I want to talk to you about today, is to look at whether this training actually improved police's use of their new powers of arrest in relation to coercive control.

That began as a local evaluation in Hampshire in the south of England, which is just one of the smaller police forces in the south of England, and the opportunity to evaluate this on a national scale became apparent. The training tends to be delivered at police force level. I will just give you a quick overview of what the training entails. The training has three parts. Firstly, a health check undertaken by SafeLives, looking at the policies around domestic abuse that are present in the police force. Next, and the most substantial component, is a minimum of 75 per cent of responding police officers in the force will undergo a one-day training program. That begins with 75 per cent of first responders—people who attend the domestic abuse calls—but all police staff, including call handlers up to administrators and also chief officers, will be invited to take part in the training. It is the most substantial aspect of it and the most expensive. Then there are the Domestic Abuse Matters champions who are specifically trained officers who provide after-care and try to embed the learning of the training.

That is the overview of the training program. I evaluated that with some partners from the University of Portsmouth, Behavioural Insights and the College of Policing. Using a standard econometric design, what we found was that compared to their performance pre-training and compared to trends in the untrained police forces, the 14 police forces who were trained, compared to the 19 police forces who were not trained, saw about a 40 per cent increase in the rate of arrest for coercive control immediately after the training. A 40 per cent increase in absolute terms equates to somewhere between three and four additional arrests per force per month. That might not sound a lot but that is a 40 per cent increase in the number of arrests on average.

That training effect we found lasted for somewhere between eight and nine months, and then police forces returned to their pre-training performance in terms of arrest. In a nutshell, from that, what we think is that the training was effective—it certainly changed attitudes and behaviours—but the issues that stop police investigating coercive control or arresting for coercive control are structural, they are organisational level, and they require more than a single day's training to really be embedded. That is the main contribution just in terms of what, post-criminalisation of coercive control, can be done to improve police response.

The second piece of research that I will just very briefly talk about is looking at what happens to crimes of coercive control after they are reported to the police. Through freedom of information requests and data provided to us by the Home Office, we looked at what proportion of crimes that are recorded to the police led to an arrest, what the trends over time over the first three years of the criminalisation of coercive control were and the patterns of arrest there. But probably most importantly, given a lot of the concerns people had about the criminalisation of coercive control and the difficulty with evidencing these crimes, we looked at what the outcomes were once a crime is reported and an arrest made. We found that the number of recorded crimes doubled each year for the first three years. That indicates that at least the public were becoming more aware of this offence and becoming more confident in using that. A recent Home Office report that came out about three or four weeks ago indicates that that trend continues, so doubling each year for the first four years. That is heartening because it indicates that the public are becoming aware of this and that police forces are recording it.

Less emphatically, we saw good rates of arrest for these crimes. In the first two years we saw around 50 per cent of recorded crimes led to an arrest. However, in the third year of the data in 2018-19 that dropped to around one-third. It is too early really to say whether that is a proper trend where the rate of arrest is dropping off, but it was disappointing to see in terms of the policing of this crime. Just to wrap it up in terms of outcomes and the issue in relation to evidencing. There was a lot of concern that the nature of coercive control as a course of

conduct in the first place is not incident based. The type of behaviour that constitutes coercive control does not leave easily photographed or describable evidence.

There was a big concern that police officers would not have the skills to collect evidence in this way and also concern that the Crown Prosecution Service, who was responsible for making decisions about whether an offence should be charged, would not feel that a jury or magistrate or judge would be as receptive to this sort of evidence as they were to something that is more visual such as photographs of a bruise or descriptions of an injury. What we found is that those concerns are largely borne out in that the relative rate of crimes that are discontinued because of evidential difficulties, despite the victim wanting to proceed, is about 1.5. A crime of control is about 50 per cent more likely to be discontinued because of concerns about the quality of the evidence compared to other types of domestic abuse.

I should say that the rate for discontinuation of these types of crimes of domestic abuse cases is not good anyway so a 50 per cent addition is really quite poor. Around 35 per cent of crimes were discontinued this way. I think it is important to recognise how disheartening that must be for a victim who is prepared to face—I do not want to say the word trauma—the challenge of taking an abuser to court. It must be disheartening for one in three of those to result in a discontinuation on the basis of poor evidence or insufficient evidence. What we also found was the rate of what is called in England and Wales as Outcome 16 where a case is discontinued because a victim withdraws. In general, for domestic abuse cases, as I am sure you are aware, that is very high. Many victims wish to discontinue cases. We found that it is very high in domestic abuse in general but not much higher in coercive control. There was concern that this would be the case. It started high. About 10 per cent more likely and then by the third year the rates of discontinuations were about the same.

Finally, in terms of charging and summonses there was always a concern that a risk averse Crown Prosecution Service and a risk averse police would be reluctant to charge offenders because of issues in relation to evidence and that is what we see. Crimes of control are half as likely to result in a charge or summons compared to other forms of domestic abuse. I should say again that those rates are not good in the first place so these are particularly poor outcomes in relation to coercive control. Since I submitted the report the Home Office have brought out updated statistics and these continue to demonstrate the same thing. Rates of charge and successful prosecution, which is not part of our research, also said the same thing that the prosecution services and the police are really struggling to secure prosecutions and move these cases efficiently through the courts. That was a whistle stop tour through the research. Given that England is a few years ahead of other countries that have criminalised coercive control, learning from what we have experienced and our failures, and in the case of training I suppose some successes, that might be useful for Parliament to hear.

The Hon. ROD ROBERTS: Professor, you mentioned in your closing that there were difficulties in obtaining convictions with matters that proceeded to court. You indicated that there is a deficiency in the amount that do proceed. The ones that have gone to court, and I do not know if it is in your remit of study, can you provide us with the data as to the reasons for the difficulty in obtaining convictions?

Professor BRENNAN: I have suspicions and opinions but no data. I refer you to the Home Office's report that came out at the end of February that has probably better research on it than we have managed to do in terms of what happens post charge. I think it is really difficult to convince a magistrate, or in many of these cases that are going to Crown courts to convince a judge, that these convictions are safe. Evidencing these crimes is extremely difficult. It requires a sea change in how the public understand gender dynamics, how they understand control and male hegemony, I suppose. And that is a slow process. Coercive control can probably contribute to that. I think we will continue to see poor rates of conviction as we see in many other gender-type crimes such as sexual offences and other forms of domestic abuse. We will see that for quite a while until juries and magistrates and judges start to have a better understanding of the strategies and tactics that perpetrators use to manipulate victims.

The Hon. ROD ROBERTS: Earlier you talked about the training of police and what was required there. I do not want to put words into your mouth but are you suggesting that the judiciary needs training as well now?

Professor BRENNAN: I would strongly support that. I think that is fundamental to understanding the criminal justice procedures but also understanding the nature of these crimes. Yes, I strongly recommend that.

Ms TRISH DOYLE: Do any of our Committee members online have questions?

The CHAIR: In terms of the learnings, can you give us an indication of what you think could have been done better? I accept that it is not very far down the track so it is difficult to have a complete picture at this point but could you indicate what you think the two biggest improvements could have been in terms of lead time, education or other aspects that specifically could have been, at this stage at least, improved upon?

Professor BRENNAN: Yes, the thing that probably anybody could have seen coming down the tracks was first responding police officers who attend a domestic abuse call do not have the resources or the time to investigate something as complicated as coercive control. The legislation was introduced at the tail end of some pretty serious cuts to policing. Officers only have a number of minutes to sit with the victim and when the victim is in distress and maybe does not even have the language to describe what it is going on, time pressures and compassion-fatigued police officers are not in a good position to investigate. That should come as no surprise to anybody who knows anything about modern day policing.

In an ideal world these types of offences would be investigated by a designated domestic abuse team, who may not even necessarily be police officers but have the time to properly investigate and to probe. Again, the language and the labels of coercive control are new, not just to the criminal justice system and the public but to victims. Being able to articulate what is happening to them is not necessarily easy, particularly because of the insidious nature of the crime where it generally grows in the relationship, it does not just occur. Very often, victims and police officers do not have that language. It requires time and that is not what first-responding police officers have. For me, that is the biggest learning, but I could have told you that four years ago; the police officers just will not have the time to do this properly.

The other thing is—this is speculation—the Crown Prosecution Service, who are responsible for making these charges, are highly risk averse. They only charge when they think there is a good chance of a conviction and even then they do not necessarily do it. They are highly risk averse. We have seen recently in charging decisions for sexual offences that they pursue, that it is the unofficial strategy and we would expect the same in domestic abuse and, in particular, coercive control. So policies of risk-taking in prosecution decisions and more time or specialist police officers would be the two things that I think I would probably recommend most.

The CHAIR: Thank you, that is very helpful. It is no surprise; I think that is a worldwide challenge for our frontline police. I will leave it at that.

Ms ABIGAIL BOYD: Thank you, Professor Brennan, for providing us with this evidence and giving up your time. I think a lot of what is in your submission underlines what we have been hearing from a lot of people with concerns around implementing a coercive control offence in New South Wales, and that is that people do not want it to be an excuse for funding the domestic violence sector properly. If there was an either/or decision between really good funding or having this criminal law change, they would prefer the funding. In an ideal world we would have both; we would have a well-drafted offence provision as well as this significant investment in funding. From your research, even if we are not necessarily seeing the prosecution rates rise and the arrest rates are not holding eight months after training, is there at least some hope that people in the community are recognising coercive control more? Is there anything in the statistics to show that that behaviour is at least being identified?

Professor BRENNAN: Yes, I think so. The doubling in the number of recorded crimes each year—that is a reporting effect, obviously that is not showing that the prevalence is doubling every year. For me, one of the most heartening things is that victims are coming forward and police are starting to record it properly. There is probably quite a lot of this type of offence that has come to the attention of the police but it is being recorded in a different way through a lack of knowledge. But it is showing this doubling each year. Obviously it is early days and this still only accounts for somewhere between 3 and 5 per cent of domestic abuse, but the encouraging thing for me is that there is this steady increase. As I said earlier, the public having this language and set of labels for it, and in particular victims having this language and set of labels for describing what is happening to them, I think criminalisation was the mechanism for that because the concept of coercive control had been around for a long time and criminalisation brought that more to the public's attention. It was maybe not the most efficient mechanism for bringing something to the public's attention, but it certainly was effective.

Mr JUSTIN CLANCY: Professor, thanks for your information. Just returning to your comments around embedding it in policing and what you said about the decline in one-off training over the eight-month period. Have you got thoughts then of how you can continue it? You said organisation and structure was part of it, but is it ongoing continuing professional development? Is it auditing processes? Are there ways that you can drive that embedding it into the police force more effectively?

Professor BRENNAN: Yes. I would expect that follow-up training, over time, will have incrementally smaller impacts, so you need to change things at an organisational level. There are many levers in policing for changing behaviour. There is an adage in policing: If it isn't measured, it doesn't happen—or if it isn't counted, it doesn't happen. I think there are levers that can be used to at least improve police activity in relation to this. I do not think you can metric your way into a better response, but I think you can certainly measure your way into police arresting more or recording more. But in the end there needs to be resources to investigate what is a slow crime to investigate, and we will only see gradual improvements by changing measurement processes. There

needs to be recognition that, if you want to investigate this properly, you cannot have two police officers going into a home and having five minutes to do a risk assessment, ask the victim what is going on and then leave and move on to the next case. It will not work like that. Where the resources need to be put in is more time at the incident and more time in the home.

Ms TRISH DOYLE: I just want to add a comment, Professor Brennan. Something, not in the exact words, that a young person said to me that backs in your comment just recently was that we need to see a sea change around understanding gender dynamics in the first place, so I think you are spot on there. Thank you very much for your insights, for joining us tonight—your morning. It is really appreciated that you have appeared before us today. We may send you some further questions in writing, if you do not mind, and your replies will form part of your evidence and be made public. Would you be happy to provide a written reply to any further questions we may have?

Professor BRENNAN: Yes, definitely.

Ms TRISH DOYLE: Excellent. Thank you very much for joining us. Thank you for your work and for informing our deliberations. We appreciate it.

Professor BRENNAN: Thanks very much.

(The witness withdrew.)

VERONICA HOLLAND, Head of the Violence Against the Person Branch, Department of Justice of Northern Ireland, before the Committee via videoconference, affirmed and examined

Ms TRISH DOYLE: Would you like to make a short opening statement before we start with some questions?

Dr HOLLAND: I am happy to go straight into questions, but equally, if members would find it helpful, I do not mind making an opening statement to you.

Ms TRISH DOYLE: We have found it helpful if people just outline a bit of their work or some of their thoughts around this issue. But it is up to you, of course.

Dr HOLLAND: That is fine. No problem. I will just give an overview in terms of the background and context in the Northern Ireland situation. In relation to our jurisdiction in terms of the United Kingdom and the Republic of Ireland, we are one of the last jurisdictions to introduce an offence in relation to non-physical abusive behaviours. That legislation has now passed through our Northern Ireland Assembly, and it received royal assent at the start of March. We are currently working through with operational partners in terms of the practicalities of that in terms of system process procedural changes as well as linking up training and awareness raising in relation to the offence more generally. We would hope to have the offence going live towards the tail end of 2021 in terms of—at this stage November is our aim in relation to that.

Essentially, similar to, no doubt, other jurisdictions that you have looked at in relation to this, the intention of the legislation is to close a gap in relation to how domestic violence and abuse is dealt with in our jurisdiction. At present this focus in terms of legislative charges that can be brought against individuals focuses in on physical violence. The new offence that we have brought forward is dealing with non-physical abusive behaviours, what is commonly referred to as coercive control. Essentially, it is a course of behaviour where there is abusive behaviour on two or more occasions and the accused either intended to cause or was reckless as to whether or not harm would be caused. In terms of the provisions that we have brought forward, harm does not actually have to be caused to the individual. Rather, a reasonable person would consider that harm would be caused by those abusive behaviours.

We also have introduced a number of aggravators. In terms of the new domestic abuse offence, there would be two child aggravators associated with that. A child aggravator could apply where the victim, either in terms of being a family member or someone in an intimate partner relationship, is under the age of 18, or alternatively, there is a further child aggravator that can be associated with a domestic abuse offence where a child is involved in relation to the abusive behaviour, abuse is made of that child, they witness abusive behaviour or abusive behaviour is directed towards them with a view to abusing the other individual.

In our context the new domestic abuse offence will apply from the age of criminal responsibility. That is 10 years old in a Northern Ireland-UK context, albeit the thinking is that by and large alternative disposals will be used for young people in relation to that. But there is the potential for the offence to apply from that age. It will apply both in the context of intimate partner relationships, so where individuals are married or civil partners or

there is a relationship between the two individuals. It will also apply to close family members, most concisely put in terms of parents, siblings, grandparents. That is the scope of the family relationship in relation to that.

One other aspect that we have in relation to aggravators that I mentioned in terms of the new domestic abuse offence is also a domestic abuse aggravator, where the domestic abuse offence would not apply. For example, if there is a personal connection between the two individuals or there is not deemed to be a course of behaviour that is a pattern of abusive behaviour, individual charges—for example, criminal damage, assault, any other offence outside of the domestic abuse offence could have a domestic abuse aggravator associated with that. For both the child aggravators and the domestic abuse aggravator, there would be the potential for the courts to increase the sentencing attributable to those particular offences up to what the maximum would otherwise have been. That is a very, very quick overview in terms of the position in Northern Ireland.

Ms TRISH DOYLE: Thanks, Dr Holland. Much appreciated. If there is any text that you have in relation to that summary of your opening statement, would you be prepared to provide that to our Committee staff?

Dr HOLLAND: I do not have any in relation to that. I can share a document in terms of an overview. We certainly have material that sets that out. So I am more than happy to share that document with the Committee if that is deemed to be helpful.

Ms TRISH DOYLE: Excellent. If it is further to the submission that we have, that would be wonderful. We will go to some questions now, Dr Holland. I am going to go first to our Chair, Natalie Ward.

The CHAIR: Thank you so much for your assistance. I am very glitchy where I am, so if you do not mind I will turn off my video so I can optimise the sound. Excuse me doing that. Thank you for your paper. As I understand it, in your submission you are suggesting that this legislation will close a gap in the law as you perceive it in relation to this area so that it is not limited to physical abuse or, as you call it, physically violent behaviour. That is a challenge that I think we are tasked with also. Can you speak to the relevance of that in terms of effectiveness of coercive control?

One aspect that has been proposed in our jurisdiction is that we make coercive control aspects or behaviours part of our AVO, our apprehended violence order, or ADVVO. I do not know what your equivalent is there in your jurisdiction. We have essentially a restraining order against the perpetrator. There is a proposal that one option might be to include coercively controlling behaviours as part of the restrained activity, if you like, in our apprehended violence order mechanism. Can you comment about that and why you have opted in this bill for the separation of the requirements, like physical act, from coercively controlling behaviour patterns of abuse?

Dr HOLLAND: It is largely in terms of, as we say, the gap that there is in the legislation at the moment. In terms of the charges that can be brought against an individual, they are very much focused on physical violence. In terms of the new offence that was to incorporate abusive behaviour that is commonly referred to as coercive control and it can also incorporate as part of that offence both violence or threatening behaviour as well, so we would view this very much as having the potential to kind of encapsulate both aspects, not simply just the non-physical abusive behaviours.

In terms of the restraining order aspect, we have those in a Northern Ireland context. What may also be of interest is we would intend to bring forward something we have recently consulted on, which is domestic abuse protection notices and orders, which will essentially link in with non-physical abusive behaviours and enable orders to be placed against individuals that would basically prevent—that either require them to leave a property or they may potentially be living with the individual, prevent them going to that property as well. So that is the way in which we are going to link in the non-physical abusive behaviours through capture measures as opposed to having them as a constituent part of restraining orders, per se.

The CHAIR: Okay. Thank you. I note that there has been quite—sorry, Deputy Chair: If I may I have just one question.

Ms TRISH DOYLE: Sure.

The CHAIR: There is quite a gap between the introduction of the bill and its assent now. It has been some time. Was that deliberate?

Dr HOLLAND: Yes. Well, it was in terms of until we achieved royal assent at the start of March. As I say, we were hoping that we would have the offence come into force towards the end of this calendar year and you may wish to know something about the jurisdictions, both the Republic of Ireland and across the UK more generally. Typically they have between six to nine months. Between getting royal assent and being passed by the Parliament, the offence would become operational just in terms of kind of the necessary changes that are needed around systems, processes and procedures but more importantly in relation to kind of training for criminal justice

practitioners as well as other bodies more generally, and also to allow us to work in relation to multimedia and public forums. It gives you more perspective in terms of what had gone before us in the UK and Ireland. The advice was very much about: Is that a key element that is needed and was that essential between when your legislation is formally passed and when your offence actually goes live? Some of the other jurisdictions would have advised us that they actually would have went for longer if they were doing it again so some of them potentially would have taken as long as a year in between.

The CHAIR: Yes, okay. That is very helpful, thank you.

Ms TRISH DOYLE: Thank you, Dr Holland. I am going to ask if my colleague here Dr—I called you Dr—Ms Abigail Boyd, has any questions of you, Dr Holland.

Ms ABIGAIL BOYD: I am not a doctor, unfortunately. Thank you, Dr Holland, for your submission and making yourself available to us. So I guess you are in a bit of an envious position in that you are able to look at neighbouring jurisdictions, at how they have implemented their offences and learning from those. In addition to that delayed period of time between enactment and implementation, what else did you learn from the experience in Scotland versus the experience in the UK, for instance? What were the bits that you decided not to do and the bits that you did decide to do from that, if that makes sense?

Dr HOLLAND: I suppose we had looked at both England's and Wales' legislation and the Scottish legislation and, in the context of what we were trying to address, our preference was for the Scottish legislation. We thought it was, you know, somewhere approaching the legislation that we were going to have to work with. We thought the approach was somewhat more encompassing. Also it was not so focused on coercive control. We do not actually use the term coercive control in our legislation, albeit that that is an integral part of the legislation for the new offence. Rather we went for the terminology of abusive behaviour that was adopted in Scotland and setting out which abusive behaviours we would cover. I tried to make that as broad as we possibly could.

The other element that we thought was particularly helpful in the Scottish legislation was in relation to the aggravators on the domestic abuse aggravators, so again reflecting on and recognising the seriousness of this offence; the nature of those relationships; the breach of trust that that entails and would lead to potentially increased sentence, albeit that that would be for the judge to determine, but the potential to increase the sentences for these offences if children are involved or for single offences or where that is not a course of behaviour and where there is a domestic abuse element associated with that. Those were some of the benefits and advantages that we viewed in terms of the approach that had been adopted in Scotland versus some of the other jurisdictions close to us.

Ms ABIGAIL BOYD: Thank you. The other thing I noticed that I had not seen from any of the other evidence we have received in other jurisdictions are the inter-agency arrangements and the information-sharing arrangements that you are putting in place. You note there the provision enabling information being shared by police with schools. Could you talk more about the thinking behind that and how that will look in practise?

Dr HOLLAND: Yes. I suppose in terms of the legislation that we brought forward while the main focus was on the non-physical abusive behaviour or coercive control, there were other elements that were introduced in relation to that and, as you said, that one in relation to the information-sharing too. England and Wales already have this scheme and it is legislated for different means. The scheme is referred to as Operation Encompass. But, essentially, the purpose of it is where there has been a domestic incident for which the police are called out to your property and the child may be in distress or a young person because the coverage was up to the age of 18 and also covers the first couple of years of preschool. So probably generally from about age four to 17 would be covered by this.

But, essentially, where there has been an incident like the police being called out the school or the training facility or the preschool would be notified of the fact that there has been an incident. That enables them to virtually take care of the child in terms of the child may be hurt. For example, if they are distressed at school or at a training facility the next day—if, for example, they do not have their homework done or they do not have a uniform—you know, if things are out of kilter for them, it is really to enable the education bodies to take that into account and also more appropriately support that particular child in the aftermath of that.

Ms ABIGAIL BOYD: Thank you. I think it is a really fantastic initiative that we should think about. Thank you.

Ms TRISH DOYLE: It is good—food for thought. Committee member Stephanie Cooke, are you with us? Do you have a question?

Ms STEPH COOKE: Yes, I am here and I have two questions.

Ms TRISH DOYLE: Great.

Ms STEPH COOKE: The first one is: Have you experienced any challenges in relation to remote areas of Ireland? The second question is: In relation to the domestic abuse event, the condition is if it occurs on two or more occasions, how did you land on the number of two and not, say, three or five, et cetera? Thank you.

Dr HOLLAND: Okay. That is no problem. In terms of the remote areas, I suppose we are quite lucky in Northern Ireland because of our size. You are probably going from one side of Northern Ireland to the other and your journey is probably no more than about two hours by car. We have a single police force that covers the entire jurisdiction. We have a single prosecutorial service. We have a single probation service as well and a number of community sector partners are also single entities that cover the region, as such. So size-wise and in population we would probably be the equivalent of a smallish local authority in England or Wales. I think that has been probably beneficial both in the context of the new offences but also in terms of service provision more generally in relation to this area. So, I suppose we do not have remote areas, as such, in the same context as other countries that have such connections in relation to their geographical size, albeit that, you know, there are issues in terms of urban versus rural in the various areas, you know, such as service provision or access may not be as extensive as in more urban areas by comparison.

In terms of the two or more occasions, in part we were guided by the level that Scotland had adopted, but we also have other course of conduct legislation within Northern Ireland. For example, harassment is a course of behaviour or a course of conduct and the provision in relation to that is also two or more occasions. So it seemed logical to have commonality with that and also the approach that had been adopted. Scotland, I think their thinking or rationale behind that is mostly to ensure that you do not have to have too significant a number or too large a number of instances about behaviour before the charge can be brought forward. This is also reflected in an awful lot of cases that are being brought forward. While you may have some incidents reported to the police, we know that there will be a significant number of incidences of abuse that are not reported and effectively form part of that behaviour, albeit that obviously they cannot take their client off in terms of the charge more generally, but the main one is probably really the fact that for a course of behaviour or a course of conduct offences the threshold for those is two as well. So it means that it is on a par with that.

Mr JUSTIN CLANCY: My question was around some of the complementary measures in terms of in Northern Ireland's journey towards this being adopted around education, resourcing for police. Are there some insights that you can give us of the Northern Ireland perspective on that please?

Dr HOLLAND: My perspective by way of resources?

Mr JUSTIN CLANCY: Yes, in terms of either financial or changes to structures or specialist violence units and so forth.

Dr HOLLAND: In terms of the financial side of things, the intention is that for most of the organisations that are involved in that that is probably subsumed within the current budget or the sense is that while there will be a small increase in terms of the number of cases going through we will see a number of cases that are already in the system—for example, if it is criminal damage or common assault or something like that. But some of those current charges will be brought under the auspices of the new offence. In terms of kind of resources for criminal justice organisations more generally, there will be an impact there for them in relation to the training and preparedness for the new offence coming into effect. Outside of any additional staff that may be needed, the main implications from a resource perspective are really around changes to their IT system, the training that has to be undertaken, and awareness raising in relation to the offence more generally.

In terms of the victim support side of things, we have a number of measures already in place. There is not something as such directly associated with the bill by way of new support services. What we do have at the moment is a 24-hour domestic and sexual violence and abuse helpline in place. We also have general victim support services. In time there might be a bill introduced also making provision for a new advocacy support service—essentially, a single point of contact for victims of domestic and sexual abuse to take them through the criminal justice system where those cases are being taken forward through police. So it will complement the bill but it would not be an integral part of the legislation that was taken forward for the new domestic violence offence per se, but the timing of it—it is timely in terms of giving that additional support to victims that are affected by other domestic or sexual abuse as they go on through the criminal justice system, with a view very much to try and reduce the trauma for them. That is probably one of the main changes on that front. As I say, it is not directly related to the new offence as such but is being brought forward at the same time.

Ms TRISH DOYLE: We have got a couple of moments, Dr Holland, so I might just jump in, unless anyone else has some pressing questions. In the submission we received from you where you talk about other potential avenues for reform, there were a number that I found very interesting to contemplate. The domestic homicide reviews, which are around learnings from the most tragic of cases, I think there was a heightened awareness in this country around media focus on those for a period of time but I am not quite sure whether we

feed the learnings from those cases into this field as much as we need to or the ways in which we might be able to look at those reviews. Do you have any suggestions in that regard as to the domestic violence homicide reviews feeding into this period of contemplation for us?

Dr HOLLAND: In terms of domestic homicide reviews in Northern Ireland, they were only introduced in December past. We have, unfortunately and tragically, had a number of deaths in the last few weeks, which we will want to be considering as part of a homicide review process. I think the key thing, and again a key benefit in Northern Ireland just in terms of our sheer size, is that it is generally single, unitary organisations that are involved in that and we think that provides a much better opportunity in terms of ensuring that those lessons learned are being replayed incessantly and can be disseminated out across the various organisations.

I know, certainly in terms of looking at some of the other jurisdictions, I think the key thing for us is ensuring that once those reports are done that there is effective oversight in terms of the recommendations coming out of those reviews, that they are being implemented and that the lessons are being learned as opposed to—I think there is a tendency in some larger jurisdictions that effectively reports are undertaken and they are almost set in isolation on their own, whereas what we are seeking to do with the three chairs that we have appointed is to have them do some kind of, probably every two years, every three years, some form of report which is basically looking back on what homicide review reports have been over the last number of years and what the learning is that has been applied from that, and looking at has there been material change as a result of the recommendations in those reviews?

Ms TRISH DOYLE: Excellent. Thank you, Dr Holland. We have now reached pretty much the end of our time, unless there was anything else that you would like to share with us just before we wrap up. Was there anything you would like to add?

Dr HOLLAND: I do not have anything further to add but just obviously we wish you all the very best in taking your legislation forward and looking at this process more generally. I do think it is a really beneficial step change in terms of addressing domestic abuse. I just wish you well on that journey.

Ms TRISH DOYLE: Thank you very much, Dr Holland. Thank you for appearing before us today. We may send you some questions in writing and your replies will form part of your evidence and be made public. Would you be happy, if anyone does have any further questions, to provide a written reply?

Dr HOLLAND: Yes, that is not a problem at all. I am more than happy to help in any way that I can.

Ms TRISH DOYLE: Excellent. Thank you so much for taking time to join us today. We hope you have a good one—it is our night now. Thank you and take care. We appreciate your wisdom.

Dr HOLLAND: Thank you very much. Goodbye.

(The witness withdrew.)

The Committee adjourned at 20:00.