

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

STANDING COMMITTEE ON LEGAL AFFAIRS

(Reference: Victims of Crime (Financial Assistance) Amendment Bill 2003)

Members:

**MR B STEFANIAK (The Chair)
MR J HARGREAVES (The Deputy Chair)
MS K TUCKER**

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 16 MARCH 2004

Secretary to the committee:

Ms J Henderson (Ph: 6205 0199)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry which have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

The committee met at 2.06 pm.

THE CHAIR (Mr Stefaniak): Today is the first hearing relating to the committee's inquiry into the Victims of Crime (Financial Assistance) Amendment Bill. Welcome to the witnesses. We will break for afternoon tea at 3.30; resume at 3.45.

I now have to explain the witness card to everyone. When each of you speaks for the first time, say your name and the position in which you appear in front of the committee. After I do all that I will ask Mr Hargreaves to move a motion authorising the publication of the submissions we have received—and no doubt will receive—today.

First I welcome our two first witnesses. Ladies, you should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth, because giving false or misleading evidence will be treated by the Assembly as a serious matter. Do you both understand that?

ROBYN HOLDER was called.

JANE CARUANA was called.

Ms Holder: Yes.

THE CHAIR: We have to read that to every witness. Excellent. For the purposes of the transcript, would you please state your name, the position you hold and the capacity in which you appear before this committee.

Ms Holder: Thank you, Chair. I am Robyn Holder. I am Victims Of Crime Coordinator, and I am giving further information on my written submission.

THE CHAIR: Great. Thank you very much. We are examining the government's bill. Thank you for that submission. We are looking at that specifically and at any other relevant matters that arise in relation to victims of crime. Before we start that authorisation for publication of submissions we have a joint submission from the Women's Legal Centre, Domestic Violence Crisis Service, the Canberra Rape Crisis Service, the Service Assisting Male Survivors of Sexual Assault, and another submission from the Australian Plaintiff Lawyers' Association, ACT Branch.

MR HARGREAVES: Mr Chairman, pursuant to standing order 243 I move that the submissions you have just outlined be authorised for publication.

THE CHAIR: Thank you very much. Thank you Ms Holder and Ms Caruana for appearing and thank you for your submission. We have had a number of submissions about victims. I think members have been seen by several people. I am not sure whether that was before or after the inquiry commenced. But certainly there has been a lot of interest in recent times in relation to the act as it exists and I think the current act was 1999.

We have received some submissions in relation to victims of sexual offences. Are you advocating the retention of some kind of award for pain and suffering for those types of offences or indeed for any other specific type of offence? My understanding is that at present the act allows that for sexual offences and also for offences against emergency services workers, police, ambulance and fire brigade.

Ms Holder: Thank you Mr Stefaniak. My submission says that there is a special case to argue for the retention of special assistance for victims of sexual offences. We agree with the proposed amendment to exclude specific vocational categories, mainly on the grounds that there is a whole range of vocational and professional areas that are overly exposed to behaviour that may give rise to criminal injuries.

With regard to other types of injuries arising from other types of offences, my view is that the definition for an extremely serious injury should be relaxed. It is so extremely seriously high. We have done, with permission of the court, a review of applications filed. It is our understanding that there are very, very few applicants for that specific provision and very few awards made. My view is that the overriding purpose of the act is to address injury and to provide a measure of assistance for the consequences of the criminal conduct and the definition in that section does not enable that to happen.

THE CHAIR: How many instances are there? Have you got any figures which would help us?

Ms Holder: It is a bit difficult to get to the bottom of some things. But a range of applications has been made for special assistance for sexual offences for people from those specific vocational categories. But setting aside those, the special assistance for people applying for an extremely serious injury is very limited. My colleague, Jane, has had a look at the files.

THE CHAIR: Jane, yes, if you could help us with any figures.

Ms Caruana: I looked as far back as the annual report of 2000-2001. Since then to November of last year six awards were made. One was for a mental injury, four were for a physical injury and one was for a loss of foetus. In relation to the mental injury and the loss of foetus, they are as yet unpublished cases. They are from this financial year; the other four in relation to previous years.

Ms Holder: In relation to that provision that allows for people with a physical and/or mental injury that is extremely serious, there is only one so far unpublished and finalised this year that is for an award of an extremely serious injury that is solely a mental injury.

THE CHAIR: How are they defining extremely serious injury? How is that defined?

Ms Holder: It is in the act. It is probably best if I go to the legislation.

THE CHAIR: I suppose it is how they interpret the definition. You have six cases that you have indicated, four of which are physical. I suppose that is an easier thing than the other two. Could you indicate how the courts are defining "extremely serious" vis-a-vis those four physical cases simply as an example.

Ms Caruana: I did not look at the complete details. That was not available to me; it was just a matter of checking what the injury was and whether the order was made for that injury. Many of those matters were settled in conference without proceeding to a hearing. So there are not actually reasons for a decision or anything like that. It is a bit hard to ascertain the basis of the full injury, and how they came to that conclusion.

Ms Holder: But certainly the one decided on mental injury just recently was contested by the Territory. It was an assault matter. So I guess that is the key issue: that the one special assistance application on solely mental injury was contested. In relation to the original objects as said in reading speeches for this legislation about increasing access for people to services and assistance, and the proposition that was put by the then government that about 30 or 40 special assistance awards would be made per year, we have not at all reached that over three years. So that specific policy objective has not at all been met. That was a conclusion reached by Dr Dare in his report. My submission also acknowledges that and encourages further enquiry on why that is.

In relation to the definition I think the previous standing committee had a particular concern and indeed recommended the removal of the word “permanent” from the definition about what is an extremely serious injury. But nonetheless that recommendation did not go forward. Did you want me to go through what the definition is?

THE CHAIR: If you could just encapsulate your understanding in plain English. I wanted you to look at those cases that we have and tell me, in layman’s terms, how that definition has been used by the courts.

Ms Holder: I guess there are a number of different ways of looking at that. Certainly our office provides a lot of information and assistance to people enquiring about financial assistance. It is an extremely hard definition to explore with people. A perspective that we get from potential applicants is what they hear from solicitors, and what they hear from solicitors as relayed to us is words to the effect, “You have to be in a wheelchair with your legs missing”. That is the legal profession’s interpretation to clients.

So people come to us either with or without that type of comment from practitioners. We are not a legal office so we cannot say yea or nay in relation to that legal advice. All we can say is to look to the cases that have been agreed. As you have found, there has been only one case of mental injury, and we do not have the published transcripts of that at this point in time. The decisions on extremely serious injury where it is a physical injury we are a bit more certain of. One that particularly comes to mind is the loss of bodily function and damage to internal organs. That is irreparable essentially. The loss of a foetus is a new one. Again, that was one decided recently. As a result of an assault the foetus was lost. I do not know at what week.

Ms Caruana: Head injuries I think are a common one.

Ms Holder: Head injuries are relatively common. Although again I had one applicant where the clinical advice was that head injuries take two years to stabilise before some clinical assessment can be made as to permanency or effect on the person’s life. So it is a very difficult thing to engage with people on. It is so emphatic around permanence. That

is the tricky one. Then it is taken to be extremely serious if it results in a great and permanent reduction in the injured person's quality of life and is otherwise extremely serious.

Again, from our perspective, if you take "permanent" out of that, I think the courts are reasonably equipped to differentiate between what can be construed as a normal impact as a result of an abnormal act and something that is great and significant. Some of the examples that we have assisted with are, for example, domestic violence where the applicant has had to relocate interstate. That is a very significant shift. Sometimes those expenses are agreed by the court to be reasonable expenses and are picked up that way. But in relation to the compensable amount, the lump sum, we think something like that could reasonably come under that. Ms Caruana assisted a gentleman of 70 who had suffered a quite serious physical assault at an armed robbery of a post office—not the one that was in the newspapers a few months ago.

THE CHAIR: Not the old 86-year-old?

Ms Holder: No.

THE CHAIR: A magnificent effort on his part—an amazing man. Yes, another one.

Ms Caruana: No, a few years ago. He was a victim of an assault at his wife's workplace. He sustained major physical injuries but received treatment for those. He did recover some expenses under the scheme. The issue came to the psychological injury; he felt at his age it was a lot to cope with—how would he go on with a normal life, sick in retirement, that sort of thing. We encouraged him to seek legal advice in relation to a psychological injury; he might satisfy the definition of extremely serious injury. But he felt it was too much to deal with. He had to deal with his own recovery and to try to pursue this avenue was too great. To my knowledge, he has never come back to pursue that part of his application.

Ms Holder: And he had to continue in the workplace because that was their source of income. Another one that comes to mind is a young Aboriginal man who was badly assaulted by a family member. He had been preparing to enter the Australian government public service as a new intake. He could not do it. The injuries and the social psychological impact on him were so significant that basically he has lost his career opportunity. He is a person of great strength but it really knocked him around, particularly because it was a family member. It divided the family to the extent that he was estranged.

So if we look at the purpose of the act as assisting people with their injuries and the consequences of their injuries, we see that that focus on permanency is so high a bar for people. Certainly legal practitioners appear to be emphasising how high that threshold is, to the extent that people are not proceeding. Whether that goes to the level of risk that legal practitioners are prepared to take on for the fee that they are allowed to ask I cannot obviously contemplate. But I think a legal practitioner would look at what the case law says and make a judgement that errs on the side of caution.

That goes to the other issue that has made a huge impact on our office and is part of the reason about why the access and equity policy objective has not been achieved, and that

is how poor is the level of assistance to people.

THE CHAIR: Before we get into that—that is a good question—I will just ask one more and then ask my colleagues too. But that level of assistance is crucially important. I get back to the issue of playing devil’s advocate with the government’s bill. They would seek—and it seems quite consistent with what they argued as an opposition—to remove those special categories: namely the emergency services, police workers and the victims of sexual offences. You have argued for the retention of the victims of sexual offences. Looking at the government’s attitude of “let’s be fair to everyone; we either have all or nothing”—and there is some strength in that—why would you single out sexual offences? People suffer from being victims of particularly dangerous, violent crime. Armed robberies are traumatic for people who are robbed.

Ms Holder: Yes, it is a reasonable proposition and one that we have agonised over. I remind the committee that the original ordinance did allow complete non-discrimination in that it was for any victim of any crime.

THE CHAIR: Absolutely, yes. And that was very costly it seems.

Ms Holder: I think in my submission I invite the committee to consider that position and expand the purpose with relation to victims of certain property offences, expand to a crime prevention purpose, for example.

For me, the discussion goes back to it being one of our responses to address the injuries arising, and the consequences of those injuries to people who are victims of crime. We have thought a lot and run through all our cases about what is the key difference in terms of particularly the level of mental injury, but also the level of physical injury as experienced by, as you say, a victim of an armed robbery or the victim of a stranger rape or sexual assault as a child.

Mindful that there is still a lot of debate about what type of interventions do help people recover—be it a financial package or a counselling package or a combination of a whole range of things like that, which is my view—the nature of the injury, the psychological emotional injury, for a victim of a sexual offence is qualitatively different. There is just no way of avoiding that.

We have had clients who are extremely functional in the world. As victims of adult sexual assault, of childhood sexual assault, they hold down any manner of jobs and they are parents and all range of things; we have had equally people who suffer diagnosable mental illnesses as a consequence. What they share is a sense of harm that goes essentially to the depths of their identity as a human being. To a victim of an armed robbery it is not personal. I know people experience it that way, but you are there in a job. I am not sure whether I have adequately answered your question but—

THE CHAIR: I understand what you are saying.

Ms Holder: I think the essential conclusion that we have come to is that it is qualitatively different in feeling to the person. I was just running through my head what I understand to be the research in terms of outcomes for victims of sexual offences and victims of other types of violent crime. To my knowledge I do not think the

psychological trauma symptoms are essentially different. There are different characteristics that make it greater or lesser. So I do not think in terms of severity of impact, of range of the types of impact, but I think just in terms of longevity and in terms of the depth: how it impacts on a person's sense of self and soul, for want of a better word.

MS TUCKER: Can I follow up?

THE CHAIR: Yes, certainly.

MS TUCKER: I noticed in your submission you link that recommendation 7.27 with the less restrictive definition of an extremely serious issue. You say that it is of course possible to distinguish between sexual offences that are minor and major in their circumstance, equally to differentiate them in their impact; not all are the same. However what is similar is the intimacy of the intrusion and how deeply it touches upon the individual's integrity and sense of self.

It is obviously fraught dealing with the impact. You are saying that the definition—particularly the definition of an extremely serious injury—is a significant issue in this because if you have to prove certain things with sexual assault. You are almost re-victimising the person, you have to go to such lengths. Is that what you're saying? Or are you saying it is reasonable and easy to quantify the difference of experience of sexual assault?

Ms Holder: I think the previous standing committee when it looked at this acknowledged the difficulty of looking at that permanency issue again for victims of sexual offences. It is so qualitatively different as to argue for a provision on its own. That is the one area where my preference is for universal access to an entitlement. Then if you have to focus on seriousness of injury, which is what the government did in 1999 by focusing on violent offences, that looks at the level of seriousness of the injury. The one difference is the sexual offences one. I am not sure whether I have adequately answered your question. If you look at the seriousness of the offence as being the determining thing, then it would exclude acts of indecency for example. But that does not acknowledge the impact of those types of acts. Does that make sense? That is where I am trying to make the distinction between the seriousness of the offence and the seriousness of the injury.

MS TUCKER: Okay.

MR HARGREAVES: I was just very interested in your view about the differences. In the current act, it talks about an employment category and it talks about level of seriousness of the injury or the effect on the victim. It seems to me—if I can paraphrase what you were saying—that we should not talk about categories of employment at all; it should be injury based or victim based. If I hear you correctly, you are saying that the degree of intimacy, or the violation if you like, is what ought to head the list. So you then start to go down from there. Never having experienced a sexual crime and never knowing anyone who has, I imagine that it would be pretty traumatic compared with say the mental condition of a woman who has had a child murdered. It would be pretty similar scale. But you have to start somewhere to come up with some sort of grading for these things.

I concur with your view that just because a person is in a given employment category it means nothing—absolutely meaningless. The degree of risk in that particular employment category has absolutely nothing to do with the extent of injuries encountered. But I was very interested in that. We might need to look at featuring that sort of approach somehow in one form or another.

You talk about the restrictions. Apart from taking those definitions that you described there, I just wonder how else we can advise people to change those restrictions, or whether we do and whether that is enough. Should there be, for example, a schedule on the back of the act which has a seriousness ranking?

Ms Holder: When we looked at how other jurisdictions dealt with this type of issue, we saw that they employ a diverse range of methods. I invite the committee to consider the 1997 discussion paper of the Attorney-General's department where they went through these methods and recommended a proportionate scaling method.

To my knowledge we have not had a full and frank discussion about methods on assessment. If you accept the principle first—I would like there to be a principle of universal access to remedies to address the harm; fiscally I accept that governments generally cannot do that—so then how do we make the steps? To me it is about the injuries and the seriousness of the injuries and how significantly they impact on the person's quality of life, perhaps for what period of time. But that is a debatable point itself.

The 1997 discussion paper put forward some methods. Dr Dare in his review said the area was so contested that we needed to have a specific examination of that. My submissions to Dr Dare and in response to Dr Dare confirmed that. It is a very contested area. We need to have a specific look at it. And yet that has not happened over these seven years. That is a shame. We cannot let go of this because we have not had a thorough look at how to do it in a way that reflects the value base in part of the community around exactly that proposition you put, about the loss of a child, as opposed to other types of harm.

MR HARGREAVES: Following on a little bit from that, one of the issues about pain and suffering or non-rehabilitation awards—pain and suffering being in principle—that has always been of concern to me is that the absence of a pain and suffering amount, or at least the availability of someone such as yourself, interferes with some people's notion of closure.

I do believe that the notion of closure and a monetary award to effect that closure is rather hotly contested around the world at the moment. When I was looking into it on the previous standing committee I did see the difficulty encountered in that, but I am blessed if I can come up with some sort of way that assists in closure for victims of sexual assault.

I am also interested in your view on that as it applies to a child who is assaulted, whose needs in fact are quite difficult to identify and for whom a monetary award will not do anything.

Ms Holder: I really think that nothing by way of a financial package compensates a person. It's impossible. We get people who say, "No, no. I don't want a bar of that," and other people who receive an amount for their expenses and say, "Wow! This is more than we ever anticipated. It's fantastic." The difference is as great as there is diversity in the community.

MS TUCKER: Some people feel it's a really important gesture.

Ms Holder: And some people think it's incredibly important.

MS TUCKER: And acknowledgment.

Ms Holder: Exactly right. It's a similar type of answer to talking about the role of victims in the criminal justice system. It's partially about process and partially about acknowledgment. It is as important as outcome, which is part of the reason why I emphasise in my submission that this aspect of financial assistance is part of the total community's response.

There are many other issues that have been recommended over the years in relation to adequacy of responses, be it in a communal setting or a justice setting, that still have to be forwarded. Yet to be here again looking at further reductions to one specific area of victim entitlements doesn't stand very well in people's perception of how much their needs are acknowledged and respected and all of those things.

Using as an example what we were looking at in relation to sexual offences, if we accept a basic premise that nothing can compensate a person for the harm that's been done to them from a sexual offence, what is it about the financial package that nonetheless contributes to some people's sense of acknowledgment? Essentially it's that. One thing that the research literature does tell us is that a sense of communal response around a person's victimisation is significant in that person's recovery.

We've seen it very clearly in the bushfire recovery process. That's directly comparable to other types of victimisation—in this case, it's human rather than natural. It's the social and communal recognition of the depth of harm. Most victims are intelligent people and understand that, by and large, it's a token amount. But it's heartfelt—if a government can feel with its heart.

MR HARGREAVES: You see it as a community apology for not keeping them safe?

Ms Holder: That's one of the arguments for this type of scheme. For me, it's more a recognition of the harm and an acknowledgment of the extent and depth of harm.

To go on to the issues for children, which are very vexed, the government's proposition of abolishing the special assistance for sexual offences doesn't fully acknowledge this area. I can only give you an example of some clients that we have. A four-year-old child had an act of indecency committed against her. There was a prosecution, but the matter was discontinued. The child was unable to give evidence on the day.

Psychologists say that there are no clinical tests for a child of that age to assess impact. That's one thing. For your information, GSO requested peer recognition of that clinical

conclusion. There is another thing, which is a contested area, but a lot of the people who work in child protection say it: children are fairly resilient in their responses, and a lot of intervening factors, particularly ongoing and family support, are really important.

In relation to sexual offences, in particular but not exclusively, the impact is most significantly felt at particular developmental points for the child: entering adolescence, mid-adolescence and adulthood—when the person is entering his or her first sexual relationship or, indeed, contemplating children. The impact becomes most pronounced at those critical life points.

The family of the child that we've assisted is eligible for a special assistance award. I don't think it's relevant how much the GSO offered, but that award will be available to the child when she is 18. We've talked a lot with the mother about what additional things her expenses might be: the educational, childcare and respite support that she needs to help stabilise her children. She is one of the ones who have relocated interstate. She is in such a state of upheaval that she can't focus on those things. She is focused on getting those things, but she's not focused on getting the payment through this cumbersome, huge, long process. But when her child is 18, there will be an amount that the child can access for herself.

MS TUCKER: Can you explain a bit further your point that in some cases you think there's a potential conflict of interest with regard to the parent/carer applying as the child's next friend?

Ms Holder: That particular case I mentioned was one of those that bring this under the spotlight a bit. A parent/carer can apply in their own right as a person who's financially responsible for that child and can apply for their expenses. At the same time, the child has its own application, possibly for special assistance. Tensions can arise when a parent has expenses that they can't meet in any other way. Then it's outside the realms of this act, and it becomes the responsibility of the public trustee to ascertain whether or not to release funds. But a parent can feel that this is a quicker and easier way of accessing funds, if they are particularly impoverished clients, like this family.

There was another case where the expenses of the parent/carer, plus the quantum proposed by GSO for special assistance in relation to the sexual offence, took the application over \$50,000. There was a clear conflict then—the parent, in essence the person financially responsible, forgoing reimbursement of the full amount of their expenses, which were agreed as being reasonable, in order to facilitate the child having the greatest lump sum. In that case I think there was an adjustment in both respects. It generates a very uncomfortable position for the parent/carer.

In the last case the community advocate became involved on our recommendation. At that point in time, too, the lack of legal representation becomes paramount because two people need to be represented—the child and the parent—and both propositions, both areas of interest, need to be put to the court. Does that make sense?

MS TUCKER: Thank you. You talked about the possibility of training VSS caseworkers to deal with some of the legal questions. I am interested in that.

Ms Holder: This is such an area of frustration. The VSS—and I understand that it's part

of the committee's inquiry—is a really fantastic resource for the ACT. It is very responsive and very rapid, and there's quick access to a whole range of services for people. They're in the regulations; they're a whole-of-person response. It seems to me inexplicable why, in this particular area, they're not allowed to assist people to access an entitlement, part of which is about their expenses. It's a physical thing in part.

A lot of human welfare services give information and assistance to people about their legal entitlements; that doesn't necessarily mean they're giving legal advice. People should not give advice for which they're not qualified—absolutely not. People can be equipped to give better advice. My office is not legally qualified.

MS TUCKER: I take your point.

Ms Holder: We are upfront and clear about that when we're with clients. "We're not lawyers; we're not giving you legal advice. You can do A, B, and C." Also, in relation to specific points we'd say, "Look, this is a really tricky area. We're uncertain about the court's decision making in these areas. We recommend that you get legal advice on this specific aspect." Unfortunately, more often than not the person is on a merry-go-round because we can't find a legal practitioner to take it on.

MS TUCKER: Going back a minute, you were talking about a potential conflict of interest that could arise and said that that's where you need good legal representation. Is that your solution to that issue?

Ms Holder: It's a combination. If you look at the whole nature of the impact of an offence against a person, it can be significant. Looking again at the young family who had to relocate, they ran out of the ACT and left all of their property behind. They had to shift schools, and there were job issues—vocational changes that people make—and security enhancements to their home. All of these are very practical things. They are the fundamentals before you even get to counselling, quite apart from the emergency action on any physical injury.

The VSS, or any victim service working with clients, need to engage with those things if they're a holistic service response. If part of that is enabling people to access how they can address those things—VSS is essentially a rehabilitation thing; they don't go out and get your furniture out of storage and stuff like that—it's reasonable for them to be able to give that assistance. Again, perhaps it's not within the realms of possibility to have a specific referral process with a specific legal practice.

These things can easily be tendered for. All sorts of constraints can be got around, and all the ethical requirements can be addressed. They could even have a lawyer in their suite one day a week, and people could make appointments with their caseworker. In our experience, lawyers are narrowly focused on what it says in the statute—you know, "Give us the stuff. Where's the evidence?" Our discussions are, by and large, much broader. They are not legal professionals on an open amount of fee. They don't do that; that's not their qualification.

MS TUCKER: I take that point. Just one quicker question: do you think there should be special provisions in this bill for children?

Ms Holder: This may go to some of the non-statutory things that are still in issue. I'd really like to see the court have a practice direction and a procedural guide for registrars. That's still not there.

MS TUCKER: For children?

Ms Holder: In relation to managing any of these applications. When we have had instances when it's appeared to us that there was a conflict, there was no procedure in place, and nobody knew what to do.

MS TUCKER: Right.

Ms Holder: That's not the right thing. I go more towards having it in a practice direction and procedural guide than in the bill itself—except that, where you've got the two applications, a finding can be made to acknowledge both applications, even if they go over the \$50,000, and yet recommend keeping those applications within \$50,000.

Firstly, you can say to the parent, "We acknowledge the reasonableness of your expenses up to \$65,000 and the child's special assistance for the full amount of \$50,000. However, that brings us over the statutory limit, so we'll bring it back." That's by way of recognition and acknowledgment. Secondly, what could be there to say that in such circumstances the needs of the primary victim should predominate?

MS TUCKER: It would be hard to call that, though. If the money from the parent is to pay for the services for the primary victim—

Ms Holder: Yes. In regard to these young children that was a very difficult call.

MS TUCKER: Sure.

THE CHAIR: I've got three questions only. In your submission, you argue that, if sexual assault offences are not treated as a special case—in other words, if the proposed amendment is preceded with—the principle of choice of service for that particular group should be enshrined. What do you mean by that? How would you like to see it enshrined?

Ms Holder: If the bill continues as is, it would require victims of sexual offences—as it currently would any victims who are applying under extremely serious injury—to have made "reasonable use", or whatever the words are, of the Victims Services Scheme. One of the big issues in earlier amendments was choice of service and that people shouldn't be made to do certain things. I think that's a sound principle.

THE CHAIR: And it should be enshrined.

Ms Holder: Even on extremely serious injury, it doesn't make people go to the service. It just says the victim has obtained such assistance from the Victim Services Scheme as is reasonably available, unless the person is physically incapable of benefiting from the scheme. That's on extremely serious injury.

If sexual offences were to be within that category, they would fall under that. That would

generate a lot of concern in a range of victims services. Generally speaking, it's not a big issue for the Victims Services Scheme; it's really a statement: "We're aware of this person, this person is on our books. It's not a disclosure of their treatment."

THE CHAIR: All right, so basically you just want their choice and sure enough it's fair enough. The second question is: you agree with the proposed amendment to remove the requirement for victims to report their crime to the police—

Ms Holder: Yes.

THE CHAIR: Why is that? What benefits do you see if they don't report the crime? We've got some mixed signals in our submissions.

Ms Holder: The previous legislation didn't require a report.

THE CHAIR: That was pre '99.

Ms Holder: Yes. And still the court required evidence of criminal conduct to the balance of probabilities standard. If a conviction was achieved, that was taken as being proof and a person didn't need to supply that. Be that as it may, pre '99 people still had to supply sufficient evidence to the balance of probabilities to show criminal conduct. The problem that occurred afterwards is that you had quite a number of people who were abused as children who were then required to report it to police. This is a most particular type of example. You have to say to people that it's still within the scope of police to engage in an active and open investigation, which is their responsibility.

For me it put both the victim and the police in a double bind. If police commence an investigation that results in a prosecution, it happens that defence use the fact that they have applied for criminal injuries to throw doubt on their credibility and motives. It sets people up unnecessarily. A report to police doesn't mean an investigation; it's just a notification. It doesn't mean that the police have actively investigated or, indeed, come to a conclusion about the allegations. So, it doesn't really serve a purpose; it adds a barrier and creates a number of problems.

THE CHAIR: Does it help speed up a case? If you have to prove on the balance of probabilities that the offence was committed, surely that takes a bit of time in court, as opposed to just ticking off that it was reported to the police.

Ms Holder: It can get very tricky, and that's one of the areas that we wanted to draw to your attention. For example, there is a sexual offence that we're aware of where, in our view as non-lawyers, protections available to a sexual offence witness that are available in criminal proceedings were not available to her in these proceedings. That's an anomaly in relation to her credibility, her sexual history, her prior contact with police and, indeed, her prior contact with this alleged suspect.

It's all got to be there. If a person has reported to police and police have been able to conclude that the evidence errs this way rather than that way, of course it's easier for the person—but that's all it is.

THE CHAIR: Jane, if you have to go to another appointment, then please go. I have a

final question. A lot of work has been done to improve this, but last year a number of complaints were raised with me about problems between the VSS and the Victims of Crime Association, who felt, as victims and representatives of victims, that they were being left out of the loop and that their concerns were not being taken into account. They felt perhaps that government bureaucracy was moving them out and there was empire building and all sorts of problems. I understand that both organisations are talking a lot more and there's a review going on. Is that true?

Ms Holder: In the previous proceedings in this room, Ms Kelly advised that the department was engaging in a commercial mediation night of some description. I'm not aware of those details. In my view, the establishment of the Victims Services Scheme was a major step forward for all victims of crime in the territory. One thing I wanted to make sure you were aware of in regard to access and equity is that we have not achieved our policy aims except in two key areas: child victims and male victims of assault. Those two categories of victim are accessing the service to a pretty good level and getting a whole range of services, where previously they were not. That is a real positive.

The tender that was put was always envisaged as a partnership. The adjustments by both parties to that partnership—understanding what that meant, understanding the commercial terms, understanding the regulations that they were mutually obliged to meet as per the contract—have taken a while.

It needs a lot of work. I'm pleased that they're doing the mediation, if they do do it. For the reasons I said earlier, the communal support that can be brought around a person is really important. A thing that needs to be understood is that sometimes, when clients access that intake service—and it's a good thing to have just one number to call and one set of people to engage with—they have their needs met by that one engagement. They don't have to be referred on to a community-based service for that peer support. I don't think the parties have effectively generated that type of understanding of the needs of their own client base.

THE CHAIR: Conversely, if someone approached the Victims of Crime Assistance League—I think they have someone there trained as counsellor—and were assisted there, wouldn't that apply both ways? Concerns have been expressed by one person there who is quite prepared and happy and has the relevant training to offer ongoing assistance but is precluded because of the arrangement. That's as of late last year; it might have changed. It seems to me that, if a victim is comfortable with that and it is appropriate—

Ms Holder: It's a matter of the regulations that the Assembly agreed, Mr Stefaniak. That's essentially the answer. If the Assembly wanted to change the regulations to address that issue, it could. Essentially, that's the reason. You really need to talk to the contractor; I'm not the departmental person. You really need to talk to them.

THE CHAIR: I appreciate that.

Ms Holder: As I understand it, the contractor is the Department of Health and Community Services. They are legally responsible for meeting their obligations under the regulations in terms of the dispersal of a service, not a community. Do you see what I'm saying? It's a contractual thing.

THE CHAIR: Basically, the people would contact VOCAL and then they'd have to contact you and you'd do the service. You people would arrange the service to the victim.

Ms Holder: It's not my office; it's Victims Services. That's my understanding of the legal response to that question.

THE CHAIR: Anything further?

MS TUCKER: No.

THE CHAIR: Thank you very much for your attendance this afternoon.

Ms Holder: Thank you for your time.

ROSEMARY BUDAVARI was called.

THE CHAIR: Welcome, Rosemary. You should understand that these hearings are legal proceedings of the Assembly, protected by parliamentary privilege. That gives you certain protections, but also certain responsibilities. It means that you are protected from any legal action, such as being sued for defamation, for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter. We have to read that to everyone, even though at most of these inquiries we never have anything remotely approaching any of that. I just need to make you aware of that.

Please give your full name and the capacity in which you appear before the committee.

Ms Budavari: My name is Rosemary Budavari. I am a solicitor at the Women's Legal Centre, which has made a submission to this committee jointly with the Canberra Rape Crisis Centre, the Domestic Violence Crisis Service and the Service Assisting Male Survivors of Sexual Assault.

THE CHAIR: In your submission, you have suggested that the criteria for special assistance should be lowered from the extremely serious injury category. You probably heard the last witnesses say something similar. Your suggestion is that it should be something along the lines of the Victorian significant adverse effect. Are you also advocating that there should be a limit of \$7,500 for such an award, as there is in Victoria and has been since, I think, 2000?

Ms Budavari: Yes, I agree with all the initial comments you have made. I am not sure that we are advocating a limit of \$7,500. Probably the easiest way to tackle it is to say that we consider that there are significant numbers of victims of crime who are missing out under the scheme as it currently stands.

The proposal in the amendment bill is to remove the special category for sexual assault victims, and we very, very strongly oppose that. We also believe that one of the largest groups of people missing out on some form of recognition payment or compensation is domestic violence victims. By and large, those victims are women and they are the target group that my service has contact with.

So, in trying to work out a way of redressing what we see as an injustice with both the current system and the proposed amendment, we looked at systems in other jurisdictions. We were particularly attracted to the New South Wales system, where both of those categories—sexual assault victims and also domestic violence victims—have specific categories of financial compensation associated with them without having to go through and prove particular physical or psychological injuries.

In New South Wales, if you are a domestic violence victim and you fall into that category, you can obtain an award of between \$7,500 and \$10,000. That may be where the \$7,500 is coming from. Also, New South Wales actually have a threshold, so the claim must be worth at least \$7,500 in order for the victim to receive compensation under their scheme.

I suppose we were attracted to the New South Wales scheme because we have a client of our service at the moment who was assaulted in Queanbeyan and got a very different result; and we just thought to ourselves, “What would have happened to her had she been assaulted in the ACT?” Basically, because she didn’t receive a permanent injury and she was a victim of domestic violence, in the ACT her claim would have been next to nothing. It just seems like an anomaly that you can have that sort of situation arising.

One way of redressing that is to look at that definition of “extremely serious injury” and try to broaden that definition. The other way is to go to some sort of completely different scheme, like the New South Wales table of maims approach, with both domestic violence and sexual assault being specific categories within that.

THE CHAIR: One submission suggested that, if the amendment goes ahead, as proposed, to abolish any award for pain and suffering for victims of sexual offences, there must be a choice of services as the method; in other words, people must not be required to access the victim services scheme, but actually have a choice. Do you have a view on that?

Ms Budavari: I’d agree with that. I’d agree that there should be a choice, but I don’t think that a choice of service substitutes for a lack of financial compensation for those victims. In preparing the submission with those other organisations, I spoke with solicitors from the Women’s Legal Centre in Sydney and also in Melbourne. Both of those services do a lot more of this work than my service does. They are better resourced, so they actually have a legal practice which covers these sorts of cases.

Both of those services commented that it’s absolutely crucial that those victims receive some sort of financial compensation, that it makes an enormous difference in their lives. Even though in New South Wales they were saying that most people get the lower end, so most people get \$7,500, it helps them to move on. The comment was made that for the first time in their lives they are often able to buy something or provide something for their children that they otherwise would not be able to do.

In fact, one of the women I’m working with who has got her claim in New South Wales—a victim of shocking domestic violence over quite a lengthy period of time, none of which she reported to the police until she was actually stabbed and passers by intervened—said, “My de facto always promised me this, always promised that, he promised me the world and never delivered anything. Now, he actually is the reason that I’m going to get something that I can provide for my children.”

For her, it has just made an enormous difference in that she has now made a decision to leave that relationship. The violence that she has suffered has finally been taken seriously by the community in terms of the criminal charges against that person, but also in terms of the community saying to her, “This is not all right. We recognise that you have suffered an enormous injury and this is some kind of recognition of that.” What she will get will fall well short of what she would get if he had any assets and she took civil proceedings.

THE CHAIR: Of course, but people like that invariably don’t.

Ms Budavari: But even the \$7,500 for her is making an enormous difference to her life.

THE CHAIR: Playing devil’s advocate for the government’s position, they argued strongly in opposition that if you went to the scheme that we currently have, you would not differentiate, you would not have a few special categories; you would do it simplistically or do nothing. They are now proposing doing nothing by taking out those special categories. What would make, say, a sexual assault or, if you go to New South Wales, a domestic violence different from a particularly nasty armed robbery that traumatises a victim, or even one of the other categories here, such as a particularly vicious assault on a police woman or man simply because of the uniform they wear which results in horrendous injuries as well? If you have to differentiate, what would put domestic violence and sexual assault in a unique sort of category?

Ms Budavari: I would never want to minimise the effects on those other categories and I can’t really speak for those people because in my practice I don’t come into contact with them, but I suppose I can make these points about domestic violence victims and sexual assault victims: often for domestic violence victims it is a situation which has continued for some period of time. It’s a pattern of behaviour and a pattern of injury which is not a one-off incident and it has long-term effects on that particular victim. Similarly with sexual assault. Most often, sexual assault is caused by someone known to the victim. So it occurs in an intimate, often family, relationship and often has continued for some period of time.

I think that if we, as a community, are serious about addressing those issues for our community—we have demonstrated that with domestic violence; we’ve got an excellent family violence intervention program in the ACT—then there is some justification for those two categories just being distinguished in a particular scheme.

MS TUCKER: You recommend that we not adopt the table of maims approach used in New South Wales and the UK wholesale but carefully construct any table of categories payments for financial assistance and compensation with the assistance of specialists, et cetera. In reading the previous submission, I noticed that the New South Wales joint select committee quoted *McLoughlin v O’Brien* as follows:

Anxiety and depression are normal human emotions. Yet an anxiety neurosis or a reactive depression may be recognisable psychiatric illnesses, with or without psychosomatic symptoms. So the first hurdle which a plaintiff claiming damages of the kind in question must surmount has to be to establish that he is suffering not merely grief, distress or any other normal emotion, but a positive psychiatric illness.

That is wonderful, isn’t it? So we can tell someone they are really sick for a long, long time, which obviously isn’t particularly helpful.

MR HARGREAVES: They already know that.

MS TUCKER: That’s the point; they don’t already know that. People get through this stuff. But if you’re telling them that to get acknowledgment of what’s happened they have to say that they are finished, I just find that to be really disturbing language—“a positive psychiatric illness”. What you’re recommending interests me, but what you’re going to end up with depends on who the experts are. If you get particular experts in the mental health field in Australia, certain psychiatrists or even psychologists, you could end up getting a not necessarily helpful set of events and a labelling of people when you

are working out what is serious and what is a reasonable payment for pain and suffering or whatever we want to call it.

I know, to be fair, that the comment was made in Robyn's submission, too, that it is not helpful to force people into a situation in which they have to claim that kind of damage to get support, so that there isn't that kind of permanent damage. I guess I'm interested to know whether you have anything to say to the committee about that when you say that you want to see this table constructed carefully.

Ms Budavari: I think that two points arise from what you've said. One is that in another part of the submission we make quite clear that that's why we are very concerned about the current definition in the act, which requires that there be no effective treatment for the serious injury for it to be classed as a serious injury. The reason that we're concerned about that is that we want to see this scheme work to assist people to recover, so you can't send a message to people that they will only recover financially if they can show that they can't recover.

That's one point. The other point about that specific recommendation about constructing a table with the use of specialists in the field of sexual assault, domestic violence and trauma really came from a discussion with the Women's Legal Centre in Victoria, who were on a committee which helped to construct their table a few years ago when they reintroduced awards for pain and suffering. According to them, the table was constructed quite hastily because the government wanted to act very quickly. Really, their concern was that the table was constructed largely with psychiatrists and psychologists and not specifically with other workers from sexual assault, domestic violence and trauma fields.

So, even though their table uses the language of "significant adverse effect" rather than "extremely serious injury", they still have some concerns that those words don't capture all of the grief, distress and hurt associated with the event but may, in fact, pass and it doesn't then form an identifiable post-traumatic stress disorder. I know that the government, in their response to the Dare report, said that most sexual assault victims will have post-traumatic stress disorder, so they'll be fine, they'll qualify for extremely serious injury. But our discussion with Rape Crisis and SAMSSA indicate that that's not always the case and that those people have something which may not be able to be labelled as post-traumatic stress disorder, but still significant suffering at the time of the assault or the event.

THE CHAIR: Your submission expresses concern about the cap on legal fees. I think you state that it's not useful to the profession or victims. What ideas would you have for a different approach there?

Ms Budavari: Once again, just before coming to address the committee this afternoon, I had a quick look at the New South Wales system in relation to legal costs and I think that it's quite helpful. Basically, the New South Wales system is that they have a victims tribunal which initially is made up of assessors and initially the application goes to those assessors, and then only if the victim doesn't agree with that assessment does it go to a magistrate.

Under that system there's a scale which is put out by the tribunal and the initial cost of an application to the tribunal is \$750 plus GST, so there is a cap there. If it then goes to

the next stage of going to a magistrate, it's \$1,000 if there's no actual hearing, and then the next stage is \$1,500 for an appeal with a hearing. But importantly, the tribunal or the assessor has the discretion to award costs above that, in excess of the scale, and the tribunal also pays disbursements such as medical reports. So there's a bit of flexibility built into the New South Wales system which doesn't exist either in our current system or in the proposed amendment. I suppose we would just be urging that there needs to be some kind of flexibility.

THE CHAIR: Can the magistrate in New South Wales also award costs in excess of the scale?

Ms Budavari: Yes. In New South Wales, the costs come on top of the actual award. In the ACT—

THE CHAIR: It's part of the award.

Ms Budavari: That's right. The client has to pay the costs out of what they get, whereas in New South Wales it comes on top. The situation in New South Wales has been that they have had all these inquiries that have been referred to because there has been a concern about containing costs. Certainly, my service understands the government's imperative to contain costs in these sorts of matters. However, it's interesting that the most recent inquiry that we could locate a report from in New South Wales indicated that, even though there had been concerns about adding domestic violence as a category to that scheme because of concerns about a blow-out in costs, that hadn't actually occurred, and that's been a finding of that particular inquiry.

I just note—you've probably been advised of this in various submissions already; it's actually in the Dare report as well—that the ACT government is currently saving something like \$4 million a year on the costs of this scheme. In fact, there has been a surplus associated with this scheme that hasn't been disbursed.

THE CHAIR: One of the submissions also suggested that victims of property crime should be eligible for financial assistance to secure their properties as a crime prevention measure. Do you have a view on that?

Ms Budavari: I probably don't have a view on that, given that it's not something that I've come across.

THE CHAIR: Going back to the \$4 million, is that because they anticipated, I think, 30 to 40 additional cases a year in relation to sexual assaults especially and, as we've heard from earlier witnesses, there have been only about six in the last three years?

Ms Budavari: I'm not sure of the specifics of that. That's just a raw comparison of the cost of the scheme prior to the 1999 amendments and the cost since then.

THE CHAIR: Okay. Are there any further questions?

MS TUCKER: Did you ask about the cap on the legal fees?

THE CHAIR: I did just then, yes, and we had a quick rundown on what happens in New

South Wales, which has a bit more flexibility. Basically, there is not a huge difference in the cap, but there is more flexibility there and it's actually after the award as opposed to being part of the award. Rosemary, thank you very much for your evidence and you're excused. Thank you for assisting the committee.

Ms Budavari: Thank you.

Meeting adjourned from 3.27 to 3.48 pm.

THE CHAIR: Thank you very much. This hearing is resumed. Marie-Noëlle, welcome. This information has to be read to any witness who gives evidence before an Assembly committee.

You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections and also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

Would you please give your full name and the capacity in which you appear before this committee?

MARIE-NOËLLE CURÉ was called.

Ms Curé: I'm Marie-Noëlle Curé. I'm the coordinator for the Victims of Crime Assistance League or VOCAL.

THE CHAIR: Thank you. Your submission suggests that there is a need to make provision for victims to claim for smaller costs, even if they cannot prove evidence of extremely serious injury, for example, victims of sexual offences. Another submission has suggested that the award for pain and suffering be transformed into a payment that recognises significant adverse effects on victims of domestic violence, sexual assaults and also homicide. Would you just elaborate on your view on that? Why do you think that is essential?

Ms Curé: It doesn't matter what the act says, but what the understanding is out there and what I have seen as a service provider. Those victims who seek some form of financial assistance may do so, for example, to help them relocate or, if there has been theft of any sort, they may be without funds and unable to go about paying bills or even buying a loaf of bread because Centrelink takes a little time before it kicks in. So victims are often without any resources and they rely on other small services to provide them with this immediate assistance.

VOCAL cannot afford to do that, but quite often we see people and then send them to the Salvation Army, the Smith Family or other services which sometimes do not have that resource either. That also depends on when they have the funds and when they don't have the funds.

My question is: why should those services have to do that for victims? Why does it not come from the funds specially put aside for victims? It doesn't have to be above a hundred. The act actually says there will not be any assistance unless the claim is above 120 or some ridiculous amount, I think it is.

THE CHAIR: So for claims for less than that there should be money available?

Ms Curé: There should be some way that victims can access small amounts of money because sometimes they don't want to apply for a big sum of money or make protracted

applications; they just need a small sum of money to help them to get on the bus and leave the ACT, for example. That's all they need. At times, we've had to pay that for them.

THE CHAIR: Right. A number of submissions have suggested that, if the amendment goes ahead, as proposed by the government bill, to abolish any award for pain and suffering for all victims, including victims of sexual assaults and other such offences, there must be a choice of services, that is, victims must not be required to use the victims support scheme. What's your view in relation to a choice for the victims?

Ms Curé: A lot of victims are not ready to access formal services because they are afraid of ramifications. For example, what the victims feel—again, this may not be correct but it is what they feel—is that, if they access the domestic violence crisis service, there may be some police involvement and they may be under some pressure from the staff to leave the home, go to the police or any number of other kinds of interference. They are not prepared to do that, so they access VOCAL because we don't work with the police in the same way that the domestic violence crisis service does.

It's what they feel. This is what they tell me. They are not ready to access those services because they are not ready to take such action, but they do need some form of help in order to perhaps help them prepare to leave.

THE CHAIR: Yes. I might come back to a couple of points about that shortly. Most of the submissions we've received seem to indicate a view that the requirement to report a crime to the police should be waived and that we should perhaps go back to the old system of having to prove it on the balance of probabilities. I think you make a suggestion in your submission that removing the requirement to report a crime to the police to be eligible for assistance may actually make it harder for victims to claim financial assistance. Would you give your views on that issue?

Ms Curé: It may make it harder in that sometimes, to access the money, there has to be some form of proof that there has been a crime. If that is not the case, everyone would walk in and say, "I've been a victim. Give me some money." It is not possible to do that. It would make life impossible for service providers, as we have seen. When the suggestion came through in June, I saw a number of people coming through seeking to access funds although there had been no police report. In the interview, it was clear that these people saw it as an easy way of obtaining money because they were in financial difficulties.

MS TUCKER: For counselling?

Ms Curé: No, funds. Financial assistance means money to them.

MS TUCKER: So they don't have to say how they'd spend it.

Ms Curé: They don't want to access the counselling. They just want to access the money.

MS TUCKER: Yes, but when you give people money, do they not have to tell you what they use it for?

Ms Curé: We don't have money. VOCAL does not give money. VOCAL gives practical assistance.

MS TUCKER: So they go to you for funds?

Ms Curé: To apply for financial assistance.

MS TUCKER: To apply for funds?

Ms Curé: Yes.

MS TUCKER: Yes. If you support giving that financial assistance, what do they do next? Where do they get the money?

MR HARGREAVES: The VSS.

Ms Curé: Yes.

MS TUCKER: The VSS.

Ms Curé: The VSS doesn't give money either. The VSS provides counselling and other rehabilitative programs.

MS TUCKER: Yes, sorry, I'm trying to understand. You're saying that they're coming in wanting money. I'm trying to understand where they get the money from.

Ms Curé: They want to lodge an application for financial assistance.

MS TUCKER: Which at the moment requires them to show—

Ms Curé: A police report. However, in June the papers came out with a suggestion that that would be abolished.

MS TUCKER: I still don't understand. What are the categories of things that you can buy with that financial assistance if you are a victim of crime? What can you do with the money?

Ms Curé: A lot of people want to access it because they have perhaps overspent, lived—

MS TUCKER: No, sorry. I'm not being clear.

Ms Curé: They want to pay their bills, they want to travel, they want to—

MS TUCKER: Yes, I understand the point you've made. I'm trying to understand the process through which they get money. Who's giving them the money? I don't understand this basic stuff. Where are they getting the money from and is there any accountability for how they spend it? I thought you said that they could go to the victims services scheme for counselling.

Ms Curé: Yes.

MS TUCKER: That's right. That's not money, though?

Ms Curé: No.

MS TUCKER: No, so who gives them the money that they're asking—

Ms Curé: At the moment?

MS TUCKER: Yes.

Ms Curé: Money is obtained through an application to the government solicitor for financial assistance, or else they are referred to the Salvation Army, the Smith Family or any other charitable organisation that is willing to give them cash in hand, a cheque of some form or a bus ticket.

MS TUCKER: So it is literally just some money to get by?

Ms Curé: Yes.

MS TUCKER: Right, and you're saying that people are coming in and asking, hoping to be able to access that money—

Ms Curé: Yes.

MS TUCKER: Without having been a victim of crime?

Ms Curé: Yes, they try that, and some of them want larger amounts than just \$100 or \$25. Some want thousands if they can get thousands. When the news came out—and news travels fast amongst certain people—that maybe they wouldn't have to have a police report, they were all coming in in droves, trying to apply, thinking that they no longer had to have a police report. They all have stories as to why they desperately need the money, because they are in financial strife, but when you interview them you realise that they don't really have a claim as victims of crime.

For example, there was a man who came in and said that he was walking down an alley and he was assaulted. Fair enough, he was assaulted, he had bruises and whatever, and further into the interview it became clear that he was assaulted because he was in front of a house that someone was robbing. Someone had broken a window, put a hand through the window and stolen a stereo. Then, when the chap ran out, because the owner of the house was running after him apparently, he put the radio in this person's hand. Then the owner came along and saw him with the radio in his hand and bashed him up.

Then it came out that he was freshly out of jail: "Why aren't you going to the police and explaining all that?" "Well, I can't really because I've just come out of gaol and if I did that...." whatever. Then there's a gap between the time the thief took the stereo, and when he ran out and put it in the other man's hand. "Why didn't you just drop it and say, 'Hey, I don't know anything about that. I'm not touching it'? Did you have your hand out?" When you interview people, after a while you realise that they give you not very

plausible stories as to how they became victims. In fact, if that chap had reported that incident, he would have been arrested.

MS TUCKER: But do you not think that, if you have an arrangement where you don't necessarily need a police report—because a lot of our submitters are saying that we should remove that requirement, because it is just a report and they're not necessarily investigated and so on anyway—that not having that responsibility to report to police doesn't mean that it's a free for all.

Ms Curé: It's dangerous. I'll give you another example. I have a client who was raped, or allegedly raped, by two disabled boys. I'm not doubting her story but it's a definite example of how things can go wrong. People can be framed, or you can say, "These disabled children raped my daughter," and because they are disabled they cannot stand trial. If the crime is not reported in any event, that leaves a lot of people who can be accused of crimes just for the sake of getting to the financial assistance.

Also, the police have no way of measuring crime in society, if crimes are not reported. If you can get to the money without going to the police, a lot of people will do that, as opposed to going through the interviews and the difficulties that come with reporting crime to the police. Reporting a crime to the police is not always a picnic: it takes some time and causes emotional problems, but I still think it should be a requirement.

MR HARGREAVES: If the police don't necessarily follow it up and the object of the exercise is to test the bona fides of people who are seeking assistance because they're victims, wouldn't that put a bit more pressure, a bit more of a burden on people who are victims of sexual crimes, who would have to go and tell their stories to yet another person? Or should they, in every case, have to report the crime?

Ms Curé: What's the difference between sexual crime and murder?

MR HARGREAVES: I use that one as the most extreme example.

Ms Curé: I understand, because this is the point I've made.

MR HARGREAVES: All right, I'll give you another example: what about someone who has their pocket money stolen and goes into an absolute crisis. It matters not what the crime is. The question is: does it not in fact add to the psychological burden of people who are already victims when they know that there will not be much done about this or they are particularly fearful of repercussion because of it? In the instance of a sexual assault within the family, the victim may be afraid of the repercussions in the family. Does it not add an extra layer of burden to these people if they have to go and do that?

Ms Curé: I think the emphasis, in this instance, should be on what the police do: not on what we do with the financial assistance application and how we get to the money, but rather what are the police are doing to these victims. I have been through interviews with victims, and it is not necessarily the application for financial assistance I'm worried about, it is what the police do and how they treat those people. Perhaps we need to look at that end and look at their process.

Crime victims can be interviewed, for example, for murder for four hours, and they end

up coming out of there feeling as though they are the murderers when they may be just relatives of the deceased. The same thing applies to victims of sexual assault, I imagine. It's quite involved and it's unpleasant, nevertheless I think that those crimes need to be reported because this is one means by which perhaps we can even catch the person if there's more than one accusation against that person. If there's none, this person can go on merrily perpetrating crimes.

Unfortunately, I often see victims who—it's difficult to say this—sometimes some people make allegations about crimes because they are mentally ill. Unfortunately, it happens a lot. I see a lot of people who feel that every man they meet has committed some sexual assault. It's alleged; whether there is some truth in it sometimes and sometimes not, it's difficult to know. We need to think about not just the victim here, but about the potential for abuse of the system for one reason or another—mental health or other reasons that people may have for making those allegations. When we talk about sexual assault, we're not talking about women only: men are sexually assaulted as well.

MS TUCKER: You don't see any distinction between that particular experience and other crime?

Ms Curé: It's unpleasant to undergo a police interview for any crime.

MS TUCKER: Yes, I meant generally, though. You don't see a distinction between sexual offences and other crimes in your submission?

Ms Curé: Sexual offences do carry connotations of family, as you mentioned before. Sometimes it could be happening within the family, sometimes it could happen within very dangerous circles with some very dangerous people out there. It is a difficult subject, nevertheless I don't think that throwing the baby out with the bathwater is the solution. I still think we need to report the crime. How the police handle it is another thing. We need to look at how the police handle certain situations. If the victim says, "I am in danger. I fear for my life," then the police need to have a process for handling that.

MS TUCKER: Yes. Going back to a more general position, in your submission you're saying that you do support the removal of awards for pain and suffering to victims of sexual offences. I don't think that's supported in any of the other submissions. Are there any others that support that? Anyway, most of them don't.

Ms Curé: They're still entitled to apply for another form of special assistance if there are injuries. It's not as if we are saying, "No, they're not going to have any access, like the rest of the victims."

MS TUCKER: No, the argument that's put is that it's more difficult, particularly with the current definition of serious and significant, or extremely serious. That's a problem and certainly in your submission you agree with other submitters on that issue—that it needs to be looked at. However, the argument that's put is that it is much harder with sexual and domestic violence offences to show the harm that's done, and that's why it needs to be singled out or given special treatment.

Ms Curé: But it's also open to abuse, unfortunately. I'm a woman and some women

probably would hang me high for saying that, but I would still say that. The way the system is at the moment, it can be abused by some people.

THE CHAIR: Basically, you're saying you would support the government's proposal to remove awards for pain and suffering for all of those special categories: police, firemen, ambulance officers and victims of sexual offences. VOCAL is quite prepared to support what the government is proposing there?

Ms Curé: I support that, yes.

THE CHAIR: So you'd have no special categories?

Ms Curé: No special categories. However, I understand that there is still the possibility that victims of sexual abuse could access financial assistance if they can prove that they have injuries, like everyone else. Everyone else has to jump through hoops to prove that they have been injured emotionally, psychologically or physically.

MS TUCKER: But the argument is put that that's not so easy to prove with this kind of assault. Do you agree with that?

Ms Curé: I have difficulty thinking that rape is any different to any other crime because I see them all and I see them all hurting just as much. I see domestic violence after 10 years. I have a woman at the moment who has been through 10 years of horrendous domestic violence and she's having enormous difficulty in proving that she is injured because, for many years, she was so traumatised she couldn't bring herself to face any interviews, application forms or anything like that. She's still in recovery now but she's having trouble proving that she did suffer this or that and that the rip through her ear was because he pulled her earring off her ear. She can't find anyone to say that that is the case. It's healed now. Her teeth are all damaged but she can't prove the cause.

MS TUCKER: Yes, but that's—

Ms Curé: Is she hurting less than a rape victim?

MS TUCKER: I thought the idea was that both of those areas were the same: they were requiring special attention and special recognition.

Ms Curé: But it's easier for a rape victim at the moment than it is for a victim who has suffered prolonged trauma.

MS TUCKER: Yes. People have different views on that obviously, but that's yours, so thank you.

MR HARGREAVES: Can I ask you about something that's occurred to me? I think we might have had this discussion in a different committee at a different time. This legislation is all about the primary victim and I'd be interested in your view on whether the bill ought to be extended to secondary victims, for example, the mother of a child who has been assaulted in one way or another, another family member in the instance of elder abuse, or the wife of a police officer who has been assaulted on duty. They are not affected in the instance themselves, but in all of those instances there's a very good

chance that those people are going to go through significant psychological trauma, particularly if their lives are ruined.

Also, would you care to comment on this legislation in relation to another kind of victim of crime, for example, the mother of a perpetrator of a rape or the mother of a perpetrator of a violent crime, and the issues that such victims carry with them.

Ms Curé: I call those tertiary victims, yes.

MR HARGREAVES: Yes, you've got it.

Ms Curé: Some secondary victims definitely need access to financial assistance because they are the primary carers. It is not necessarily the carer. Even simply living in a house with someone who is suffering from serious post-traumatic stress disorder can be life-changing, if you would say that, for a family and for the carer in the house. Financial assistance very much hinges on refunding costs incurred and I find that a little difficult to handle really, because sometimes you can't prove the costs incurred. It's the little things that happen daily that you spend money on, it's your time that you spend, it's your entire life. You can't really necessarily prove that you have incurred costs per se as is required by the submission; it is not that easy.

So, at the moment, I don't see the act covering that very well and a lot of people are giving up and not applying. That's part of the act that is not very good. Tertiary victims are not covered by the act at all and that is sad.

MR HARGREAVES: But your organisation provides support services to these people, as I understand it.

Ms Curé: Yes, we do.

MR HARGREAVES: However, there is no counselling service available to them generally speaking. Presumably, this act, one would think, and the VSS—those sorts of things—if they were to recognise that these people are as much victims of the crime as the secondary victim of the crime—

Ms Curé: They are very much—

MR HARGREAVES: Maybe we need to make a quantum leap here and start putting them into the legislation.

Ms Curé: It should be in the legislation because there is no difference in terms of suffering between the parent of a murderer and the parent of the victim: both sides are hurting equally. You can't say, "Go and hide because your son did this terrible thing." I don't think many mothers bring up their sons encouraging them each day to do murders. They are just as pained to see that their child has become someone that society doesn't approve of and who's perhaps going to spend the rest of his days in jail.

There are ramifications for the family if they have sons and daughters going to school; do they say to everyone, "Hey, my dad is a murderer"? Is everyone going to play with them in the schoolyard: "Perhaps you're just like your father?" Anything they do is

looked upon as “Maybe you’re just like your parents. We’d better not talk to you.” They think, “Maybe we need to change the children’s school. Maybe we need to leave the state and go to hide somewhere.”

My child will also live without a father now because the father became a murderer. It’s the same as the murdered victim: the father would be away. They’re different pains, but still pain; different lives changed, but still lives changed; costs incurred the same. I’m not going to say that you need to put them in for compensation per se, but perhaps for services. The child of a murderer can become a murderer eventually, because of the treatment that child receives. Society needs to think about the long-term effect of that if we are to help the child of a victim avoid venting his anger on society. His anger can become destructive and he can become an offender later on.

The same applies to the child of an offender who can become an offender because of the treatment received and also because the child may mistakenly believe that, if dad or mum was like that, maybe the child is like that as well.

We need to think about the potential for both problems and the cost to society later on. VOCAL provides a service with that understanding, but VOCAL is not funded for that. I said I am the service coordinator. I have two jobs. One is funded under Justice and Community Safety to provide services to victims of crime. We also provide a service to the ACT and Queanbeyan region without any funding at all and I do my other job as a volunteer.

THE CHAIR: I want to explore that a tiny bit further but Kerrie asked you a number of questions in relation to your submission, which is a little different from some others. From what you say, it is clear that you’ve had a lot of experience in counselling and talking to victims.

Ms Curé: I started with VOCAL in 1994 and I worked with the founding members for three years. Then I left for three years and I returned to VOCAL in 2001.

THE CHAIR: I’ve heard some evidence today about sexual assault victims that, yes, quite often the crime is ongoing and it is perpetrated by someone the victim has known, which makes it a little bit different from other crimes. Are you saying effectively that that may be so but you’ve also seen a similar effect on, say, someone who’s been traumatised as a victim of an armed robbery or someone who’s been severely bashed by a stranger, receiving severe injuries? It’s very difficult to differentiate between crimes and is that why you’re saying you support the level playing field?

Ms Curé: Let’s understand trauma: trauma is not something that—when a crime does something to you—you feel in the same way as 1,001 other people who experience the same crime.

THE CHAIR: Yes.

Ms Curé: Trauma is something that affects each individual differently. It has to do with your childhood, your environment, your belief system, your culture and what your current life is about. If you are a very, very happy person and everything is fine, you’ve never had any trauma in your childhood, you’ve had plenty of food, plenty of drink and

no brutality and you experience a crime, it will affect you differently to the way it will affect the person who has grown up with a lot of trauma.

This can happen because one trauma can reactivate other traumas, past experiences. Whether they were connected to rape, whether they involved a crime of injustice of some form, somehow, when you have another trauma, it reactivates other issues—domestic violence or growing up without a mother, that kind of thing. All these things come into play in making your trauma what it is.

Therefore, we can't say, "Let's help rape victims more than others," because if I push you over and steal your handbag, you may happen to have come straight from a country where you were traumatised, grew up without food and had all sorts of injustice all your life or perhaps you may have been involved in a bank robbery ten years ago, so these things are what will cause your trauma. Rape would have a different meaning to different people. We can't say rape per se or sexual assault per se is in itself deserving of more attention than other crime.

In some instances, where there are dangers, I understand it. A young girl came to me the other day. She didn't want financial assistance because she was afraid that, if she went through all that, she would be traced. All she wanted me to do for her was to write a letter to Centrelink to make sure that she could have access to a Centrelink payment and leave town. That's all she wanted to do, leave town and go to some other place because she was so afraid of being here in Canberra. Is her request any less important because she didn't want the money, didn't want a cent from me, but just wanted Centrelink to give her some support so that she could start again in some other town?

I understand young people and their fear. I'm not sitting here not understanding fear; I see it. Every day I see fear. I'm even thinking I need a rest from all of this, but I do see it. I have seen a lot of it. I understand the implications of sexual assault.

THE CHAIR: Since we're looking at a number of changes to the 1999 act, one of the things that act did was change, to an extent, the role of VOCAL—it started the VSS, the victims support coordinator and so on. I understand that last year there were some significant problems, as far as VOCAL was concerned, with its relationship with the various government agencies, and that there were concerns about VOCAL's ability to assist victims, which is something it had done exceptionally well for many years.

I understand there are some discussions going on now, but I found that very disturbing given the number of victims I've spoken to who have been greatly assisted by your organisation. I also found disturbing the fact that you might have been left out of the loop, or the organisation might have been, and the expertise that you have to assist victims might not have been used to the optimum. Would you comment on that? Have there been some improvements there?

Ms Curé: I was interviewed this week by, I think, a SACAT, the DPP and so forth. They were surprised VOCAL was here; they didn't know the service existed. We've been here since 1988 and we have been trying to let people know. We've even helped part of the DPP, though obviously they have another part that doesn't know we exist. I'm continually surprised by the fact that a lot of services don't use VOCAL. I think perhaps it's the lack of respect that exists for the services of volunteers, because people think

volunteers are housewives with nothing better to do. Our volunteers are people with masters and PhD qualifications and the lowest qualification may be a welfare diploma.

They are all people who are working—they are in the workforce or just about to retire. They are people who work as nurses and have one day off, and they're willing to give that time, their day off, to VOCAL. They are people who believe in helping others.

I find it surprising that, when we had a person ring the after-hours VSS—that's victims services scheme—asking for someone to help, they did everything but tell them to go to VOCAL. In fact, they discouraged that person from going to VOCAL. She was so surprised and so upset that she said, "We must do something about it," but I'm not because, after all these years—we are now in our third year—I am quite used to the idea that they see themselves as the professionals and us as the volunteers, meaning that they are of more value to people than the volunteers would be. They actually discourage people from seeking VOCAL's services.

They say, "We'll refer you to this and we'll refer you to that" but they never say, "Ring VOCAL. There will be someone at the end of that line to handle your request right now, on Saturday afternoon, or at 9 pm, 10 pm, 2 am or whatever time." There is someone at the end of that phone to help. It may be just by talking to the victim to reassure them that they'll be all right and we'll see them the next morning, face to face, or we may get in the car and go to them right then, if they need us then.

I don't understand why that is so. Perhaps it is because people want their jobs to continue and they are afraid that, if we get more attention, there will be no jobs for them.

THE CHAIR: I understand that the police are meant to give out your card.

Ms Curé: Yes.

THE CHAIR: My understanding is that, when people ring you, you speak to them but you're then meant to refer them on to the VSS. Is that so?

Ms Curé: Yes, although I saw a letter from Jon Stanhope recently that said this is not the case. Jon doesn't know what he's talking about. Jon needs to come and talk to us because we are required to say three sentences. We are instructed that we are allowed to ask only three questions: are you a victim of crime according to the legislation; have you received counselling before; and do you want counselling? No, we're not even supposed to ask whether they want counselling because they might say no. "Have you heard of the VSS?" We tell them that they can ring the service directly and, if they don't want to make that call, we refer them.

But I don't work according to those lines. Unfortunately, if victims want to talk to me, I will listen to them. If they don't want to go to the VSS, I will not refer them there.

THE CHAIR: What is your role meant to be then, at present?

Ms Curé: According to the VSS, I'm supposed to recruit volunteers, train volunteers and coordinate the services of volunteers to provide practical assistance. That has been devalued to a great extent by saying that volunteers are just going to fill in forms and the

like, and perhaps do a bit of cooking and cleaning, that kind of thing. That's what they think volunteers do, but our volunteers are not those sorts of volunteers. Sure, they would do a bit of cooking if it's necessary for a person who has just been through a very traumatic experience, but our volunteers are able to assist in a number of ways. Some of them have qualifications as counsellors and are very highly qualified, so I'm sure they can do a lot more than just filling in forms and the like.

THE CHAIR: And you do assist: you do counsel some victims and some victims seek you out for that?

Ms Curé: We provide a service to Canberra and the region. The money that comes from DJAC only covers crimes that occurred in the ACT. Canberra is a transient city: people come and go and live here having come from a number of places, and they may have been a victim in other places. If you live in the ACT and you have been a victim in Darwin, or New South Wales for that matter—well, in New South Wales they can provide some counsellors over the border, although some people here are qualified to do that—and those from other countries who live here, are working and paying taxes here, so they are entitled to a service. However, the money that DJAC gives is not for those victims, so VOCAL provides that free of charge.

THE CHAIR: So you do that for interstate people.

Ms Curé: Any person.

THE CHAIR: Does the VSS or any other government agency do any of that?

Ms Curé: No, they only provide a service to victims of crimes that occurred in the ACT.

THE CHAIR: I see.

Ms Curé: Yes. Other states have their own system but you will find that other states do not have that counselling and support system going.

THE CHAIR: I see. I take it the VSS is a Monday to Friday, normal business hours service?

Ms Curé: Nine to five. I rang them at five past five and I was abused for being disrespectful.

THE CHAIR: So your organisation does a lot of after-hours work?

Ms Curé: Yes. I'm on the phone for virtually 24 hours a day.

THE CHAIR: All right. Is there anything further you'd like to tell the committee?

Ms Curé: No, apart from what I put in here. We need to understand why people claim compensation. It's not always for the money, although a lot of people see that they can get \$50,000 or \$30,000—wonderful! Many victims are really doing it as a form of validation. They just need validation. They need to know that the crime did happen. Something happened to them, and sometimes getting that money is proof that yes, it did

happen to them and so they're happy to have any amount.

However, if they can get \$30,000 for the crime, this is what they would put on the application. Some of them certainly need that amount of money to deal with the abuse they've experienced, the change in their lives or the losses they've incurred, but sometimes it is simply a validation, a confirmation that the crime did happen to them.

THE CHAIR: You've raised an interesting point there. You've obviously dealt with a lot of victims. You talked about validation, the sense that a crime happened and how that is important to a victim. What are the main issues of importance to victims? Can you isolate a few issues that are pretty common to most victims, regardless of the crime? Is there anything that stands out in terms of what victims would like to see happen in the system, as it affects them?

Ms Curé: We have a lot of services. I'm not saying that there are no services available to victims. There are a lot of services but, at the moment, I don't see that they are working together very well, especially when you look at other models, in other states, and what they are doing. For example, VOCAL has been around since 1988. Ours was the only service in town but now we're sharing with the VSS and then you have the victims liaison officer and the DPP, which also have a role.

It's all happening but we don't know what the other services are doing. We are isolated because I am so overworked that I don't have time to make little phone calls and chitchat with people on the phone.

THE CHAIR: No, that's okay. I'm thinking more about, as you say, validation, a recognition that the crime happened to them. Perhaps I should give a few examples of what I mean. A victim might think, regarding validation, "I want the system to recognise that the crime happened to me." For example, most victims might feel either that they want compensation, or they don't want compensation but just want to be made well again. They might want to feel safe from further crime, and they might or might not want punishment of the perpetrator. Is there anything that comes through from your extensive experience with victims that they would like to see in the justice system and its associated structures?

Ms Curé: What I was about to say is that those services seem not to operate together, so much. The victim wants to know what's happening and the victim wants to be included in what's happening. Yes, we have victim impact statements now, which we didn't have a few years ago, but still it's a paper that they submit to someone. Perhaps, if they got to read it in court, that might be a good thing. I think there was a suggestion that that would happen.

THE CHAIR: They're not reading it in court?

Ms Curé: In Sydney they are, but I don't think they do that in Canberra, do they?

THE CHAIR: I don't know.

Ms Curé: I don't think they do. They are not included in the paradigm. If there are witnesses, the victims may be called, but if they are no witnesses then they are not

required, and sometimes they are not kept informed. That is a great source of frustration for them. The crime happened to them but then, once the justice system takes over, it's almost as though they are just a pawn in the game. They are just something that we might or might not need to prove our case and that is like another form of assault on them.

The victims would like to have a say in whether the offender is given bail or not. That's quite often a question. They would like to know—

MS TUCKER: Can I just ask about that? There is a set of criteria that has to be looked at by the judiciary in making a decision about that, which includes danger to others. Is that what you're saying, that people who might be fearful if a person is given bail aren't given an opportunity to say so?

Ms Curé: They don't feel that they are included enough in that decision. A lot of them come out angry, saying, "He got bail. I didn't even know he got bail. How could that happen? I wasn't even asked. No-one talked to me about it." It's possible that a lot of these things exist, but perhaps some improvement could be made because victims are anxious, they are upset, they are suffering from trauma and perhaps, when things are said to them, they don't hear. That's possible, but certainly something needs to happen—

MS TUCKER: We could follow that up to see what the process is for including people in looking at that criterion and what the practice is.

THE CHAIR: I must say I'm amazed that victim impact statements aren't read out in court, having probably done the first one in about 1997.

Ms Curé: They may be read in court but the victims themselves don't get to read them, do they?

THE CHAIR: No, right.

Ms Curé: They don't, not in the ACT. I think they do in New South Wales.

THE CHAIR: No. They do in New South Wales.

Ms Curé: Some of them would like to be there and have a say instead of being excluded from the paradigm.

MS TUCKER: Regarding your general position, where you see the different types of crime and victims as basically the same, do you see any need for special consideration for children who've been victims of sexual assault or any crime?

Ms Curé: It is very, very difficult to interview children and help them. They are changing, their lives will change and, if we understand trauma, it does not necessarily disappear because we've had 18 hours of counselling. This is one of the problems with the act at the moment: it allows for 12, pushing 18, hours of counselling for victims and after that they're supposed to go away, feeling better, with their lives back to normal.

No amount of therapy or counselling is going to fix a child, or even, for that matter, an

adult who has been traumatised, because that trauma can revisit them at various times in their lives. A person may not need anything because they're living on their nervous energy, they're young, they have a lot of noise around them—if you understand noise—psychological and physical noise to distract them.

However, for example, a girl who is 18 came to me last week. She came to see me when she was 11, after her father murdered her mother. Not only did he murder the mother, but he tried to kill the girl as well—picked her up, ran to the bridge and tried to throw her in or something. These are things she could have blocked at the time. Victims do an awful lot of things to survive. They block things out or they tell themselves little stories or whatever, but there comes a time in their lives when they can no longer do that, or when things happen in their lives that trigger an awful lot of memories.

She's now going on 19, and she came and said, "When I came to you"—and this is what happens to all those people who go for their 18 hours counselling, so I think a lot of the time they're wasting taxpayers' money—"Yes, I came but I wasn't prepared to be helped in those days. I apologise. I didn't let you help me then, but now I'm ready."

So victims will go to counselling sometimes because they think they have to go. They go, they get assessed and they have their 18 hours. Some of them will use five hours and then get sick of it and not go at all. At the time there are other things that are more important: the child is not over it, they're preoccupied with many things and they're not ready for that counselling or help. But later on—

MS TUCKER: So you're saying there should be more long-term support for victims?

Ms Curé: Definitely, no question about it, but VOCAL provides that.

MS TUCKER: Do those 18 hours have to be within a particular timeframe?

Ms Curé: Sometimes they use it up. Yes, sometimes some people maybe wise enough.

MS TUCKER: Could they spread it out?

Ms Curé: I think that it is possible for them not to use their 18 hours and to come back and use the remainder.

MS TUCKER: In ten years, if they wanted to?

Ms Curé: Yes, but will the VSS be there in ten years—

MS TUCKER: Have they been told that?

Ms Curé: Because it's funded every three years? It can change any time.

MS TUCKER: Sure, yes. I understand that would be unusual.

Ms Curé: The continuity is not there, yes. VOCAL was founded in 1988 by victims who understood the long-term effect of crime and it has provided a service that has no limit. We don't say to the victims when they come, "You are assessed for two hours because

you only had your bag stolen,” because having your bag stolen can have a different meaning to that person. It can be as bad as a murder to this person, because you don’t know the level they are at. They may have had so many bad things happen to them that that’s the breaking point for them; that is meaningful for them. So two hours is sometimes a bit of an insult.

I understand it, because there’s money involved. You see, with VOCAL, we could do that because there was no money involved, so we don’t care whether it’s a bag stolen or a murder. We treat each person according to what they present. However, when you have to pay counsellors and the committee \$150 per hour, I understand that there have to be some limitations. That is one of the difficulties with the way the system is now, because you are employing people in the community who are providing that service and it has to be based on cost.

By the same token, those people who are charging \$150 per hour depend on that money for their survival. I’m not accusing anyone in the community of abusing the system but I’m afraid that there is the potential for service providers who depend on that money for survival to say to the client, “I think you’re going to need more hours,” so the client applies for six more hours to go through the thing, which they themselves find very boring. It has happened in Victoria and I’ve discussed that with service providers in Victoria, who recognise it because they’re changing their system

I have a lot of clients who come to me and say, “I don’t want to go there again. I don’t need that.” They’ve had it.

MS TUCKER: Is it hard to get an extension of counselling hours?

Ms Curé: All that the service provider has to do is convince the VSS that it is necessary.

MS TUCKER: Is that a thing that happens often? Do you know that? We could ask them.

Ms Curé: A lot of my clients tell me they’ve had their hours extended. It happens a lot, yes. It’s supposed to be 12 but I think they extend it to 18, now. Then they go for two more of those hours and they don’t want to go again, so how necessary was it? Surely, if people feel that they need that help, they wouldn’t let go and they would go to every appointment they had.

THE CHAIR: I have two more questions simply because my learned secretary wrote these down. I think they’re very good ones. You mentioned the legal fees. Raising the cap for legal fees, you say, would be useful and would encourage solicitors to take up the cases, but that should only occur if the amount claimed or received is substantial. Does that mean you’d only see the need to raise the legal fees for the more serious matters?

Ms Curé: This is difficult for me because I’m not a lawyer and I don’t depend on that \$850. I help people for free. There are many services out there that are able to assist victims to put in an application for financial assistance when there are no complications, so why are we giving these people \$800 to do that? Are we encouraging them to take up the case and telling those who can do it for nothing not to do it?

THE CHAIR: I see where you're coming from.

Ms Curé: If there are difficulties, sure. I would encourage a person to get a lawyer if there are pre-existing conditions involved or complications in proving that a person can no longer use a hand for hairdressing or whatever.

THE CHAIR: I see.

Ms Curé: If you're a hairdresser and you can no longer stand for hours and wave your hand about, sure enough a lawyer may be of assistance there but, for most cases, there are a number of services who can do it for free and I don't see why we should give them \$850.

THE CHAIR: Right. I'm not sure who wrote this submission, but we did have a submission suggesting that victims of property crime should be eligible for financial assistance to secure their properties as a crime prevention message. I wondered what your views are on that.

MR HARGREAVES: The horse has bolted.

THE CHAIR: Yes, true. I suppose what that means is basically having deadlocks fitted or—

MR HARGREAVES: It is putting the locks on after the burglar's been.

THE CHAIR: To make it harder for burglars to come again.

Ms Curé: I had a person come to me to apply for financial assistance to have a security system because the whole neighbourhood had them installed. Sometimes I seriously doubt that my victims are victims, because sometimes it's simply that everyone else has one so they want one too. Sure, if there has been a crime—in an earlier incident, an old lady confronted a burglar in the doorway and she was scared and she had one installed.

THE CHAIR: Yes, she's probably a good example.

Ms Curé: Fair enough, but I think she won only because she was persistent and very vocal. She was able to speak, but a lot of people who have experienced similar crimes cannot prove that there were any physical injuries and don't bother applying. In some instances, it can assist the victims to feel safer in their homes if security systems are installed. In instances of stalking, for example, or domestic violence, it can be very reassuring to know that something is going to alert the neighbours, at least, if you are in danger.

THE CHAIR: Yes.

Ms Curé: In some situations I would say, yes, there should be something in place to help victims to do that, in cases of domestic violence, stalking and even some instances of rape, when the rapist returns to the same victim all the time as a form of harassment. So perhaps there's something there, although I don't agree with the wording of it.

MR HARGREAVES: Perhaps that would be covered by saying that the scheme should be flexible enough to respond to individual cases rather than highlighting particular instances like this?

Ms Curé: Yes, it's too prescriptive. It should be a little bit flexible. There are some gullible workers around the place—and I may be a gullible worker—who may write a letter of support to say, “Yes, I've worked with this person for a time and there is a need for certain help.” However, at the moment the act doesn't quite lend itself to letters of support from workers. I think the act requires them to be psychiatrists, psychologists, doctors or whatever, so it doesn't lend itself to a letter from a social worker or anyone like that.

THE CHAIR: Thank you very much for all your evidence here today, and your assistance to the committee.

Ms Curé: Thank you.

The committee adjourned at 4.44 pm.