LEGAL AFFAIRS AND SAFETY COMMITTEE

Members present:
Mr PS Russo MP—Chair
Mrs LJ Gerber MP
Ms SL Bolton MP
Ms JM Bush MP
Mr JE Hunt MP
Mr JM Krause MP

Staff present:
Mrs K O'Sullivan—Committee Secretary
Ms K Longworth—Assistant Committee Secretary
Ms M Telford—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE DOMESTIC AND FAMILY VIOLENCE PROTECTION (COMBATING COERCIVE CONTROL) AND OTHER LEGISLATION AMENDMENT BILL 2022

TRANSCRIPT OF PROCEEDINGS

MONDAY, 7 NOVEMBER 2022

Brisbane

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The committee met at 9.30 am.

CHAIR: I declare open this public hearing for the committee's inquiry into the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill. My name is Peter Russo, member for Toohey and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all share. With me here today are Laura Gerber MP, member for Currumbin and deputy chair; Sandy Bolton MP, member for Noosa; Jonty Bush MP, member for Cooper; Jason Hunt MP, member for Caloundra; and Jon Krause MP, member for Scenic Rim. This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. We ask people to turn their mobile phones off or to silent mode.

TWYFORD, Mr Luke, Principal Commissioner, Queensland Family and Child Commission; and Chair, Child Death Review Board

CHAIR: Welcome. Good morning and thank you for being here. I invite you to make an opening statement of up to five minutes after which committee members will have some questions for you.

Mr Twyford: I too would like to start by acknowledging the traditional custodians of the land on which we meet today and pay my respects to their elders past, present and emerging. The Queensland Family and Child Commission seeks to influence change that improves the safety and wellbeing of Queensland's children and their families. My co-commissioner, Commissioner Natalie Lewis, is not able to be here today. However, she did approve our submission and I extend her apologies. The Queensland Family and Child Commission supports this bill. The amendments make meaningful change to the legislation regarding domestic and family violence. This includes new definitions and terminology to better address violence, stalking and sexual assault. This bill recognises that domestic and family violence may not include physical contact and that a pattern of behaviour over time can be as harmful and wrong as a single incident. Coercive control creates an environment of fear, isolation, intimidation and humiliation. It forces women and children to live in households dominated by tension and it has no place in our society.

Today, I seek to highlight the need to view children as victims in their own right, including in environments of coercive control where the violence is not directly directed at them. Whether by witnessing violence between others, experiencing it directly or being used as a weapon of control by a perpetrator, children are significantly affected by domestic and family violence and the impacts are extensive. What children experience, see and feel at times of violence and in the weeks, months and years both before and after matters and so too it must matter to us and to the systems involved in preventing and responding to violence.

The impacts on children who have witnessed or lived in violent homes include diminished educational attainment, reduced social participation in early adulthood, physical and psychological disorders, suicidal ideation, behaviour difficulties, homelessness and future victimisation and violent offending. We know there is a correlation between a child's experience of these impacts and the likelihood of them entering the child safety and youth justice systems. Fifty per cent of investigations conducted by the department of child safety in Queensland have a recorded correlation to domestic and family violence. Fifty-one per cent of the young people surveyed in our youth justice census were from families with a history of domestic and family violence. The impact of trauma caused by domestic and family violence on the developing brain is immense. Domestic and family violence has been linked

to thoughts of suicide and self-harming behaviour in children. As many as one in five women and one in 10 men who have taken their own lives as an adult are recorded as having experienced domestic and family violence as a child. Studies have indicated that children from violent homes may be likely to exhibit attitudes and behaviours that reflect their childhood experiences. For example, that children's exposure to domestic violence may result in attitudes that justify their own use of violence and that boys who witness domestic violence are more likely to approve of violence. It is estimated that the intergenerational transmission of violence was evident in nine out of 10 young people using violence in the home. It is our responsibility to disrupt this trajectory for all children, our community and future families.

Coercive control is as serious and as harmful to children as all other forms of violence and it should be treated equally in service responses. Specifically, the consequences of coercive control can be and are too often fatal. This year the QFCC published a review of the information it had collected since the commencement of the Child Death Register in 2004. The review identified that over a 16-year period more than 80 per cent of child deaths from fatal assault and neglect were caused by a family member. We identified 109 children who had died by filicide in Queensland and the majority occurred in the context of domestic homicide and fatal child abuse. Too many of these events were motivated by anger from one partner towards another and their actions were designed to hurt their partner by extension by hurting their child.

There are many voices with lived experience who do speak about the devastation of domestic and family violence and these are the voices that we need to listen to and that need to lead these discussions. These voices spoke loudly through the Women's Safety and Justice Taskforce and actioning the recommendations from that task force is critical. It is clear from these voices that an effective response with meaningful and lasting impacts needs to come from relationship-based services delivered by domestic and family violence specialists and these responses need to be supported with dedicated and accessible services that are tailored towards children.

This bill provides for an improved legislative basis to keep women and children safe, but that alone is not enough. We need communities, organisations, families and social groups to take action. In addition to making laws, the role of government is to raise awareness, in this case, of what domestic violence is, what it looks like and how and when we can step in. A concerted effort from every corner of the community is then needed to prevent coercive control to protect our women and our children. This legislation will improve the foundations from which this change can occur. Thank you. I am happy to take questions.

Mrs GERBER: Thank you for both your written submission and your oral submission. It was very passionate and very meaningful. I appreciate it. My question is around the terminology that is proposed by the bill. I am interested in the commission's view on the changes to terminology that are proposed and whether you have a view around that or any other recommendation.

Mr Twyford: Modernising our language, particularly around the fact that they are not sexual relationships that occur with children, that they are controlling, the taking away of power and, indeed, non-consensual rape, is very important. We are quite pleased to see the language. We have had discussions with our youth advisory council members around these matters. A group of them did appear before the Women's Safety and Justice Taskforce and were very strong around the need to modernise our legislation, in particular the language, because it does matter. It flows through to normal conversations, to media coverage. Getting social attitudes right in this context improves how we deal with survivors of abuse.

Ms BOLTON: In your submission on page 3 you raise concerns about misidentification of victims and the detrimental impact this has. Can you expand on that?

Mr Twyford: We do know from both historical and current reviews—not primarily in the Queensland Family and Child Commission but within police, coronial and other settings—that there can be the misrecording of the primary perpetrator, particularly in court cases, when domestic violence occurs. That is often anecdotally around when police arrive at a scene observing who is in the most heightened state and recording that or having a situation where at court both members of the family unit, both the adults, are recording each other as the primary perpetrator. The impact of that is lasting and I am very glad to see that this bill steps back from that and enables the court and decision-makers to have a broader look at the history of that family circumstance and all the touch points with the justice system. It is particularly true that people recorded as the primary perpetrator go on to have other impacts on their lives. In particular for Aboriginal and Torres Strait Islander communities there are issues of blue card approvals and the ability to be kinship carers for extended family members can be devastating. Being very clear in our corporate legal records of who is the cause and the victim of abuse is very important.

Ms BUSH: Picking up on the question from the member for Noosa, I might have misunderstood, but it sounded like the concern can be in Aboriginal communities that sometimes the woman is seen as the primary aggressor when they ought not to be. Is that your statement as well and your concern that we need to be putting education into QPS to understand that dynamic?

Mr Twyford: Certainly that is the concern and I am aware of other public submissions that the committee has received that raise that quite strongly from the Aboriginal and Torres Strait Islander experience and perspective. I am aware of it as an issue in child protection proceedings, as well as in blue card matters, where there is great effort then required to go back over old records to reassert what the truth may have been. It does come down to legislation changes, but also, more importantly, as I hinted at the end of my submission, around practice change. We need to be aware of unintended consequences in passing laws but also recognising that many of them may be dealt with through practice and training as well as oversight of the decision-makers.

Ms BUSH: About the proposed changes to the YJ Act, at least one of the submitters has raised issues about the proposed clause 96 amendments to the sentencing principles which would have conditions attached to the mitigating factors. They thought that could be problematic and that sometimes magistrates without appropriate guidance might not be clear about that. I do not know if you have any views on that.

Mr Twyford: Certainly, and I think the end of your question provides my answer. It is about appropriate training, awareness and practice of the decision-makers in any case. It is certainly true that children who have experienced domestic and family violence and come from violent homes are overrepresented in our youth justice system. Taking into account a child's life experiences, their developmental stages and the root cause issues of their offending is, I think, the role of the judiciary. Being explicit that their experience of violence in a family home can now be taken into account I think is just one of the many life circumstances that the judiciary should be required to take into account in making their decision.

Ms BUSH: I am curious as to what you see in terms of the charging practices of police in residential care or foster care where there might be something playing out at home for a foster child and, as opposed to a home like mine where I would sort that out in the home, is it likely that children in care are being charged with assault or DV? I am curious about the charging practices.

Mr Twyford: I do not have specific cases to answer that question so I would probably defer to the department or the police.

Mr KRAUSE: Going back to the point about misidentification of the person most in need of protection, QFCC does a lot of work in a lot of areas. Has there been any research undertaken or data collected in your organisation about the prevalence of that as an issue, either in particular communities or in general?

Mr Twyford: The former review of the blue card scheme is now a number of years old, and I am aware that the parliament is considering a bill around blue cards. I do not have more contemporary evidence around the prevalence of that other than what would be in that former blue card review and what arises from our other work around reviewing domestic violence in the context of child deaths in particular that I specified. What I would say is domestic violence in our statutory recording systems is underreported. Whatever the prevalence number might be scientifically, I am very confident that in truth it would be higher than what is recorded. Where we go to the misidentification of primary perpetrators, I do not think I have a scientific answer or recent research for you in relation to that.

Mr KRAUSE: Have you come across or heard evidence, even anecdotal evidence, of situations where a male victim of domestic violence is not identified as the person most in need of protection, or is it mainly the other way around?

Mr Twyford: I think predominantly anecdotally it is the other way around.

Mr KRAUSE: Have you ever come across any example of the opposite?

Mr Twyford: Not directly.

Mrs GERBER: Based on that, we have heard that the QFCC has some concerns around misidentification. Do you have any recommendations around clause 30 of the bill? Without giving an opinion, does clause 30 address your concerns, or do you have some further recommendations you would like to see or legislative changes?

Mr Twyford: I think the legislation provides the basis. What matters, should this bill pass, will be the practice, the training and the oversight of the decision-makers around this matter. Being able to conduct a point-in-time check or a review on whether this is working I would recommend as something

that might be necessary should the bill pass. Providing the legal basis is there in the bill, making sure decision-makers are aware of what this means and how they put it into practice will be the important part.

Mrs GERBER: What time frame do you think would be an appropriate time frame for a health check of whether or not it is working? Would you say 12 months or six months?

Mr Twyford: I think that is a matter for government and parliament.

Mr KRAUSE: Very diplomatic.

Ms BOLTON: In your oral submission you spoke about the impacts on children in DV households. In the work of the QFCC have you ever looked at refuges and the children who are there with their parents and the funding model around that, because obviously assistance is greatly needed with those children to break the cycle. Has there been any work done on that by the QFCC?

Mr Twyford: Not specifically to your point of refuges and support services, but in our child death review cases—I should have also said in my opening that I am also here as the chair of the Child Death Review Board. They are about to release some research they have done on domestic violence in relation to the cases that we have reviewed as the Child Death Review Board. Within that more generally, the idea of targeting support to children who are exposed to violence came out as a clear practice issue and something that needed potentially specific funding. They are recognising that if we are to break the intergenerational cycle of violence, focusing specifically on children is important and is critical. Yes, providing support to mother, or the primary protecting parent, is the primary service of a domestic and family violence refuge, but it is about making sure there is some targeted trauma-informed therapeutic but also long-lasting service support to children. Obviously the impact of violence, coercive control and an unsafe home is long lasting and will reappear, from the research we see, in adolescence as well as in young adulthood and again at the point of becoming a parent. One of the critical things we identified if we are to respond to people who are perpetrating or potentially perpetrating violence is that time period when they first become a parent themselves as a critical touchpoint to retest and recalibrate some of their behaviours and experiences around what it is to be a parent.

Ms BOLTON: When is that review you spoke about due out?

Mr Twyford: Domestic violence specific research is imminent within the next four weeks and then obviously the board is conducting its process of producing annual reports as per its legislation, and that would be due to be released later this year.

Ms BUSH: I will come back to language, which I think the member for Currumbin might have asked about. Some submitters have raised concerns about some of the language being gendered and have suggested we should consider more gender-neutral language in the bill, particularly to pick up on LGBTIQ offending. Do you have any views or thoughts on that?

Mr Twyford: Without knowing the specific clauses or words, all I would say is that our legislation should be equitably applied to every human and that I would support amendments that seek to do that.

Mrs GERBER: I might give you the exact example. QLS has submitted about changing the terminology from 'carnal knowledge' to 'penile penetration' and has raised some concerns that Queensland is the only jurisdiction that has proposed that terminology. Other jurisdictions use terminology that allows for the judiciary to interpret it not just as penile penetration but also other objects and penetration also brings up—you know what I am getting at, right?

Mr Twyford: Yes.

Mrs GERBER: Do you have any concerns around the use of that terminology? Do you think that that could be too limiting in terms of being able to encompass all kinds of abuse in that form?

Mr Twyford: I would need to consider that. It raises some very good points that are worthy of consideration. I would also say other forms of abuse are not excluded from our statutory scheme in terms of penalties, charges and the definitions of crime. I do take that point.

Mrs GERBER: I would be happy if you want to have a look at the QLS submission specifically on that clause and then come back to us with a view.

Mr Twyford: I am happy to do that.

Mrs GERBER: On page 3 of your submission you state—

... the protections in relation to disclosure of information and offending history afforded under the Youth Justice Act 1992 should be considered by the Bill to ensure compatibility with the Act and youth justice principles.

Can you explain to the committee what you mean by that and perhaps provide an example in your experience of what has come through to the QFCC that might speak to what you have recommended there?

Mr Twyford: Absolutely. In our reading of the bill and then in combination with the current act we question whether or not a young offender—that is someone under the age of 18—who is proceeded against for a domestic violence charge would be afforded the protections in the Youth Justice Act around not being identified and having the principles of the Youth Justice Act apply to their criminal offending as distinct from this bill in its current read appearing to apply universally to those of any age. We do know that teenagers are capable of committing coercive control, stalking and other matters and that police and society rightly expect there to be action and criminal action taken against them. It is about ensuring they are approached with the Youth Justice Act principles and protections around the young offending as opposed to being treated similar to an adult. That is what that sentence is raising. We could not see, by matter of definition, the protections in the Youth Justice Act extending to a person proceeded against who is under the age of 18 in this bill's reframing of the provisions.

Ms BOLTON: Further to that, I am trying to understand the issue where you said that children—this was in your submission on page 2—would be impacted by the proposed amendments and that the distinctions between adult and child should be mirrored in the bill for consistency. Can you unpack that a little bit more?

Mr Twyford: Certainly, and that builds on what I have just said. There are protections for young offenders in the Youth Justice Act relating to press coverage, confidentiality but also the decision-making that the police and judicial officers would take if that young offender was under the age of 18. Having them applied or mirrored in this bill to ensure that a young person under 18 who, for example, is charged with stalking or online offences would have those youth justice principles apply.

If I could also say, I omitted from highlighting the importance of this bill recognising coercive control as an online event and not just a home-based event is to be commended. We are seeing, particularly in young relationships and the advice from our Youth Advisory Councils and other young people, the significance of online stalking and online abuse is sometimes underplayed in our society. I think the fact that young people can have their mental health and futures jeopardised without ever meeting or having physical contact with someone is profound for us as a society and something that all western jurisdictions are struggling to legislate around and enforce. I do recognise and commend that part of this bill.

Ms BOLTON: Within efforts being undertaken do you believe it should be necessary to provide identification to have a social media account so you are not able to do so undercover—and I am not saying that an online name is because, for many, they need that for protection—and so it is easier for police to identify perpetrators?

Mr Twyford: That, again, is a very broad question. It probably poaches on federal telecommunications laws and other matters. The importance of giving our law enforcement agencies the ability to track and trace people who are a danger to other people in society generally is important. I am not sure regulating all online use with specific identification would be achievable and/or 100 per cent necessary for law enforcement agencies to track those who pose a danger and a risk. Obviously there is a gap there, and constant efforts to improve both online monitoring as well as the behaviours of people online is important. Possibly as I framed it at the end of my opening verbal statement, the need for community awareness raising and community policing, if I use that term very generally and softly, being able to make sure that our school grounds are safe, our online forums are safe, that members of the community are standing up and saying, 'Hey that's abusive. You shouldn't speak like that,' or checking in on people who are maybe being bullied—in this situation I think they are as important as making laws.

Mrs GERBER: I just want to go back to the point where you said that this bill provides the legislative framework to create the change that is needed and the next step is for us to, one, educate and, two, make sure that police and service providers understand and are educated and apply. Focusing on police for a moment, what would you like to see or what does the QFCC believe needs to happen on the education and implementation front from the policing perspective in order to make this work, particularly in relation to the children who will be impacted by this bill?

Mr Twyford: My short answer to that is there needs to be recognition that domestic and family violence, coercive control and stalking are not moments, they are not events and incidents that you respond to in a moment or in half an hour; that each of those things has been built up in someone's life, both the perpetrator and the victim's life, over a long period of time, and that any response has to recognise that it is a long process; it is a journey that you have to take the perpetrator, the survivor

victim and the children on. Making our policing both highly responsive to an event or incident but trauma informed and recognising that a journey occurs then with all the people involved, we are here for the long haul. Either the Police Service themselves or referrals to Child Safety or non-government organisations has to connect those children, that woman and the extended family and the perpetrator to intensive support to ensure that the cycle does not continue.

CHAIR: There being no further questions that brings to a conclusion this part of the hearing. I understand that you are going to have a look at something and get back to the committee. Is it okay to get it back by 5 pm this Friday?

Mr Twyford: Absolutely.

CHAIR: Thank you.

LEAVERS, Mr Ian, President, Queensland Police Union

MOORE, Mr Luke, Policy and Project Officer, Queensland Police Union

CHAIR: I now welcome representatives from the Queensland Police Union. Good morning. Thank you for being here and thank you for your written submission. I invite you to make an opening statement. We normally say five minutes, but it is not hard and fast.

Mr Leavers: I will not be too long. Thank you very much, Chair, and thank you to everyone here today for having us here. I want to say at the outset that I speak on behalf of the 12,500 police across the state of Queensland. My background is 33 years in policing and I have been an advocate for reform for domestic violence whilst I have been the President of the Queensland Police Union. We fully support the offence of coercive control; however, I have reservations if it is not resourced accordingly, we are going to see victims have false expectations, the community have false expectations, as well as setting police up to fail. I will go into that because from my experience as an investigator, the complexities and the evidentiary standards that will be required will be significant and will be very time consuming for police. It is not as easy as some people may think.

As Sue and Lloyd Clarke, parents of the courageous Hannah Clarke and tireless advocates through Small Steps 4 Hannah, noted in their submission—

> We can't speak highly enough of the effort of the Police to support Hannah. The office who took the initial complaint regularly stopped by to check on Hannah when she was at work, and we feel they provided her as much support as they were able to within the law as it currently stands … It's for the dedicated Police who want to solve the problem that we would like to see these laws in place. They are fighting a constant battle to make the world a safer place, and it would be good to give them an extra tool to get the job done. We also believe that there will be a need for training and resourcing to help some police understand the elements of coercive control, and how perpetrators strategically stitch them together to create an element of fear and intimidation.

Given the important role of police in dealing with matters of domestic and family violence, it is concerning the Queensland Police Service is not playing a larger role in the formulation of legislation to combat it. I would further suggest that the Police Service has not been part of this inquiry, and I think it would be incumbent on them as one of the leading agencies in Queensland that they should be before this inquiry to provide a submission. It is that important. When you take into account last year there were over 140,000 calls for domestic violence—it is 40 per cent of the workload of all police across Queensland—it is a really important area of policing. I can only imagine the time frame between the referral to the committee on 14 October and the committee's report on 25 November is a significant contributing factor to this. A short turnaround does not allow the community enough time to view, digest and consider the legislation.

At the outset, the QPU's primary concern relates to resourcing and extra funding. The QPS has a fixed budget from which they can implement legislation to meet the expectation of the bill, including extra resourcing. Our concern is the legislation expands the body of work that police must undertake without providing for any extra resourcing for policing, or administration of this bill in practice. Summarily, we echo Legal Aid's concerns. It is the first time I will ever support Legal Aid for an increase in funding, I have to tell you. However, for the work they do, it is not uncommon that, should someone wish to contest a matter, it costs between $30,000 and $50,000. For an ordinary Australian, that is absolutely impossible. From where I sit, regardless of the circumstances—and this is not being victim-centric, and we still have the presumption of innocence in this state and this country—but to pluck $30,000 to $50,000 out of wherever it is going to come from would have a significant impact, not only upon the relationship but also the entire family unit, and I just do not see where that is going to come from. People need to be able to defend themselves, but if they need a lawyer, as Mr Russo knows, they do not come cheap, and at $400 to $500 an hour, the average Australian cannot afford that. The cost of defence, as I understand—as I said these are the figures—where there is not a lot of disposable income, especially in the current economic climate, I think we need to look at how it is means tested to see how we go and what occurs as a result.

As to the explanatory memorandum notes, the bill is likely to increase demands for courts, police and the legal profession due to the increase in the number of matters coming before the courts, as well as an increase in the complexity of matters being heard. The demand will be monitored and any cost impacts will be assessed and included in future budget processes.

In total, based on the above, that is what I have worked through. I have had a lot to do with domestic violence and I will submit that with other matters where I have given evidence, I have been the only one who has actually attended to DV incidents and understand their complexity, and in my background investigating child abuse for many years, it certainly is intertwined, so I do get the

complexity when it comes to investigating these very emotive type incidents which take place. It is quite complex, it does take a toll, and is very resource intensive.

I anticipate the offence will bring about another 10,000 extra complaints per year, generating an extra 880,000 policing hours. An average police officer works an average of 215 days a year, not including personal leave, so that is not training, sick leave, bereavement leave or any other form of leave. That is the amount of shifts a police officer works every year. Even as a result of our last EB, with some benefits we have been able to attain an extra week's leave for probably 40 per cent of our workforce and that is not taken into account there.

In order to service the new laws and provide the aggrieved with a thorough investigation, we would need to see an extra 500 police dedicated solely to this cause, noting, of course, they must be experienced officers who are well trained investigators. I can say from being in child protection, when you are dealing with victims where you have to investigate the incidents, not just the incident that takes place with domestic violence, you have to investigate the entire relationship, it requires a lot of skills and experience to be able to take these statements. From someone who was trained in that—and they call it an ICARE course where you are dealing with vulnerable people—you cannot ask leading questions; you have to be able to adduce the evidence in a very different way. That is a certain skill which you cannot give to a second, third, fourth or fifth-year constable. It is a skill where you not only need training but also you need to practise and deal with that. Especially when dealing with First Nations communities and those from very different cultures, or people with disabilities, they are vulnerable people, and to get this evidence it takes a lot of work and a lot of time.

The words of our members are powerful in the current climate of domestic violence and family law reform. I will share some of them now. A senior constable of 11 years service noted, 'We are no longer general duties officers. We could be referred to as DV duties as this is all we do for an eight-hour period.' Another constable recently said to me, 'I am constantly anxious and feel sick at the thought that we just can't get to every DV call for service and the respondent seriously injured or killed the aggrieved and I will be under investigation for years to come.' A sergeant of 21 years service said, 'No longer do graphic suicide jobs have an effect on me. It is the continued DV jobs where we just don't have the resources that people require and the fear it will turn to [redacted] and we have been helpless.'

The bill before the committee represents very good intentions, but I fear that these good intentions will give victims false hope and put further strain on police without increased resourcing. It has been noted you cannot arrest your way out of a problem. Summarily, you cannot legislate your way out of a problem. There is a direct need for resourcing across the whole system. My thoughts have been widely put out there in relation to multidisciplinary approaches which I think is a necessity across Queensland, and it will not be a one-size-fits-all. I think this will be required if we get the necessary legislation so we can have the desired outcome to have victims who will be safer in the community. That is all I have for an opening statement. Luke and I are happy to take any questions.

Mrs GERBER: Thank you, Mr Leavers. I am grateful for your appearance and for your written submission; it is really helpful. It touches on an issue that is important and that I think has been overlooked so far. We did just hear from the QFCC around this bill providing the legislative change, but the next step is that we need education and resources in order for it to be implemented. The commission also touched on the fact that the police need training. I am keen to explore and get down to the nitty-gritty of what, in the union's view, is needed in terms of resources for police to be able to implement these reforms so that they are not set up to fail, so that we actually see meaningful change, and so that these reforms actually work. Is it a calculation based on the figures that you have put in your submission around the extra policing hours, or are you able to drill down a bit further into the monetary resourcing that might be needed?

Mr Leavers: Those figures that I have provided are just on the hours that are required. It has nothing to do with the training. At the moment, since the Hannah Clarke coronial inquiry, a training package has been developed which has been rolled out around the state. It is a three-day training session for all police which means 37,500 shifts are taken from the roster at this point in time. I would suggest with coercive control and from taking detailed statements from young people and vulnerable people in child, sexual and other abuse, when you look at coercive control, it is not that simple. What you will need to do is have specialist investigators. You will need to be working not with the general duties officer who initially goes there; you will need special investigators. I will say this from working with child protection: you actually have to have a passion for that sort of work. Anyone can do it, but if you do not have the passion, you will not do it well. We need to work with intel officers. As per in the report, they will be executing search warrants on financial institutions, telcos and any other organisations which we may need to be able to build this brief of evidence, and that takes time. That is

where I have gone into the initial response, the investigative response, as well as the court cases that take place. I can see some delays in the courts, especially if people are not represented and there are other issues which take place.

I do see there is a need—and there are some in Queensland—for specialist domestic violence courts right across Queensland. I am not saying we have a special domestic violence magistrate in Charleville, but you certainly would need one for the south-west district, as you go from Dalby into south-west Queensland, and summarily that would be the same for the north and other parts of the state. The training is just one issue. I think there needs to be regular training. It is not just an issue here in Queensland, it is a national crisis, I would suggest we have.

Also, as I have gone into the report, at the moment we can do a check to see if you have a domestic violence order in place, whether it is in New South Wales or it could be Western Australia. However, you cannot contextualise what the issues are of that DV. You may need to make inquiries interstate. What I want—it is on the COAG agenda, I believe—is I need all the information as I do in Surfers Paradise as does the police officer in Broome in Western Australia or in Hobart in Tasmania, and I would like to include New Zealand, but that may be a stretch too far because it is another country. In order for a police officer to be able to do their job properly, we need to contextualise all the issues that are taking place, otherwise we are failing the victim.

Ms BOLTON: Thank you, Mr Leavers. Your opening statement was so comprehensive, thank you, so a lot of my questions you have already answered. I would like to go further on from the member for Currumbin's question. You mentioned basically that we would need an extra 500 specially trained police to be able to deal with the numbers that you outlined. Where would we get them from?

Mr Leavers: We have to recruit them. In another role I have, I am actually running a national forum because we have a problem with recruiting police across Australia and New Zealand, and in fact we cannot fill the squads at the academy. That is not through budgetary restrictions; that is because we just cannot get people to join the police. We are competing with the Defence Force that is putting over a billion dollars into recruiting. We simply do not have that money to be able to do that in policing. That is an issue.

The current commitment is 1,450 sworn police officers by 2025, with 575 support people, but we need another 500 on top of that to be able to look at this offence of coercive control. It is very serious, but we need the specialist police and the time to be able to do it; it is going to be time consuming. As I said in my opening statement, I am extremely worried that we are going to give people false expectations and hope, and we do not want to set people up to fail, so we need a massive recruiting drive. Then we need to educate police as well because a lot of people are joining the police not realising that probably most of their work in the first five years is purely going to be domestic violence. Domestic violence makes up 80 per cent of the workload of police in Kirwan in North Queensland, and Logan is the same. People are leaving the organisation. They say, 'I joined to be a police officer, not purely just for DV.' Psychologically it has an incredible impact upon you because you see the world in a very negative light; there are never any positives. It is probably like family lawyers—they never deal with anything that is ever positive because all they see is destruction of family units. In regard to the recruiting the 1,450, we need 1,950 because we have to investigate the entire history. Coercive control is not just a simple offence. I see it as a very complex offence.

Ms BOLTON: In your opening statement, you mentioned what the Clarkes said in their submission. They spoke about the legislative tool. If you have the resources, is there anything else that you have seen which is a tool that the police need in this? For example, is it greater awareness within community to be able to—not make it easier—some education program with the community to assist police in their endeavours?

Mr Leavers: Yes. I think it needs to be a multidisciplinary approach, not just a policing approach. There are many NGOs out there that play a vital role. Where do we need to go? Logan is one of the most diverse communities, as Mr Krause probably knows. There are so many different cultures there, but they are completely different. We actually need to train police. It is not that we are ignorant; it is that with all these different cultures and different beliefs—and in Australia fortunately we accept everyone with very different religions and things like this—this is very complex. As I move into First Nations communities, there seems to be a view out there amongst some people that once you go to a First Nations community, everyone in that community is the same. Aurukun has five different clans; they have very different views. Bamaga has eight different clans. It is not one-size-fits-all. I think that we need to actually work with the communities and see what we can do. When I was on the implementation of the domestic violence council, I went to Charleville and a First Nations lady said, 'We are sick and tired of you people coming out and telling us what is good for us.' I think we need to go to them and extract information from them as to what we can do to assist them. I think that is vitally

important because when I go to the communities, they are particularly violent, but there are deep-seated cultural issues and with clan versus clan, it is very complex.

I think a lot of work needs to be done on the ground in working with these communities and with the different cultures. We need to look at immigration as that will continue. We need to be able to understand all the different backgrounds.

I did a lot of work on youth crime. In First Nations communities—this is no secret—a lot of young people are born with foetal alcohol syndrome. I could go on for hours on that, but I won't; however, we need to identify that early, get involved early and work with those issues we know exist because it is just not a simple solution of arresting our way out of it or through legislation. I will say that I am all for education. I think there are many levels. I have given evidence before courts and the domestic violence inquiry on where I think we need to go, and that goes hand in hand with what is happening here today. It is certainly complex. I think a lot of work needs to be done outside. It just cannot be a bandaid solution.

Mr KRAUSE: Mr Leavers, thank you for your submission. I want to ask you two questions: one about unintended consequences generally, specifically about clause 22A, the long list of factors for people most in need of protection, but also in relation to the SDRP. It has been implemented in the Logan district. Some of the feedback I have received about it relates to certain areas of the district and certain types of crime not receiving as much attention as it previously has. I wondered if you could talk about how this bill may impact on that in the SDRP context, but also more broadly in terms of unintended consequences, from a timing perspective and outcome perspective as well.

Mr Leavers: Absolutely. The SDRP was initially in the Moreton district, and there is a lot of work to be done there, I can say that. In the Logan area, it certainly has been a better response. The fact is that without the extra resources, something has to give. If we are to spend more time—and it is a very serious issue—on coercive control and DV, that means something else has to give. A recent example is, with COVID, the road toll went up. A lot of our police who were involved in traffic enforcement were on borders and doing many other functions and hotel quarantines. If the resources are not there, something has to give because we cannot do everything for everyone; it is simply impossible with the resources we have.

Policing is not just domestic violence. We are coming into a season with natural disasters, and we have many other functions day in, day out. It needs to be resourced, otherwise there will be a huge impact if it is not done. That is why I have spoken about multidisciplinary teams: there are not only the vulnerable persons units but also we need to fill the rosters for the general duties crews so that they can attend calls for service as well. I do think we need other specialists involved in this.

The SDRP—it is the time for change. Personally, if I were the Commissioner of Police, I would never have brought in a system like that during a pandemic, however I am not the commissioner. I think that proved problematic when we were stretched to the limit at that point in time. Yes, for every action, there is a reaction, and without the extra resources, something else has to give.

CHAIR: Pardon my ignorance, what is the acronym SDRP?

Mr Leavers: Service Delivery Redesign Project. It is a program that was developed in the Moreton district. The Commissioner of Police had analysis done by some experts on the best way to deliver services for policing. We are at a point—and I do agree with this—that we cannot continue to do business the way we have always been doing it. Things have to change. I think we need to look at efficiencies. There was a program designed in Moreton. A lot of it was mathematical in many ways. As we say, sometimes it might look good in theory, but in practice it may not actually work. I have seen that with other things over time. It was implemented in Moreton. It is in Logan now and then it will move to Ipswich, Rockhampton and Toowoomba. It has the potential of it being modified as it goes along, which is good, because I think you should continually reassess. It has had a big impact upon our people. I was only in Moreton on Friday and I was left in no uncertain terms about the feeling of the people I represent about the issues they are suffering there.

Mr KRAUSE: You should come to Logan as well.

Mr Leavers: I am happy to go to Logan. It is a real challenge for our people. COVID, I think, has not only had an effect on the entire community but also certainly on policing. The way DV is, I am not surprised that we are seeing an increase in domestic violence as we are coming out of COVID. I think that is just one of many impacts. Obviously, with the economic environment, it is only going to get worse, and I think we are in for a real challenge.

Ms BUSH: Thank you, Ian and Luke for your submission. Given the time left, and we have only just received this and had a quick chance to have a look, I have a couple of questions for you. My understanding is, from your responses, that your substantial issues are not with the intention of the bill but with the resourcing factors. With the figures that you have provided and the time frames you have drawn from, from where have you drawn that data? Has that been verified with QPS or independently tested? Where is it? Is that something you have developed internally with your estimations of 500 additional police and some of the hours there?

Mr Leavers: I have figures here. Initially, two police will attend an incident for coercive control—

Ms BUSH: Yes, I saw that. Sorry to cut you off; I am conscious of the time. Was that internal modelling that you did yourself with QPS or independently?

Mr Leavers: No, I do not have access to QPS records and I do not go onto their system because I do not want to be a defendant! What I will say is that with the background I have, I talk to police right across the state about the complexity and the timing of the investigations. With the matter of coercive control, I can only say that with my background in child abuse and the length of time an investigation takes, and if you have a vulnerable witness, it is not just sitting down for three hours to take the statement; it can be over days. You have to build that relationship. Me turning up as a middle-aged man, I have to develop that relationship. For a person who has been a victim over many years, it is not easy for them to open up to you, and you have to understand that. To gain their confidence is a real challenge. That takes time. It would be good to say we can do this in an hour, but it is not like you are on a time sheet. People are different.

Ms BUSH: Is there any way of QPS recording the number of victims who come into QPS stations attempting to get charges laid—who do not yet meet the threshold of coercive control but will under this legislation—and spending a lot of time trying to plead with police to lay charges? Has anyone costed out how much of officers' time is taken in dealing with charges that do not ever get laid?

Mr Leavers: Not that I am aware of, but, from working on a front counter at a police station, I know that a simple assault matter on a Saturday morning involving a nightclub can be a three-hour statement-taking exercise for that complaint. Coercive control will be certainly far more complex. I do not know if the QPS has done that. They have a bit of pressure at this point in time. It is very time consuming. I am worried that the victims will see coercive control as a very quick fix, but it is complex and the evidentiary requirements for a conviction will be substantial. It will be like stalking. We do not get a lot of matters involving stalking proved in terms of guilt because it can be quite complex to prove those elements.

Mrs GERBER: I refer to clause 64 and the evidence that may constituent a domestic violence offence. I am concerned that it lacks clarity and certainty and that this section potentially needs redrafting. On my read of your submission, you say that these subsections need to tighten up. To aid the court in deciding the validity of evidence, I want to understand your submission in relation to clause 64 which is the clause pertaining to what might constitute evidence of a domestic violence offence. It is on page 8 of your written submission.

Mr Leavers: I will hand over to Luke, if you do not mind.

Mr Moore: Having read Legal Aid's submission, the concern is that we want to make sure that this offence and this sort of list that is now in the legislation is useable and does not have unintended consequences. The concern we have, particularly around some of the drafting—I look at subsections (d) and (f) in particular—is that it could be unclear. If these matters go to trial, if these matters go before a court, there is a risk and a concern that we have that, because of this imprudent, improper drafting, we might find ourselves in a circumstance where things are mistrials or juries are kicked out because information has been introduced that is prejudicial. Mr Leavers noted earlier that we have a diverse community in Australia. We have lots of different expectations around how these things are seen in certain communities. The risk with some of this is that what might seem reasonable in one community actually does not meet with the expectations that are behind this bill. We are just concerned that that is not reflected in the drafting. A tighter drafting would allow a benchmark across the community to say—

Mrs GERBER: Or non-exhaustive drafting?

Mr Moore: Yes.

Mrs GERBER: That was the crux of my question. Is it your submission that the mandatory definitions or terms need to be removed or is it your submission that the list needs to be nonexhaustive to allow for both investigators and the judiciary to take into account matters that might need to be taken into account in the circumstances of that case? If there is an exhaustive list, it could fall through the cracks?

Mr Moore: I think Mr Leaver's submissions went to the heart of that. Similarly as well, we need to make sure that judicial officers—that judges themselves—are well trained across this very complex area. It is extremely complex. Anyone who delves into this knows that there is a lot of research. There are powers in this legislation that are giving judicial officers the powers to direct juries. Similarly along that vein, as you have rightly pointed out, having all of this information listed out and then the expectations of what a judicial officer thinks is domestic violence and how they can direct juries could get fraught. Having something that is not exhaustive would perhaps be better because the intention of the bill the union supports.

CHAIR: Thank you for your evidence today. Thank you for the written submission. Thank you for attending. It has been very helpful.

Mrs GERBER: Very helpful; thank you very much.

Mr Leavers: I am sorry for the late submission.

Mr Moore: One final thing, though, is that the union has quite often been on the record saying that an offence of 'commits domestic violence' would solve some of these issues. Coercive control could be embedded under that because I think there is a misconception in the community that, when a domestic violence incident occurs, whatever actions are taken that that is a criminal offence. That is not the case. The union has long said that we would like to see that offence. You could embed all of these things under that. That is simple. If someone commits domestic violence and then they breach their order, that is when they are committing the offence, but actually the domestic violence should be the offence. That is what the community thinks. If you were to knock on someone's door and say, 'Do you think domestic violence is a crime?', they would say, 'Yes.' It is not clear. The union has been on the record that that is our wish. We want police to be able to say, 'You have committed domestic violence.'

CHAIR: Thank you.

Mr Leavers: It could be a circumstance of aggravation.

Mrs GERBER: Just before we break, can I move that the submission from the Queensland Police Union be published.

CHAIR: Have we not published?

Mrs GERBER: I do not think we have. Is that okay, Mr Leavers?

Mr Leavers: Absolutely.

Mrs GERBER: Excellent, thank you very much.

KIYINGI, Mr Kulumba, Senior Policy Officer, Queensland Indigenous Family Violence Legal Service (via teleconference)

SCHWARTZ, Ms Thelma, Principal Legal Officer, Queensland Indigenous Family Violence Legal Service (via teleconference)

CHAIR: Good morning. Thank you for your time. We invite you to make an opening statement of five minutes, but we will not pull you up if you go over. If you would like to start, please, Thelma?

Ms Schwartz: Good morning, Chair. For the record, I am appearing with my senior policy adviser Mr Kulumba Kiyingi. We notified the secretariat last week that he would also be appearing with me. He is in the room with me.

The Queensland Indigenous Family Violence Legal Service, QIFVLS, is an Aboriginal and Torres Strait Islander community controlled organisation servicing over 80-plus Aboriginal and Torres Strait Islander communities within Queensland right up to the international border with Papua New Guinea. Our clients are Aboriginal and Torres Strait Islander victim survivors of domestic and family violence and sexual assault. QIFVLS provides a holistic means of addressing both their legal and non-legal issues. We address their non-legal issues because we see that the primary driver of their unfortunate interaction with the justice system—whether it is in the criminal justice system as adults or youth, within the child protection system or the domestic and family violence system—is the prevalence of violence in community, social disadvantage such as poverty and the impact of homelessness, drugs, alcohol and other addictions. We have been servicing our communities for over 10 years. We are very proud of the work that we do in providing essential services on the ground through a provision of services monthly, given the nature of the funding we receive primarily from the National Indigenous Australians Agency, NIAA, as our primary funder.

We have formally submitted—and the committee will have it—a copy of our submission to the Domestic and Family Violence Protection (Combatting Coercive Control) and Other Legislation Amendment Bill 2022 and generally we have supported the proposed amendments contained within that bill. Other than looking more specifically at—I believe Kulumba has addressed this—the need for expanding the definitions of help-seeking behaviours, I will speak a bit further about jury directions. This raft of measures being introduced with the bill we note are in tangent with the Women's Safety and Justice Report *Hear her voice* report 1 on addressing coercive control and domestic and family violence in Queensland which QIFVLS as a strong advocate for Aboriginal and Torres Strait Islander victim survivors supported. We would also like to see the raft of other measures spoken to in *Hear her voice* report 1 also wrapped around to ensure that when we implement the bill creating coercive control as a criminal offence we have set up a system to properly and holistically respond and support the needs of victim survivors in this sector.

Mr Kiyingi: Thank you for the opportunity to appear before you. I support what Thelma has said in terms of QIVFLS welcoming the provisions around tackling coercive control and noting that, in the sense of doing so, we also look towards addressing unintended consequences that may arise. This goes to the future development of the specific coercive control offence but also the need to factor in the service that QIVFLS operates in terms of providing a holistic, wraparound service in that the ultimate goal is also to look at addressing underlying drivers of family violence and how a whole-of-government approach is required.

CHAIR: Can you expand on the whole-of-government response?

Mr Kiyingi: That is done in the sense that previously I guess the way that things have generally tended to work has been that we have focused on, for instance, only domestic violence or youth crime. In that sense, it is considering things from a unified perspective, noting that everything is intrinsically interlinked. I cannot add anything further.

CHAIR: Thank you. That helps.

Mrs GERBER: I am interested in Queensland Indigenous Family Violence Legal Service's perspective in relation to the Aboriginal and Torres Strait Islander Legal Service's submission. The Aboriginal and Torres Strait Islander Legal Service's submission, on my read of it, does not support coercive control being a standalone offence. I will read out a portion of its submission so that you can then provide me with your views on that. They say—

> Put simply, when considering Aboriginal and Torres Strait Islander peoples and the disadvantage and discrimination that they already face, the risks of these proposed amendments far outweigh the purported benefits.

Their submission tends not to support coercive control being an offence. I am interested in whether or not you agree with that.

Ms Schwartz: With respect, the Aboriginal and Torres Strait Islander Legal Service, ATSILS, and Queensland Indigenous Family Violence Legal Service work very closely together. The ATSILS work and support primarily criminal defendants entering the criminal justice system. That is the body of their work primarily. QIFVLS support victims and survivors. We complement each other's work through warm referral systems.

ATSILS, as any other legal service provider in Queensland, is entitled to take the view that they have in relation to their cohort of clients. As I indicated at the very beginning of my opening, QIFVLS is a proud and loud supporter of the victim survivors who identify as Aboriginal and Torres Strait Islander peoples. *Hear her voice*, the Women's Safety and Justice Taskforce's report 1, spoke to the need to support victim survivors whether they are non-First Nations, First Nations, people from backgrounds of LGBTIQA+ or people with disability who are identified as at-risk. The Women's Safety and Justice Taskforce also embedded a framework to do this to minimise the risks of overcriminalisation of Aboriginal and Torres Strait Islander peoples. Of the recommendations by the Women's Safety and Justice Taskforce, the 85 that were directed to government have either been accepted in full or in principle. This is the direction that we are going in. I certainly respect the advocacy of ATSILS in this matter, but I am here to champion the rights of Aboriginal and Torres Strait Islander victim survivors in our communities who have, for too long, been unseen, unheard and not supported by the system.

Ms BOLTON: Thelma, we heard earlier from Mr Leavers from the Queensland Police Union that within many Indigenous communities often there are multiple clans. We found that when we were doing our inquiry into the blue card system. What do you believe is going to be essential as part of the education program around this bill and any changes it brings forth?

Ms Schwartz: That is a very good question. I go back to the findings within report 1, *Hear her voice*. Education and awareness within community will be pivotal to the success or alternatively the failure of this bill. The education campaigns that must be run will be different in terms of delivery in metropolitan, regional, rural and remote parts of Queensland. I understand the impacts of having such a decentralised state. We see this in our business model being stretched across what equates to the size of Japan almost.

Driving the education awareness campaign will involve the voices of our community—leaders within our community—who have openly stood up and said, 'We want change. We want to protect our most vulnerable. We want to support our victim survivors. We need to have accountability.' Those people, those leaders in their communities, and Aboriginal community controlled organisations such as QIFVLS will play a pivotal role in getting the education campaigns out in community and particularly in language. When I look at the impact on the Torres Strait and the different clan groups and structures, how this is conveyed cannot be done in the normal traditional way of doing it. Normally it is a softly-softly approach when we are talking about these levels of violence.

What I see—and Kulumba can attest to this as well—in our practice there is still a misunderstanding of what effectively is coercive control. What are we talking about here? What makes up this pattern of behaviour that makes it insidious and leads to a high risk of fatality occurring within the relationship? From our point of view, there is a great need for bringing in community and driving those on-the-ground education and awareness campaigns in each of our regions and structuring them a little differently. That aligns with self-determination.

Ms BUSH: Thelma, I apologise: I was out of the room for a moment so you might have already talked about the clauses and amendments in the bill in relation to cross orders and the need to discover the person most in need of protection. I am after your views on that aspect of the bill.

Ms Schwartz: In relation to cross orders and the need to identify the person most in need of protection, we fully support the proposed structure within the bill. What we found in our practice, which is supported by the findings in the Women's Safety and Justice Taskforce's report 1, is clearly an issue with the proper application of cross orders. I think this really comes down to viewing incidents with a singular-incident focus when the reality of these matters is that there is a whole relationship, a spectrum of a relationship, where parties are interacting with each other and police are coming in and out of that relationship spectrum. We need to actually pay more time and more attention to identifying who is the true victim. That is the approach that we do here in our work. We do not take a singular or incident-based focus. We examine the relationship on a whole. We unpack. This is, I think, the intent behind the drafting of the proposed bill and those sections that align with the recommendations of the task force report. Kulumba, did you have anything further to add? No, there was nothing further from Kulumba on that question.

CHAIR: We have two minutes to go.

Mr HUNT: In your submission around help-seeking behaviour, clause 62 of the bill, there is a passage around non-police agencies being inclusive but not limited to counsellors, psychologists, health workers, domestic services and resource centres. You would like to see the definition of 'help-seeking resource behaviour' expanded; am I correct?

Ms Schwartz: That is correct. I might let Kulumba speak to that particular aspect.

Mr HUNT: Having identified that I am on the right track, clause 62 says 'seeking counselling or support' as a definition of 'help-seeking behaviour'. Is that already captured? It seems that 'seeking counselling or support' captures what you would like to broaden it to already or have I missed something?

Ms Schwartz: With respect, when I read the definition of 'help-seeking behaviour' in the example probably there is no real mention that help-seeking behaviour may also be sought from other non-police agencies. The reality of what we see with our client base is that, due to a history of poor relationships with police, which go back to when we talk about intergenerational trauma and the impacts of colonialisation, our clients do not have good relationships with police.

In terms of the reports of domestic violence, police will not be the first port of call for them to make a report of domestic and family violence. Those reports are going to be made to other persons after a period of trust building has occurred. Those other persons might be the Aboriginal community controlled health services that are in community. They might be health workers. They might be domestic violence resource centre workers who are in community. They could be the FIFO counsellors and psychologists who fly into community through the assistance of the Royal Flying Doctor Service, for example. They are definitely going to be made to QIFVLS who are in community. I think just the examples that are given also include other persons or agencies who will take the report but will not be police. That is aligned with our practice. I hope that answers the question.

CHAIR: Yes, it does. Thank you, Thelma and Kulumba, for your attendance. Good luck in your work.

CASTLEY, Ms Christine, Chief Executive Officer, Multicultural Australia

DASH, Ms Rose, Chief Client Officer, Multicultural Australia

PHILLIPS, Ms Emma, Research & Advocacy Manager, Multicultural Australia

CHAIR: I now welcome representatives from Multicultural Australia. Thank you for being here. I invite you to make an opening statement. We suggest five minutes but we will not pull you up if you go over. After that, the committee will have some questions for you.

Ms Castley: Thank you, Chair, for the opportunity to make a submission to this important inquiry and also for the invitation to give evidence at this public hearing today. My name is Christine Castley and I am the CEO of Multicultural Australia. I have here with me today Rose Dash, our Chief Client Officer at Multicultural Australia, and Emma Phillips, our Research and Advocacy Manager who manages the team that offered the Multicultural Australia submission to the inquiry. I make this opening statement on behalf of myself and my colleagues.

As Queensland's settlement service provider for migrants and refugees, Multicultural Australia works closely with diverse multicultural communities in Queensland, from new and emerging communities to the more established communities, with our major offices in Brisbane, Toowoomba, Rockhampton and Townsville and community hubs located at multiple locations across the state. Multicultural Australia provides support services across Queensland for between 5,000 and 6,000 clients each year through a range of programs including refugee, humanitarian support, employment and youth programs.

As the committee will appreciate, we regularly deal with issues related to domestic and family violence in supporting our clients. We have actively engaged in this important conversation around coercive control through community forums, facilitating a round table for the task force in Toowoomba with service providers and a closed session with women from refugee backgrounds who are victims of domestic and family violence, and also providing a detailed submission to both the Women's Safety and Justice Taskforce and this inquiry.

Domestic and family violence is a complex issue that becomes even more complex in the context of diverse cultures and the experience of settling in a new country. Not all migrant and refugee communities have a lived experience that is the same. It is important to note that there is significant diversity within Queensland's culturally and linguistically diverse communities. Language barriers, community pressures, a lack of understanding of the law and fear of deportation or visa cancellation are some of the multidimensional barriers and challenges faced by victims facing domestic and family violence who come from culturally diverse backgrounds.

I would also like to make it clear from the outset that our position is that culture or faith is never an excuse for breaking the law. The unfortunate reality is that domestic and family violence, including coercive control behaviour, is sometimes rationalised by perpetrators, their families and communities as reflecting their culture's established gender roles.

Our view is that cultural patterns of behaviour that cause harm or lead to violence or coercion should never be tolerated. A standalone offence of coercive control will have significant benefit by providing an objective basis for education and behavioural change across communities about what is right and wrong behaviour in a relationship, but this will only work if it is supported by investment in education, cultural capability and support, including the very important issue of translator and interpreter services for service providers, police who will enforce the law and the judiciary.

We support the first tranche of legislative reforms, in particular the proposal to amend the Criminal Code to modernise and strengthen the offence of unlawful stalking. Through our experience providing case management support to thousands of clients every year, we know that stalking can occur not only after relationships have ended but also within controlling and abusive relationships. Given the gravity of stalking as a risk factor within domestic relationships, we support the addition of a new circumstance of aggravation in circumstances where a relationship exists or has existed. We support broadening the type of conduct that is covered by the offence to better reflect how offenders use technology to facilitate this type of violence and we strongly support the proposed amendments aiming to provide specific mitigating circumstances for child offenders who are victims of or who have been exposed to domestic and family violence.

We also offer some suggestions for consideration in implementation of the legislation, including in explicitly proposing introduction of the reference to coercive control patterns of behaviour; ensuring there is a focus on responding to the needs of both perpetrators and victim survivors and to ensure that responses tackle the need to break the cycle of domestic and family violence; ensuring that the

amendments relating to disclosure of criminal and domestic violence histories includes scope for evidence to be provided by the defence in relation to relevant and mitigating circumstances to ensure an appropriate balance between the rights of victim survivors and perpetrators—while we stress the need to hold perpetrators to account for their behaviour, it is also important to recognise that the behaviours of perpetrators from migrant and refugee backgrounds can be the result of factors such as the experience of war, conflict, torture, trauma, rape and sexual assault which can result in significant physical and mental health conditions; implementing expert evidence about domestic violence to be given in criminal proceedings; also permitting evidence to be given in relation to a diversity of experiences relevant to domestic and family violence and its interception with various identities; and for services and support to be given by those with expertise with cultural capability and in relevant vulnerabilities, including expertise obtained through lived experience.

In relation to the amendments pertaining to jury directions, we note the importance of cultural capability training for the judiciary to ensure there is nuanced understanding of the impact of torture and trauma, particularly for refugees and those with a refugee-like experience on behaviour. Our submission also focuses on the need for education and capacity building. In our written submission we have outlined as an example the peace building model which is an early intervention and prevention model for culturally and linguistically diverse communities. The model was collaboratively developed by service providers and community leaders and provides leaders with the tools and training to respond to domestic and family violence in their community. We recommend the peace building model as an example of how community leaders can be empowered through a culturally informed approach to take action to respond to domestic and family violence. As a further example, we also run a Toowoomba men's group which is a culturally fit-for-purpose early intervention and prevention group.

Multicultural Australia is committed to engaging in constructive conversation on the important issue of domestic and family violence, and coercive control in particular. We note the ongoing national conversations around creating a shared national understanding of coercive control as an opportunity for Queensland to take leadership in developing a culturally safe, trauma informed, therapeutic model of community education and capacity building that will effectively address the root causes of offending in this space. Thank you for the opportunity to provide this opening statement. We are happy to take questions.

Mrs GERBER: Thank you very much for appearing today and for your written submission which is very comprehensive. I wanted to drill down into any aspects of the bill that you think need to be amended or tweaked. Your submission deals with a lot of high-level areas around each of the proposed amendments and I just wanted to give you the opportunity to talk about anything specific that you would like to see changed.

Ms Castley: We are comfortable with the amendments as drafted. I think our main focus is around how they are implemented.

Ms BOLTON: Both your written and oral submissions are very extensive. I am glad you brought up the differing cultures. We heard that earlier from Mr Leavers and that even in our Indigenous communities you can have multiple clans where those differing cultures can form behaviours that are normalised. I want to touch on the peace building model. Do we have any statistics on how successful it has been? Obviously it can be utilised across cultures and customised to each. Do we have any statistics on how successful it has been in the reduction of either coercive behaviour or domestic violence?

Ms Castley: I will look to Emma to see if we have something on that, but I should say it is an early intervention and prevention model and the paradox you always have with early intervention and prevention models is that it prevents the behaviour therefore counting what has not happened is a bit difficult. That is a drama. I should also say with the peace building model that that is something that is not funded. We have done that ourselves working with community and other providers in terms of providing training for community leaders to have these conversations and people who will take those leadership roles. In terms of impact, I suppose the anecdotal and the qualitative feedback that we have had is that that has been successful. Certainly as we continue to mature that model we are keen to look for partners who would help us with an evaluation of it as a model. What we would see as a measure of success has been in the take-up by community leaders. We have had very good attendance and what we call graduations from the training and peace building as a technique. We run these very regularly and we do have significant interest from community members in participating in the program. Those community leaders learn skills such as how do you have the conversations with people within families when you have an informal role, and to actually open up those conversations, and how do you share the information. It is equipping them with those skills. What we found is that that also often creates a lead-in to them also doing the department of justice mediation training courses as well, which they then combine to then conciliate and try to head behaviours off at the pass.

Ms BOLTON: Is there an equivalent that you know of with perpetrators that is cross cultural?

Ms Castley: That is for both victims and perpetrators or people who are engaging in aggressive behaviour, because it is an early intervention piece where we are seeing behaviours escalated. It is for all members of the family, it is not just for victims. It is for where you have relationships within families where things are looking like they are going to fall apart.

Ms BOLTON: My apologies. When you said early intervention I thought that was prior to an offence. What you are saying is that it is for offenders as well.

Ms Castley: It is for anyone within a family. For example, if you have had someone who has breached a DVO in a family that is trying to rebuild itself, this is a model that will help someone who is a community leader to help that family navigate that transition through the process.

Ms BUSH: I do not know if you heard the evidence from Thelma from QIVFLS before, but she mentioned the clause around help seeking behaviour and wanted that expanded to go beyond what is in the bill, which is around reporting to police, getting a DVO, perhaps moving out of accommodation. I wondered, given your unique position around those victims from culturally and linguistically diverse backgrounds, whether that part of the bill is sufficient for those victims? If you cannot answer it today it might be something that we can get on notice.

Ms Castley: I am happy to take that under consideration, but what I will say is that that is a really significant issue particularly when you have communities that are closed communities and people, we find, particularly in our regional areas, where it is very difficult for the victim to move to a place of safety that is away from where the perpetrator is pending court proceedings. We are comfortable with the provisions as drafted. You could spend a lot of time trying to draft these provisions, but it is how they are enforced and how they are dealt with. From our perspective, the big issue is often access to translators and interpreters. We see multiple adjournments. You will have some cases where there is extensive, very violent behaviour and a victim survivor who is very traumatised, but potentially also a perpetrator who does not quite understand what is going on. They do not understand the nature of the charges. It is about having interpreters or translators available. We can see matters adjourned any number of times—up to eight times going over a 12-month period—and it is simply that availability of services to have documents translated so the perpetrator can understand the nature of the charges being made against them and for the victim to have resolution and go to a place of safety. In some instances, for example Toowoomba, we have had to move the victim out of that community. We find often they will move back because those are their only social connections.

Ms BUSH: This question is slightly outside of the scope, but picking up on that, I know that the courts have an interpreter policy so what is the issue there? Is it the system? Is it resourcing? It is access?

Ms Castley: It is resourcing; it is actual availability. In Toowoomba in particular there is a very large Ezidi community. Kurdish Kurmanji is an oral language. It is the availability of trained interpreters and their availability. It is a very under-resourced area in the courts.

CHAIR: There being no further questions, thank you for your attendance. Thank you for the written submission. As the member for Noosa pointed out, it is very extensive. We will take a short break.

Proceedings suspended from 11.11 am to 11.28 am.

RAMAN, Ms Padma, Chief Executive Officer, Australia's National Research Organisation for Women's Safety (via teleconference)

CHAIR: Good morning and thank you for being here. I invite you to make an opening statement of up to five minutes after which committee members will have some questions for you.

Ms Raman: Thank you for having me today. I will start with just a brief statement if that is all right. ANROWS, as you will see from our submission, commends the effort to strengthen existing legislation in Queensland, as we recommended in our response to the Women's Safety and Justice Taskforce. The draft bill includes many provisions that, when applied appropriately, could increase protection for, and improve the experiences of, victims and survivors in contact with the legal system. The changes work towards solidifying an understanding of domestic and family violence and codifying a more nuanced understanding of the behaviours of both perpetrators and victims and survivors, particularly when it comes to understanding the dynamics and impacts of coercive controlling behaviour.

When asked to provide feedback on operational issues for the draft bill, we emphasised the necessity for system-wide reform, capacity building and resourcing. In particular, we highlighted the evidence which shows that guidance and training for judicial officers will be necessary to ensure the legislation is implemented as intended. Whilst victims' and survivors' engagement with the legal system may be improved, systemic issues remain. Most importantly, police play a key role and will require training and much support. While we commend the changes, we need to keep the focus on systems reforms, including service supports for victims and survivors.

I want to take a moment to focus on what is driving all of this and making these improvements to implement change: the safety of women. When this legislation is being debated, that should be at the forefront of the work of implementation. Centring victims and survivors is paramount to any work in addressing violence against women. I will take the example of the person most in need of protection. ANROWS supports the work within the legislation to assist with identifying and supporting the person most in need of protection. It is an issue we have historically been concerned about. We have given evidence in multiple submissions on ensuring the laws around the person most in need of protection are being used as they were intended. What protection looks like for one woman will be very different to another.

ANROWS's evidence has highlighted that women who are involved in court proceedings often feel as though the final outcomes leave them and their children unsafe. We need to ensure that evidence informed approaches are used to develop a more nuanced understanding of how to identify and support the person most in need of protection in different circumstances and situations. For example, an application for a protection order for a migrant woman on a dependent visa may risk the cancellation of their partner's visa. This can impact the victim and survivor's financial stability, housing security, relationships with their children and community, and residency in Australia. While the Queensland Attorney-General's department cannot control federal legislation governing visas, Queensland legislation will interact with it, impacting women and children in Queensland.

All those who implement this legislation need to understand how to think about what safety looks like in different situations but, most importantly, what it looks like for the victim and survivor herself. What does she need to be and feel safe? What does that safety look like and feel like to her? Safety looks different for women whose partners have a history of using the legal system to perpetrate abuse compared to those who want to maintain parental contact with the perpetrator. Safety for women who want to remain in the home or community will look different to safety for women who are at significant risk of homicide. We all need to ensure we are upholding the rights of victims and survivors to have their voices heard and maintain agency in decision-making. We need to remember who is most in need of protection and what that protection looks like. It is a decision involving many actors. ANROWS's evidence speaks to the importance of working collaboratively across sectors to achieve improved justice outcomes for all people in our communities.

ANROWS is very supportive of the bill and its approach. The passing of this bill, however, is just one step in the process of working towards safety. In this step and all future steps we must walk alongside victims and survivors.

Mrs GERBER: Thank you very much for your written and oral submissions. I am interested in hearing a bit more from you in relation to the lessons that can be learned from other jurisdictions that have tried to implement reforms such as these. I note that in your written submission you talk about the *'No straight lines'* research report out of the New South Wales family violence and cross-examination scheme. I am interested to understand whether or not there are any lessons around time frames for review. We heard evidence from other submitters that this bill proposes the legislative

framework and that the next step is to make sure there is appropriate resourcing, education and training around implementation in order to ensure it is effective. Can you talk us through any lessons from other jurisdictions that might be helpful for the committee to know about in relation to those matters?

Ms Raman: It is great to see that Queensland has taken a two-stage approach and that the idea of training is essentially vital. This is really complex behaviour that we are trying to regulate. One of the things that ANROWS's research has found is that the nature of coercive control in itself is such that it is tailored to the individual victim. It is such nuanced behaviour that we are going to have to spend a lot of time making sure that the people who address these issues, including frontline police and courts, are capable of identifying this behaviour appropriately and correctly.

The lessons from jurisdictions overseas are that coercive control is often added on to other offences so it has very rarely been used by itself in the context of Scotland, for example. It is often an offence that is added to other offences. That goes to the heart of the fact that it is really complex behaviour, and we need to make sure that as a community we understand what coercive control actually is and that the people who are implementing these reforms have a really good understanding. That is going to take time. It is a long-term process.

ANROWS has historically been quite concerned about what criminalising coercive control might do. It might have unintended consequences, especially in the context of our First Nations communities, where women are often misidentified as the perpetrator when they are often just retaliating to violence against them. I think the suite of reforms has a very holistic sense about it, but we have to tread carefully. We have to make sure that the implementation is sound. We have to put resources into implementation. This is just the first step. This is a long-term process of making sure that frontline workers and the community understand what this behaviour is, understand that it is not just physical but a pattern of behaviour, understand the power dynamics that are involved and keep an eye out for unintended consequences. We are going to have to watch this closely and make sure that the implementation is as sound as it can be.

Mrs GERBER: What I am trying to understand is time frames—KPIs around making sure that appropriate resources are being given and that it is being implemented correctly. Would you say there should be a review in six months, 12 months, 18 months or two years? What are the lessons from other jurisdictions in terms of making sure this is action and not words?

Ms Raman: I think the longer you give yourself the better. It is a huge exercise in terms of training police and courts and legal practitioners—indeed, everyone who comes into contact with women. It is everyone from health professionals to the bank teller who might come across the first disclosure. It is community-wide understanding and training that we need. ANROWS's research shows that we still have a long way to go in terms of community attitudes towards violence. We still have a very strong tendency to think about domestic and family violence as physical violence. We are not great at understanding the economic, psychological and other patterns of abuse that are pervasive in family and domestic violence situations. I would say take as long as you can. If you have the option of two years, I would go for that. That is the advice we are giving New South Wales. I feel like it is a bit rushed in New South Wales. We have submitted that we have some concerns with the bill in New South Wales because of the speed with which it is being rushed through.

Ms BOLTON: We have already heard today that the bill is just the first step and that what this entails is enormous in terms of resources. The question I have is in terms of understanding those who are not reporting domestic violence. Given that we need to increase knowledge around this, if we have victims who are not going to charge or report, what are the key messages we need to get a better understanding of what the community or family can do in a situation where they feel that they might alienate a loved one by reporting? From your experience in this, what can we do in that space?

Ms Raman: There is a lot of work to do in that space. There is a really big jump to do in terms of changing attitudes and there are lots of barriers to women reporting. I think, however, we should recognise that we are in a very important time in history. We are having much more open conversations around domestic, sexual and family violence. I think there is momentum around the fact that there are more news stories about it, there is more in the media about it and there is better reporting about it, and I think those conversations will help remove the stigma. One of the important things with criminalising control is that we cannot take away the symbolism the law can provide. It is very important symbolism.

From a data perspective and as an evidence organisation, we would urge you to collect as much good data as you can as you are implementing these reforms. Having said that, we know that domestic and sexual violence is under-reported. With the national plan coming into effect, we expect to see there will be an increase in prevalence because more people are hearing about domestic violence and may

be able to identify behaviours that are happening to them as being coercive control or as being domestic and family violence. We are all going to have to have lots and lots of conversations where we make sure people understand that these behaviours are in fact criminal in the Queensland context and why that is important. Even if we do not have many people charged with it, just having it as a criminal offence is going to help the educative process in terms of educating, most importantly, police about the dynamics of coercive control.

Ms BUSH: I know you have looked at 103Z, the content of jury directions. What are your views on whether you think they are sufficient and whether they sufficiently address the diversity of victims?

Ms Raman: I just missed the last bit.

Ms BUSH: I am just asking about to the diversity of victims that we know exist. Do you think the jury directions are sufficient to address that?

Ms Raman: We think it should not be optional and there should be a recognition of the diversity of victims. It is still a really good step in terms of having clear jury directions around this. Juries struggle with understanding. What we have found in our evidence is that juries often mistrust women's reporting. We know that four out of 10 Australians, for example, do not trust women's reports of sexual assault. We think it should not be optional and not rely on a prosecutor's request. It should just be a jury direction and it should recognise the complexity and diversity of victim survivors.

Ms BUSH: I think I have time for one more question.

CHAIR: No, you do not. Thank you for your evidence today and thank you for your written submission.

FOGERTY, Ms Rebecca, Vice President, Queensland Law Society

MacDONALD, Ms Sarah-Jane, Member, QLS Domestic and Family Violence Law Committee, Queensland Law Society

THOMPSON, Dr Brooke, Policy Solicitor, Queensland Law Society

THOMSON, Ms Kara, President, Queensland Law Society

CHAIR: Good morning. Thank you for being here. Thank you for your written submissions. We invite you to make an opening statement of up to five minutes, after which the committee will have some questions.

Ms Thomson: We thank you for the invitation to attend this morning. In opening, we respectfully acknowledge the traditional owners of the land here in Meanjin, home of the Turrbal and Jagera people, and pay our respects to all elders past, present and emerging.

As you mentioned, Chair, you have our submission on the bill. I would like to draw your attention to three key points in relation to our submissions. Firstly, we do not support amending the definition of 'carnal knowledge' without also reviewing its use throughout the Criminal Code. Queensland remains the only jurisdiction which has not replaced the suite of offences using the term 'carnal knowledge' with gender-neutral language that captures a broader scope of conduct. The continued use of the terms 'carnal knowledge' or 'penile penetration' is discriminatory. This leaves female offenders open to more serious charges such as rape where they are unable to be charged with other offences using the terms 'carnal knowledge' or 'penile penetration'. They also result in certain offences such as incest being able to be perpetrated only by male offenders.

Secondly, we are concerned the threshold for making cross-orders is too high. While we acknowledge that the intention of this amendment is to protect victims from having cross-orders made against them, the requirement for exceptional circumstances may have the unintended consequence of discouraging magistrates from agreeing to resolve hearings by making of cross-orders. This will result in more hearings and, in some instances, further strain on co-parenting relationships.

Third, we reiterate our concerns about the jury direction provisions as currently drafted. The wording of some of these sections is unclear. These provisions should be facilitative and not directive and remain subject to a trial judge's overall discretion to ensure a fair trial. It is also important that directions are linked to the matters in issues in the proceedings; otherwise, there is risk of irrelevant directions being provided to the jury. Chair, I have several people here today who can assist the committee with respect to questions. In particular, Rebecca and Sarah-Jane have practical experience practising in this area.

Mrs GERBER: I wanted to talk a bit more about section 6 and the definition and the terminology used there. I wanted to draw your attention to the police union submission, which you may not have had a chance to see because it was submitted just this morning. In relation to section 6, they suggest that, in terms of the definition of 'engage, in penile intercourse', the word 'mouth' is missing. The crux of my question is: can you point us to a jurisdiction that has fixed this and delivered a replacement terminology for 'carnal knowledge' that has worked, in making sure that the terminology—

CHAIR: Or appears to work.

Mrs GERBER: Appears to work, yes, in using gender-neutral terminology.

Ms Fogerty: In assessing whether or not it works, it depends on an understanding of the purpose of the proposed changes. Traditionally, the offence of unlawful carnal knowledge—not all the time but a lot of time—is often used in a Romeo and Juliet type situation, which is the terminology used in the United States, where two young people have a consensual sexual relationship. One party might be 17; one party might be 15. Theoretically, the older party can be and does get charged with a criminal offence. Our concern, and the rationale behind our suggestion that Queensland should follow in line with every other Australian state, is to ensure that a greater range of conduct can be captured by unlawful carnal knowledge so that lesbians and gay men do not run the risk of being charged with a higher offence when, really, we are concerned with a consensual situation between young people where, as a matter of age, one person is legally deemed not able to consent.

Mrs GERBER: What is the replacement terminology that other jurisdictions have used?

Ms Fogerty: The definition of 'rape' in Queensland is already broad. It includes penetration of any orifice by any object. We think the definition of 'unlawful carnal knowledge' should be amended to better reflect that you do not need penetration just by a penis. The focus of the provision should actually be penetration, not penises.

Mrs GERBER: Understood. What is your comment in relation to the police union submission around expanding—

CHAIR: Without putting words in your mouth, Rebecca, did I pick up on what you just said that the expanded definition in the Criminal Code of 'rape' would cover this situation?

Ms Fogerty: We think so. Our research is that most other states in Australia have a gender-neutral extended definition of what constitutes unlawful carnal knowledge to just better reflect changing population dynamics.

CHAIR: Which state has the best definition?

Ms Fogerty: That I do not know.

CHAIR: That is all right.

Mrs GERBER: You can come back to us.

Ms Fogerty: Could we come back to you on that?

Mrs GERBER: Very helpful, thank you.

Ms BOLTON: I refer to page 5 of your submission regarding expert evidence. Could you expand on that in relation to domestic violence and being admissible in criminal proceedings?

Ms Fogerty: The primary focus of the submission was that we questioned the necessity of the provisions around expert evidence and whether they caused unnecessary replication and confusion. This is in the context of a bill that is very prescriptive. As a matter of law already, where domestic violence is an issue in dispute in proceedings, it is relevant and it is able to be admitted. The focus on expert evidence and experts giving evidence about domestic violence we are concerned could have unintended consequences by making it more difficult for people, particularly those represented on legal aid, to meet the relevant threshold. It will create funding issues and it will create delays, and it may not necessarily achieve the desired effect.

CHAIR: Just dealing with applications for legal aid, the difficulty is going to be—because to get aid to defend something, if it is still the case; it is while since I put a legal aid application in—that you have to basically provide a defence. What is your client's defence to the charge to get aid for trial? I know they are very rarely granted. Well, back in my day they were very rarely granted, even if you did the best submission in the world. Is that the complexity?

Ms Fogerty: I think that is an aspect of it. I am a criminal defence lawyer. I act for many women defendants charged with all sorts of offences, and I can say that domestic violence is a feature in the backgrounds of the vast majority of these women. The thresholds for being able to get funding for an expert report on a matter that is funded by legal aid—which, again, is the vast majority of female defendants—are very high. They create delays in the system. These have ongoing effects.

Ms BUSH: At page 4 of your submission, in terms of 103CA(1)(d) to (f), you raise some issues around maybe redrafting that part of the bill around the evidence of domestic violence. Can you provide a bit more detail?

Ms Fogerty: Our concern echoes some of the matters identified in the submission by Caxton Legal Centre and Legal Aid. The way these matters have been specified in, I guess, a highly prescriptive way does a number of things. It does not address the facts of the situation at hand. We heard from Padma just moments ago. She spoke very compellingly from victims' perspectives that nuance is an essential feature of domestic violence, particularly where coercive control is an element. In terms of those broader aspects that focus on features like a person's socio-economic status or other subjective features, whilst that is definitely relevant in a holistic sense—we cannot address coercive control without looking at those things—we question whether there are probably some unintended consequences that can occur because you are then not looking at the two individuals in front of you.

Ms MacDonald: On that point about section 103CD, which is talking about the rules of evidence and evidence that would not be deemed inadmissible because of that abrogation, one of the concerns——if I could use an example of, say, a grievous bodily harm charge—is that currently experts can say, 'These injuries are consistent with something that caused grievous bodily harm.' What would be allowed to take place if this were to be included as proposed in the bill is that an expert would able to say, 'This injury is consistent with grievous bodily harm—and I viewed the evidence and this person committed that offence'. Not only would the evidence of an expert be about a fact in issue; it would be an issue that would normally be a fact a jury or a decision-maker would make. That has this issue about prejudicial and probative value and how that will impact on pre-trial proceedings and further complicate things. Those evidentiary issues will become hotly contested and will really, in my submission, draw out those proceedings in the lead-up, because they would have such an impact to how a trial is run if that sort of evidence is included.

Ms BUSH: Is that not the issue at the heart of the bill—how difficult it is to get these cases convicted because we not being clear enough about what is going on?

Ms MacDonald: I think potentially that is the heart of the bill. Certainly, from the Queensland Law Society's perspective, we endorse having the task force recommendations included, but we also have these overarching principles about prejudicial and probative value and about relevance that have been endorsed for a long time. By that particular section, for instance, being included, the risk is that that is highly prejudicial and there is not very probative information being put before a court. All it does is really confuse a jury and takes them away from the matter at hand of being able to actually decide on the facts and whether, in their opinion, there was grievous bodily harm committed by that person or they are simply going to be led down the garden path, so to speak, by an expert who has formed that view.

If you take it a step further and you have both the police or the Crown and the defence making expert evidence, you are complicating a jury by making them decide between two expert evidence opinions where they say that person did or did not commit grievous body harm. They are not left with what is inherently their responsibility, which is to make a decision.

CHAIR: Whether the offence occurred?

Ms MacDonald: Whether the offence occurred by that person.

Mr KRAUSE: I think my question has just been answered by Ms MacDonald in terms of the battle of the reports maybe taking away attention from what is a question of finding of fact. Ms Fogerty, you said that you represent a lot of defendants with a background of domestic and family violence. Your concern was that access to expert reports might prejudice the interests of your clients?

CHAIR: Lack of.

Mr KRAUSE: Lack of access to being able to finance those sorts of expert reports, especially if they are on the other side.

Ms Fogerty: Legal Aid is publicly funded and requires, appropriately, there to be strict procedures and rules governing whether or not a person is eligible and then what other reports and expert services they might be able to access.

Mr KRAUSE: Can you envisage that it might also be prejudicial in the reverse situation?

Ms Fogerty: For the prosecution?

Mr KRAUSE: Yes, in terms of prejudicial to the accused if there is one side bringing an expert to court but the accused is not?

Ms Fogerty: Absolutely, because the accused is not on equal footing, particularly as well if the evidence of the expert is again more towards broader social aspects of domestic violence as opposed to the individual circumstances. There is a risk that the trial will not be fair.

Mrs GERBER: I wanted to follow up on what the member for Cooper asked but talk more about the evidence that may be submitted in relation to a DV offence and the Law Society's submission that the way it is defined—the list—is going to cause some problems. I wanted to draw your attention as well to page 8 of the police submission. We have heard from a number of submitters talking along the same lines, that this section is going to cause problems—that either it is going to allow for irrelevant evidence or it lacks clarity. Submitters in both regards have said it either needs to be not exhaustive or needs to be removed completely. There is some confusion as to how we might be able to rectify the problem. Are you able to give us your view as to what needs to change in relation to that section?

Ms Fogerty: In respect of that section, our first suggestion would be that it be a non-exhaustive list. Discretion has to be retained. Our second point is that there is too much emphasis on broader social characteristics rather than the precise factual circumstances of the people before the magistrate. It is important; we cannot get around the fact, though, that, with a list of circumstances like that, in order to meet the requirements of the provision it is going to require preparation of lengthy, detailed affidavits. That is a resource intensive process. It is one that will necessarily lead to greater delay within the civil domestic violence system—a system that is already at capacity and a system that is already—

Mrs GERBER: Under-resourced?

Ms Fogerty: There is a huge demand on it. That is a situation that will, I suspect, privilege those who can pay versus many of the most vulnerable court users.

CHAIR: That brings to a conclusion this part of the hearing. Thank you for your attendance. Thank you for your evidence today.

BOTS, Ms Colette, Director, Family, Domestic Violence and Elder Law Practice, Caxton Legal Centre

CHAIR: Good afternoon. Thank you for being here and thank you for your written submission. We invite you to make an opening statement of up to five minutes, after which the committee will have some questions for you.

Ms Bots: Good afternoon. I would like to acknowledge the traditional owners of the lands on which we meet and pay my respects to elders past, present and emerging. Caxton Legal Centre is a community legal centre with over 40 years experience working with both victim survivors and perpetrators of domestic violence, including as respondent duty lawyers at the Brisbane domestic violence courts. We also provide specialist services to older people experiencing elder abuse as a form of domestic and family violence. We acknowledge that older persons are not given as much attention as victim survivors of coercive control. Older women in particular may experience coercive control through decades-long intimate partner violence, or they may experience coercive control at the hands of their adult children who may live in their homes uninvited for years on end, not contributing financially at all, exhibiting a pattern of controlling behaviour over many years, while the older person either spends their life walking on eggshells—to use the language that our clients so often use—and living in constant fear or, worse, leaves their homes and effectively becomes homeless because they can no longer stand the coercively controlling abuse that they have endured in their own homes for many years.

In our day-to-day work at Caxton we also assist victim survivors who have been misidentified as perpetrators of domestic violence, and we are supportive of the increase in focus on recognising that in most cases there is only one person who is most in need of protection. We strongly support the measures taken to provide better protection for those who experience coercive control and all forms of domestic and family violence.

In our submission we aim to highlight that the rights of victim survivors and the rights of perpetrators must be balanced proportionately. Both victim survivors and perpetrators have the right to participate in a legal process that is free from discrimination. All of our answers are aimed at ensuring the legislation is drafted in a way that recognises the rights of all parties as well as remaining mindful that of paramount importance is a victim survivor's right to safety and right to life. I thank the committee for the opportunity to provide evidence today. I welcome any questions the committee might have.

Mrs GERBER: Thank you very much for your submission. It provides a perspective that we have not heard about in relation to elder abuse. I wanted to ask you some questions about that. Queensland does not have a statutory definition of elder abuse and it is criminalised in Queensland at moment. Are you satisfied that the amendments proposed in this bill around coercive control address the issue of elder abuse or would you prefer to see some more legislative reform around defining elder abuse and criminalising it?

Ms Bots: Firstly in relation to the way that elder abuse falls within the current legislation, it is the case that, whether a person is younger or older, obviously the Domestic and Family Violence Protection Act will apply to them. The amendments that have been proposed will go towards assisting older persons. The reason I say that is that I think the issue is probably more around a lack of education in the police force. Certainly more education around elder abuse would be beneficial for judicial officers so that there is that understanding that the act does apply because elder abuse is a form of domestic and family violence.

In terms of criminalising it, I will briefly touch on that. We are not necessarily supportive that that is the way to go at this stage. The reason we say that is that our older clients are already hesitant to engage in the legal system as it is. They are afraid of implicating their children, whom they love. There is a whole other different dynamic to intimate partner violence. In the event that, for example, it was criminalised in terms of how it would affect older persons, it might make them engage in the court process even less.

CHAIR: On the last page of your submission you refer to your submission dated 5 August. Would that have been a submission to one of the task forces?

Ms Bots: No, that was our first submission in relation to combating coercive control bill to the Department of Justice and Attorney-General.

CHAIR: Do you have a copy here?

Ms Bots: I do, yes.

CHAIR: Would you mind tabling that?

Ms Bots: Certainly.

CHAIR: Leave is granted to table the document.

Ms BOLTON: We have heard from other submitters and witnesses about the enormous amount of resources that are going to be required, because this bill is a first step but to do this properly there needs to be resources, education and a whole gamut of things. From the angle of Caxton Legal, have you looked at the extra workload you and other organisations such as yours would have and what training would be required?

Ms Bots: In terms of Caxton Legal Centre and how we would approach it with the changes?

Ms BOLTON: Yes.

Ms Bots: My answer to that would be that the changes are not necessarily going to have a great effect on the way we carry out of our services. The reason I say that is: the legislation is now aiming to better identify and better define coercive control. Having said that, coercive control has existed for many years; it is just that the greater community does not have a good understanding of it.

What I am saying, for example, is that in our service we have assisted, as I have indicated in my opening statement, many different types of clients—older persons who are aggrieved, younger persons, respondents et cetera. I will put it this way: the current legislation already defines emotional abuse and psychological abuse. We have had so many clients who have experienced coercive control. We have had success in obtaining protection orders for them using those sections, but we support the changes because it makes everything much clearer. It creates a better understanding overall for the community and for all stakeholders. I guess what I am trying to say is: we do not necessarily anticipate that it will create more work because we already know that there is so much coercive control out there because we are seeing it come through our doors. Does that make sense?

Ms BOLTON: Yes. So what you are saying is that you do not believe it would increase the number who come? Once they know and have a better understanding that they may be in a relationship that is coercive, you do not believe that will create suddenly a tsunami of people coming to your door?

Ms Bots: That is right. That is essentially what I am trying to say. The reason I say that is: people in the community are not necessarily identifying themselves as victim survivors, especially in the context of elder abuse. They will have a tendency to minimise it. They might come to our doors saying to us, 'My son or my daughter is behaving in this way and I really do not like it. I want that behaviour to stop.' At no point have they identified themselves as a victim of coercive control. I am trying to say that we anticipate the same people will come to us seeking our services, but now we will have a more effective way of explaining the legislation to them and how it fits in with them.

Ms BOLTON: Wonderful.

Ms BUSH: Colette, does Caxton still represent people in guardianship matters?

Ms Bots: Yes, we do, in particular through our Caxton Seniors Legal and Support Service and our health justice partnership Older Persons Advocacy and Legal Service, yes.

Ms BUSH: We received a submission which we have agreed will be made public—you would not have seen it—from ADA in relation to family members taking out guardianship matters over people with impaired capacity as a way of extending that coercive control. I am interested in your views on this. Do you see that play out at all in your practice?

Ms Bots: Just to clarify, do you mean people essentially using the guardianship process as a way of systemic abuse?

Ms BUSH: Correct, yes.

Ms Bots: Yes, absolutely. We see applications being initiated in the Queensland Civil and Administrative Tribunal prematurely. We see it happening without—in our case, the older persons whom we are generally assisting—the elder person being given adequate notice or sometimes any notice at all, which makes it a really effective way, so to speak, for somebody who is using that systemic abuse as a mechanism to get that through. The unfortunate reality is that the existing ageism in society and all of those false assumptions about older people makes it even easier for them to get those applications through. That is absolutely something we see a lot of.

While I am on that point, another issue of concern related to this is social abuse of older persons. What I mean by that is family members, for example, preventing their mother or father from having contact with other family members. That is an issue that is extremely difficult for us to resolve. In theory, these parties can go to the tribunal to have those matters looked into, but it is extremely difficult for services like ours to even get in touch with those clients because they are being kept away from everyone.

Ms BOLTON: Paragraph 9 of your submission talks about being extremely concerned about the wording of sections 22A(2)(d)(i) and 22A(2)(d)(ii) with respect to capacity. Can you just quickly expand on that?

Ms Bots: Absolutely. Just to touch on what we have already submitted, our main concern is that in the act there is no measurement or test or definition of what capacity is. The crux of our submission is that this will inevitably require practitioners and judicial officers to engage in a process of discriminatory profiling. We could not think of a suggestion for how to define it, which is why, in our respectful submission, it would be better to delete it because it seems almost impossible not to engage in that kind of discrimination. To expand on that a bit more, it sounds very basic but the easiest way to explain it—and this is what the legislation essentially would encourage, which we do not approve of, so to speak—is that we would all agree it is not the case that just because a man is big and burly and strong he is more likely to be a perpetrator. I think we would all agree that is the case. Our concern is that the legislation essentially gives the incorrect messaging that that could be the case. What exactly is 'capacity' to seriously harm someone?

That brings me to the next point in our submission. We are concerned that this reference to capacity will exacerbate the issue of misidentifying the person most in need of protection. In the submission I mention a reference to an aggrieved who picks up a breadknife in the kitchen in an act of self-protection. That person can be deemed to have the capacity to seriously harm someone; she is carrying a knife. What we are saying is that in the surrounding subsections the legislation already addresses self-protection and behaviour that is attributable to the cumulative effect of domestic violence. We say that is sufficient. I beg your pardon, I am thinking of the retaliation subsection, not the capacity one.

Ms BOLTON: Can you give an example of that?

Ms Bots: Yes. I beg your pardon; I lost my train of thought. I said that we referred to the breadknife example. In any situation an aggrieved person might have access to household items that, if they were picked up, can be deemed to be something they can seriously harm someone with; for example, a cricket bat, a shovel in the garden shed or a steak knife in the kitchen. Our question is: does that mean they would be deemed to have the capacity to seriously harm someone?

Mrs GERBER: Can you just explain why you recommend that section 22A(1) and 22A(2) should be switched around?

Ms Bots: To our practitioners it is more logical. I will give an example. If we are considering whether behaviour is abusive, threatening or coercive under subsection (1), as a practitioner who has to present evidence to the court we would naturally be turning our minds to the factors in subsection (2), so things like the history of violence in the relationship, the severity of harm and so on and so forth. Those factors are what go towards helping us determine whether that behaviour is abusive, threatening or coercive. What we are saying is: we would naturally have to jump to subsection (2) in order to determine the factors in subsection (1). Does that make sense?

Mrs GERBER: So it is just a matter of order?

Ms Bots: Yes. It might seem like a small thing, but when our practitioners got together to discuss our response to this, that was one of the first things that came up. We thought, 'That's a lot of information for us to be considering, advising on, presenting to the court,' and we were not sure about the order. We had a look at it and thought it can probably most logically be looked at in terms of two steps, and that is what we came up with.

CHAIR: Thank you, Colette, for coming along and for your submissions. Have a good day.

LYNCH, Ms Angela, QSAN Secretariat, Queensland Sexual Assault Network

CHAIR: Good afternoon. Thank you for being here. Thank you for your submissions. I invite you to make an opening statement of up to five minutes, after which committee members will have some questions for you.

Ms Lynch: I would also like to acknowledge the traditional owners of the land, the Turrbal and Jagera people, and elders past, present and emerging. The Queensland Sexual Assault Network is the peak body for sexual violence prevention and support organisations in Queensland. We have 23 members including specialist services for Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women, women with intellectual disability, young women, men and children. Our members are located throughout Queensland, including in regional and rural locations. Our network of non-government services is funded to provide specialist sexual assault counselling support and prevention programs in Queensland.

We agree with many aspects of the bill. We applaud the government for laying the groundwork for the criminalisation of coercive control and starting the process of bringing about cultural change in the legal system and the community more broadly. We particularly congratulate the government on the legislative guidance that is provided in the bill around determining who the person in most need of protection is.

Many victims of domestic violence will not, or do not, use the criminal justice processes, and even with the imminent criminalisation of coercive control in Queensland—probably next year—that is not going to change. It is this legislation which will be most used by victims of coercive control to get protection from ongoing violence, so obviously it is really important.

To avoid unintended consequences, QSAN recommends a delay of at least 12 months in introducing the provisions around relevant evidence of domestic violence in the criminal justice system, until all professionals have been trained, and that there actually be an independent review of this legislation after three years.

We particularly are supportive of updating the stalking law provisions but would like the protections extended to enable stalking victims who are not in DV relationships to get civil protection. At the moment in Queensland it is only those who fit those definitions who can get a domestic violence protection order and are able to get that civil protection.

We strongly support the use of expert evidence in the criminal justice system. We would like that extended to sexual violence as well. That is going to be a way of educating judges, juries and professionals so that over time, as judges, juries and professionals in the court start to hear this expert evidence, they are going to become more educated themselves and it has a systemic impact, so we are very supportive of that.

We do have quite strong concerns relating to the renaming of the child sex offences. We agree with the need to modernise and update sexual offence terminology, but unfortunately we do not agree with what is proposed in the bill. We note that the Women's Safety and Justice Taskforce recommended the modernising of the language concerning the offences of maintaining and carnal knowledge, but we note there was no consultation on the specific wording of these amendments. The proposed amendment—repeated sexual conduct with a child—though an improvement on the current offence of maintaining a sexual relationship with a child, does not fully reflect the seriousness of the offence against children over a period, sometimes years. We prefer the offence to be named persistent child sexual abuse of a child, which is more reflective of the seriousness of the crime, is consistent with the wording of other states and territories—New South Wales, ACT, Victoria and Tasmania—and is actually consistent with the advocacy of Grace Tame. We note that an important part of Grace Tame's advocacy around this is that there was consistency across states and territories.

We also have significant concerns about renaming the carnal knowledge offence 'penile intercourse with a person'. Though these words are reflective of the offence, we are concerned about the impact of these very graphic words on the victim. The victim would be continually subjected to hearing these words in any police and court proceedings, interactions and beyond. We are aware that language is extremely important when communicating about issues as sensitive as child sexual abuse. There is also concern about the potential impact on those who are charged with these crimes which may have a negative impact on victims. QSAN strongly recommends that evidence is sought by this committee from experts who work with child sexual offenders about any adverse consequences before deciding about these changes. For all of these reasons we prefer the term 'penetrative sexual abuse', which is a Tasmanian term which also encompasses a wider range of abuse than just penile

intercourse, which, again, is more reflective of a victim's experience of rape and, I would say, is probably consistent with the arguments of the Queensland Law Society I heard previously. When they were talking about that offence they were arguing for a wider range of offences to be captured. That is the end of my opening statement. I am happy to take questions.

CHAIR: In relation to the stalking provisions, you talked about being able to apply for civil protection. Can you expand on that for me?

Ms Lynch: At the moment in Queensland the only people who can apply for a domestic violence protection order—you may be subject to stalking as part of a domestic violence relationship—are people in a domestic and family violence relationship. However, people who are victims of stalking behaviour can be beyond just those domestic and family violence relationships. You can have fixated and obsessed people who believe they are in a relationship—and I put in there an example of Celeste Manno in Victoria—

CHAIR: Would it be similar to the way a person gets a domestic violence—

Ms Lynch: I would think it would be very similar. You have to understand as well that girlfriend-boyfriend relationships are not covered necessarily by our domestic and family violence relationship. If they do not meet the criteria of a couple, they also are not actually covered. There is a wide range of relationships that do not have that—not everyone wants to go criminal; not everyone can prove beyond reasonable doubt. It provides a level of protection that just does not exist at the moment.

CHAIR: I know it is not similar, but if you give them a peace and good behaviour—I know that act is a little bit clumsy. What you are suggesting is that perhaps it could be within the domestic and family violence—expanding the definition of relationships to boyfriend-girlfriend or whatever.

Ms Lynch: Whether it is a stalking intervention order, I am not sure. You can get a criminal charge, so whether it is extending that back, I am not sure. You would have to put some thought—

CHAIR: If you keep it on the civil list you are probably better off than in the domestic and family violence setting.

Ms Lynch: Yes.

Mrs GERBER: What about expanding it beyond a one-off protracted—I know your submission talks about expanding—I cannot find where it is.

Ms Lynch: There was some concern about the word 'protracted'. You have to think it through. Because of the expansion of the provision around stalking, abuse, intimidation and harassment, there could be some circumstances that are a one-off and may not be protracted, or there could be arguments about whether it is protracted or not but have a really big impact. You have to think it through. For QSAN, there are concerns around that word 'protracted'. As I have said, a one-off abuse of posts that are shared multiple times may not satisfy the definition of 'protracted' if it just up on a site for 24 hours. Is that protracted? Arguably not. It is around thinking through some of those concerns.

Ms BOLTON: Obviously we have heard the importance of resourcing and education as part of ensuring that this legislation actually does make improvements. From your experience, what would be the one thing you would say we need to do better at in terms of our communication and education, understanding that language is so important, as you have said?

Ms Lynch: In relation to general, broad information?

Ms BOLTON: Regarding coercive control and these changes to get out to the community, and we have heard we have to target different age groups. Is there something you have seen in your experience with sexual assault victims that was particularly effective in bringing them along on the journey for them to report and to get the assistance?

Ms Lynch: It is probably wider than my experience just at the Queensland Sexual Assault Network, but I think that issue of control in relationships—if you are looking at trying to warn especially younger people about red flags or concerning kind of behaviour in a relationship, if they get any sense that one person is trying to control them, we need to communicate that that is not acceptable and they should go and talk to someone about it. That is enough for them to call a domestic violence service and check out whether that behaviour is okay or not. They can do that anonymously. They can ring up those big DV lines, 1800RESPECT and DVConnect, and they can check in around whether that behaviour is appropriate or not because it could mean they can get out early. If they get that background, if they get some more information about what is acceptable and what is not, it may be that

sometimes victims will get out earlier than perhaps they may have because they do not know that that control is highly dangerous: it is probably not going to change; it is probably only going to get worse. If someone is watching their phone, if somebody is telling them how to dress, if somebody is doing all these things to them, it really is something they should check out with someone. If they are not sure themselves, they should go and check it out with some professionals. They can do that anonymously. They can ring those lines; that is what they are there for.

Mr KRAUSE: Thank you for your submissions. Towards the beginning of your statement you mentioned that you wanted to see the provisions around evidence of domestic and family violence delayed for 12 months to enable some type of training to take place. Could you expand on what that would involve, in your view, if they were to be delayed? I might have a follow-up question in relation to that. What sort of training are you talking about?

Ms Lynch: Just the entire criminal justice system: judges, defence lawyers, prosecutions—every person who is involved in the criminal justice system, before those particular provisions are legislated or allowed to become effective, should get training. If we have an untrained system, which effectively we have at the moment—so it is a system that does not understand coercive control, does not truly understand the dynamics of domestic and family violence from a victim perspective; and remember the criminal justice system is very much from a defence perspective or the players in it come from a defence perspective—then you can have unintended consequences. You can have perpetrators who do use or can use those provisions for themselves in relation to mitigation of sentencing and a range of other things. It is around those unintended consequences and making sure the system is ready. You then also would want this independent review after three years. These are big changes.

Mr KRAUSE: That leads to my next question. In relation to evidence of domestic and family violence, where do you see the standard of proof lying in terms of where that evidence can be brought into proceedings? What type of evidence would be required for prior history of domestic and family violence to be taken into account, if it is introduced by either a victim or an accused person?

Ms Lynch: I probably cannot answer that, I am sorry. I think it is at the discretion of the judge, but that is also around wanting our system to be as informed as possible, so it is about having that education process. The other thing you could think about in relation to these provisions is developing guiding principles. That may be what you recommend before coercive control is actually criminalised, that there are some guiding principles about how legislation is interpreted by judges. At the moment that is what we would recommend: getting the system ready so you are kind of minimising the potential for unintended consequences.

Mr KRAUSE: I do not know if you heard the evidence from the Queensland Law Society, but there were concerns raised about the impact if one party or another did not have access to providing expert reports into court, for financial reasons essentially. There were concerns it might skew the proceedings one way or another or that it might become a battle of the experts. Can you comment on those concerns?

Ms Lynch: I think what the Queensland Law Society has raised are valid concerns, but in the end I think we would be more in favour of expert evidence being introduced because we see the benefits of having an expert domestic violence person there explaining to the jury the dynamics—and at the same time they are really explaining to the judge, the court, the defence and the prosecution. Over a period of years they will upskill the entire court process—and it could be 10 years or so. I think we would be in favour of having that expert evidence. Yes, there can be a battle of experts and, yes, it can end up like that, because that is what courts do and that is what these systems are set up for. The systems are also set up for providing assistance and guidance around how that plays out or how juries take it into account and things like that. In the end, we are in favour of expert evidence being introduced because we see that as a real gap in the system at the moment.

Mrs GERBER: I want to pick up on that, because I think QLS's main objection in relation to the expert evidence was around the fact that the section goes further than just that—that it changes the way expert evidence can be presented to a court in that the expert is able to come to a conclusion of fact or a matter of substance that is normally left to the jury or the judge. Is that something you have turned your mind to?

Ms Lynch: I have not turned my mind to that, and I would have to look at those provisions again in light of what QLS said. In the end, I do not think there are too many judges in Queensland who are going to really allow—they really understand what a jury has to do and if an expert does overstep their mark then the judge is going to say that as well. I think these things can be worked out in terms of exactly what an expert can report on. That happens in the Family Court all the time. There are experts

who talk about child dynamics and domestic violence dynamics, but that expert is not allowed to say who has custody or who has access in the end; they can only explain to the court what the dynamics are and ultimately the court takes that into account in making its decision. I think that may well be what happens in this instance as well, but I have not looked at the provision from that perspective.

CHAIR: Thank you for your evidence today. Thank you for your written submission.

BUGLER, Miss Catherine, Founder, Queensland Youth Policy Collective

CHAIR: I invite you to make an opening statement of five minutes, after which committee members will have some questions for you.

Miss Bugler: We would like to, firstly, thank you very much for having us here today. The fact that it is just me is not evidence of a lack of enthusiasm on the part of our collective; it is just the nature of youth run organisations that the majority of our members do not have jobs that allow them the flexibility to attend today. I would also like to acknowledge the many victims and campaigners who have led us to this day and what a momentous occasion it is to be reforming these kinds of offences.

As you will note from our submission, we dealt with two main aspects of the proposed amendments. One was with respect to coercive control. The other was with respect to objective 2, which was to modernise the sexual misconduct offences. In this opening statement, I am going to be dealing with objective 2, which is to modernise the sexual offence terminology. Specifically, we dealt with section 229B of the Criminal Code which is, as you would all know, 'Maintaining a sexual relationship with a child'. My opening statement is going to be very semantic because obviously this turns on the basis of those words. What I am going to be talking about is how we take issue with the proposed amendment. The proposed amendment is 'Repeated sexual conduct with a child'. We take issue with the words 'repeated', 'sexual conduct' and even, because we are very semantic, 'with'.

Moving to the first of these, which is the notion of repeated sexual conduct, we would note that, as you would probably no doubt be aware, this section has had multiple amendments over the course of two decades. This actually principally came out of a decision by the High Court in 1997 which basically found that this offence in another jurisdiction must require three repeated sexual offences, which is what led to the amendment by the Queensland parliament.

Our issue is that, by changing the phrase from 'maintaining a sexual relationship' to the word 'repeated' abuse, that may in the mind of judges or prosecutors mean that sexual complainants have to demonstrate with sufficient particularity particular kinds of offences. That is to say, they need to be able to evidence to the criminal standard of proof multiple offences with specific dates to demonstrate that those offences were repeated—that is, they were separate instances of abuse. That is exactly why the law was changed to the phrase 'relationship' in the first place—because it wanted to consider that these kinds of victims do not have the capacity a lot of the time to remember with sufficient particularity the individual offences committed against them. That is why we take issue with the phrase 'repeated sexual conduct'.

In particular, we would point this committee to a court decision, and I am going to go through a couple of decisions by Queensland courts because I think it helps to look at the actual offences and how they are being dealt with in the courts. I would encourage you to look at the decision of Queen v CAZ in which Justice Fraser, a Court of Appeal judge, stated that the legislative assumption is that children who are the victims might often be unable to recall sufficient details of the specific offences and so prosecutors are unable to supply particulars. That is to say, children may give convincing evidence but they may be unable to distinguish the details of one particular act of sexual misconduct.

In that context, we would strongly advise that the phrase 'repeated sexual conduct' potentially may have these other unintended impacts. Also, given the fact that 20 years ago we made a decision to stray away from the notion of having three offences, which is previously what section 229B had, we would say that to go back to that effectively is a little bit incoherent when one looks at the aims of the Harmony Campaign. That is our first issue.

Our second issue is the phrase 'conduct with', as opposed to our proposal of 'persistent sexual abuse'. The issue with 'conduct with' is in my opinion twofold. The first is a simple symbolic argument, which is to say that the notion of 'with' suggests some sort of reciprocity. That is precisely why victims have campaigned against the use of the word 'relationship', because it suggests some sort of consent or reciprocity. In my opinion, the phrase 'with' also to some extent connotes some form of reciprocity, whereas 'abuse of' clearly in the minds of the legislature and also the prosecutor suggests that the child had absolutely nothing to do with what happened to them. That is also reflected when one looks at the dictionary definition of the word 'with'. It involves words such as 'accompanying', and we would suggest that that connotes a notion that the offence is reciprocated.

In particular, my second issue with it is that it has a legal problem. I am going to look at the recent Queensland Court of Appeal case of R v BDF, which was decision 61 of the Court of Appeal this year. The facts of that case, which is quite tragic, are that a woman effectively procured a child to be sexually abused by other men in that woman's life. That woman did not herself have a sexual act against that child. That child was only ever sexually abused against different men only once, so none of the men could be charged with section 229B because there was no persistent sexual abuse in that form. They

did not maintain a relationship because there was only one act of sexual abuse. However, that child was continually sexually abused, so, from their perspective, it makes no difference to them in terms of the criminality and the extent of the criminality. It is arguably the same and/or worse than a crime under section 229B.

The Queensland prosecutors charged the woman with a crime of section 229B—that is, maintaining a sexual relationship with a child—and they did so using the party provisions under section 7 of the Criminal Code. The issue obviously is that that woman did not maintain a sexual relationship with the child. While the Queensland Court of Appeal found that she could be prosecuted by that, I note that that was a split decision and there is a very compelling dissent by Justice McMurdo on that issue. We would say that the phrase 'persistent sexual abuse of a child' would immediately eliminate that problem. That woman could be prosecuted for that because she is sexually abusing that child; the fact that she is not committing the actus reus of the principal offending would not matter.

We would also finally observe, as has already been observed by other submissions today, that the phrase 'persistent sexual abuse of' is consistent across other states and territories. For instance, Western Australia uses the phrase 'with', as does Victoria, Tasmania, the ACT and New South Wales, and they all use that phrase of 'persistent sexual abuse', rather than the phrase 'repeated sexual conduct'. We would also finally observe that the use of the word 'abuse' rather than 'conduct' is very significant to many victim survivors of these kinds of offending. That is our opening statement. I would reiterate that we are by no means policy experts and we really do just want to confine our submissions to this particular issue.

CHAIR: That was very clear. I am not disagreeing; I am just trying to understand: does this terminology of 'persistent sexual abuse of a child' come from other statutes in other states?

Miss Bugler: Precisely. That particular phrase 'persistent sexual abuse of a child' is used in Victoria, Tasmania, the ACT and New South Wales, and the phrase 'with' is used in Western Australia though with respect to sexual conduct, which is similar to what is being proposed in Queensland.

CHAIR: Do you know how long that definition has been in those other states? You may not know and you do not need to take it on notice.

Miss Bugler: I would have to look at that, but I believe the submissions of knowmore will assist you there. I can assist you to say that the ACT amended its Crimes Act in August this year.

CHAIR: So we do not know if there have been any appeal decisions from those other jurisdictions?

Miss Bugler: No.

CHAIR: Thank you. You are very concise.

Mr KRAUSE: Thank you for your submission. It was very good. I want to touch on one issue you did not submit about, if that is okay. The bill proposes amendments to rename, modernise and strengthen the offence of unlawful stalking and also broadens it out. Do you think the renaming and the broadening out of it might help improve understanding in the community about what coercive control is and the danger it presents, or is this something you have not turned your mind to?

Miss Bugler: Certainly we support the community being encouraged to understand what coercive control is, but in the minds of the Youth Policy Collective we do not have a particular view on that.

Mr KRAUSE: Thank you. Again, thanks for your submission.

Ms BOLTON: In relation to objective 6 in your submission regarding oaths, you basically are putting forward that, despite modern technology, in certain situations we need to go back to the witness being there in person. Given you are also very supportive of our First Nations people and how remote they are, how do you think this will work in terms of delays or maybe putting people at greater risk?

Miss Bugler: That is a very good question and I am not sure there is a perfect answer to that, unfortunately. What we dealt with in our submission is coming at it from the perspective of people who are experiencing coercive control or abuse or things like that. When we look at our rural and remote areas, it is very difficult for them to attend. Potentially the answer is—and I believe this was covered by other submissions today—that you can have an oath declared remotely in exceptional circumstances, rather than that being assumed or something that automatically is able to happen. It is a very difficult issue.

Ms BOLTON: Thank you.

Ms BUSH: In relation to jury directions, have you had an opportunity to look at the content around that, and do you have any views on whether that is sufficient?

Miss Bugler: The Queensland Youth Policy Collective does not have a particular youth-led view on the jury directions, I am sorry. I cannot assist you with that.

Ms BUSH: The only other question I had was in relation to the BDF matter that you mentioned. This is just to inform my own views. What were the men charged with ultimately?

Miss Bugler: I do not actually know off the top of my head, sorry.

Ms BUSH: I will look it up.

Miss Bugler: They were charged and they probably would have been charged with something like sexual abuse of a child or something like that. Obviously, the whole point of section 229B is to capture the totality and the significance of the offending. It would still be available to those kinds of complainants, but the issue is how those complainants can have their perspective fully recognised.

Ms BUSH: Would the recommendation that you made here around changing terminology pick up that issue around expanding?

Miss Bugler: I see what you are getting at. The men themselves in that example, under any argument that is proposed today, would not be captured by that. The question was whether or not the woman as a party to it—

Ms BUSH: I understand.

CHAIR: But your suggestion would be that there would be provision if it was amended to this to be charged under the code.

Miss Bugler: There would be provision for that particular woman. As I already mentioned, as the case demonstrates, that woman was in fact charged and that appeal was dismissed, but it would create more clarity in the circumstance that clearly it is causing confusion.

Mrs GERBER: Thank you very much for your submission. It was clearly very thought out and your oral testimony was really helpful. I really appreciate you coming forward and talking. I want to give you the opportunity to address the committee on the short turnaround time frame for consultation. I note in your submission you say that 'the short turnaround time of this consultation period does not encourage meaningful engagement from the community'. I want to give you an opportunity to tell the committee how that impacted your collective.

Miss Bugler: When we say that, I want to clearly state that that is not the committee's fault whatsoever. The committee has been extremely helpful and welcoming to allow us to come here today and has also provided very clear information. It is an issue with the Parliament of Queensland Act providing that the minimum time period for a committee to consider this issue is six weeks, which obviously is incredibly difficult for you. We do not lay that blame at the foot of the committee, to be clear. It is obvious that you have been given a very short turnaround time.

However, it is extremely difficult, particularly when you are dealing with organisations such as ours where, because of various systemic issues—such as the fact that we are all young people who are at university or have jobs that do not provide flexibility or things like that—it becomes more difficult. Not only does it affect the community at large in being able to make contributions that are meaningful; you also need to think about how it affects disadvantaged groups in the community because it makes it even more difficult for them to make submissions.

Mrs GERBER: I imagine you are not the only organisation that was impacted.

Miss Bugler: Exactly.

CHAIR: That brings the hearing to a close. I thank Hansard. I declare the public hearing closed.

The committee adjourned at 12.59 pm.