

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON LEGAL AFFAIRS**

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

**Members:**

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

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**TUESDAY, 23 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 2.08 pm.**

**JOHN LITTLE and**

**ANDREW FREER**

were called.

**THE CHAIR** (Mr Stefaniak): Thank you very much for attending these hearings in relation to the Victims of Crime (Financial Assistance) Amendment Bill 2003. You should understand that these proceedings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections, but also responsibilities. It protects you from certain legal action, such as being sued for defamation for what you say here. It also gives you the responsibility to tell the truth, because giving false or misleading evidence will be treated by the Assembly as a serious matter. Please state your name and the capacity in which you appear before the committee.

**Mr Little:** My name is John Little. I am the ACT president of the Australian Plaintiff Lawyers Association.

**Mr Freer:** My name is Andrew Freer. I am a committee member of the same organisation.

**THE CHAIR:** Gentlemen, you have made a submission. It states, among other things, that making awards for pain and suffering available to all, with a lower threshold test attracting a proportionately lower special assistance payment, would be a good idea. Could you explain that in more detail? Also, are you suggesting a table of maims approach like the one in New South Wales?

**Mr Little:** Mr Chair, I suppose the angle that APLA approaches beneficial legislation such as the victims of crime provisions is that we as a society should be judged by how we treat our most vulnerable. Unfortunately, the ACT at the moment has demonstrably the lowest rights for victims of crime anywhere in the country, by the sound of things. What this legislature does about it is perhaps a function of the amount of funding and some other things that the government would give to such a scheme.

Some time ago, APLA put in a fairly detailed submission to, I think, the Osborne committee which covered a variety of points. I'll just touch on one of them. One was to amend the Workers Compensation Act such that the ACT government was not subsidising the employment policies of banks and multinational oil companies, because bank tellers and people that worked in service stations were disproportionately high in terms of their claims upon the ACT victims of crime legislation.

Another one which APLA perhaps should have fleshed out in much more detail was to put through some legislation to make the owners of licensed clubs, in essence, strictly liable for the activities of their bouncers. That has become quite a prominent issue of late, given what happened in Melbourne to a fairly famous cricketer. The problem as a lawyer that one has with bouncers committing crimes—I think that is probably the best

way to put it—is that one has a great deal of difficulty getting to the owners of the clubs, getting to their employers, because as a matter of law if bouncers act outside the terms of their agency as employees, then the employer is not liable.

That always seemed to APLA to be something that would be relatively easy to fix and would create a whole range of good social policy by requiring, in essence, employers to do what I, for instance, used to do years ago when I ran the ANU union bar: you tell the bouncers, “If there’s a fight, you started it. It doesn’t matter what happened, you’re to blame. You’re here to stop fights.”

**THE CHAIR:** I hate to stop you, but do the amendments to the Security Industry Act made in about September last year in relation to bouncers affect that in any way?

**Mr Little:** Not really, it doesn’t help much, because what you need to be able to do, Mr Chair, is to put a financial imperative upon people that employ bouncers to ensure that bouncers behave themselves. Some bouncers seem to be of the view that, if they don’t hit someone during the night, they haven’t done their job, as ludicrous as that sounds, but that’s the way certainly some of them thought when I was giving them work years ago.

The dreadful plight of sexual assault victims is one in particular that concerns APLA. Mr Chair, from a previous life, you would be aware of how victims of sexual assault feel in circumstances where there is more often than not only one witness. They go through a harrowing time at the committal and an even worse one at the trial. The jury is faced with a call of beyond reasonable doubt—“Who’s evidence do I prefer?”—and almost inevitably, beyond reasonable doubt, the relevant victim walks away thinking not very much of the criminal justice system. We don’t encourage people to take on remedies of self-help if they’re crime victims. I think we as a society should look after them, and I don’t think we are in relation to sexual assault victims.

This sort of thing is, I suppose, well illustrated by a couple of case studies. One that I did about three or four years ago was precisely that. Unfortunately, the ACT Government Solicitor took the view that, because the jury didn’t find the accused guilty, then the whole thing never happened, so she went through three trials, in essence. But the court gave her some money and that helped her and it helped the people around her.

In some other illustrations, the ACT Government Solicitor and the relevant lawyer acting for the victim formed a pretty common view in relation to what a case was worth. But it would happen quite often that people would like to have their day in court and one would run a case—not in an adversarial sense, but one would run it before the registrar normally solely so that people could obtain some closure for some incident that happened to them.

From my observations of my then clients, all of them found that and some of them wanted it. Even when the range of damages might have been between \$20,000 and \$25,000 and, no doubt, it would have been settled for \$22,500 if an offer had been made, the ACT Government Solicitor, to its credit, understood that in some cases, and the court would be told of this, this was simply a cathartic exercise for the victim. Someone would say \$20,000 and someone else would say \$25,000, but that really wasn’t the point. The point was that, especially in cases of sexual assault, it was a recognition by society that

you had been wronged, even though perhaps, depending upon which way you want to look at things, the criminal justice system has been deficient in some sort of way. I think there is a special case.

**THE CHAIR:** You mention special cases. You also mention, quite rightly, the case of service station proprietors, who do seem to be victims of armed robberies—a not infrequent occurrence at present—and a couple of other categories. You say, basically, that we really shouldn't differentiate. Are you saying that, if you have to differentiate, it should be with sexual assault victims or are you saying that, if you're differentiating, there are probably a few classes who really do deserve some special consideration? I appreciate that you are saying that no-one should be differentiated against in that case, but if you are going to differentiate—

**Mr Little:** I think the case for sexual assault victims, given what I said at the outset, is that we as a society should be judged by how we treat our most vulnerable. I think sexual assault victims have an arguable case; I do.

**THE CHAIR:** And you are not Robinson Crusoe there in terms of evidence before this committee. I am interested in your other categories. We currently have a few categories, namely, sexual assault victims and emergency services workers, but I am thinking specifically of police officers. Because of the very nature of their job, they are liable to be bashed more often than other workers.

**MR HARGREAVES:** And firies, Bill.

**THE CHAIR:** Firies, too, do you reckon? Certainly, with the police you do see it on a very regular basis.

**Mr Little:** I suppose, with the greatest respect, I haven't seen a lot of sound social policy leave any parliament at 5 o'clock in the morning the Friday before Christmas arising out of a press release that was given six months earlier. But to return to your question, Mr Chair, the situation with police officers is that they have workers compensation rights. So do the firies. I entirely understand and I sympathise with the dreadful plight that police officers find themselves in sometimes, but the fact remains that they have some rights under the relevant workers compensation legislation. Unfortunately, though, those rights may well be worthless, but the fact that they are worthless is a function of what the unions gave up, I suppose, to the then Labor Party federally back in 1988 when the Comcare legislation was changed. I would very much like to see a situation where everyone is treated equally.

**MR HARGREAVES:** Could I explore that with you a bit? Do correct me if my understanding is wrong, but it seems to me that what you are saying is that the determinant for the amount of compensation that a person ought to receive because they are a victim of some type of crime is, in fact, condition related or crime related as opposed to work classification related.

**Mr Little:** It certainly should be, and it's obviously a function of how much in this jurisdiction the Assembly wishes to fund those things, because that's an enormous practical problem. I think the system at one stage ran to about \$5 million or \$6 million.

**THE CHAIR:** It was getting up to about \$14 million, I think.

**Mr Little:** And at the very end there were some spikes, but it went up. You then say to yourself, “How do you fund such a system?”

**MR HARGREAVES:** If you made it a rule that your work classification is, in fact, covered to a greater or lesser degree by the workers compensation package which may apply, in that sense it’s an insurance issue, not a societal issue, whereas if we say that we are going to determine the society’s response to not looking after a person and that is why they have been injured as a result of crime, we as a society have failed to protect them against the possibility of such an injury and therefore it becomes the society’s responsibility to provide rehabilitation, to provide money to counsel, blah, blah, blah, but also to come up with some measure of closure for them.

What I seem to be hearing is that, whatever size award is done, particularly relating to closure, it’s about that expression of regret, that expression of apology, by society to the person, saying, “Sorry, mate, we should have looked after you and didn’t. There is a tangible demonstration of how sorry we feel about it.” In fact, the term “pain and suffering” is, in a sense, a misnomer because it really just says that we are going to compensate them for their pain and suffering, instead of saying that we are going to compensate them because we failed them, because we let them down, and perhaps we should be addressing it in a slightly different way.

**Mr Little:** I think it can extend to both avenues, both pain and suffering and closure, because some individuals never come forward and some individuals do, some perhaps more than most. Some perhaps exploit what some may perceive to be loopholes but because a system is able to be exploited doesn’t mean the system is bad.

**MR HARGREAVES:** Does that mean, in fact, that the system is bad but the philosophy is fine?

**Mr Little:** The philosophy needs to be broad enough to be able to assist, for example, victims of sexual assault to walk out of the Supreme Court of the ACT after a jury has said not guilty and then be able to recognise that society does, in fact, care about them. The system has to be broad enough to do that. But again, I don’t think the system should be broad enough to pay what, in essence, should be the workers compensation entitlements of people that work for banks and multinational oil companies in this jurisdiction. I’ve always thought that has been a complete disgrace.

**MR HARGREAVES:** If the workers compensation is insufficient to effect closure, if the workers compensation insurance only talks about repairing the physical damage but it does not talk about the psychological damage, closure and all the rest of it, this is another layer to effect that closure.

**Mr Little:** That layer can work and has worked very well, as I’ve seen, but the layer needs to be broad enough, it needs to be flexible enough, and it needs to be properly funded, such that in the right case people can receive a significant sum of money. I stress “in the right case”. True it is that you might well ask the question, “What difference would it make if it was \$10,000 or \$50,000?” I think that in WA the limit is about \$75,000.

I think the answer to that is that everyone is different and the system as it has worked in this jurisdiction since it was set up in the early 1980s recognised that you would get considerably less for the same injuries under the criminal injuries compensation scheme than you would if you sued someone civilly. It was never stated, I don't think, but everyone simply understood that the system has to be paid for somehow. Unless we want to throw \$20 million-odd at the system every year, which no-one wants to do, and we shouldn't do, then the awards of compensation are probably about half what one would expect to receive from a civil claim.

**MR HARGREAVES:** Would you agree that the chances of actually seeing the cash are considerably greater, given that you have half the figure?

**Mr Little:** I'm sorry, sir?

**MR HARGREAVES:** Would you agree that, notwithstanding that, you have a greater chance of getting the money under the criminal injuries compensation scheme? Whilst you might have an award of, let's suggest, \$40,000 civilly, you might not have a chance of getting it.

**Mr Little:** The reason that the criminal injuries compensation scheme was set up in the early 1980s, on my understanding, was that we all weren't lucky enough to have Kerry Packer bash us. The problem is that the Kerry Packers of this world don't go round thumping people in the middle of the night. They are almost always people of no means, often never identified, and the first thing that the victim knows is they wake up in hospital.

**THE CHAIR:** How would you suggest we fund it? You mentioned briefly the cost going up to about \$14 million a year, which was, I think, the catalyst for the 1999 bill. Do you have any suggestions on how to fund that, given that the obvious desirability would be to fund all classes of persons?

**Mr Little:** Of course. Whether that's achievable or not is another issue. As I understand things, there was and still is a victims of crime levy, I think to the tune of about \$50. I have some figures. The magistrates impose that levy on people who are convicted of an offence. Unfortunately, for the very same reasons that the Deputy Chair raised, the people against whom these levies are brought have no money. It then might well fall upon the people who have some money to fund disproportionately more of it by way of a very significant fine against, for instance, people who perpetrate assaults, not club owners. If the courts find that their bouncers have misbehaved, then the easiest way to stop the problem ever occurring again is about \$10,000. That will fix it quickly.

**MR HARGREAVES:** Do you find that there is an inconsistency perhaps with our approach to the chain of responsibility in the industrial manslaughter arena whereby, if an employee is killed in the workplace, everyone in the responsibility food chain can be held responsible if they have a direct involvement in that, yet non-employee victims such as club patrons have no call on the person who may very well have created the culture that created that crime in the first place?

**Mr Little:** I would agree with you, sir. The reality in our society, unfortunately, is that a

lot of these activities are cost driven. The reason we have industrial health and safety laws arose from several hundred years back when society decided that far too many people were dying in the mines, the workshops or what have you. We then brought in a system which made it financially inappropriate not to have decent occupational health and safety standards, because that is the only bullet that works. If you have a system where it is cheaper to have people injured, the outcome I think would be fairly obvious. If you have a system where it is much more expensive to have people injured, people will stop being injured because the people that control the workplace, the nightclub, call it what you will, will have a financial imperative to keep their costs down.

Andrew, would you like to talk to our submission in some more detail? I apologise, I've been talking too much; it's something I do.

**Mr Freer:** Perhaps just briefly. Initially, Mr Chair, you asked in relation to the alternative threshold issue that we have raised. It's really in response to perhaps a recognition that the current test for a special assistance payment is an extremely significant barrier. The prediction of the Assembly when the legislation came through was that there may be in the vicinity of 20 or 30 cases of that nature a year. I am aware of one. I am sure there are more.

**THE CHAIR:** We have heard of four, I think.

**Mr Freer:** They are very uncommon payments to be made and we were looking at a way which balances to some extent a recognition of the cost of the scheme with the reality at the present time. Lump sum recognition in compensation or acknowledgment is really not available under the scheme. Whether that be by a table of maims, which is perhaps a much more expanded series of criteria, or whether it be by perhaps a very serious injury and an extremely serious injury division or something of that nature which does provide for some recognition that John has been describing and also some tangible recognition by the territory, without perhaps returning to the expense that existed in the system at one stage. That, I think, is the philosophy behind that suggestion.

**MR HARGREAVES:** The legislation's definitions are a bit contentious, to say the least. Every person I speak to has a different interpretation of the definitions. Do you think that, in fact, we need to clarify that and one of the best ways is a table of maims?

**Mr Freer:** The difficulty at the moment is that the definition hasn't been tested to a great extent. I think the advice that people are receiving is that it is really difficult to overcome the hurdles that on the face of the definition exist, so that clarification of that I couldn't see would be a bad thing. It still leaves us with the present position that it has elements which require permanency, which require extremely serious initial consequences, and the reality is that there are situations where someone has been horrifically affected but perhaps doesn't fit within that definition. The number of applications is, I think, testimony to that fact.

**Mr Little:** If I can just finish that, tables of maims are useful actuarial tools for workers compensation legislation, because you basically know what it is going to cost before you start, and to that extent I understand. What tables of maims don't do, however, is treat individuals as individuals, if that is a course that you want to follow.

**MR HARGREAVES:** The description in the table of maims is the actual injury, whether you lose a finger or a thumb; but in this instance where we are talking about a crime that has been perpetrated, perhaps the table would be by offence rather than by the condition of the person. There are degrees of severity in any crime. An assault would have various degrees of severity, depending on the recipient of the assault. If the table was actually crime descriptive rather than condition descriptive and there was within that an acceptable price range, if you like, would that enable us to keep the price in check and have it more properly reflected?

**Mr Freer:** Certainly with sexual assault victims it can be a quite traumatic process to try to categorise their injury or their condition, whereas the scope for identifying that they have been subject to an offence of a particular category is a way of addressing recognition and having an identifiable range of payments applying to that situation.

**MR HARGREAVES:** If you had such a system in force, wouldn't it make it a hell of a lot easier to administer if it were as black and white as that? That there has been a crime is not in dispute, through whatever means of testing that you want. It then falls within a range which could almost be determined by a registrar. What I'm getting at is that if we have a victim of a sexual assault, or any kind of assault for that matter, whether or not the perpetrator is charged is largely immaterial to the fact that someone has copped damage out of that particular act.

**Mr Freer:** That does return to, I think, the system as it did operate in that that wasn't a requirement in the earlier stages and it's just a question of the cost capacity of the system to reflect that.

**THE CHAIR:** It would be a bit easier, though, in terms of any civil claim—for example, a negligence claim resulting from a car accident—wouldn't it? I can recall how we charged someone with an offence under the Traffic Act and invariably we would have the solicitors for the plaintiff there awaiting to see what happened. A conviction is a big tick in the box in that fault does not have to be proven and it is only a question of damages, effectively, for the plaintiff. I would think that one of the benefits of someone actually reporting it to the police is that it is there, it's a check, it's a balance. Even if it isn't proven at the end of the day, it's something the system can go on.

**Mr Little:** I think the reporting to police is a difficult issue when one traverses areas such as incest, for instance, and that creates a dreadful set of problems.

**MR HARGREAVES:** But wouldn't it be right to say that we can codify those issues where police reporting has inherent difficulties and has inherent invasions of privacy? We could codify those out of the system. I see no difficulty with, for example, a straight out physical assault being reported to the police, or anything else. With a gigantic fraud which bankrupts a family, for example, it makes a lot of sense to have those things done, whether you want it or not, and having some sort of compensation scheme hanging off that is fine. But what do you think of the proposition that we codify those particular conditions, those particular crimes, for which there is an alternative method of reporting?

**Mr Little:** I would agree with that as a general proposition; but, as with almost all general propositions, they are often best stated with the court having a discretion, because it's impossible for us to cover every base of an instance that may or may not

happen. I think the courts have been quite good—in fact, very good, by and large—at administering the old scheme. True, there was the occasional piece of controversy from time to time, but in terms of a percentage of jobs well done, I think the courts would be 99-point-something.

If the courts were given a discretion, if the parliament wished to say that if you've been assaulted you should go and report it because if you don't you will be getting nothing under the CIC scheme, as a general proposition I don't have a problem with that, but I certainly do if it comes to cases such as incest, because that's impossible to deal with.

**MR HARGREAVES:** What about a sort of statute of limitation on the reporting of them. Some people, for example, have encountered incest or sexual assault of some kind and have bottled it up for X years and then a trauma has occurred in their domestic life which can be linked back, so then they say, "I was abused at this earlier point in time and now I want to effect closure on it because if I don't my life is going to continue in this way for the rest of it." Should we be putting in some sort of limitation on the length of time?

**Mr Little:** I would agree with that but again, in the same terms as section 36 (2) of the Limitation Act in the ACT was before it was recently changed by the wrongs legislation, I would give the courts a discretion, because if someone comes to see me with a story about something and they're out of time one needs, as a lawyer, to devote one's mind to what one would think of it if one was sitting on the bench. That's the question that you always ask yourself.

If someone turns up and they're just out of an institution and a whole variety of not all that encouraging things are happening, I'll tend to say to this person, "Look, I don't fancy your chances." If I say to them that I don't fancy their chances, that means that I'm not going to do it, which means that it won't happen. Yes, I agree with where you're coming from, Deputy Chair, as long as the parliament has sufficient faith in one of the other branches of governments—that is, the judiciary—to do its job properly. I think that, by and large, the courts always have.

**THE CHAIR:** You mentioned incest and I hear what you say there, but it is not unusual for crimes that have occurred six, eight or 10 years ago to be reported because, as John indicated, someone does want closure because they feel that they just can't keep it cooped up inside them any longer. What is wrong in that instance for, say, an incest to be reported to the police even though it might have happened 10 or 15 years earlier? It seems to me that that would be a reasonable check and it probably would be harder to work out a system whereby, 10 or 15 years down the track, someone can go to court and say, "I'm a victim of incest and I'd like some compensation."

**Mr Little:** If the system is flexible enough, such that the person can come forward and the matter can be properly investigated, the actual passage of time isn't the issue. To me, the passage of time for the people administering a scheme is a huge difficulty because the witnesses have gone, the evidence has vanished, and you're basically left with someone's word. But again, courts do that job every day of the week as well.

**THE CHAIR:** Exactly.

**Mr Little:** Again, if there was some flexibility in the system, these things could be worked through.

**MR HARGREAVES:** So it hinges on the ability to determine whether a crime has actually been perpetrated. It matters not by whom. It matters not in a funny sense about the severity; that just goes to the size of the settlement. It really goes to that single essence: has a crime been perpetrated on this person, full stop? If we can determine that, the rest should follow naturally.

**Mr Little:** And that was the primary job of the registrar of the Supreme Court where a perpetrator hadn't been apprehended. I think the Chief Justice required it in a certain case and from then on the registrar had to sit down, notwithstanding that the ACT Government Solicitor was happy with everything, and read over the papers, which were sometimes quite thick, and satisfy herself or himself—herself currently—that the criminal conduct had occurred. That, to me, is entirely proper.

**THE CHAIR:** I have only one more question. It relates to the increase in legal fees and the cap there. It seems from a quick look at the Northern Territory model that the legal fees are a lot more generous than they are here. They can range from, I think, \$1,000 to \$2,500, plus reasonable disbursements for an award of up to \$5,000, and over that it is \$1,400 up to \$3,000, plus disbursements. Are you proposing that legal fees be included as part of the \$20,000 maximum victims can now seek for the recovery of costs such as medical expenses or that legal costs be actually recovered by practitioners, as is the case in the Northern Territory?

**Mr Freer:** I think our position would be that ideally it would be a separately recoverable expense. However, at present the problem we've got is that victims, essentially, are recovering a reimbursement of expenses that they incur and they are then paying a fee, be it capped, for assistance in being legally represented. So they're effectively incurring, say, \$3,000 worth of medical treatment expenses and they pay from that \$650 if they can find a solicitor to assist them. One of the primary concerns Dr Dare identifies is that many victims require assistance, the territory is represented by the Government Solicitor and there's an imbalance in the system as it is.

**Mr Little:** That's a significant one because one has the perfectly proper arrangement in place where there are one or two very competent lawyers from the ACT Government Solicitor's Office who essentially administer the scheme for probably 90 per cent of its numbers, but if one of those lawyers takes a certain view in relation to a case the case can end up running in court for a couple of days. I've certainly had a few of those. To me, it is somewhat incongruous that one side in an adversarial debate has the resources of the state, unlimited, and the applicant has two or three hours of a lawyer's time for \$600.

We all enjoy putting the boot into lawyers over hourly charge out rates and all those sorts of things, but at the end of the day the consumers of legal services have a lot more rights than the consumers of any other services in this country that I can think of—starting from the Law Society, the courts, every other organisation in the place seems to be set up to handle disputes. If there is a genuine perception that lawyers are overcharging, which I'd dispute, the simple way around it is to have a bill of costs filed with the court and the court makes a determination. That way, if the ACT Government Solicitor has taken the

wrong view about a case and the case goes for 2½ days, the relevant applicant shouldn't have to pay because someone's made the wrong judgment call. We all make the wrong judgment call from time to time, regrettably.

**THE CHAIR:** Gentlemen, thank you very much for your attendance and assistance to this committee.

**BARRY WILLIAMS** was called.

**THE CHAIR:** Before we start, I have to read something to you. It's something we read to all witnesses. It hardly applies to these proceedings.

**MR HARGREAVES:** Mr Chairman, before you do, I draw your attention to the presence in the gallery of members of the Australian Federal Police Association. It might save a bit of time not having to read it out again.

**THE CHAIR:** Thank you very much. Gentlemen, I did note you were there. If you listen, you can save me the trouble of reading the caution twice.

Mr Williams, 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 understand that?

**Mr Williams:** Yes.

**THE CHAIR:** Please give your full name and the capacity in which you appear before this committee.

**Mr Williams:** My name is Barry Colin Williams and I am speaking on behalf of the Lone Fathers Association and Parents Without Partners.

**THE CHAIR:** Thanks very much for attending today. As you know, we are looking at the victims of crime legislation which is before the Assembly and the proposed change that there be no awards of up to \$50,000 for pain and suffering for police, firefighters, ambulance officers and victims of sexual assault. They will be entitled instead to special assistance up to \$30,000. There will be no requirement to report to police before being eligible for financial assistance. It is also proposed to raise the cap on legal fees from the current \$650 to \$800. Perhaps you could give your views in relation to the current proposals in the bill before the Assembly and address any other issues in relation to compensation of victims.

**Mr Williams:** First off, we don't agree that the police, firefighters or ambulance officers should have any more privileges than the ordinary person in the community. In saying that, we would also like to know how this would affect somebody who would need ongoing help for the rest of their life and stuff like that. I mean, \$30,000 and \$20,000, which brings it to \$50,000, is not going to get them through life, is it? My understanding is that that's all they would get unless they had compensation from some other source. That's our question.

**MR HARGREAVES:** The answer to that as far as I can determined is that the criminal injuries compensation is but one measure for receiving compensation for an injury. One can also sue the perpetrator civilly for that particular injury, so that if you get belted up

in Civic and suffer significant brain damage—by a bouncer or someone like that, by way of an example—you can get a certain amount of compensation to provide you with rehabilitation and whatnot, but also you can sue the bouncer and his employer in court to receive significantly more in compensation.

**THE CHAIR:** The way this act works is that, if you can do that, that's where you have the first claim rather than this. This is more for cases where the person who commits the offence is, as we used to call them in legal terms, a man of straw—in other words, a person who does not have any assets—or, as with the nominal defendant, where people might not exactly know who belted them and left them lying in the gutter, yet they have been injured as a result of a criminal activity and are a victim of crime.

**MR HARGREAVES:** The scheme was not supposed to provide for an admission of liability for the offence; rather, it was meant to provide some sort of compensation by way of acknowledging the fact that society has let somebody down.

**Mr Williams:** I see.

**MR HARGREAVES:** It's a question of who is held responsible.

**THE CHAIR:** Until 1999, basically you would be allowed compensation of up to \$50,000 if you were a victim of any criminal activity. After 1999 it was changed because the scheme was costing a lot of money—I think it had ballooned out to an anticipated \$14 million a year—and it was wound back to one where persons couldn't get money for pain and suffering unless they were in special categories. They would be entitled to payment for lots of ongoing medical treatment and things like that, but the only ones who were entitled to a general payment for pain and suffering were in special categories—victims of sexual assault, police, ambulance officers and firefighters.

The government has introduced a bill which would exclude those special categories and institute special assistance of up to \$30,000. They have also taken out the requirement in the 1999 scheme to report any incident to the police before you are eligible for financial assistance. Also, probably a more minor point as far as you are concerned, it is raising the legal fee cap from \$650 to \$800. It's not exactly a scheme out of which lawyers make a lot of money; it is something which people can do themselves.

**Mr Williams:** We discussed this over a day or so and what we came up with is: why would the police and ambulance officers be getting \$50,000? They're already employed by services and you're telling me that they would get \$50,000, but an ordinary person who was walking down the street and got bashed, a victim of crime who was bashed really bad, would get \$30,000. Why would someone be getting \$20,000 more than them because they're in the police force and are being paid by an organisation or in an ambulance and are being paid by an organisation? They still have compensation to fall back on. Why is it discriminating against the other people? That's what we're trying to find out.

**MR HARGREAVES:** Do I detect from what you say, Barry, remembering that these are occupations which run a higher risk of violence happening to them, that you're questioning, for example, why there should be special treatment for the emergency services people but not the same treatment for, say, a bank teller who is also in a high-

risk category?

**Mr Williams:** That's right. That is exactly what we are saying.

**THE CHAIR:** There is also a special category for victims of sexual assault. Would you apply the same there? We have had varying views on that.

**Mr Williams:** You talk about sexual assault, but it is not just about sexual assault. There are other victims of crime in this town, especially when people are falsely accused of domestic violence and are locked up and bashed by police. We have had cases where this has been done while they've been in custody—not so much in Canberra but in a neighbouring town.

In a case just recently a young bloke was accused by the police and bashed in the cell. His ex-wife went down to the court and said, "Why is he being locked up? I didn't put any charges against him." The police put the charges against him and when it went to court the magistrate said, "Why was this man locked up? There are no charges?" They said, "What about the police charging him?" The police said, "We've got no charges." They went back into court and the magistrate went off his brain. This bloke was terribly bashed up—I saw his head and that—and it's a thing that's going on now; there will be a case about it.

These things happen. These victims of crime are not given any consideration. Don't get me wrong, I'm not saying all police bash people, but it does happen and it happens in this town, too, because I've been doing this work for 30 years and I've seen it. In domestic violence cases, the police come out and arrest people. They throw them into the clink overnight, handcuff them and throw them into the clink, and then when it is found out that there has been no domestic violence there is no compensation for them. They're still a victim of crime because a crime has been committed against them, but there is no compensation for those people. That is the sort of question we're asking.

Even the chief magistrate has said they are sick and tired of frivolous allegations of domestic violence and they're locking people up unnecessarily. They're victims of crime, too, but they get no compensation and they have ongoing problems. Even when it's cleared that they have not been violent in any way, there's no compensation for them, but they're still fingerprinted, they've still got records and everything like that. They're victims of crime, too.

**THE CHAIR:** Surely that is not necessarily the fault of the police. The law requires the police to take action, doesn't it?

**Mr Williams:** Whether it's the police or not, it's the law.

**THE CHAIR:** The police just administer the law as it is.

**MR HARGREAVES:** Who should pay that compensation, Barry? Should it be society generally or should it be the person who perpetrated that illegal act?

**Mr Williams:** The courts do not punish those people. We're saying that the courts do not punish those people and they get away with it time and time again.

**THE CHAIR:** For making false accusations?

**Mr Williams:** Yes. You probably know, as I do, that a lot of it is unnecessarily done by the Domestic Violence Crisis Service in this town.

**MR HARGREAVES:** Does that mean that we should be tightening up the law about holding people responsible, rather than bumping up the compensation level?

**Mr Williams:** Yes. Why should the taxpayer pay for all this when, as you said, it's the person that has caused the crime in the first place that should be made to pay? That's what we are saying. We don't pretend we know all the ins and outs and I've got to admit that I haven't had a look at the bill yet because I couldn't get it off the internet. By the way, you might have a virus because it wouldn't come off my computer.

**THE CHAIR:** I take it from what you're saying that you don't think there should be any special categories.

**Mr Williams:** I think that it should be for all victims.

**THE CHAIR:** If you think there should be special categories that are more deserving of, say, a special award, please tell us.

**Mr Williams:** No, I don't think the police, the ambulance officers or anyone else should have it because—

**THE CHAIR:** We have police and ambulance officers, sexual offence victims, and firefighters at present. They're in the special categories.

**Mr Williams:** No, I don't think they should be treated any different to anyone else in the community. They have a right to take that position on or not to take it on. It's the same as I'm driving a truck down the road, I'm driving a semitrailer, and some of them mad drivers could run into me. I'm taking just as much risk as a policeman is of getting shot.

**THE CHAIR:** The sexual assault victims are also treated as a separate category. Do you think they should be treated separately from or the same as any other victims? I just want you to be clear. You've already made it quite clear about police, et cetera.

**Mr Williams:** I can see what you mean. Sexual assault can have ongoing consequences for the person for the rest of their life. They can be traumatised, especially children and stuff like that. We believe that in those cases they might have a right to more compensation than the ordinary bashed person would be entitled to. But they would have to be specific cases and show they were not able to earn an income from it or something like that.

**MR HARGREAVES:** Are you saying, Barry, that you don't think that people ought to have a special case because of the job they do, but you think there might be a case for some certain types of injuries that have been received; therefore, we should have a special assistance scheme for the ones that are really serious, but the compensation ought to be based on the nature of the injuries that people receive?

**Mr Williams:** That's right.

**THE CHAIR:** And that applies to whatever the offence is.

**Mr Williams:** Yes. For instance, my middle son was an innocent bystander walking in a yard in Kempsey and he got shot in the back with a .303. The bloke went berserk and when the ambulance came he tried to shoot up the ambulance, too. They found out he was just a nutter, but my young fellow can't even walk properly now. He got \$28,000 for suffering for the rest of his life and he suffers all the time.

He understood that the community should not pay for him, that the person who shot him should pay for him, and the person who shot him found God, he said, after 12 months, so the law let him off, gave him rehabilitation and let him off. But my son is still walking around, can't work a proper job and do the things he wants to do, because everyone knows what a mess a .303 makes and stuff like that. It just doesn't make sense that the community should be paying all this money out for people who commit the crimes and virtually because they've got nothing they can't pay anything.

**MR HARGREAVES:** We ought to be charging people if they've got the means to pay.

**Mr Williams:** Yes, of course.

**MR HARGREAVES:** But if, for example, the person has a \$400,000 home, what do you think of the idea of taking their personal effects and flogging them to pay the debt? What about the effect that has on the perpetrator's family?

**Mr Williams:** I guess you've got to look at both sides.

**THE CHAIR:** I think that you can do that at present, John, under the act.

**Mr Williams:** If you're putting a scenario like that, yes. But we're all here to obey the law, aren't we? We're all supposed to be upstanding citizens and not start bashing people to death and things like that, and causing injury to people and that. We're all under that. You go to court and you get charged. But what I'm saying is: how much can you do? I see down here it says should they not have to tell the police. How the hell would you know it's a crime if you didn't have to report it to the police? It would have to be reported to the police to be classed as a crime, wouldn't it?

**MR HARGREAVES:** One of the questions for the inquiry is how much an injury caused to somebody as a result of a crime is dependent upon its being proved that the crime was done by a particular perpetrator. For example, in an instance of assault, it makes a lot of sense to go and report the matter to the police. You might not know who hit you, but that doesn't matter: you still suffered an injury as a result of an assault. But in instances of sexual assault, incest and those sorts of things, perhaps the reporting requirements could be to somebody else, such as a parish priest or a doctor, rather than having to go through the process, because it really hinges on whether the major issue is that it's an injury caused by a crime rather than the fact that a conviction emanated from that. That's the question.

**Mr Williams:** I don't know. The police force is set up as the law to protect citizens of the country and I think that any crime has to be reported to the police first and to the doctors and things like that. If you look at the instance we have now with the football case, two years later and four years later people are reporting crimes and going for compensation for it. There should be a certain time limit on how long you should be able to report these crimes and things like that.

**MR HARGREAVES:** Do you think that that sort of statute of limitations ought to be a general figure or do you think it ought to be injury related? For example, with an assault, you might say that a person has a couple of months to report it, but in the case of incest you don't have a limit because the issue may not manifest itself until a couple of years later. A child may suffer such an assault at the age of, say, 15 and when they get to be an adult at 18 they may say that they want to do something about it, but if the limitation is only for a year or so it would be too late.

**Mr Williams:** Yes. There are not too many 15-year-old girls around now that don't know their rights, I don't think, as far as incest and that goes. If you had said someone about five or six years old, I would agree with you, but not 15. If it's their parents, if it's someone close to them or if it's someone else, they should know—it should be taught to them at school, too—that they should report it straightaway, because if they don't report it, the same thing could be happening to some other kid, one of their mates or something like that. I don't know; they're very hard questions.

**THE CHAIR:** The current law is that, if someone has means, you can sue them and they pay, rather than the scheme.

**Mr Williams:** No, I didn't mean that.

**THE CHAIR:** That's all right. They do anyway; that's the law. But you seemed to be saying—I thought it was a good point—what about the situation where some cretin bashes you and they've got absolutely no means whatsoever, which is where the schemes kicks in? You seemed to be indicating that maybe there should be some way that they should be made to pay. I am interested in your views on how you would suggest that somebody who doesn't have any means should be made to pay, be made to face up to their responsibilities for what they did, over and above the normal criminal sentencing systems. I am interested in any ideas you have on that, because they are the bulk of the people who cause a lot of money to be spent as a result of any scheme like this.

**Mr Williams:** In a case where people haven't got any assets, that would be very hard, but in lots of these criminal cases people have assets and things like that. John said, "Would you sell a \$400,000 home?" I'd say yes. Even if they've got a family, I would say that you would sell it up and make them get a cheaper home to live in or something like that. They've caused the problem; why shouldn't they pay?

**THE CHAIR:** Anything further? No. Thanks very much, Barry.

**Mr Williams:** Can I just say that we're against this up to \$800 to—

**THE CHAIR:** That's just the legal fee.

**Mr Williams:** We agree on the top one that everyone should be treated equally in this country. There are too many things in this country for which people seem to be treated above other people, more fairly. I am sorry I haven't been much help, but that's how we feel.

**THE CHAIR:** No, you have been, thank you very much.

**Mr Williams:** Okay. It wasn't a go at the police force or anything, but, as you know, I have been working on this for 31 years in Canberra and I do know of cases where it has happened—not so much in Canberra, but around the district.

**THE CHAIR:** Maybe the law might need a bit of altering there, but not so much the police here.

**JON HUNT-SHARMAN and**

**CRAIG SHANNON**

were called.

**THE CHAIR:** Gentlemen, as the Deputy Chair brought to my attention about half an hour ago, you were in the gallery when I read out the normal caution, statement of rights or whatever you want to call it that we give to all witnesses, so I won't do that again. Do you understand that quite clearly? Thank you very much. Please give your name and the capacity in which you appear in front of this committee.

**Mr Hunt-Sharman:** My name is Jon Hunt-Sharman. I am the Australian Federal Police Association's national president.

**Mr Shannon:** Craig Shannon. I am the director of workplace relations for the Australian Federal Police Association.

**THE CHAIR:** Thank you very much, gentlemen, for appearing before the committee. As you know, we are looking at the Victims of Crime (Financial Assistance) Amendment Bill. A number of changes are proposed to the 1999 bill, which is currently the law. The proposed changes indicate that, if this bill gets up, there will be no awards for pain and suffering of up to \$50,000 for police, firefighters, ambulance officers and victims of sexual offences. Instead, they'll be entitled to special assistance of up to \$30,000. There'll be no requirement to report to police before being eligible for financial assistance and the cap on legal fees is being raised from the current \$650 to \$800. Gentlemen, what are your views on that, especially your views as representatives of the Australian Federal Police, given that your members are persons who often suffer unwarranted and quite vicious assaults in the line of duty?

**Mr Shannon:** First, we would like to thank the committee for having us today to give evidence on this. It's a matter that our association and members feel very strongly about. It is our understanding that we are possibly the largest utilisers of the scheme under its current form, compared to the other services so named. Just as a preliminary statement, we'd like obviously to refute some of the previous evidence relating to the conduct of our members or otherwise and largely think that inappropriate, given the context of the considerations of this committee.

One of the primary concerns we have is that the consideration and contemplation of this matter by the ACT government seems to be predicated on financial terms rather than the actual intent of the legislation. It's not, in our opinion, a compensatory model; it's to invite financial assistance in respect of allowing some kind of capacity for recovery and rehabilitation of victims of crime.

Our view, which was well stated in the submission that we put in regard to the Dare review when that opportunity was presented, is that, given that police employees do have a propensity by nature and definition of the work to find themselves in situations where they are going to be more likely a potential victim of a criminal assault, there is some recognition required in that.

We have noted that there is a deficiency in the legislation in respect of our previous understanding that those who assist a police officer in the pursuit of their function should also be recognised as a primary victim for the circumstances of the \$50,000 compensation, which I don't think has been addressed by this report or the proposal by the ACT government.

It's interesting that a primary victim is stated to be "someone assisting a police officer in the course of any of the following actions by the police officer"—that's in division 2.19—yet, in regard to the compensatory model, they seem to have been forgotten as an oversight in regard to having eligibility for the compensation applicable to a police officer. Our view is that we believe that it is important for the Assembly to institute a good Samaritan perspective in regard to this and actually encourage people to assist police in the pursuit of their responsibility insofar as that might put someone in some sense of jeopardy in doing so.

We are intrigued in the sense that the ACT government seems to have focused almost solely on the financial element of the proposal to get this exemption removed. I understand that the proposed savings are in the tune of, in government terms, a negligible \$144,000 a year, according to the government's response to the Dare report. Paragraph 5.5 on page 7 states:

The estimated savings will be about \$144,000 per year, obtained by taking an average of the total sums awarded for pain and suffering for each of the previous two financial years.

We are not talking about large sums of money. We are not aware that there is a community outcry in regard to this meaningless proposal in the sense of removing what is a very small amount of payment for persons who are regularly putting themselves at some kind of risk of physical harm.

It is important to recognise the onerous nature of recovery and rehabilitation for a police officer after a physical assault, not only to allow them to restore themselves to the same status as a normal citizen would after an assault, but to actually make them prepared to re-enter a situation where they will know that potentially they are going to face that situation again—if not again on a one-off basis, on a regular basis. It is obviously a lot more onerous. It seems quite perverse in a sense that the government's response seems to justify the proposal to remove the exemption on the basis, to quote again the same report in paragraph 5.4:

In the Government's view, it is difficult to justify the preferential treatment given to this occupational category, especially given other occupational groups...are also routinely at risk of criminal injury.

It's not just the risk factor, as I say. It's the fact that that person has to accept the responsibility for inserting themselves back in a situation where they are obligated, unlike our previous colleague's evidence, to respond to situations to defend life or property, unlike a normal citizen. In fact, normal citizens, the putative normal occupational groups, don't have an obligation in a statutory sense to put themselves in harm's way, whereas a police officer does.

Again, we refer to the fact that we don't want special dispensation for police officers

alone, but any person involved in the pursuit of defending life or property should have that same exemption capacity. To that extent, we would recommend to the committee consideration to broaden the \$50,000 compensation to any person found supporting the defined categories in regard to their function.

**MR HARGREAVES:** Before you keep going down there, I understand that police officers can intervene in the commission of an offence by using the warrant that they have to effect an arrest. I think I am hearing you saying that if there is a pursuit involved, for example, and a member of the public intervenes by tackling a person and gets thumped senseless along the way that person ought to be regarded for the purposes of this in exactly the same way as the pursuing police officer.

**Mr Shannon:** Yes.

**MR HARGREAVES:** How do you fit in people who attempt to effect a citizen's arrest and get thumped?

**Mr Shannon:** Reverting to the legislation at the moment, it's not just myself asserting this, but the legislation actually recognises people doing this when they're assisting a police officer as a primary victim. I assume to that extent that where a police officer has exercised their obligation to respond to a circumstance and an individual has actually supported them in that response, the use of common law powers, if you want, to effect a citizen's arrest obviously has no obligation attached to the individual to act in any matter as an individual. But what we're saying is that where a police officer is ostensibly involved in a matter that may put some citizen at risk to assist and that assistance is obviously required, then that person should be recognised for the fact that they are responding to a situation that's not largely one that they are selecting to get involved in just as a matter of course.

**MR HARGREAVES:** So they should be treated in exactly the same way as a police officer?

**Mr Shannon:** Absolutely.

**MR HARGREAVES:** If there is an inclusion, they ought to be included; if there is an exclusion, they ought to be excluded.

**Mr Shannon:** That's right.

**Mr Hunt-Sharman:** Yes. Certainly, this relates only to the independence office of constable rather than being seen as a traditional employee. The office of constable requires the individual to make their own decision, in regard to the police officer, in exercising their duty. So he is responsible for it. In a High Court decision it was commented, "The power of a constable or peace officer, whether conferred by common law or by statute law, is exercised by him by virtue of his office and is not the responsibility of any other person but himself. A constable therefore, when acting as a peace officer, is not exercising a delegated authority and the law of the agency has no application."

That's particularly relevant, for example, if you make a false arrest. The law suit is

against the individual—Jon Hunt-Sharman in this case as a federal agent. In regard to the loss of my house as a result of making an arrest, I wear it. Whether the Commonwealth government comes in and supports you in regard to your actions is a different story altogether. It comes down to intervening if there's an assault taking place or making an arrest. You're doing it as an individual but you're obliged to do it by the office of constable, so you can't run away—

**MR HARGREAVES:** What you're hanging the case on is that no other profession has that same common law imperative, that that is the distinction between a police officer and anyone else.

**Mr Shannon:** That's right.

**MR HARGREAVES:** That would be the difference between, for example, a person who chooses to be a bank teller or a service station attendant, knowing that it's an at-risk job, or a person who does a responsible job as a bouncer and who willingly puts themselves in the way. That is the distinction between you. That would apply, therefore, to firefighters and ambulance officers as well, because what you're saying is that they don't have that common law obligation.

**Mr Hunt-Sharman:** No, that's true. It is interesting—the point we were making before, the good Samaritan argument—that a police officer can direct people to assist him, so he can direct a citizen to help make an arrest.

**THE CHAIR:** You seem to have a couple of tests there. There is the office of constable, which is somewhat unique. You have also got Craig's point, which I would describe as like the defence of life and property test, which would apply, I would imagine, to ambulance officers and firefighters as well, which puts them in a separate category to anyone else, be they bank teller victims of a nasty robbery, sexual assault victims or anyone else.

**Mr Hunt-Sharman:** They're certainly at a higher risk but they don't fit into the same category as police officers in that regard.

**Mr Shannon:** You are increasingly seeing it with ambulance officers that they assist drug overdosed individuals and, when they have brought them around with Narcan, they come out swinging and start bashing that person for the privilege of saving their life. The rehabilitation is about equipping that person to put themselves emotionally back in a situation to go back out in the ambulance tomorrow and inherently face exactly the same risk again to save another life.

I suppose that on one level we're looking at individuals and on another we are looking at institutions, but you don't want to create an environment where these institutions dissuade people from exercising their obligation because of a sense of perceived risk, or other people assisting them in the pursuit of, if you want, the life and property argument being defended, because there's a perception that "I'm going to get hurt here and there's no capacity for me to get any assistance if anything happens to me."

**MR HARGREAVES:** But in that instance a police officer joins the police force knowing that as part of the job they inherit, if you like, that common law obligation to

put themselves between danger and the public.

**Mr Shannon:** That's right.

**MR HARGREAVES:** That is an inherent part of the job, isn't it?

**Mr Shannon:** Absolutely.

**MR HARGREAVES:** Is it not so that the workers compensation provisions ought to be, if you wish, more generous and more appropriate for police officers than any other member of the work force?

**Mr Shannon:** We wouldn't dissuade that argument, but unfortunately we can't deal with that problem in this context.

**THE CHAIR:** That went in 1988, I think, according to John Little from the Plaintiff Lawyers Association.

**MR HARGREAVES:** But the issue here is the criminal injuries compensation bill. It's about rehabilitation and it's about those things, but there are special cases within there. How do you see the argument that, for a specific issue, a specific crime and a specific injury relating to a specific category of person, that is, a police officer, they are backed by the special assistance? We could argue about the figure; the figure is up for grabs.

**Mr Shannon:** In a sense, you've highlighted a flaw in the government's position in that it misreads the compensation available to a police officer in the normal pursuit of their duty. We've already referred to the fact that to some extent we're distinguishing a role from a person. The rehabilitation component we see of this assistance is to rehabilitate an individual person to be able to go back and resume that occupation, where they would be placing themselves inherently as an individual at greater risk to perform that function and, unlike any other citizen, they don't face the same prospect of returning to duty without that inherent risk being present.

But we're talking about whether or not the community has an obligation to an individual citizen to rehabilitate them, in effect, and, with some financial assistance, to allow that person to go and then assume a role at the front line providing a defence of their life and property, and whether or not there's an inherent community obligation involved in that. We certainly think that there is, our members think that there is and, for the life of us, we're actually quite confused as to why the ACT government has this obsession with taking a \$144,000 saving to the detriment of that kind of rehabilitation model.

**MR HARGREAVES:** For the life of me, I can't understand why, for the life of you, you have this confusion when you consider that you were present when the debate was held on the original one and the then opposition put its case that, in fact, it wasn't about the actual money; it was about the perception carried by members of the government and the drafters—I think that what I'm hearing from you is an argument against that perception, which is a valid case to put—that what this is, in fact, doing is shifting the focus of the legislation from a joint injury and employment classification perspective to an injury perspective, making provision for special assistance along the way. I don't think there's any confusion about that. The argument about whether those perceptions are valid is fine.

I resent the confusion about it. Quite clearly, \$140,000 worth of saving is absolute chickenfeed.

**Mr Shannon:** Exactly.

**Mr Hunt-Sharman:** I think the point is that the normal Comcare provision is where the vast expense is going. So, in regard to an injury, it's the Comcare legislation that takes the brunt of the amount. What we're talking about, obviously, is the pain and suffering perspective and, as Craig pointed out, the fact that you are requiring these individuals to go back and do it again is different from having a situation where it is a pure accident, especially when you are talking about a WorkCover-type situation. This is not that situation. If you like, your current compensation is a top up, on top of that, to cover for the unique environment a victim has. It's not the role of a police officer to be assaulted, nor is it of an ambulance officer.

**Mr Shannon:** And to that extent they should be treated like normal citizens for the purposes of that. We obviously didn't concur with some of the assumptions or assertions made in the previous debate and to some extent I think the issues inherent in this debate got lost in a political argument more than a tangible argument relating to the issues at play. We don't necessarily believe that citizens should be less respected in the context of this than a police officer or a different occupational group, but at the end of the day we're not arguing about everybody getting up to \$50,000.

If that was the argument before the Assembly at the moment, then we wouldn't object to the average citizen getting \$50,000 compensation. But \$50,000 compensation for someone in our category of interest is a fairly small amount of rehabilitation capacity. To go any lower than that and then expect that person to be able to assume those responsibilities again with the figure that they had previously we think would be very difficult conceptually.

**MR HARGREAVES:** Except that they've had that access since the act was amended, haven't they?

**Mr Shannon:** The police and the emergency services?

**MR HARGREAVES:** Yes.

**Mr Shannon:** Absolutely.

**MR HARGREAVES:** How many people have been given awards around the \$50,000 mark?

**Mr Shannon:** I don't know the actual quantum figures. I think Judith Henderson might be better equipped to give you the specifics than ourselves.

**THE CHAIR:** We can find out.

**Mr Shannon:** I note with interest that firefighters, for instance, have had no claims. To that extent, I suppose, prima facie it's not easy to contemplate ambulance officers in the environment that they're working in at the moment and police. I don't think Canberra's a

community at the moment that is pelting stones at fire brigade members for performing their duty.

**MR HARGREAVES:** I think they were probably more worried about a stoush with the police over getting people out of a crashed motor car.

**Mr Shannon:** Maybe our members would be seeking compensation for themselves in that circumstance.

**THE CHAIR:** There have been about 60 awards over the last three years.

**MR HARGREAVES:** I think the idea of including them was something which was envisaged and which, curiously, didn't occur. You might recall that during the bushfires the police weren't the only people who went to houses and said that the people had better get out. I think that in this instance, using that as an analogy, if somebody said no and promptly thumped the firefighter who said that they had to get out and a fight ensued, these provisions would then kick in. You can imagine the trauma that the firefighter is experiencing to start with. In hindsight, I suspect that it was that sort of unlikely scenario that was envisaged.

**Mr Shannon:** We're not criticising the inclusion of that category of employment.

**MR HARGREAVES:** You're right; but we're going to ask the firefighters to go back into that.

**THE CHAIR:** But it comes under the defence of life and property test, like the ambos dealing with some druggie who comes up swinging after getting Narcan.

**Mr Shannon:** Absolutely.

**THE CHAIR:** It may not happen as often with the firies as it would with the ambos, but John has given a great example, and it probably happens daily in your job.

**Mr Shannon:** In the health and policing areas in recent times with the explosion of amphetamine abuse and the consequential impacts of mental health issues, these risks have not been getting less; they have been getting more, to some extent.

**Mr Hunt-Sharman:** I was going to make a comment about that. I don't know if you read the weekend papers—you probably haven't had time because of your busy workload—but it's certainly—

**MR HARGREAVES:** Jon, we don't read the news; we make it!

**Mr Shannon:** We want you to make it on this legislation and reject the removal of the exemption.

**Mr Hunt-Sharman:** This is very interesting, because the statistics of the New South Wales police at the moment show that as many as one in two New South Wales police officers have been attacked or hurt in the line of duty during the past year.

**THE CHAIR:** Can we have that tabled as an exhibit or something?

**Mr Hunt-Sharman:** Yes. It's certainly incredible because it's showing the change in the environment in regard to dealing with authority.

**Mr Shannon:** It's worth noting that a number of people fall within the scope of this legislation but don't make claims because—I think you'll appreciate this—it's not an easy thing for a police officer to perceive themselves as a victim in this context, because it's analogous to a lot of the training and the underpinning mentality that requires that strength of character to do this job. I think what you're seeing is people that are genuinely, in the case of those 60 people referred to, victims of a serious circumstance where the community does have an obligation to assist in their rehabilitation and recovery.

**MR HARGREAVES:** So you don't see it that what should happen is that all victims of crime ought to be treated the same because the implications and the impact of those crimes are really the determinant issue, but that there should be a special case provided for those people—not the professions but those people—who, by the nature of what they do, are going to suffer a greater consequence of the same level of pain?

**Mr Hunt-Sharman:** For intervening in the crime. That's probably the difference.

**MR HARGREAVES:** It's the actual impact of that injury on that person, and the fact that we are asking them to go back and do it again increases the impact of that.

**Mr Shannon:** I suppose what we're saying is we wouldn't wish to see the exemption removed for police. The point Jon made of the office of constable is that there is an inherent obligation, prima facie, and other factors that flow into what you're talking about, about the impact of that crime on that individual person, but we do believe there should be an enhanced special case option for people either, as you say, on the protection of life and property test or the impact. I've got to say, I suppose, sexual assault being isolated as a crime does ignore some of the other crimes that could arguably mount a case as far as victim impact goes and sustain an argument for the same level of compensation.

**THE CHAIR:** Armed robberies, tellers, servos.

**Mr Shannon:** That's right. So inherently we would say it should be police and other special cases that should be considered, given the nature of those tests.

**MR HARGREAVES:** Would you find it objectionable if, within the context of the act, there was no mention of the employment category but within the definition of what constitutes special assistance the police rate a mention?

**Mr Shannon:** I understand what you're saying to the extent of, okay, why split hairs and define individual categories of employment, but we are the only category of employment that has a different obligation at law in regard to putting yourself in a place of risk with this. If the legislation inherently recognised that in whatever form, at the end of the day our objection would not be something that you'd need to concern yourself with. I think there's a risk inherent in removing the recognition of the policing function by nature of

the obligation that has been referred to today in regard to the office of constable, but I think it provides a litmus test, that obligation or the events that consequentially flow from that, that should encompass other categories of persons in that context.

**Mr Hunt-Sharman:** Obviously, our main concern is the safety and welfare of our members and, obviously, we're concerned about their occupational health and safety, but the reality is that if they're in a situation where someone's life is at risk, whether it's attempted murder, assault or whatever, they've got a legal obligation to act and if they don't act they'll be the first ones charged within the law enforcement integrity regime and would probably be dismissed under section 28 in regard to their employment status because there is that obligation to act even if you know that by acting you are actually going to be seriously injured. So it is slightly different. Normally, you'd be looking at your workers compensation model to protect you, but you wouldn't actually have to step deliberately out of that and risk your life to save someone else. But a police officer does do that.

**Mr Shannon:** There is no other citizen or function that, prima facie, is so accountable at law for their action or inaction in regard to a circumstance.

**MR HARGREAVES:** I accept that and I think we would make mention of the difficulties we have with regard to the treatment of the office of constable. From my perspective, there is a case for its recognition; the uniqueness needs to be recognised with regard to a range of treatments. What I'm struggling with at the moment is the notion that the workers compensation scheme doesn't do that and perhaps it should. I would argue strongly that it should.

**Mr Shannon:** We struggle with that ourselves.

**MR HARGREAVES:** I accept your argument with respect to that because I believe that that injury compensation scheme is directly related to the job that that particular person is employed in. The one here is talking about the level of community acceptance of the liability of not protecting that person in the event of crime, and I'm having difficulties separating the two. I understand the point that you are making and I think that it's a very valid point, but to me it relates quite heavily to the workers compensation arena, whereas this particular scheme originally was supposed to be about when you can't find the person that thumped you and it just went on and grew of its own volition thereafter.

It seems to me that the attempt that is being made here is to make the compensation injury related and crime related, not person related, work classification related or anything else, just trying to flick that around. The dollars are neither here nor there in terms of the amount saved by eliminating that positive discrimination, shall we say.

**Mr Shannon:** The point you make with workers compensation we've already said we concur with, but unfortunately it's in a jurisdiction outside the control of the Assembly. I suppose from our point of view the current legislation is, in a sense, the Assembly embodying a recognition by the Canberra community of that deficiency by recognising it in a different way in the context of this assistance.

**MR HARGREAVES:** So what you're saying is that, because the federal arena that governs workers compensation provisions and treatment of people in accordance with

the Workers Compensation Act is deficient with respect to police officers, the Canberra community ought to contribute to that deficiency.

**Mr Shannon:** Absolutely.

**MR HARGREAVES:** So we ought to accept the responsibility that the feds are doing the wrong thing and throw in a couple of dollars as well just to make it up.

**Mr Shannon:** I understood it was frequently the view of the ACT government that that was the case. It seems perverse then on the basis of this argument alone that the ACT government says, “No, we’re not going to embody a recognition of this community concern on this particular matter.” Lest we forget, the people we’re talking about are of and from this community and, where the Assembly can address a deficiency that hasn’t been addressed by the Commonwealth, we believe that it is inherently the obligation of the ACT government to do so and we don’t retract from that.

I’ve got to say that we are not aware of and have never been approached by a substantial number of people from community groups or the community generally opposing this recognition. What they frequently complain about is the fact that the general recognition for other citizens is not sufficient, but they have no criticism inherently of the recognition available for people in the situation our members are in. I think those two arguments are worth noting by this committee.

If you were arguing up for everybody, then you wouldn’t have a debate. The police are being recognised, I suppose, in isolation in this context because everybody else feels that the general recognition is deficient and therefore there’s a lightning rod of perception about the police, but we certainly say that while the Assembly can recognise a deficiency—

**MR HARGREAVES:** Could I suggest to you that the thing that has been portrayed to me over time, particularly around the time of the last debate, was that the benefits, if you like, of the previous scheme were wound back from a potential of about \$14 million to about \$6 million or \$4 million, but what people were complaining about was that people were being wound back but the police, emergency services and sexual assault people were not being wound back. That was more the argument. It wasn’t so much that they were saying that the police were getting better opportunities than they were. They were saying that they were not receiving the same payment.

**Mr Shannon:** At the time of that debate, I was unaware that there was a public call for the reduction of benefits under this scheme as an across-the-board outcome. Where people feel they’re losing, they would like to think that everybody else is losing with them, but most people would prefer to stay where they were.

**MR HARGREAVES:** I think you’ve read the speech I made, Craig.

**Mr Shannon:** I might have had some knowledge of the content of it.

**Mr Hunt-Sharman:** The other point, just going back to the compensation scheme, is that, apart from the fact that it’s really set up for public servants rather than the independent constable, you can’t double dip. I think that’s an important point to make.

The police officer can't claim both and normally, as I said before, the majority of costs are actually going to the workers compensation scheme in regard to the liabilities, but we're talking about, as you say, the victim of crime part where the police officer actually has suffered pain.

**Mr Shannon:** If we can give a neat summary to it, we have no objection to the principle of equity, but what we say is that equity does not exist at law for our members and therefore, on that basis, needs to be recognised.

**Mr Hunt-Sharman:** We certainly think that citizens assisting the police should be covered in the same way.

**MR HARGREAVES:** We have the horrors of potential terrorist attacks gracing our newspapers every day. It's not beyond the realm of possibility that we could find ourselves in the position of a terrorist attack at, say, Russell or the airport or somewhere like that. There is a role to be played therefore by the armed forces in trying to combat that. Where they are injured in the course of a terrorist attack, we're going to expect them to throw themselves back into it again. Should they be covered by this sort of thing?

**Mr Shannon:** Again, I revert to the legislation. The definition of a primary victim, clause 9 (3), refers to an attempt to aid or rescue another person against whom the police officer believes on reasonable grounds an offence is being committed. We are highlighting today the fact that the current legislation is deficient in the sense that that recognition has not been picked up in the exemption.

**THE CHAIR:** I have one other question on something entirely different. This new bill has no requirement to report to police before being eligible for financial assistance. Currently, someone has to report the incident to the police. Under this new proposal, that would not be necessary. Do you have a view on that?

**Mr Shannon:** Generally speaking, I suppose we have no objection to a reporting mechanism. Obviously, it adds some transparency to the claims. But whether there's a requirement for that to be reported to police, we don't have a formed view on that and I don't see it as a major component.

**Mr Hunt-Sharman:** I certainly agree with Mr Hargreaves's comment earlier that you can have a situation where something is coming out from the past and I think that any process would have to be flexible enough to pick up that type of situation.

**MR HARGREAVES:** But would you agree with the point that there ought to be a requirement to report?

**Mr Shannon:** Yes, no doubt.

**MR HARGREAVES:** But not necessarily specifically to a police officer.

**Mr Shannon:** That's right.

**MR HARGREAVES:** Do you have a view on the legal fees, whacking them up from

\$650 to \$800?

**Mr Shannon:** I don't think that will meet anywhere near the full cost of legal fees in this town, so I think that's a slightly arbitrary debate.

**MR HARGREAVES:** The licensed clubs association might have a different view?

**Mr Shannon:** They may, but I think it's best if we leave our legal brothers and sisters alone on this matter.

**MR HARGREAVES:** Yes, true.

**THE CHAIR:** Gentlemen, thank you very much for your assistance to the committee.

**Meeting adjourned from 3.44 to 4.02 pm.**

**JOANNE COURTNEY** was called.

**THE CHAIR:** Thank you very much for attending. I will just read the normal thing we read to any witness who appear before an Assembly inquiry, even though it is probably fairly unlikely any of this will be particularly relevant to you. I have to do it anyway.

You should understand these hearings are legal proceedings of the Assembly protected by parliamentary privilege and that gives you certain protections and also responsibilities. It does mean you are protected from certain legal action like defamation for what you say here. It also means 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. Would you please give your name and the capacity in which you appear before this committee.

**Ms Courtney:** My name is Joanne Courtney and I am the coordinator of counselling services at the Rape Crisis Centre in Canberra.

**THE CHAIR:** You have made a number of points in your submission. You have indicated it fails to make significant improvements to the scheme and your submission suggests that the criterion for special assistance should be lowered from extremely serious injury to something along the lines of the Victorian significant adverse effects. Are you also advocating that there should be a limit of, I think it is, \$7,500 for such an award, as is the case in Victoria?

**Ms Courtney:** I think that the problem with the special assistance scheme as it stands at the moment is that it only enables people to get assistance when the injury is classified as, you know, basically severe or permanent. In the case of psychological effects then basically it tells people that you have to remain permanently injured in order to be given assistance.

**MR HARGREAVES:** Permanently seriously injured.

**Ms Courtney:** Yes, permanently seriously injured in order to be given any assistance. So

in the Victorian scheme, where it is—I can't remember the words you used exactly, Mr Stefaniak—

**THE CHAIR:** Significant adverse effects.

**Ms Courtney:** significant adverse effects. It lowers it somewhat so that people aren't required to remain traumatised forever more in order to qualify for assistance.

**MR HARGREAVES:** Would you argue that in fact uniquely this offence actually scars people permanently anyway and really what we are arguing about is the degree of it, and we shouldn't be arguing about the degree of it?

**Ms Courtney:** That's a difficult one. I think in crimes of sexual violence there would be effects that a person would be probably conscious of to some degree or another for their life but I think when you require people to state that they are suffering from some sort of permanent damage, it puts them into a category of a victim that makes it very hard to move on in their life.

**MR HARGREAVES:** Given that one of the implications of sexual assault is not about sex, it's about power, and the person having suffered it in fact suffers that sort of almost slavery syndrome where they actually feel as though they lost that power and therefore their esteem takes a massive nose dive, is it true to say that the regurgitation of all of that stuff exacerbates that feeling of powerlessness and lack of esteem? Is that a fair call?

**Ms Courtney:** When you say "regurgitation", do you mean in a therapeutic sort of context?

**MR HARGREAVES:** Well, not necessarily. It might be at court. They might be reporting it to a police officer. It might be five years down the track actually being asked to participate in the prosecution of someone who happens to be serial at it.

**Ms Courtney:** Basically any situation where you have to go back and rehash what has happened?

**MR HARGREAVES:** Yes, essentially.

**Ms Courtney:** I think I would say two things about that. One is I think that we can't make absolute generalisations about it because, even though there are things that are in common with people who have experienced those crimes, there is also a lot of variability in terms of what their life circumstances were at the time. For example, some people who experience rape as an adult may have been abused also as children, which means the whole thing is more complex. For others, it is not so. So there are a whole lot of variables in that.

But the other thing I would say is that whether or not going back over what happened is a re-traumatising of the person I think depends a lot on the way that it's gone back over and that is where the way policing is handled or how court systems are managed makes a big difference. So it may or may not be traumatic, depending on the context in which the person is going back over it again.

**MR HARGREAVES:** Sure. One of the issues for these sorts of schemes and the argument that flew back and forth—it was changed a couple of years back, in 1999—was about closure. Now, it seems to me that it's one of those things where the door is never completely closed but it can be significantly closed, depending on the environment that the person goes into afterwards. If, for example, there is a supportive, loving relationship and a family environment of support, you are going to get the door more closed than if a person is feeling isolated and, what do you call it—

**Ms Courtney:** Invalidated or all those sorts of things.

**MR HARGREAVES:** Yes, invalidated, kicked out of society, all that sort of stuff and so there is that issue. One of the issues that I struggle with, and I would be interested in your view, is to what extent really a monetary amount effects closure for something which I doubt whether closure can actually be permanently effected?

**Ms Courtney:** I think actually that goes to the heart of, in a way, some of our submission because what we are saying is, rather than calling an award a pain and suffering award, it actually should be something which is something along the lines of an acknowledgement

award, which I think speaks to closure in the sense that you can't provide a monetary compensation to make up for what has happened to somebody. But an acknowledgement award really says that the community recognises that harm has been done to you. It is like an act of solidarity or something from the community that recognises that damage has been done and it allows the person—it is kind of like healing money—the space to do whatever it is they need to do that will help closure to happen. It might not be complete, but to facilitate closure. For some people that may be therapeutic intervention, as in counselling and things like that. But that is not the case for everybody.

There might be other things that they may need to do to facilitate closure—it might be moving cities or doing a whole range of other things. So we are seeing this award as something that is really like a community acknowledgement of the harm caused by crimes of this type.

**MR HARGREAVES:** In terms of that acknowledgement, what do you think of the notion that it is the only way other than a certificate on your wall, where society itself, the community in which we live, makes an expression of the regret of the failure to protect somebody? We as a community should have protected a member of our community that has suffered this crime or implications of this crime, and it's an acknowledgement by the society which says, "We should have done better to have protected you." In other words, you are the victim, you are not the perpetrator; you have done nothing wrong; society has done something wrong in not protecting you. That tangible expression is the only way I can think of, other than giving someone a stuffed toy or something, which is really useless.

**Ms Courtney:** Well, in our culture we use money for that purpose. That's why, hence money.

**MR HARGREAVES:** When we were talking about this I think in the previous committee—I don't know whether I was talking about it with your group or not—somebody was saying that the monetary award to effect closure ought not to be; it ought to be an opportunity, one of the options available.

Somebody told me the story of a woman who wasn't sexually assaulted but was bashed.

She was an old lady and she had saved all her pennies for six months to buy, I think, a red cardigan. She had the money in her hot little fist and she was going down to buy this red cardigan, and she was barrelled over and her money pinched. She was totally traumatised out of her face—she was an elderly lady. This is in Victoria. What they did was they gave her the money to go and buy a red cardigan. It effected closure for her. They didn't give her money, they gave her a voucher with Myers.

**Ms Courtney:** I think what matters is that there is some flexibility within the scheme so you can take account of people's individual circumstances and also the differential impacts of different kinds of crimes on people. I think one of the things around crimes of sexual violence is that there is a lot of shame associated with it. So, again, having some sort of acknowledgement money from the community that recognises that the crime is significant and that it has caused harm, I also think would help to address some of that shame that is felt. I mean, you know all the myths around sexual assault where people feel like it's their fault or that they were somehow to blame, and I think that could mitigate that somewhat as well.

**MR HARGREAVES:** What do you think about the notion of saying, okay, we should have that tangible demonstration or acknowledgement—I think you're saying about making it \$7,500 or something—

**Ms Courtney:** As a starting point, because we also mentioned about the New South Wales system of maims but having a more precise version of that around sexual violence.

**MR HARGREAVES:** I guess what I wanted to explore with you was what do you think of the notion of saying it can be money to the value of \$7,500 or any other tangible recognition to the value of \$7,500 after discussion with the victim, so that we actually say to the person who has suffered the injury, "You tell us what's going to effect closure for you." If, for example, a holiday worth \$7,000 to the Gold Coast for six weeks is actually going to do it; if, for example, an assault has taken place in a woman's home and she wants to have the whole place painted to look different, she can do it with \$7,000. But she might like to go on a holiday and have her house painted, and it works out to be the same thing. But what do you think of the notion of—

**Ms Courtney:** I think that could be a possibility. But the only concern I would have with that is, I guess, they may not want to make public, I suppose, what they want to do with that, whereas, in a way, by allowing the money the person can make a private decision about what they want to do with it. That's just off the top of my head in response to what you said then.

**MR HARGREAVES:** Sometimes it's easier and cheaper for governments to actually arrange for your house to be painted than actually give you the money, because they can get it done for 2,000 bucks and you have got to pay 3,000 bucks.

**Ms Courtney:** Yes, that's true. You would have to be careful about that.

**MR HARGREAVES:** Do you know what I mean? It is interesting stuff. Thank you, Mr Chairman.

**THE CHAIR:** We have had a number of financial assistance schemes for victims of crime. The first one up till 1999 was basically pain and suffering and everything for any group up to a certain level of \$50,000. In fact, it started at 20 a long time ago. In 1999 the pain and suffering, of course, has sort of gone out, except for certain categories—basically police and emergency service workers and victims of sexual assault. Do you have any views in relation to whether there should be special categories or whether, in fact, it should be basically no categories but just anyone who is a victim of a crime should be entitled to compensation?

**Ms Courtney:** We are not supportive of, I guess, the inequity of the current arrangement in that crimes of sexual violence and I think the emergency services people are lumped together and other people are excluded, such as victims of domestic violence and homicide. So we would argue for a more inclusive system but one, as I said before, that would recognise the differential impacts of different kinds of crime. Because I think being subjected, for example, to sexual violence over a period of many years is different to being mugged in the street. But, again, being mugged in the street may have a particular impact, depending on what your history was. So we need a system that is as inclusive as possible but also recognises that different crimes have different effects. That

is where, if we were looking at any sort of table of maims—I think we have got this in the submission—it would be important to consult with people who are specialists in the area to get reasonable numbers, in terms of monetary figures, to go with the kinds of crimes.

**MR HARGREAVES:** Can I explore that with you just a little bit. I think I have made the point with almost everybody that has come before us that, with the exception of the Australian Federal Police Association, as you would expect, it seems to me that people are quite keen on not having the scheme work-classification oriented but rather injury oriented. It's all about the injury to the person, not about what kind of job they have got. And so any distinction about what kind of job you have got ought to be removed from the act because there is not a lot of difference between the injuries suffered by a police officer in a bank robbery and a bank teller in a bank robbery or a bystander in a bank robbery—they all get shot.

So we ought to be talking about the impact of the injury on the person. You could argue that with the pathology, if you like, of an assault—two people will recover at different rates and be traumatised at different levels. And, so, what we need to do is to have a sort of a blanket and then have the special assistance on the top for those people that have really got it bad.

**Ms Courtney:** Yes, that's what we are arguing, that the special assistance won't actually replace having the other at all, but it needs to be something that is still available.

**MR HARGREAVES:** It's something you jack somebody up into.

**Ms Courtney:** Yes, exactly.

**MR HARGREAVES:** And, so, from what I can gather, you are actually supporting that, but wanting to make sure that in the definition of what constitutes special assistance, sexual assault and those types of personal invasion crimes be actually listed in it. It's not good enough to leave it at somebody's total discretion. There are certain crimes, certain savage pieces of domestic violence, a range of sexual assaults. One could almost argue also that when you start playing around with people's minds, some of those perhaps

might be listed.

**Ms Courtney:** It's like what we call intimate crimes. Something that I have heard before is that the greater the intimacy of the crime, the greater the shame in terms of what the victim experiences. So, again, with those sorts of crimes which are usually committed by somebody known to the person or in positions of trust, those kinds of things, the impacts are quite different to somebody who is a stranger on the street, or a once only occasion.

**THE CHAIR:** I thought you wrote down—it's almost like a test. You look at the differential impacts of different crimes and, I suppose, the different victims. You take that into account. Is that some sort of test? Obviously, if there is a high level, if there is a significant impact of a crime which significantly affects that particular victim, that might take it into, I suppose, a special assistance category.

**Ms Courtney:** Yes. Differential impacts doesn't mean you are turning it into some kind of hierarchy but it's just recognising that there are particular kinds of effects, and we are speaking particularly around sexual violence because that's the area we work in—

**THE CHAIR:** That's your area of expertise, yes.

**Ms Courtney:** that is quite different to other sorts of crimes, and can be very ongoing.

**THE CHAIR:** I have known of people who have been badly affected by armed robberies—tellers or people in service stations.

**Ms Courtney:** Yes. And that's not to minimise then the effects those people experience but that they can be quite distinct. There would be some crossover but there are also differences.

**THE CHAIR:** I understand what you're saying.

**MR HARGREAVES:** You made a point about the depth of the intimacy having that relevance. I think the definitional differences between those invasive crimes against people and physical crimes against people are quite clear, where the shame factor is a

significant factor, the esteem issue is a significant factor. Just being belted senseless in a bank robbery, there is generally no loss of esteem in that. There's a loss of physical functionality perhaps but no loss of esteem.

**THE CHAIR:** It depends on the victim.

**Ms Courtney:** Yes, that is what I was going to say, because sometimes she, if it's a she, may also have experienced sexual assault previously. There is a whole lot of complicating factors.

**MR HARGREAVES:** I guess what I'm saying is that the sexual assault bit is an absolute unit. You are going to get a loss of esteem, you are going to get that sense of shame, you are going to get those things, and they are quite easily predictable. In the other bits, it is quite probable that they won't necessarily apply.

**Ms Courtney:** Well, they may or may not, depending on the particular circumstances of that person's life.

**MR HARGREAVES:** Yes, it's a bit iffy there. That's very interesting. I like that definition of the intimacy bit. That one will find its way into the report, won't it Mrs Henderson?

**THE CHAIR:** I like the one about the differential impacts of different crimes and different victims. I think that's a very good one.

**MR HARGREAVES:** Yes, I do, too.

**THE CHAIR:** You have mentioned that you support the amendment to not require the crime to be reported to the police to be eligible for assistance. Perhaps if you could just elaborate on that. Why? And if you don't think a crime should be reported to the police, what type of reporting and/or checking mechanism would you see?

**Ms Courtney:** That is a difficult one. The reason for them not necessarily reporting to the police is just because, as we know, all the various barriers around reporting crimes of

sexual violence to police that make it particularly difficult. But I also recognise that there would need to be some checks and balances in there to authenticate claims. So I don't know that I could actually say a lot about that, apart from that there would need to be some but that it should not necessarily be that you have to go to the police first.

**MR HARGREAVES:** Can I suggest to you that a person who is talking about a reluctance to go to the police does so on two levels. The first level is their own personal shame and they don't want to talk to anybody about it. But also there is a genuine fear of what is going to happen to them when they get there, because the stages that a person goes through in the event of a prosecution are harder more often than not on the victim of sexual assault than on the perpetrator, particularly emotionally. So perhaps in fact we could be suggesting that the reporting mechanism be through somebody who has an established credibility—

**Ms Courtney:** It's hard to authenticate it but—

**MR HARGREAVES:** and then it is a question of the intimacy that that person will have with the victim. It could be, for example, a parish priest. The problem is that that person giving evidence in court is unlikely to continue a false claim—a family doctor—because it may very well be that there is no charge because a person just may not know.

**Ms Courtney:** And sometimes people seek medical assistance for sexual assault but then they don't go on to report and so on. So there could be, as you said, a range of people that you could check—

**MR HARGREAVES:** You might also report it five years later, too, when a person may realise they are not the only member of the family that has copped this, and all of a sudden there is solidarity in numbers. So a number of people come forward. I would like to explore with your thinking on that, too. What about any sort of statute of limitations on this sort of thing?

**Ms Courtney:** In terms of being able to apply for compensation. That is a difficult one as well, because of exactly what you said—that often many years can pass and something happens in the person's life or there is another victim or another sister comes

forward. So I wouldn't want to see that to be too restrictive. Again, because of the nature of these crimes, many people come forward many, many, many years on. Or they may be assaulted as an adult, which then makes them go back to then want to report something that actually happened as a child. That's another thing.

**MR HARGREAVES:** How would you feel about the government picking that up in the table of maims, for example?

**Ms Courtney:** This is the New South Wales—

**MR HARGREAVES:** Yes. Supposing the ACT government decided to go down that track, how do you feel about having those statutory limitations on the reporting of these particular things which exclude the sexual assault group? My concern is that when a person gets mugged, there is no earthly reason I can think of that a person shouldn't have reported that to somebody in authority within a month. I can't think of a reason why they wouldn't want to do it.

When it comes to personal assault by a family member, in a DV situation you might think, "Hello, these people have got to get up the courage before they go and do it," so you might in fact extend the period of reporting. But I don't think it's accepted by the magistrates. You might be better at this than me, but if a person turns up five years later and says, "I was a victim of domestic violence," they should have reported it a bit earlier.

But sexual assault is a completely different issue. Earlier on, I quoted a case of incest against a child, where the child might have been, let's say, 15 and feels quite powerless. However, when the person becomes 19, enters into a relationship and then gets up the courage to actually, as an adult, do something about it, you can't have a statute of limitations that says you've got to do it within a year.

**THE CHAIR:** I wonder if you really need it for anything. There are some where you are more likely to report it anyway.

**MR HARGREAVES:** Or you would give that discretion to the magistrates.

**THE CHAIR:** You might as well.

**Ms Courtney:** Yes, because sometimes, even with a mugging, there might be a reasonable reason and it's based on that idea of what the reasonable person would do. With the average person, say in a mugging, you could think, "Well, why don't they go to the police within six months or a month" but then there might be particularly things about that that we don't know about but that there could be discretion within the judiciary about.

**THE CHAIR:** That's why, John, you actually don't have a statute of limitation for any serious crimes. You do for misdemeanours, which have to be brought within a certain period of time of being committed. But for other offences, anything indictable, which basically means maximum imprisonment of two years or more, there is basically no sort of set time to report it.

**MR HARGREAVES:** Well, I thought with some crimes that after about seven years you are fine, as long as you haven't been sprung. But if I'm wrong and it's up to the magistrates to decide when an action is brought—in this case a claim—

**THE CHAIR:** I mean, it makes it harder to prosecute but we are not talking prosecutions here.

**MR HARGREAVES:** No, but we are talking about the award of up to \$50,000, or up to \$30,000 or whatever the number, so it's a lot of dough and over time it's going to increase because it just has to. But I just don't know whether it's a good idea to leave it to the courts or to stick it in the statutes.

**Ms Courtney:** I think we would be more supportive of leaving it as open as possible so that there was space for it. I guess it's that principle of differential impacts again and recognising individual circumstances and not making the sort of one-size-fits-all-type rule which invariably will leave some people out with injustice happening.

**MR HARGREAVES:** You bet. That is very useful.

**THE CHAIR:** Thank you both very, very much for your assistance to the committee.

**MR HARGREAVES:** It's been fabulous.

**Ms Courtney:** Thank you.

**MR HARGREAVES:** While we have lawyers here, I want a definition—and this is not for the record, guys. What is the difference between rape and sexual intercourse without consent?

**THE CHAIR:** It's the same. You have got sexual intercourse in varying degrees in the Crimes Act, in about four or five subsections.

**MR HARGREAVES:** Are you charged with two crimes?

**THE CHAIR:** No, you might have a back-up crime. You have sexual assault—

**MR HARGREAVES:** But they are different crimes at law?

**Ms Courtney:** I thought they were all the same.

**THE CHAIR:** No, you have got sexual assaults in varying degrees. The first degree it's with a lot of violence and in company; the second degree, I think, is just a lot of violence without the company; sexual assault in the third degree is your basic old rape without a huge amount of violence, and there might be two categories in there, in company and not in company; and then there is sexual assault against someone under 10, which is a nasty and has a very high category.

**Ms Courtney:** Under 15 and under 10.

**THE CHAIR:** With rape as such, the penetration actually can be done with not just, in the classic sense of 30 or 40 years ago, the penis; it can be with fingers, whatever, instruments and things.

**Ms Courtney:** So there are various classifications there as well.

**THE CHAIR:** It's a fairly sort of solid broad definition there and there are various categories. I might be wrong but I think it's around about sections 61, 62, 63 of the Crimes Act that we get the various things there.

**MR HARGREAVES:** I was trying to work it out. I know of this guy who has just gone to prison for 7½ years, two of which was for breaking a suspended sentence, so he has got his two to do. So, in fact, he got 5½ years for sexual intercourse without consent. But when I was talking to people about it they thought that if it was rape he's going to go for 15 or something of that order. I wondered what was the difference between the two. Was it the degree of violence that attached to it or—

**THE CHAIR:** You are best to just to have a look at those things. They are pretty clear, they are easy to read and—

**MR HARGREAVES:** Are they?

**THE CHAIR:** They are, really. It just categorises them into seriousness. I think it used to be just the crime of rape quite a while ago, which used to carry life.

**Ms Courtney:** So you can have the one incident and multiple charges attached to it according to the various acts that are done within that incident.

**THE CHAIR:** You certainly can. And you might have backup charges. You might charge them with the most serious and then there might be about two or three sorts of backup charges for the one incident.

**MR HARGREAVES:** It just seemed he got off a bit lightly, that's all.

**THE CHAIR:** It was the ACT court, mate.

**Ms Courtney:** Thank you.

**DENNISE SIMPSON** was called.

**THE CHAIR:** Thank you for attending, Dennise. I need to read this out to anyone who is a witness here. You should understand that these hearings are legal proceedings of the Assembly, protected by parliamentary privilege. That gives you certain protections and also certain responsibilities. It means you are protected from certain legal action such as defamation for what you say. It also means 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. Could you please give your name and the capacity in which you appear before the committee.

**Ms Simpson:** I am Dennise Simpson, manager, Domestic Violence Crisis Service and a party to the submission that you received from SAMSSA, Rape Crisis, Women's Legal Service and DVCS.

**THE CHAIR:** You say that the bill fails to make significant improvements to the financial assistance scheme and you have some particular concerns in relation to that. You feel that special assistance should be lowered from "extremely serious injury" to something more along the lines of "significant adverse effect" as it is in Victoria.

**Ms Simpson:** You have pretty well put my point in a nutshell. I expected that because you've just been talking to Joanne and Tanya about that. In a way they're in a little bit of a different position. The difference is that sexual assault was in; DV wasn't; and sexual assault was taken out. So we're in the position now not only of trying to get them back in but also DV and, of course, homicide.

**MR HARGREAVES:** Can I suggest to you that the changes are in fact a removal of classification, so that everybody is the same, whether they're good, bad or indifferent. There is a certain level of compensation for various injuries and various crimes but there is a special assistance package, which is where you differentiate the differences of the impact on the victim. I think it was Joanne who was saying that the intimacy of the violation or assault is key to whether or not it's standard or whether special treatment is needed. You would argue that domestic violence is a crime of intimacy, a crime against the person?

**Ms Simpson:** We would indeed. So many crimes are committed in the general arena—in the community. The difference between armed robbery and domestic violence is that it can be something that has gone on in the home for an extended period of time. There may or may not have been other parties involved: the police may or may not have been notified and may or may not have attended numerous times. Children may or may not have been physically assaulted but may or may not have witnessed a whole range of violent occurrences over many years, so have issues themselves.

Take, for example, the victim of an armed robbery: the impact on that victim would be horrendous. I'm certainly not, for one minute, saying that there wouldn't be an offshoot in relation to the impact on the family of that victim but what I'm saying is that there is a different impact in living in the home where the violence is, rather than living with someone who has been traumatised. This means that if your mother, for example, was someone who had been part of the armed robbery then she is obviously going to be

traumatised, but the difference of living with it over an extended period of time has a different impact.

**THE CHAIR:** It's a different trauma, perhaps?

**Ms Simpson:** Different trauma.

**THE CHAIR:** The previous witnesses had a fairly good definition of how you should apply special assistance on top of the basic level of assistance everyone gets. That was effectively the need to recognise the differential impacts of different crimes on different victims. Would you agree with that as a bit of a test, if you have to categorise?

**Ms Simpson:** Yes. I think you said at the beginning that we're looking loosely at the definition that comes from Victoria.

**THE CHAIR:** Significant adverse effect as opposed to extremely serious injury.

**Ms Simpson:** Yes, from Victoria—but really liking the way that it's operating in New South Wales. According to the inquiries we've made in New South Wales, that is working very effectively. We understand it hasn't had any major impact, or even very significant impact, in relation to payouts or in relation to costs, but it has meant that, without having to jump through enormous hoops at a time of crisis, the victims of domestic violence and sexual assault are able to access an amount of money. I think in New South Wales it is \$7,500, and then it can be more.

**MR HARGREAVES:** That's right. That's where the special assistance comes in.

**Ms Simpson:** One of our concerns is that lots of people aren't going to be able to access the special assistance.

**MR HARGREAVES:** That's where your changing the definition would assist in that process. There seems to be some sort of acceptance that the wording ought to be looked at again. For the record, can I explore with you the reason why domestic violence and crimes of a sexual nature have to be treated differently? we've had conversations about DV—I don't know how many years we've been doing this—but it seems to me that the other crimes are all about the opportunity to achieve gain of some type or are retaliation of some type, whereas domestic violence and sexual assault are all about the exertion of power.

**THE CHAIR:** What about just bashing someone?

**MR HARGREAVES:** They're all about control.

**THE CHAIR:** Say crimes against police.

**MR HARGREAVES:** Bashing somebody, though, is usually to gain something. They're gaining a thrill. This is where I'd be interested in what Dennise has to say. I'm quite happy to have Dennise look at your example too. It seems to me that, when you're talking about crimes which talk about the acquisition, or the continued use of, power and control over another human being not only do they go to the physical damage they're

doing someone, they also go to the esteem and the psyche of the person, whereas the other ones don't.

**Ms Simpson:** It's such a personal violation. Crimes of a sexual nature and domestic violence more often than not are by someone whom you know. Of course we know that there's rape by strangers but the majority of rapes are by someone who is known. The violation of trust affects people throughout their lives, in being able to trust future partners, for example, to commit to relationships, to really trust anything. I think you said that the issues of power and control are different. We're not saying that there aren't elements of power and control in a range of crimes; I'm sure there are. There might be a robbery but certainly the person standing there with the gun might get an enormous buzz out of the power and control of the situation. But again there's that power and control in the situation where you live with your abuser; or your abuser is known to you; or you're a child and your abuser is able to access you at will; or whatever it might be—the issues there are absolutely enormous. The place where you should feel the most protected, the most safe, is often the place where people are the most damaged. We see that as the difference.

**MR HARGREAVES:** Yes. What about the notion that these types of crimes are the least predictable in terms of the effectiveness and duration of recovery and closure? The trauma is potentially more unpredictable in its length.

**Ms Simpson:** I suppose that's what would be said. Everything affects people in different ways, even if you look at the bushfires. That wasn't a crime, but I'm just giving it as a recent ACT example. In the recovery of some people as opposed to other people there's an enormous difference. Some people go through something and it's almost something that's so much a part of their lives that their recovery can be quite fast. Other people go through something that doesn't appear to be half as horrendous as that other person's experience and yet they're traumatised for an enormous amount of time—maybe for the rest of their lives. I was speaking to a woman last week who'd been through the bushfires. Her house wasn't burnt down or anything, her house was fine, but she was obviously still really traumatised. I didn't know her. She started talking to me and she couldn't stop talking about it. I suppose I had cause to think of the idea that I've met so many different people who have moved through so many different stages following that, following domestic violence and following sexual assault.

**THE CHAIR:** I suppose it gets back to the definition or test by Joanne and Tanya of the impacts of different crimes on different individuals, because they affect people differently.

**Ms Simpson:** Absolutely. That was one of the reasons why, years ago, we used to be quite concerned about victim impact statements. The idea was that a victim had to prove how traumatised they were. In a way it fed into the idea that in terms of compensation and whatever, you would probably be better to not get well too soon, but this was more in relation to the sentencing of the courts. I'm not opposed in the same way, but we have to be cautious of judging a matter on how traumatised the victim appears to be. We have to judge the crime for the crime. Nowadays I well and truly think that there's a part for the victim to play in being able to have input into that in relation to stating the impact on them, but I don't like to see the sentences reflect the trauma to the victim. Does that make sense?

**MR HARGREAVES:** Yes, it does.

**THE CHAIR:** Partly.

**Ms Simpson:** I'm wondering whether I said it a little bit differently from how I wanted to say it.

**THE CHAIR:** Having been involved specifically with victim impact statements for sexual assault crimes, my experience is that, quite clearly, the victims felt a great deal of satisfaction and closure in at least having their side of the story told in court, the court taking note of it and acting accordingly. In a couple of cases I doubt very much if the same result would have occurred if we hadn't had that victim impact statement. I suppose it's a matter for the victim. Obviously if the victim doesn't want to give one then the victim should not be forced to do so.

**Ms Simpson:** Yes. One of the things I said was that I used to be really opposed to them and that I'm not opposed to them in the same way. Like you, I believe in the victim being able to have input into it and to have their story heard, if that's what they choose to do. I feel concerned where this victim appears to be more traumatised than that victim and you're supposed to seem like a particular thing. You could go back to Lindy Chamberlain. Part of what they said about Lindy Chamberlain was that she didn't appear to be traumatised enough; she was too stony-faced; and that went away from her. Everyone shows their trauma, their distress, in different sorts of ways. There is the victim who sits there weeping and she can say this and that. Then the one who looks stony-faced and is able to speak coherently and clearly about what happened is not seen like that. She seems to be quite strong and therefore is "okay".

**THE CHAIR:** So maybe you need something whereby you not only look at the effect of a crime on the victim but also have a bit of objectivity in there, given that victims are going to be different—and look at just how serious a crime is, too. In one of the cases used to change the act in 1999 it stated in a report that someone got traumatised because their doormat was stolen. They said it was a precursor to a burglary or something and they got an incredible award of \$9,000. Clearly larceny of a doormat in the sum total of things isn't exactly a huge or heinous offence. That person might have been generally traumatised to the same extent as a fairly stoic person who has had a gun stuck in their face who said, "Oh well!" Because that is a far more serious offence, maybe that person should be entitled to more compensation than the person who had the doormat flogged.

**Ms Simpson:** It's an interesting one.

**THE CHAIR:** You need to balance the nature of the crime as well as the impact on the victim.

**Ms Simpson:** Absolutely. Then you've got things like the elderly woman who has her bag snatched as she walks towards Ainslie shops in the middle of a morning. People could hear of that and they could just think, "She had her bag snatched. So what?" But that woman's life has probably totally and utterly changed. You then get older people who are afraid to leave their houses. Something that's been safe for many years is no longer safe. Who do you turn to? There is fear of a whole range of people. Many people

can't even begin to imagine the impact on different people. That's why I'm saying we can't assume anything in these sorts of situations because this can go against what I just said. I really want the court to be able to consider the impact on that woman's life. If they're going to target an old woman then I want the court to be able to consider that they deliberately targeted them because they were an easy target—with no thought of consequences. There you go. I could say this on one hand and that on the other.

**MR HARGREAVES:** Overlaid to that, isn't the reason for this sort of stuff as much an apology for not protecting people?

**Ms Simpson:** Exactly.

**MR HARGREAVES:** So there needs to be some tangible demonstration. "We didn't protect you and it's our fault. It's not your fault, it's our fault. This person has done you the damage. You're the innocent victim here but it's our fault too." You talk about two people copping the same crime recovering at different rates but you also made the point that one was presented stoically and the other was presented hysterically and emotionally. Exactly the same thing happened to them both. Should we not be taking into account when we talk about compensation schemes like this that these are recovery schemes—that's what they are supposed to be—and that we therefore need to gear them so that it's not a one-size-fits-all approach but rather attuned to the different rate of recovery of the individual who has copped it?

**Ms Simpson:** That's the dangerous ground of the different rates of recovery; I think it's more about the crime. Even the examples we were giving were a bit off track in relation to what we're talking about. It's not a fair playing field out there. I guess what we're asking is that we recognise that it's not a fair playing field. What we're saying is that there is a difference in relation to the crimes we're talking about and how they're lived out by the people who are living them. I can't speak for the others on this but I think that, when the government made its decision on the Dare report in relation to this particular point, it was coming from a position of trying to recognise an equality, a fair playing field. But I would think that that's highly challengeable and say that we don't see it as that.

**MR HARGREAVES:** Do you reckon that we ought to say, "We recognise the fact that, because of the differences in individuals, a woman can be traumatised by repeated acts of domestic violence to the same extent as a woman who gets her first bout of it. Therefore we ought not to try to work out how much these people need to recover, we just need to recognise that we've done a damage and make this statement of apology; and this is the tangible way in which we make that apology."

**Ms Simpson:** Exactly. That's what I do think. That appears to be more what they're doing. It's a payment in recognition of what they've been living with. It would make a difference to a whole lot of people's lives. When there has been research into this, it has gone right to the heart for many people in relation to the feeling that it has been taken seriously and it's some form almost of apology.

**THE CHAIR:** "Apology" is fine. It's a recognition of—

**MR HARGREAVES:** I used the word "apology".

**Ms Simpson:** It's not an apology, is it?

**MR HARGREAVES:** It's an acknowledgement.

**THE CHAIR:** Society can't possibly be expected to be at fault for some cretin doing the wrong thing.

**Ms Simpson:** It can't apologise.

**MR HARGREAVES:** It's an acknowledgement that the safety aspects of our society were such that the person wasn't protected.

**THE CHAIR:** It's more of an acknowledgement of the fact that something horrible has happened; the victim can't be properly compensated because the cretin who did it doesn't have any ability to do so; yet the poor person through no fault of their own has been a victim. In a society such as ours we think that person should be assisted and therefore the state assists through a scheme like that.

**Ms Simpson:** I agree with that.

**THE CHAIR:** It's not so much an apology, it's more a humane society assisting a victim where there's no other avenue to properly assist them.

**Ms Simpson:** I would probably differentiate. I don't think it should be an apology but it should be a recognition. I guess the recognition is part of the fact that it's a societal or community issue, rather than something that places someone in an "us and them" position. As a community we have contributed to the violence in our society by a whole range of things that we have in place, ideas we carry or whatever it might be. There are many things in this society that contribute to our violence. I think that part of the recognition is also a recognition of that, meaning that it could happen to anyone at any time.

**MR HARGREAVES:** Can I suggest to you that in times past domestic violence was—in fact in some societies and some cultures within our own society at the moment it still is—condoned as acceptable behaviour. In a sense in recent times we have moved away from that. These sorts of payments acknowledge that our community hasn't changed its protectionist attitude to this. We are supposed to be eliminating this stuff. Then someone gets injured because we're not moving fast enough. These things acknowledge that our society has a wounded member in it—because of the way in which society has not protected that person and by the way in which we conduct our lives.

**Ms Simpson:** There are many ways that you could look at it. I don't disagree with that. I think, though, that we could get really hemmed down in what the payments are about. Some good things have been written about what the payments are about. In our submission we mention some of Freckleton's ideas—he is seen as being the expert in this area—as to what the payments are about. Some good statements were made by the Victorian government when it reintroduced the payments and by New South Wales when it introduced what it introduced, about why it was doing it.

We're asking that the ACT look at its experience and look at states which took it away and then put it back, or those which didn't have it there but then introduced it. We hope you will take under consideration the reasons they came up with, from what has already been said in relation to it. One of the other things I'd say is that, to some people—I'm probably not going to put myself in this category—\$7,500 isn't an enormous amount. For many people to be able to come up with \$7,500 is something that's totally and utterly out of their control; they have no capacity to do that in any way, shape or form. Totally, it is enough to make a difference in their lives.

**MR HARGREAVES:** When talking to Joanne, I was wondering about the opportunity to have a negotiated closure amount rather than a figure. We concluded that it's probably easier to administer if you've got a figure. I quoted the case of an older lady in Melbourne who was barrelling over and had her purse stolen. She had saved for months to buy a red cardigan. What effected closure for her and enabled her to just go back and carry on her life normally was to be given a Myer gift voucher. She went and bought a red cardigan with it—it was as simple as that.

**THE CHAIR:** That was important to her.

**MR HARGREAVES:** They didn't have to give her her money. The significance is that they asked her, "What is it that you need from us to effect closure for you?" There's a limit on this of \$7,500. Her answer was, "A red cardigan."

**Ms Simpson:** A story like that would bring me to the victims support service. My understanding before that service started was that it was going to offer a range of services. Having taken part in the initial meetings and working parties that put a report to government, that was sort of what we were told. We had the people up from Victoria who spoke to us and told us that the service wasn't going to offer only counselling. They told us stories about helping people move town—and cars and whatever. A range of things was put forward about the idea of it. I guess that is a different issue but I would like to have thought that something like the red cardigan came from a service like that.

Then there is the issue of special assistance. I don't think that should be subject to having to spell out what the thing is. One of the things I'd be saying on that is that I don't think one shoe fits all for anyone. For example, VSS predominantly offers counselling. It does offer a couple of other things, like massage. There are probably a whole lot of people who have never had nor wanted a massage in their lives, and counselling isn't the thing that would make the difference. I'd probably be one of those people, so I'd need the red cardigan!

**MR HARGREAVES:** I take your point that this is a completely different approach. The VSS is all about assisting people in their recovery; and this is all about acknowledgment, not about support.

**Ms Simpson:** This is the recognition we're calling for. We're saying that we're more comfortable with the idea that it's called a recognition payment, rather than an apology.

**MR HARGREAVES:** Yes, that point is taken.

**Ms Simpson:** It would be amazingly important to me that this be done in a way that

made it simple. One of the things I know about the criminal compensation area, prior to the changes in 1999, is that not many women coming from DV got that payment or indeed initiated proceedings. I would say one of the reasons was that it was quite complex to do so. We might sit there and say, “There are only a few forms; you can’t expect to be handed all that money with no forms.” I still think things can be done in such a way that the administrative requirements are met but, at the same time, it doesn’t feel like there are going to be all these hurdles—people to talk to and committees to front up to—before you are successful in obtaining any support. That’s probably one of the things that discouraged women coming from DV from even trying for it. At that point of time they are generally struggling to get on with their lives.

I would say that that very much sits with sexual assault as well. Again, that’s something they’ve done in New South Wales. The feedback we’re getting is that they’ve made it quite a simple process. So it’s about the crime, it’s not about the impact of the effect on the individual. It doesn’t have to be proven in the same way. There’s a range of people who can speak to it—counsellors and whatever. It doesn’t have to be a psychologist who has to name “mental illness” or anything like that.

**MR HARGREAVES:** The reporting requirements are quite different. You don’t have to have a charge laid against an individual. You can just go to your parish priest and say, “I’ve been violated.” It doesn’t matter whether you’re talking about physical violation, intellectual violation or anything else. You go along and unburden yourself and that is regarded as being the reporting point. Otherwise it’s one person’s word against another’s, or one person’s word against nobody’s. You need to have that sort of validation.

**Ms Simpson:** You would certainly have to, given that the government has agreed with that in the Dare report, which has taken away the requirement to report to police. Of course you would want to have your checks and balances.

**THE CHAIR:** Did you have a problem with that?

**Ms Simpson:** No, not at all.

**MR HARGREAVES:** It has to be validated, hasn’t it?

**Ms Simpson:** I think that’s good because sexual assault and domestic violence are probably the most under-reported crimes that there are. The victims would be disadvantaged if there had to be reporting.

**MR HARGREAVES:** Therefore, we need to have as painless a validation as we can get.

**Ms Simpson:** That’s what I would hope you would be considering.

**THE CHAIR:** Thank you very much, Dennise.

**Resolved:**

That, pursuant to standing order 243, the committee authorises the publication of evidence and submissions received by the committee during this hearing, together

with any supplementary material arising from the public hearing.

**The committee adjourned at 5.00 pm.**