



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Inquiry into domestic and family violence—policy approaches and responses](#))

Members:

**MRS G JONES (Chair)
MS B CODY (Deputy Chair)
MS E LEE
MR C STEEL**

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 8 MARCH 2018

**Secretary to the committee:
Dr A Cullen (Ph: 620 50142)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Amended 20 May 2013

The committee met at 10.16 am.

ROSENMAN, MS ELENA, Executive Director, Women's Legal Centre, ACT and Region

MACLEAN, MS CLAUDIA, Principal Solicitor, Women's Legal Centre, ACT and Region

WILLIAMS, MS SERENA, Program Manager, Aboriginal Women's Program, Women's Legal Centre, ACT and Region

THE CHAIR: Good morning, everyone, and welcome. I declare open this third public hearing of the Standing Committee on Justice and Community Safety's inquiry into domestic and family violence—policy approaches and responses. Today we will be hearing from the Women's Legal Centre for the ACT and Region, the ACT Human Rights Commission, the ACT Director of Public Prosecutions and Menslink. On behalf of the committee, I would like to thank all witnesses for making time to appear today.

We will now move to the first witnesses appearing today: Elena Rosenman, Claudia Maclean and Serena Williams from the Women's Legal Centre. On behalf of the committee, thank you so much for appearing today and taking time to assist us with delving into your submission to our inquiry.

Can I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the pink privilege statement before you on the table. Can I ask you to confirm for the record that you understand the privilege implications of the statement? And if you need to read it, just take a moment.

Ms Rosenman: Yes.

Ms Williams: Agreed.

Ms Maclean: Yes.

THE CHAIR: Can I remind witnesses that the proceedings are being recorded by Hansard for transcription purposes and are being webstreamed and broadcast live. Before we proceed to questions, Ms Rosenman, have you got a statement you would like to make, to get us started, about your submission and your organisation's views?

Ms Rosenman: Yes.

THE CHAIR: Please go ahead.

Ms Rosenman: Firstly I want to say thank you for the opportunity to come in and speak to you today, particularly on International Women's Day. It is quite an auspicious day to be here. The centre generally has welcomed the government focus on domestic violence and particularly the cross-party interest in making sure we get the response right. So we are really glad to be here today to be part of that process.

I know that lots of you have actually been to the Women's Legal Centre but I thought I would give you a really quick overview of the services we provide to provide a bit of

a framework for what we are going to talk about. We are a community legal centre, which means we provide free legal advice to women on a variety of issues related to family and relationship breakdown, family and domestic violence and unfair treatment at work. That includes family law advice and representation, and our family law practice includes our specialist domestic violence program which is focused on women who are most at risk of domestic violence.

We also have an employment and discrimination legal practice and we have a very specialised access to justice program, which we are really keen to talk to you about today. It is a service particularly for Aboriginal and Torres Strait Islander women and provides wrap-around support on a range of justice issues, including domestic and family violence, but has got a slightly broader remit as well.

All our services, as far as possible, take a socio-legal approach. We are keen to try to provide not just legal advice but, I guess, surrounding support to make sure that women can stay engaged in the legal process and get the other support they need for the full picture of what is happening for them in their lives.

Quickly, I want firstly to expand a little on two principles that are in our submission and also introduce my colleagues who are with me here today. The first point that we have made in terms of principles is that policy responses to domestic violence need to be very clearly focused on long-term sustainability. The second principle that we have talked about is that these responses need to engage really deeply with the needs of vulnerable groups of women, and we are particularly interested to talk to you today about what Aboriginal women are telling us about the responses so far.

I want to speak very briefly about the role of legal advice in regard to those two principles, particularly with regard to the need to focus on long-term and sustainable outcomes through policy responses and programs for domestic violence. It is our view that family law advice and representation is an absolutely crucial part of a long-term and sustainable response. I want to tell you why I think that is.

Apart from the gendered nature of domestic violence, which I know you will have covered at length, women are also much more likely to be financially worse off after separation. Research shows that divorce, in fact, in some circumstances can actually be beneficial for men's income whereas, on the other hand, divorce and separation tend to lead, for women, to a dramatic decrease in their financial security. It is particularly the case, as you would understand, if you are taking time out of the workforce to care for children. We know that single women will find it more difficult to find secure housing.

A piece of research that the centre has been really influenced by, and you may have come across it, was some research that the Domestic Violence Crisis Service did in 2014 called—I think it was called; I would need to get you the name—staying home after domestic violence. It explored the fact that the majority of the women that they support, the DVCS, actually stay at home now rather than leave after a crisis, which is a positive outcome for women, I think, but when they followed a small group of their clients in the longer term what they found was that more than half of the women who were home owners and more than two-thirds of the women who were private renters actually lost their home within the first 12 months of separation.

THE CHAIR: Even though they had stayed in their family home, yes.

Ms Rosenman: Yes, exactly. As we all know, women earn less than their male counterparts, they are more likely to take time out of the workforce to care for children or dependants and they retire with half of the retirement savings of men. This is why family law advice and representation is so important as part of the response to DV. What we know, from the women that we see at the centre, is that safe and stable arrangements for how they care for their kids and a fair division of their property from the relationship, no matter how small, and even more if it includes debts, are the foundations that then allow them to move on in a way that is sustainable.

We also know that many men use the family law system to continue the abuse that has been perpetrated through the relationship and there are, even apart from that, extended delays in actually having matters heard and finalised through the Family Court due to the funding constraints that the court is under.

Without legal advice and representation in these areas, women simply would not be able to obtain a property settlement or orders for their children. And what that means is that often, as we see, they walk away from a relationship with nothing financial in their pockets to set themselves up or they walk away with something that is manifestly unfair. I think we see lots of times where clients will come to us with an offer that has been made to them that is so unreasonable it is almost unconscionable. The other thing they do is that they agree to arrangements with their kids that continue to be abusive and continue to put them and their kids at risk.

That means, I think, that if we are serious about creating a foundation for long-term safety and security we need to start by making sure that women have access to ongoing family law advice and representation, that is, beyond assistance through the process of getting a family violence order and beyond duty services. They need to have a lawyer in their court.

THE CHAIR: Some permanent arrangements, yes.

Ms Rosenman: That brings me to introducing my first colleague, Claudia Maclean who is our principal solicitor and will be able to talk to you at length about some of the issues that come up through the legal practice.

The second point that we want to talk about is the experience of Aboriginal and Torres Strait Islander women. The ACT Coordinator-General has indicated that that is a priority of hers, which has been really fantastic. There have been a number of Aboriginal-led processes in the ACT that have laid out Aboriginal women's voices about the response to DV, and I commend those to the committee. I think you have probably got them all already but certainly we can—

THE CHAIR: Feel free to inform us after your appearance today what those are in your view, to make sure that we have indeed had a look at them.

Ms Rosenman: Yes. We will send you those. I guess we are particularly interested, given that this is the justice committee, to talk about the interaction between justice

initiatives and domestic violence responses. To date we have found that the ACT government's justice initiatives related to Aboriginal people have tended to focus on reducing incarceration rates. We completely understand why that is and obviously support that as a goal but what that means is that justice responses and programs have tended to be focused towards Aboriginal men as offenders. It is our view—and Serena will speak more about this—that justice initiatives in the ACT must respond to the justice needs of women and children as well, and in our experience those mostly relate to their experience of either being the victim of family and domestic violence or being subject to care and protection processes. And there are obviously connections between those.

The centre's access to justice programs, like we said, focuses on providing really intensive wrap-around support to women on those issues and also focuses on trying to strengthen families and communities in the ACT. I thought it would be useful for the committee to hear about an Aboriginal women-led program, which brings me to my second colleague, Ms Serena Williams, who is the manager of the access to justice program at the centre. She is a Ngunnawal elder and she will be able to speak to you about the program and the needs of the Aboriginal community in the ACT more broadly.

THE CHAIR: I will go to that first. Ms Williams, would you give us an understanding of the Aboriginal experience of domestic and family violence, and what the program does to help people?

Ms Williams: Yes.

THE CHAIR: Also, one of the things that we have heard, which is really interesting from the research the government has been undertaking lately, is that sometimes separation is a person's objective, but sometimes it is not. I would be interested to know how that works out in the Aboriginal context. Is that about separating out an accused or a perpetrator from a victim for the safety of everybody? Is that actually their desire? Is that what they want? I would like to hear more about that as well. Please feel free to go anywhere in that zone for us.

Ms Williams: I am a proud Ngunnawal-Wiradjuri woman elder here in this community. I was born here and I have been here all my life. So I am very well aware of the issues for Aboriginal and Torres Strait Islander people around domestic and family violence, not only in the workplace but also in the community.

The beauty about the access to justice program with the Women's Legal Centre is that it is a culturally appropriate service. It is Aboriginal women-led. It works within the systems and processes of the Women's Legal Centre. So we do a lot of inter-agency work. We are at 1.8 at the moment. There is me and we have a lawyer who has just come on board. She is there four days a week. We have a lot of demand with Aboriginal and Torres Strait Islander women here in this community.

THE CHAIR: Yes, you would be busy.

Ms Williams: Very, very busy.

THE CHAIR: That is good.

Ms Williams: We can find that hard sometimes. But I think what helps us deliver one of the only services that actually does this with wraparound services here in the ACT is that it is Aboriginal women-led and that leadership roles have been given to Aboriginal and Torres Strait Islander women. They have actually been empowered to do this and to empower other women and families within the community.

We have done a lot of intensive work, working with Aboriginal women who have suffered domestic and family violence or been a part of it. Unfortunately, with some of our clients, there have been deaths. We have gone in and we have supported the whole family to protect the children, the family and the women in the family to ensure that they are given stability with housing and education and within the home.

We also try to keep our families out of care and protection, consistent with CYPS objectives. I think that is one of our main objectives. If there is domestic and family violence in Aboriginal homes, child and youth protection services come into play. That can be very foreign to our women and our children. We advocate at another level to ensure that we are looking at early intervention to ensure that families are protected at a cultural level and that they are supported. We provide a lot of services through the lawyers in the Women's Legal Centre and through myself.

We find that there are some system gaps within some services and some things that are not culturally appropriate for our women. We find that we are actually picking up a lot more of the work within the community to ensure that those gaps are filled.

I think it is about a greater understanding. I think it is about community legal education, getting some education out there into the community and starting to look at those early intervention stages of domestic and family violence: about how to respond, who to refer to and what it actually is. Sometimes it is not recognised within our community; it becomes a vicious cycle. We must ensure that this is coming through the education system too, learning about what domestic and family violence is and how it is for our women and our children. We are looking at the cultural kinships, understanding that if someone has been a victim, the shame that that brings, and then all the lateral violence that comes with the other family groups because they have spoken out against a perpetrator.

THE CHAIR: Within a cultural community, yes.

Ms Williams: Yes.

THE CHAIR: Ms Cody has a supplementary, but before we go to that, without identifying anybody, obviously, and being very careful not to do that, can you give us some examples of how things have gone well or how things have gone badly in this system? I think, from the cultural perspective, we want to understand as much as possible about what the gaps in the system are. Do you have any sort of general—

Ms Williams: I am going to speak at a professional level but also at a personal level. Some of the services have failed not only me but also other women in this community.

THE CHAIR: How?

Ms Williams: Not being able to provide the culturally appropriate services—only being an ear on the phone.

THE CHAIR: Not sitting down?

Ms Williams: Yes, not that face-to-face stuff and sitting down with another Aboriginal woman. That is important. It is about that safety. I want to be very diplomatic and I do not want to name services but there are gaps in the services.

As to something that has worked really well, I always have to commend the Women's Legal Centre and our program that we are doing. Where a woman with a young family has an alcohol and a drug addiction, she has these addictions because she is in a bad cycle of domestic and family violence. Her partner is incarcerated. Because of that violence, she has care and protection. She was mainstream services; the cultural team was not involved. So we advocated at a different level, which has bought better relationships, looking at early intervention stuff, but keeping the woman—

THE CHAIR: Could you bring other people in the community in behind her? How does that actually work? We agree with just about everything you are saying but I want to understand a little better.

Ms Williams: I think it works because we do put the culturally appropriate measures in place. We have a social worker too who is of Aboriginal and Torres Strait Islander descent who works at the Women's Legal Centre.

THE CHAIR: That means that their suggestions are realistic and can actually be taken up by the client?

Ms Williams: Yes, that is right.

Ms Rosenman: Can I add something based on my observations of watching Serena and Kath, who do our A2J team work? When they talk to me about when they are getting a positive outcome, the things I have seen that have been really crucial to that have been the intensity of support that our team is giving them. It is really hard to describe how intensive that is. For example, I know that both Kath and Serena are being contacted by clients, sometimes in really intensive supports—

THE CHAIR: Daily?

Ms Rosenman: multiple times a day, often out of hours, often on various platforms—so mobile, Facebook and face to face.

THE CHAIR: Whatever they can manage, yes.

Ms Rosenman: Yes, and our team being responsive to those women has been really crucial. Secondly, they are prepared to work with them on a really broad range of issues. It is not just about presenting a legal issue. They will work with them across a whole gamut of things.

THE CHAIR: Yes, I think the no-wrong-door stuff is coming up very strongly. Everything we hear is that we have to have a system that allows for all of those cross-references and—

Ms Rosenman: Yes, I think so, and the other thing that I think that makes a difference is the fact that it is Aboriginal women-led. The first person they have contact with at the centre is an Aboriginal woman.

THE CHAIR: So the trust is there.

Ms Rosenman: I think that is really important. I think it is hard for services to engage with Aboriginal women without actually having people in the service who are part of the community.

THE CHAIR: Knowing that we have until 11 o'clock, I will give Ms Cody a chance to ask a supplementary. If you think of more things, please send us even informal information through the secretary. We do not have a long time to get through the vast ambit of what you are doing.

MS CODY: Ms Williams, having lived here since I was two years old, I know how small Canberra is. The community of Canberra is extremely small. It must be even smaller for you.

Ms Williams: It is.

MS CODY: How do you manage in that situation? You must find that very difficult in some parts.

Ms Williams: I have a cultural obligation here also. Within that, I have an obligation to the women here to protect them, to keep them safe anyway. That is my cultural obligation. It just fits in well with what I actually do. I take it very professionally and use the cultural approaches to ensure that the women are safe. I really support women to try to come out of these relationships. It is that accidental counsel; it is a blackfella counsellor.

MS CODY: Yes.

Ms Williams: It is what we do. Our women have been talking to me for many years. You have all the younger women in the community. There is a trust that is built. It is about having certain particular people that work in these fields to be trusted positions within the community.

THE CHAIR: And for the long term, I guess.

Ms Williams: And for the long term, yes. Other services I should be looking at are about the connection that the woman has with the community or the Aboriginal and Torres Strait Islander person. That is of great importance. And, too often, they are employing some people that have just come into the community and do not understand the diversity, the issues and how complex it actually is.

THE CHAIR: Who is who and what is what?

Ms Williams: As Elena was saying, I take a lot of phone calls. I had three phone calls last night. One of them was from a client who continues to call me. Sometimes they do not want to access the legal services but they want it documented, so they are talking to someone. When they are ready to come and use the legal services—we are in the 11th year now of the program being in existence. There has been the highest percentage of women actually using the legal services and going through the legal. We are doing some really intense case management and working with the women really closely.

THE CHAIR: I imagine that cultural groups other than Aboriginal and Torres Strait Islander people would also benefit from a contact with someone from their own cultural background to start with. We know that, for example, in birthing services, it is really positive for people to have the same person see them through from beginning to end. I think that if you are giving birth to a new life that is probably also true.

Ms Rosenman: Yes.

THE CHAIR: Do you want to go to a substantive question?

MS CODY: Yes, absolutely. I want to pick up on something that you said, Ms Rosenman, about the continued abuse through the court systems. Maybe this is something for you, Ms Maclean. I know myself that that was a challenge for me in my experience. My then husband had seven lied affidavits presented to the Family Court so that I would lose custody of my children. It is really distressing and you want to give up. How do you deal with that? I know that in a lot of cases—this is a rather complex question, so I apologise; it is going to be a little bitsy—there is a large gamut of the community from a low socioeconomic situation and also women who are asset rich and dole poor that have been so downtrodden for such a long time across all of those that they often give up because they do get that abuse through the court systems. How are you working—

Ms Maclean: How do we navigate that?

MS CODY: Yes.

Ms Maclean: It is a really good question. I think it goes to the fact that that intensity of case management and ongoing assistance cannot be underestimated. When we make a decision to take on a matter, it is with the knowledge and experience that this can be a really long haul.

As Serena sort of touched upon, and we have talked about, with that wraparound service, it is not just a case of someone who is going to appear at court or do your documents and say, “All right: now go and get me X, Y and Z; do your homework.” It is really providing that level of service. It might be organising—with, let us say, the access to justice program or the domestic violence program—someone who can transport someone to urinalysis testing.

We had one woman, one of our legal support officers, who was teaching a newly arrived migrant how to do internet banking, because we needed that financial disclosure for her property matter. It is not just about the ongoing matter that is in court and doing the bare bones and just getting them through; it is about keeping that woman engaged in her proceedings.

That links in to your question of how you navigate that. It is very time consuming. There are a lot of phone calls. There is a lot of advice that you give about 10 times. You say it in different ways, and you communicate it at different times as well. Straight after court when their head is buzzing is not the time to delve into, “All right, let’s talk about how we are going to split a self-managed super fund that you have no idea about that has been hidden from view.”

It is about really picking your moments, touching base. I know, for example, one client who was experiencing that systems abuse. It was a very complex property matter. He did not disclose any of the assets. She came to us as a referral from a social worker after trying to commit suicide. It was an elderly couple. She was homeless. Her sole goal was: “I just want to live in a nursing home away from him. That’s it.” We were able to keep her linked in. Because of her anxiety, I said, “I am calling at 2 o’clock every Friday.” Whether I was driving somewhere or whatever, she knew that at 2 o’clock I would be calling her. That needed to be done for only a couple of months until she found confidence, until we did an urgent spousal maintenance application, so she actually could go out. She had not been out to dinner for 10 years without him. She started getting those skills.

The matter is still ongoing, but we have some in-principle agreement because we were able to do forensic services. We were able to say, “Look, it is pretty clear you do not have much of an idea of what the assets are, because they were hidden from you.” But we then made those relationships. We have a partnership with KPMG, who provide tech forensic services, property searches, company searches. We have relationships with accountants who can help us with splitting self-managed super funds, which is the bane of my existence. We have been able to get that taxation advice about how it will affect her Centrelink payments and all those types of things. If we are doing all that work, and she does not have to do that work, and she would not know where to start, then it is about her staying engaged in her matter. It just takes the pressure off.

Sometimes, yes, they do disengage. It is also about being kind of pushy with your applications and being a bit bolshie and asking the courts for something that you think might not fly. If you have the knowledge and experience and the skill, or you know where to get that, in making those applications that bring a bit of urgency to the matter and putting the responsibility back on the other party, they actually have to come to the party.

For example, in another matter—sorry; I am conscious of the time—where, again, there has been financial abuse, not knowing what was going on and so forth, he would give drips of information, or his lawyer would give drips of information. There was not quite enough to start court yet. Then it just came to a point where it was: “No; there needs to be a decision made.” It was an urgent application. That put the fire under him, and we were able to then—

THE CHAIR: But that is led by you rather than by the person who has the client.

Ms Maclean: Absolutely. That is right. Most of the time, with a lot of those women, particularly the ones who have experienced economic abuse—we are seeing a huge majority of those women coming through; financial abuses are often coupled with other forms of abuse, of course—they say, “I have been told I am not entitled to anything, because I did not earn.”

MS CODY: “I did not work,” yes.

Ms Maclean: Yes. “Oh, that is his super, because I did not earn.” Well, no.

THE CHAIR: I think most of us have had those conversations with friends and neighbours in this situation.

Ms Maclean: Yes.

THE CHAIR: This country is pretty good, actually, and you are acknowledged for what you have done.

Ms Maclean: That is right. And about superannuation actually being an asset that can be divided.

THE CHAIR: Yes.

Ms Maclean: Sometimes that is a real light bulb moment for them. Often that is the only asset. We have one at the moment. Both were in public housing, both on disability support pension. I am like, “Oh, there is nothing here.” “Oh, he was in the public service for 20 years.” I said, “Okay; let’s get a superannuation valuation.” He has over a million dollars worth of super that he has not touched. That is where we have come in.

Ms Rosenman: It also raises an issue with regard to legal assistance. One of the big changes that the centre has made in the past three years is that we now do a lot of property work. We did not use to take property matters on. It is very difficult for exactly those women that you describe—women in low socioeconomic circumstances or women who are asset rich and dollar poor, as you describe them—to access legal assistance for those matters, particularly when you think about the fact that to spend an hour with the average family lawyer in Canberra is going to cost you anywhere between \$450 and \$750. You do not have to be earning very much at all before that starts to feel pretty confronting or concerning when you also think about particularly how long that matter is going to go for.

MS LEE: In your submission, you talked about the police applicant family violence order scheme. I note that you were saying that unlike other Australian states and territories, in the ACT they are primarily applied for by the individual, which obviously creates certain barriers and challenges. Is there a reason why we are so different from other jurisdictions? Is that literally just the way it has happened?

Ms Maclean: A quirk?

MS LEE: Yes. Is it a quirk? Is it because we are small? Is it that there are funding issues? Do you know what the challenge might be for us?

Ms Maclean: I would not be able to say with great certainty. I would assume that it is a combination of all those three factors. It is an interesting discussion. You want to empower people, and have people taking ownership of their matter but, at the end of the day, at that particular point in their life—yes, they might be able to do that down the track—that might not be an option.

Ms Rosenman: That is particularly the case, as you have seen, with some of your clients, isn't it?

Ms Williams: Yes. A lot of our clients who come through with domestic and family violence are a bit unsure whether they should lay charges, where they stand. My personal opinion is that the police here should take on what other states and territories are doing.

THE CHAIR: Which is?

Ms Williams: I think it is really—

Ms Rosenman: Making that application.

Ms Williams: Making the applications themselves. And it is protecting the Aboriginal and Torres Strait Islander women here, and their families, their children, and not allowing that cycle to continue.

THE CHAIR: Are they allowed to do it themselves?

Ms Rosenman: Yes.

Ms Williams: I do not have to talk about stats. We know about all the stats.

Ms Maclean: That is consistent with my understanding of that. We have a pro-prosecution culture here. On one hand, you have the criminal law jurisdiction, which says, “We are going to run this matter with or without your consent,” but then the family violence order system does not match up with that. It is a bit of an inconsistent message, in my view.

Ms Williams: Also, culturally, some women can be in domestic and family violence, be in a vicious cycle. The women can go back into that. It is something where women need to be supported to be empowered to say, “Okay, you can come out of this.” And there needs to be some early intervention work that starts working with our youth to ensure that this cycle does not continue. Domestic and family violence is no-one's culture.

THE CHAIR: Can I ask a supplementary on that. One of the things in your submission is police resourcing and their time. I know that feedback from police in my other capacity as shadow minister is that these cases take a little longer, and they

are happy to do it but it is hard for them. What exactly would you like to see, from your experience, the police have that they do not have at the moment?

Ms Rosenman: I think that the safer families initiative actually delivered additional resources to police to set up this family violence unit and there are two officers in that unit who assist women to make an application. If you were going to move to a system where the police actually made the application and ran the matter, it would be a bit difficult. You would have to make an assessment about what resources were actually required but I would imagine they would be significantly more than are currently allocated. I think the police would have the best idea. You would need to look at the volume of applications, and the police would be able to tell you.

THE CHAIR: We know we have a bit of a tsunami of applications in all of this work at the moment. Obviously we would love to think one day it will be less.

Ms Rosenman: But there will certainly be more before there is less.

THE CHAIR: The advice we are getting is that that is quite a way off. We actually need to be resourcing all our agencies appropriately for this work.

MR STEEL: As a supplementary, in relation to the recommendation that the AFP should play a leading role in making those applications, have you got any feedback from any other agency, including the AFP, about their willingness to undertake that role?

Ms Rosenman: No. Actually I have been trying to catch up on that in the previous week. No, I am not sure of their views on that. I do not want to project but I imagine their first question would be about resources. They would also be able to give you a really informed view about the pros and cons of that as well from their perspective.

MR STEEL: We will ask them when they come forward. My substantive is in relation to the interaction between the Family Court system and child protection, which you have raised in your submission, and I was wondering how you think those two systems could work better together. You have said that child protection services does not provide enough guidance and support after the protected parent has been referred to the Family Court system. How do you think that could be improved?

Ms Rosenman: Sorry, your question is about the relationship between CYPS and the family law system more generally?

MR STEEL: Yes

Ms Rosenman: Or do you mean more around how they support women experiencing violence?

MR STEEL: Exactly. Yes, that is right. In relation to the custody of their children, in particular.

Ms Maclean: My understanding of the question was the interaction between care and protection and the actual Family Court, or you were talking just generally, someone

who is going—

MR STEEL: In relation to the Family Court system. You have raised three of the Glanfield recommendations here. You said that there is a gap in the current system where children are being placed at risk—this is on page 13—of being returned to a parent whom a child protection agency has deemed to be a risk.

Ms Maclean: Yes. That goes to sometimes the inconsistency where you have got two different jurisdictions. One is being run at a federal level versus one at a state level. It is also, I think, very confusing, and the judges have remarked on that. If you have got two concurrent proceedings on foot, the Federal Circuit Court family court matter will be paused while it is sorted out in the Children’s Court. That is one aspect which can be very confusing, not just for the practitioners but more importantly for the clients.

Where that aspect, at a really practical level, could be eased is where there is more information-sharing between the two as well. I know one judge in the Federal Circuit Court is very keen on inviting care and protection to actually give evidence as part of the Federal Circuit Court if it means being able to keep the matter out of the Children’s Court, which is good for resourcing as well, particularly for territory resourcing. And having that relationship between care and protection in both jurisdictions, I would think, would be very important so that at a practical level everyone is reading off the same page.

In terms of the client’s experience, one aspect which I think the submission might be referring to is this situation that we keep on coming up against where care and protection say, “Okay, our involvement has ceased.” For example, in the case of a violent ex-partner, they get involved. The woman acts protectively by not facilitating time between the child and the parent.

THE CHAIR: And then she is punished for it.

Ms Maclean: And he goes and applies in the Federal Circuit Court, let us say, or the Family Court, saying, “She is not letting me see the kids.” One of the primary considerations is the benefit of both parents having a meaningful relationship with their children. That, of course, is balanced with the risk surrounding that. Let us say, for example, it is the woman who has made that decision. Care and protection have dropped out because they say, “No. She has acted protectively.” If the court then makes an order that no, dad is to spend time with the children, that might enliven care and protection’s involvement as well, and then there are just so many players in the game.

Whether there can be more consistency, I think, comes back to that information-sharing issue and having that information so that the first time before court you can say, “Look, this is the level of care and protection’s involvement. This is why they are concerned about dad.”

THE CHAIR: Like a brief?

Ms Maclean: Yes. And the court then has that informed view. Particularly if both parties are self-represented they are not going to be able to put that information to

them.

THE CHAIR: Is that a change that ACT government could make as to how we do care and protection's access or ability to inform the Federal Court?

Ms Maclean: I would say the greater information-sharing. In terms of how that happens, I am not sure. The court cannot compel care and protection to go. They request them to go, and in my experience they are pretty—

THE CHAIR: Yes, but then it comes down to ACT policy to some extent and the availability of our organisations.

Ms Maclean: That is right.

MR STEEL: I was wondering whether there were any circumstances or situations that you have seen where the Family Court has intervened, saying that the non-protective parent should have contact with the child and that has then resulted in child protection removing the child because they are deemed to be at risk.

Ms Maclean: No. It would enliven their interaction with that family, if that were to happen.

MR STEEL: But not to the extent that they would take away the child?

Ms Maclean: Potentially, yes, that could happen. And then you have got a new set of proceedings in the Children's Court, and that is obviously very resource and time intensive, let alone very stressful and confusing for everyone involved.

MR STEEL: Are you involved in the review into the Family Court system?

Ms Maclean: The ALRC review?

MR STEEL: Yes.

Ms Maclean: Yes. We are involved with the Family Law Committee through the ACT Law Society. They are doing some work around that as well, and we are the community legal representative on—

MR STEEL: I think this is a relevant recommendation to make there as well.

Ms Maclean: Yes.

MS LEE: We have had suggestions and we certainly had evidence from, I think it was, the bar about the Magistrates Court taking on a little more of the work that is traditionally kept in the family law jurisdiction. Does the centre have any views on that?

Ms Maclean: I think again there is that issue of information-sharing to ease the burden. I think it comes down to an issue of resourcing more for the Federal Circuit—actually probably for both jurisdictions. My view is that the family court Federal

Circuit Court was set up in recognition that family law is a very specialised area. When a matter is being dealt with in the ACT Magistrates Court and getting an order, I know from my experience in the Magistrates Court they are saying, “We are not the Family Court, we do not want to become the Family Court.”

I think it has been beneficial, because it has been able to focus the issue. It is really resolving that temporary issue at this time, and then the court which is doing these matters day in day out has that specialist expertise to actually deal with that more long-term issue. I think it would be a huge investment of resources, upskilling, potentially a special magistrate, and whether that is something that the territory would want, or should we just be better financing the federal jurisdiction so that there are more people there just to be able to get through the matters a lot quicker? And I think it also brings an issue of consistency, and you do not want to get into a situation where people are forum shopping. You think, “If I act for dad, I will get a better outcome at the Magistrates Court versus down the road.” I think, yes, knowledge-sharing as well is an issue.

MS CODY: I am really happy if you guys want to take this one on notice. It may be easier. It may not be. You may be equipped to answer. The common risk assessment toolkit that you refer to, is that something that is a bunch of papers? Is it a how-to guide? What exactly is it? And is there a way that we can maybe get a look at that somehow? Is there a chance that the committee can see what—

THE CHAIR: Be briefed or something.

MS CODY: Yes, or get a separate briefing or something on it. If it is in camera or—

Ms Maclean: I actually brought a copy for you with the permission of our ED, if it is kept confidential.

THE CHAIR: Yes, we certainly can.

Ms Maclean: Then we are more than happy to provide that. There is the tool and then there is the framework document too, which explains why I use this.

MS CODY: Fabulous. Excellent.

THE CHAIR: If you would like to table them with the secretary that would be fantastic. And we can undertake to maintain them in privacy and not be published.

Ms Rosenman: And I am happy also if you want to speak more about it.

Ms Maclean: Just to give you some of the highlights.

Ms Rosenman: We are happy to come and speak more about it, yes, outside this—

THE CHAIR: Let us digest it.

MS CODY: Fabulous, thank you.

THE CHAIR: I am sorry but we are out of time. We will no doubt have to come back to you again. I just want you to know that, when available, a proof transcript will be forwarded to you to provide an opportunity to check if the transcript is correct and to suggest any corrections. As to the things you undertook to take on notice, there will be contact from the secretary about that so that we can get the response back. Answers to these questions would be appreciated within two weeks, if that is possible, from the date of this hearing. And on behalf of the committee I want to thank you, Elena, Serena and Claudia, for being here and sharing your vast expertise with us. We thank you for all the work you are doing in this area. Thank you so much.

Ms Rosenman: Thank you.

WATCHIRS, DR HELEN, President and Acting Victims of Crime Commissioner,
ACT Human Rights Commission
MACKEY, MS PATRICIA, Principal Advocate, ACT Human Rights Commission
WOODWARD, MS KYLIE, Executive Officer to the Victims of Crime
Commissioner, ACT Human Rights Commission

THE CHAIR: I welcome Dr Helen Watchirs, Ms Patricia Mackey and Ms Kylie Woodward to speak to us. On behalf of the committee, I thank you for being here today as well as for your written submission to our inquiry, which we really value.

I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the pink card on the table. Can you please affirm for the record that you understand the implications of the statement?

Dr Watchirs: Yes, thank you.

Ms Woodward: Yes.

Ms Mackey: Yes.

THE CHAIR: I remind witnesses that proceedings are being recorded for transcription purposes, for *Hansard*. They are also being webstreamed and broadcast live. Dr Watchirs, would you like to make any brief opening remarks?

Dr Watchirs: Thank you, and happy International Women's Day! I begin by acknowledging the traditional owners of the land on which we meet, the Ngunnawal people. I respect their continuing culture, the oldest in the world at 65,000 years, and pay my respects to elders past, present and future.

THE CHAIR: Thank you.

Dr Watchirs: I am here on behalf of other commissioners: Karen Toohey; and Jodie Griffiths-Cook, who today is interstate. I am President of the Human Rights Commission and Acting Victims of Crime Commissioner. Kylie Woodward is able to assist in relation to victims of crimes matters and Trish Mackey is able to assist in relation to Public Advocate and Children and Young People Commissioner functions.

The heart of human rights is the respect, dignity and worth of human beings. This is destroyed by family violence. I believe that disrespect, gender inequality, and an inability to resolve domestic and other conflict and to restore relationships are what is really behind family violence. There are many provisions in the Human Rights Act that protect against family violence, like the right to equality under section 8, freedom from torture under section 10, protection of the family and child under section 11, and liberty and security of the person under section 18.

Gender and other inequalities are protected by the Human Rights Act but also by the Discrimination Act because they allow actual complaints to be made to the commission in areas of public life such as work, education, and goods and services. There is a complaints resolution process that is available and accessible to Canberrans.

We were the first jurisdiction in Australia to have family violence as a ground for discrimination, called a protected attribute, from 3 April 2017. We have not had any complaints yet, but we have had training in the community and inquiries. There is anecdotal evidence that this is an issue, most recently in the coordinator-general's insight report that women have lost their jobs due to being intimidated or abused at work by their ex-partner.

I think that awareness raising of both pieces of legislation can help entrench equality on the grounds of gender, on issues such as sexual harassment, which is a form of violence, and other attributes for vulnerable populations, including Aboriginal and Torres Strait Islanders, CALD communities, women with disability, LGBTIQ people, older people and, of course, children.

Victims are empowered by knowing what options are available under the criminal law, by having their voice heard in the criminal law system and in non-justice-related services if this is what they choose. Prevention is just as important as recovery. It is so important that women have stable jobs and homes and not be re-victimised by losing their work or their housing. They need time for legal and health appointments. Work provides a community to women escaping domestic violence and family violence. With so many other diverse factors, it gives them financial security, independence, confidence and safety.

The statistics in 2016-17 show that family violence and domestic violence offences have increased by 19 per cent but the proportion is steady, at about 44.7 per cent of overall assaults. This increased reporting, I think, is driven by community awareness, legislative reforms, training on domestic violence issues in workplaces and in the public sector, and increased confidence in the system. There has been an increase in demand for crisis support, including for victim support services here.

We know that this is what is reported. There is a lot of under-reporting. What we also do not know is what is not reported to police. Does that mean there are more incidents or is it just better services and more people coming forward? I suspect it is a bit of both, but really the Australian Bureau of Statistics personal safety survey is probably the best indicator of what is really happening.

From what we have seen, it is important to include services for men, because change will not happen without them. For gender equality generally, things like Male Champions of Change have been quite effective at the federal level. There have been local things like DVCS's room for change program. It is a residential therapeutic service.

In Tasmania the university there and the Salvation Army have a project that shows that men's awareness about the impact of violence as perceived by children can actually be a motivating factor to change. That is at one end of the spectrum. But I think more important is the prevention work starting in schools about respectful relationships.

Victoria is also a human rights jurisdiction. They have a charter of rights and responsibilities. Their royal commission has resulted in systemic change, with things like integrated risk assessment. There is national work happening there with

ANROWS. Information sharing, support and safety hubs, and stable housing to prevent homelessness, are things that are quite often overlooked, together with having a principal practitioner in health, education and justice providing the leadership and the specialist knowledge that spreads across the whole of government.

I believe that this change-the-story framework with ANROWS, the Australian National Research Organisation for Women's Safety, tells the full picture. The four drivers are: the condoning of violence against women; men controlling women's decision-making and limiting independence in public and private life; rigid gender roles and stereotypes; and, lastly, male peer relations that are aggressive and disrespectful of women.

THE CHAIR: Thank you, Dr Watchirs. I go to page 7 of your submission and to best practice approaches and responses being undertaken in other jurisdictions. You mention that the ACT government needs to start to take action on developing ACT police-issued safety notices. Can you explain a little more what they are and how they would work?

Dr Watchirs: Police safety notices vary from jurisdiction to jurisdiction and they vary in their length of time. They are in New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania. It is important, if we do go this way, that there is a lot of consultation. There are various triggers for it. In some jurisdictions you need the consent of a victim. In other jurisdictions it is only for 24 hours. With the consent of the victim, it can be extended to 72 hours. That is the case in WA.

But the human rights issues are that human rights cannot be limited in a way that is unreasonable on the person who the order, the notice, would be against. So there needs to be a threshold for making a notice—that is, concern for safety. You have to look at the situation of the person that is then required to leave the home in respect of time limits and review by a court. This is important.

THE CHAIR: And, I guess, where they would go.

Dr Watchirs: Exactly, yes, and what services are available.

THE CHAIR: Because committing someone to homelessness is probably not a solution.

Dr Watchirs: Absolutely. But in terms of a quick fix and giving protection, I think it could be something that is useful. It has to be looked at carefully and consulted on with the community and done with human rights protections.

THE CHAIR: Witnesses from the Women's Legal Service, who were here before, mentioned the ability of police to instigate and apply for domestic family orders. I presume that is partly because of this terrible situation where someone who has violence perpetrated against them feels they are being the instigator. Can you see how these safety notices might work with that process? Does that make any sense to you? I know it is not your direct field.

Dr Watchirs: I think it takes the onus off the victim. That would be one benefit.

THE CHAIR: I guess that is the same with the safety notices. It is effectively whether or not we would decide to allow a decision-making capacity in respect of that person. Either way, even if it is justified, it takes the onus off that person to make that decision and then essentially be blamed for it.

Dr Watchirs: Yes, being in a powerless situation with a perpetrator means that they may not have the means to take that step. On the other hand, they may be reluctant to be in that situation because it could trigger an incident, as was the terrible tragedy with Tara Costigan, where a prevention order was taken out.

THE CHAIR: Where she did, I think—

Dr Watchirs: She did it directly.

THE CHAIR: Yes, so if it was not her it may have been—

Dr Watchirs: I think if she had had a service and police—having a risk assessment is probably the biggest development over the last two years so that we have a better understanding of the risk factors, of how much actual danger the person is in.

THE CHAIR: If there had been a tick sheet risk assessment or something similar done at the time, both of those processes could have been instigated. Is that the idea, potentially?

Dr Watchirs: I will ask Kylie Woodward to speak.

Ms Woodward: I believe that at the moment police are currently using a risk assessment tool in family violence matters. My understanding is that it cannot all be completed at the time of the incident because—

THE CHAIR: I wonder why.

Ms Woodward: there is information that often needs to be followed up after the incident. Having said that, though, that tool could be useful in terms of—

THE CHAIR: As a trigger.

Ms Woodward: Yes, acting as a trigger for police to decide either to issue a safety notice, if safety notices were an option for policing, or to trigger their taking up the matter and addressing the family violence order application on behalf of the victim.

THE CHAIR: So that may be a positive step.

Ms Woodward: Yes, and the other thing I would say about safety notices is that they fill a gap in relation to—

THE CHAIR: While you are waiting for—

Ms Woodward: the after-hours stuff; so after 11.30 am in the morning, a victim or the police cannot actually apply for an interim family violence order.

MS CODY: Dr Watchirs, you mentioned in your opening statement the respectful relationships initiative, for want of better terminology. Am I correct that that is managed by DVCS?

Dr Watchirs: Yes.

MS CODY: This morning I also heard Martin Fisk from Menslink, who is actually appearing this afternoon, talk about respectful relationships. I guess it is hard for you to comment on that, but do you think that that is a key to moving towards less violence?

Dr Watchirs: Absolutely; I think this has been an issue. I remember being on an interdepartmental committee back in the 1980s, when I worked for the federal government. We have not made enough inroads. I think involving men in the whole issue is really important. We should be involving White Ribbon and men who are not violent, but also talking to the people who are violent. If we do not involve them, they will never change.

I think having programs, particularly for young men who have experienced violence, to prevent that intergenerational transmission is really important. The insights report that the coordinator-general undertook provided an important voice for men who have experienced family violence and were at risk of being perpetrators. That is really important too.

MS CODY: In that same vein, I am very privileged to be actually working with an organisation to develop a program for apprentices, particularly male apprentices, to talk about how to stand up to what they believe could be violence at home. I think that is also probably an important process. I guess you are agreeing with that by the looks I see and all the nods from the other side of the table.

Dr Watchirs: Absolutely; tools and training are what people need. If they do not feel equipped to do it and do not know what to do, tools and training are the way to go.

THE CHAIR: On that note, the public debate very much talks about victims and perpetrators, but we know that perpetrators have very often experienced violence themselves in their upbringing and so on. It is not the only reason, but it is a factor that can play a part. I wonder if you have any commentary about whether, when we are developing these sorts of programs to give people an opportunity to change or to not embark on what is otherwise perhaps inevitable for them, we need to consider positive language towards people who do change or who consider changing. There is obviously quite a lot of stigma attached to being a perpetrator, having been named or having a family member named as a perpetrator. I wonder if you have any comment on that.

Dr Watchirs: There is definitely a stigma.

THE CHAIR: For, I guess, the freedom to change.

Dr Watchirs: There is definitely a stigma attached, but you have to admire that they have taken that step to change and to be open. And they are the people most likely to convince other perpetrators to change.

THE CHAIR: That is right, but—

Dr Watchirs: People are more likely to listen to them because they have lived experience and they have something in common.

THE CHAIR: I guess that is champions of change who have changed.

Dr Watchirs: Exactly, yes.

THE CHAIR: Or who have recognised that they had a potential weakness that they have got on top of. That would be a great area for people to be able to talk about.

Dr Watchirs: And something important to have at the AMC. I know there are programs there. Trish, did you want to add to that?

Ms Mackey: I think early intervention with young men who are showing signs of or have committed acts of violence is where we need to be targeting resources. If you look at the significant gaps we have at this time in relation to your therapeutic and support services for young men—

THE CHAIR: Yes, it is a bit of a gap.

Ms Mackey: That is a real issue that I think the territory needs to allocate some resources to, and it needs to assist the service sector to deal with those needs as well.

THE CHAIR: We have heard some presentations here that there are some courses available now that are occurring and there are some organisations that work carefully with both parties, separately but together, if you know what I mean, and in a sensitive way. But I guess you are right: it is a big gap, because we want to make sure everyone is physically safe and emotionally safe to start with.

Ms Mackey: That is right.

THE CHAIR: But in the long term, everyone's aspirations matter, I guess.

Ms Mackey: That is right, and children and young people who are living with violence in their homes can start modelling behaviour that they are seeing. If therapeutic and support services are put in place when they are really young, those children may have a different trajectory.

THE CHAIR: Yes. I know there is a bit of work going on in schools and so on as well. The point I wanted to raise, and I think it is worth us all thinking about it to some extent, is that our language is so negative about those people. When I have been invited into schools on this topic, I often tell people, "Your future could be great. It is up to you. Just because something has happened in your past, it does not necessarily

define your future.” I have great confidence in young people’s ability to have the futures that they choose or to change behaviours. To have that conversation a bit more as well would be awesome.

Ms Mackey: Yes. I think there is also a place for restorative work with young men or—it does not matter the gender.

THE CHAIR: Yes.

Ms Mackey: We have been involved in some family violence matters in the court where we have had a young man of 16, relationships have broken down and we have facilitated some mediation work between the parties to get a good outcome for everyone so that the relationships are intact as much as possible through that. That is an area that, as a jurisdiction, we should embrace because it is about building those relationships.

THE CHAIR: Yes; absolutely.

Dr Watchirs: The other thing is restorative justice. I am aware of the extension to sexual and violent offenders, and that has to be done incredibly carefully. The New Zealanders have done it well. It has been done slowly and carefully, with people being fully trained. I have high hopes for that work.

THE CHAIR: Thank you, yes. We have discussed that at some length here with other people, and obviously everyone has got their fears in this area, for really good reason. But when the power is put in the hands of those who would be in the conference—

Dr Watchirs: The transformative power of restorative justice is—

THE CHAIR: Yes, and if they have a full understanding of what the process can involve and what options they would like to take up, maybe it can be good.

MS LEE: I want to ask a few more questions about the privilege of communications, broadly speaking—health records and the like. Your submission makes a point that there is a gap in the legislation.

Dr Watchirs: Absolutely.

MS LEE: And that perhaps the balance has not been captured, that there needs to be—

Dr Watchirs: I think we have the balance right for sexual assault and it is time for the balance in relation to family violence. We did that in relation to being able to cross-examine directly. We extended it from sexual assault to family violence and I think with subpoenaing of the records it is time that we extend that as well. We have actually had cases of people who have not used our services because they said, “You cannot guarantee our privacy.” It could be in open court for a protection order or a criminal proceeding, and therefore open to victim blaming, and they do not want that perpetrator to have that information; they do not feel safe.

MS LEE: Do you think it is as simple, legislatively, as literally replicating what we have done with sexual assault victims?

Dr Watchirs: That is my understanding.

MS LEE: When it comes to family and domestic violence, there are some added complications, perhaps with ongoing family law issues, children or other factors. Do you have any views or guidance on the government looking at this, the other factors to consider?

Dr Watchirs: John Hinchey, as Chair of the Family Violence Intervention Program Coordinating Committee, released an issues paper in 2015. Do you want to say anything about that, Kylie?

MS LEE: Is that the position paper that has been attached to the—

Ms Woodward: That is correct.

Dr Watchirs: Yes.

Ms Woodward: What I would add, though, in relation to that guidance, is that my understanding is that if we did institute a similar piece of legislation for family violence, the family law court could still subpoena our records, so we would need to be very clear with clients of the service that that limitation only applied to—

Dr Watchirs: To criminal protection orders.

Ms Woodward: Yes, to ACT proceedings.

MS LEE: And that is made clear to them, yes.

Ms Woodward: Yes.

MS LEE: Thank you.

Dr Watchirs: The other law reform that John Hinchey recommended was that the domestic violence project coordinator position—because it has never been resourced and now we have a new Coordinator-General for Family Safety—be repealed. I think that is timely as well.

THE CHAIR: And that position sits where at the moment?

Dr Watchirs: With the Victims of Crime Commissioner.

THE CHAIR: So that would be repealed?

Dr Watchirs: Yes. The other law reform issue is in relation to the victims of crime regulation for children. Essentially, the victim services scheme is a brokerage scheme for counselling. We have external providers who are psychologists and social workers, and people are entitled to a certain number of hours under the regulations. In the past,

we used to give children access to tutoring, self-defence, horseriding, swimming and those kinds of normalised day-to-day things rather than speaking therapy. We got legal advice in 2016 that said that that was not consistent, so in our view we should have the regulation amended to make it clear—

THE CHAIR: It should be put back.

Dr Watchirs: that we need to be flexible in what is appropriate for children. There may be adults who would prefer that kind of therapy to sitting down and talking—something more active that can aid their recovery. It is really important.

THE CHAIR: Once things are defined as having affected someone's life in a certain way, when we look at it in the disability space we understand that all those things play a very important part. Medicalising everything is not always the answer. We are happy to take that on board.

MR STEEL: In your submission you have recognised that children are also the primary victims of family violence, and also victims indirectly through the impact of family violence on their parents, particularly their mother. You are involved in establishing a joint position paper that recognises that children's experiences of domestic violence must be understood in their own right and not just be part of an adult situation. For our inquiry, what sorts of measures do you think we should be looking at as far as addressing the impact of family violence on children is concerned?

Ms Mackey: We have not put in a submission, but I think—this has just come in the last weeks; we had a restorative conference recently in Canberra and I know there were some members of the Legislative Assembly who were at an event that evening—we need to look at what a child-safe, child-friendly city looks like, as a start. It has the capacity to be all of government and all of community in tackling what are our priorities for children and young people and involving children and young people in the design of what that should be. That is the first point: looking at the prevention and early intervention aspects of how we can target children and young people.

As far as children and young people having a voice in proceedings is concerned, and we see this all the time in our public advocacy work, they are missing. All right, someone is speaking for them. I have spoken to mothers who are speaking on behalf of their children, and they say to me, "My child didn't feel they had a voice in that procedure," in their proceeding in court.

THE CHAIR: It has to be done quite carefully, I imagine.

Ms Mackey: I know, and they need to be supported with that. We have submitted to the parliamentary inquiry around the Family Court suggesting the link-up of more of a clinical approach with the legal representation for a young person.

Dr Watchirs: In Canada they have a program called speak for themselves where there is that link between the legal and the clinical services. I think that is a good model.

Ms Mackey: We thought that was a good model to look at.

THE CHAIR: How does that work, roughly?

Ms Mackey: You have a clinician, a therapist, who works hand in hand with the legal rep for the child, and they jointly plan how to bring the voice of that child into the proceedings.

THE CHAIR: So not necessarily physically at the proceedings but potentially through statements, recorded videos and so on.

Ms Mackey: Yes. There is a lot of prep work done. It deals with the trauma, too.

THE CHAIR: Rather than re-traumatising a child through this process.

Ms Mackey: Most definitely. Coming into this with a clinical set of eyes, linked with the legal framework, is really important.

MS CODY: At what ages would you suggest that that sort of approach be undertaken?

Ms Mackey: Definitely for any child over probably about eight. We have been involved in matters in the Magistrates Court where children at that age can tell you very clearly what they are wanting.

THE CHAIR: What they think, yes.

Ms Mackey: It is just our capacity to really listen and facilitate their voice in a safe way. And it is not just a case of, “Well, I am just going to go and talk to a child.” You have actually got to prepare for that. You have got to seek advice about how best to do that. That child might need some support. They might have a disability, so you might need to bring in other clinicians to assist you in having that communication with children.

THE CHAIR: But those things would be taken into account if a clinician is involved.

Ms Mackey: Most definitely.

MR STEEL: Without referring to specific measures, because I realise that that is not necessarily possible, are there areas other than the court response that we should be looking at, whether it is housing or support?

THE CHAIR: You mean for children?

MR STEEL: For children specifically.

Ms Mackey: We have already mentioned the paucity of a therapeutic and multidisciplinary approach for children and young people. What we have got in Melaleuca Place is actually brilliant for children who are involved with care and protection services. What we need is a Melaleuca Place for children and young people in the community where they can access social work, psychological services, occupational therapy—that offers that multidisciplinary approach.

THE CHAIR: For those who do not know, if we are trying to voice this in a recommendation or something, just go through what is available at Melaleuca Place.

Ms Mackey: Melaleuca Place is a trauma-centred service, a trauma centre for children and young people who are involved with care and protection services—mostly children, actually. I think they are focusing on that earlier age group. In that centre you have occupational therapy, you have psychological services and you have social work services and speech therapy. Through that there can be a holistic assessment of the needs of that child and there can be a therapeutic plan put in place that meets all those needs. We do not have that in the community for mums who are fleeing violence. They might be able to access a child support worker through the shelter or a refuge, but—

THE CHAIR: So it is a system that is set up at the moment for children who are involved in the care and protection system.

Ms Mackey: Yes.

Dr Watchirs: There are 711 kids.

THE CHAIR: But it is not extended to the broader community.

Ms Mackey: Yes, most definitely.

THE CHAIR: Perhaps that could be a suggestion, that the safety hub replicate, however it is delivered, some of that capacity?

Ms Mackey: Most definitely, and I think—

Dr Watchirs: There are nearly 100,000 children in Canberra. There are 711 in care and protection, and 215 of those are Aboriginal and Torres Strait Islander. That is very high and it has been increasing over the years. Leeds, on the other hand, is a really low number, having gone through—

THE CHAIR: I think one of the things we continually talk about here is that numbers going up is not always a bad news story because—

Dr Watchirs: It can be more reporting.

THE CHAIR: there is much more reporting going on, and I think we are all aware of that.

Dr Watchirs: And that they have been taken out of family violence situations.

THE CHAIR: That is right. It is just a matter of: what happens in the long term and are we getting the outcomes we need?

MR STEEL: Children can often be the victims, but they can also be the perpetrators of family violence. What about the responses to those? Obviously early interventions

are very important, but what about how we deal with them after they have perpetrated family violence?

Ms Mackey: Similarly, having therapeutic support services for them. If a matter proceeds to court for a young person, we can always be approached for advocacy support and we certainly would look at any matter that is referred to us relating to a child or young person and prioritise attendance. But it is about putting in those clinical supports for that child perpetrator.

Dr Watchirs: But I am aware that there are not enough services, particularly for sexualised behaviour of siblings.

Ms Mackey: No, not at all, and on sibling-to-sibling abuse we do not have that framework of service provision.

Dr Watchirs: Another area in relation to children is anti-slapping. Since 2007 New Zealand has banned the corporal punishment of children in the home, as well as any other place, and there is medical and empirical evidence that there are adverse outcomes of increased aggression, poor relationships and mental health, and the risk that the parent will actually escalate the violence from starting with slapping to something much more serious. What has happened there is—

THE CHAIR: And there would be a cultural overlay, presumably, as well?

Dr Watchirs: Definitely: a change in culture through education and not prosecuting very minor cases. It is something that is a slow cultural change, but I think it would have an impact on family violence and show that where there is zero tolerance there is not an exception for the most vulnerable people in our community.

Ms Mackey: Can I just add to that that in Scotland they have moved to address smacking. And the children's commissioners across the United Kingdom are prioritising legislative reform around that.

THE CHAIR: The point I was trying to raise was that in some cultures anti-slapping measures are very anti-cultural in a sense because of the huge part that that plays in the discipline of children. In whatever suggestions we make we have to be aware that not everybody comes from a white Anglo culture where slapping is considered inappropriate and that probably many cultures would say there is a difference between appropriate and inappropriate physical contact with children.

Ms Mackey: Can I make another statement around the therapeutic approach?

THE CHAIR: Please.

Ms Mackey: The literature that is available speaks to having a joined approach with non-offending parent and child, meaning that attachment and that damage that have occurred as a result of the violence really need to be the subject of therapy and ongoing—

THE CHAIR: Restoration.

Ms Mackey: Most definitely.

Dr Watchirs: And interventions that support parents being parents are really important, particularly—

THE CHAIR: Yes, rather than disempowering them.

Ms Mackey: Yes. Parenting skills, developing their confidence again as a mother, as a parent, are really critical. And there is some excellent work going on in relation to therapeutic programs that can be utilised to enhance that bonding that has been damaged through violence.

Dr Watchirs: We have seen good work at the AMC by organisations like SHINE for Kids where they actually bring children to the prison to visit their parents, and on family days, if both parents are in the prison, they can both play with the children. They have been really strong in building parenting skills. Enabling children's play is really a healthy thing.

THE CHAIR: They are not skills we are all born with.

MS CODY: Can I just go back to something that Mr Steel raised and you followed on, Ms Mackey. Where the child is a perpetrator, you said there were not enough systems in place to support that, which is not good. I personally am aware of a situation where a child has been a perpetrator and the mother would not actually do anything about it at all. Do we have numbers? Do we know that there are cases out there where the child is the perpetrator? Are we reporting those cases separately?

Ms Mackey: Through our data systems we are not recording through public advocacy. I am not sure—

Dr Watchirs: Actually, there is a huge issue with data generally. Kylie, did you want to comment?

Ms Woodward: Yes. You might want to ask police specifically for the data in relation to children and young people who are being reported to police. I believe that there are—

MS CODY: Some.

Ms Woodward: relative numbers, maybe in the low hundreds, in the ACT each year. In terms of that reporting, though, certainly the experience of victims is that they do not like to report to police. Whether it is a child or a young person or even an adult offender who is their child, there is a reluctance because of that sense of duty around being a parent and—

THE CHAIR: Of protection.

Ms Woodward: It is so complex to put your child in the firing line in terms of police responses.

Ms Mackey: This is where I think there should be an alternative option around a restorative, therapeutic, clinical approach. Many non-offending parents would choose that. That would be their first preference because they want to—

MS CODY: Protect the child.

Ms Mackey: Most definitely, and maintain family.

THE CHAIR: In fact, something that has been raised with us even in the adult space is that there are a number of people whose strong preference is to end up staying as a family unit.

Ms Woodward: Yes.

THE CHAIR: And they are very wary of going down the justice route as a first point of call, and perhaps that is reasonable and perhaps—

Dr Watchirs: And it can be cultural for Aboriginal and Torres Strait Islander and CALD communities.

THE CHAIR: I come from an Italian background. The idea of getting married and ending up separated is in many cultures a very difficult concept for people to consider. If success can be achieved in another way, great; what we want is the outcome.

Ms Mackey: That is right.

THE CHAIR: It is about safety and people having their aspirations in their family home met. It is a new thing, in a way, for government to start thinking about, because our responses in this area have been a lot about separation in the past. Even Jo Wood has said to us that this is really interesting, with the research they have been doing. It is one of the reasons that it is good that the government is being careful and slow about getting the family safety hub going: rather than jumping to conclusions, as we have in the past, actually do some research. It has been really good.

Ms Mackey: Yes, and I think we need to offer families options. We really do.

THE CHAIR: Yes. “Do you want this track or that track or that track?” It is highlighted when you are talking about young offenders, because the last thing most parents want is for them to have direct and early contact with justice if it is not necessary.

Ms Woodward: That is just it.

Dr Watchirs: And there is more chance they will change because the—

THE CHAIR: And a real chance for them to change, that is right, because they would be in the best position of anybody to come out of it healthier.

Ms Mackey: You can put in safety plans and mechanisms, but it is the ongoing

support that a family needs.

THE CHAIR: Yes, long term.

Ms Mackey: It is not just a quick-fix, simple solution here. We are talking about, for some families, the longer term.

THE CHAIR: It would be interesting to hear from some clinicians. In changing psychological states and changing auto-responses and this type of stuff, my research has always shown that three to five years is the more reasonable support period.

Ms Mackey: Yes; you are correct. From the research I have undertaken, and I have a clinical background as well, we are talking about significant—

THE CHAIR: And, as with a lot of behaviours, sometimes there will be relapses and then people have to try again. It is like we hear about so often in the area of smoking: the more often you try to fix the problem, the closer you will get to the end point. People need to know that we are not down on them if they fail; we want them to succeed.

Ms Mackey: And you have to look at the individual experience of that trauma. For children and young people, you could have different children in that house who experience and have a different perception and understanding around that violence. They can have different needs. This is where having options and having a multidisciplinary approach is probably the best way to start.

THE CHAIR: Yes, and they are great skills for young people to have for the long term: that you can change, you can say sorry and you can restore a relationship. Wouldn't it be great if more people grew up with those skills?

Dr Watchirs: The Law Reform Advisory Council has a project on Canberra becoming a restorative city. The Leeds thing came through that international connection.

THE CHAIR: Yes; I think we are doing a lot of—

Ms Mackey: We are very excited about this.

THE CHAIR: I think that across the whole political divide in the community there is a lot of openness to it.

Ms Mackey: I think it is a strength-based, capacity-building approach.

THE CHAIR: It also gives people a way to imagine a future where they are not considered awful people.

Ms Mackey: That is right. And it is a way to bring children and young people right into the planning. The children's commissioner and Public Advocate could do consultations with children in schools and really bring them into that reform. That is what a child-friendly city is about: that the children are actually integral to that reform.

THE CHAIR: I guess it also means that the step you take from being a child to being an adult is a bit smoother, because you know that society has an interest in what you have to say. Fantastic.

Dr Watchirs: The other thing is that we have the momentum of the royal commission recommendations about child-safe organisations. I think this is the time to do it.

THE CHAIR: That will be an important part of it, yes.

MS CODY: I have one quick question.

THE CHAIR: Yes.

MS CODY: It may be quick. I think it was you, Ms Mackey, and maybe Dr Watchirs, who raised helping to advocate for mothers—I am going to say mothers because that is my experience—with children to escape a situation without leaving them homeless: that that can be difficult and about accessing different sources of assistance. In my experience, I have known women with sons who have found it difficult to find accommodation. Do you hear that through your advocacy and victim of crime type roles?

Ms Mackey: Yes, we have experienced that.

Dr Watchirs: There are unmet needs. We can pay certain things in the victims of crime scheme, but not bond and rent; not kids' clothing or supplies for schools; and not household set-up costs or the replacement of damaged goods. We had a case where a partner broke all the electrical appliances intentionally so that they would have to be replaced by the person. And there is car replacement and repairs. They are essential needs that are not covered by the scheme. But if you are escaping violence, they are the kinds of things that you are going to need to front up for.

MS CODY: Even just assisting and advocating from a child's perspective. There are a lot of refuges that refuse to take women with sons that are of a certain age, and that can be very difficult for women fleeing.

Ms Mackey: Yes, most definitely, and this is about having flexible accommodation where you can take your son. This is where the congregate refuge model does not fit all family complements. We have dealt with cases where women have been torn because going into a refuge means asking what they are going to do with their 14-year-old son.

MS CODY: As young as 10, I have heard. That is heartbreaking.

Ms Mackey: That is a real issue, and the links with homelessness—

THE CHAIR: There is actually a place for a whole different set-up for those people, and I imagine there would be interest in running it.

Ms Mackey: It is a clear issue.

MS CODY: Yes, okay.

Ms Mackey: You really do not want to separate a family either. Safeguarding is about considering all needs in that family complement.

MS CODY: Thank you.

MS LEE: Just going back to the issue of data generally, Dr Watchirs, you mentioned that there is a big issue with that. From your submission it clearly looks as though, even as early as 1995, it was identified as an issue, and we still have not got it right in 2018. The data is important for many aspects of the work that is done by everyone who is involved in this area. How do you think it can work? Obviously, as there are more people that have data, there are challenges with privacy and all sorts of issues there. Do you have views on how we can overcome that whilst at the same time making sure that all the agencies that are involved in addressing domestic and family violence have access to consistent data, and the same data, so that they can properly track how we are going?

Dr Watchirs: I think sometimes there can be an overemphasis on privacy. When there is such a grave risk of harm to the person that is a recognised exception under the Privacy Act. I think it is about people's view of privacy rather than what the legislative provisions may be. Kylie, do you want to say anything about data?

Ms Woodward: Yes. Dr Watchirs makes the right point there, but I would add that consent is also an option.

Dr Watchirs: Absolutely.

Ms Woodward: We can seek consent from victims and people who use violence, to collect their data and to share their information to ease their experience of the system. My experience—

THE CHAIR: Depersonalised?

Ms Woodward: Then there is that as well. You can inform people that their data will be depersonalised and de-identified and used in a tracking sort of system. I have seen projects where it has been done at a national level. It can be done.

THE CHAIR: I would think that, with consent, you eliminate a lot of those problems.

Dr Watchirs: Yes, and it is enabling the victim to keep control.

THE CHAIR: If people are consistently asked every single time they enter a system if that is all right, you will probably find that a large part of them will allow it to occur, I would imagine.

Ms Woodward: Although with consent, of course, there would be considerations of making sure that it is informed consent. There will be times when people may not understand the gravity of how far that data goes or where people from a certain

cultural and linguistic background may not quite grasp that.

THE CHAIR: That is exactly right, yes.

Dr Watchirs: On the other hand, we are saying that we do not want records subpoenaed either. Yes, there is a fine line.

Ms Woodward: Yes, there is that balance.

THE CHAIR: I guess a bit of wisdom has to be applied here. As in a lot of areas of human rights, we sometimes choose to take away someone's right or limit it for an outcome that seems reasonable for the community, and are willing to justify that.

Dr Watchirs: The test is proportionality on that limit.

THE CHAIR: Yes. On the point that Ms Lee raised about cultural understanding, do you have any insights to add about language barriers and how they are affecting people in the ACT?

Dr Watchirs: The victims of—

THE CHAIR: We hear a lot of anecdotal stories about people not accessing the help they need because they do not know that it is there or they do not understand the systems. I imagine that for new Australians that is a really big issue.

Dr Watchirs: The former Victims of Crime Commissioner, John Hinchey, and I wrote to the former attorney saying that there was no funding for interpreters in civil cases. That was in the budget measure: there was funding provided for that.

THE CHAIR: Is that now enough?

Dr Watchirs: We have not been able to follow up. It is on our list of things to follow up. The money has come through. It is whether in practice—

Ms Woodward: I believe there has not been a big take-up.

THE CHAIR: Then again, is it about people knowing that it is there?

Ms Woodward: Exactly; it is a chicken and egg issue.

Ms Mackey: It might be about information provision.

Dr Watchirs: The funding is there, and the interpreters, but as to whether people know about it—

THE CHAIR: Do we then have multi-language brochures, for the key groups, at least, that we know are suffering? That is something we can ask as well. Is there anything you want to add before we finish?

Dr Watchirs: Yes. In 2015 there was an MOU with DVCS about women with

disabilities accessing refuges. Back then, there were five women that accessed that, but the scheme has not been very active since then. In December last year, Karen Toohey, one of our commissioners, put on our website an e-learning module for disability support workers about sexual assault and domestic violence, and disability awareness for those workers, in an attempt to make sure that women with disabilities could have accessible services. It is an ongoing issue, and the evidence is that they have very high rates of family violence.

THE CHAIR: Abuse, yes.

Dr Watchirs: It is very hard to escape, particularly if the person is their carer. That is an area that needs vigilance.

THE CHAIR: Some attention, yes.

Dr Watchirs: We see the disability justice plan as a mechanism for that. The Human Rights Commission wrote to Corbell, I think in 2016, saying, “We have it in South Australia. Tasmania is drafting one. The ACT really needs a disability justice plan.”

THE CHAIR: Are you saying that the funding was provided but we are not sure how it has been taken up?

Dr Watchirs: I know that the disability justice strategy project has been transferred from JACS to CSD, and there have been early consultations, but I am not quite sure of the timing.

THE CHAIR: It may not have advanced. On behalf of the committee, thank you. I remind you that you will be forwarded a proof transcript and be able to review that. If there are any corrections you would like to make, let us know via the secretary. Also, if you undertook to provide further information to the committee, we have not made a set deadline, but we would love to get it within two weeks.

Hearing suspended from 11.51 am to 1.30 pm.

WHITE, MR JON SC, ACT Director of Public Prosecutions

THE CHAIR: The Standing Committee on Justice and Community Safety will now resume the public hearing of its inquiry into domestic and family violence—policy approaches and responses. I welcome our next witness, the ACT Director of Public Prosecutions, Mr Jon White SC. On behalf of the committee, I thank you for appearing before us today and also for your written submission. I need to remind you of the protections and obligations provided by parliamentary privilege. Can you please confirm for the record that you understand the pink privilege statement?

Mr White: Yes, I do, thank you.

THE CHAIR: Thank you. We also want to make sure that people understand we are being recorded, livestreamed and webstreamed. Before we proceed to questions, would you like to make any opening remarks?

Mr White: Yes. I thank the committee for the invitation to contribute to the committee's deliberations, and I would like to thank the committee for its interest in this area of family violence. My office is very much on the front line in relation to the issue of family violence. There are some very promising developments that I can draw to the committee's attention that I want to briefly mention and some challenges that lie ahead in the field.

I note briefly that, generally, if there is an increase in a particular rate of a particular crime type then that is a matter of concern. But that is not the position with family violence. We know that family violence is under-reported in our community. The increased rates of matters coming before the court are undoubtedly a very good thing and undoubtedly are a consequence of the greater emphasis put on this issue of family violence by a number of government and non-government agencies in the ACT. There have been fairly significant increases in the number of matters coming before the courts in recent years.

I think I have mentioned in my last couple of annual reports that the number of matters in the family violence area that have been commenced have increased over the last five years, from around 400 to 500 a year to around 700 a year. That is a significant increase.

I want to give plenty of opportunity for any questions, but I also want to mention a very good news story in the ACT. Our responses to family violence, our formal legal responses, are usually cutting edge compared to other jurisdictions in Australia. The latest innovation, which has been very successful, is family violence evidence-in-chief interviews.

Briefly, the police, when they attend a family violence incident, will now take a recorded statement, generally at the scene. That recorded statement becomes the evidence in chief of the complainant. That has been a great breakthrough. One of the key aspects, as members of the committee will appreciate, is the issue of reluctant complainants. It is a big issue in family violence.

THE CHAIR: Of course.

Mr White: But this new procedure takes away a lot of the responsibility from the complainant as to whether or not they go ahead with their complaint, because the statement that they made on the night, so to speak, will become their evidence in chief. So it will go in, regardless of whether they express reluctance to go ahead.

I do not want to dwell on this point, but members of the committee will understand the great pressures that complainants come under to withdraw their statements in these types of matters. This new innovation has really taken away the pressure that is on many complainants to withdraw their statements. I can say that nowadays we are really seeing a manifestation of a greater number of guilty pleas in these matters because the evidence, so to speak, is in the can. That evidence will be given regardless of the attitude of the complainant.

I wanted to emphasise that as a very positive contribution that the legislature has made. It comes on top of a number of very positive contributions over the years in this area in the ACT. We should be really proud of the fact that we are at the leading edge. What lies in the future—

MS LEE: Just before you go on, can I ask a question about the evidence in chief?

Mr White: Yes.

MS LEE: When Mr Steel and I visited the DPP, I think it was Katrina who was talking about how it is used in sexual assault cases.

Mr White: It is, indeed, yes.

MS LEE: You have just said now that it is. Actually, the question I was going to ask was whether it is used in family violence as well. Is it limited to family violence situations where there has been a sexual assault or is it—

Mr White: No.

MS LEE: It is across the board here?

Mr White: No, there are really two provisions. The provision that relates to family violence is a provision which is slightly less formal than the provision that relates to sexual assault. I will give you the history very quickly. For some time now, where there have been allegations of child sexual abuse, children have been able to give these evidence-in-chief interviews. That has recently been widened to all sexual assault victims and also to victims of other serious crimes—the most serious crimes like serious assaults, murders and so on. Witnesses in those cases can give these evidence-in-chief interviews.

The family violence evidence-in-chief interviews are a slightly less formal arrangement. They are typically taken by police, possibly even on an iPhone or a very basic recording device, on the night at the scene. They are really custom fitted to the type of crime and they have proved very successful.

MS LEE: The police obviously have a different skill set to prosecutors.

Mr White: Yes.

MS LEE: Do you work together with the police to make sure that—if it is going to be used as evidence in chief you want to make sure—it is up to a certain standard?

Mr White: Exactly, yes. The short answer is yes. The police have done a lot of training to train their first responders so that they are able to take these interviews. It is not just a question of turning on a recorder and asking a whole lot of questions. It really is that the police do have to be mindful of the fact that this will become evidence. So they cannot, for example, ask leading questions; they cannot suggest conclusions and so on. They have to let the complainant tell their own story. Police do need to be trained for that.

I have to say that the AFP in the ACT have done a first-rate job of training their first responding police officers to conduct these interviews. The other interviews I referred to in the sexual assault field and so on require probably a greater level of training. You need to be certified before you can conduct those interviews.

THE CHAIR: Yes; it is a good improvement. Mr White, do you have anything else you want to add to your opening remark?

Mr White: I briefly emphasise one aspect of what lies ahead. That is the issue of intermediaries. For children giving evidence, the experience can be a very daunting and very confusing one. In England and Wales, a practice has evolved whereby an intermediary will become involved when children give evidence. The role of the intermediary, who is a trained professional person who has expertise in child psychology and those sorts of matters, is really to act as a kind of translator between the court and the child to filter questions so that they become asked in an age-appropriate way, in a way that children at a particular stage of development will understand.

That has proved to be very successful in the United Kingdom. There is a pilot program underway in New South Wales for a similar program. This specifically targets children and it overcomes the problem of children not being really able to understand adult concepts and the way that lawyers put questions.

I do not want to take up too much time, but one explanation is what is often referred to by lawyers as the rule in *Browne v Dunn*, which is the requirement of a lawyer to effectively put his or her client's case to the witness. But children do not understand that. If someone is saying to them, "That is not true," for example, they are inclined to agree with that proposition. Under that intermediary system, that type of question would not be asked. The lawyer would still be—

THE CHAIR: More blunt, more direct, yes.

Mr White: Yes. The lawyer would still be able to raise the issues but in an age-appropriate way.

THE CHAIR: Is the child in the courtroom or in a separate room?

Mr White: They would probably be in a remote location in any event because other special measures enable children to give evidence from remote locations. That is the answer to that. But the intermediary will be involved with defence counsel, with the prosecution and with the court in working out what the appropriate questions are. They are not really—

THE CHAIR: Yes, the information that is being sought rather than the technique being used.

Mr White: Exactly; that is it. That is it in a nutshell.

MR STEEL: As a supplementary, is this where a child is both a victim of family violence and a witness to this happening?

Mr White: Yes.

MR STEEL: And also a witness to someone else—

Mr White: Yes. Whenever children are giving evidence, yes.

THE CHAIR: Can that include when there is a young person perpetrator as well?

Mr White: Yes, because the principle is really about the ability of the child to give evidence and the need for age-appropriate questions to be asked to elicit the evidence. It is really about the eliciting of the evidence.

MS CODY: I have one more supplementary, because this is very interesting. In fact, we had the Human Rights Commissioner on just before, in her role as Acting Victims of Crime Commissioner, and she raised some of these same—

Mr White: Yes, I appreciate that.

THE CHAIR: Suggestions.

MS CODY: Yes, but programs that are happening overseas.

Mr White: Yes.

MS CODY: I noted you mentioned that the intermediary is to help the child to understand what the court, the lawyer, is asking the child. What about for the child to tell their story? Do they get involved from that perspective?

Mr White: The intermediary is not really there for the child. The intermediary is a communication tool between the court and the child. I think it is best to put it in those circumstances. But children are very able to give evidence. They are very able to give an account.

THE CHAIR: Which is not questions based, yes.

Mr White: Yes, which is not questions based. The Royal Commission into Institutional Responses to Child Sexual Abuse did a lot of work in this area, and it has pushed back a lot of myths about children being unreliable witnesses and so on and so forth. I think we now appreciate that children are very able to give reliable evidence. But it has to be in a way that is based on the underlying facts and not the techniques of questioning.

THE CHAIR: So they need to be given open questions?

Mr White: Yes, those sorts of things, and just the use of language at particular age levels. What a six-year-old might understand will be different from what an 11-year-old might understand—those sorts of things. An intermediary has the ability to advise the court on all those sorts of matters.

THE CHAIR: My first question goes to point 6 of your submission, which is around the targeting of less serious family violence offenders for intervention. One of the things we have heard—and I have been really interested to hear—from the research the government has been doing in this area is that families want to stay together as well, as a possibility for people who are dealing with something that has not escalated to the extreme yet. Can you give us some of your thoughts about what kind of intervention could be useful?

We have talked here about significant interventions for young offenders or people displaying the traits of someone who might want to offend. And that is always, I think, supported here. But what about adult offenders who are doing less serious matters? I think one of the things that have come out of the public debate lately is that partners who actually kill often have not been physically violent before they kill. They have often been manipulative rather than violent, and it is only when something clicks over and then it is far too late. I just wondered what your exact suggestions would be. We are looking to make recommendations to government, so the more specific the better.

Mr White: I appreciate that. To pick up on the point that you just made, I think a lot of the interest in family violence came out of that spate of horrible murders that happened in the ACT. We found exactly that phenomenon, that when one looked back at the history of offenders there had been an escalation of their behaviour. It might be financial manipulation and anger and those sorts of things—

THE CHAIR: Control.

Mr White: Control. I think there has been recently a seminar on strangulation in the ACT. That is a key marker of an escalation of behaviours. The idea would be to try to wind the clock back and catch people before they went on the slippery slide of those kinds of behaviours. We would be talking about behavioural interventions with people.

Can I just say that it is very rare indeed for a person who has been involved in their first family violence incident to be put before the courts. The idea is not that someone suddenly snaps or says something rude or slaps somebody and that is the first time that they have ever manifested that behaviour and they are suddenly before the court. We know that most people who are brought before the court have somewhat of a

background of this behaviour, controlling behaviour or escalating behaviour. We are talking about trying to catch those people before they get too set in their behavioural ways, before they become, dare I say it, a Marcus Rappel, someone like that.

We are looking at behavioural alternatives that are part of the court outcomes—court-ordered diversion programs and those sorts of things. One cannot pretend that there will not be an expense attached to that, but it is a question of how good an investment it is. There are certain suggestions—

THE CHAIR: If evidence shows actual behavioural improvements then the case is easily made, because prison is one of the most expensive systems we run.

Mr White: Absolutely, yes. I am sure members of the committee appreciate that many of the people who come before the court, both the complainant and the perpetrator, really do want the relationship to work, and very often the parties are still living under the one roof. There is this really strange dynamic and that is why you have so many reluctant complainants, because complainants will themselves be penalised to a certain extent if the perpetrator is penalised. We are just trying to make the point that there has to be a place for those kinds of therapeutic interventions, and we suggest that it should be earlier in the process rather than later.

THE CHAIR: I wonder if a practical response might be that a police first attendance should actually result in some kind of order for help rather than a direct intervention to the courts, essentially. Potentially, whether it is the police or DVCS who attend with the police at all these types of call-outs, they have some power to get an ACAT ruling or something like that. I just do not know. I just wonder how it could fit into the system. But get those people off early.

Mr White: Can I say that in Tasmania the police have a system whereby police are able to issue, effectively, protection orders on the spot. I think that suggestion has been made in the ACT. I do not think it got a lot of traction, but the fact is that police will often be aware of this sort of behaviour well before it comes to court. Typically, they will attend the same residence on a number of occasions and it will not be until well down the track that they decide that there is no alternative than to take the person before court.

THE CHAIR: If police are called when people are very frustrated and it has got to a certain point—and this is not so much a question you might be able to answer, but I know there is an interest in involving the health system and the education system in some of the early intervention stuff—who comes into contact with potential victims and perpetrators, essentially, much earlier than that? And what are the key markers? What are the right questions to ask?

We know that if someone is suicidal we have to actually ask them. I believe the types of questions that need to be asked in this circumstance are, “Do you feel safe?” and “Has anybody ever harmed you, or do you feel they might harm you?” And the community needs to understand those questions, to then be able to either tip someone off or get them in touch with an organisation that can try to get that intervention going earlier.

MS LEE: You were just talking about how Tasmania has police applicant family orders.

Mr White: Yes.

MS LEE: We do not have that in the ACT. We just heard some evidence from the Women's Legal Centre this morning on that. They said that it seemed to be inconsistent with the pro-prosecution sort of approach that we have in the ACT. That was the term they used.

Mr White: Yes.

MS LEE: Would that be your view or do you have a different view?

Mr White: I think it is a little like comparing apples with oranges. I am not suggesting that when a matter comes to our office we do not prosecute it vigorously. What I am suggesting is that there are a number of instances where matters come to the attention of police which do not at that stage come to our attention. It might be worth considering police having greater intervention powers, including the power to effectively give a protection order themselves. It is equivalent to a traffic infringement notice, if you like. That may be a circuit-breaker that in a particular case will work.

THE CHAIR: Or at least it could trigger the tipping-off of other agencies.

Mr White: Yes, it could. I think all of us in the community are aware of the under-reporting of family violence. We all probably have a tendency to turn away from instances, possibly, where this is happening.

THE CHAIR: I think often people just do not know what to do.

Mr White: And because we are not empowered in many ways. But we are losing that. For example, in workplaces people will say to colleagues, "How did you get that injury?" and so on and so forth. We are now engaging with it with a much greater capacity, but—

THE CHAIR: But even once it has been identified, people do not necessarily know, therefore, who to go to or who to send that person to.

Mr White: That is right, yes. Having clearer lines along those lines would be really good.

THE CHAIR: To some extent the family safety hub is hoped to be a resource for everybody to find out what to do next. I was on the phone to someone just the other day. The person was telling me about a friend of theirs at their department. She is a Muslim lady. She comes to work with bruises and so on. I was asked, "Who can I recommend that person to who is not going to walk all over their culture or assume that they want to get out?" We do have a lot of work to do in this area.

Mr White: Yes, we do.

THE CHAIR: To empower friends and relatives.

Mr White: That is right.

MS CODY: Thank you for coming today, Mr White. We appreciate it. I noticed in your opening statement that you talked a lot about the evidence-in-chief interviews that are now undertaken. I think I read in your submission that they started in 2016.

Mr White: Yes; that is right.

MS CODY: I read it somewhere. I note you mentioned that it helps to make it easier because often complainants withdraw or try to withdraw.

Mr White: Yes.

MS CODY: What happens if they do withdraw and say, “No, that is wrong”? We all know of situations where that can occur.

Mr White: Absolutely. It happens all the time. Luckily, in most instances we will go ahead anyway.

THE CHAIR: The DPP will?

Mr White: Yes. Ms Lee was referring earlier to the pro-prosecution policy. That is really what that is. I have said this many times. The scenario never ceases to amaze me. We will get a statement from a complainant. The complainant will come to us on the day of court and say, “I am not going to give evidence. You cannot force me to give evidence. If I get in there, I will refuse to answer questions,” and so on and so forth.

We go through the process. We put them in the witness box. If they have given a previous statement we can tender that statement. We can even cross-examine them under certain circumstances about their previous statement. All of that happens and then at the end of the day, they will come up to you as a prosecutor and they will say, “Thank you.” It is remarkable the number of times that happens. It is because of that issue of—

THE CHAIR: Fear.

Mr White: The fear and other pressures that they are under. That is why the evidence-in-chief interviews are so good. It is another valve that releases that pressure. They can say to their partner, “Look, the DPP have said I have no choice. They are going to go ahead.” It depersonalises that decision.

MS CODY: Yes, which I guess is part of what we heard earlier about the police being able to issue a family protection order as well.

Mr White: Yes.

MS CODY: It takes it out of the hands of the complainant.

Mr White: Yes.

MS CODY: I note Mrs Jones's earlier question. I know this might not actually be an area for your consideration. I apologise if it is not. How does that play out if the DPP continues to prosecute and the complainant says, "No, I may have exaggerated. It may not have really been that bad," or whatever comes out of it? Then, at the end of the day, as we have seen in the past, the complainant is persecuted for that because nothing ends up happening. I am not saying that that is anyone's fault; things just happen.

Mr White: Yes.

MS CODY: Are there things in place from a DPP perspective that enable you to assist these complainants to seek other help? Is there a way that that can work? Does it happen?

Mr White: Yes. We can refer people to Victim Support ACT, which provides those sorts of services in that situation. Obviously, we cannot provide those sorts of services. Regrettably, that scenario does occur. What happens is that those people come to visit us again as witnesses or as complainants on subsequent occasions.

THE CHAIR: Sometime later.

Mr White: Yes; that happens many times. There is a cycle to these things. Of course, the police are part of this cycle as well. That tends to be what happens.

THE CHAIR: Before someone is ready.

Mr White: Yes; that is right.

MS CODY: I was not trying to point blame or anything.

Mr White: No, that is exactly what happens. Our choice to pursue these matters is a tough choice. We fully appreciate that the views of the complainant should be taken into account, and we do take them into account. There are some cases where we do not force a complainant on.

MS CODY: Absolutely.

Mr White: If there was any suggestion that the complainant would be thereby in danger, we would not. But there is also a really strong public interest in these matters coming to court and being ventilated. That is what we do as prosecutors. We make that decision. It is not an exaggeration to say that we make this decision every day, because these matters are in the courts every day.

THE CHAIR: Do you have advice from psychologists or others at that point or do you have to use your best judgement? I know, certainly in the case of parole, for example, that there are very contentious views on whether it is even possible to know whether some people are ready or in the right position for parole. I imagine it is quite

similar. You are, in a way, stabbing in the dark about whether the case should be—

Mr White: Yes, that is true, and we really have to rely on our experience. Remember that at the end of the day the cases are adjudicated upon by an independent judiciary. I would say that the judiciary is becoming more and more educated as to these underlying issues. I think they try these cases now with a different view than they might have had 10 years ago.

THE CHAIR: Yes. Public debate must be assisting.

Mr White: Absolutely, yes.

MS CODY: Surely evidence comes into play as well. As you have quite clearly stated, in a lot of the cases, by the time they get to the evidence in chief, the police recording of an interview, there have been numerous incidents leading up to that point.

Mr White: Yes.

MS CODY: Surely some of those incidents would come into play in evidence, as well as your deciding whether to push ahead or to—

Mr White: Yes. In terms of our decision, yes. But in terms of what the court has before it, no.

MS CODY: No, I am referring to your decision, not the court's decision.

Mr White: Our decision, yes. The police similarly go through a similar function of deciding whether to charge someone. As I said before, it is very rare—if not, it would not happen—that someone just gets plucked for one angry word or even one angry question.

MS LEE: Earlier today, when the Human Rights Commissioner was in, we were talking about the privilege that is afforded to sexual assault communication.

Mr White: Yes.

MS LEE: There was a submission put forward by the Human Rights Commission that that should be extended to domestic violence and family violence victims.

Mr White: Yes.

MS LEE: If that were to happen, what impact, if any, would that have on your role in prosecuting family violence matters?

Mr White: I do not think it would have an impact on what we do. It is increasingly the case that subpoenas are issued by defendants to a wide range of bodies that the complainant may have had some contact with, including medical people and so on. That is essentially to see if there is any psychological weakness in the complainant that can be exploited by the defence. There are certain privileged communications, and they are not available to either side in the litigation, so to speak.

THE CHAIR: The purpose of that is to keep open people's line of communication with those helping them?

Mr White: Absolutely, so that they can be free and frank with the people who are attempting to give them assistance. A similar principle applies in this area.

MR STEEL: My question is about paragraph 4 in your submission, which is about prohibiting or limiting the issuing of subpoenas in victim support.

Mr White: Yes.

MR STEEL: And the issue that you think might be happening, where there is the potential that witnesses or victims might be cross-examined for claims of financial assistance.

Mr White: Yes.

MR STEEL: Has that sort of situation occurred, in your experience?

Mr White: It has. I have to say that it mainly occurs in the sexual offences area, rather than family violence as such.

MR STEEL: Right.

Mr White: When I wrote the submission—how can I put this? I have to say that, in our concept, family violence matters are very closely related to sexual offending. I think we might have gone into that when Ms Lee and Mr Steel came and saw us. It is a lot about consent and it is a lot about power; they are very similar types of offences. When I reread it, I thought that paragraph probably related more directly to sexual offending.

The suggestion is put that a complainant has come up with an allegation because they want to make some money out of somebody, essentially. We think that, in relation to victim support, which has a role in advising people about any possible financial recompense that they might have, that should be separate from the criminal process. That is essentially what it is about. But I have to say that it generally arises not in a family violence context but in relation to sexual offending.

MS CODY: Can I ask a follow-on in the same vein. Has the insertion of the offence of strangulation into the Crimes Act, in 2015, had an impact on the family violence side of prosecuting as well?

Mr White: Yes, it has. The previous offence was a very restrictive sort of offence which required a person to effectively be rendered unconscious by strangulation before someone could be charged with strangulation. The difficulty with that was a practical one, that it was very difficult for people to recall whether they had been rendered unconscious. Ex hypothesi, you cannot recall whether you have been unconscious. But—and I think we touched on this earlier—strangulation is one of those real marker issues in an escalation of family violence because it is typically a

control mechanism of the most extreme kind and sometimes precedes more extreme violent acts. There was a need for an intermediate offence, if you like, which just consists of strangulation without a necessity to show that the strangulation led to the person becoming unconscious.

THE CHAIR: Yes.

Mr White: It has worked well with—

THE CHAIR: And fair enough too.

Mr White: Yes. We charge that quite a lot; the police charge that quite a lot now.

MS CODY: Interesting.

THE CHAIR: I want to go to the end of your submission, about resourcing. I know that we have been around this mulberry bush many times, but until it is sorted out properly I doubt we will ever finish. I just want to give you an opportunity to talk a bit about it. You say you have had about a 37 per cent increase in cases of this nature in your workload.

Mr White: Yes.

THE CHAIR: I know there has been an announcement of some support with assets or something in the recent past, but can you give us some more detail about what exactly you need in this area to meet this need? What are we talking about? Are we talking about an additional prosecutor or two?

Mr White: No.

THE CHAIR: Give us some concrete information.

Mr White: If I can just answer in this way: an independent strategic review of my office was commissioned. It has reported. That report is with government at the moment and indeed is part of the current budget process.

THE CHAIR: So we do not have access to that, and you probably want to say little about that one.

Mr White: I cannot really. I feel I cannot say too much about it.

THE CHAIR: No; fair enough.

Mr White: I have been very frank in my annual reports that in this area in particular, and also the related area of sexual offences, there has been a great increase. And I go back to my opening remarks that that is a good thing, because these crimes have been under-reported.

THE CHAIR: But it carries a certain workload.

Mr White: It does, and they are difficult matters to prosecute.

THE CHAIR: We have had the same concerns raised in comments from police.

Mr White: Yes.

THE CHAIR: I certainly have. In their case, it is about the length of time they have to spend with clients who are dealing with this type of issue, especially now that they are recording statements and so on as well.

Mr White: True.

THE CHAIR: They want to do it well. I think everybody wants to do this area really well.

Mr White: Yes. We are so lucky in the ACT that we have a committed police force who are really on board with the concept. Dare I say that that is not normally the case in other parts of Australia? The issue of resourcing is always difficult, but perhaps I can answer it this way: one or two extra people is not going to make much difference. We got some extra funding; it was swallowed up before we even got it by the increase in numbers in the area. As I think I said earlier, the numbers used to run at around 400 or 500 a year; they are now running at around 700 a year. That is where I get that 38 per cent figure from.

THE CHAIR: What proportion of your office's work is spent on this type of work?

Mr White: It is difficult to estimate. We have six prosecutors working exclusively in the family violence area, but most prosecutors in the office will have something to do with family violence matters, and that goes all the way up to the most senior lawyers who prosecute family violence murders.

MS CODY: I was about to ask about that.

Mr White: With me and my two deputies, a lot of our court time is spent prosecuting family violence murders. Tomorrow I am appearing in the sentencing of a man called Dillon. I will not say too much about that matter, but it is a matter which will—

THE CHAIR: A very serious matter.

Mr White: cause the community, I think, some concern, if I can put it that way.

THE CHAIR: Yes.

Mr White: Those are the sorts of matters we deal with. They permeate the whole office. It is certainly not just those six prosecutors and a couple of paralegals who represent the full body of work of family violence.

THE CHAIR: It depends on the level of the crime.

Mr White: It does.

MS CODY: Picking up on that point you just made, in your submission you state that the majority of murders in the ACT are family violence related. Therefore, you would be prosecuting all those?

Mr White: Yes.

MS CODY: You, your office?

Mr White: My office, yes.

MS CODY: That is a huge call that the majority of murders are family violence related. That is quite disturbing.

Mr White: Yes. But it is simply the case and it is very rarely the case that a stranger kills another person that they do not know. Of the murders that we have had in the ACT, one thinks of the matter of Vojneski, for example, where it was an estranged partner, or Al-Harazi, where it was a current partner. The Rappel matter that you no doubt know about was an estranged partner. The matter of Dillon that I am dealing with involved children of the partnership. Yes, most, if not, all the murders in the last few years have been family violence related.

THE CHAIR: I think things have changed. People involved with violent incidents on the streets tend to go to hospital and get better these days, as opposed to a couple of hundred years ago. But these matters are severe and perhaps the person does not stop until they have got their outcome.

Mr White: Yes, and unfortunately that is the case sometimes.

MS LEE: In paragraph 8 you talk about training and the importance of training for the judiciary and the profession. You have made the point that obviously it is an important part, but are you able to expand on the type of training that is provided now and what you see as improvements, particularly in light of the fact that there has been some discussion about perhaps encouraging the Magistrates Court to take on more specialised family related issues—not in its entirety but in some of the matters that do come up? Can you give us some advice about what type of specific training you think may be needed in that regard?

Mr White: Yes.

MS LEE: Compared to what training is available now.

Mr White: Of course, this is a delicate area because one can easily be accused of trying to re-educate people and so on. What you are talking about is raising cultural awareness of what really is happening in society. I think we have to say bluntly that lawyers are not necessarily, by their training, experience or background, people who have the exposure to matters that really makes them empathetic to the issues in the area. It is really that cultural training that is valuable. The training for judicial officers is fairly ad hoc at the moment. There is a judicial college, but I am not sure that that really goes into those cultural issues terribly much.

THE CHAIR: Do you think that in this area, apart from having no doubt seen lots of evidence on these matters over a period, there would be some benefit in first-person experience on the ground for judicial officers from time to time getting a tour of what we do in the ACT before things come to court?

Mr White: Yes. I think that is exactly the sort of thing that cultural training would—

THE CHAIR: You could do once a year or something?

Mr White: Yes.

THE CHAIR: Invite people through the main—

Mr White: Absolutely, yes.

THE CHAIR: Or the family safety hub, probably, once it is up and running?

Mr White: Yes, particularly for new magistrates. As you correctly identified, the more experienced magistrates deal with hundreds of these cases by the end of their career and they are fully cognisant of the issues, but the newer magistrates are not.

THE CHAIR: A conversation I had just this week with a professional in another area was about the fact that the deaths are not always preceded by violence. That was and still is, I am sure, really new news to a whole lot of people in our society. You can imagine magistrates that are new to the job would not be any different.

Mr White: That is right.

MS CODY: As I said earlier today, I still have friends that believe that family violence only happens to the poor, or to alcoholic people.

Mr White: I know.

MS CODY: It is terrible.

Mr White: It is sobering to hear those sorts of experiences, because we can absolutely say that family violence does not know any postcodes.

MS CODY: No.

Mr White: Absolutely not.

THE CHAIR: But it is a little like dealing with children. In my life of being a mum there is a lot you do not know until you have experienced it.

Mr White: Exactly.

THE CHAIR: And if you do not have kids with special needs, for example, you will not understand that whole concept of kids who are runners or kids who are ADHD or

what have you.

MS CODY: Swimmers

THE CHAIR: Swimmers, that is right, or who have no sense of fear. I am just saying that in life in general, until you have experienced many of these complex issues, it is very, very difficult to get into the heads of people who are living with it all the time.

Mr White: Yes, and I think we should encourage judicial officers to be open to this sort of training and not feel that it is—

THE CHAIR: It is only intended to make their lives easier.

Mr White: Exactly. It is not an attempt to compromise their independence or get them to view things in a particular way; it is just to open their eyes to what happens in reality.

THE CHAIR: I imagine that if you were a new magistrate and felt you did not know enough it would actually be very difficult to know whom to call or whom to go and see to get some more information about the daily lives of people like this. I guess that is true of a whole host of crimes.

Mr White: Yes, but particularly in this area.

THE CHAIR: Because understanding how and why it happens is probably important to fixing it.

Mr White: Yes.

THE CHAIR: It is not an easy job, I am sure, making decisions about these things.

Mr White: That is true.

THE CHAIR: At this point I want to thank you for being available for us. A proof transcript will be forwarded to you for any corrections. I do not think you took any questions on notice.

Mr White: No.

THE CHAIR: We will come to you if we have more.

Mr White: Absolutely.

THE CHAIR: I thank you for giving us your time once again. We really appreciate your experience and your knowledge in this area. We will suspend for five minutes and then we will hear from Menslink.

Hearing suspended from 2.14 to 2.19 pm.

FISK, MR MARTIN, Chief Executive Officer, Menslink

THE CHAIR: I welcome you to the Standing Committee on Justice and Community Safety, resuming our public hearing on our inquiry into domestic and family violence—policy approaches and responses. On behalf of the committee, I thank you for coming and spending time with us today. I remind you of the protections and obligations afforded by parliamentary privilege and ask you to confirm that you understand the pink privilege statement on the table.

Mr Fisk: Yes, I do.

THE CHAIR: Thank you. I remind you that proceedings are being recorded for Hansard, webbed and livestreamed. We might briefly go to Mr Steel, if that is all right.

MR STEEL: I am happy for Mr Fisk to go first.

THE CHAIR: If you could start with your opening statement, that would be wonderful.

Mr Fisk: Thank you. I would like to update the committee on domestic and family violence statistics that we have collected since our initial submission last year. We now have a full 18 months of specific family violence statistics; but also, importantly, for the first time, we have six months of statistics on 10 to 12-year-olds whom we have been supporting since July last year.

Firstly, I think the committee might like to note that in the 12 months to June last year, ACT Policing reported that over 10 per cent of all family violence offenders were males between the ages of 10 and 19. They represent our client base. In the 18 months to December 2017, the Menslink counselling service supported 293 young men struggling with family violence, whether they were victims, witnesses or users of violence. That represented 39 per cent of our total client base at that time.

In July last year, we started seeing 10 to 12-year-olds, and in six months this age group already makes up over 12 per cent of all of our clients. There are some very interesting differences in this age group compared to older clients aged 13 to 25. Firstly, 47 per cent of this age group are affected by family violence, nearly 10 per cent higher than the older age groups, where 38 per cent are affected. In this age group, there are three times as many young men who use violence against other family members as those who are simply victims. However, as they get older, this ratio increases from three to one to a staggering five to one as they hit their teenage years. While it is early days, these differences tell us not only of the very high demand but also that working with this younger age group gives us an opportunity to address or prevent violent behaviour before it becomes entrenched during the adolescent years.

I would like to relate the story of one of our families, as it illustrates the issues that we see all the time. A mother escapes family violence with two boys and a girl. All the kids are shell-shocked, and both boys are referred to Menslink. However, the boys are also using violence against each other. One of them is hospitalised and the other is removed from the home temporarily. The other one, now that his primary antagonist is gone, directs his anger and violence away from his brother and firstly to his mother

and then even against his younger sister.

Extensive work with both young men—not merely telling them that violence is wrong, but actually giving them tools and strategies for how to deal with conflict, how to de-escalate situations and how to manage their own strong emotions like anger—has resulted in massive differences for that family. As the mum wrote to me at Christmas, “Our world would be so different without you all in it. We have had such dark times, but there in the darkness is our beacon of light, the amazing team at Menslink. Thank you from the bottom of my heart. Not only could my boys not have survived this year but neither would us girls.”

This story is illustrative of the turnaround that can be achieved if we address violent behaviour early, providing those strategies and tools that young men can use for the rest of their lives. It is backed up by a quantity of evidence as well, with more than two-thirds of schools and parents surveyed across our counselling and mentoring programs reporting moderate to significant improvements in peer and family relationships as a result of our interventions. And 100 per cent of schools report that our newest program, Pride, a small group program that specifically addresses things like anger and relationships, had a moderate to significant impact on anger management.

Our belief is that more work needs to be done in the area of preventing violence by addressing the root cause. With respect to the government, we have not really seen a significant investment in this area, yet our results show that work in this space can yield a massive return for families and, importantly, for future generations.

As we said in our submission, simply telling young men not to be violent against their sisters, mothers or partners is only a beginning. While these messages are valuable, in our experience, young men already know when their behaviour is wrong. However, they lack the role modelling, the training and alternative strategies for how to act when faced with conflict or strong emotions.

Our model, often combining school-based programs with out-of-school mentoring and counselling support, works. Why? Because it combines deep professional expertise with the lived experience from adult men that younger guys can relate to. As the sister of one of the young boys I spoke about earlier told me just last week, “The only language they knew when things went wrong was violence. Menslink has taught them a different way and now our house is peaceful again.”

Our recommendation is that young men respond exceptionally well when given the skills and tools to develop healthy nonviolent responses to conflict and strong emotions. Importantly, this not only reduces family violence, but helps reduce bullying, street violence and other antisocial behaviour as well. Investment in transferring these skills to young men at a young age will provide a very significant return to our society and the women—mums, sisters and future partners—who unfortunately make up the bulk of family violence statistics.

MR STEEL: Thank you for your submission and the extra information that you have provided today. I think the committee would appreciate it if you could table that information for us to examine.

Mr Fisk: Yes.

MR STEEL: I want to ask you about your experiences with the young men who access Menslink and your programs. What do you think are the determinants of that antisocial behaviour, particularly family violence, if they are a family violence perpetrator? Where are they coming from, do you think?

Mr Fisk: Firstly, I will say that there is no socioeconomic pattern that we can see. There is no profile, apart from the fact that they are young men who have experienced violence and conflict in their family home. The overwhelming pattern we see is that while they are scared of that violence and aggression, they learn from it. They learn that, in the short term, it seems to work. One of the parties backs down, typically the weaker one. They look out into the outside world where media, social media, computer games and online pornography saturate them with messages that violence works, that violence is the way of the world, that violence is an effective strategy to get what you want.

THE CHAIR: And music videos.

Mr Fisk: They then grow up into teenage years, when physically they become larger and emotionally they become less stable, for want of a better word. That is where we see the violence really starting. That is the pattern. It does not matter what racial background they are from; it does not matter whether they are from a very poor family or a very wealthy family. That is the pattern.

MR STEEL: There are, obviously, a lot of young men who do not engage in violence but are still subject to society and those things that you mentioned. Are there some trigger points or things that lead to that violence?

Mr Fisk: I think that young men, when faced with that violence, will either take a role that “I need to retreat” or take on a role of “I need to fight.” It is the fight or flight response. Those patterns can become ingrained. I wish I knew what makes a younger person do that. We are talking sometimes about people of six, seven or eight. As to which way they go, I do not think anybody—none of the research I have read—has been able to determine that.

MR STEEL: In terms of their emotional stability, is it family relationships, break-ups or things like that that tend to result in one of them lashing out and using violence?

Mr Fisk: I do not know that this is a causal relationship, but I suspect it might be. Over 90 per cent of the young men in our mentoring program are from single-mum families. Over 70 per cent of the young men that present to us for counselling support are from single-mum families.

THE CHAIR: Maybe those people reach out, as well.

Mr Fisk: Maybe they do.

THE CHAIR: And that is good.

Mr Fisk: Almost all of our referrals that are not from agencies are from single mums.

THE CHAIR: I want to ask you about the programs you put people through that get good results, where the people are willing, interested in change and so on. I imagine that that is not every single time but most of the time, I hope. Tell us a bit about what is in the program. For the benefit of someone who is a complete novice in this area and who does not know what you do to change someone's behaviour, can you give a quick run-down?

Mr Fisk: At a broad perspective, our school-based flagship program is the silence is deadly program. That is where an older man with lived experience will talk to young men. We all have problems in our lives but an effective strategy for dealing with a problem is not putting your fist into somebody's face. It is putting your hand up and asking for help. We leverage role models like the Canberra Raiders football players to say that, yes, they have problems and, yes, they put up their hands and ask for help. It is trying to show them that there are better strategies.

THE CHAIR: Yes, and giving those strategies some status.

Mr Fisk: Yes, giving them some status. We then work in small group programs and we get young men to start working out what they stand for, start working out what their values are, because young men are looking for respect. If we can get them to hang their hat onto something like honour or loyalty or kindness rather than anti-social behaviours and show them the benefits of that, that works really well. Again, the man who runs that program is a man with significant lived experience and he is respected by the young men.

We provide volunteer mentoring services to 63 young men at the moment. That is where we will get an older man aged from 23 to 73, from every background and walk of life, to be a positive male role model. Sometimes these young men have never had a positive male role model. The males in their life have been violent or they have given up and walked out after a short period of time, and these kids are damaged.

THE CHAIR: Would you say that this statement is true? It is what has been presented to me before. Unlike female nature, which to some extent is written into our bodies—we sort of know about nurture because our bodies dictate it to some extent—often men to some extent, obviously not in every single case, will need to be told by someone, “You are becoming a man now and these are the expectations of you.” Is it the case that it is quite detrimental if that message is lacking?

Mr Fisk: Exactly right.

THE CHAIR: That is what has been presented to me before.

Mr Fisk: Adult men that—

THE CHAIR: It has to be passed on.

Mr Fisk: Adult men that we work with as our volunteers and our staff are nurturing.

The strongest men I know are the kindest men I know, and they are not afraid to say it.

THE CHAIR: That is true. I am just saying that that concept of how to be a man—this is what has been presented to me before—essentially has to be passed on verbally. If that does not occur, it can leave a big gap—

Mr Fisk: Absolutely.

THE CHAIR: in a person knowing how they should behave as a grown adult man in society.

Mr Fisk: Our Indigenous cultures have known this for thousands of years.

THE CHAIR: Yes, initiation.

Mr Fisk: Young women go to adult women for the initiation and young men go to adult men for the initiation. We try to have similar things where a young man can bond with a responsible adult and be shown how to be an adult man.

THE CHAIR: I certainly know from people who have lacked some other role models the benefit of hanging around with families that have healthy relationships and so on.

Mr Fisk: Yes.

THE CHAIR: Yes, I really appreciate what you are doing.

Mr Fisk: Thank you. This year we will provide up to 1,800 free counselling sessions from diploma and higher qualified counsellors. They are to young men from a range of backgrounds and issues. Again, 40 per cent of those young men have issues with family violence. We apply a very simple four-step process to teach them how to control their own angry emotions.

THE CHAIR: What is that process?

Mr Fisk: It is one called anger management jumpstart. I think it is from the US. It has a variety of components that I am happy to provide to the committee, together with its source.

THE CHAIR: Please.

Mr Fisk: But we have found that very effective with 10-year-olds, with 22-year-olds, in helping them to understand their aggression and anger, and most importantly to be able to curb it in a variety of situations.

THE CHAIR: I wonder whether it is possible for the committee to see and understand how some of those programs work. Perhaps we could talk to one of the presenters at some stage about how that actually works. It is an area where we know we have a bit of a gap in the whole system, which obviously you are trying to fill. I think we need to understand it as well as possible.

Mr Fisk: Yes.

THE CHAIR: What programs work for adult perpetrators? You are talking a lot about the youth you are working with, and that is a very disturbing worry. But we also would love to think there is hope in the future for adult offenders who might be able to move on into a different way of being.

Mr Fisk: I think the key is this combination of professional expertise, but also lived experience. A young man who is struggling with his own violent emotions is going to listen to somebody who says, “Yes, mate, I have been there and done that when I was your age.” They are less likely to talk to somebody or listen to somebody from a different gender who does not have their world experience. I think that is important in reaching these young men.

THE CHAIR: And no judgement, either, because they are saying, “I have been there too. I do not judge you for the choices you are making, but I know you can do better.”

Mr Fisk: So many of our young men may be a victim, user and witness of violence in the same day. They may live in a household where there is violence maybe amongst brothers or sisters, maybe between mum and dad. They may participate in the violence; they may witness violence; they may be the victim of violence. That is a very common pattern. It is why we do not label our young men in any way, shape or form because the lines are very blurry when you are a teenager.

MS CODY: As a mother of two boys, relatively grown up now, I left a really violent situation when they were little. My fear was always being able to provide them with a constant male role model. So I congratulate you on the work that you are doing in that regard and I thank you as a single mum. It is a shame you were not around earlier.

I want to come back to a couple of the things that you said when Mr Steel was asking you questions and to your opening statement. This relates particularly to the 10 to 12-year-old boys that you are now being able to assist and be there for. You said that 47 per cent of that age group are affected by domestic violence. Is that that in the witness, user and—

Mr Fisk: That is correct.

MS LEE: Victim.

MS CODY: victim, thank you. I did not want to use the word victim but I could not think of another word. Wow! I think you also mentioned, a little before Hansard started recording proceedings, that there is quite a large percentage of boys that you work with that are perpetrators of violence. Is that correct?

Mr Fisk: Yes. For example, if I look at our entire 10 to 12-year-old list that we see, 26 per cent of those list anger management as their primary issue. In our world, anger management is code for family violence. Even where we have police refer clients to us, the use of the words “family violence” when you are talking with a 10-year-old kid is just not something that most people use. When somebody presents with anger management, that is actually the issue, but we do not use that word and neither do the

parents. Twelve per cent of them are victims only; nine per cent of them are both.

The important thing is that the ratio of “only victim” drops by half as they get older. They are far more likely to be both a victim and a user of violence as they get older, whereas when they are younger they are more likely to just be a victim. I think that there in that difference lies a massive opportunity for us as a society to stop it in its tracks. I would love a world—it might be 100 years away—where we do not need the Domestic Violence Crisis Service or the Rape Crisis Centre. But, as I said, it might be 100 years away. It might be three or four generations. But I do believe there is that delta that we can work with.

MS CODY: You also mentioned in your opening statement that you are seeing some forms of success—

Mr Fisk: Yes.

MS CODY: some forms of better behaviour. What do you think the time frames are before you can actually sort of start to say that these programs really work, that you are 150 per cent behind these programs and they really work. What do you think your time frames are for those sorts of things? Is it a case of everyone being different?

Mr Fisk: No, I think we have been surveying schools and parents for a good couple of years now. Those results are relatively consistent. I am hopeful this year of being able to do a more longitudinal study where we can go back to a client from a few years ago and ask his parent, or maybe the client himself if he is over 18, “How are you doing?” and not just for family violence but for all forms of difficulty that we deal with. But at the moment I am confident about the results we are seeing from schools. They would not ask us back if they did not think we were having a direct effect on their students. You do not see somebody who uses violence at school but who does not use violence at home. People who use violence at school are going to be using violence at home.

THE CHAIR: Do your programs deal primarily with physical violence or with emotional manipulation as well?

Mr Fisk: All of the above.

MS CODY: Which is, I guess, why you used the term “anger management” over—

Mr Fisk: Yes.

MS LEE: Can you give us a bit of insight into what research you did to extend your services to 10-year-olds? We can see from your stats that you are making good progress. It is a really important group, but what got you thinking, “Actually, we need to extend the service we provide to 10-year-olds”?

Mr Fisk: One of our mums. One of our mums came to us and said, “You have helped my older son. My younger son is suicidal and he is in primary school. Can you help?” And immediately we said, “Of course.” But then we started looking out. We heard a report through one of our sponsors that a young 10-year-old boy had tried to kill

himself because of bullying at school. We spoke to the police who said they have seen drug use amongst year 5 and 6 primary school kids. We started to talk to some primary school principals who said, “We have some very real issues.”

When we talked to year 7 students at school—say, in term 1—who were year 6 last year, they were telling us that they really struggled. We then looked to the community sector to see what other supports were around. We did not deal with 10 to 12s. Headspace still does not deal with 10 to 12s. The young men that we are seeing do not want to go and see a child psychologist anymore. They do not want to be known as a kid. They do not want to walk into an office where there are kids’ toys and things like that. They want to be known as making their mark in the world.

MS CODY: Manly, manly!

Mr Fisk: They want to be seen as manly. That is what decided us to do it. We are very pleased that a combination of the government, through the office for mental health, and some very generous corporate sponsors have enabled us to start that program.

THE CHAIR: In the world of government and ministers and so on we have a minister for women. The work that they do is really important. Do you think that there is a role for government to have a special focus on younger men in their development or do you think we do enough?

Mr Fisk: I think we need to do more. I was at a meeting yesterday between two school principals and the Belconnen Community Service and we were talking specifically about years 5 and 6 boys and the very real struggles they have. It is interesting, when I started at Menslink seven years ago, one of the things I rapidly learnt that I did not expect was the primary beneficiaries of our services are actually mums and future mums. By having some extra focus, I think we would benefit kids at school—male and female—we would benefit mums, families.

THE CHAIR: You do not just present to boy students, do you?

Mr Fisk: Yes, we do. We do some co-ed where schools have asked us. Canberra High School, for example, gets us to work with them on an anti-bullying message every year. And we do that as co-ed but mostly we deal just with the boys because boys will open up more. Every time we have done a co-ed session, all the girls put up their hand and talk. The guys will either say something to impress or they will just stay silent, whereas when they are by themselves they are far more open.

THE CHAIR: Can I ask: what proportion of ACT schools are you involved in? Is it just a few or are you being invited all over the place?

Mr Fisk: In terms of our silence is deadly sessions, we do that in pretty much every school—public schools, private schools—from as small as Galilee to as large as some of the largest schools in the territory and Queanbeyan and Yass and places like that. We provide free counselling in 11 schools. We run our pride program in, I think we will take it to, around 10 schools this year. We cannot keep up with demand.

THE CHAIR: To what extent are you not able to keep up with demand? Are we talking about you would like to be able to double your services?

Mr Fisk: Yes. One of the key issues for Menslink is lack of continuous funding. Sixty per cent of our funding comes from the corporate sector or from generous individuals and our own fundraising. That is a year-by-year proposition. The demand for our services has been going up by 30 per cent on average over the past five years.

THE CHAIR: I think the organisation is certainly becoming better known and that has its benefits but obviously it will put pressure on your services. It is a success story in a way.

Mr Fisk: It is a success story that I wish we did not need to have. As I said before we started the formal proceedings, we have had something like four or five requests specifically for help for family violence just this week. I have not looked at it since this morning.

THE CHAIR: One of the things we are certainly seeing from where we sit is that across the board there is a huge increase in reporting and seeking help. As the DPP said before, we see this as a positive in a way because it is bringing something out of the shadows. It is not necessarily meaning that there is a greater perpetration but certainly that people are trying to find a solution. Everyone can have a pat on the back for that but then it is a matter of how to deal with the actual tsunami of complaints and requests for help. It has affected the courts, the police, obviously you on the ground, the women's organisations too.

Mr Fisk: And it is not all young men. Remember there are about 14,000 to 18,000 young men aged 10 to 15 in the territory today.

THE CHAIR: Many of them are doing great.

Mr Fisk: Most of them are doing fine but, for a small number, we really need to work with them and not work with a one-off presentation that says, "Don't hit your mum." We need to do continuous work.

THE CHAIR: Mentoring and psychological.

Mr Fisk: Mentoring, counselling, multifaceted, in school, out of school and our objective is to turn around these young men. The schools and the mums are saying we are turning around more than two-thirds of them. If we can turn them around, then our courts are going to be less busy in the future. Our police are going to be less busy in the future. I do hope we are going to reduce the demand on DVCS and the Rape Crisis Centre into the future.

THE CHAIR: I think that is everybody's hope. That is why we are sitting here today too.

Mr Fisk: Thank you.

MS CODY: We were just talking about the low percentage of boys that you need to

help, which is fabulous in the greater scheme of things. How do you get referrals? I noticed earlier you said that there are mums who use your services and there are also referral cases. How do you get referrals to your service?

Mr Fisk: In general, about half our referrals come through schools. Schools know the kids who are either having struggles personally or are using behaviours that are inappropriate. The rest come from single mums and from agencies ranging from DVCS to the police. We have got good relationships with the community services organisations, organisations like PCYC, Headspace.

I think one of the things that is important is that we have managed to keep our waiting list to a week for our counselling service. If you need help, we will see you within a week, as long as you don't say, "I can only make it four o'clock on Thursdays." But in general we will see you in a week or earlier if it is really urgent because if a young man is struggling with something or if his family can get immediate support—and he might only need a couple of sessions over the immediate problem and he is always welcome to come back in a couple of years—we will see him. Some young men might need years of support. We do both.

We do not charge parents for our service, we do not charge young men for our service, we try to keep our waiting list low and we do not cap the service. It is not like, "You have had 10 sessions now, you need to go back to a GP." We will be there as long as you need us.

MS CODY: I understand that when a male turns 18 he is definitely an adult—ask them—but sometimes they are still at home and sometimes they have not matured quite as quickly as other young men. It is the same with women. They do not always mature at the same rate. Are there mothers who can refer their sons even though they are over 18?

Mr Fisk: We work all the way up to 25. EveryMan Australia, which looks after adult men, starts at 18. We have got a good level of overlap between our services to make sure that no young men and—

THE CHAIR: No-one falls through the cracks.

Mr Fisk: A 21-year-old young man, his brain is still developing. There are still issues that he might be facing, transition points from high school to college to university—

THE CHAIR: You do not necessarily want to hand those people over?

Mr Fisk: No.

MS CODY: The point I am making is that there are many mums out in our community who still often look after their boys until they are older than 25, which is absolutely not a problem, but they may see that their sons are struggling. Are they still able to recommend their children to your services even though they are over 18?

Mr Fisk: Absolutely. And they do.

THE CHAIR: I know we are a couple of minutes early but we might wind up at this point. I want to thank you very much again for coming and for the work you, your organisation and all the many supporters do. It is very heartening for us to see that 60 per cent of your organisation is funded by the community and by people who just want to see a better outcome. I think that is very heartening.

I want to let you know that you will get a transcript of today's discussion and, if there are any corrections you would like to make, please let us know. There was at least one thing, I think the jumpstart program, that you offered to get some more information for us on. We would like that within two weeks if that is possible.

Mr Fisk: Sure.

MS CODY: I think Mr Steel also asked a question that Mr Fisk took on notice.

THE CHAIR: If you are able to give us that information within two weeks that would be fantastic. We will close the hearing and I thank you again for being here.

Mr Fisk: Thank you for having the hearing. It is good.

THE CHAIR: We will be back on 15 March for some more of this.

The committee adjourned at 2.56 pm.