

REPORT ON PROCEEDINGS BEFORE

JOINT SELECT COMMITTEE ON COERCIVE CONTROL

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

At Jubilee Room, Parliament House, Sydney, on Monday 29 March 2021

The Committee met at 9:10

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 WEBEX

Legislative Assembly

Ms Steph Cooke
Ms Anna Watson

The CHAIR: Thank you for joining us on our fourth day of hearing of the joint select committee inquiry into coercive control. Before we start, I would like to acknowledge the Gadigal people, who are the traditional custodians of this land, and I pay respects on behalf of the Committee to Elders of the Eora nation past, present and emerging and extend that respect to other Aboriginal and Torres Strait Islander people who are present or watching via Webex. Today is the fourth hearing for the 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 for you, you can contact 1800 RESPECT, 1800 737 732, or for confidential advice, support and referrals related to domestic and family violence, the NSW Domestic Violence Line on 1800 656 463 or the Men's Referral Service on 1300 766 491. We have witnesses attending today in person at Parliament House and taking part via videoconference. The hearing is being broadcast to the public on the Parliament's website, and we welcome those watching. I thank everyone who is appearing before us today. We appreciate the flexibility of everybody involved in today's proceedings, especially those attending via videoconference.

CASSANDRA WIENER, Doctoral Researcher, University of Sussex, before the Committee via videoconference, sworn and examined

EVAN STARK, Professor Emeritus, Rutgers University, before the Committee via videoconference, affirmed and examined

The CHAIR: We do not have Professor Stark yet. If you would like to give us an opening statement we would welcome that from you now.

Ms WIENER: I have not got an opening statement prepared because Professor Stark was going to do the opening statement for both of us. Is there anything in particular that would be helpful for you for me to begin with, some comments about my work?

The CHAIR: Yes. If you could give us perhaps a bit of a rundown on your work and a bit of background, we would be appreciative of that.

Ms WIENER: Certainly. I have been researching coercive control for approximately six years. I am just coming to the end of my doctoral work and in fact I have submitted and I have got my viva next week. I am starting at City, University of London as the senior lecturer in law in about three months' time. My work came at a really fortuitous time because it more or less tracked the introduction of the new section 76 offence. I have been lucky enough to work with survivors, with the police, with independent domestic violence advisers who are specialist workers that support survivors in their journey through our court process, and also with the judiciary. In fact, I think I am the only person that has been lucky enough to have worked with the judiciary on this new law.

I have interviewed five or six Crown Court judges. A Crown Court judge, I think, would have the same position in New South Wales; it is a senior judge in our criminal courts. I have interviewed, in fact, two of the judges who presided over three of the first cases. My work, as I should probably explain, is an early assessment of the section 76 offence. I would be really happy to take any questions that you have on the submission that I have prepared with Professor Stark. We felt that we were qualified only to answer four or five of the questions because some of the questions in the discussion paper were more obviously relative to the work that is carried out in New South Wales. Some of the questions were more general and, where we could, we used our experience in England and in Scotland to speak to the questions that you had.

The CHAIR: Thank you for your written submission. It is fantastic. The Committee members have it and have read it. Thank you for structuring it, as far as you could, according to the discussion paper. That is, after all, our terms of reference and what we have to deal with. In particular one of our concerns is how this could be implemented, if it is—so what it looks like and how it could be implemented and what the challenges of that might well be. Could you speak to that first part of your submission about what lessons can be learned from the offences in the UK and Scotland and what your learnings have been from that rollout?

Ms WIENER: Definitely. I think what is quite helpful for you is that you have got different approaches to look at. England and Wales are one jurisdiction, as you know, and Scotland is a different one. England and Wales decided to go one way and Scotland took a look at what England and Wales had done and decided to do it very differently. The Scottish offence only came into effect in 2018, and it has not been a usual year, so it is a bit

early to really know how that approach has bedded down and worked. But definitely my early conclusions are that it is likely that the Scottish offence will work much better.

The CHAIR: Can I ask you to be specific and give us instances of why? That is the general feedback that we have, but can you give some examples of why that works and what you think are the specific reasons?

Ms WIENER: I think there are three things in particular that they have done differently. In England and Wales coercive control was very much positioned as psychological or economic or emotional abuse, and the intention was always that other offences such as serious sexual assault or criminal assault would be prosecuted alongside. In Scotland they decided to just have the one criminal offence with coercive control at the centre; so that is the first big difference. The second big difference is that section 76, which is the English and the Welsh offence, was positioned as a relatively low-level offence in that the maximum sentence was five years; whereas in Scotland I think the maximum sentence is 14—it could be 18, I am not entirely sure. Then the third big difference was that in England and Wales we decided to make the abuse experienced by the survivor a constituent part of the offence, whereas in Scotland they very much decided not to. So in Scotland you do not have to prove the effects that the behaviour has on the victim as part of the offence, whereas in England and Wales you do. There have been a number of difficulties with that in England and Wales, which I could go into now if that would be helpful.

The CHAIR: Yes, that would be helpful. The burden of proof, is that the challenge? Or could you speak to what they are?

Ms WIENER: There are three different challenges. The first challenge we have found in England and Wales is that that penalises what I might refer to as the resilient victim—so the victim who, against the odds, has managed to carry on with her life, who has not let the control affect her, who still gets her kids to school. It is very difficult for the judiciary to advise the jury to convict in that situation. There are a couple of examples of that whereby we have judges saying we find that you are too strong to be a victim of coercive control. As you can imagine, that does not make great headlines. The women's sector got up in arms, completely understandably—talk about a disconnected judiciary, you don't understand domestic abuse—when in fact the judiciary are just doing their job. It is just the way the Act has been drafted.

The CHAIR: That is almost like a personal injury approach where you have to demonstrate what the damages are. It is sort of taking that pure legalistic approach. Is that your understanding?

Ms WIENER: Absolutely. As we know, one of the difficulties with coercive control is that the damages are a lot more intimate and a lot more pervasive, in some ways, than a personal injury. With a personal injury claim you might have a specific injury to describe, but survivors tell us that they do not really find it that comfortable being in court and having to talk about how their lives have fallen apart and being probed on that in an adversarial context. Also being aware that the perpetrator is watching is a very uncomfortable experience. In fact, we have had some survivors say to us that they find themselves not playing down the harm but not wanting to give the perpetrator the satisfaction of hearing how he has destroyed her life.

The CHAIR: I am going to turn to colleagues. I am conscious of the time. We started late so we will go a little bit late in this session. I know that we have Professor Stark with us. Thank you for joining us. I am sorry to interrupt the flow but we might move on, Professor Stark, if you have an opening statement you would like to make. Then we will come back to questions from members.

Professor STARK: I do not, as a matter of fact.

The CHAIR: Very time efficient of you. We have your submission, which is extremely helpful.

Ms ABIGAIL BOYD: Thank you, Ms Wiener and Professor Stark, for your submission and for all of the work that you have been doing in this area. We hear a lot about the extra burden that a coercive control offence might have on police and prosecutors. We hear a lot about the negatives and the need for training et cetera. I was wondering if you could tell us about your experiences with the way that this offence has played out in the United Kingdom and Scotland—keeping in mind that it is early days yet—in terms of benefits for the police and prosecutors.

Ms WIENER: Shall I take that one, Professor Stark, or would you like to answer first?

Professor STARK: Why don't you answer first and then I will answer.

Ms WIENER: I would say the benefits to police and prosecutors in England and Wales—I am not going to speak to Scotland because I think it is a bit early. But in England and Wales, I would say the benefit has been twofold. First of all, I would describe it from what I would call a normative perspective and, secondly, from a practical one. Thinking normatively, it has been incredibly powerful that survivors have been able to articulate

what has happened to them in terms of a crime, particularly in the context of an offence which attacks your very sense of self. It is incredibly affirming to have those boundaries imposed by society and by the criminal law. To articulate that this behaviour is wrong from a criminal perspective is a very powerful step. From a practical perspective, police tell us that they are able to prosecute—to use their language—some of the very nasty people that they have not hitherto been able to reach, number one. Number two, some of the offenders who keep coming back and forth on their books, they are able to have a longer term and more effective strategy, which they tell us is helpful. Professor Stark, I do not know whether you wanted to add to that.

Professor STARK: I think a lot of the answer to the question depends on the kind of offence you can see. I will start, because it is closest to the one that I can see, with the Scottish example. As you know, the Scottish offence anticipates that on conviction there would be a very long sentence—14 years. The understanding behind that is that this is a serious crime on the level of offence with kidnapping, for example, or other serious offences. In anticipation of the seriousness of the crime, Scotland took two years before implementing the offence to train the judiciary, to prepare its chief procurator fiscal, the prosecutor and the judges. The point that I think we may have mentioned in our submission, [inaudible], one of the defence attorneys in the Lockerbie bombers case, to be in charge of the [inaudible] for the judiciary.

There is one other example that I will tell a bit more about why I think it is so difficult and why it is so important for this kind of preparation to take place. In one of our earlier cases in Cambridge, it took the department two years to arrest and get a conviction and a long sentence for a case of coercive control. It involved four different police departments because the offender moved, did a lot of things to conceal his whereabouts, the nature of the offence was difficult, the children were hiding for a short period of time, some of the witnesses disappeared. There was a great deal of coordination involved in this conviction process. Nevertheless, when the conviction was achieved it removed from the books 13 prior offences by this particular offender and several other things that had gone on. The first thing I want to say is to do this right, it has to be designed, I believe, as a serious offence. In anticipation of the kind of mobility these offenders exhibit, Scotland appointed a national prosecutorial task force and a national police unit to which these cases were transferred almost immediately on initial contact for overall investigation and follow-up, so that the burden on the local police department is transferred almost immediately.

In the larger police departments—for example, in Birmingham or in Bristol and some of the larger cities—the only effective way to make this work is to have specialised police units. This is not [inaudible] policing. It is a kind of investigative policing. That is the tough side. I am always touching on that. I can talk some more about that, if you want. That is the tough side. The very positive side is that 70 per cent of all domestic violence offences, which in the past received absolutely no fundamental censure—in other words, absolutely none of the offenders in 75 per cent of the domestic violence offences in England and Wales in the period that we looked at before the coercive control offence was introduced resulted in any kind of sanctions. Of those 70 per cent of domestic violence offences, something like 28 per cent of them were repeat offenders who were guilty of coercive control offences.

Were these men apprehended in even a small proportion—even 5 to 10 per cent, which is what we anticipated in the first two years of implementation. If only a small proportion of them were effectively prosecuted, you would be able to do two things. You would be able to remove from the street a substantial proportion of police business that makes up part of the routine calls to police and you would tremendously relieve the burden that we have to bear in the refuge and shelter business from having to keep women whose abusers, whose partners, are still at large rotating through the community. The short answer to your question is that to do it right is hard. But if you do it right we believe it can have a tremendously benign effect not only on the efficacy of policing but on the extent to which women and children in the community are free to go about their business without having to withdraw in isolation, as they have had to do during quarantine for example.

The other benefit to this is that we also identify a population of offenders who are processed, who are less serious offenders, who can be properly managed through non-police means, through institutions in the community designed specifically to deal with behavioural and the other kinds of problems that these offenders typically bring with them. So we can divide the class of offenders into very serious offenders, a small proportion who can be managed effectively, and another class of offenders who represent a very small proportion of recurrent offenders that can be managed effectively in the community without additional police resources.

The CHAIR: Thank you. I am conscious of the time. I am sorry if other members have questions. We can put some further questions to you in writing.

Ms TRISH DOYLE: Professor Stark and Ms Wiener, thank you very much for the work that you do and for speaking with us today. I just want to say how illuminating and—I know the term "exciting" is not really appropriate to apply to the work that we are doing here, but given your vast experience and what you have written and researched and put to the world it should be acknowledged at every opportunity. Professor Stark, I think

I must have quoted you a million times over in some of the statements and speeches and addresses I have made over the last couple of years, and I have never met you. So it is great to see your face and thank you.

I just wondered if you might quickly—because I am aware of time—comment on the fact that we have had quite a significant number of people appear before our Committee speaking to their submission where they are very cautious. They are offering some support to the work we are doing here but they are very cautious, overly cautious, in stepping towards criminalising coercive control. They say that this package of measures cannot just focus on the prosecution tool element. I think we would all agree there, but do you think you might be able to encapsulate in a statement why we do need to step towards criminalising coercive control to those who are saying, "No, it's too much"?

Professor STARK: First of all, I want to underline the caution because our aim is not to criminalise coercive control. Our aim is to change the culture of policing of women's experiences of abuse so that there is an emphasis placed on their rights and liberties and on the aggregation of their rights and liberties rather than solely on physical harm. Our view has been for a long time—it has been a generic view in the women's community and our movement throughout the world, as you know if you know our work—that the problem of abuse is primarily a problem of inequalities and the extent that inequalities are enforced in the context of people's homes and they are disadvantaged in the systematic way that they are through coercive control. Those inequalities are aggregated throughout the entire community and society. So then to criminalise coercive control in a context where women's equality is not more generally appreciated and supported is a breach of faith and will do nothing, in my view and our view, to help. It also does nothing in policing, it seems to me, to tell police that they can enforce equality in one area of their work but not have an ounce of respect in others.

I think one of the things that impresses us so much about Scotland—and I think we tried to emphasise it to a certain extent in our paper—is that the crime of coercive control goes together with what we call the coercive control context. It goes together with a commitment at the state level to support women and children who are able to be free. It goes together with a commitment to respect Aboriginal rights or minority rights. In this country it is the rights of black Americans and Asian Americans and what have you. In the United States there is also a great deal of scepticism about criminalisation of domestic violence and coercive control. What we are calling for is in fact a decriminalisation of very minor acts of physical abuse and for the State for the first time to take seriously the systematic serial abrogation of rights and liberties that are represented here. It is not simply a creation of a crime that is good or bad, and one should always worry when a new crime is introduced, but it is the creation of an injustice and an awareness of injustice from the heads of community that is taken seriously. I would say to the critics: Be on your guard because a new crime is not going to help you unless there is a new name for justice in the land.

The CHAIR: I note that in your paper you have addressed the issue of unnecessary concerns. Ms Wiener, you have dealt with that and what you say are the unnecessary concerns that have not materialised that were anticipated in England and Wales, including the over-criminalisation of non-abusive behaviours and misidentification, so I appreciate those. We may send you some further questions. I am afraid we are out of time. We very much appreciate your assistance today. If Committee members have further questions—and I know I will have one or two—we may send those to you in writing and your replies will form part of your evidence and be made public. Would you be happy to provide written replies to further questions from members?

Professor STARK: Certainly.

The CHAIR: We very much appreciate the body of work that you have produced and your submission today. Thank you for your assistance to the Committee.

Professor STARK: And good luck.

The CHAIR: We will be in touch, I am sure. Thank you both.

(The witnesses withdrew.)

RACHAEL MARTIN, Principal Solicitor, Wirringa Baiya Aboriginal Women's Legal Centre, affirmed and examined

ANNMARIE LUMSDEN, Director, Criminal Law Division, Legal Aid NSW, affirmed and examined

ALEXANDRA BURKITT, Solicitor, Aboriginal Legal Service NSW, affirmed and examined

The CHAIR: If you have an opening statement to make to the Committee, can I invite you to make that now.

Ms BURKITT: I have a brief opening statement to make, which is just to clarify that the Aboriginal Legal Service has two distinct arms. One is the care and protection that deals with family law matters; the other is the criminal. I speak on behalf of our criminal law division. The submission that has been given to the Committee is from that perspective only.

Ms LUMSDEN: Thank you for giving Legal Aid NSW the opportunity to participate in this inquiry. I begin by acknowledging the traditional owners of the land on which we meet today, the Gadigal people of the Eora nation, and pay my respects to Elders past and present. I extend that respect to Aboriginal and Torres Strait Islander people present at this hearing. Domestic and family violence appears across Legal Aid NSW family, civil and criminal law divisions and impacts on many of our clients. Our submission to this inquiry, and the evidence we present today, is informed by our experience assisting both victims and defendants in legal proceedings involving domestic and family violence. Legal Aid acknowledges the significant and long-lasting impacts of coercive and controlling behaviour on victims of domestic and family violence. It is behaviour that attacks a person's autonomy, liberty and equality.

We also know that coercive control is a significant predictor of intimate partner homicide. We know that for victims the current justice system does not adequately recognise and appropriately respond to the danger and harm posed by patterns of controlling behaviour, particularly non-physical controlling behaviour. This is certainly reflected in the experience of our clients where there are examples of police being reluctant to follow up on incidents and patterns of non-physical abuse, or take steps to protect the victim. This is in part because of a lack of widespread understanding of coercive control and non-physical forms of abuse. It is clear that a more holistic strategy is required to address coercive and controlling behaviour—one that addresses training and education gaps for frontline staff, greater investment in primary prevention, awareness about the gendered drivers of domestic and family violence, and a closer examination of why existing available measures are not used as well as they could be. We therefore consider that the creation of a new offence is not the best way to achieve broader cultural and systemic changes to address these concerns.

Coercive and controlling behaviour can be adequately addressed through existing criminal offences and the apprehended domestic violence order [ADVO] framework, as well as enhanced education and training for frontline police and others in the criminal justice system. In summary, our position is that we should use the laws we have more effectively rather than create new ones. We have three main concerns. The first and foremost is we are concerned about the potential negative impact of expanding existing criminal offences or the civil ADVO regime on Aboriginal and Torres Strait Islander communities, who are already significantly over-represented in the criminal justice system. In New South Wales, Aboriginal and Torres Strait Islanders are imprisoned at a rate that is 12 times higher than the non-Indigenous population. The current Aboriginal and Torres Strait Islander prison population is among the highest we have seen for some time. The Aboriginal and Torres Strait Islander custodial population has been increasing steadily from 2013 to 2019. The Bureau of Crime Statistics and Research [BOCSAR] reports a 37 per cent increase in the total Aboriginal adult population over that time.

We also know that a significant driver of the increased rate of imprisonment is the large increase in the remand population. A significant driver of these high incarceration rates, particularly in terms of the remand rate, are breaches of bail and ADVOS that flow from police attending a domestic violence incident. In New South Wales criminal courts, Aboriginal defendants are refused bail at almost double the rate when compared with all defendants in New South Wales. We also note BOCSAR findings that in 35 per cent of orders defendants had only breached their bail conditions through technical breaches rather than through reoffending. It is almost certain that if a standalone offence is implemented there will be a further significant impact on the rate of incarceration of Aboriginal and Torres Strait Islander people.

Our second concern is that a standalone offence of coercive control could be difficult to prosecute. Given the complex and highly contextual nature of coercive control, it would place a significant burden on victims as witnesses and risk re-traumatising victims through the potentially lengthy court process. Thirdly, a standalone offence risks inadvertently capturing non-abusive behaviours in individuals, especially among diverse communities and victims who are misidentified by police as perpetrators. We have detailed these concerns in our

submission—and we would be happy to provide the inquiry with the summary of the relevant data obtained from BOCSAR that supports our concerns—in that any new offence would ultimately impact disproportionately on Aboriginal and Torres Strait Islander people. If the Committee would like to receive this information, I have it here.

The CHAIR: Thank you. The staff can take that. If you are happy to, could you provide us with a copy of your opening statement as well? It does not have to be right now.

Ms LUMSDEN: I would be very happy to do that.

The CHAIR: That would be very helpful. I acknowledge your concerns, and I should have said thank you for your written submissions. They are very helpful. The Committee members have them and you can assume that they have been read. Ms Martin, did you have an opening statement?

Ms MARTIN: Firstly, I would also like to acknowledge the traditional owners of the land, the Gadigal people of the Eora nation, and pay my respects to Elders past, present and emerging. I would also like to acknowledge the excellent work of the many Aboriginal women who work in the domestic violence and family violence sector. I would also like to pay my respects to the many victims and survivors in the Aboriginal community and acknowledge their strength and resilience but also acknowledge their significant trauma. I suppose in terms of an opening statement, all that we can really say—as we have already said in our submission—is that we certainly welcome the increased attention on coercive control and discussion of how the law should address it. We certainly agree that the current legislative framework does not adequately capture all the elements of coercive control. It is certainly much broader than the current offences of stalking and intimidation.

We also acknowledge the important symbolic role the law plays in educating the community at large about coercive control and contributing towards social change. But changing the law will not be enough and could lead to unintended consequences that will cause harm to our clients, as we have set out in our submission. We need to press that, sadly, the criminal justice system does not serve Aboriginal women well. Despite many improvements in policing over the years, we caution that any legislative reform should not come before other necessary structural changes to police investigations, to the criminal justice response, as well as significant community education and resourcing. Without this, we are not in a position to support the criminalisation of coercive control for the reasons that we have set out in our submission.

The CHAIR: Thank you. Did you have anything to add?

Ms BURKITT: No. I just support what both other parties have said.

The CHAIR: Thank you all. That is the crux of the problem really, isn't it? You have all acknowledged, and I think it is common ground, that the law does not adequately recognise coercive control and does not provide for it. But the challenge is the difficulties associated with criminalising it. Before I turn to my colleagues for questions, that is one of the issues. For example, in the Scottish example where it was legislated there was a very long lead time before implementation. So there was time, as you say, for education, for resourcing, for equipping frontline services and police with training and try to deal with those issues before it was anywhere near being implemented. Is that something that you might consider could be a way forward given that experience? Or do you think that is not sufficient? What other things do you think could be put in place if you think it is too much too soon now? What could potentially deal with that? One of the questions that we have to address is: How could we deal with the challenges of creating an offence?

Ms BURKITT: I guess our position would be that those measures would be a good first step and an alternate approach to criminalisation—that support services within the community can be strengthened, police training, as you mentioned, and that those steps could be undertaken before criminalisation occurs. We would suggest that some more data and research into how this kind of legislation might specifically impact Indigenous people, in particular, as well as those with disabilities—the more vulnerable people in society. Our position would be that those measures could be best undertaken before other measures are.

Ms LUMSDEN: Legal Aid NSW is of the view that it would be premature to develop a legislative proposal. In particular, we should wait for the qualitative research and analysis of the operation of the provisions in other jurisdictions. There has been no appropriate evaluation of those laws in any jurisdiction. We also think that we need to wait for the BOCSAR evaluation of how the police use the stalking and intimidation offences in New South Wales. The situation in Scotland, for example, was one where they were—and it seems to me, from the evidence of the person talking about the legislation in Britain, that there was a lot of catch-up to be done. Within New South Wales we have quite a comprehensive ADVO regime, a very comprehensive regime, which in fact can capture a great deal of this conduct. Interestingly, the objects section of the Crimes (Domestic and Personal Violence) Act, which sets out the objects of the Act, states that Parliament recognises "that domestic

violence extends beyond physical violence and may involve exploitation of power imbalances and patterns of abuse over many years", but it is not being used in that way.

The CHAIR: We have to ask why.

Ms LUMSDEN: You have to ask why and you need to do an analysis of that to find out why.

The CHAIR: Did you want to add anything, Ms Martin?

Ms MARTIN: The only thing that I would like to say about the Scottish model is that, while the demographics of Scotland certainly would not be homogenous and would have certainly different communities that undoubtedly experience racism, there is no equivalent to the First Nations community that we have in Australia that has experienced the level of dispossession, colonisation and trauma that Aboriginal communities have experienced. So it is really not clear to us what are the racial and cultural demographics of the successful prosecutions of coercive control in Scotland to evaluate how it has addressed racist and cultural bias in policing of domestic and family violence in Scotland. I think that is what we would like to know.

The CHAIR: It is quite a point of difference.

Ms MARTIN: Yes.

Ms ABIGAIL BOYD: Thank you to all of you for your considered submissions. We have heard a lot of concerns around how coercive control is criminalised, and if it is to be criminalised how we do that given the structural flaws in our police and justice system, and a bunch of other concerns we have around funding and commitments from governments. Then you hear some counterviews that criminalising coercive control could actually help with some of those issues. For example, in getting a better understanding of domestic relationships, perhaps we actually reduce the amount of people who are misidentified as the perpetrator. But I think the point that you raise, Ms Martin, in your submission around the treatment of not just the family relationship but particularly the perpetrator in First Nations communities, given the systemic racism and given the statistics showing that First Nations people are far more likely to be criminalised for minor offences—how do you think that we can do this in a way that would not lead to more disadvantage, particularly for men in First Nations communities?

Ms MARTIN: The thing that I would need to qualify is that we are a service exclusively for Aboriginal women and children. The concern about the criminalisation of Aboriginal men is raised by women that we speak to who are experiencing domestic violence and who want the violence to stop but do not want to see the consequences of criminalisation in terms of the offender being charged, being taken into custody. Some women do hesitate in reporting violence to police for that very reason. The fear is that once they are in that system that they will be treated unfairly, that there will be poor mistreatment, that there will be possibly a death in custody. That is the perspective that we are coming from. Perhaps I will refer to my colleagues on the panel, who certainly would do a lot more work with Aboriginal male offenders in their practice than we would.

Ms ABIGAIL BOYD: Just before you do, just picking up on that, if women are concerned that if they report domestic violence that they are going to end up—as you say, it could be quite an extreme consequence when they just want it to stop, that then prevents or puts a roadblock in terms of their safety as well. From a woman's perspective it is still incredibly relevant as to what is going to happen to the perpetrator.

Ms MARTIN: Yes, it is, indeed. We certainly have many clients who do report domestic violence to police and want to report domestic violence to police. There are certainly a number of police officers who respond really well but, unfortunately, the response is patchy. It is inconsistent across police stations across the State, and so that is an issue in itself. In terms of how you stop women being scared to report violence to the police because they are fearful of the consequences, it is about changing policing. It is about significant change in police response. We talk about addressing systemic sexism and inequality against women, but the issue for Aboriginal communities is also racial inequality. So you have to change both. You have to change both. Racism, whether it be overt or unconscious bias—because it exists in all of us. Yes, so you need to do both. I suppose the Aboriginal community would want to see significant change in police practising, in terms of just the response to Aboriginal communities generally, in order to give them faith to say that if I report domestic violence to a police officer I know he will be treated fairly as an offender of domestic violence and not treated unfairly as an Aboriginal man.

The CHAIR: Did any panel members want to add anything further to that question before I move to other questions?

Ms BURKITT: I would just add, in the experience of the Aboriginal Legal Service [ALS] that there are those issues with policing in coming forward with domestic violence issues, with how your partner—be they a male or a female—is going to be treated, whether or not they are going to be released on bail if an allegation is made. These are concerns that would play into coming forward with that kind of allegation. I think the first part

of your question, correct me if I am wrong, was about the particular disadvantage that this legislation might have for men, in particular Indigenous men. That, I believe, is due to also the flow-on effects of this criminalisation and the fact, as others spoke to, that once the ball is rolling and once an allegation is made and someone is charged, there are the flow-on effects of being jailed, of having bail refused, of that on family and of them going through the court system and coming into contact with the justice system further and what might eventuate from that.

Ms ABIGAIL BOYD: Just to clarify, I was not looking necessarily at the impact on men as a whole; it was in relation to First Nations men.

Ms BURKITT: Yes.

Ms ABIGAIL BOYD: Picking up from Professor Stark's comment that in criminalising this more serious offence you are kind of advocating for some of those more minor offences to be decriminalised and dealt with more through the social system, that would not apply necessarily to First Nations men if we are in a society or in a system that has some racial bias.

The Hon. ROD ROBERTS: Thank you, ladies, for your submissions, each and every one of you. They are very detailed and I spent some time reading them yesterday and last night. Ms Martin, can I take you to yours. It is probably more of a comment on this particular paragraph. In your second last paragraph, paragraph 43, you say, "However, a cultural shift will not happen purely through a legislative amendment." I have to say that I agree with you entirely that this is not an issue that we can just legislate our way through. There are lots of other social issues—housing, education, health, substance abuse, mental health et cetera—that need to be dealt with in conjunction with any possible legislative changes. Legislation alone will not fix it. In paragraph 33 of your submission you talk about being cautious about creating a standalone offence of coercive control and you talk about perhaps reforms to the apprehended violence order [AVO] system. Could you talk just a bit further to that for us, please?

Ms MARTIN: I suppose the obvious is that if you expand the definition of domestic violence in relation to AVO legislation to incorporate that other behaviour that we are talking about today, that type of conduct does not neatly fit into a definition. There obviously is an argument that a lot of that behaviour could fit under acts of intimidation. But if we were to broaden that definition of domestic violence to include economic abuse and social isolation, it would be grounds for an AVO. It would instil some confidence, I hope, in women coming forward to talk about that but also encourage police to think about that type of behaviour as a grounds for an AVO. Of course, an AVO in itself—as we know—is not a charge; it is only a charge if that AVO is breached.

We have some caution about that as well in terms of that it may be that AVOs are sought against primary victims of violence rather than primary perpetrators. The consequences of having an AVO against you are less, as opposed to being charged with a criminal offence. Having said that, if that legislative change was to be introduced we would not support that without any significant professional development and training of police and the judiciary—as well as resourcing, as we have set out in our submission. We think that in terms of legislative reform it is less risky to our clients—to the Aboriginal community.

The Hon. ROD ROBERTS: Ms Lumsden, in your submission on page 11 it says, "... there could be significant evidentiary challenges associated with obtaining a conviction." Would you like to speak further to that particular statement?

Ms LUMSDEN: Yes, I can. Coercive control, in its nature, generally involves a persistent course of conduct over a period of time. Most offences involve an incident. Police are used to investigating an incident that has a beginning and an end. The trauma experienced by persons who are the subject of coercive control, as I said, happens over a long period of time. Police officers would need to change the way in which they investigate offences. They would need to realise that it is a course of conduct and be able to take evidence from a person in relation to that period of abuse. You would need special skills to do that. That process, of course, risks traumatising the victim.

The Hon. ROD ROBERTS: Because you are digging up conduct or a course of action over a period of time.

Ms LUMSDEN: That is right. I think it would take a specialist police officer to be able to identify those bits of the evidence that are important.

The Hon. ROD ROBERTS: I am not leaving you out, Ms Burkitt. In your submission, the last point on page 4 says that we strongly recommend this should be an offence of intention. Then the paragraph that follows that is about the threshold for the intention of the perpetrator in relation to this. Could you comment or talk a bit further about that for me, please?

Ms BURKITT: I can. Our position is that—and this is obviously not our primary position, but if it was to be legislated and the drafting of what that would look like—we would strongly suggest that it would be an offence of intention. To do otherwise would mean that it would be overly burdensome on a defendant and it would, in our opinion, capture behaviours that had no ill intent behind them. That is an important distinction to draw between what our proposed drafting would be and what perhaps other jurisdictions have taken overseas. I believe it was England or Wales who had a different approach. In the paragraph that I go to in that next part we talk somewhat about what conditions and a closed list of coercive behaviours that we would support. But overall, I would refer to the submissions about what the drafting would be that we would suggest.

The CHAIR: Before I pass to my colleague, can I just ask a follow-up question on that. So the burden of proof on that intent question, who would that be on?

Ms BURKITT: If I could perhaps go to the Tasmanian provision that we would support and the drafting under section 8 of economic abuse. We would support a drafting that would be in those words somewhat:

A person must not, with intent to unreasonably control or intimidate his or her spouse or partner or cause his or her spouse or partner mental harm, apprehension or fear, pursue a course of conduct made up of one or more of the following actions ...

That burden of proof would be on the prosecution.

The CHAIR: They would have to prove that intent; it is not for the accused to disprove.

Ms BURKITT: Exactly. It is not for the accused to disprove and it would be on the prosecution to prove that.

Ms TRISH DOYLE: Thank you very much for the work that you have put into your submission and coming to speak with us today. It is appreciated. I really do respect the fact that there is some caution and concern around moving rapidly towards criminalising coercive control or even just criminalising coercive control. I just wonder whether you might comment on the fact that each of the peak organisations in New South Wales have consulted extensively with a diverse range of victim-survivors and frontline workers. There is actually overwhelming support for this reform. What people over and over again say is that this has to be done in consultation with diverse women, especially those that suffer double disadvantage—whether that is women with disabilities, multicultural women, First Nations women. I am just wondering, in your view, are some of these frontline workers or some of these victim-survivors misguided in wanting these reforms, particularly in a reasonable time frame, when we continue to see a focus on death?

The CHAIR: You are more than welcome to take it on notice to give some consideration to it and give an answer.

Ms TRISH DOYLE: I am just throwing a spanner in the works.

The CHAIR: I think your position is clear enough in your submissions.

Ms MARTIN: I mean, of course I would not say they are misguided. Of course people want change. Of course people want women and children to be safe. Of course the Aboriginal community is not homogenous. There are obviously different views across communities and across individuals. We certainly do not claim to speak for all Aboriginal women. Our submission is from the work that we do, from the clients that we work with, from our Aboriginal colleagues who have worked in the sector for a long time. That is what informs our submission. We have lots of experience supporting Aboriginal women who have experienced domestic violence and sexual violence—sometimes with good responses from police and sometimes with very bad responses from police. That is what informs our caution.

Ms TRISH DOYLE: I do appreciate that and I do respect that. I think it is good in these sorts of committee hearings—especially when we do get the opportunity to speak to submissions and just flesh things out a little bit—to play the devil's advocate. It is good for us to consider that. Did you want to comment, Ms Lumsden or Ms Burkitt?

Ms LUMSDEN: I completely support what Ms Martin has said. For us as well, our experience is derived from working with victims and defendants in the justice system. We understand the law, and we understand that at times there can be unintended consequences when a law is made and that laws do not necessarily achieve their objective. For example, a few years ago consorting laws were introduced to brim the tide of criminal activity of bikie gangs. But the people who were the subject of those laws were people who were socially and economically disadvantaged. There was a case of an Aboriginal man. There was a case of a homeless person. Rarely did they use those laws against bikies. There can be a mismatch between the aspiration of a law and how it actually works in practice.

The CHAIR: Is there anything else you wanted to add?

Ms BURKITT: Only that I agree with what has just been said. As an organisation, the ALS can only speak to its experience in working in the court system and the justice system each day and the fact that laws must be careful in their application of policy and punishment because there can be unintended consequences. There is two sides to each story, and we are here to present that from our experiences.

The CHAIR: Thank you so very much for your time today and in the preparation of your submission. We very much appreciate your assistance to the Committee. We may send you some further questions in writing. If we do so, your replies would form part of your evidence to the Committee and would be made public. Would you be happy to accept further questions from the Committee?

Ms LUMSDEN: Yes, sure.

Ms BURKITT: Yes.

(The witnesses withdrew.)

(Short adjournment)

SHANNON HARVEY, Senior Research Officer, Relationships Australia NSW, affirmed and examined

MEGAN SOLOMON, General Manager, Practice Quality and Innovation, Relationships Australia NSW, sworn and examined

ELISABETH SHAW, Chief Executive Officer, Relationships Australia NSW, affirmed and examined

The CHAIR: Thank you for your written submission provided to the Committee. The members have it and you can assume we have read that. We appreciate your time today and in preparation of the submission. Do you have an opening statement that you would like to make to the Committee?

Ms SHAW: We would like to acknowledge the Gadigal people of the Eora nation, whose sovereignty of these lands and waters was never ceded, and we pay our respects to Elders past, present and emerging. We thank the Committee for your invitation to appear today. I am the CEO of Relationships Australia NSW and I am very glad to be appearing today with my colleagues. Relationships Australia NSW is a not-for-profit organisation providing services to individuals, couples, families, communities and workplaces in Greater Sydney, the Illawarra, the Central Coast, the Hunter and the Central West. Over 45 per cent of people who seek our support are affected by family violence, whether they have experienced abuse, used violence against someone else or both of these things. That means that while we do have specialist family and domestic violence services, we consider it to be core work and family safety is a priority issue in all of our programs. All of our 450-plus staff are trained to identify and respond to family violence.

Our response to this inquiry is informed by our practice with people affected by family violence. We are the largest provider of men's behaviour change programs in New South Wales, running both the 18-week Taking Responsibility program in English and, in partnership with Settlement Services International, the Building Stronger Families program in Arabic and Tamil. We also provide Justice Engage—a brief intervention for defendants facing family violence charges—and the Family Advocacy & Support Service for men appearing in Family Court where there are family violence allegations. We are also funded to provide capacity building to Brothers Against Violence—an Indigenous service in the Illawarra area. We also provide parallel support for women and children through our Women: Choice and Change and children's programs.

While women and children remain the vast majority of victim-survivors of family violence, we also support other people who experience abuse. This includes support for older people through our Let's Talk program and male victims through our Safer Pathways program. Safer Pathways alone receives 23,000 referrals per year for men experiencing violence in gay and heterosexual relationships, as well as those experiencing violence from their adolescent or adult children or extended family members. We have also worked with the AIDS Council of NSW, or ACON, to adapt programs for the LGBTIQ+ people. We develop and deliver interventions for both women who experience violence and men who use violence because we fundamentally believe in the possibility of change, but we note that change is not a short-term proposition.

Legislation can be part of the solution, but real change happens when we put the support around people that they need. We want to see significantly more investment in primary prevention, support for victim-survivors and men's behaviour change programs. We need comprehensive research funded into what works. We see that existing interventions are mostly only available to English speakers and that migrant and refugee women are often at risk because of insecure visa status and lack of access to State support and that there are systemic gaps in support

for culturally and linguistically diverse people. We see chronic underfunding of whole-family approaches, with a particular lack of investment in supporting children and young people, and a missed opportunity to address the risk of intergenerational violence. The success of any legislative change will rest in the routine training for first responders and a network of effective services.

Lastly, while being grateful for this opportunity to appear, we want to acknowledge our power in this space as three white women representing a mainstream organisation that receives Federal and State government funding. We wish to reiterate our position that the diverse voices of people impacted by family violence must be at the fore of this Committee's considerations and any new responses to family violence must be co-designed with people impacted. We particularly acknowledge the voices of Aboriginal and Torres Strait Islander survivors, who have consistently raised the risks criminalisation poses to them through expanding the likelihood of State-based coercion and control. We encourage the Committee to prioritise listening to these survivors. Thank you for the invitation to present. We look forward to answering your questions.

The CHAIR: Thank you very much. We appreciate your submission, which overall seems to support the introduction of an offence but has a range of caveats, if you like, or concerns about what should go with it. Could I ask you to talk to that? I think it is common ground amongst the Committee and stakeholders that this is a challenging and difficult environment. However, if we were to go down that path what would that look like and what sort of things—obviously resourcing, training and education. But could you speak to your specific role and the work that you do and what that might look like to you, further to your paper?

Ms SHAW: In terms of the legislation or more to do with what a service response might be?

The CHAIR: Both. If we were to legislate, would that be something that you would immediately have to take steps to deal with? Or if we were to potentially legislate with a long lead time—for want of a better phrase—to allow education, training and resourcing to wrap around that prior to implementation, what would that look like to you? Or do you think that it is just an impossible task and too difficult and that we should all go home?

Ms SHAW: We are all in the business of trying to address the wicked problem of domestic violence, so the benefit of any legislative spotlight on any aspect of domestic violence is to raise awareness and therefore create demand. This is what we want: people to seek assistance and to seek it from qualified, reputable providers. I think what is really important to us in doing this work over 30 years is that there is investment in a whole-of-family approach. I think what we have done is we have provided extensive services for a long time, but it has often been on quite a knife edge of how we will fund them year to year and how we cobble together different sources of funding to make that work.

In recent years, at a State level, we have had the accreditation standards, which have been a huge boost for us in terms of naming the scaffolding for effective services. The difficulty for us is that it has not come with commensurate funding. So there is a requirement to do all the right things, and we are completely on board, but there is not a systemic response around effective funding. I think the difficulty is that then there are certain family members, most particularly children, who can miss out. Because you end up targeting it where you can, which is to try and prevent the violence, but ultimately you want to be able to support the family comprehensively and to address the potential for intergenerational violence. So for us, if we create demand, it is about making sure the service responses are in place to receive and effectively address that.

The other thing that we see is that all the research says that you certainly can impact physical assault. Our own research and research across the world has said that you can be around about 50 per cent effective in addressing physical assault. We would prefer those statistics to be higher. It is much harder to address psychological abuse and emotional abuse and some of the things that this legislation will be looking at. What we really need as part of any systemic response is some really solid investment in research so that we can lift that above 50 per cent and that we can in fact look at the long tail of abuse. There have not been comprehensive studies in Australia. We have done the best that we can with the research and we evaluate constantly, but I think we really need to look at the effects.

I think also that we are not addressing culturally and linguistically diverse communities. The work that we are doing is through an innovation grant. What we understand by that is it is not just providing a service translated into the new language, it is actually about a genuine adaptation. We are at the very baby steps stage of addressing that. I think that it is about addressing the much bigger problem of domestic violence. The legislation will boost awareness but, if we do not address some of the other systemic issues, organisations like us cannot effectively do our job.

Ms ABIGAIL BOYD: Thank you to all of you for coming along today and for your detailed submission. I am interested in picking up on one aspect of your submission where you talk about the need to address systems abuse through the criminal and family law systems. This is in relation to other things we would do if we were to

criminalise coercive control. Can you talk about examples of how coercive control behaviour is perpetrated through systems, particularly through the family law system?

Ms SHAW: I think probably the starkest example is through the use of children's contact centres. Withholding access to children or interrupting the possibility of effective handover or access time is a key point for abusive interaction. We know that using the children in a variety of ways is a very common lever in terms of abusive behaviour. So where there are family law orders obviously related to children or property, then it is a prime opportunity to get back at your partner through either saying you are not available or not doing what you are supposed to do. Of course, children are always the sufferers in that because they might actually be looking forward to seeing their parents and they become invisible in this sort of war that can happen around Family Court orders. It is very important to understand how children and property and money are all the key levers through which ongoing abuse can be enacted and to make sure that children in particular do not become invisible, and the least understood and the great sufferers in those sorts of interactions.

Ms HARVEY: I was just going to add, I think when we wrote this response we were particularly mindful of the legislation in England and Wales and the way that that initially did not look at abuse after separation. I think this is where in our services in particular, because we do a lot of work around post-separation, family mediation and children's contact centres, we see this ongoing use of coercive control that is not necessarily physical abuse but is that controlling behaviour through those other systems.

Ms ABIGAIL BOYD: Do you have any ideas for how to prevent ongoing forms of coercion after a perpetrator has been put in prison or has been isolated from the victim? Have you read anything or is there any evidence from other jurisdictions as to forms of coercion that can still be carried out after a court case and after an incident of domestic violence has been resolved through the courts in one way or another?

Ms SHAW: I do not know of any research as such. I guess one of the things that we know about violence generally is that there is no end to the creative ways to be abusive. Ultimately, it is often about banning contact. Sometimes it does come down to that. The work that we do in our men's behaviour change programs is about raising awareness of all the different ways in which what could be seen to be—well, a perpetrator could deny the impact or the intent—but to raise awareness about all of those different ways in which behaviour can be constructed as ongoing abuse. But for us what has been really central is to have contact with the women and children that experience it because it is only through their eyes that the behaviour comes to light. Obviously, we have 18 week programs. We have a lot of time to sit and talk to men about their own behaviour, but they can justify and defend behaviour, and some of it is invisible to them.

For us what has always been important is not to put women in the position of having to do all the work, but I think by having contact and wraparound programs we are constantly raising awareness of examples that we can then feed back into the program so that we can shine the light on those for people who would otherwise not even bring them up themselves. Because really you can imagine that these programs are only as good as the material that is brought to us, so we need to be on top of that. We need to be ahead of the game all the time and gathering material and looking at research for the many examples that come up.

Ms STEPH COOKE: Just in relation to men's behaviour change programs, how effective are they? Do you measure the effectiveness of them, the results that you get, whether it leads to long-lasting change in men's behaviours and whether families are able to be either reunited or able to come to a landing space around how they function?

Ms SHAW: For a significant number of people that come to our programs, at least initially, the family wants to stay together. There are people that come to us who have lost their partner and their family through their behaviour, but we have many people who do come who are still in the phase of wanting this to work out. In that way, while the programs are voluntary, men would experience that this is my last chance to change my behaviour or I am about to lose everything. At the initial stage the goal can be set that this is about recovering the relationship, even if the couple are separated. What we do know is that, during the course of 18 weeks, because the relationship can become safer in a range of ways—there is a holding and containing space where everybody is on notice and the family is being watched. Sometimes when the female partner has a bit of space to think for herself and starts to not be perhaps constantly on point around violence, it can be an opportunity for her to decide to leave. So that also can happen, but often people are starting from that place.

At the very least, we know that if children are in the mix that our job is to keep working because those family relationships will continue whether the couple recover their relationship or not. What we have done over time—when we have been able to do so—is comprehensive studies from time to time. But generally we do not have the necessary funding to be able to do it in a routine way all the time. What we do in a routine way is evaluation of the men and their partners and we always do that for our services. In terms of a more significant study in terms of post-program measures and follow-up we have not been able to do that as part of an ongoing

routine but it is a commitment that we make when we can. The studies that we have done very much align with studies overseas around outcome measures. The great thing about that is that we know we are on track, that we are doing what is generally done in the space. The source of disappointment to us is that with the right investment and more nuanced research we would like to see our goal as achieving more.

Rather than saying we are able to prevent violence to the degree that we do I would like to say that we make inroads every year because we learn something about it and we develop better programs. We are at the point across the world of some homogenised programs and we need to do better than that. We need to start to tailor our responses and advance our work based on evidence and that does require investment because violence is not necessarily homogenised. It is in one way, but in another way why does it work better for some men rather than others? What is it that we could have done differently? They are the points of curiosity after 30 years of providing these programs. That is what we would like to be sitting here telling you. We know something of that. I am not saying that we are blind to that, but we really as a community should be so much more involved in our response. I will hand over to Ms Harvey who is our senior researcher and has looked into this further.

Ms HARVEY: You have said it wonderfully, Ms Shaw. I will just add that I think the largest study that we have is Project Mirabal in the U.K. That found good outcomes—particularly for reduction in physical and sexual violence—which is in line with what we see in our programs as well. But they still found up to 12 months 50 per cent of women were saying they were still experiencing being insulted by their partner and being afraid of their partner, and that is not good enough. What we really need here is at least a similar study in Australia, particularly if we are thinking about new legislation, to understand what is working in men's behaviour-change programs and where do we need to increase investment. The other point that Project Mirabal found and that we find in our work as well is men's behaviour-change programs do not work in isolation, they work as part of a coordinated community response model. It is irrespective of whether we have a new legislation or not. We are already working with a definition of domestic violence that includes coercive control. We already involve that in our programs when we work with men and we really need investment in that wraparound response around family. It is not just about behaviour-change programs.

The CHAIR: Can I thank you for the 30 years of work that you have done and the ongoing work that you do. It is vitally important and I appreciate your time here today. We are taking away from that but we are very grateful as a community for the work that you do.

The Hon. ROD ROBERTS: Thank you very much for your attendance here this morning. And your submission. Ms Shaw, you said something this morning in your verbal evidence that I do not recall reading in your written submission. I want to make sure I got it right. You quoted a figure that I wish to clarify. You said you assist 23,000 men a year that experience domestic violence, is that right?

Ms SHAW: In the Safer Pathways program, which is particularly funded to attend to men who experience violence. That is in a variety of relationships.

The Hon. ROD ROBERTS: Heterosexual and gay relationships.

Ms SHAW: That is right. And from their children. And from their own parents even as adults. Of course, there are times when men are contacting us and it is unclear what is going on. There could be a whole range of things including they are using abuse as well as experiencing it. They are ringing to name abuse but we receive about 23,000 calls to that service. It is a casework service. That is one aspect of our work.

Ms HARVEY: Just to be clear, it is not 23,000 men, it is 23,000 referrals. For some men that will be multiple referrals over the years.

Ms TRISH DOYLE: Thank you all, it is good to chat again. I appreciate you all being here today and speaking to your submission. I particularly want to acknowledge, not just from a professional and political point of view but also from a very personal point of view, the importance of noting the voices that often go unheard of—the children in these circumstances. I ask you whether you think it will help validate victim-survivors experiences—that being children also—and increase accountability levels for abusers if we do recognise coercive control as a crime? What difference will that make in your work?

Ms SHAW: I think it will absolutely validate a whole raft of behaviours that are very difficult to describe, name and have taken seriously. Even though in the legislation there is room for it now I think we end up looking at physical assault and sexual assault because they can be concretised. But of course over many years of talking to victims they will often say that it is the emotional and psychological abuse that has been far more damaging. I have women themselves say to me "If I had a bruise I could show it to you but I do not know how to say how bad this was for me." They cannot demonstrate it and yet it can be concretised and there can be evidence. I think we can do better. It would validate their experience absolutely. It would give us an opportunity to lean into

that whole area and develop more sophisticated measures and understandings and have community discussion about behaviour that is unacceptable.

Ms TRISH DOYLE: Would either of you like to comment?

Ms SOLOMON: I would just like to add, I think for many women they do not name coercive controlling violence as violence. It is only after the relationship when they go to a group and they then learn that it was violence. We do not have community awareness and victim-survivor awareness of what they are experiencing as violence. They name it as a pattern in the relationship and that is part of the difficulty. To say this is violence and this is an experience of controlled abuse. Particularly our community awareness in terms of accountability needs for all of us to be naming this.

Ms ANNA WATSON: Thank you for your submissions. We have had previous witnesses discuss the difference between tightening up apprehended domestic violence order [ADVO] laws as compared to criminalising coercive control. What is your view on that take in relation to just tightening up legislation that already exists that does not seem to be working for coercive control or would it be better to have a standalone coercive control legislation to tackle this issue?

Ms SHAW: Because we are not lawyers and we are not a legal service we are probably not best placed to comment. I guess we would just say that our goal is to improve community awareness about domestic violence and to try and address what is an extraordinarily pervasive and entrenched problem. We are not the best judges as to the right vehicle for that. We can only support that probably there is no single measure that is going to get the job done and I would imagine that there is room in both areas to make improvements would be my view.

Ms SOLOMON: Yes, I think we put in our submission to strengthen—

Ms ANNA WATSON: Just complementary to that—

The CHAIR: Ms Watson, Ms Solomon was speaking and we might just allow her to finish her answer.

Ms SOLOMON: Yes. We put in our submission to strengthen the legislative framework. We are not lawyers to know how that might happen and I think there is a lot of complexity in that but in terms of accountability and having a position that says coercive controlling violence is violence is important. Whether that is done through a stronger legislative framework or changes in the law, but particularly in terms of community awareness and how we language and name "coercive controlling violence".

The CHAIR: To actually know what it is to begin with—to name it.

Ms SOLOMON: Absolutely.

Mr PETER SIDGREAVES: My question is similar to Trish's and Anna's question. I understand that you are not lawyers—and I should point out thank you for coming this morning, ladies, and thank you for your submissions. Because you have stated something similar that you have got a large proportion of families that want to stay together, I just wonder, if families want to stay together, whether criminal law is the best way to do it or whether we can address that by expanding the actual civil laws.

Ms SHAW: In the end I can only say that it is criminal behaviour, so we have to have as strong as possible message about that. One of the early criticisms of men's behaviour change programs was, in looking at them just as a voluntary thing, particularly run by an organisation like ours, whether we were actually addressing a criminal problem in a domestic setting and was that fair and reasonable. I think it is the combination of legal change and then how we have services who step up to meet the challenge at that point, including making sure that organisations do their duty around safety to families and that it is not psychologised, if you like, into a mental health problem that is managed another way. This is ultimately about criminal behaviour.

The CHAIR: Thank you for your work in this space, for your submission and for helping us today. There may be further questions that members would like to send to you in writing, and if you do provide a response to us in writing that will form part of your evidence and will be made public. Are you happy to provide further written responses?

Ms SHAW: Yes, of course.

(Short adjournment)

(The witnesses withdrew.)

ANITA HUTCHISON, Doctors Against Violence Towards Women, before the Committee via videoconference, sworn and examined

DENELE CROZIER, Chief Executive Officer, Women's Health NSW, before the Committee via videoconference, affirmed and examined

The CHAIR: We appreciate your assistance today. Thank you for your written submissions, which the Committee members have. You can assume that we have read those. Do you have an opening statement that you would like to make to the Committee?

Ms CROZIER: Firstly, I would just like to thank the Committee for holding this inquiry but also inviting us to submit and be part of this hearing. Violence against women was declared an epidemic by the World Health Organization many years ago. It remains the main cause of illness, death, disability and life-long health problems and limitations to quality of life for women across the planet. Despite a prolific amount of research, policy and efforts in the field, the Australian public at large do not quite have an understanding of the breadth of violence, the dynamics of violence and the extensive effects of violence on women and children's lives, health and wellbeing. Old myths and punishing attitudes still control the discourse and there is a limited understanding regarding the need for long-term health care. An overview of current law and an inclusion of coercive control provides an opportunity for us to have enhanced education programs.

Women experiencing acute anxiety, fear, distress, panic and economic precarity, and women in shock, need more than what we are currently able to provide. First-line service providers who manage violence crisis response, policing and safety planning need to be able to refer women and children into healthcare pathways that can respond with both immediate and long-term health care. Within Australia there continues to be a major challenge in integrating and mainstreaming gender into our social policy, health policy, funding systems and services. Gender interacts with other forms of inequality to negatively impact health outcomes.

In particular, the poor standard of health of Aboriginal and Torres Strait Islander women, refugee women, women on temporary visas and women with disabilities raises concerns about the capacity of judicial systems and health services to really meet their needs. It is impossible to understand women's health outcomes and their legal requirements without understanding the social context of women's lives, including that gender power relations impact on social and health outcomes for women. In addition to gender analysis, understanding colonisation, the Stolen Generation, self-determination and cultural safety and identity are paramount to the health and wellbeing of Aboriginal and Torres Strait Islander women and their communities. It is vital to infuse gender analysis, gender-sensitive research, women's perspectives and gender equity into goals, policy, projects and institutional ways of working so that women can have equal opportunities for leadership at all levels of decision-making in political, economic and public life.

Dr HUTCHISON: My name is Dr Anita Hutchison and I am a general practitioner. I represent Doctors Against Violence Towards Women, which encompasses all specialties across Australia and New Zealand. Doctors Against Violence Towards Women was built on the premise of the need for doctors to address domestic family violence and intimate partner violence from a health perspective because the burden seen on the health system is so great and the fact that many doctors recognise that but do not necessarily have the skills or the infrastructural supports to adequately address this issue on a daily basis. Today I present to you an argument for the criminalisation of coercive control, given the massive percentage that it comprises in view of domestic and intimate partner violence.

This is a health issue. Whilst we all know of the destruction that coercive control has on relationships and its effect on the individual victim and the family, including the children, in a social sense, so too will it affect the community in terms of mental health and physical health. Working out if someone is under coercive control takes time. It is not immediately obvious, like a bruise or an injury. For the story and the patterns that help identify it, we need to get to know our patients over a period of time. We need to be able to assess this in general practice but also in emergency departments. There are hallmark signs and presentations that will be similar to what we are seeing in different genders and cultures.

Some examples of the way coercive control may present in general practice or indeed the emergency department: insomnia, depression, suicidal ideation, anxiety symptoms, panic disorder, somatoform disorder, post-traumatic stress disorder, eating disorders, drug and alcohol abuse, obvious injuries of the head and neck, bruises in various stages of healing, sexual assault, sexually transmitted infections, chronic pelvic pain, chronic abdominal pain, chronic headaches, chronic back pain, numbness and tingling from injuries, and unexplained lethargy. Sometimes our patients will just come in and say, "My boyfriend says I'm crazy. Do you think I'm crazy?" A full-time GP will see five women a week who have experienced some form of intimate partner abuse

in the last 12 months, and one or two of these women would have experienced severe intimate partner abuse, which may include being raped, attacked with a weapon or locked within their homes. In children, some of the signs and symptoms we may see are bedwetting, sleep disorders, anxiety, stress, depression, withdrawal, aggressive behaviour and language, problems at school, also chronic somatic problems, so unexplained physical symptoms and, in the adolescents, drug and alcohol abuse and suicidal ideation.

As it currently stands, these abusive behaviours that constitute coercive control are entirely legal. This needs to change. Today I put to you the need to criminalise coercive control as a part of a primary prevention strategy in addressing intimate partner and domestic and family violence, by virtue of which we will raise awareness around what coercive control looks like in relationships. We can start this in our younger generations as they start their new relationships, but also we can address this in all age groups, of course. Criminalising coercive control may be a game changer in terms of primary prevention of intimate partner and domestic and family violence. Coercive control itself prevents people from reporting violence. They may not recognise it, and they may not be able to act on it due to control and isolation. So educating around it and awareness of it will be key.

There will be those in the course of some kind of education that will see themselves and their story in a book, in a magazine, in a movie, in an educational experience, and they may experience that "ah-ha" moment—"Oh, my goodness. That's me in the story"—and recognise that familiar situation. The necessary wraparound education should include the early warning signs, red flags and common scenarios and these medical and psychological signs and symptoms I have just spoken about. Everyone says that this cultural shift will take decades to come to fruition. Not if you make it a law. Law enforcement and medical, legal and social players in the sector of domestic and family violence have to change their mindset immediately in line with those expectations. This would be cleverly exemplified by what happened with the one-punch offences introduced by New South Wales. Together collaboratively I would like to see us achieve this. Thank you.

The CHAIR: Thank you both. That is very helpful. Before I ask my question, can I thank you and acknowledge the work of GPs and medical practitioners and frontline services. So much of what you do is dealing with this every day, and we perhaps have not acknowledged that quite as much as we should. I thank you for your ongoing work. Also thank you to both of you for taking time out of your busy day-to-day practices and work to assist the Committee and for preparing written submissions, which we very much appreciate. Dr Hutchinson, my question is in relation to your statement that essentially you feel that you support criminalisation because of the existing ADVOs and criminal offence. I am not asking for a legal opinion, obviously, but your comment is that the current offences—intimidate, stalking—are inadequate to protect victims. Can you speak to your experience with victims and how they are inadequate. When you encounter them in your practice, you have to assess their safety, you will have to make decisions about whom you contact. Can you elaborate on that for the Committee, please, and your role in those frontline services and the work that you do?

Dr HUTCHISON: Some of the behaviours in coercive control may not come under the banners of stalking and harassment. I suppose an example might be stopping your children from seeing a psychologist and stopping them from seeing a doctor—that is not necessarily something that you would call harassment or stalking—or removing the ability to access funds, stopping someone from working. It does not really come under those banners. There needs to be a broader spectrum so that, when a patient comes in to me and tells me these stories, both of us have a wider scope of being able to deal with it within the legal system. There are probably so many other examples, of course, that I can write to about if you would like in terms of why we believe that, whilst harassment and stalking are fantastic reasons to be able to get an ADVO, it just does not encompass the wider spectrum that we see in terms of the threats. They are usually underlying threats. They are not necessarily something that is said to the person. It could just even be the fact that the person is ignored for two weeks on end because they have not engaged in sexual intercourse or they have upset their partner by not cooking dinner correctly. These are the sorts of things that, I suppose, create a story and a picture over time but that are not necessarily something that are incident based and that you could put into an order. Does that make sense?

The CHAIR: It does. Before I ask you, Ms Crozier, to comment on that also, it would be very helpful, if you do not mind, to give us some examples of that so that we can see. A lot of the challenge of what we are doing is that it is in the theoretical context. It would be very helpful to have some examples of where those gaps might be in your day-to-day experience where something like this might assist because it is a great challenge that we face in defining this and how it could be implemented. Ms Crozier, did you have something to add on that before I turn to my colleagues?

Ms CROZIER: Not direct service provision. I have not been in the field for a while now. But I agree. One of the concerns of the sector of course is that, if we do not take this opportunity to really try to define coercive control, it would be a huge missed opportunity. If you look at the history of consent even—when we attempted to change law, what of course happened was that the law itself was defined with the gender bias that we currently

have. Since women are traditionally considered by some people as hysterical, one of the concerns we would have is that we can do the best we can within this law, but we will still be perceived from that bias that women are more emotionally hysterical than men—even though you would imagine by the amount of violence that men clearly have emotional reactions that could be labelled. I think this is a big challenge. Dr Hutchison really gave one of the best examples—that thing about it not being violent. I guess gaslighting is probably the best way to describe it, not just this constant punishment that occurs. It becomes so mentally debilitating that some women are unable to keep functioning, it is that bad. It is horrid. The ones we see in the media are the very dramatic ones where it is so obvious that he had lost control at all lengths, but the continuum is horrific.

The CHAIR: And so much of it is so subtle, as you say. Jess Hill speaks to that intimate partner terrorism.

Ms ANNA WATSON: Thank you, Ms Crozier and Dr Hutchison. It is just delightful to meet you both and thank you so much for your insights. I thoroughly agree with what both of you have said very succinctly. My question is to both of you, but particularly Dr Hutchison. In practical terms, what are the barriers for GPs who are presented with a woman saying that she has been coercively controlled or there is some family or domestic violence? Given the limited time that the GP has to see this woman, how does that really work in practical terms? How effective is it and does it come back to then being an issue of a lack of funding?

Dr HUTCHISON: Yes, I often find those consultations—if they come in in a crisis then I respond as I would in any mental health crisis or any crisis. I would have to put aside the rest of my patients and I would have to spend the time with that person to make sure that the immediate threat of that crisis was addressed. That is difficult but it is doable, because you can reschedule patients. You need to prioritise patients like you do in the emergency department. It is a bit of a triage system in that way. If someone needed emergency mental health care then I would go down that path first, but if it was more about safety then I would address those concerns with her first. That would be someone in a crisis who had been really injured or had received a threat that their life was in danger or that they were about to harm themselves immediately. In the context of something that is over time and more enduring and longstanding, I would make regular appointments with that patient, check in with them and each time try to make a bit of progress and refer them to the appropriate services.

My biggest barrier and I am sure the biggest barrier for everybody involved in taking care of these beautiful people is trying to get them safety through emergency housing and get them safety through the legal channels. We cannot reassure them that they will be safe. For me that is also a challenge because I cannot tell them what to do, because I know that this whole scenario will be fraught. We have to tread carefully and we have to be guided by how the patient feels, but certainly the resources are not there. Mental health resources—oh, my goodness! I could sit here for hours and get frustrated at the lack of being able to get my patients seen immediately. Even in the context of suicidal ideation, it is very difficult. Even hospitalisation is almost impossible unless someone has private health insurance. There is no public health trauma service for these women—not long-lasting, publicly admitted ones. There are some that outsource services that they can utilise, but I find sometimes that they are quite fractured. It is really difficult, yes.

Ms CROZIER: I will add that there are a couple of things that happen in the healthcare system. Even going back three or four years ago—and the numbers will have already changed—we were saying that the Women's Domestic Violence Court Assistance Scheme, now called Women's Safety, were looking at taking calls from 69,000 women in any one year. If there were 20 of those services and 20 women's health centres then even if you provided a caseworker in those 40 services they would still be doing case management of 33 women a week each, which is an enormous caseload. We do not have 40 caseworkers across New South Wales, which is what every doctor and every counsellor dreams of—having a trauma-informed caseworker that is dealing with all the things that have to be done to help make a woman's or anyone's life safe.

That is what I am referring to when I am talking about health care pathways. We do not have health care pathways that are advertised, that are clear, that are about trauma care services and a specialisation of understanding violence and its effects on women, and that have an understanding that it requires both judicial safety as well as mental health and physical health for women. It is a specialised field and we have a very limited—we still have the 20 women's health centres and we still have the women's safety centres. They should all have caseworkers. Every couple of years we put in a pre-budget submission just to have a specialised violence team at each women's health centre to provide support because the judicial system has doubled in size dealing with violence, yet there are still no quality health care pathways. I know in health care that they are constantly looking at a health issue and working out the health pathways. They do not do those quality pathways for women who have experienced violence. If they were to look at that as a quality issue then they would understand some of the gaps that exist in the system, although we have been pretty clear in pointing it out anyway.

Ms ANNA WATSON: Thank you both for all you do under limited resources. I understand the struggles that you face since I have been here.

Ms TRISH DOYLE: Thank you both, Dr Hutchison and Ms Crozier. I really appreciate the work that you do in this space. It is a really comprehensive, concise articulation of the need for reform. I will jump in first with you, Ms Crozier, and say thank you for pointing out that we have a window of opportunity here and it is not just about lawmaking but is about addressing a whole range of gaps across many sectors. Before I ask you a question, I note for the record your decades of work as a warrior woman in the women's health space. Thank you.

Ms CROZIER: Thank you.

Ms TRISH DOYLE: Ms Crozier, you have been in this sector for a long time. I note, and you would also, the similarities between the arguments against criminalising coercive control and the arguments used to advocate against criminalising DV in the first place—as well as marital rape and sexual assault before that. Will you reflect upon that? Is this an opportunity for us to push for all the other changes that we need to see—policing, courts, child protection and health responses?

Ms CROZIER: Thanks very much and for your work as well, I must say. It has been great to have you in Parliament. Even on a national level, going back 10 years ago they tried to present coercive control as the context within which all violence sits. In that perspective that is true but if that is not defined in law, then it does not exist. So many things are happening in relation to violence that are not against the law. I agree with you, Dr Hutchison. Even I feel I had to sit and think about coercive control, whether it should be an independent piece of law and because people are afraid it will be used against women as in a lot of AVOs have become cross-party to examination. And the thing about coercive control, and I think from what Mr Latham pointed out, you know, parents could be considered under this law if we were not careful, which I think is very misleading.

Because I think when we are talking about coercive control, you are talking about real fear, you are talking about sexual assault, you are talking about loss of mental health capacity and limitations to life. So coercive control builds. I do not think disciplining your children over a week because of some drug taking—actually I think it is a red herring and a lot of the arguments are red herrings. It is like even when in the 1980s—I was reflecting the other week that it was the 1970s when we started to talk about looking at a very consolidated way to effect change and set up all the sexual assault clinics and rape crisis, but in the eighties we started talking about incest. Once it became public, there was a reaction that said, "Oh, this can't be true."

I felt like Freud had seeped into the argument—that women have just got an obsession with their fathers. It was a horrible thing to see and it just disappeared. We had one service set up and then nothing else was done. It has been the same service for 30 years and it does not even understand that women can have panic attacks at night, so there is nowhere to ring and talk. There is such a limitation on understanding the effects of violence from such a young age right through to elderly women in nursing homes. I am not across all the objections but I am certainly across the arguments as to why none of them should stand against the barrage of evidence we have got before us about what is happening in the community. So that would be my view on that, thank you, which I hope will help.

Ms TRISH DOYLE: Thanks.

The CHAIR: Thank you. On that note, I would like to acknowledge that this is a bipartisan Committee. It is across both Houses and all the parties.

Ms CROZIER: Yes.

The CHAIR: I thank all members' for their commitment to this process. It is important that everyone is included. Next we have Ms Abigail Boyd.

Ms ABIGAIL BOYD: Thank you, Chair, and thank you to both of you. I echo the comments made by other members of the Committee in relation to your work. I wanted to drill down a little bit. You talk about what the options are when a woman comes into a doctor's office and discloses evidence of domestic violence, domestic abuse, and how those options are limited by funding and the lack of resources. How would those options change if coercive control was criminalised? Would it change the pathways and the options, or would it be more about people understanding it better?

Dr HUTCHISON: I think a bit of both from my perspective. If you open up the forum to enable someone to feel safe, then they are going to be more likely to actually come to you and ask for help and also recognise it in the first place. Quite a lot of women tell me scenarios or stories and tie it in with their anxiety and depression but not recognising that it comes from a place from, perhaps, abuse and sometimes it takes years to

recognise it. So the education around it would be so, so important in that context to bring them in here and recognise it in the first place.

In terms of service provision, I am hoping that—and maybe this is a false hope—that with more education will come also more understanding of where the funding actually needs to go. So that if we find that we have a generation of women that are really quite traumatised from coercive control we actually have some very well-trained trauma therapists to be able to see these women on a weekly basis to help them re-establish their lives. In the context or I suppose in the view of making a complaint to police that may lead to a charge and a criminal investigation, again I guess if someone feels safer and they perceive that their children might be safer, then they are definitely likely to come forward or at least seek safety. At the moment, most people in this situation would just prefer to stay in that situation. Does that make sense?

Ms ABIGAIL BOYD: Yes. Thank you.

Ms CROZIER: I would add to that that it just like at the beginning of the women's domestic violence court assistance scheme, it was recognised that women needed safety rooms and women needed advocates to go with them because it is the fear and the threats of fear. Unless you have really got a system around you, you are not going to go. So, we will be looking at putting together recommendations that not only in relation to domestic violence but also sexual violence. We do need to get a public protector, which can be the caseworker, can be counsellors, can be doctors—I mean the doctors cannot just leave their surgery. They have such an essential role they really need support like the police need support and like counsellors need support to actually help women to go to court. I think if we define coercive control it would do two things: It would clearly broaden out the actual context and the definition of violence and it would allow more women to actually understand what violence is, but not just women. The whole community needs to understand what violence is; otherwise, we are just coping onto these old myths—you know, women need control. They are still there, those myths. It is horrible.

Dr HUTCHISON: Can I add something as well?

Ms ABIGAIL BOYD: Go ahead.

Dr HUTCHISON: Can I add that I think it is really important for women to have the option.

Ms CROZIER: Yes.

Dr HUTCHISON: They do not have to take this up. This is just a pathway, another pathway, to safety and health and, you know, probably 50 per cent will take it up. I do not know; maybe less, depending on what the barriers will be for them in their lives and how safe it will be to do this.

Ms CROZIER: Yeah. True.

Dr HUTCHISON: It is going to be amazing to actually have that option.

Ms CROZIER: Yeah.

The CHAIR: Thank you both. If that completes Ms Boyd's questions, I will throw to Peter Sidgreaves.

Mr PETER SIDGREAVES: Thanks, Madam Chair. My question is particularly towards Ms Crozier. You mentioned a definition of "coercive control" a few times already.

Ms CROZIER: Yes.

Mr PETER SIDGREAVES: Would you be able to suggest to us here what your definition of coercive control is, and even maybe some of the activities that should be included in that?

Ms CROZIER: Well, actually, in my submission, Mr Sidgreaves, I really was referring to the fact that I thought the Government's discussion paper really highlighted it already. They had already had the research. I am trying to remember the name of the research, the evidence staff research, that looked at a whole range of matters that fit under coercive control. I think that was a pretty comprehensive presentation that was given to us already. So obviously the researchers have already been there: whether it is no money, constantly harassing someone and calling them stupid, those sorts of things.

Calling someone "stupid" every five minutes is actually not against the law but it is that thing about—I guess for me the best definition and the lightest definition is "gaslighting", although that in itself can be extreme, but the loss of liberty, the withholding of affection, the withholding of money. There are just so many things that really deprive someone of their liberty, not just to leave the house but to be free of mental anxiety and fear. To live a life free of fear in itself is an achievement if you have lived under coercive control for a long time. I have just talked about some of the obvious ones but I think the list is quite extensive under paragraph 2.2, What is coercive control? I was pretty impressed with that research that the Government itself has already got at hand.

Mr PETER SIDGREAVES: Thank you. I do not know whether Dr Hutchison would like to add anything to that.

Dr HUTCHISON: No, I think that has been covered and I am very happy to fill in any gaps in our recent summary.

The CHAIR: Thank you, Ms Crozier. Just picking up on that point about the definition, you have in your submission supported a broad-range definition, which includes a broad range of coercive and controlling behaviours. I think you have also said that in your view that should be extended to abuse in domestic relationships, not limited to intimate partner relationships. Could you speak just briefly to that point?

Ms CROZIER: Sure. When I had a closer look at the discussion paper from the Attorney General's department, it admitted that we do not have a current meaning of "domestic relationship" in the Crimes (Domestic and Personal Violence) Act 2007. So it made me go and have a closer look at that relationship in that context. One of the things that occurred maybe five or six years ago, there was an attempt to actually define "domestic violence" in New South Wales and there was a bit of a stumbling block when it looked at the definition of a "domestic relationship", which covered also carers and their dependents. They had some issue with resolving that, so they decided not to touch it.

So I think the definition of who is in a domestic relationship and where violence occurs is really broadly defined already in legislation, and that is the Australian context—it talks about kinship, it talks about carers, it talks about intimate relationships, it talks about family units. So it really does define the diversity of the Australian culture. Just defining an intimate relationship between two persons, even though that would mean we would still get an introduction of coercive control as separate legislation, separating it from already a definition of our contextual culture would seem to me a step backwards.

The CHAIR: Thank you. This is not my view, but can I just view put a view to you for your response? That wider definition then gives rise to some concerns in some community groups that it is so wide as to encapsulate parents in the normal course of a parental relationship or carers in that relationship. Is there a way that the definition could perhaps be more specific to ensure that there is not an incursion into "normal" domestic relationships where there is not, say, that passion of coercive control? Is that something that you can see we would have to navigate in terms of that definition to rule out those concerns in "normal" relationships?

Ms CROZIER: On one level, yes. I think if we are going to embrace coercive control in law we really have to apply some broader definitions to exclude agreed role delineations, standard parenting—there is a whole pile of things. I think this is a challenge for us to really separate what is a relationship and what is coercive control and I think we should be up for that challenge.

The CHAIR: I do too.

Ms CROZIER: Yes. I think setting boundaries is different from setting fear and I think we have to find a way of articulating that.

The CHAIR: Yes, I do think that we need to address that in some way, or attempt to, as part of our challenge.

Ms CROZIER: Yes.

The CHAIR: Thank you. Is there anything you would like to add before we finish this session?

Dr HUTCHISON: I would not mind adding that in terms of coercive control it is about establishing a pattern that is likely to harm on a criminal standard and it would be really hard to introduce this because it is a pattern that we see over time and there are specific hallmarks of this pattern. The evidence from Scotland so far does not support the suggestion that this will be a big problem introducing this.

Ms CROZIER: Nice.

The CHAIR: Thank you both so very much for your assistance to the Committee. There may be further questions that members would like to send you. If you choose to respond to those questions your answers will form part of your evidence and will be made public. Would you be happy to receive further questions if that is the case?

Dr HUTCHISON: Yes, thank you.

Ms CROZIER: Yes.

The CHAIR: Thank you both for your incredible work in this space. We really do appreciate your assistance.

(The witnesses withdrew.)

(Short adjournment)

DANICA LEYS, Chief Executive Officer, Country Women's Association of NSW, sworn and examined

SALLY STEVENSON, General Manager, Illawarra Women's Health Centre, affirmed and examined

AMANDA COHN, Chair, Border Domestic Violence Network, before the Committee via videoconference, affirmed and examined

The CHAIR: Welcome back to the fourth day of hearings of the Joint Select Committee on Coercive Control. Welcome to our witnesses. Thank you for your written submissions provided to the Committee and for attending today. We very much appreciate your assistance. Some of our members are on Webex and some are here in person. Can I ask at the outset, do any of you have an opening statement you would like to make?

Dr COHN: Firstly, thank you so much for the opportunity to present today. We really commend the Legislative Council and the committee members for their responses to the critically important challenge of addressing coercive and controlling behaviour. I would also like to acknowledge the traditional owners of the land that I am on today, the Wiradjuri people, and pay my respects to Elders past and present. I am a GP working in community health, as well as the deputy mayor of Albury, and I am speaking today as chair on behalf of the Border Domestic Violence Network [BDVN]. This is a grassroots network of over 95 family and domestic violence service providers and community members with lived experience of family violence in Albury Wodonga that aims to facilitate a collaborative approach to addressing family and domestic violence in our cross-border community.

Firstly, I would like to make very clear that the BDVN supports in principle the introduction of legislation to criminalise coercive control. We really appreciate the opportunity to speak today to some of the challenges associated with drafting this legislation and to suggest some considerations to best support our members and the people that we look after. First of all, there is a very serious need for consistent definition of "coercive control" and its relationship to the definition of "family violence" in policies, legislative setting and practice Australia wide. People with lived experience of family violence in our area identified the different approaches that Victoria and New South Wales take to providing legal and support services and is adding very dangerous layers of complexity and risk, especially for people who live in one State and work or study in another, which is extremely common in our cross-border communities along the Murray River.

Historically, apprehended violence orders were not enforceable cross-border. This resulted in domestic violence being able to be perpetrated at, for example, a victim's workplace but not at home or vice versa. We are also aware that victim-survivors have brought their own applications in court only to be told that they have filed in the wrong court, and this is putting victim-survivors at risk. We note that the Victorian Attorney-General has ordered a review into the possibility of new coercive control laws, and we urge the joint select committee to consider harmonisation of its recommendations with other States. I am very happy to provide a case study, if that would assist the Committee in understanding this issue and how it affects people in cross-border communities.

The CHAIR: Yes, please.

Dr COHN: Secondly, there is a need to recognise the long-term traumatic impact of coercive control in both legislation and within support services. There is a tendency, in legal and service provider settings, to construct a hierarchy of violence, where physical and sexual violence is at the top and forms of non-physical abuse like coercive control sit below them. Victim-survivors have clearly identified that emotional abuse and non-physical behaviours are often viewed as less harmful and are often not recognised as violence or abuse by victims themselves and sometimes by the services they rely on for help. This can be disempowering and a barrier to future help-seeking. Victim-survivors have highlighted the importance of resourcing community and worker education, including police, to recognise these non-physical patterns and red flags of abuse.

Finally, on a related note, community member support services and police need support and education in detecting which party is the perpetrator and which party is using violent resistance to ongoing abuse. We support the Australia's National Research Organisation for Women's Safety recommendations for education and support to help responders, including police and legal services, to assess patterns of coercive control. This is particularly important to avoid misidentification of victims of coercive control as perpetrators because they have resisted or retaliated against their abuser. The current paradigm of policing being incident-based means that patterns of behaviour over time can be ignored, and significantly this means that the victims can be misidentified by police

as the perpetrator based on a single incident. I am also able to provide a case study, if that would assist the Committee in understanding this issue.

The CHAIR: Those case studies would be very useful, thank you. If we do not have time to speak to those today, I ask you to forward them to the Committee in writing. If you are agreeable to that, that would be very helpful.

Dr COHN: Yes, absolutely.

The CHAIR: Obviously not identifying the parties involved.

Ms STEVENSON: I acknowledge that I am on Gadigal land and I pay my respects to Aboriginal Elders past and present and all Aboriginal and Torres Strait Islander people in the room. This land was never ceded; it always was and always will be Aboriginal land. I thank the Committee for having me here today and I thank everyone in the room who has been working on improving the lives of women and children in New South Wales by reducing the rates and impact of domestic, family and sexual violence. I particularly thank the Illawarra Women's Health Centre local member, Anna Watson, for her relentless work in this area and especially for bringing the bill, known as Preethi's Law, to the New South Wales Parliament—an act of leadership and compassion. I would also like to thank Abigail Boyd for her typically comprehensive and thoughtful work presenting to the Legislative Council the Crimes (Domestic and Personal Violence) Amendment (Coercive and Controlling Behaviour) Bill.

Our submission has comprehensively laid out our arguments for why we believe coercive control should be criminalised. The evidence is unequivocal. The health impacts of coercive control are very real, can be catastrophic for the victim and her children, and can last a lifetime. The evidence is in the research but, more importantly, it is in the consistent, clear and undeniable voices of victim-survivors. Coercive control is a breach of a woman's human rights. As the Attorney General, Mark Speakman, has said, it amounts to a form of slavery. We all have a duty of care to use all means available, including and especially the law, to protect women and children from this deliberate and vile form of violence and abuse. To be truthful, I would rather be anywhere else than here today arguing again for women's safety. I would rather not have spent last night trying to craft a statement, deliberating on the right words to construct an argument that would persuade this Committee and this Government that criminalising coercive control is essential to women's safety and health.

I felt the responsibility heavily for presenting a compelling case on behalf of the many, many hundreds of victim-survivors who have walked through the doors of our centre over the past three decades and who continue to walk through those doors. They trust us with their stories of abuse, of coercive control, of intimate terrorism and of torture. They trust us to support them out of this psychological and emotional hellscape and not to judge them but to fully understand their experiences, including their silence and shame. That trust is well placed, for we see each of these women as extraordinary. If their psychological wounds and scars were manifest physically, if they were laid bare in the flesh for us to see, our immediate action would be to look away. I doubt any of us in the room who is not a survivor could bear the pain because that pain, they tell us, is unbearable, and for too long we have looked away. I feel the responsibility of standing with incredible victim-survivor advocates such as Geraldine Bilston, domestic and family violence policy adviser, who fearlessly advocate for criminalising coercive control because that very behaviour "shattered her brain".

The more I thought about what I would say, however, I began to wonder why I was saying anything at all today—why I was presenting at this Committee, why the Committee was convened and why so many people have spent so much time, care and compassion writing to this Committee arguing that women be kept safe and protected from the most heinous of behaviours—behaviours that strip you of your autonomy, of your decision-making skills and which lead to increased rates of heart disease, brain injury and suicide. I wondered what other laws and behaviours that cause such indisputable harm are debated over, discussed and delayed. What other laws are we told are too hard, too complex and too expensive to enact? What other forms of behaviour where existing strategies to manage have failed, yet we are told the very same strategies should simply be strengthened? I am not a lawyer and nor am I a parliamentarian, but as an informed citizen of New South Wales I could think of none in recent times other than the Reproductive Health Care Reform Bill 2019. Because, of course, as with the reproductive healthcare bill, we are discussing women's safety and women's bodies and women's minds. We are always up for debate.

It was not the same for young men who were coward-punched. No—that law took three weeks in the making. Certainly we should be discussing *how* and not whether we enact this law and what critical protections, exemptions and processes must be in place, especially for Aboriginal women and children: *how—not whether*. This situation is made more visible by what has happened in Australia over the past month—the palpable rage and grief felt and demonstrated across this country by women who are so sick and tired of the abuse and injustice that we suffer. We are sick and tired of our voices not being heard, sick and tired of our safety and health being

incidental to governments, sick and tired of the culture of disregard for women's safety, and the culture of impunity towards perpetrators. This is a moment in history now. A tectonic cultural shift is taking place that demands women's voices will no longer be silenced, dismissed, disregarded, ignored, mocked or ridiculed. It is a moment that is real and powerful and that says our experience must drive change. What we hear, if we so wish, in the submissions and presentations before this Committee are the voices of women—loud and clear and steeped in experience—saying that victim-survivors want coercive controlling behaviour, the behaviour that sits at the very core of domestic and family violence, to be criminalised.

We want it criminalised for two reasons. One, it tells society that this behaviour is not acceptable and that there are consequences, and that if you are a perpetrator, you will be held to account. More importantly, it allows women—victim-survivors—to be seen and heard. Women will recognise themselves in this legislation and this will empower and equip them to understand their experiences and hopefully escape from this relationship before the damage is indeed too painful to bear.

And what we hear, if we choose to radically and authentically listen and to truly centralise women's voices, is that Aboriginal women—as represented by organisations such as Wirringa Baiya—must also be heard with their voices centralised *and amplified*. And the very real fear, deeply based in contemporary and historical reality, regarding incarceration and child removal must be honoured in this legislation. Special co-designed protections must be in place that recognise the unique position of Aboriginal and Torres Strait Islander people in our country, the history of dispossession and the brutal and traumatic relationship with the criminal justice system. If we get it right for Aboriginal women, we get it right in principle for all women. I would like to make particular mention of the presentation by New South Wales police Chief Inspector Sean McDermott, which was revealing and disappointing but not surprising.

The CHAIR: I am going to interrupt you there. We are happy to receive your statement but it is probably not within our terms of reference to make reflections on other witnesses. That is for the Committee members to take on board. I am happy to receive the rest of your submission. I am also mindful of the time, Ms Stevenson, because we want to hear from other witnesses as well.

Ms STEVENSON: Okay, I will skip that bit.

The CHAIR: So if you do not mind winding up, thank you.

Ms STEVENSON: I will say to close that cultural change is happening in Australia. Women are speaking up and demanding to be saved. They are demanding justice. With other jurisdictions around Australia committed to change and enacting coercive control legislation, we can criminalise it now or later but it will happen. It is my view that the decision this Committee needs to make is whether New South Wales will be a leader or a follower.

The CHAIR: Thank you, and thank you for your submission. Before I turn to Ms Leys, I will just say that this is a joint select committee, so it comprises both Houses and is across all the parties. It is a bipartisan committee, which is not incidental, to address your concern. It is very much at the forefront of the resources of this Committee's staff and the members who are here to address this issue in detail. Ms Leys, did you have an opening statement?

Ms LEYS: Thank you, Chair. I am here on behalf of the Country Women's Association of NSW [CWA]. I would also like to acknowledge the chair of our social issues committee, Mrs Bronwyn Dunston, who is in the room today as an observer. The CWA is the largest women's organisation in Australia, so we appreciate the invitation from the Committee and welcome the opportunity to be here this morning to present our views on the issue of coercive control in domestic relationships and the wider debate around its criminalisation in New South Wales. The CWA has for many years identified domestic violence as one of the major issues impacting the lives of women, families and communities across our State. Our members have always believed in championing the rights of victims and the need to lobby authorities for more support services, education campaigns and legislative changes aimed at curbing the rates of horrific violence and psychological manipulation suffered by so many women and children. In our most recent member survey 72 per cent of members highlighted domestic violence as a key campaign issue for the organisation. In fact, it topped a list of advocacy issues for rural and regional New South Wales.

At our State conference in May of last year, members overwhelmingly endorsed two motions calling for a stronger stance on domestic violence and more assistance for victims. The issue was also the focus of our annual Awareness Week campaign in September last year. Domestic violence was also the focus of our Awareness Week campaign in 2015 but, sadly, we came to the realisation early last year that we needed to revisit the issue in the wake of a series of horrific incidents that resulted in the deaths of too many women and children. The fact we decided to do that is a sad reflection of the fact that what we are doing now—on so different fronts—to try to turn

around the terrible rates of violence in households across New South Wales is not making the inroads we want to see. That is not to say there has not been a desire and effort to make a difference—because there has—but what we are doing has not been enough. We must continually strive to implement further changes and reforms.

For last year's Awareness Week campaign we partnered with domestic violence support and victim advocacy organisations Domestic Violence NSW and White Ribbon. Both organisations identified coercive control as a significant component in the wider domestic violence issue and believed consideration needed to be given to criminalising it nationally. The fact this Committee is now investigating this very question is both gratifying and timely. White Ribbon's argument for criminalising those behaviours beyond physical violence that perpetrators use to dominate and control their victims is compelling when you learn that coercive control is a strong precursor to physical assault and is associated with 99 per cent of cases where a woman is killed by her partner or ex-partner. It is gratifying to see society, too, particularly in recent years, recognise that domestic violence extends beyond physical assaults; it includes emotional and financial abuse, too, which are controlling behaviours that can be as damaging to a victim as bruises and broken bones.

For the CWA of NSW, our focus is women and families in remote, rural and regional areas where the statistics tell us they are more likely to experience domestic and family violence than women in urban areas. NSW Bureau of Crime Statistics and Research [BOCSAR] data revealed in June last year that the rate of domestic violence-related assault in western New South Wales was 3.6 times the State average. Information from Child Family Community Australia attributes these higher rates to a raft of different factors, but includes fewer support services for victims, geographical barriers that can impede victims' access to assistance and support, and the unique cultural and social characteristics of smaller communities. There is a lack of specific statistics about rates of coercive control in rural and regional areas in Australia, but given that we know coercive control appears to be a significant factor in a high percentage of domestic violence incidents we can safely assume it is something women in non-metropolitan areas experience at higher rates as well.

This kind of controlling abuse has no place in our communities and it is time that consideration be given to reflecting this through legal reforms. The experience in countries where this kind of legislation is now in place—the likes of England and Scotland were identified in the discussion paper—seems to show that it is working to protect more victims. The hope is that the laws will eventually work to shape society's views of acceptable power dynamics in relationships and how communities tackle abuse on all fronts. I must stress that this must not be seen as a solution in itself, either, but rather as another tool to tackle an epidemic of violence. Alongside any expansion of legal recourse, there should be enhanced resourcing for the domestic violence support sector, and community education campaigns and programs aimed at raising awareness of the different types of abuse, the warning signs and avenues for assistance, as well as those focused on addressing attitudes that can lead to violence against women and children.

What is clear, and what is becoming increasingly evident to society, is that domestic violence does not just involve beatings and physical injuries. The likes of stalking, controlling of finances and eroding a partner's relationships with loved ones are all indications of an abusive relationship and are too often indicative of one that will result in physical violence. The CWA of NSW welcomes the focus on coercive control by the New South Wales Government and this Committee, and the consideration that is being given to it being declared a criminal offence. To turn the rates of domestic and family violence around in our communities we need a whole raft of solutions. Ongoing legal reform is one of those avenues that can help deliver results. To not thoroughly explore every option is letting down those who not only need our help but also deserve it.

The CHAIR: I am just going to pick up on one of those points. Of course, whilst this Committee would like to deal with a much wider remit, we have terms of reference that we are obliged to address, particularly the discussion paper. I thank each of you for answering some of those questions. One relates to the appropriate definition of "coercive control". I note that Dr Cohn and Ms Leys addressed the issue of nationalisation. One of the questions that has arisen during the course of the hearings is whether we should agree on a national definition or whether we should just come up with our own definition and move forward on that basis. Do you have some comment on that? I will go to you first, Dr Cohn, because you did mention the nationalisation, particularly the issue of harmonisation across States where you see cross-border issues. You were going to talk about a case study. Could I ask you to deal with that national definition and, in particular, the case study you are going to refer to?

Dr COHN: Absolutely. I will start by sharing the case study. I think it illustrates quite well the context that we are working in, in a cross-border community. This case study was provided to us by the Hume Riverina Community Legal Service, which is one of our member bodies. The service writes:

Our client and her partner lived in Albury in NSW before moving a couple of kilometres south to Wodonga in Victoria. While in Albury, she was assaulted by her partner and NSW Police applied for an AVO for her protection. Before leaving Albury, her then ex-partner breached the protection order on four separate occasions and each time she reported to a different member of the police.

She then fled Albury with the assistance of a local family violence service; however, her ex-partner located her and assaulted her in her home—

in Wodonga. It goes on:

Our client reported this to Victoria Police and asked to change her protection order to include her infant son who was at home during the assault. Victoria Police told her she had to speak with NSW Police. NSW Police told her it was a Victoria Police matter. After several weeks of trying to get assistance from the police, she applied to vary the protection order herself with the assistance of—

lawyers from the Hume Riverina Community Legal Service—

Her ex-partner was then charged in Victoria with assault but NSW Police took carriage of the breach of the AVO from the same incident. She was exhausted and overwhelmed at the number of police members she had to deal with and the complexities arising from the cross-border issues.

In fact, I add my own personal reflection to that case study. You can only imagine the compounding difficulty facing people with intersectional disadvantage in navigating the system, such as people who do not speak English as a first language or people with a disability. It is the strong view of the Border Domestic Violence Network that a national definition be adopted. This would enable more streamlined, harmonised enforcement of this legislation in cross-border communities. We are really fearful of a scenario where behaviour might be defined as coercive control in one State and not the other State, and the misunderstanding of this legal complexity by victims of either could be putting people at really significant risk.

I would also like to note that the Hume Riverina Community Legal Service has also strongly voiced that it would like the definition adopted nationally to adopt quite a broad definition of "family member", noting that a lot of family violence is not just perpetrated by intimate partners or romantic partners but also by parents, children et cetera. In culturally and linguistically diverse family groups, as well as Aboriginal family groups, that definition of "family" can be quite broad, so we would like a broad definition of "family member" to be adopted.

The CHAIR: Thank you for that. Ms Leys, you referred to nationalisation in a different context. I appreciate very much your bringing quite a different aspect with the regional versus urban distinctive issues, and your paper spoke to that as well. Could you speak to that?

Ms LEYS: Yes, and quite a lot of regional communities are close to borders so it would be very important that there is a harmonised approach to definitions around coercive control. Although, I think I would speak on behalf of members as well who would say that that obviously would be the aim but if that is not able to be agreed to then that should not necessarily slow down the process of a jurisdiction such as New South Wales becoming leaders in that space and moving towards a system where we do have coercive control laws in place.

That said, I am cognisant of the comments that Dr Cohn made as well about making sure that we do not have different jurisdictions with different definitions. Even the situation where there is one jurisdiction with a definition and another without and the degree to which that might place victim-survivors at further risk would be something that I think the Committee should look at. As I said, our view would be that we would like to see coercive control laws legislated but I think it would be important that you get some legal advice as to how that may put people at risk if there was only New South Wales having those laws in place.

The CHAIR: You spoke quite uniquely in your submission, compared to others, of the historical sense of shame in a close-knit community. It is quite a different dynamic to a metro situation. Could you talk about the tight-knit self-reliant communities and how that is a challenge?

Ms LEYS: Yes. I spoke about that, I suppose, in terms of painting a picture of why legislating and implementing coercive control laws, although important, is not the only answer in relation to addressing the domestic violence situation, particularly in rural, regional and remote communities. In those communities they have a lack of access to services. They also have a lack of access to affordable housing in some areas. In many cases, they have no anonymity when it comes to reporting on or seeking assistance in relation to domestic violence incidences. Those are all things that need to be looked at, I think, in the context of how any coercive control laws are rolled out as well as training for those that are tasked with investigating and enforcing those laws which should be the New South Wales police, who are often dealing with very complex family situations in rural communities as well. But a lot of the rural community issues come down to, as I said, that lack of access to services, geographical isolation and small tight-knit communities.

The CHAIR: Absolutely, and we have fabulous police who are doing the best they can in those environments with constrained resources.

Ms ANNA WATSON: First of all, I would like to thank all of the speakers for your well thought out submissions and your opening statements. They were all brilliant and we will take them on board. Thank you very much for the work that you have put into those submissions. Those opening statements will be re-read and they do mean something to the Committee. My question is to Sally Stevenson, who I know does a great job at the

Illawarra Women's Health Centre. I know you support the criminalisation of coercive control. However, my question is, what are the barriers for you, the organisation and the broader Illawarra in relation to not only making sure that the legislation actually comes to fruition but on a day-to-day basis? What are the barriers that you are facing to assist women throughout this community?

Ms STEVENSON: Thank you, Anna. There is one clear barrier and that is the matter of resourcing. I think it has been well argued in the submissions that an approach to criminalising coercive control requires a range of strategies and one of those is adequate and sustainable funding to services, not just law enforcement services but support services such as the Illawarra Women's Health Centre. We continually see women seeking support from us for coercive controlling behaviours and the impact that has on their health and wellbeing, but we are absolutely unable to respond to that adequately because of limited funding.

I think with the campaign for coercive control, we have seen a lot more women recognising that as an abusive behaviour and they are coming to us seeking the support that we are able to give them but not adequately and not over time because of the lack of funding. If the legislation is enacted, that will only increase as women recognise themselves in that legislation, as I mentioned in my opening statement, but also as they seek support for the trauma over the long term that they have experienced and support to go through the criminal justice process and indeed the long-term support for trauma which is not going to be treated within six months or 12 months. We know high-quality best practice trauma will take years of sustained support.

Ms ANNA WATSON: Years.

Ms STEVENSON: So resourcing is one. Within the Illawarra, part of my opening statement that I was not able to say was that I would like to recognise the very strong relationship that the Illawarra Women's Health Centre has with Oak Flats area command and the productive and working relationship we have with Superintendent Dean Smith. That is continually improving and increasing with transparency and openness and a willingness to work together. I think it is necessary for us and across New South Wales that the police force is empowered and directed to respond appropriately to women with coercive controlling behaviour complaints and issues.

Ms STEPH COOKE: My question is directed to Ms Leys of the CWA. Thank you for being here and for the CWA's work over the past 90 years in New South Wales. The work that you do is absolutely phenomenal. I am not just a member of this Committee, I am also a regional MP. I do not have a large centre like just about every other regional electorate in New South Wales. We most certainly rely on outreach from larger centres like Albury, Wagga Wagga, Griffith, Dubbo, Orange et cetera, to come into our small communities regardless of what the area is. I read your submission with interest and I have heard your evidence today. Can you more clearly define the service limitations for rural people, particularly rural women? What does your organisation see as the priority service shortage that needs to be overcome? Is it more domestic violence liaison officers with police? Is it more counselling services? Is it better access to public transport or just some public transport? Where do we need to head in that respect?

Ms LEYS: Thank you for the question. I have touched on it a little bit and you have also in your question touched on some of the specific challenges with some rural communities that are not particularly associated with a large centre like Dubbo, Wagga Wagga or Tamworth—you know, those big regional centres. Although, I would still argue that some of those big regional centres are still suffering from a lack of resources as well. But there are a lot of other small- to medium-sized communities that do not have access to those services. We did put in our submission—and this was a result of the round table that we held with Domestic Violence NSW that was specifically focused on challenges for regional women. We included some of the outcomes from that round table in our submission and one of the big things that came through from the people that participated in that round table was to fund smaller local community organisations to provide services in their local communities. There are a few other points that I will go on to, but you asked about what one of the most important things would be that we would like to see done and I think that point would have to be up there as one of the big priorities.

Some of the other things that were coming through in terms of that feedback were increasing funding to a diverse range of services, so including organisations that provide early intervention support, DV education and case management support for victim-survivors so that it is not just about funding and providing resources for smaller community-based service operators but also making sure that they have enough resources to be able to provide that range of services not just, for example, a crisis support service—although that is very important—but that they are able to provide a range of services.

We also got a lot of feedback around increased supports for middle-aged and older women in those rural communities, including providing education around what constitutes domestic violence, information about supports available and improving cross-sector collaboration between specialist women services and DV services. I refer you and the Committee back to the list of outcomes from the domestic violence roundtable because there

were quite a few outcomes from it. They are just a few to touch on. It goes back to funding those smaller local community organisations and provide for those services in the types of communities you have referenced that do not necessarily have a service. People might have to travel an hour or two to go and get help which is a very large barrier to accessing services if you are in a situation where you need assistance.

Ms STEPH COOKE: I just have a quick follow-up question. Could you please outline for the Committee in relation to women living on farms what coercive control may look like?

Ms LEYS: Sure. There would be a range of different examples. For women living on farms it can be particularly isolating. They are usually living in a smaller community to start with and then in terms of their geographical location within that smaller community they are living in a quite isolated environment. In terms of what that can look like it could be financial control. That is a quite common form of coercive control and the environment of withholding of attention and affection, control of children and all aspects of the children's lives, preventing women from being able to work off-farm is another example and those types of things. There are some special considerations that can be given to women in that situation.

Ms ABIGAIL BOYD: I will follow up on the point that Ms Cooke has made. We hear some people express a preference of instead of criminalising coercive control to build it into the ADVO process. Could you explain the difficulties of the ADVO process for women living remotely and why that might not work?

Ms LEYS: You can think of a situation of someone living in that remote environment and it may be just them and their family, their husband and children, and no one else around them or at least no one else for maybe 20 kilometres or so, and in many cases much much further than that. When you picture someone in that situation first of all even taking the step to seek assistance in relation to domestic violence is a very big step because they do not have anywhere to go, they are very isolated. As you have mentioned even if that step is taken and a domestic violence order is taken out how is that then enforced. There is no affordable housing in these communities available for women to move to that suits the arrangements that they have for their children, for instance where their children go to school. There are very specific challenges in relation to rural women. That is in rural communities. Also, I would say the types of women that you have highlighted, and the ones that are actually geographically isolated as well.

Ms TRISH DOYLE: I thank my colleague, that segues well into my question. I thank each of you for your work, for your commitment to reform, whatever that might look like. I acknowledge the Illawarra and your well-articulated primary and secondary recommendations. The justification behind each recommendation is quite concise. I thank Dr Cohn and Ms Leys thank you for acknowledging and pointing out in particular ways the significance of us recognising that there are particular barriers that women in regional and rural communities face. As someone who grew up in the Riverina I know that only too well as a child victim-survivor myself. I ask each of you to briefly address this question because it goes to the crux of our deliberations. Why do we need a law to cover coercive controlling behaviour rather than a condition on an ADVO?

Dr COHN: I think the overwhelming experience of service providers in this area would be to observe that can coercive control and controlling behaviours the majority of the time come before seriously violent acts and by criminalising coercive control there is an opportunity to intervene before serious physical or sexual assault occurs. That is the strongest thing that we can do to protect the victim-survivors in New South Wales.

Ms STEVENSON: I think the legislation is a tool to draw the line in the sand of what is acceptable and what is not acceptable. It is a very clear message. I also think as pointed out by Professor McMahon and Mr McCorrey there is a number of reasons why ADVOs do not work in certain circumstances. Very briefly on the third point, I think it is very important that women are provided with options. That is, that is one thing that victim-survivors say all the time. There needs to be the option of absolute safety, for the perpetrator to be put within the criminal justice system and they need options for ADVOs even though they need to be strengthened. I think options are really critical.

Ms LEYS: I agree with the previous two speakers and I would add that having coercive control criminalised, again to echo Ms Stevenson's comment, does draw the line in the sand and for the organisations in the rural and regional background it is probably even more important that women have those options available to them if they are geographically isolated. For example, they are able to avail themselves of coercive control laws that might be in place that might help them to try and resolve this issue early before it does become an absolute crisis situation for them.

The CHAIR: I have a follow-up question before I pass back to Ms Boyd. You did address it in your submission where one of the questions was, does the law currently provide adequate pathways and you made the point that civil and criminal law in New South Wales currently fails to respond to domestic and family violence in all its forms including non-physical abuse. He said that most acts of coercive control are not included or cannot

be recognised in the existing Act and are not grounds for ADVOs. Could you speak to that more specifically and how legislation or defining it might assist specifically in that?

Ms STEVENSON: I think it is about clarity as well as strength. The legislation is a powerful mechanism for perpetrators to be held accountable. Currently with the ADVOs there is a very limited likelihood that they are incarcerated and sometimes for a woman's safety that absolutely needs to happen. I think currently we need to look at legislation that looks at a pattern of behaviour and a course of conduct. Individually, as this stands now particularly with ADVOs and single incident responses you cannot build an environment or a context that is demonstrating coercive control because individually they may not amount to anything. I think it is really important in terms of providing that context of control, terrorism and torture. It will provide the backbone to social position that this is just not acceptable. Does that answer your question?

The CHAIR: Yes, it does. As a corollary to that can I ask, some argue that conviction rates do not necessarily follow. There are not as many convictions as you may expect. Can you speak to that and whether conviction rates are a fair indicia of the success or otherwise of such legislation or whether there is an educative component and preventative component as well? It is not a loaded question it is a genuine question that has arisen in the course of our hearings.

Ms STEVENSON: Absolutely. I think there are multiple ways that we will be able to monitor and evaluate the success of legislation. One of which is women who are able to escape relationships before we even get to that point because we know that is a traumatising process in and of itself. There is an issue, as I mentioned earlier, around women recognising themselves in that legislation and then feeling they have the support of our community and of the law to get themselves out of a relationship before it becomes so bad. I think the education is important. Bringing in the legislation will hopefully come with resources if it is to work and we are to be serious about implementing it and that will provide a greater range of options and resources for victim-survivors. I think it can act as a preventative measure that will not be reflected in the conviction rates, and I think that is really important point.

The CHAIR: As a follow on to that, the challenge is to front load all of this onto police and hand them this package and say, "There you go. Go and solve the world's problems for us." It is a very difficult thing to hand over to police. Can you comment on that and how your services might assist in that process, because it is understandable that police say, "This is very difficult for us to prove, it is very difficult for us to gather evidence, and we have limited resources." Can you comment about how we might partner—and we have heard from family lawyers as well about how they might assist in gathering evidence. Can you comment about that because we obviously do not want to create something that just becomes a very difficult and unusable tool for already overwhelmed police services.

Ms STEVENSON: No, absolutely. They are overwhelmed by domestic violence, so there is that. I think a stronger legislative framework will assist in reducing their workload, which is a frustration for them. We know at Oak Flats it is between 50 and 70 per cent of their workload. I just might point out too that the other important thing about legislation versus ADVOs is when a perpetrator is held to account in the criminal justice system when they breach the ADVO, this is a breach against the court. It is not a punitive action because of the violence experienced by the woman. So it is a really important place to put a woman in the centre of the legislation through that coercive control and I think that as a matter of principle is a really important message—that a perpetrator is held to account because of the violence to the woman and not because of a breach of the court.

I think services such as ours and the Police Force can work hand in hand really well and smoothly, as we do in the Illawarra. If a woman comes into a police station in Oak Flats or Wollongong and if they feel that they cannot build a case, we say, "Please refer them to us." And they do. That way, we are able to create a safe space for that woman. We are able to provide health and wellbeing options and supports, and we are able to help her get out of that relationship and navigate the labyrinth of support services that currently exist, whether it be Centrelink, family law or housing. So there can be a really close relationship that reduces the workload of police if there is a solid understanding of who is responsible for what and a trust that, should we refer to them and think that there is an issue here around a crime, it is taken up.

Ms ABIGAIL BOYD: I have just a follow-up question for Dr Cohn in relation to the border issues. We hear about border issues in lots of comparatively dull areas, not just domestic violence laws. Can I just clarify your position. We all agree that a national definition would be fantastic but not necessarily something on the cards right away. Would you be advising us to wait before New South Wales introduces criminalising coercive control legislation, or is it more about being aware of those issues and seeking to put extra supports in?

Dr COHN: No, we would not be asking the New South Wales Government to wait. We think this is a really important step forward and should happen. Obviously, the definition is only part of drafting this legislation, and there are lots of other steps that need to be taken in terms of how it is going to be implemented in force. We

would really urge you to discuss the definition with at least bordering States with New South Wales early on in this process and, if other States come to the table in criminalising coercive control later, then at least that will be done with the same definition. So steps can be taken towards criminalisation in New South Wales but it also will not become a problem down the track when other States come on board.

The CHAIR: On behalf of the Committee can I thank each and every one of you and your organisations for the excellent work that you do and for assisting the Committee today not only in your written submissions but by appearing today. We may have further questions for you and, if you choose to answer those in writing, your answers will form part your evidence and will be made public. Would you be happy to take further questions from members in writing if that is the case?

Ms STEVENSON: Yes.

Ms LEYS: Yes.

(Luncheon adjournment)

(The witnesses withdrew.)

JACQUI WATT, Chief Executive Officer, No to Violence, affirmed and examined

RUSSELL HOOPER, Head of Advocacy, No to Violence, affirmed and examined

The CHAIR: Do you have a short opening statement you would like to make first?

Ms WATT: Thank you for inviting No to Violence here today. We feel very honoured to be here and to be part of this very important discussion for you in the New South Wales Government. I would like to begin by acknowledging the First Nations people who are the traditional owners of the land we meet on, the Gadigal people of the Eora nation, and I pay my respects to Elders past, present and emerging and any First Nations people joining us here today. We welcome the attention provided by this Committee towards coercive control, and we welcome the drive to improve responses to it and the recognition of the devastating impact of this form of abuse. Coercive control is a huge issue and 30 minutes, we appreciate, is not long to unpack this, so I will keep this brief as we would like to spend as much time answering your questions as is possible.

At No to Violence we have considerable expertise in working with perpetrators of domestic and family violence. We actually speak with men every day, seven days a week, through our call centre. That is a national helpline now. We have been doing this work since 1992, so we know a thing or two about how coercive control gets presented and some of the pitfalls in trying to deal with it. We are Australia's member-based organisation that works with and for the sector that works with men who use family violence. So whilst, as I have said, we work directly with perpetrators of family violence through our Men's Referral Service call centre, we also coordinate the Men's Behaviour Change Network in New South Wales, and we provide training and professional development to enable best practice and service delivery.

Coercive control, as I am sure you are aware, is not new. It has been around for millennia, and it is something the family violence sector has been addressing since its inception. We believe that progress will not be made until and unless we create a system of accountability for those who use violence and shift the disproportionate burden from victim-survivors. We see coercive control legislation as a part of that. No to Violence's position in New South Wales is supportive of criminalisation of coercive control, but we cannot see this as a panacea. Our position reflects the views of our colleagues across New South Wales and the community members whom we have consulted. Criminalisation alone will do little to protect victim-survivors in our communities. What we need is a systemic response, moving from an incident-based one to one which recognises the patterns of behaviour and abuse that make up family violence. I feel sure you have heard this before from other witnesses to this inquiry.

In developing our submission—hopefully, you have received it and been able to have a chance to look at our recommendations—we have held or enabled consultations with our 500 experts, organisations, academics and victim-survivors from across Australia, as well as in England and Scotland. I notice on today's agenda you will be talking to Dr Marsha Scott at the end of today, in Edinburgh. She was one of the first people I ever spoke to about coercive control. The consistent themes that we have come across—I think this is summarised in our recommendations—is firstly that we need to consider criminalisation as not an end point, not a miracle solution that will eradicate coercive control; secondly, there needs to be careful consideration of the unintended consequences that criminalisation may have and the potential to escalate violence and abuse—we can say more about that during questions—particularly on vulnerable groups of women; and, thirdly, to ensure that coercive

control is being identified and responded to properly, there needs to be adequate resourcing and funding. We need to work with people before it gets to the point of crisis, and this cannot be done without adequate funding for the specialist family violence sector to be able to respond.

Lastly, we also need to ensure that other sectors that come into contact with victims and perpetrators receive education on coercive control and how to respond. This would include police but also the courts, the judiciary, the community and healthcare sectors, as well as the broader community, because it will take a whole community, an educated community, shifting the burden and understanding the impacts of behaviour and being able to get in earlier to stop it before it causes harm. We can help with this at No to Violence. We look forward to taking your questions and being of assistance. Thank you.

The CHAIR: Thank you for your submission and for your time today. We know that it takes time to put these things together, and we very much appreciate your assistance to the Committee. On behalf of the Committee I would like to acknowledge the work that you do and thank you for that on an ongoing basis. We have questions from members. The other thing I wanted to do is thank you for addressing the questions in the discussion paper in your submission. It is very helpful because obviously we have a wide remit, but we are obliged to address the terms of reference. So I appreciate your time in doing that.

The Hon. ROD ROBERTS: Thank you very much for your attendance this afternoon and also for your very detailed submission. I have a number of questions, but I am very mindful of the time, so I will get straight to them. I am paraphrasing from your submission here. You say, "There is an extensive evidence base around criminal convictions not being an effective deterrent for crime ..." Unfortunately, I must agree with you, particularly in the field of DV. We already have assault legislation. We have homicide legislation. We have AVOs. We have all these criminal sanctions in place at the moment which unfortunately do not seem to be working.

Therefore, I go back to the earlier part of your submission. On page 8 at point 1 you says "Developing options to intervene early, during and after will be essential." If there was to be introduction of a coercive control law, again it is a reactive type of proposition. I am sure we would all agree that prevention is always better than cure—that if we can prevent any form of domestic violence happening first, that is what we should be aiming to achieve. Taking that into account, how can we as a Parliament or we as a society at least work towards that in the first instance?

Ms WATT: I am aware of time as well. Thank you for your question, honourable member. That is absolutely the point of our organisation. We believe getting in earlier means much more community education about what is a respectful relationship, what is an equal relationship. We think that cannot start early enough. We also think we need to probably do more work with young people because violence is not reducing. We do not see violence reducing. We are hearing a lot in the outside world today and in the last few weeks about rape culture and those sorts of things. A lot of it has to do with community education. So we would pitch for a solid well-funded education and awareness campaign. There are already organisations involved in this as well as us, of course. But we would want that to be a part of introducing any new legislation.

The Hon. ROD ROBERTS: On page 34 of your submission, under the heading of "Reluctance to engage police amongst many victim survivors", I will take you to your paragraph that says:

Furthermore, many victim-survivors report that they do not want their partner to be convicted or imprisoned; rather, they just want the violence to stop.

In my previous occupation, prior to coming into Parliament, I have experienced that. Not a hundred per cent of victims want that. But there is a large percentage of victims who are still in a loving relationship—if we could use that term, I suppose—but just really want that behaviour to cease. I note that there. So how would you and your organisation suggest that that could be achieved?

Ms WATT: I think this is where keeping in mind the civil law as well is really important, that there could be strengthening of the civil law. I think the other bit, the second bit of that, is the importance of the victim-survivor having some agency over where they take things. Because it is not just that they might want the relationship to continue, but they might have children and the children are being impacted. There would be a whole number of reasons why they do not see a punitive or a punishment response as being adequate to resolve the issue. It is also because men can still perpetrate abuse and violence from prisons. That is something we have noted in our submission as well.

The Hon. ROD ROBERTS: Also when they get out of prison.

Ms WATT: Yes. If they are not getting a program while they are in prison, we are not actually again addressing the underlying causes of what is causing it.

Ms ABIGAIL BOYD: Thank you to both of you for coming along. I note you say in your letter that you have consulted with 500 different organisations and victim-survivors and academics. I think that is really impressive. Thank you very much. Just picking up from the Hon. Rod Roberts' questions, I guess there are two separate issues that have been coming out from this submission and also some others. You note that criminalisation is not necessarily about deterrence; it is about identifying behaviour and keeping people safe. Also you have just noted that making something a crime does not necessarily mean it has to have a punitive response only to it. Can you talk a little bit more about the benefits of criminalising coercive control outside of the strict views of it being about putting men away?

Ms WATT: I think the benefits are about recognising that family violence and intimate partner violence is a pattern of behaviour. It is very unusually a one-off incident. The benefits are that we are making the system that responds to that across the whole of New South Wales more informed about what it is they are dealing with and what might be the options. Building on the previous question and answer, we can give a range of possible responses that are not just about being punitive. That could include for example community corrections work where someone is on a corrections order and part of that is they are required to attend a program and that is then monitored by the courts. It is not enough to mandate someone to do a program. That is one part of it, but then it is also—so what? What did that program actually achieve? It is not just about, "Does he feel a better dad?" He might come out of it a better parent or behave better for a while, but fundamentally is she safer? Is the community safer? Have we managed the risk? Have we reduced the risk? It has to be a risk-based approach.

Mr HOOPER: Thank you for acknowledging our extensive consultation—I think the largest in Australia to date and we are looking forward to that being surpassed. We had two sessions that were chaired by victim-survivors and they were quite a privilege to listen to, but there were two things that really came up for me. One was around the choice and validation of the experience and the other was around choice and control. Not all victim-survivors will want a criminal response. Some will want a civil response and we need to make sure the criminal and civil legislation keep up with one another, because not everyone will want to go down the more punitive way of criminalisation. There is also a social response as well. As the Hon. Rod Roberts was talking about, some people just want the violence to stop.

We need those options to be there but as Ms Watt was saying, we need to have that under the auspices of a risk lens. The number one purpose of our sector is around reducing and mitigating the risk to victim-survivors. The secondary purpose is trying to get men to take account for their behaviour, but victim-survivors have to be at the centre of all reform in this space. That is why we think it is really important moving forward, depending on the deliberations of this Committee, to make sure there is consultation with a broad range of people in the design of the legislation but also in how we implement that legislation. It is not just about having a piece of paper that says you cannot do this anymore. We actually need to see that implementation across the police, we need to see it in courts and we need to see it across our community as Ms Watt was saying.

Ms TRISH DOYLE: Thank you both for being here today and for the work that you have done. I think it is important to have that opportunity to speak to your submission and especially to communicate to us some of what you have learned through your consultations. My question is threefold. From this extensive consultation that you undertook, would you say that the overwhelming majority of victim-survivors from a diverse range of backgrounds want to see this reform happen? Did you hear in the consultations that a significant number of women and children actually achieve increased safety as a result of our criminal justice system, or not? Thirdly, what are your thoughts after the consultations about leaving coercive control out of our criminal scheme and what sort of message that might send?

Ms WATT: I might start with the last bit first if that is okay, and then Mr Hooper will come in and remind me what people did say. We have said we support the criminalisation of coercive control in New South Wales with all of the bells, whistles, caveats and provisions that we have suggested in our submission. I do not think it should be left out and I think it is an important part of the bigger picture of how Parliament is approaching family violence and intimate partner violence going forward, and the safety of the community. Did we hear about women achieving safety in the current situation? Is that what you meant, or in situations where it is not criminalised?

Ms TRISH DOYLE: Yes, or whether they might have commented on increased safety as a result of criminalising coercive control. What did some of those that you spoke to say about the difference between what their experience is now and what it could be?

Ms WATT: Yes, there is a whole range of responses to that. I will hand over to Mr Hooper, who was party to those actual roundtable discussions.

Mr HOOPER: There were a few quotes and statements throughout the consultations that have really remained with me. One was that all forms of domestic violence are coercive control. It is important to note that

the current legislation considers family violence from a very physical lens, with a few exceptions obviously around stalking and other things. But really all behaviour in family violence is around controlling someone, whether it be physical or non-physical forms. Non-physical forms need to be included, and that is definitely the view of the majority of the participants in our consultation. So yes, 100 per cent—definitely the majority of participants in the consultations were supportive of this, with the caveats.

In one of the consultations I asked the question: "Do you think this will make people safer?" The majority of the people in the consultation said no. The potential for the broader response is the thing that people think will make people safer. If it is criminalised in its own right, that will not increase safety. But if we change the way we respond to family violence to include a pattern of behaviour instead of an incident basis, that will be what keeps people safer. Legislation in itself will not do that.

Ms WATT: I will come back and just conclude that one. I know you are talking to Dr Scott later today, but the thing we have heard loudest and clearest from Scotland is that the fact that the legislation was being introduced forced a stronger partnership between the women's family violence sector and the police that has been hugely beneficial. Obviously there was training done and there were people getting into rooms together and working together from what might have previously been a bit more of an adversarial position. That is certainly what I took from conversations I have had with her, but you might want to explore that.

The CHAIR: I absolutely would like to explore that. I am interested in that partnership between frontline groups and police. One of the issues we do have to face is that if we package this up very nicely and we do our job as a Parliament and then we hand it over, suddenly the police and frontline services have to deal with this and roll it out. We will be speaking later on with the Scottish police about what their experience was and we are interested in that. I am interested in one of the comments you made earlier about putting the victim-survivor at the centre of this and allowing them to have agency over the decisions that they make.

Will you speak to that and also this partnership, because it seems to me it is a bit of an evolution in what we are doing here. I do not mean to be trite, but there was a time when we could drive cars without a seatbelt. There was a time we could drive cars and have a few drinks and that was not a problem. We have evolved since then and we now look back—I am not in any way pre-empting the Committee, but perhaps it is an evolution in our education and our thinking about how we approach non-incident-based events. Will you speak to the agency of the victim-survivor and the partnership that you alluded to?

Ms WATT: It is not trite at all to compare those public health campaigns because if we think of it like that, we realise that it will take a while and it might feel like we are not getting anywhere for a while. It is quite important hold onto that sense. The notion of women's agency in this—again, Mr Hooper will have some key examples and maybe some quotes from what people said about that. But the obvious one is, "Why does she have to leave?" If we look at the homelessness statistics around women having to flee violence and we know that refuges cost a fortune to set up and run and we can seem to never have enough—again, do we keep parking the ambulance at the bottom of the cliff or do we actually asked what it would mean if we turned it on its head and said, "Why does she have to leave? Why don't we take him out for a bit?" What would that look like and how would that be? If there was a requirement to engage in a conversation with skilled people about behaviour and about what is happening in that family, is that not something worth trying? In terms of cost to the public taxpayer, again, that might well be something that could prove to be of benefit in that department as well.

The CHAIR: I am sorry to interrupt you. We do have Staying Home Leaving Violence, but that is leaving violence as in incident-based physical violence as opposed to leaving coercive control.

Ms WATT: Yes, that is right. There is a series of research being done on the "safe at home" model showing it is not as effective as it could be. If we were able to shift frontline police practice—just theorising, if they are called to an incident and they get there and they say, "Everything we need to do now is to keep her and the kids in situ because then the kids do not have to change schools and all of the distress that goes with that, what is needed in order for us to be able to take him out?" What is needed in order for us to be able to take them out, and it might be for a short period of time or it might be a longer period of time and it would require agreement, but the alternative would be that, you know, it is a few nights in the cells. Just trying to think creatively about that pointy end and I am probably not the best person to ask. Let us ask the victim survivors. What do people say about that sort of thing now in our conversations?

Mr HOOPER: So, I did like that you raised at the seatbelt example as well because we have seen, obviously, a huge change in the way we enter into a car but that was also supported with 30 years of primary prevention messaging, which I think is a really important part to consider in this context as well. But going back to the consultations, in the consultation we did with the multicultural and refugee population in communities, First Nation people and the victim survivors, it was raised in each of those consultations around it being a really

important thing to have the option. Not everyone will want to use the option, but having it there and having a name for it was particularly important.

The CHAIR: Thank you. Do other members have questions? We have one member and we have just a moment, but I also just wanted to go to—thank you for your submission on the appropriate definition of coercive control. I know that you have referred to the Scottish definition and said that that should be used as the baseline and then ensuring it captures coercive control and relationships beyond intimate partners. Could you speak to that because there is some caution, perhaps, around that and how far that might extend and what that might look like in terms of intruding into otherwise normal healthy family relationships? Could you speak to why you felt it necessary to add that part to the definition?

Ms WATT: Yes. I think our recognition of abuse within families is broadening and has been broadening over the years about what constitutes an intimate partner. I think elsewhere in the submission you will see there was reference to people do not have to be cohabiting for this sort of abuse to occur.

The CHAIR: Yes.

Ms WATT: So it could be people who are in ex-relationships, again with shared custody. It could be same-sex partners. It could be a whole range of people in different situations where they are not actually living under the same roof but they have an intimate relationship. So, I appreciate your concern with definitions but we could definitely do a bit more work on that with you if we had more time to look at how you are drafting that. Was there anything else that you took from that?

Mr HOOPER: Yeah. So, obviously a lot of people enter into relationships and they do not move in with one another after a day—not too many, but most people. I would hope so, anyway. The reason that that was really important to include in there is that relationships take a number of different forms and it should be the behaviour that is looked at, not the living arrangements. Then the other context which is quite important was that in consultation with the LGBTIQ space—and I think this links to something which someone said in New South Wales and I will not mention his name—but around the restrictions of being able to discipline your children. And I would say that the legislation has not been drafted yet but the repeat activity would be that. I think that family violence within an LGBTIQ context is particularly something which presents quite differently. Often people will need to leave and seek refuge in this space. That is as clear as I could be but it was raised quite a lot in the different consultations definitely because everyone has different living arrangements.

The CHAIR: I think that is an interesting point. They do and it should not be based on, as you say, the residential arrangements. Potentially we should consider further. I have one final question, unless members have a burning insight. No? Thank you. Forgive me, the lawyer in me is interested in this question of the thresholds that you talked about of intent and that is something that has been raised in earlier hearings. I think you have made the point that the drafting should not be too prescriptive in defining coercive control behaviours but should be used as a threshold of intent. Can you speak to that and why you felt it necessary to add that?

Ms WATT: So, I think that is right. I think it is the proof—the concept of what is the standard of proof. I think it is important to recognise that with coercive control things will be significant and repeated in terms of the impact they have on the victim, so there is something about measuring what is the impact on the victim of these activities. In our experience, men call our call centre, men work with our members in the programs. They do not call up and say, "I'm abusing my family. I'm a terrible man. Please help me." That is not how they present. If only!

The CHAIR: Yes.

Ms WATT: But that is not, unfortunately, what happens and often the work that we do is actually unpacking what is it that they are actually doing and then what impact is that having on the people around them? You know, the classic one is, you know, "I didn't punch her. I punched the wall beside her head and she overreacted and she called the cops." I wonder how that was for her? I wonder what it was like having a fist coming past the side of her head? "Where were the kids?" "Oh, the kids were asleep. They didn't hear anything." "How do you know they didn't hear anything?" That is the work that we do—to try and unpack that to get people closer to understanding the impacts of their behaviour and that they can change. We actually do believe that as well as managing risk and making communities safer, we can actually encourage and be part of a change journey. Some people more than others, and more to be said on that, I think, because not all men are the same. But we are in the business of building on hope, really.

Mr HOOPER: Yes. And intent is really complicated as well, obviously, because in our work every day a lot of men do not realise that they are perpetrators.

The CHAIR: Yes.

Mr HOOPER: Ms Watt and I were talking about this earlier today and called it the pub test, which is probably not the most appropriate way of talking about it in an inquiry, but it is looking at what would a reasonable community member constitute as coercive control and family violence? I think there is that kind of in line with community expectations in sentencing and whatnot.

The CHAIR: I think the pub test is a very Australian standard.

Mr HOOPER: Yes, indeed.

The CHAIR: So, I think we all know what that means. If you have further information you would like to provide, your submission is very comprehensive, thank you, but if you would like to give further elaboration on any of those points afterwards, we would welcome that in writing. Committee members may have further questions for you, which they will send to you in writing. If you are happy to accept those and provide written answers, those written answers will form part of your evidence and will also be made public. Would you happy to take those?

Ms WATT: Absolutely.

Mr HOOPER: Definitely.

The CHAIR: Thank you so much. Can I thank you so much for the work that you do and for assisting the Committee today. We are very grateful.

Ms WATT: Thank you for letting us present.

The CHAIR: We have to end there, I am sorry, but thank you so much.

Ms WATT: I know. Thank you.

Mr HOOPER: Thanks so much.

(The witnesses withdrew.)

KITTU RANDHAWA, Project Leader and Founder, Indian (Sub-Cont) Crisis & Support Agency, sworn and examined

ASTRID PERRY-INDERMAUR, Manager, Strategic Policy, Settlement Services International, affirmed and examined

JESSICA MAYA SCHULMAN, Senior Solicitor, Immigration Advice and Rights Centre, sworn and examined

The CHAIR: Welcome back to day four of the Parliament's Joint Select Committee on Coercive Control. We welcome our next witnesses. Thank you each for providing us with your written submissions, which are very helpful. All Committee members have them and you can take it that they are read. We very much appreciate your assistance to the Committee in preparing the submissions and attending in person today, so thank you. Do you have an opening statement you would like to read to the Committee and if you could make a copy of that available afterwards to Hansard?

Ms SCHULMAN: Certainly.

Dr PERRY: Yes.

The CHAIR: Thank you.

Ms SCHULMAN: Before I begin I would like to acknowledge the traditional owners of the country on which we meet today, the Gadigal people of the Eora nation, and recognise their continuing connection to land, waters and culture. I pay my respects to their Elders past, present and emerging. I am here representing the Immigration Advice and Rights Centre [IARC], where I work as a senior solicitor. IARC is a community legal centre established in 1986. We specialise in advice, assistance, education, training and law and policy reform in Australian immigration and citizenship law. We provide free and independent immigration advice and assistance to vulnerable people across New South Wales. Our clients are low-to-nil income earners and frequently experience other disadvantages such as low-level English language skills, disability and past experience of torture, trauma and family and domestic violence.

Our work has a special focus on the intersection between family violence and immigration law. Over 40 per cent of our legal services are delivered to people on temporary visas experiencing family violence. IARC does not provide criminal law advice and we are not experts in criminal law. As such, we are unable to comment on a

lot of the terms of reference regarding changes to the criminal code. Our submission is focused on our unique perspective as immigration law specialists, working predominantly with women on temporary visas who have experienced domestic and family violence and their experience navigating reporting domestic violence and accessing safety from domestic violence.

We see a lot of coercive controlling behaviour towards our clients by their Australian partners, which could be described as immigration- or visa-related abuse and is unique to women on temporary visas. Our clients describe threats by their Australian partners to cancel their visas or have them deported or separate them from their children because of their visa status. These kinds of threats are common tactics used by abusive partners to exploit and control women on temporary visas and prevent the reporting of abuse, as well as serve to establish a fear of the police and the legal system. In addition to this, the system is unfortunately set up in a way that women on temporary visas are unable to access Centrelink, Medicare or housing, such that these restrictions further prevent them from escaping or reporting violence for fear of becoming homeless, destitute and concerned that their children will be taken from them as a result.

In some ways we see the visa- or immigration-related abuse as a key to the rest of the domestic violence abuse as it is the threats of deportation, cancellation or separation from children which keeps women on temporary visas from reporting abuse or accessing safety. It is difficult to recognise the power contained within such threats unless you experience it personally or work with these victim survivors. It can be difficult to understand how behaviours which are considered coercive or controlling can in fact be so when they can be so nuanced and informed by victims' unique individual circumstances. For example, immigration or visa status abuse is effective because it is supported by a range of vulnerabilities often faced by women on temporary visas, which the perpetrators seek to use to their advantage. Language barriers, lack of family or community support, unfamiliarity with Australian laws, stigma and fear of the police are just some examples.

While on the one hand we welcome measures that may deter and punish any form of domestic and family violence, we hold concerns that without addressing the ongoing legal and social issues that prevent our clients from accessing safety and reporting abuse, criminalising coercive controlling behaviour in New South Wales will either have limited or no impact or result in adverse outcomes for our clients, such as being mistakenly targeted as perpetrators of domestic violence when they are in fact victims. We believe that major reform to the current system that prevents and responds to domestic and family violence is required before any considerable positive impact will be seen in the barriers to reporting and safety that women on temporary visas experience. Two of these major reforms we have raised in our submission are long-term sustainable funding to specialised domestic and family violence services and better training and education for the police.

Finally, we rely on our previous submissions on domestic and family violence made to Federal inquiries, which we believe would make durable and effective impacts on decreasing the incidence as well as protect women and children from domestic and family violence. Thank you.

Dr PERRY: Thank you, Chair. Settlement Services International [SSI] welcomes the opportunity to present to the coercive control inquiry. But first, let me acknowledge the traditional owners of this land, the Gadigal people of the Eora nation, their Elders past, present and emerging. Settlement Services International is the largest settlement organisation in Australia, but based in New South Wales. We work with people who have experienced vulnerability, including refugees, people seeking asylum and culturally and linguistically diverse [CALD] communities. SSI represents a consortium, the NSW Settlement Partnership, of 20 partner agencies which deliver the settlement program in New South Wales. Apart from those services, we also deliver multicultural foster care to 150 children and a suite of employment and disability services.

SSI is a recognised voice for domestic violence in multicultural communities in New South Wales and it collaborates in local, State and national advocacy groups in response to an identified need among our client base. It delivers men's behaviour change programs in language and in culture and builds capacity among women community leaders and influencers. The CALD presenting organisations today will talk about immigration-facilitated abuse, so I will not cover that now, although it is extensively in our submission, but I am certainly happy to jump in on it when we have further questions later. I would mainly like to highlight implementation-related issues in my opening. First up, we want to endorse our recommendation that coercive control be criminalised. However, we are concerned about the implementation and phasing in of this law. Whilst not supporting cultural relativism, especially in relationships with domestic and family violence, we must point out that some communities display behaviours that could be identified as coercive control, yet they operate within the cultural frame of relating to each other within marriage and their extended family and community. This is the case particularly so for new arrivals, but also for other strongly patriarchal communities.

We would like to see a definition of "coercive control" that is a standard of proof based on reasonableness that takes into consideration cultural influences and norms, not as an excuse but to contribute to the picture of

reasonableness. It is important that the standard of proof which includes a cultural lens is not used to dismiss coercive control. I highlight this point as we experience at times a lack of action with the excuse that it is just part of their culture. Crucial for the standard of proof, in our view, is to identify the motivation, intent and patterns of coercive control and its impact on the victim survivor. Much education is needed for communities to understand this law, should it come in. Therefore, we must—and I emphasise we must—have a long lead-in time to educate the communities on this law and we must have funding to undertake community education through community radio, language-specific newspapers, conversations with community leaders, radio plays, stories and so on.

We are also concerned about the readiness of the New South Wales police to respond to offences under such a law. Our experience is that the police rarely act on offences that do not include physical assault. On numerous occasions the police have said to our staff and victim survivors that there is nothing they can do as nothing has happened yet. To prosecute under coercive control law the police must change its focus from incident-based intervention to taking into consideration coercive patterns in the relationship. It necessitates a different onus of proof, different investigative skills and exploratory conversation techniques that reveal coercive control patterns. Therefore, considerable training and reorganising of police is required, which once again points at needing sufficient lead-in time before the law comes into being.

Lastly, let me emphasise that New South Wales desperately needs specialised multicultural services that provide holistic domestic violence and family work at all levels, education and prevention, early intervention and response to victim survivors. Presently there are few organisations that coordinate and inform responses to domestic and family violence from a cultural perspective. Thank you.

Ms RANDHAWA: Thank you for inviting us to give evidence at this committee. I would like to first acknowledge that we are on the land of the First Nations people and pay my respects to the Elders past and present. Indian (Sub-Cont) Crisis & Support Agency [ICSA]. ICSA is a grassroots organisation. We are run by volunteers. We started our work around eight years ago when we found that a lot of temporary resident migrants were falling into the gaps and not being eligible to any support around settlement here and getting here through mostly 457 visas and through partner visas and student visas. So our work started around there to try and support that cohort of people. We quickly got into the area of domestic and family violence.

This is something that has been from the grassroots. We support clients on a one-on-one basis. Some of the things that you are hearing from my colleagues are around the issues that we have been dealing with for about eight years. Finally we are talking about them, so that is really positive. But some of the things that we do identify are bespoke issues that get lost in this. The term "coercive control" for us is not only about intimate partner violence. We see it happen between brothers, we see it between parents and children, we see it with grandparents, we see it from people from overseas dealing with people here. In particular, we are seeing coercive control around financial exploitation or financial economic gain. In that regard, we have done quite a bit of work on dowry abuse in terms of identifying it and tabling it, and hopefully at some point we might see some legislation around that.

I am no legal expert, and I do not have very much experience other than as a consumer and through my clients, but what this law would mean for us and our clients would be not only in terms of some reparation where dowry abuse occurs—and we are talking of relationships that may be not even six months in—and somebody is out of pocket, from another country and with no rights, and then we send them to people like IARC to try to help them to gain their residencies. That is not the only place. We also see it in workplaces, in educational institutions, and between corporations and small businesses. So there is a whole range of areas where we see coercive control for the group of people who we represent. Sometimes it can seem quite overwhelming in terms of how we fix the system.

A law around coercive control for us would really mean that there is some access for some people to get either some sort of reparation or at least some redress. I do not think that, as some people have said before, criminalising is fundamentally going to fix everything. From our experience so far, the systemic issues—the systemic coercive control—is as bad as the person-to-person coercive control. It really is about a pattern of behaviours and the cumulative effect it has on the victim. Already we are seeing a number of people who are having long-term mental health issues around their own health and even up to suicide, where people have just had enough. We have to start with a foundation of something like legislation to then start to build a system on. I endorse what my colleagues have said and I am supportive of some legislation change.

Ms ABIGAIL BOYD: I thank all of you for your detailed submissions. I wanted to touch on the concept of cultural norms. We hear some criticisms of the idea of criminalising coercive control from people who say that what happens within a relationship and within a home is that person or that family's business and it is not for us to work out what should or should not be acceptable within a particular family or within a particular culture. I think that really comes out when you look at people from different cultural backgrounds. Ms Randhawa, in your submission you say:

- Coercive control is likely higher in CALD communities as a cultural norm.

Could you give us some more detail and examples about that, and any thoughts you might have as to how we address that issue? Is it a matter of more cultural education for police? What do you suggest as a way to try to combat that issue?

Ms RANDHAWA: In terms of cultural norms, many families in CALD communities come from an authoritarian, disciplinary kind of background. So from the moment we are born we are told what to do, what to wear, where to educate and who to marry—those sorts of things. It is almost a conditioned obligation to your own family, if you can think of it that way. That is not necessarily abusive, if everyone is in agreement and consents, but where the coercive control falls into it is when you are disadvantaged and when you are held back from what you want to do, the impact on the victim-survivor or on the children—certainly there is no cultural norm that says you should not provide money to buy groceries. So that is pretty clear-cut.

In terms of how we address this, it is a bit like—we do recognition of dowry abuse by firstly following the money but you do an analysis of the events that have happened over a period of time. I realise that from a police perspective, this is almost like, "We do not have the time to do that sort of thing." That is the response we get, and understandably so, but that is really how you find out whether that coercive control is part of the cultural norm or whether it has become something that is a bit more pernicious and it is impacting the children, the family or even the wider family and community in terms of what can happen. That sort of control then goes to other levels such as what your community expects from you, what your priest or your faith expects from you, and how much pressure that has as well on that.

For some of our clients, where they are saying, "Well, I would like to get out of this but I cannot because the priest is not going to let me engage in certain activities at the temple," or those sorts of things, that is another level of control that is put on top of the coercive control that you get within the partner relationship. But cultural norms are not—I have women clients who just say, "But I want my husband to look after the finances. I do not want to pay the bills. I do not want to take the kids to school. I am happy for him to do that. I do not really want to do any of that," but he cannot decide what gets cooked for dinner. That for them in that family is normal and it is not abusive. It is an agreed thing. It is a mutually beneficial way of living. If, however, it is an imposed situation and these are the only things that you can do, then that becomes coercive control. Does that make it clearer?

Ms ABIGAIL BOYD: Yes, that was really good. Dr Perry, did you also want to contribute?

Dr PERRY: Yes, I am happy to. First of all, the norms are not static. Everybody is on a continuum around how far they adopt their cultures and stay within their culture in this country or even before when they arrive. I think for us the key thing is around the impact on the victim-survivor. So she, or sometimes a he, does decide what is too much. The scenario that you are talking about is very much a scenario of the losing party who feels that "you are interfering in my life", but if the woman—the victim-survivor—is saying, "I do not want to live like this anymore," and if we can look at the intent of the perpetrator of the controlling behaviour, then there is a measure where it is too much. I do not think you can have control in completely descriptive categories but rather it is that combination of pattern and the impact that pattern has on the victim-survivor.

Ms TRISH DOYLE: I thank the three of you and your organisations for the fantastic work that you do. I want to put that on the record again. You have all hinted at this, but do you think criminalising coercive control as a course of conduct offence alongside training for police and community education may reduce the number of women from culturally and linguistically diverse backgrounds being misidentified by the system from single incidents?

Dr PERRY: Absolutely—that would be my short answer.

Ms TRISH DOYLE: In one word, you do?

Ms RANDHAWA: Yes, I think it does. For a lot of CALD communities, that fear of breaking the law is still there. It is probably more pertinent because in the countries that people come from, if you break the law then the punishments are much harsher. There are a lot of civil and administrative punishments there, which people do not take much regard of. Criminalising is important because it gives some sort of hope to women, so it would definitely make a difference in my view.

Dr PERRY: I meant to say that we do see women who come forward and we do support them to go to the police and all that, but if there has not been a physical assault then we get rejected, basically. We also suspect that, having gone to the police with people from diverse backgrounds but also with people from an Australian background, AVOs also seem to be less severe. We would love to see some research on that, but that is just our own anecdotal inference because there is that idea of "well, it is part of their culture, isn't it? You cannot punish them for that" and all that. There are those sorts of shades of grey, if you like, that make it quite hard.

Ms TRISH DOYLE: Absolutely. Dr Perry, just further to that, there are problems and shades of grey in a whole array of different areas here. When perpetrators can claim that the victim is consenting, in terms of a range of behaviours, you have suggested that the likely impact on the victim should be focused on. We have heard from a number of other DV organisations and those who work at the coalface, so to speak, where women will say they are consenting to the behaviour but the harm is actually really clear to services like yours. What do you suggest in those circumstances?

Dr PERRY: Usually what we do is have a risk assessment, which is neutral. It has a whole three or four pages of questions and it then has a numbering system around risk measures. Quite often through that process the danger is revealed to the woman. While initially she goes, "Yeah, look, that's not so bad. I can cope with this and that, but I am hurting", how much they are hurting and whether they are going to do something about it often comes out of the risk assessment. Obviously, if we had a coercive control law there might be other questions in there. A lot are already there, but the deterrent is not necessarily there. It is not there for the police to go that step further and it is not there for the perpetrators to go, "A-ha, I am not hitting her but it is still wrong." In some ways this is about messaging for us because we do orientation when they arrive. By the time I meet someone—maybe further down the track because I do not do orientation—they say, "Oh yeah, you don't need to tell me: I know I can't hit her." But it is all these other things, isn't it, which are much more complicated.

Ms TRISH DOYLE: Ms Randhawa, you were also speaking to that, about the deterrent that is a criminal offence.

Ms RANDHAWA: It is. But I would say that this idea that victims can identify for themselves or assess that they are undergoing an abusive situation is sometimes misleading because, by its very nature, the abuse comes to a point where their own coping mechanisms kick in. Often they can come across as quite blasé, as if they do not care and it is all good—"I don't really matter. As long as I get \$20 next week to do something, I do not really care about everything." It does take that third-party assessment to look at what is actually going on and to recognise it is abuse, but also then to help that person to start understanding what is going on in themselves. They have built themselves into a cocoon so they cannot be hurt anymore.

A lot of times the police in responding do not pick up on that and they just go, "Well, she's alright. She's saying that everything's fine" or "He's saying everything's fine" and it does not matter. But that is where the looking at the cumulative behaviour and doing a bit of digging into the background as to how long things have been going on and how things are holistically, not just in terms of the physical violence—because our system is very much geared towards that pointy end of physical, extreme violence, when I would say about 80 per cent of it is in the coercive control and nonviolent types of abuse. That is why we miss it so many times and services like ours get frustrated by the police—they do not do anything. But I do understand that their hands are often tied. If somebody presents and seems to go, "You know, everything's okay, but just that one little thing: Can you stop that happening?"—and they cannot. This is where laws like this—but it has to come with other services that can support women and support victims to actually get through that process of understanding what they are going through.

Ms TRISH DOYLE: Ms Randhawa, are you suggesting, then, that the significant harm threshold here would be safer than a consent threshold?

Ms RANDHAWA: Yes.

Ms TRISH DOYLE: Yes. Thank you.

The CHAIR: Can I just pick up on that point about equipping police and how we work together? We have heard from other witnesses about how we could better partner with police to assist. Can you elaborate on that and what you think that might look like? Say, looking into a crystal ball, this is implemented in some form; we have a long lead time; there is education and, in a perfect world, there are resources. What does it look like, then, partnering with you and police and frontline services, to better equip them to take that information and to recognise it? You referred to a sort of checklist. How do you think that could be implemented?

Ms RANDHAWA: There are two ways that I believe it can be one. One is the early intervention. Often when police are called, nothing happens. That is the time to refer people on to a service like ours or another provider, so that people can start talking in that relationship to, firstly, advise that there are services available and, secondly, maybe it is a check to say, "What is going on in your family?" The other thing is that the training that police get is often at a high strategic level. There needs to be more workshops of actual cases and unpacking them so that they really start to understand the signs of what they are looking at—things like that a victim who presents as being very capable and confident may be just hiding it, and what sort of questions that they can ask. We do that and other services do that. We just sort of unpack it and unpack it and go, "There's something that is not coming

out here." I understand that they have less time, but I think that training, in a co-designed fashion, could be really useful to police and also for people.

Dr PERRY: I think that the partnership could be around those cultural norms questions we just had, like revealing whether that is an extreme case or whether that might be the case in that culture, and how we can work out on some understanding, and what sort of frame we can use to explain to him that it is wrong—and why it is wrong. We also have to work with that sort of context. Certainly we can give cultural information, but some of it is simply structural change so that they talk to the victim and the perpetrator in a situation separately—even as simple as that—and actually call the interpreter and use the interpreter. There are a whole lot of other things, but I think the co-design is certainly a good idea. Yes, the training of police sometimes with actual case studies would also improve it. We would certainly be happy to partner in some of that.

The CHAIR: Ms Schulman, is there a way that you think that could be structured in your work?

Ms SCHULMAN: I am not sure. We really do not work very closely with the police, but what we do hear about is the complex relationship between police and our clients. Often there is a lot of miscommunication and misunderstandings and, ultimately, in some circumstances, our clients who are the victim-survivors being mistaken for the perpetrator. In a lot of cases the charges are dismissed or the AVO is dismissed but it really prevents our clients from wanting to engage with the police ever again in those circumstances. An example we see probably quite regularly is the police failing to engage professional gender-sensitive and non-familiar interpretive services.

Many of our clients require the use of an interpreter to communicate. Our clients have said that they were pressured not to engage with an interpreter service or had to wait an extensively long time because they did not want to use a familiar interpreter—so perhaps someone from the household. The police may try to use an interpreter familiar to the victim. That definitely presents its own problems. I think this is a really cornerstone issue because it does set the tone for an entire investigation if a victim cannot communicate freely and safely about the abuse that she has experienced. Her report may not be effective, there may be confidentiality or privacy issues and she may not want to engage with the police again. I think engaging professional gender-sensitive and non-familiar interpreters is one of the keys to a strong relationship between police and people reporting domestic violence.

The CHAIR: I am taking up all the time, with the indulgence of my colleagues. I see one of the challenges as being evidence gathering. Do you see a role for your organisations in evidence gathering? We have heard from family lawyers that they could assist in that role. I just see that it is not just the role of police or just the role of the courts. Is there a role that you could see that you could assist with that evidence gathering, given that it is so nuanced and it is often something that is a very subtle thing to unpack and does take time. Could you comment on how we could look at options for bringing in other avenues to gather evidence on coercive control, if that were to be part of the package?

Ms RANDHAWA: We already do a similar service to this for immigration. For some of our clients that are on the temporary visas for DV purposes, we do cultural contextual reports, particularly around if there is dowry abuse or how the arranged marriage took place if it is not being considered genuine and that is considered a piece of evidence. Certainly things like that can be expanded I think in the norm because of the case notes that we take, the stories that we hear, the documents that they give us and we have a whole myriad of ways that people give us things like Messenger messages, WhatsApps and what have you. But when you start putting them together a client always finds it difficult to write a statement.

To help them to write a concise statement is much better than going to the police and spending five hours and the questions coming over and over. I think there is a real role and an opportunity to really streamline the process but also to make it easier on the victim because they are constantly repeating what they are having to say and also it is not in context so they are saying it in different ways. It can look like they are misleading rather than just trying to explain what is happening. I really agree with Ms Schulman on the interpreting side of things because there is a lot of information and evidence lost through interpreting. I am an accredited interpreter; I have seen it happen.

Dr PERRY: We certainly think we could be part of that evidence as interpretive evidence I guess. I do not know necessarily the strengths of evidence that is needed by the law. We certainly could support police with the gathering of evidence and interpreting some of the evidence. However, it also means that we have to be respected and our case managers have to be respected of what they see. We have had situations—it is in our submission—where the police said, "I do not want you to interpret because you might put things in her mouth," and those sort of things. You would have to have that formal respect also that you are being heard.

The CHAIR: So more of a partnership that we are on the same team here.

Dr PERRY: Yes, exactly.

The CHAIR: Police are under pressure also and they have to have limitations of course.

Dr PERRY: Yes, that is right. We understand that pressure.

The CHAIR: But being on the same team as a partnership in bringing that to fruition. Ms Schulman, did you want to add to that?

Ms SCHULMAN: We work under Commonwealth legislation. We do collect evidence prescribed under the migration regulations when making a claim of family violence under the family violence provisions for people on a partner visa pathway. But the evidence collected for that particular matter may not meet the threshold for a criminal matter, so I really could not speak to that. I would add that if specialised DV services are going to be asked to assist in collecting information and evidence and so on, I think something that would need to be looked at is long-term sustainable funding for these services because that would be an additional service that would need to be provided.

Dr PERRY: Yes, that is right, and it also needs some risk management—

Ms SCHULMAN: Absolutely.

Dr PERRY: —because you have to make sure that that is not affecting your whole operations and that you are being seen as part of the police force sort of establishment, which would really inhibit some of your other work that you are doing that is very supportive.

Ms RANDHAWA: It would also require some training of the case managers in terms of what to collect and how to record.

Dr PERRY: Absolutely.

The CHAIR: There being no further questions from members, I thank you for your assistance to the Committee. We may have further questions that we would like to put to you in writing. Would you be happy to take those from us?

Dr PERRY: Sure.

Ms SCHULMAN: Yes, absolutely.

The CHAIR: Any answers that you provide in writing will form part of your evidence and will be made public. You are all nodding and indicating that you are happy to receive those.

Dr PERRY: Yes, happy to do so.

Ms RANDHAWA: Yes.

The CHAIR: On behalf of the Committee, thank you very much for your assistance today.

Ms SCHULMAN: Thank you very much.

Ms RANDHAWA: Thank you very much.

Dr PERRY: Thank you for hearing us.

(The witnesses withdrew.)

GREG ANDRESEN, Senior Researcher, One in Three Campaign, before the Committee via teleconference, affirmed and examined

CRAIG BENNETT, private citizen, before the Committee via teleconference, affirmed and examined

The CHAIR: Mr Andresen, thank you for your written submission. Committee members have it before them and we have had the opportunity to read it. We thank you for providing that to the Committee and for considering our terms of reference. Before I start, if any of the evidence today raises issues with anyone, they can contact 1800RESPECT on 1800 737 732. For confidential advice, support and referrals related to domestic and family violence, the NSW Domestic Violence Line can be contacted on 1800 656 463 or the Men's Referral Service can be contacted on 1300 766 491. Mr Andresen and Mr Bennett, would either of you like to make a short opening statement before you take questions from Committee members?

Mr ANDRESEN: I will go first and then I believe Mr Bennett also has something to say. Thank you very much for the opportunity to assist the inquiry today on behalf of the One in Three Campaign. As the senior researcher with One in Three and the author of our submission, I am familiar with the body of research about male victims of family violence. Mr Bennett is a male victim-survivor who is available to provide you with a personal perspective of some of the issues you are -wrestling with in this inquiry. We are both volunteers and we are not legal practitioners so we do not possess – an in-depth knowledge of the law. We do not take a position on whether coercive control should be criminalised. The arguments for and against such a proposal are equally compelling and we do not envy the difficult task you have ahead of you. However, whatever recommendations the Committee ends up making, we would urge that any new - protections be applied equally to all victims of domestic and family violence, whatever their gender or other demographic particulars.

Many male victims already lack the range of support services that are available to other victims and already face extra barriers to accessing support, as we have detailed in our submission. They frequently report being misidentified by police as the primary perpetrator because of their gender. As such, we are concerned at proposals such as 6.18 and 9.10 in the discussion paper that suggest training of police and other frontline services should recognise the gendered nature of coercive control. We agree that statistically women are more likely to be affected than men. However, enough men are affected that police and other services should always make decisions on the basis of the evidence before them and not on the basis of gender. To do so would only serve to marginalise male victims further. Thank you and I look forward to your questions.

The CHAIR: Thank you. Mr Bennet, did you want to make an opening statement to the Committee?

Mr BENNETT: I, Craig Bennett, was married at the age of 30 to a single mum of three boys. She was of Italian descent, though born in Australia. Her mother disapproved of her marrying a "skippy". They were her words. We went on to have two sons between us. She was very hot-headed and I was constantly on tenterhooks. We went to pre-marriage counselling. On the way home from our honeymoon she told me it was time for me to change and she was going to change me. Nothing was ever good enough in our marriage. In October 2007, I collapsed at work with viral encephalitis. I was hospitalised for two months. I had to relearn to walk , talk, eat and perform basic tasks such as using a knife and showering. I was released from hospital just before Christmas and we went shopping with me in a wheelchair. I asked if I could have some money to get the kids some presents. Her reply was, "A real man wouldn't be begging his wife for money but would be out working instead of being a lazy", x-y-z, "laying flat on your back for two months doing nothing".

This was to be the beginning of a journey of physical, verbal, spiritual, financial and emotional abuse. I was denied a shower chair because "real men do not sit in the shower". I would have to sit on the shower floor and crawl out and hoist myself up on the toilet to stand up. The number of times she would verbally mock me for not being a "real man" as I was sitting there and say "Why don't you do everyone a favour and kill yourself". She would refer to me as "big bad daddy" to the kids because I was "too lazy to work". She would sharpen knives in the kitchen saying one day she would stab me if I did not go back to work. I had started a commercial cleaning business and worked a second job on a dairy farm.

I have always been interested in writing and I won a competition to write a chapter for a book. The main author would write the intro and concluding chapter. On the Saturday morning I was due to sit and write the chapter she came into the study gloating and said she had cancelled the internet because who did I think I was to win a competition and be published in a book. I lost all my emails and online contacts that morning. I was slapped and punched, spat on and told that even my family wanted nothing to do with me. Can you imagine my horror when I rang New South Wales DOCS domestic abuse hotline and was told by the lady there, I was not really being abused as only men abuse women. Fourteen months later I was to become homeless and living in my Kia Pregio van. The only services offered me was an anger management course. I tried to maintain regular contact with my sons. A number of times I would go to the school to pick them up and find a friend's mother was picking them up to go to their place for weekend.

I have since remarried to a very kind and generous lady. Thirteen years later I am still on a disability pension although I am much more mobile and active. My ex-wife's abuse continues. Such as last year she kicked our 17-year-old son out telling him to move in with us. So he did. She then proceeded to phone him every 40 minutes and tell him what he was missing out on. Eventually he decided to go back home. His older step brother was having a birthday party at an all-you-can-eat restaurant. She had convinced him he should be there for his family and he should not miss out—she was going to pay. Upon arriving home she said to him, "Have you got the money for the restaurant. If you don't, you are not going, because I'm not paying for you." This is some of my story. Thank you for giving me the opportunity to share.

The CHAIR: Thank you very much, Mr Bennett. We appreciate your taking the time to share your experience with us today.

Ms ABIGAIL BOYD: Thank you for your submission. I have a couple of questions. The first is, I see the statistics you have put in your submission and I have gone and looked at the core of that. I could spend some time going through each of the statistics but I do not think that would be helpful for any of us. I will put this question to you. Why do you think it is that your statistics that you have provided in relation to the number of men and women experiencing domestic violence are so different to what is commonly accepted and what we have had submitted to us from experts and academics in this area?

Mr ANDRESEN: I will answer that question. There is a lot of noise on the line. We are citing statistics from reputable sources as our colleagues across the sector such as the Australian Bureau of Statistics [ABS] Personal Safety survey and the AIC National Homicide Monitoring Program database. And really great studies by organisations like the Australian Institute of Family Studies and you're welcome to check those statistics. I suspect that the reason that our statistics differ from most of our colleagues in the sector are that most of them are coming from a perspective of supporting women and children as the victims. They are women's support services and women's legal services or the national plan to prevent violence against women and their children. That is fantastic and we support all of those efforts. Because their concern is primarily with females as the victims the statistics that they put forward emphasise females as victims. Naturally our main concern is with male victims whether they are gay or straight, whether they are in an intimate relationship or the broader family network, so the statistics that we emphasise are the ones that demonstrate that men may make up a substantial proportion of victims. I am not sure if that answers your question.

Ms ABIGAIL BOYD: It does help. I will take you to one example. At the top of page five you say, "The following data is taken from the most recent ABS Personal Safety survey", which was in 2016. Then you go on to say it provides an overview of the experience of violence by males and females over the past 12 months. I do not see how you could get data from 2020 from a 2016 study. If you could take on notice and show us how you got that data. Did you extrapolate it in some way? That would be useful because looking at that 2016 survey they are not the same numbers. That would be useful.

Mr ANDRESEN: Thank you for the question. I am more than happy to take screenshots of the data and highlight the figures if that would help. Certainly the calculations in that table in terms of percentages. For example, the first line which shows violence by an intimate partner and we put in 35 per cent experienced by males and 65 per cent by females. Those are our own calculations. The raw numbers of 113,900 males affected in the last 12 months and 211,700 females affected in the last 12 months they're easily found in the excel spreadsheets that make up the Personal Safety survey. I am more than happy to provide all of those documents on notice. For all of the stats in our submission.

Ms ABIGAIL BOYD: You are saying that "over the last 12 months" is actually the last 12 months of that 2016 survey?

Mr ANDRESEN: Correct. That survey is a very large extensive survey that takes many, many years to both prepare and carry out. So, they cannot be exact figures but the survey was published in 2016 and the survey was probably undertaken in 2015-2016. When people were asked that question it was the previous 12 months prior to taking the survey so it was probably 2014-2015. They are the most recent figures. Unfortunately, with the COVID pandemic the ABS has had to postpone the planned 2020 Personal Safety survey. It is still on the cards I believe but it may not be out until this year or maybe even next year.

Ms ABIGAIL BOYD: In the interests of time I will move on, but if there are any opportunities for you to give us, on notice, a bit more detail about how the numbers were extracted that would be very useful. Just the second thing, you talk about this study from the UK researchers Powney and Graham-Kevan from the University of Central Lancashire. Do you have the initial data available to provide to the Committee for that study? You have listed it there, but where is your source document for that?

Mr ANDRESEN: The study is literally brand new. The 2,000 or so participants were surveyed sometime in the last two or three months, so those two researchers are still processing that considerable amount of data, they were overwhelmed by the number of people that responded. The statistics that I have provided in our submission are really the first level of brief analysis that they would have published. Not only do they have to undertake a lot more analysis to really get that data in a format to be published, but they will then go through the usual peer review process and that would be published in a journal down the track. So that would be later this year or possibly even next year. But I am in touch with those researchers and would be more than happy to connect the Committee directly with them if you would like to follow up on any of that data directly.

Ms ABIGAIL BOYD: My final question is just on that. It talks about male victims of coercive control and it says that findings from the Australian participants include the following results. Then the last bullet point says that 60 per cent had sex withheld as punishment. Can you explain to us how having sex withheld is a form of coercive control in your view?

Mr ANDRESEN: I am not the author of the survey, so I am making assumptions as you would be. All I have is the same information they provided. I can imagine that the situation may be something like that the female perpetrator would threaten the male to undertake behaviour that they wanted them to do and that the threat would be, "If you don't undertake that behaviour, you're not getting any sex. I'm not going to sleep with you." That is my imagining of the context of this threat that not sleeping with their partner would be used as control in that sort of way.

Ms ABIGAIL BOYD: Would you view that as coercive control? Is that something that instils fear in a person in a way that would result in them having no choice but to do something? Does it take away their liberty and autonomy?

Mr ANDRESEN: I am sorry. The line is extremely noisy. Would you mind repeating that question?

Ms ABIGAIL BOYD: My question was whether you personally would view that as a form of coercive control, if somebody chose not to have sex with somebody that that could instil fear or intimidation and lead a person to lose their autonomy and liberty?

Mr ANDRESEN: Not on its own but, as I am sure you are quite aware, the patterns of coercive control involve a number of abusive and controlling behaviours over an extended period of time and so it is probably the case that that man is being abused in a multiple number of other ways—physical abuse, financial abuse, psychological abuse, threats, intimidation—and that kind of threat about withholding sex would just add to that feeling of that man having no power or no say and being utterly controlled all aspects of his life.

Ms ABIGAIL BOYD: Are you saying a man should have control over whether or not his partner gives him sex? Is that what you are saying?

Mr ANDRESEN: No, I am suggesting that both partners should have control over that and both partners should be able to say yes or no as to whether they want to have sex. Either party should be free to initiate sex and either party should be free to say no to sex. That is the kind of control that I mean. It is not that either should have control over the other person but that both should have personal control and agency in negotiating sex with their partner on an equal basis.

Ms TRISH DOYLE: I want to firstly thank Mr Craig Bennett for telling his personal story. It is always a tough thing to do so thank you, Craig.

Mr BENNETT: Thank you, yes.

Ms TRISH DOYLE: To Mr Andresen, I just want to put something to you and then ask a question. Dr Flood has said that the One in Three claim could be described more accurately as a campaign against efforts to address men's violence against women. In light of what you have just outlined, do you think that all victims, including the minority of male victims, should have access to laws for their protection?

Mr ANDRESEN: Absolutely. We have always been supportive of all efforts to reduce family violence in the community and that includes of course the majority of cases which involve male perpetrators and female victims. We believe wholeheartedly that all Australians, no matter their gender, no matter their race, no matter their cultural background, their age, their ethnicity or their level of ability or disability, should have access to laws that protect them domestic and family violence.

The Hon. ROD ROBERTS: I too, Mr Bennett, would like to thank you for your fortitude in coming forward today and giving your story. I appreciate it would be hard to do, so we thank you for that. Mr Andresen, I would like to thank you for your fair and open representation of coercive control and domestic violence as it is. In particular, the chart that you were quizzed over indicates—and you said it in your own verbal evidence earlier—that statistically more women than men are victims, and you have not resiled from that fact in the evidence you have presented. I thank you for your openness and your transparency and in particular for bringing to the Committee's attention that there are male victims of domestic violence and coercive control as well. It is not a completely gendered offence or situation. In particular your recommendation reads:

We urge the Joint Select Committee on Coercive Control to consider the needs of ALL victims of family violence and abuse equally, no matter their gender, geography, socio-economic status, age, ability, sexual preference, culture, race or religion, when undertaking this important inquiry.

Any recommendations made by the inquiry must be applicable equally to victims and perpetrators of all genders, and not be affected by gender bias in any respect.

One could not ask for a more fair and open submission and statement than that, so I thank you for presenting this to us.

Mr ANDRESEN: Thank you, Mr Roberts. I appreciate that. I would just like to add one more thing, which is that I have been listening to the webcast of today's hearing and I just wanted to expand on some of the statistics that some of the other people gave evidence on during today's hearing. The Relationships Australia representative quoted a statistic that the Safer Pathways program received 23,000 referrals per year from male victims. I would like to just expand on that. I am not sure if the Committee is aware, but Relationships Australia is just one of a number of providers across the State. Since January 2018 five local support services have been contracted to provide services to male victims of domestic and family violence in New South Wales. The main two providers are Relationships Australia NSW and Relationships Australia Canberra. That would make up the 23,000 referrals as quoted. However, the three other providers are The Family Centre, Interrelate and CatholicCare Sydney.

So the 23,000 referrals is only a proportion of all the referrals that are made each year across New South Wales. We do not have current figures for the total number, but the previous lead agency which used to manage these referrals, which is No to Violence, which you heard from today, received 25,351 referrals from male victims of domestic violence between 1 November 2016 and 30 June 2017. That is an average of 38,000 referrals per year, of which 4,089 were referred to a local support service for case management. That is an average of 6,100 referrals that make it to case management in a year. One other statistical point that, I do not believe, has been brought up just yet—

The CHAIR: Sorry, Mr Andresen. I might ask if you could kindly provide that to the Committee perhaps in writing.

Mr ANDRESEN: Of course.

The CHAIR: We are just getting a little tight for time. I have got one more question from a member, so I might go to that. But we are happy to receive that information from you in further writing through the Committee staff. We have Steph Cooke on Webex. Steph, you had a question.

Ms STEPH COOKE: Yes. Thank you very much, Chair. Thank you for appearing today and for your submission. In relation to men not seeking advice or support when they are experiencing domestic violence, from a rural perspective, what services are available to men in rural and regional New South Wales for them to turn to?

Mr ANDRESEN: Look, there is very little support, unfortunately. Of course, the generic frontline services such as police, GPs, hospitals et cetera are available. In terms of specialised family violence services, the only service that we are aware of is the 1800RESPECT national telephone counselling service and the MensLine Australia national telephone counselling service. There are no telephone counselling services provided by the State to meet that need. Also, the referral pathway for the service which I was just talking about, the Safer Pathway program, is only through the police. So people have to report to the police before they can be referred to that program, which would then give them support by Relationships Australia or one of the other providers. So there is very little in terms of support for these men, except for those two national phone lines.

Those two national phone lines are set up as generic support services for all victims of relationship violence and are not specialised—sorry, the 1800RESPECT phone line is set up for everyone, so they do not necessarily specialise in male victims' support, only in all victims' support, so it is not necessarily going to be a problem. It would be great to have a line that specialises just in the issues that males may face. MensLine Australia is a generic line for all of men's relationship issues, of which family violence may be one such issue. So once again a particular counsellor may or may not have the expertise in dealing with the specific issues that the male is presenting with. Both of those phone lines are set up so that—I believe the model is that a victim would call them and then those support lines would then refer that victim to services on the ground, and those services on the ground for men in New South Wales, including rural men, are almost non-existent, unless that man is prepared to go to the police and then be referred on to the Safer Pathway program.

Ms STEPH COOKE: Thank you for elaborating. Thank you, Chair.

The CHAIR: Thank you. I appreciate your further information. That will conclude this session. If members have further questions, we may send those to you in writing. Would you be happy to receive those and provide written responses to those? If you are, they will form part of your evidence and will be made public also. Could you just indicate whether you would be happy to receive those, Mr Andresen and Mr Bennett?

Mr ANDRESEN: Of course.

The CHAIR: Thank you very much. That concludes this session and concludes the public hearing for today. I thank members and all witnesses who have attended and assisted the Committee today. We do appreciate your submissions and your time. Again, if anything raises issues for you, you can contact 1800RESPECT, 1800 737 732, or the New South Wales Domestic Violence Line, 1800 656 463, or of course the Men's Referral

Service, 1300 766 491. We have completed our hearing of evidence today. I would like to thank all of the Committee members for their attendance and assistance and in particular our long-suffering Hansard staff—I am sure there will be many written submissions provided to you; it is always a challenge with Webex and telephone hearings, but we are very grateful for the great work you do—and of course our wonderful Committee staff for their excellent assistance. I will not name them all just yet. Thank you very much everybody for joining us. We will be resuming tomorrow at 9 o'clock for the fifth day of hearing. Thank you.

(The witnesses withdrew.)

The Committee adjourned at 15:15.