TRANSCRIPT OF PROCEEDINGS

INDEPENDENT COMMISSION OF INQUIRY INTO QUEENSLAND POLICE SERVICE RESPONSES TO DOMESTIC AND FAMILY VIOLENCE

COMMISSIONER: HER HONOUR JUDGE DEBORAH RICHARDS

COUNSEL ASSISTING: RUTH O'GORMAN QC

ANNA CAPPELLANO

Land Court of Queensland, Brisbane Magistrates Court, Level 8/362 George Street, Brisbane.

Friday, 29 July 2022

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COMMISSIONER: Yesterday the Australian Brotherhood of Fathers contacted the Commission and advised it would appear today to seek leave to appear. Counsel Assisting spoke with the ABF counsel yesterday and it was decided that the ABF counsel would wait until he had a bit more information - I think that's probably the gist of it - about which witnesses in particular they may want to cross-examine so he could better advise the Commission.

MS O'GORMAN: That's so. I confirmed with Mr Ackermann yesterday afternoon that, despite the indication from the ABF that they wanted to seek leave today, they didn't actually want to ask any questions of today's witnesses and didn't yet know which witnesses they might want to ask questions of. So Mr Ackerman confirmed to me that he wouldn't be appearing today and might make an application some time next week.

COMMISSIONER: Okay. So I think we'll just adjourn that application to a date to be fixed.

MS O'GORMAN: Thank you, Commissioner.

COMMISSIONER: I'll also indicate that the public hearings will finalise in Brisbane by next Friday, and then there will be just a day and a half of hearings in Mt Isa on Monday/Tuesday the following week, and we're trying to finalise the hearing schedule today. Have we heard any more about Assistant Commissioner Mark Kelly and Deputy Commissioner Brian Codd's availability for next week?

MS O'GORMAN: I have had some discussions with Mr Hunter yesterday about that. There are some difficulties. I think it might be looking like next Friday afternoon might be the best, but I was going to progress those discussions with Mr Hunter this morning and see if there is a suitable time.

COMMISSIONER: All right.

MS O'GORMAN: There's also potentially some illness difficulties with one of the witnesses for Monday now. But, again, I can discuss that with Mr Hunter and we can see what we can do with the hearing schedule.

COMMISSIONER: Okay. All right. It's a moving feast but

we'll see what we can do. 1 2 MS O'GORMAN: 3 Yes. 4 COMMISSIONER: I'll also indicate for the parties' benefit 5 6 that we will need written submissions from the parties by 7 22 August, if you're going to put written submissions in, and I have drafted some topics, questions, however you want 8 to put it, that the parties might want to address. 9 not to say that you can't address other issues. 10 They are just some particular areas of interest that might help you 11 focus when you're doing your submissions. We hope to email 12 those to the parties this afternoon. 13 I think that's 14 everything. 15 Thank you, Commissioner. Then I'm in a 16 MS O'GORMAN: position to call the first witness this morning, and I call 17 Mr Lewis Shillito. 18 19 20 <LEWIS SHILLITO, affirmed:</pre> 21 22 <EXAMINATION BY MS O'GORMAN:</pre> 23 24 Mr Shillito, you graduated from law in 2006 and were Q. 25 admitted shortly thereafter? 26 Α. That's so. 27 28 Q. In 2010 you started your employment with the Aboriginal and Torres Strait Islander Legal Service? 29 30 Α. That's correct. 31 32 Q. And you continued to work there thereafter? Yes. 33 Α. 34 And you were appointed as the director of criminal law 35 for ATSILS in 2016? 36 37 Α. Yes. 38 You've spent some time working in another jurisdiction 39 but you've maintained that position since 2016? 40 Α. That's correct. 41 42 You're here today then in your capacity as the 43

Yes.

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Strait Islander Legal Service?

Director of Criminal Law for the Aboriginal and Torres

Q. And ATSILS is - isn't it a community-based organisation which provides professional and culturally competent legal services to Aboriginal and Torres Strait Islander people throughout the state?

A. That's so.

- Q. You've been asked to come and give evidence to the Commission today to share either your personal experiences or those on behalf of legal practitioners who work for ATSILS about your clients' observations of or interactions with the QPS in the context of domestic and family violence?
- A. That's correct. I'd just expand to say not just our legal practitioners; our court support officers as well.

 Q. Thank you for that. In terms of the work that ATSILS does and the opportunity that it has to engage with people who have had interactions with the QPS in the context of domestic and family violence, there's really two arms to ATSILS' work that are relevant?

A. Yes.

Q. Firstly, ATSILS has a criminal law team which assists people relevantly for our purposes who are charged with breaches of domestic violence orders and other offences?

A. Yes.

Q. ATSILS also has a family law team, does it not, which assists people who are either seeking advice or ongoing assistance with matters where they may be either the applicant or the respondent in respect of a DVO application?

A. That's correct.

Q. All right. Now, having established that opportunity for taking in the observations and experiences of people who have had interactions with the QPS, you've identified in your statement a number of issues which in ATSILS' experience are - I infer but we will come to them -

relatively common?

A. To differing degrees, but yes.

Q. Okay. Let's start with the issue of misidentification, and in particular I'm having a look now at paragraph 16 of your statement, where you say, "In our experience, at times the QPS first responding officers can have difficulties in identifying or correctly identifying

the relevant offender in a DV interaction"? A. Yes.

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- Q. What's the source of your knowledge or information for that statement?
- A. Some direct. So I have a personal caseload and have for a number of years, and I have seen that plenty of times in either police body-worn camera footage recordings of those first responder interactions at domestic violence incidents and plenty of anecdotal discussion amongst our staff as to their experiences being consistent with mine.

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- Q. When you say you see it in body-worn camera footage, I am just presuming, so correct me if I'm wrong, that in the footage itself you won't necessarily be able to identify that the wrong person has been identified as the respondent but it must be on the basis of some subsequent information which comes to light that that becomes clear, or have I got that wrong?
- Often that would be the case to give the context to make that or draw that conclusion. Sometimes it's pre-existing knowledge. So a lot of - some of our clients Some of the relationships are very well known to us. between them are already known to us, and there are things that I guess we would know that a first responder who hasn't previously had dealings - and some of the police will be - will have had numerous dealings with the same parties as well. So you'll see a good interaction where a police officer knows about the relationship and knows what the dynamics already are and that informs the way that they deal with both of the people, and perhaps the way that they question them about the interaction, and a either more junior or just an officer who hasn't had that experience beforehand dealing with the same people won't have that context to assist them in drawing conclusions around who has done what and for what reason, or whether a person is being fulsome or affected by substances or whatever else might be in play.

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46 47 Q. What are the sorts of things that present as challenges then in those cases where you've seen that the first responder has misidentified the parties? What are the sorts of things in play that contribute to that?

A. Look, in fairness, a lot of the time it's exactly what they're told. So a person will say X, Y and Z just occurred, and the other person presumably dealing with the first responder's partner in another room, generally

speaking, will say A, B and C occurred, and the police are left to deal with figuring out what in fact occurred and whether or not there's truth on both sides or on one and one's a fabrication or otherwise. So that's obviously a barrier to correctly identify what's going on: what they're told in and of itself.

Sometimes there's communication issues. So a police officer will often approach questioning a person in that situation in the same way that they do when they are questioning a suspect in an interview and it can be quite interrogatory, and often you will see instances where a person is engaging in a gratuitous concurrence or agree with a narrative that's being - sort of they might have introduced a line of "this is what's happened" and the police officer sort of takes over and starts to feed them the story or trying to tease out of them what the story is inadvertently does that, and so things can snowball from that.

As a simple example, an officer might say, "I can see an injury. Did he cause that," and the person may well agree with that and it could even be correct, but it could have occurred two weeks prior on a different occasion. Things get conflated or spiral beyond what the person's actual narrative may have been if they were questioned in a way that allowed them to tell the story without it being offered to them in that sort of a way. So that communication around - and particularly gratuitous concurrence can be big issues.

There can be some pre-existing biases or perceptions I think that inform the way that police interact as well, and it sort of cuts the other way for an officer who has had those dealings with two people to a relationship and they have seen them five times before for DV-related incidents. They will walk into that room thinking, "I know what's gone on here," whether that's in fact accurate on that particular occasion or otherwise as well. Those are the sorts of things that are coming to mind at least.

Q. You link in paragraph 16 the problem of misidentification of the parties with what you describe as a common practice of seeking reciprocal domestic violence orders. Can you explain what you mean by that to us?

A. Yes. More typically seen obviously if they're seeking orders at the outset of DV interactions, interactions

involving two people and allegations of domestic violence. So I wouldn't say it's a default practice but it is common where police either can't identify who has done what or where particularly the likely victim or actual victim is resistant to making a formal complaint and doesn't want the other party prosecuted. An easy out for an officer there so as to avoid doing nothing, and I won't infer what other motivations they may have, is to take that approach, "Well, we can't tell who has done what here. There's allegations of wrongdoing on both parts. We will seek orders so that both parties are at least to a preliminary level protected," and that - I think it's sort of seen as a protective measure and something being done when actually persisting with a prosecution or trying to find some other non-conventional means of resolving that situation isn't immediately obvious.

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Q. Does ATSILS see any flow-on negative consequences from the making of reciprocal order applications?

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Q. What are they?

So there's a couple, one of which I've referred to in the statement about the snowballing effect. So if the initial order sought - and they're not always, but even if the initial order sought is just a simple good behaviour based conditions order, the next interaction that the police attend there where there is an order in place will inevitably lead to some form of a charge as a consequence. If it's a verbal disagreement or otherwise, it doesn't really matter what the threshold is. Generally speaking, there's a tendency to charge at that stage, and the consequence from then can be a further order or a bail order is made where there's either no contact or further restrictions placed which become more unworkable if there is an ongoing relationship between the parties or if there's other factors in play, like I've referred to there of children or being in a shared small community or ongoing community ties and that sort of thing. So that snowballing can occur.

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There can be direct difficulties if those initial reciprocal orders do prevent contact or complicate contact. So, if there are children, some of the first orders that we see at times do involve conditions around needing written permission before you can have contact, including with either named persons being children or just the children

generally, or just logistically that's necessary because you need to contact your partner to see your children because they have care of them. Some of our clients. respectfully, don't necessarily have the education or sophistication to follow that through and to understand what that practically means they need to do, leading to Sometimes they do but they don't know what to do Very often there is a lack of understanding of about it. what the legal process is to try and get such an order varied, and generally we would only engage with a person after there's been breaches. Whilst we might get a call at the time, it's not common that that's the case. More often people in that situation seem to just want to get out of the situation rather than seek help there and then, and get some assistance and understanding and doing something proactively about it.

- Q. Are you in a position now to give us an indication of the prevalence with which people who are charged with a breach of a domestic violence order will plead guilty to that rather than take it to a trial?
- A. I couldn't give you a statistical assessment of that. It's high. I mean, I suppose it's fairly notorious that the rates of conviction for offences is very high, and that would be consistent to a large extent with domestic violence matters in our experience. There are some factors that will bear upon that, and the availability of evidence supporting the allegations is probably the primary one. If there's police body-worn camera footage or something incontrovertible that demonstrates certain things have taken place that constitute a breach, inevitably there's going to be a plea at some stage.

- Q. If your clients are charged with a breach of a domestic violence order and want to contest it, will a grant of aid cover representation at a summary hearing for that?
- A. So, just to delineate slightly, we work separately from LAQ, so we don't do grants of aid per se. We will give somebody the equivalent of a grant of aid, I guess, within our organisation, which is essentially just approving that they are eligible for our assistance. So if a person seeks our assistance and they're eligible, which basically means a means and a merit test, then, yes, we would assist them. The merit test is the only qualification there really. So if a person if there was such incontrovertible evidence and a person still wanted to

maintain a plea of not guilty it would be with some circumspection whether or not we would assist the person at the hearing.

And that merit test might make it difficult for a person to obtain representation through ATSILS to defend themselves at a hearing in circumstances where the actual conduct underlying the breach charge is itself relatively minor but it's nonetheless enough to establish that there's been a breach of the requirement to be of good behaviour? The - yes is the short answer to that. We don't have a - like, the sufficiency of the conduct is not a relevant So we'll act whether it's serious, consideration to us. minor or otherwise. It's just about whether or not what the person seeks to agitate with an ACR duty lawyer, and probably we would assist them at least until we've got some evidence to demonstrate one way or the other whether there is that merit.

Q. Sorry, I wasn't suggesting otherwise. What I was suggesting was if the evidence establishes, you know, perhaps by a body-worn camera or something else, that there was a verbal argument during which your client was swearing at the partner, that would establish sufficient evidence to make it difficult to defend that matter under your merit test?

A. Yes, that's true. Our usual response in a situation like that would be obviously to advise the client accordingly and talk about whatever negotiation may be appropriate or what submissions we would make in mitigation if they were willing to plead. If they weren't, obviously that's a matter for them, but, yes, then it would inform whether we could continue to assist.

Q. You have flagged in your submission that there are difficulties at times at that point in time at which the lawyers might seek to negotiate either charges or the making of the application. I might come to that briefly, but there are a couple of other things that I wanted to ask you about the problems that arise earlier in time.

A. Yes.

 Q. One of those you've identified in paragraph 17 of your statement is the advice at that earlier stage given by police to an aggrieved and/or a respondent that they need not attend court to have their matter resolved, and you raise some concerns about that. Firstly, can I ask you to

give us a sense of how common a problem it is that police are telling aggrieveds and respondents that they need not attend court?

- A. It's anecdotal only because it's rare that we get any evidence of that in the sense of it's unlikely, unless there was later charges arising, that we'd see body-worn of the interaction between police and the officer. Having said that, particularly in a lot of our regional areas it's a fairly commonly reported phenomena. A lot of our clients will say, "Well, the officer told me I didn't need to come, so I just never bothered, and here I am with a breach of that order."
- Q. Okay. In terms of the issues that arise from that from your point of view as a legal practitioner in this space, what are they?
- A. Well, the inevitability that that next interaction will be for us dealing with them for a breach of that order in circumstances where they never got legal advice about their own rights and responsibilities in accordance with that order, meaning it makes it inevitably more difficult to deal with the situation that the person's in, that there are direct consequences for them in the form of whatever the penalty may be if they have in fact breached the order, and necessarily complicating the situation about the order itself. So once there's been a breach, if the client would have otherwise sought to have the order varied particularly around access to children or some such, it becomes much more difficult to do so.
- Q. Do you ever have clients reporting to you and I'm only asking you about anecdotal evidence at this point in time that they were surprised that the order made was for five years, they hadn't anticipated it might be for that long?
- A. Yes. There's still plenty of clients who have predated the that being the default period who always sort of had the pre-existing idea of one to two years being what would otherwise be put in place. So, yes, it does get raised pretty regularly.
- Q. Okay. In paragraph 18 you say that you and I assume here you mean personally have observed some stereotyping by responding officers in relation to how victims present. Firstly, can you explain to us how that looks?

 A. Yes. It's not something I've regularly seen at all. It's probably something I've more often heard from other

people, particularly, again, from more of our regional areas. When I have seen it it's typically a police officer in the way in which they are communicating with an aggrieved either - sort of it's almost - it's quite subtle. It can be tone. It can be the manner in which they're It can be challenging a questioning what occurred. narrative rather than accepting it at the time at least. It can be putting to a person things like, "Well, you see I'm sure we'll be able to check there's a camera up there. Are you sure what you're telling me is" - that sort of approach. So it can be quite either subtle or overt Other times it's more a preconceived depending on it. notion that I was sort of speaking about earlier about when a police officer walks into a room they will see people and sort of develop a view before they have started speaking to them as to what's likely gone on, and it can be difficult I think for an officer who has done that to shake that view and it gets expressed in the way they interact with the parties afterwards.

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Q. You say that a more common problem than the issue of stereotyping is the issue of police officers expressing or presenting their general malaise in terms of their attitude to having to deal with the issue -- A. Yes.

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Q. The incident, that they might have been called to. Again, can you give us an idea of how you see that occur and how common a problem it is?

Α. So what I see when I see that on a body-worn or in a statement or in an investigation is a lack of attention to what a more diligent investigation of a matter upfront would look like. It can generally be, "I've got two people here. I'll take a version from one. I'll get my partner to take a version from the other. We'll try and figure out what's best, and then let's get out of here because we've got other things and more important things to deal with." It can be expressed inadvertently by police when they don't realise they're still recording on body-worn cameras. You occasionally get the odd comment of things being said that indicate that they don't want to be there and that they don't see there being much in what they're dealing with that should require their attention. So it can be that overt, but that's rare. Sorry, the second part of the question was?

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Q. How common a problem that is?

A. Yes. I see it more in the investigation stage, and that's very common. It would be a rare breach of a DV matter where I look at it and think, "This has been a very diligent investigation. Look at all this evidence in support of the allegations." The far and away common scenario with these sorts of matters for a breach of a DVO is a statement from the aggrieved and, if you're lucky, a witness as well.

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Q. All right. That brings me back to the prosecution end, and you had mentioned a little earlier the fact that of course your practitioners will engage with prosecutors in an attempt to negotiate whether it be in respect of charges of breaches or in respect of the making of an order and either conditions in respect of it or the length of it, I take it?

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And you refer at paragraph 23 of your statement that there can be some challenging aspects to that, in part because you can either come across a position that a particular station or officers won't negotiate or because there will be negotiation potentially but prosecutors, in your experience, will almost wholly take their position from that of the arresting or investigating officer? Yes, that's definitely something that we frequently encounter. It does fluctuate. It depends which prosecutor you're dealing with, it depends which office, depends who the OIC is and what their sort of filtered down attitudes may be as well. But it is quite routine that there is a lot of resistance to any sort of meaningful negotiation around things, and there is often an attitude that the preference is to not make a decision and rather have the court make determinations; whether or not an aggrieved, for instance, or victim may, for instance, not be willing to come to court or has expressed overtly a withdrawal of complaint or otherwise. There is a strong general view that it's preferable to avoid trying to negotiate matters away in most cases in our experience, or my experience, sorry.

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Q. Is that problematic in the sense that once an application is made and before the courts in the absence of some sort of meaningful negotiation beforehand in many cases there will be an order made or charges sustained?

A. Yes. The applications themselves I have less direct experience in, but the experience that I do have is

similar, that, generally speaking, there's the preference that there's some hearing of evidence and the magistrate making a determination based on that on what appropriate orders should be made, duration, et cetera. With breaches, definitely that's commonly experienced and it does become complicated because it's difficult to - there's a tension with people charged with such matters often around they may agree with some but not all of it. If there can't be any agreement reached around that that in any way reflects what they are comfortable accepting of the allegations, then there will need to be a hearing to resolve it. proceedings considerably. Where there are bail orders or indeed amended family violence orders in place, that means the person has to persist with those for a longer period waiting for the conclusion of the matter. There can be difficulties for both parties, particularly where, for instance, a victim may have care of children and they actually want the aggrieved back to assist with that care. So it just becomes this long, drawn-out complicated process that might actually otherwise have been able to be nipped quite quickly by some reasonably straightforward negotiations.

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The deferral to investigators of that decision-making authority is something that we find particularly difficult around that because - we can understand where investigators come from in that they are the ones that dealt with the person on their first interaction and so on, but there are different considerations, particularly admissibility of evidence, that are not necessarily prime amongst their knowledge or their considerations, that it would be preferred from our perspective at least that a prosecutor would astutely look at and weigh those different considerations more carefully.

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46 47 Q. In some cases I imagine if you're attempting to negotiate with a prosecutor about the making of an application, for example, and there's been some delay, it may be the case that you're in receipt or possession of updated information about the status of that relationship, for example, but the arresting officer may very well not have any knowledge of at all?

A. Yes. Frequently we get the aggrieved coming to the court appearances and police prosecutors generally don't want to speak with them at court, largely, as I understand, because they don't wish to become witnesses potentially to the proceedings, which is fair enough. But it's very

difficult when they're standing outside the door saying, "I want this to go away," and we're sitting in a negotiation room with a police prosecutor who doesn't want to speak with them or engage in that process, and essentially generally if they're doing the right thing as far as what we are told they're meant to do, they'll send them to a police station and get them to give a statement to a police officer there. Whether a person in that situation will follow up and do that or just be frustrated at the response or lack thereof, yes, it tends to more be the latter in our experience, in my experience.

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As a final matter, Mr Shillito, could I take you to paragraph 26 of your statement. You suggest that the use of support persons in culturally safe environments could be beneficial to improving that process, and there you're talking about the taking of initial reports by Aboriginal and Torres Strait Islander women in particular where there might be that issue of gratuitous concurrence that you spoke of earlier? M'hmm.

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Q. How might that look?

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It could look a number of different ways. I'm aware that there's the video-recorded evidence pilot going on out at Ipswich and Southport at the moment, and I understand there's some intent around having - I don't know about culturally appropriate but some support persons present during those initial interactions. I would have some reservations around that, particularly just because things can be very raw in that moment, and whilst there might be some evidential value in that recording - it's obviously a separate topic entirely, but there's a lot to be said for having - maybe even just going back to the police station or a day for everybody to reflect on what's gone on. Sometimes, in fairness, that will lead to people who are legitimate victims potentially considering walking back the extent of the complaint that's been made. But at other times I think it also allows people who may be affected by substances or just generally by the circumstance of what's occurred to calmly consider what it is that just happened and perhaps provide a more truthful account of it.

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But generally speaking, yes, it would involve -I don't know from what source, but a person - particularly with Aboriginal and Torres Strait Islander women or victims generally, a person of a similar cultural background being

able to speak with them prior to them interacting with the police for the purposes of the taking of a statement to give them an opportunity to ask questions in that sort of safe environment and to hopefully assist the officer in identifying and perhaps even literally stepping in and stopping the officer in circumstances where the officer may be doing what I was describing before and taking over the narrative rather than allowing the potential victim or victim to tell their own story.

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Are you personally aware of any place or places in Queensland where that sort of practice is already employed? I'm aware that there was some time ago - I can't remember what the official designation was, but Aboriginal community police officers or liaison officers, something like that, in some more remote locations. Palm Island and a couple of others spring to mind around Mt Isa. But I'm not aware whether those people are still even in existence. I remember it from maybe eight to 10 years ago, and where they were there was some complexity to that because they were employees of the QPS and there was a perception that they're just black police officers by some of the community as well. In some cases it did work well because they were still people in the community and if they had a good relationship with the person particularly that helped communication, particularly as well as getting out of them what their story was. At other times it possibly didn't have the desired effect, partly because they were employees of QPS and that perception persisted.

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MS O'GORMAN: All right. Thank you, Mr Shillito. Those are the questions that I have for you.

A. Thank you.

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COMMISSIONER: Ms Hillard?

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<EXAMINATION BY MS HILLARD:</pre>

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Q. Mr Shillito, you spoke about your experience of viewing body-worn camera footage and the like. I just want to clarify, you're really only talking about viewing body-worn camera footage, aren't you, for matters that have made their way to the courts?

A. Yes.

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Q. And when we talk about the body-worn camera footage that you have observed have you observed a culturally

- appropriate approach by police to explain charges can be laid and the support processes that might be in place for a First Nations woman?
 - A. The support processes, occasionally that gets talked about on footage. It may be done off camera, I don't know. But I've occasionally seen that. Not commonly. The process itself, pretty rare that that gets discussed.

Q. In terms of the discussion, from what you've observed, of whether or not to pursue charges, is that often at the doorstep or at the crisis point, so to speak, where the police are there? They're not separate or gone away?

A. Sorry, in terms of preferring of charges by police and the conversation between them and the victim?

- Q. I'll reword my question for you. So there's been some evidence that police will often attend a callout or a crisis incident and they'll be within line of sight of one another, which means that the woman might be in the vicinity of the perpetrator, or the victim in the vicinity of the perpetrator. So have you observed the line of sight issue, first of all?
- A. Yes. Over the last couple of years that's less common, in my own personal observations. Generally speaking, there's at least a putting a room between them kind of approach, more for safety, was my understanding than perhaps for the line of sight factor. But I have seen that occur, not a lot lately.

- Q. And there's been some evidence from First Nations women as well as women generally about the reluctance to talk about charges, talk about what's happened, when it's in the vicinity of that line of sight thing at the callout. Is that something that you have experienced seeing or having been reported to you?
- A. I wouldn't say directly with the line of sight, but I've definitely seen reticence by persons on body-worn victims to give a narrative because of an awareness of the close proximity of the other party. You can literally often still hear yelling and carrying on in the other room, and you can see the person almost shrink as that sort of I don't know, but it looks like a fear response or something like that, and it does appear to have a shutting down effect at times, yes.

Q. In respect of those occasions where you talk about appearing to have the shutting down effect, do you have an

- opinion about whether the police seem to recognise that that was happening?

 A. Sometimes. ves. I've seen police officers activel
 - A. Sometimes, yes. I've seen police officers actively "We need to get rid of him," going and talking to their partner and doing that. Other times, less so. There's a bit more of the expediency that seems to be in play and, "Can you just tell us what's happened quickly, and we'll get this sorted for you," that sort of comments along those lines is more often perhaps what I would see.
 - Q. I see. You spoke about the funding situation for ATSILS, and I just wanted to make it clear. As I understand it, when you're talking about a merit assessment, ATSILS actually apply to Legal Aid or the person applies to Legal Aid for a grant of aid for ATSILS to represent them?
 - A. No, we don't apply for grants of aid. The only time we apply for grants of aid is for private counsel to assist in indictable matters once they have proceeded past committal. We do everything otherwise inhouse.
 - Q. You mentioned talking about community orders and you accidentally I think you said a breach of bail. I think you meant to say a breach of a domestic and family violence order when Counsel Assisting was asking you some questions about not attending court and the like?
 - A. That's entirely possible. You would have to talk me back through what exactly I said, sorry, but I can accept that if that seems like a misstatement, thank you.
 - Q. Back to the attending court, and you were asked questions by Counsel Assisting about not attending, you would agree, would you, that attending court is also very important because it provides an access point to services, social worker assessment, risk assessment, safety planning as well as legal advice?
 - A. Yes, definitely would agree with that, particularly regional areas, where they all tend to be in a hub around the court.
 - Q. I think that is all of my questions. Just excuse me. One last question that I have is, bearing in mind that the First Nations people that you have represented are predominantly women, is that right, in the domestic and family violence setting?
- A. In a criminal law setting they're predominantly men.
 In a family violence, as in our family law team's

1	assistance to people with orders or seeking orders, the
2	majority would be women, yes.
3	major rey mourta de nomem, yeer
4	Are you ship to say whather or not you see head
	Q. Are you able to say whether or not you see head
5	injuries for your women aggrieved?
6	A. We do. As to the prevalence of it, it's not something
7	that we would keep statistics of, but it is a common
8	phenomena to have as part of a DV charge or incident an
9	allegation of or conviction for injuries, including
10	injuries to the head, yes.
	injuries to the head, yes.
11	
12	Q. When there are injuries alleged to the head and that
13	part of the body, would it be fair to say that you often
14	wouldn't see medical evidence to support that or a
15	concussion or anything like that?
16	A. Yes.
	A. 163.
17	WO UTU ADD TO A TO A TO TO
18	MS HILLARD: Thank you, Commissioner. Those are my
19	questions.
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21	COMMISSIONER: Thank you.
22	,
23	MR McCAFFERTY: Nothing, Commissioner.
	TIN TICCALLENTI. NOCHTING, COMMITSSTONEL.
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25	MR HUNTER: Nothing, Commissioner.
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27	MS O'GORMAN: Might Mr Shillito please be excused?
28	ě ,
29	COMMISSIONER: Yes, thank you. Thanks, Mr Shillito.
30	A. Thank you, Commissioner.
	A. Illank you, commissioner.
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32	<the td="" withdrew<="" witness=""></the>
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34	MS O'GORMAN: Commissioner, I call Dr Heather Nancarrow.
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36	<pre><heather affirmed:<="" nancarrow,="" pre=""></heather></pre>
37	THE THE TANGARTON, WITH MICK.
	ATVANTUATION DV MC OLCODNAN.
38	<examination by="" ms="" o'gorman:<="" td=""></examination>
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40	Q. Dr Nancarrow, you're an adjunct professor of practice
41	at Monash University?
42	A. Yes.
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44	And also an adjunct research follow with the Criffith
	Q. And also an adjunct research fellow with the Griffith
45	Criminology Institute?
46	A. Yes.
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- Q. As well, you were in 2020 the lead author of a research report published by the Australia's National Research Organisation for Women's Safety titled "Accurately identifying the person most in need of protection in domestic and family violence law"?
 - A. That's correct.

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- Q. And you've provided a report to the Commission in recent times?
- 10 A. Yes.

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- Q. Dated 20 July?
- 13 A. Yes.

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- Q. Do you have a copy of that report with you if you need to have regard to it?
- A. I do have it in electronic form.

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I have some questions for you, You may not need to. though, arising out of the matters in the report that you have provided to us, and I want to start with the issue that you raise around the concerns of misidentifying the person most in need of protection that arise from the legislation itself. You say in your report or you make reference to the fact that when the bill was before parliament reference was made to the understanding of domestic violence referring to a person being subjected to an ongoing pattern of abusive behaviour by an intimate partner or family member, which behaviour is motivated by a desire to dominate, control and to oppress and to cause You note, though, in your report that the definition of "domestic violence" in the Act as it stands doesn't accord with that definition. There is a discord between what was said was intended to be captured, being that ongoing pattern of behaviour with the particular motivation behind it, and the one-off incidents that can be captured by the definition of "domestic violence" in the Act? Α. That's my view, yes.

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- Q. Can you explain to us some of the problems that arise between that discord?
- A. Yes. First I want to say that that discord has been present since the original Act in 1989, and it was made very clear by the taskforce that led to that the introduction of that bill that they were not interested in fights but, rather, coercive control or power and control as it was referred to then. That has been repeated that

contention has been repeated through successive reviews of the Domestic and Family Violence Protection Act but has never quite been captured in the definition in the legislation itself.

So I believe that it's confusing then for police, regardless of - and others, regardless of what procedures and policies might be put in place. If the law isn't explicit about defining legislation that accords with the intent of the legislators, then it's difficult to - you know, you go back to the law and say, "But that's not what's required."

In fact, what I think is happening is that the - it's encouraging an incident-based response because it only requires - it encourages formulaic response, as I talk about in my previous research as well as this research that I've based my report on, but it enables or it encourages a situation where police look at is there a - has there been a proscribed act of violence that has occurred, is there a relevant relationship, so you add those two things together and that equals domestic violence. But, when you look at the intent and the second reading speech in particular and the explanatory notes from the legislation, that's not what's intended, it's not intended to work that way, and I think that that's the reason for the introduction of the phrase "necessary and desirable" also, as well as of course the preliminary discussion about the context in which domestic violence occurs.

So these things I think - if people are going back to the definition of the Act and looking at you've got a proscribed act of violence, you've got a relevant relationship, somebody's been injured, perhaps both parties have been injured, so it is necessary and desirable in the mind of the person who's applying the legislation to make an application for a protection order, and in most cases they convert to an order, the applications convert to an order, and in many cases, and more so for First Nations people, as we've heard in many submissions, that then often converts to convictions for breaches of those orders. So there's a bit of a domino effect in terms of the inappropriate application of the legislation, which I believe in large part could be addressed by a more appropriate definition.

You know, having been one of the advocates back in the

80s for the introduction of the legislation, and knowing very well what was intended by the advocates and the legislators, it's somewhat frustrating to see over the course of time the continued misrepresentation of the intent in the legislation itself and the inappropriate application of the legislation, and so we're dealing now to a large extent with - and I hesitate to say bad behaviour in relationships because we certainly don't want to go back to the pre-legislative - domestic violence legislation era where all domestic violence matters were dealt with as Nevertheless, I think we have a problem where the situations that have nothing to do with power and control in relationships are being caught up in the legislation. largely due to this problematic definition and a whole range of other cultural and practice issues, which I also address in the report.

Q. One of the particular issues that you address as arising from perhaps fundamentally that issue in the definition of "domestic violence" in the Act is the fact that some women will resist controlling abuse over that long period of time, that pattern of behaviour, with physical and verbal aggression?

A. Yes.

Q. And you say in your report to the Commission that women who use resistive violence are also likely to use weapons to overcome a physical disadvantage and consequently cause injury. But that resistive violence might only be a single incident as opposed to the ongoing pattern of control attempted to be exerted over her by her partner; is that correct?

 A. Yes. Sorry, I would also say that the use of weapons - you know, previous research has indicated that Aboriginal and Torres Strait Islander women are more likely to use weapons resulting in injury than others. So again I think they're contributing to the prevalence and the overrepresentation of First Nations people in the domestic and family violence statistic.

Q. Do you have a view about what should happen in circumstances where police are called to an incident where there has been an act of domestic violence at least so far as the legislation is concerned but where it may not be necessary or desirable that an order be taken out, given the actual dynamics between the relationship? Do you have a view about what police should do in those circumstances?

A. Well, obviously they should investigate who is the predominant aggressor and make appropriate referral for the person who's not the predominant - I don't particularly like that term, to be honest, but the person who is the actual perpetrator of abuse, the one who is using domination and control, and the one who is resisting violence, and make appropriate - make an application for an order or lay a charge for breach of an order if there is already an order in place, and refer the other for support. I think it's about proper investigation. It's about where there's - where it's unclear, and my report also understands or recognises that situationally ambiguous cases are very challenging for police and for anyone trying to figure it out in a short period of time.

> So - but access to expert assessment, having better guidance about how to identify who is the person most in need of protection is really important as well. was one of the things that we found in the ANROWS-funded research that you have a copy of there, that the - across Australia, whilst every state and territory, including Queensland, has tools available around risk assessment, those tools are applied to the person that the police assume to be the perpetrator rather than - there are no tools available or there's no guidance available to assess the predominant aggressor. Victoria now has in place some guidelines, perhaps - you know, I'm not sure that they're particularly adequate, but certainly I think better quidance for assessing who is the person most in need of protection before applying risk assessment and determining what action to take.

Q. You mentioned just now that ANROWS-funded research that you undertook?

A. M'hmm.

Q. As I understand it, part of that research involved you and your colleagues interviewing more than 30 police officers over the course of --

A. Yes, 39.

Q. -- perhaps January and February 2020?
A. Correct.

 Q. And you spoke with them to ask them a number of questions about their own observations and in terms of their own conduct but also those observations that they

have made of their colleagues?A. Yes.

Q. As I understand it, you had considered from a research point of view that talking to approximately 25 police officers from various geographical locations and from different organisational levels would have been sufficient to establish an appropriate cross-section upon which to base your findings, but in fact you got more than you thought was necessary?

A. Yes.

Q. I want to ask you about some of the issues that that group identified to you as being persisting problems within the Police Service in terms of their ability to accurately identify the person most in need, and I'm looking in particular at the - I don't think I have a page number here for you, but it's the fourth page in, the page that has at the top "Systems abuse by perpetrators" on the report that --

A. On my report?

Q. -- you've given to the Commission. Up on the screen in front of you, if that's easier?

A. Sorry, yes. Much easier. Thanks.

Q. And if we can move down the screen, please, Mr Operator, I'm looking at the section under the heading "Police practice" now, because these are the sorts of themes that you identified coming out of the research you've already referred to?

A. M'hmm.

Q. The first one that you've noted there is a lack of effective investigation. You say that police research participants cited several barriers, including a lack of research, onerous paperwork, large volumes of incidents to attend in a shift and the associated stress, inexperienced officers attending domestic violence incidents, and unhelpful policies, procedures and systems review?

A. M'hmm.

- Q. That's a fairly comprehensive statement of some of the barriers, but is there anything that you can add to that observation?
- A. In terms of more detail about each of those things or --

- Q. What it was that police were saying to you were the barriers, was any one of those more predominant or more of an issue for the police than others?
- A. I think the lack of time to conduct appropriate investigation, the onerous paperwork is a contributor to that. They felt quite strongly that there was a lack of clear guidance for them in these challenging situations. Yes, I think the onerous paperwork was something a very strong theme, and the lack of resources to be able to support them in doing the investigation plus the paperwork required for you know, to complete the work associated with an application.

- Q. All right. The next issue that you drew out from their responses was a failure to use interpreters. Does that mean that police officers were reporting to you that they themselves were not using interpreters or that they had seen that that was an issue amongst their colleagues or both?
- A. It was more in fact, some of those points, they're not necessarily all from police. We also interviewed service providers and women with lived experience of having been misidentified as perpetrators when they were the actual victims. So that's not necessarily from police themselves.

Q. Okay.

Q.

A. The failure to use interpreters came particularly from the focus groups with the women with lived experience and the service providers.

What about the issue of a lack of insight about the

dynamics of coercive control? Was that something that was reported to you by your police participants?

A. Yes, by both, by all groups, yes, and police certainly - police did identify that general duties officers weren't trained, you know, that was a significant issue raised by police themselves, insufficient training for them around coercive control, yes, and in general issues around training, access to resources and support, clear policies and procedures around not only coercive control but in general responding to domestic violence.

 Q. What about the next issue that you note there, a lack of awareness of the historical relationship between police and First Nations peoples or communities? Was that

- something that was reported to you by police or the DV services or both?
 - A. Police certainly expressed the frustration with a lack of cooperation from First Nations people when intervening, but it was probably in terms of the historical relationship between police and First Nations people, it was service providers and women with lived experience who reported that particularly.

- Q. Okay. The next issue you note there is underlying sexism and the practice of holding women to a higher standard than men. Again, can you give us an indication of which of your participant groups were reporting that to you?
- A. Yes. That came from the evidence around sexism came particularly from the service provider groups. However, the members of the research team conducting the interviews observed in the comments made by police to them that attitude.

Q. I see. And what about the issue then of racism?

A. The same. Racism particularly from service - it was expressed by service providers and definitely the women with lived experience, many of whom were women - First Nations women, reported their experience of racism in the way that police conducted their investigations and responded.

Q. All right. Thank you. I want to ask you some questions now about another matter that you referred to earlier, which was the Victoria Police manual family violence 2021?

A. M'hmm.

 Q. You refer to that in your report as incorporating a particular set of indicators for identifying what you refer to there as the primary aggressor?

A. Yes.

- Q. I understand from what you said earlier that you consider that that's a good model to use?
- A. I think it's the only model. I think well, it's a set of indicators rather than an assessment tool. So I don't believe that it's been validated as an assessment tool, and it's not been purported to be an assessment tool. Rather, these are a list of indicators. I would say from just looking at what's in that manual, those list of

indicators, that it perhaps is too focused on physical violence rather than the coercive control, which is sort of - I mean, not that the list is necessarily in any hierarchy, but it certainly lists coercive control as an indicator at the bottom of that list. But I think it does emphasise physical acts of abuse rather than non-physical forms of domination and control.

I just want to make clear that in terms of coercive control it's about - the offence really is about controlling a person to the extent - controlling what they think and how they act. So it's denying autonomy of an individual person. It's basically enslaving a partner. That's the offence that we set out in the 1980s to address, and that's the offence that successive reviews of the legislation have tried to get at, and the new Act, the 2012 Act, also sought, based on the explanatory notes and the second reading speech, to address that offence of denying another human being autonomy, and that's not captured well in the legislation at all.

Q. I want to just interrupt you there for a moment to ask if Mr Operator could go two pages over. It's pinpoint reference .009. Thank you. There at the top, Dr Nancarrow, are the bullet points that are contained within the Victorian police manual for family violence? A. Yes.

Q. Now, allowing for one drawback, being, as you've identified, a perhaps overreliance on physical issues, would that nonetheless be a helpful tool by which the QPS might be able to assess the usefulness of its DV-PAF?

A. I think it's a good start, for sure. I think the elements around fear and the patterns of coercion, intimidation and violence by the other party, those I think - you know, I mean, they should include - any such list should include injuries or physical attacks, but it shouldn't be overstated. I do think that it's a useful start, but I would certainly like to see further development and some I suppose evaluation of that list of indicators in the real world.

 I have to say it's actually - that list is based on the work of the MARAM in Victoria, which is essentially similar to the coordinated community responses or the interagency high-risk team approach that we have here in Queensland. So it's being used by other agencies as well, or a very similar list. So I think it's a very good start, but I would certainly want further assessment of that as a - the validity of that in terms of operating in the real world and its impact, its usefulness.

Q. I want to ask you now about the links that you've identified in your research between misidentification of the perpetrator and the overrepresentation of First Nations people in the criminal justice system?

A. Yes.

 Q. You deal with this in your report, and, Mr Operator, it's at pinpoint reference .0010. Your first sentence in respect of this section, Dr Nancarrow, says, "Studies conducted in Queensland show that the quasi-criminal Domestic and Family Violence Protection Act 2012 is a significant pathway to the criminal justice system for First Nations people." Can you explain to us why that is so?

Well, in my opinion, based on my research, so the - my research, and also Douglas and Fitzgerald, which followed on from mine, and other research that the way in which the legislation is being used in a very formulaic incident-based approach means that a range of behaviours that are exhibited particularly in public settings by Aboriginal and Torres Strait Islander people come to the attention of police. Often nobody's calling them. research from 2016, which is published in this book, and 2019 - so it's the same research but the data were collected much earlier than Douglas and Fitzgerald's, but what I found was that Aboriginal and Torres Strait Islander people were over-policed in the research sites in my studies. So Cairns and Mt Isa. The courts for Cairns and Mt Isa were the research sites, but of course they're dealing with cases from the Gulf of Carpentaria and also the Cape York Peninsula. So they're dealing with remote communities as well.

 So in that study that I did in - where the data were collected prior to the introduction of the new Act, overall police applications for the whole of Queensland were about 61 per cent of all applications. In the research site, it was 71 per cent and 79 per cent of all applications were police applications. For the Aboriginal and Torres Strait Islander women in the study that I conducted, 100 per cent of the applications were police applications. So Aboriginal and Torres Strait Islander people weren't

engaging with police or bringing action themselves under the domestic violence act but were disproportionately coming into the court system, the legal system, by virtue of police action.

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So one of the cases that - well, a number of the cases, but one that I start the research with is an example in Cairns where an Aboriginal couple were fighting in a park on the Esplanade in a public space and they were seen on CCTV camera at the Cairns city police beat. They'd already recently, only days police went out. before, made an application - or successfully made an application for an order against both parties, as it turned out, but I had the complete set of data only for the woman. So no-one called the police. They were having a fight. They were throwing punches at each other, running around a But because there was already protection rubbish bin. orders in place they were both charged with breaches of orders, and that was one of - ultimately there were five breach charges against that woman. She said she didn't know of the order being in place, but she does recall being given some papers about domestic violence, which she assumed were for her protection.

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So, you know, this is the way in which, you know, fights taking place in public places for many Aboriginal and Torres Strait Islander people, police overpolicing Aboriginal and Torres Strait Islander people, making an application which in many cases the people aren't really comprehending what's going on, orders being made by the court based on the evidence of the police, police making cross-applications leaving it to the court because, as I say in my report and our research has found - my research in both cases that police are reluctant to make a call if it's unclear who is the perpetrator and who is the aggrieved, or who is the respondent or who is the aggrieved, so they leave it to the court to decide, but the court of course is relying on the evidence of the police, so we have this ping pong effect where the court is saying, "We can only go by the evidence that we have," and so they make the order, and then inevitably because nobody is really understanding the - neither party necessarily understanding the effect or the implications of the paperwork that they have been served with, inevitably there's going to be a breach and often because of other contributing factors. You know, in many of the cases in my study there were people who were severely affected by

alcohol or other substance use. Some of them I believe were affected by foetal alcohol spectrum disorder. They had a range of issues that were contributing to their uses of violence.

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I also talk about - draw on research from anthropologists that - and I mention this in my report, that Marcia Langton, for example, and others have conducted research around Aboriginal and Torres Strait Islander people's, or Aboriginal people, particularly their use of aggression in contemporary forms of traditional dispute resolution processes, and those processes - as Marcia Langton says, when those processes are interrupted by police the issues are unresolved, so they continue. So inevitably there are going to be breaches of orders where orders have been put in place in those cases.

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So the use of aggression in those circumstances - as Marcia Langton talks about, the five sort of indicators of contemporary forms of traditional Aboriginal dispute resolution include - first of all is about it has to take place in a public place, it involves aggressive yelling and swearing to draw attention and the community gathers. Other people might get involved as a support for - you know, they can swap out, one of the aggressors, for somebody to relieve them in the dispute resolution process. You know, this is not - I'm not saying that this is necessarily widely - I mean, I'm not an expert in this particular area of Aboriginal dispute resolution, but I think it's relevant based on the research and the context particularly in those remote communities. But not only. There's evidence of it in New South Wales as well as Queensland and the Northern Territory these traditional forms of dispute resolution that still occur in a modified form, and often they're occurring in forms in the modern era, in the current era, where there's high levels of So it's a distorted version of substance use involved. what was a highly regulated practice.

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- Q. In the context of substance abuse or alcohol and other drugs use, you talk in your submission about chaos context violence and in such circumstances a legal response being neither effective nor appropriate. Can you explain that to us a little bit?
- A. Yes. In fact, that's from my research. That was the subject of my PhD and published in the book in 2019. That research you know, I say not only is it inappropriate and

ineffective but it is also unjust because it's treating an issue - the chaos context violence I talk about is - an example of it is a couple who lived in a riverbed in Mt Isa and went to a shelter at night where there was a wet canteen, so they continued drinking at that place, and they were both incredibly violent to each other. So it was a serious problem of violence and they were at risk of killing each other. You know, the woman, who was one of the women in the sample that I had of police and court data to analyse, she had been breached on five occasions. had beaten her partner with a broomstick, she had beaten him with a branch, she had stabbed him with scissors, and in the last incident that was in the dataset she had stabbed him in the neck with a broken bottle. know what he was doing to her because he wasn't one of the people in my sample - just, you know, I got what I got from the courts and police to match up the data to understand the scenarios. But in that case they were really violent It became clear from what was reported in to each other. what I saw in the police reports of the breaches of orders that they both had injuries and so on.

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So in that case neither of that couple had any power or control over the other one. They had no control over themselves. They were extremely disadvantaged socially and emotionally and mentally, with very poor self-control due probably to substance use. There was some evidence in the research not only for this couple but others in the study that the potential for - given the levels of violence and the nature of the violence, that potential for - well, potential for foetal alcohol spectrum disorder in adults, and we often think about that only as relating to children, but it has been a problem for a long time, so those children who were born with foetal alcohol spectrum disorder are now adults.

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46 47 We know that the - and Heather Douglas's research has shown the - she also talks about this issue and the symptoms of FASD include poor impulse control and aggression. So it's possible that they are contributing to the high levels of violence as well, and head injuries caused by ongoing violence and fights. So, you know, there's - you know, again I don't want to go back to prior to the legislation where all cases of domestic violence were treated as, well, it's just a fight or there's some excuse for it, because, as I also say in my report, it's also possible that people have mental health issues or they

have foetal alcohol spectrum disorder or they have other things that might contribute to high levels of violence; it doesn't mean that they're not coercively controlling as well. So we need to be careful about saying it, you know, either/or.

- Q. And does not that particular example that you just gave us and the related issues that you've touched on mean that at least from time to time police officers are going to be placed in an invidious position when they're asked to attend at an incident when they're trying to work out what the appropriate action is in respect of a relationship like that?
- Α. Yes. In all of the research I've done I acknowledge -I think it is really important to acknowledge - they're complex cases, and they need really clear guidelines and support, and they need access to expert advice to help figure out in those very difficult cases what is really going on there. Sometimes - and I think the legislation was carefully crafted to enable an immediate response, and that's really important in many cases, particularly in terms of coercive control, where lives are dependent on However, it may be possible to have a response immediacy. where it enables time to do a proper investigation and assessment, but making sure that people are safe in that time.

Q. In a case like that particular relationship that you were describing before, is it your opinion that it may well be that there's no need for a civil order application to be taken out; there would still nonetheless be place for criminal charges to be laid to reflect the serious injuries that were inflicted?

A. Yes. I mean, I often wonder about that, and I think lawyers are better placed than me perhaps to make that call. However, I do wonder whether - because of the standard of proof, because of the domino effect of once there's an order in place leading into the criminal justice system through the pathway being a low standard of proof required in the initial - in the first instance, if there were criminal charges laid - I mean, clearly they were serious criminal assaults that were occurring - then there are other protections I suppose or checks and balances in place around the criminal jurisdiction that would enable increased investigations but also evidence of the circumstances that led to and I suppose a wider range of opportunities to put the case of why or the context of the

1 violence.

- Q. Can I ask you now as a final matter about some of the protective factors or the good practices that you did identify from those interviews that you conducted both with the police and with the DV services as part of your ANROWS research?
- A. Yes.

- Q. On the second to last page of your report, this is at pinpoint reference 0012, you say that when a police officer is attuned to the gender dynamics and manipulative behaviours capable of being deployed by a perpetrator that's a good thing?
- A. Yes.

- Q. That would tend to suggest that any increased training for police officers in respect of understanding coercive control is positive?
- A. Yes, absolutely. I think it's really important for police and other agencies to be aware of the way in which coercively controlling perpetrators particularly know how to manipulate people and systems, and inadvertently police and other agencies often collude with perpetrators in the victimisation of people. Coercive controlling one of the things I do want to say is that when we talk about the gendered dynamics of domestic violence, and again it's what this Act is trying to get at, coercive control is highly, highly gendered. Women engage in abusive language and fights and so on, but the research internationally consistently shows that coercive controlling abuse is almost exclusively perpetrated by men against women.

- Q. So I suppose that really emphasises the need for there to be good and ongoing training for police officers who are responding to community needs?
- A. Yes.

- Q. In that regard, as I understand it, you have recently been involved in a review of a new training package being developed by the QPS called coercive control a holistic response or something --
- A. So I was sorry.

- Q. "The holistic approach", I'm sorry.
- A. So I understand that's the new training package that will be face-to-face. I haven't been directly involved in

that, but I did undertake a review of the online training program and my advice at the time - the research drew very heavily on the ANROWS report and also the work that Jess Hill had done, so used videos and so on, was I think a very clear articulation of coercive control in that training.

I did have a problem and expressed my concern about it being online training, and I think that it's really important that there's face-to-face training with a range of techniques, I suppose, used for communicating because, like anybody else, police - there will be a variety of learning styles and ability to absorb and apply information. I think face-to-face training is really important.

Q. I think I had had a misunderstanding. So, if I can just clarify, you haven't personally been involved in any review of a face-to-face training program which is shortly to be rolled out?

A. No

Q. You were nonetheless, though, involved in the development of the one hour coercive control online learning product?

A. Correct.

Q. And, allowing for the drawback of it being online, you nonetheless thought that it was a clear articulation of some of the issues that police needed to know about?

A. Yes.

A. 165.

 Q. Thank you. The final matter then that I wanted to talk to you about were the reports that you received from police about the value of them being able to access specialised services within the organisation itself, for example the vulnerable persons unit?

A. Yes.

- Q. Do you have any views about the utility of broadening the scope of vulnerable persons unit or rolling them out more broadly across the state?
- A. I would say that either the vulnerable persons unit or some other co-responder model where police have access to expert advice about in the moment where they're overwhelmed or unable to make a call on what's the appropriate action to take that they have some expertise

available to them. So the vulnerable persons unit would be one way to achieve that. A co-responder model where they have got perhaps community based experts to work with them would be another model. I don't have a strong view one way or the other, but I do believe firmly based on the research that having access to expertise in a partnership arrangement, it's not about accountability of the police necessarily, although I think that's really important, but it's about having the support for them to make that decision.

MS O'GORMAN: All right. Thank you, Dr Nancarrow. Those are the questions that I have for you. There may be some others from the other end of the Bar table.

COMMISSIONER: Ms Hillard?

MS HILLARD: Thank you, Commissioner.

<EXAMINATION BY MS HILLARD:</pre>

Q. Sorry, it's Professor Nancarrow?A. Doctor is fine.

Q. Dr Nancarrow, just in respect of the vulnerable persons unit questions that you were being asked there's been some evidence about divergence of the different types of vulnerable persons units. Some of them have essentially a desktop audit type function. Others seem to be more involved and some have detectives connected to it. Do you have a view about the appropriateness of the second option, perhaps having detectives connected to the vulnerable

persons unit as well?

A. If it improves investigation of who is the person most in need of protection, then I think that would be an advance. I think that seems to be a missing link, the time available as well as perhaps the skill in being able to investigate coercive control in particular.

 Q. In respect of some of the questions that you were asked about the risk assessment and the like and the evaluation, and there was reference made to the PAF, the protective assessment framework, that the police use, and Counsel Assisting directed you to parts of your statement which you said would be helpful at the top of page 9 of your statement to consider in perhaps reviewing the PAF. Can I ask you this: I understand that there has been

reviews of the PAF over time and in fact recently and it remains largely unchanged. Can you say to what level of engagement the police should take on advice about these things that you identify at page 9?

A. Look, I think that they - I would be encouraging the QPS to develop guidelines for identifying the person most in need of protection or where there is coercive control, how to distinguish between coercive control and fights, and again I say that with some hesitation because we don't want to go back to, "They're all just a fight and we'll have him walk around the block and cool down."

Nevertheless, I think we have many people coming through the system, clogging up the systems, both police and courts, reducing the time available to investigate properly and appropriately deal with cases of coercive control that are highly dangerous and inappropriately bringing in particularly women and particularly Aboriginal and Torres Strait Islander people and women in that group particularly into the legal system without effect, and taking away the ability to do a better job for those that genuinely need to be in that legal system.

- Q. In respect of consultation and development of that, that's something that you would obviously be well placed to do to assist the police, I would expect, development of the guidelines you're talking about?
- A. Well, I haven't developed these. But I think I would be able to provide some advice, as many others would. There's a very strong tradition in Queensland particularly. Interestingly there's been more research done on domestic violence protection orders and cross-applications and so on in Queensland than anywhere else in the country. So there's a lot of expertise available to police to consult in developing such guidelines.

 Q. I don't know whether or not you're aware of the recently released risk assessment or government framework that's come out in the matter of a couple of weeks ago for Queensland; are you aware of that?

A. Not particularly.

Q. Okay. I won't ask any questions about that. Just in respect of some of the questions about over-policing and some of your answers that referred to over-policing and you spoke particularly about First Nations people, one of the things I wanted to ask you about your view and if you

wanted to comment on, the role that access to justice and access to going to court for First Nations people, what that plays when that sort of scenario happens when that over-policing happens?

A. I'm not sure how - I know that there are a number of Aboriginal and Torres Strait Islander women's legal services for example, women's legal services and others, the extent to which they're accessed by women. The cases that I've mentioned in Mt Isa - although they're going back some time so I'm not - I'd be a bit cautious in saying this, that things may have changed for the better.

To some extent I think there were several years ago perhaps more involvement of community justice groups, Aboriginal and Torres Strait Islander people. But I know there was a concern about them - some of the challenges for them were around funding, the volunteer versus should they be paid, and some of them wanted to be paid and others didn't. Even if they wanted to, there wasn't funding available for them. But then there are also the challenges of community justice groups supporting one partner against the other and the conflicts that that would raise.

So I think the issue about access to justice is also complex because of the nature of the intimacy, I guess, of the relationship of the couple but also the extended family and community that can contribute to community violence. So we kind of focus on the intimate partner violence or the family violence. But often the intimate partner violence, as I've argued in my research, is an extension of broader community violence. So it's actually not about one partner trying to control the other, but it is about acting in the interests of the broader community and family connections and kinship connections that contribute to violence that has nothing to do with coercive control at an intimate partner level.

Sorry, I'm not sure that I've answered your question, but I'm not - to be honest, I'm not sure about the current state of access to justice in Queensland, having recently returned from seven years living in New South Wales.

 Q. I suppose from your answer what I take is that it is helpful and it is important where it is available?

A. Yes, I think that's a fair assessment of my opinion on it. But I'm not sure to what extent it's available currently in Queensland. But in those cases in my research

I don't think those people would have had time even to think about accessing - you know, it was all very immediate and immediate police intervention and so on. So there wasn't really opportunity. Perhaps at the breach stage there might have been. But whether or not they would have taken it up or even known where to begin, and again that's I think the injustice of some of the legal intervention in some of those cases that probably would have been better served by some kind of social or medical intervention.

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- Q. You were asked some questions about the Domestic and Family Violence Protection Act legislation and about the pattern of behaviour and the need for that to perhaps be recognised in the Act. Can I ask about one particular part In the objectives at subparagraph (e) it specifically talks about where there are allegations or conflicting allegations of domestic violence the court has to consider the person in need of protection, but it gets dropped out when one has to look at, "Should a domestic violence order be made? Is there domestic violence? Is it necessary or desirable." so it doesn't appear later in the Act. Do you have a view about that being more present and more visible elsewhere in the Act?
- Α. I think the Act - if it's possible in Yes, I do. drafting legislation to capture the essence of domestic violence which is about, as I've said, power and control or coercive control and to have that explicitly framing the legislation throughout the Act. One thing has prompted a thought to me, I think the issue about the person most in need of protection, in the research, the ANROWS funded research, it became very clear that often police interpreted person most in need of protection as the person who was most injured. So I think to emphasise person most in need of legal protection would be a useful thing as well. It's not about who needs medical help right It's about who needs legal protection against coercive control.

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Q. And that's perhaps one of the problems with the references to the phrases of the person using violence because it might be violence at a point in time as opposed to a perpetrator with a pattern of offending?

A. Yes, and that's why I don't like the term "predominant aggressor" because that gets interpreted and again our research and internationally the research shows that that

term then gets interpreted by police as who did the most

1	violence or who was violent first or who is the predominant
2	aggressor, who was the first one to do it or the worst one
3	in their view, rather than who is the person dominating and
4	controlling, denying autonomy to the other.
5	MC HILLADD. Thenk you Commissioner These are my
6 7	MS HILLARD: Thank you, Commissioner. Those are my
8	questions.
9	MR McCAFFERTY: Nothing, thank you, Commissioner.
10	The Hookir Elerr. Nothing, thank you, committee in
11	MR HUNTER: No questions.
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13	MS O'GORMAN: Might Dr Nancarrow be excused?
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15	COMMISSIONER: Thanks very much, Doctor. You're excused.
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17	<the td="" withdrew<="" witness=""></the>
18 19	COMMISSIONER: We'll break for 15 minutes.
20	COMMISSIONER. We IT DIEAR TO IS MITHULES.
21	MS O'GORMAN: Thank you.
22	The Goddinate Thank your
23	SHORT ADJOURNMENT
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25	COMMISSIONER: Yes.
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27	MS O'GORMAN: I call Dr Jacqueline Drew.
28	COMMISSIONER: Thank you.
29 30	COMMISSIONER: Thank you.
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32	OAGGEETIE BREN, SWOTTI.
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35	Q. Dr Drew, you have a PhD in organisational psychology?
36	A. Correct.
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38	Q. You're also a registered psychologist?
39	A. M'hmm.
40 41	Q. And a recognised expert in the field of organisational
42	psychology of policing?
43	A. That's correct.
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45	Q. You have more than 20 years experience in law
46	enforcement both as a practitioner and researcher across
47	Australian police agencies?

1 A. Yes.

- Q. And most relevantly for our purposes you have had engagement with the Queensland Police Service over the years?
- A. Yes.

- Q. At present you are currently undertaking a collaborative research project with the Queensland Police Service Commissioner Katarina Carroll and also with Professor Janet Ransley?
- A. That's correct.

- Q. And that project is going to develop an early warning system for workplace health and performance focused on improving the mental health and wellbeing of police personnel.
- A. That's correct.

- Q. On 22 July 2022 you provided in your capacity as senior lecturer at the Griffith Criminology Institute a brief report to the Commission?
- A. Yes.

- Q. Addressing a number of questions asked of you?
- 26 A. M'hmm.

- Q. All right. Can I take you to your report, please, and I've got some questions for you arising out of it. Firstly, in respect of page 2, and this is pinpoint reference 0004, you say in paragraph 1.1 that a study of the Queensland Police Service undertaken in 2018 reported that between 60 and 65 per cent of police are experiencing at least some burnout. Can I ask you whether you have any indication as to whether or not that rate is likely to have remained the same since 2018 or changed in any way?
- A. In my opinion the rate of burnout is likely to be at that level or potentially has also increased. Research I'm conducting, recently conducted in the United States, found over 50 per cent of officers across that country had experienced burnout. So the rate of 50, 60, 70 per cent is not unusual in police organisations to experience that level of burnout as part of their job.

Q. All right. Could we go, please, over to page 3, pinpoint reference 0005, and could I take you in particular to paragraph 2.4 where you say that, "It is essential to

recognise that strong evidence is emerging to indicate that non-trauma, occupational stressors (ie organisational and operational stressors) are causing high levels of burnout, psychological distress and mental health issues in our police populations," and you go on to note a little further in that paragraph that it may well be that the non-trauma stressors or the link between non-trauma stressors and poor mental health is in fact almost twice that of trauma stressors. That appears surprising to me at first blush because it seems as though obviously police officers have to attend to a lot of traumatic incidents and that that in itself would be a reasonable cause of burnout over time?

A. M'hmm.

- Q. But your research that you've referred to there suggests it's in fact the operational pressures or the organisational stressors that contribute to burnout at a higher rate?
- A. Absolutely. So what we've increasingly recognised for a long time in policing, and rightly so we've concentrated on the traumatic events and the critical incidents that our police attend, and undoubtedly they affect the psychological health of our police officers. So we very much concentrated on those over a number of years since more efforts have been put into improving the mental health of police.

But more recent research and the research that I've begun to undertake in the US and here in Australia clearly points similarly to that research that was done in Canada and public safety personnel over there that when we consider traumatic incidents it's causing some harm, but over and above that the most influential or the most impactful aspects of police work is the police agency itself and also the operational stressors.

So what we're talking about when we're talking about organisational and operational stressors, in particular things like fatigue, bureaucratic red tape, overly burdensome administrative tasks that police have to engage in, fatigue is coming out, paperwork which I think we've heard quite a bit around a whole range of crime types but in particular around domestic violence, and constant policy changes.

The other thing that I would mention is there's increasing evidence around the impact of scrutiny and

criticism, negative public sentiment against police. We see that very strongly, for instance, in the US. So these other factors that are also having substantial impacts, and I guess we haven't recognised those as much as we should. So they now need also to be in the conversation to get a holistic picture of all of the factors and how they interact together in order to impact on burnout and psychological harm of police.

- Q. In the next section of your report you talk about how it is that compassion fatigue and burnout can be identified by an organisation, and you suggest there that screening tools rolled out yearly or two yearly by way of surveys to all of the staff might be appropriate, and you say that they should be undertaken by experts who are trained in organisational psychology. Can I ask you is it your opinion that how that would be done in practice is that experts external to the QPS would be engaged to help design an appropriate survey which would then be rolled out electronically on a statewide basis; is that what you're referring to?
- A. Yes, I think there's a couple of things that are very important when we think about mental health and wellbeing monitoring across any organisation, but in particular policing. So a yearly or two-yearly survey allows you to identify and collect information about the complexity of all of those stressors that I was talking about, about what's the impact of the trauma your officers are experiencing and what's the impact and what's most relevant to police right now around the operational and organisational stressors.

 So electronically sending out - we have a large state and geographically diverse. So collecting information, a representative sample as many responses as you can get across the state from officers so you can sort of take that temperature around a complexity of factors, and then follow up with interviews with a sub-section of police to truly understand and get the stories behind the data.

So in terms of being an expert I think that an expert can uplift what the organisation does. But, in saying that, I would also recommend that the person that's engaged by any police agency has expertise not just in organisational psychology but expertise in policing. That is really critical in order for the information that's collected to be most relevant to the type of organisation

that we're looking at when we're looking at policing, and also to ensure that that information is translated into practice and interventions.

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So often we do prevalent surveys or academics come in and do prevalent surveys, but then nothing is done with them. So my strong recommendation would be that the person that comes and helps an organisation understand the issues is also there to support and uplift that organisation to look at interventions and initiatives and ensure that we're collecting evaluation data, which is also the benefit of that yearly or two-yearly survey. We can see where improvements are being made and we can draw some conclusions about why, depending on what interventions or initiatives have been put into place in the organisation.

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Within large organisations and particularly policing Q. agencies, if you can speak to this, is there a problem with rolling out surveys which are attempting to take the temperature of the organisation if there's then not that follow-on action that's being seen by the members of the organisation? Can it compound that sense of burnout? Yes, absolutely and a sense of cynicism. So we often talk about one of the factors outside of trauma that's most impactful is cynicism that often is created in the organisation for a whole range of reasons but one is the lack of action. We've seen this many times in mental health in police agencies across the world where mental health is talked about as being important of police but then there's no follow-up, no support, no action. knowing that we have a problem is now not enough. now at the stage where we've established the prevalence We didn't have those before. But we have a clear rates. establishment of those prevalence rates and now is the time to start investing in those interventions and initiatives that are targeted at the right places, which is what the survey gives you.

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41 42 Q. In respect of that last statement are you talking around the world there's already a knowledge of prevalence rates, or are you saying at the QPS there is now a knowledge of prevalence rates, or were you talking theoretically?

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A. So we have much more data than we ever had before because there has been an interest in mental health and wellbeing of police. So the project that you mentioned, the Australian Research Council Linkage grant that I'm

conducting with Commissioner Carroll, that will provide us with a very solid understanding of, a foundation, a baseline across many, many metrics of mental health and wellbeing and what's impacting on that.

So we had some guesses from previous research of what that may look like in Queensland, but this will be a comprehensive understanding once we have released the results, a comprehensive understanding that we can then use as a basis to then determine how we intervene and then the effectiveness of those interventions over time.

- Q. And when are you expecting that those results will be available to you and then published?

 A. So we are expecting the first initial results to be
- A. So we are expecting the first initial results to be released in October of this year.

Q. In paragraph 3.3 you make reference to early predictors of burnout that can be identified by the organisation through monitoring, and this is a reference to that survey monitoring form that you've already referred to, and you say that those predictors include "job demands exceeding human resource capacity, competing pressures often emanating from incompatible and competing job demands," and so on. Some of those factors are outside of an organisation's control, aren't they? For example, looking at that first one, the QPS can't control how many domestic and family violence incidents are happening in the community that they need to send their members to respond to?

A. M'hmm.

But some of the factors that you've identified seem to be matters which the organisation can take control of? I think that when we think about control and what we can modify certainly what you've stated is true. We can't control the volume of work, so the volume of domestic violence incidents that we're now seeing that are fatiguing officers that are leading to exhaustion because of the volume. But we can certainly impact on things that can protect officers from experiencing exacerbated levels of exhaustion based on those responses. So what I mean by that is things like paperwork and the systems and the processes that are involved; clearly identifying what's the parts of outside of, say, attitudinal - we often look at attitudes towards domestic violence and try to understand how that's impacting on how police interact with domestic

and family violence victims.

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But what we need to understand is it's within a context, that the reason why potentially police officers, we're seeing some of the results, we interpret that I guess from a misconception, our idea around fatigue and paperwork and all of those things will impact when a police officer turns up to a job.

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Now, on that point can I just take you to another part of your report, and I'm looking at pinpoint reference 0008, paragraph 4.5. This is page 6 for you, Dr Drew. there that previous research has found that police when policing domestic and family violence calls are often viewed as unsympathetic, have an investigation rather than victim focus, and are more disengaged. Is it possible that for those police officers who are perceived that way in the community when they're dealing with domestic and family violence are simply exhibiting the signs of burnout? Absolutely. Their characteristic, if you look at what some of the early predictors are of burnout, how that might impact on job performance, they are many of the things that we're finding in that type of research. So we know that officers are experiencing high volume of jobs and perhaps adequate resourcing which may lead to decisions around doing things in an expedient manner because of the volume of the work and knowing that turning up to one job may lead to four, five, six hours of paperwork, which is something that, you know, getting the systems and the processes of the organisation can actually impact on and can free up officers' time to invest more in what I would say is often what they would like to do is better support those that they're policing. But because of the system factors they're under such time constraints that often it could lead to that. So it's really a coping mechanism to reduce their level of exhaustion and burnout to try to deal with these matters potentially in a more expedient way than they would if the systems and the factors around that incident were lessened.

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46 47 Q. You've talked a number of times now about the potential to review and reduce the amount of paperwork associated with domestic and family violence incidents and the positive effect that that might have for police officers. Can I just go back now to where we were before, page 5 for you, Dr Drew, pinpoint reference 0007 for you, Mr Operator. In the top line of that page one of those

predictors that we were discussing before is a lack of recognition and insufficient reward for work performance.

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Noting that that can be a predictor or a factor, can I ask you this: is there any place for the QPS to review structures that it might have in place and consider implementing new structures which are specifically designed to reward those police officers who are observed by the organisation as demonstrating excellence in the area of responding to domestic and family violence and might something like that lift up not only that individual officer but the entire cohort?

A. Yes, absolutely. When we look at psychological distress and burnout and cynicism in police one of the things that we know is one of the key levers in police officers reducing many of those negative outcomes that they're experiencing around their wellbeing is actually being recognised, and that's twofold.

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One is being recognised within their agency as doing Police agencies that are characterised as not having the back of their officers is a critical factor that leads to psychological distress. But I'd also say very clearly it's twofold. It's internal to the organisation but it's also external to the organisation. So officers often suffer significant harm when they feel that they're under intense and biased or unfair scrutiny. So that's similarly inside and outside. So when officers feel there are two sides of the coin, I guess, in terms of the community and policing, the tension between the community and police have significant impacts on the officer wellbeing. So that intense scrutiny, again if we think specifically about domestic and family violence, creates even more tension for officers in addition to their exhaustion and the paperwork that exacerbates the likelihood that they're potentially going to be harmed themselves from these incidents.

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Q. So in terms of that external factor then is it the case or is it likely to be the case that unfair media reporting in relation to domestic and family violence and policing responses to it has a direct correlation to how individual police officers feel about doing their job and their susceptibility to burnout and compassion fatigue?

A. Yes, I would agree to that. The issue is never around - and we've seen this in our studies of mental health of police, it's not about the scrutiny and it's not about

being held to account. It's about the manner in which that is done and is perceived. So in essence it's not the scrutiny and being held to account. Police are used to that from day one of their policing careers and as they move up the ranks. It's when it's perceived as being biased or disproportional.

So, you know, many times we've seen in many inquiries that have happened across a whole range of things that have happened in policing across the world is it's a small proportion of officers that we're often talking about. So we're really at the risk of by concentrating on the negativity so much and not rewarding and uplifting officers that are doing great work, which most of them are trying to do, we are really devaluing the role of police. We know when police officers feel devalued by their community. It affects them personally and it also affects their work performance and their ability to interact effectively with the community.

All right. Can I ask you, because you've been talking about external scrutiny so far and you've talked about the fact that the research shows that police officers are willing to wear fair external scrutiny, does the research show that the same applies to scrutiny applied to police officers from within? So a complaints process within the organisation, does the research suggest that police officers will be able to weather that sort of a process if they consider that it is fair but not if it's not fair? And that goes beyond simply investigation processes. It's the way in which they just work on an everyday basis. So we talk about the concept of organisational justice. Organisational justice is when you perceive that the decisions and the behaviours and the policies and the procedures within your agency are fair and just; that your supervisors and your leaders are fair and just in their dealings with you. We know that once we can get organisational justice right it does significantly impact on many negative both psychological and wellbeing outcomes but also performance outcomes.

We also know that research is increasingly showing us that when police officers experience a sense of organisational justice within their agency then they are more likely to show procedural justice to the community. So they're more likely to be fair and just outward facing when they're treated that way within the organisation.

- Q. Can I come back to this question of a lack of recognition and insufficient reward for work performance. As I understood it you said that there is a benefit to a sense of recognition within the agency for police officers, and I'm talking now about that internal recognition. Is there merit in structures, as I asked before, where there might be an ability for the organisation to recognise excellence of individual police officers in the area of DV and would that itself have a good impact on the rest of the police officers?
- A. I think that you need to balance that. So singling out police officers is one part of a strategy. But by singling out one you're sometimes forgetting the good work that's done by the many. So I think that a multi-fold strategy in terms of, yes, identifying people that do excellent work but also simply recognising that officers are turning up every day to very high volume work, most of them are trying to do the right thing, make the right decision, so including everyone also I guess in that recognition and reward, as well as singling people out. But I wouldn't do one strategy without the other.

- Q. I understand. If we have a look then at paragraph 3.4 you set out at the end of that paragraph some of the characteristics of an individual who might be experiencing burnout, and we can see that they are increased cynicism and apathy, absenteeism, arriving late for work, reduced motivation, reduced work commitment, uncooperative behaviours, that kind of thing. Can I ask you this: are those kind of characteristics in one police officer contagious to another? Are you able to answer that? Does that make sense to you?
- A. Yes, absolutely. It does have a snowball effect. So when you have particularly officers, I guess, that have a span of control over many junior officers, that if they're particularly cynical, they feel ill-treated by the organisation, they certainly express those views and they can be easily taken on by others in the agency. So I would say that this is about tackling every layer of leadership. We also know how absolutely critical our middle managers are, our sergeants, our senior sergeants, and their wellbeing is also important. So we often think about frontline staff, our really operational officers. But each influences each other.

Q. And what about field training officers who, as we've

heard, take on the mentoring and training to a degree of first year constables for 12 months. If you have field training officers who are displaying those kinds of characteristics that you have identified in that paragraph is that a risk for the junior constable coming through? Yes, I would say that we have to be very careful about who we choose in our mentoring roles in police agencies and what characteristics our leaders are demonstrating, because they certainly will have an influence. It's a hierarchical paramilitary organisation, very rank structured. ranks do influence lower ranks. So we need to tackle - and I think the other thing around when we talked about doing surveys and monitoring, what it also allows us to do, it allows us to understand issues at every rank, at different years of service, by gender. This is not a one solution fits all. We need to really understand what's impacting on our police and tailor bespoke interventions that really address the underlying issues that create that feeling of being devalued or not important or not respected by the community or the organisation.

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> Let me pick up on that issue of creating interventions Q. Would you mind going to page 8 of your report and paragraph 6.4. Mr Operator, the pinpoint reference is There you say that there's research that you were 0010. involved in last year which concluded that more emphasis needs to be placed on the development of interventions and programs that are designed to reform the organisational What would those systems and culture of police agencies. interventions and programs look like for the QPS? So I would just preface it by saying that, because there's been an overwhelming focus on trauma and the impact on trauma, police agencies across the world have tended to focus on interventions that try to modify or assist around trauma and forget about organisational and operational factors because we haven't had purview over those, and that has also led to a real focus on individuals. So trauma in policing is inevitable. So we can do our best around mental health and wellbeing to prepare our officers for what they will see and what they experience in terms of traumatic events, and then we need to have interventions in place to assist them once they have experienced those things; so to assist them process and move on.

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Around organisational and operational stressors, and this is what I'm talking about in this paragraph, is the thing that we can change, the thing that we actually know

is causing significant harm in our police agencies are under the control of the organisation. They're able to be manipulated and modified. So if we find that fatigue is a major issue that is impacting officers and causing harm we need to look at that. We need to unpack what is the fatigue. Is it around shift schedules? It's the volume of jobs. It's the distribution of types of jobs that officers are called to.

So many of these interventions and initiatives will be new. They need to be innovative. I think that resulting from the statewide survey that we've done with the Queensland Police it will require innovation around how do we modify workplace factors, how do we modify supervisors being uplifted to give their officers that value and recognition and not only being told to do it; understand why it's so crucial to engage in that behaviour for the success of officers and the organisation.

- Q. Is there a role for external supervision or clinical sorry, practice supervision or counselling for police officers here?
- A. So here in the Queensland Police Service, and it's replicated in most places, psychological services are available both internally, so internal human service officers, internal programs and courses, and the Queensland Police also have relationships with external providers as well. So officers can choose whether they access an internal service or they might access an external psychologist or intervention program.

That is really critical in terms of the issues around police officers often being reluctant to engage in help seeking. They're reluctant to engage in help seeking because there's a "suck it up" attitude that's traditionally been in policing, that, "I should be able to cope with what I'm doing." But the issue is also around confidentiality. So many police officers across the world in all police agencies are fearful, if they reveal mental health or wellbeing issues, that that will have a negative impact on their job and their career.

- Q. Do you have any sense of how prevalent that help seeking stigma is within the Queensland Police Service in particular?
- A. I'm not aware of any recent research that has asked about particular prevalence of help seeking. If we look at

other research which I would say is very comparable to Queensland Police it's up to 80 or 90 per cent of officers report some hesitancy in help seeking. Now, we're making some inroads into that because we've started, as you've rightly said, providing internal as well as external. So we're providing options for officers so they can be comfortable.

We also have come a long way around how do we react to police officers who have psychological issues. So traditionally back in the old days, I guess, if you presented with a psychological concern or diagnosis you immediately would be taken off the road, your gun would be taken off you, blanket. Now we have a much better nuanced view of managing psychological issues within police agencies. So I think those steps, that recognition is slowly reducing the stigma around help seeking. But we certainly have a long way to go and it must be a continued conversation.

MS O'GORMAN: Thank you, Dr Drew. Those are my questions. There might be some more from others.

A. Okay. Thank you.

COMMISSIONER: Ms Hillard?

<EXAMINATION BY MS HILLARD:</pre>

Q. I only have a couple of very brief questions, appreciating that this is not an area that I'm an expert in at all or the Women's Legal Service. You mentioned about unfair scrutiny and perceptions of unfair scrutiny compared to fair accountability and those perceptions. The Commission has heard a lot of evidence about inconsistency between training, inconsistency in application of guidelines and those types of issues. I suppose it's common sense but you might have a view about the need for consistency in order for it to be fair for the police officers.

A. Yes, I think consistency really is the key. Then when we're thinking about consistency, consistency sometimes brings with it a lot of bureaucracy. So having a streamlined process. So training in a way which is very transparent, that understands that officers are under extreme pressure in terms of the volumes of call-outs that they have, to make things that work to provide that very clear process driven approach which is needed for scrutiny

and for effective outcomes, but not forgetting about the I think we become very good at developing policies and procedures and tick forms that create a lot of time without thinking what is the human impact, and also what's the human impact in terms of an officer actually being able to engage. I think that's one thing that we also lose sight of. When we think about scrutinies, we also have to have time. Police officers are often talking about, "I don't have time to interact the way I thought I would as a police officer. I want to interact with the community. I'm here to serve. I'm here to help." But sometimes that becomes all about process and forms and So that human touch is actually lost because of paperwork. those systems.

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Q. And I believe that you were in the back of the courtroom when Dr Nancarrow was giving her evidence and you probably heard her speaking about how responding officers really need clear guidance and clear assistance on what's expected of them in order for them to be able to do their But can I ask you if you have a view about the beneficial nature of that as well for those police officers, ignoring - let's put aside the admin side of it, but just as a principle have you got a view about that? Yes, I think that in terms of psychological and health and wellbeing the one thing that impacts on officers is frustration in regards to this crime type, but many others, where they're called to the same location, potentially the same offenders over and over again. That frustration leads to significant amounts of burnout and exhaustion and also cynicism.

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So I feel like police have been caught in a reactive, overly reactive role and that's what they have been needing to do without having any time or resources to be proactive and also engage other stakeholders that perhaps are more appropriate than their continual reaction to the issue. So I think that leads to a lot of frustration. Also sometimes that intense scrutiny that they're under, they throw their hands up in the air and, "I don't know what else we can do. We're reacting and we're trying to keep on top of this, but the volume becomes overwhelming."

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46 47 Q. Just the last question I had was you spoke about the perception of police officers about wanting to engage with mental health assistance, even if they might really need it, because of a concern about confidentiality. Are you able to say whether or not the practice is within the Queensland Police Service for confidentiality to be maintained if a police officer does disclose?

A. Yes. So Queensland Police Service has quite clear guidelines around confidentiality in terms of accessing services internally as well as externally, and I guess that what we're overcoming is years and years of historic stigma around mental health. You know, it was only five, six, seven years ago where there wasn't really any open conversations around mental health of officers. So we've come a long way in a very short amount of time. We have a long way to go.

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But I certainly think there's been a lot of proactive steps. The Queensland Police Service has just released its mental health and wellbeing strategy as an overarching umbrella to start bringing resources and options together, and that is a good leap forward in terms of having a systematic approach and being able to identify all of those factors that I talked about before, having a good understanding of what's happening and what's needed to support officers more.

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Is there a scenario where a police officer might be Q. trying to seek mental health assistance where that information would be disclosed to the Queensland Police Service? I mean, I can think of - I'll use a way-out example of psychotic behaviour, for example. But it doesn't have to be that extreme. What kind of scenarios would they be disclosed to the Queensland Police? So really the basis I guess of the decision around, say, taking an officer off frontline duties or removing their weapon is harm to themselves or others. That's the fundamental test. Officers are aware of that. relationship between a psychologist or a social worker and a police officer will get to the point where an officer understands that actually that's the best scenario for them, and that's the benefit of having ongoing mental health support for officers and having those internal resources and human services officers. They can create relationships with police so it's not always a crisis that they're coming to that support. So they feel open to share, but also know that there won't be a knee-jerk reaction to them seeking help, because obviously that's the worst thing we can do.

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But of course there would always be the case that if

there was a danger to themselves or others that more significant steps would be taken, and obviously confidentiality would have to be breached. But that's said very up front before engaging with police that, you know, they understand that that's the parameters.

Q. There's a consent process when they engage in the mental health assistance?

A. Yes.

MS HILLARD: Thank you, Commissioner. That's my questions.

MR McCAFFERTY: I haven't given notice, but I just have one question for Dr Drew, though, Commissioner, with your leave of course.

COMMISSIONER: Yes.

<EXAMINATION BY MR McCAFFERTY:</pre>

- Q. Dr Drew, given your knowledge of the QPS mental health services would you regard it as being adequately resourced for officers presently?
- A. I think there needs to be more resources, but potentially I'm biased as a psychologist.

Q. No, be biased; by all means.

A. I think that, as I said, we're at the beginning of putting a holistic approach in agencies across the world, a holistic approach to mental health. I think significant steps have been taken over the last few years. But I certainly think that there is scope for more both, as I said before, reactive but also proactive. So I would see now even more investment should be put into prevention.

Q. How would that be directed? When you say prevention, what sort of resources do you think that would require?

A. So in terms of, I guess, a structural approach. So police agencies have always been quite well resourced around, say, injury management and trying to support officers after something has occurred, though many would argue that we still need more resources in that as well. But we've been less well resourced around prevention.

So things like leadership programs, for instance, so actually developing leaders to be able to identify and

modify workplace factors that they may not even know that's 1 2 impacting on their officers' health and wellbeing. those things are before the event; things that are able to 3 4 be identified very early on. 5 6 So the ARC Linkage research that I'm doing with Commissioner Carroll, we're developing an early warning 7 system for police units, work units. So that's about 8 developing an understanding in metrics around red flag 9 indicators of when a police work unit might be displaying 10 factors, organisational/operational factors, in their 11 officers that we know is likely to lead to psychological 12 harm down the track. 13 14 15 So when we start introducing and developing innovations in police agencies like early warning systems 16 that would inevitably require more resources and better 17 support for a strategy team, an overviewing team so there's 18 pockets of help in the police agency, pockets of programs 19 But I would see an umbrella that bring 20 and initiatives. 21 together and effectively use psychological resources would 22 be a good step forward. 23 24 MR McCAFFERTY: Thank you, Dr Drew. Thank you, 25 Commissioner. 26 27 MR HUNTER: No questions, thank you. 28 MS O'GORMAN: 29 No further questions. Might Dr Drew be 30 excused? 31 Thank you very much, Dr Drew. COMMISSIONER: 32 33 34 <THE WITNESS WITHDREW 35 COMMISSIONER: We might just adjourn. 36 37 38 MS O'GORMAN: Thank you, Commissioner. 39 40 COMMISSIONER: Two o'clock? 41 42 MS O'GORMAN: Thank you. 43

LUNCHEON ADJOURNMENT

Yes.

COMMISSIONER:

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Commissioner, the remaining two witnesses 1 MS O'GORMAN: 2 for today will both be by way of videolink. Can I just check, Mr Operator, is the first witness available now? 3 4 5 OPERATOR: Both are available, but I will bring in 6 Ms Cripps. 7 8 MS O'GORMAN: All right. Thank you. So, Commissioner, 9 I call Kylie Cripps. 10 <KYLIE CRIPPS, affirmed:</pre> 11 12 <EXAMINATION BY MS O'GORMAN:</pre> 13 14 15 Dr Cripps, can you see and hear me? Q. Yes, I can. 16 Α. 17 All right. Thank you. Can I just confirm you are an 18 associate professor of law? 19 20 Α. Yes. 21 22 And you're the academic co-convenor of the Gendered 23 Violence Research Network at the University of New South 24 Wales? 25 Α. I am. 26 All right. You have a PhD, a masters in criminology 27 28 and a bachelor of arts? 29 Α. Yes, I do. 30 31 And your research has involved research in rural and 32 remote areas and contexts and the significance of 33 integrated responses in those places, and you've also 34 conducted a number of in-depth examinations of coronial 35 inquests? Yes, I have. 36 Α. 37 38 Thank you. In October of 2020 the Indigenous Justice Clearinghouse published a report or an article that 39 you wrote titled "Implementation options and evaluation of 40 integrated service model responses to address 41 family violence in remote Aboriginal and Torres Strait 42 Islander communities; " is that right? 43 44 Α. Yes, they did.

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Q. And you provided a copy of that article to us to assist the Commission to understand some of the issues

1 addressed in it?

> Α. Yes, I did.

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- I just have some questions for you this afternoon arising from that article, if I may?
- Yes, absolutely.

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- Q. One of the first matters that you identify All right. on the first page of the article is the overrepresentation of Indigenous people around the world but relevantly for our purposes here in Australia in the criminal justice system as being both victims and perpetrators of domestic and family violence.
- Α. Yes.

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Your article identifies over and above that issue that Q. Aboriginal and Torres Strait Islander people experience domestic violence differently to different cohorts in Australia?

So when you look at the context in terms of the

Yes, they do, and if I may elaborate.

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Yes, please. Q.

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socio-demographics of Indigenous people in Indigenous 25 communities and when you also look at the intersections of race in Indigenous communities as well when they intersect 26 27 with social systems, the context of seeking help and 28 reporting violence can be incredibly problematic. 29 really difficult decision for Indigenous women in 30 particular to consider what to do in these circumstances,

31 to consider what their options are and to consider what to 32 do and who to turn to in those circumstances, and to balance those choices in terms of, "What's the impact going 33 34 to be for my children? What's the impact going to be for my other family members, for my extended family members, 35 for my community? But also how do I balance the demands 36 37 from a service sector? What's going to be the response 38 from police? What's going to be the response from Child Protection, if Child Protection get involved," because our 39

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45 46 47 reporting responsibility. requirements from other service agencies that get involved, and how do I balance all of those responses as I try and

navigate these systems? And what are my needs, what are my desires in these kind of contexts?"

community understands that police have a mandatory

So Indigenous women often in these circumstances feel

"What's going to be the

that nobody is helping them navigate those options. Everybody wants a piece of them, and they find it really difficult to work out how to find a safe place to be harboured in this context, and particularly in terms of looking after themselves and keeping their children safe.

Q. In light of those kind of findings you say in your article that Indigenous groups tend to prefer a holistic response that supports victims, hold offenders accountable through engagement, but also focus on the healing of families and communities. Can you tell us a little bit about that?

A. Absolutely. So recognising that in the Indigenous context often, you know, when you sit with victims of violence the story that they will share with you is one of their current experience of violence, but they'll also share experiences of being victims of violence in other relationships, of potentially being a victim of violence in their childhood, of having witnessed their mums or their aunties having been victims of violence. So there's layers of trauma from those experiences.

There's also the issues around how they manage that. There's a need in thinking this through in terms of - the holistic approach to this is in terms of, "What kind of services do I need to manage that trauma?" But it's also thinking about what other co-morbidities are existing in this situation. How has the victim managed their situation until now? Are there any mental health issues that need to be addressed? Are there any health issues outstanding in this circumstance, because if they have been a victim of violence previously there may be injuries that are still outstanding that still need to be addressed, that still need to be monitored?

So it needs that multi-sectoral response in terms of looking at mental health issues, looking at trauma-informed counselling, it's looking at the opportunities that victims want in terms of being empowered. What kind of future are they envisaging for themselves outside of being a victim of violence? What educational opportunities do they want? What kind of employment do they want? Because they don't want to be a victim of violence. They want to see a future outside of this. So a holistic response enables a healing that encompasses all of this, and that's the kind of response that we're needing.

If I can add just a little bit further, one that looks at women's issues but also looks at the perpetrator's issues, recognising that justice responses will often take the perpetrators out of the community for a time, but those perpetrators will come back to the community. So if we're not addressing the perpetrator's needs and what their issues are they will inevitably, as Judy Atkinson said many, many years ago, they will inevitably come back to the community more violent than they were when they left, and it's about how do we stop that cycle of violence continuing.

So we need to make sure that if we're taking them out of the community and putting them in a justice institution that we're actually providing services, that we're not just holding them for a period and doing nothing. We actually need to be making sure that they have got access to family violence programs, that they have got access to rehabilitation programs, but that we're also connecting them back to supports in the community so that when they come back to the community they have got a support network, and a support network that's going to keep both people safe so that if their wanting their relationship to come back together it can be done in a supported way.

Then it's also in a holistic way it's also thinking about, "What are the needs of our kids?" The kids have also witnessed this violence and their needs need to be addressed. Often what we find in the Indigenous community is there's a real lack of support services available for children and their needs tend to be neglected, not through us as Indigenous women not wanting to address the needs of Indigenous children; it's that we don't have the professional support available in the Indigenous communities in response to this.

This is not to say that we want Child Protection to come in and remove children. That's not what I'm suggesting and that's not what I'm advocating for. What I'm saying is we want holistic support services that recognise that everybody in these communities are affected by violence and that they need the supported framework to respond to this.

If I can add one more thing in response to this is that often when one looks at holistic responses we think about it in the context of a nuclear family and our

responses tend to be a one-size-fits-all, that it's a nuclear family that we're responding to. But Indigenous households are not nuclear. They're often not nuclear. Aunties will live - there will be multiple families living in the household. Elders and aunties in the community might be living in the household. So when we look at risk assessment frameworks, for example, we need to be looking at is it just mum and the kids that are at risk and that need to be supported or is it that there's others in the household that also need to be supported.

So when we're looking at that holistic framework again about responding to those that have been harmed as a consequence of family violence we need to look at what their needs are and how they have been harmed as a result of family violence. Does that answer?

- Q. It does, thank you. At least on one level it would seem that integrated domestic and family violence service models would go some way to meeting a holistic approach in the way that you're advocating, but you argue in your article that there are risks for Aboriginal and Torres Strait Islander peoples and communities in those models as well. Can you explain that to us?
- A. Yes, absolutely. So there are risks because the models that we've seen to date have very much focused on a one-size-fits-all approach. They're focused on common risk assessments. They're focused very much on increased information sharing. Now, on the face of it these kind of measures are important and really have improved the lives of those that have appeared before these integrated frameworks.

But what I will say is that when we share increased information what we need to be thinking about is that sharing information on its own doesn't necessarily improve people's lives. Certainly in my experience, having been out in the communities who have talked about being involved in integrated frameworks, the common conversation around these has been that when you share a lot of information about Indigenous people's lives with government agencies and people aren't familiar with all of that context, the big picture as many people would say, then the increased likelihood of unintended consequences taking place increase exponentially. What I mean by unintended consequences is that the likelihood of children being removed from families increases.

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It will often depend on who is chairing these committees, who is chairing these committees around So often in the states that I've integrated frameworks. looked at the people that have chaired these committees have been police, particularly for the high-risk cases. Depending on the biases that we take into these committees - you know, I'll share one story, and one service that advocated for victims was in attendance at this particular case and she said that the police were chairing this particular meeting. The rap sheet of the offender was shared and then the rap sheet of the victim was shared, and this was after the victim service had shared pictures of the injuries that the victim had received. So the rap sheet of the victim had been shared.

Then Housing, the Department of Housing, shared that their house had been left, that there was rental arrears and that the victim wouldn't get the house back. So she was effectively homeless. Then Child Protection said, "So you're effectively telling us that she's been a criminal previously, that she has had a violent record previously, and that she's homeless. That essentially tells us that we need to remove the children, because in this instance she's also enabled the children to be exposed to family violence." Until that meeting those children were staying with mum in the shelter.

So it's that information sharing process. meetings should be about holding the victim and supporting the victim to get through their circumstance. sometimes the unintended consequences of these can be the worst outcome for mum. So I think that we really need to be thinking about what would mum want as an outcome from these meetings. How are we empowering mum in these consequences, because in many of these integrated frameworks there isn't consent - consent isn't required from the victim to be a part of these processes. case is discussed irrespective of their consent, recognising that they are at imminent threat of serious So the case needs to be discussed to harm and/or death. protect them.

But how do we empower victims, how do we support their empowerment if we're making a lot of decisions in these framework meetings and then after the meeting we're coming and saying, "We've made all of these decisions and one of these decisions is that we're removing your children."

Q. To answer that question, that rhetorical question that you've just posed there, in your article you refer to the model that's been implemented in New Zealand.

A. Yes.

- Q. And you refer favourably to that model where, as I understand it, Maori evaluators were engaged to assess the responsiveness of the integrated domestic and family violence model that was in place in New Zealand and determine whether or not the approaches which were adopted as part of that framework were culturally appropriate for Maori people. Is it your view that something similar could or should be done here in Queensland?
- A. Absolutely. Absolutely. From my perspective one of the failings that I've seen in the integrated models across the country here is that there hasn't been a requirement, and there should be a requirement, that Indigenous agencies be at the table. In any integrated framework an Indigenous agency needs to be at the table to advocate for Indigenous clients, Indigenous victims.

 Further to that, one of the most important things that was demonstrated in the New Zealand model is the importance of critical reflection, of being able to put a model into practice to realise early that something's not quite right and to engage with Maori evaluators and say, "Right, this isn't working for this particular group. How can we make this right?" And then being open to taking on the cultural critique and saying, "Okay, this is what we need to do to make this right and to make this culturally safe and culturally appropriate to those that are experiencing violence at its worst."

So it's the openness and the applicability of a system to be able to do that, and I think that the models that we've seen in Australia we haven't been open enough to engage with that critical reflection and the willingness to have Aboriginal and Torres Strait Islander people at the table. That has to be a fundamental.

Q. Can I check that I understand you correctly that in your view it's important that there's Indigenous participation in the initial set-up of any co-responder type model, but then also ongoing participation by an appropriate Indigenous agency in the delivery and the

1 roll-out of that model?

A. Yes, absolutely. I mean, one of the important things that I found in this research was that there was a strong focus on government agencies being at the table. In many of the state based models across the country it was at the discretion of the chair of these models as to whether community based victim services were invited. So they didn't have standing in these models unless they were invited. So sometimes these meetings took place and the victims didn't even have an advocate from a community agency that was doing all the work for the victim. So that is another recommendation in a sense that if you're going to have a discussion about a victim and you haven't got victim community services at the table then you're not going to be able to do the appropriate advocacy for these victims.

MS O'GORMAN: Thank you, Dr Cripps. Those are the questions that I have for you. There may be questions from others at the Bar table as well.

COMMISSIONER: Ms Hillard?

<EXAMINATION BY MS HILLARD:</pre>

Q. Thank you. Dr Cripps, in your report on page 2, I'll just read the reference for everyone here, [KCR.002.0001], but it's on the first page of your report you have some statistics for First Nations people and homicides. I just wondered if you're able to confirm a couple of other matters. A First Nations woman is more likely to be killed when there's domestic and family violence involved; isn't that right?

A. Yes, absolutely. And the latest statistics, if you'll give me just a moment, so the latest statistics in terms of death rates is that our women make up 16 per cent of all female murder victims in Australia.

Q. And it's the case, isn't it, that a First Nations woman is 32 times more likely to be hospitalised from domestic and family violence?

A. Yes, absolutely. If I can expand on that for a moment; is that okay?

Q. Sure.

 A. So, in terms of they're 32 times more likely to be hospitalised for violence, Indigenous females are 34 times

more likely to be hospitalised for family violence than non-Indigenous females. So the point that I want to add to that is that when we look at what they're being hospitalised for it's more often than not blunt force trauma. When I've looked at 151 coronial deaths of Indigenous women over a 20-year period, 60 per cent of those women died as a result of blunt force trauma.

That term in and of itself doesn't capture what those assaults look like and what they feel like. The offenders can and do use their bodies to inflict injuries. But they also use whatever is at their disposal: rocks, sticks, pieces of concrete, furniture, power cords, saucepans, tyre rims. These are brutal attacks that are often seen as less serious by the courts as they don't involve weapons. But I would argue that because they're prolonged beatings of these women they are arguably more aggravating than we would give them credit.

Further to that, what we see in the autopsy reports is that the head injuries are significant but it's also the injuries, the bodily injuries. But we do have significant head injuries in the population group of women 25 to 34.

Q. Yes, Dr Cripps, I'll just talk about that as well. Putting aside the homicide and the autopsy reports and the head injuries you're talking about, First Nations women who are hospitalised are more likely to suffer head or neck injuries, and it's around about two-thirds of them suffer head and neck injuries; isn't that right?

A. Yes.

Q. And when they're pregnant they are more likely to have head and neck injuries, about 65 per cent; is that right?

A. Yes.

Q. And when they're pregnant about 35 per cent of them have trunk injuries?

A. Yes, they do. They do.

Q. And when we're talking about the importance of head injuries as well, and you spoke about the need to protect children and their exposure, girls, one in three are likely to have had a head injury from domestic and family violence if they're a First Nations person?

A. That's right.

- Q. And boys are one in two are likely to have a head injury if they're from a First Nations community or just a First Nations person; is that right?
 - A. Yes, there is a significant number of boys and young people that experience head injuries.
 - Q. So when we're talking about the high incidence of head injuries in women, and here we're talking about children as well, who are victims of domestic and family violence that is going to have an impact, wouldn't it, on how they're able to seek help, talk to police, talk to whoever the support providers are and to engage those services; isn't that right?
 - A. Absolutely. So in that moment, that immediate moment, after the violence has taken place there's a rush of emotions. There's also the rush of the injury. Trying to put logical thought together when you've been beaten, it's a difficult situation to be in and I think that people really do underestimate the context of that situation. Head injuries are significant. You would have to ask a medical professional the significance of a head injury and how people can put logical thought together. But, in terms of trauma, even the trauma itself would make this difficult.
 - Q. So if we talk about it from a policing perspective and a policing response, first of all, they need to be trained, don't they, to understand the high likelihood that the female First Nations victim has head injuries that are likely to impact on their ability to engage?

 A. Yes. They do need to be trained in it.
 - Q. And would you agree, too, that in terms of policing responses there needs to be an increased awareness to seek medical attention for that First Nations woman for the head injuries again before they're trying to meaningfully engage and take those policing actions?
 - A. Yes. If you can visibly see that there are head injuries, then you should be absolutely seeking medical attention, and particularly I mean, if you've been trained I mean obviously the evidence that we're seeing is that there isn't enough training, but if you've got evidence and research evidence that's saying that this population group has a history of head injuries, then you should be seeking an understanding of what the context here is before proceeding.

- Q. And you would agree, wouldn't you I know you're not a medical person, but from a common sense perspective and dealing with First Nations women they can have concussive injuries with no physical observable injuries, isn't that right?
 - A. Yes, yes. There are many in the cases that I've observed, particularly in the coronial context, where they have been banged up against a wall. So the injury won't be observable from the front.
 - Q. So when we're talking about this holistic response that Counsel Assisting was asking you about it's really quite important that it includes medical professionals, doesn't it?
 - A. Yes. Yes, it does.

- Q. And not only medical professionals but facilities to be able to examine and x-ray those First Nations women and children who are very likely to have had those head injuries?
- A. Yes, absolutely. And what I would also say in terms of the medical context is making sure that it's not just the imaging that's required; it's having appropriate medical people that can engage culturally appropriately with our women in a way that enables our women to engage with them, because going into a hospital when again there have been historical experiences of people not receiving hospitals in a safe way is not necessarily going to entice people to feel safe in that setting. So I think that we need to really make sure that if we're taking women into these settings in the circumstances that they're in that we're doing our best to make sure that that's a safe and comforting space to be in in the context of the violence that they have just experienced.
- Q. And, picking up on the words that you've used and some of the evidence the Commission has heard, there's been talk about a culturally safe environment. That's really what you're talking about, aren't you?

 A. Yes. Yes, that is.
- Q. And that's not the cold clinical hospital; that is something that is tailored for First Nations people perhaps?
- A. Yes, and it's talking about is there an Aboriginal health worker or an Aboriginal health support person, is there a family member. It's talking to the woman to find

out who they think is going to be a safe person to be with them in that moment. To be isolated in that circumstance is to further deepen their fear in that moment. So you really need to work on how you bring safety to them, and that's through a discussion around, "What would make you feel safe right now? Can I get you a cup of tea?" It's the physical presence of being safe, but it's also what do you need around you to make you feel safe.

Q. If we can put it in those sorts of terms, the emotional or psychological safeness as well?

A. Yes.

- Q. In respect of children, and you mentioned the Department of Child Safety, there's been some evidence about if there is a first responder co-located or a holistic response, whichever words one wants to use, would you agree that to assess the safety of children and assess their risk that perhaps it should be someone other than the Department of Child Safety, perhaps a non-government organisation that can assess the risk while also encouraging the woman to come forward and report domestic and family violence?
- A. That would be helpful, yes. It would be less intimidating. If it was an Aboriginal service, that would be less intimidating.

Q. And, finally, you were asked some questions about participation and agency delivery, and you made the point that the involvement of agencies is up to the discretion of the chair in those sorts of circumstances. But do you have a view about the discretion or the decision about where the ultimate treatment or where the ultimate direction should lie? Do those same problems with the discretion exist with who is the decision maker?

A. So typically in these models it's meant to be a group effort. You know, the group of government agencies who sit in these meetings are meant to make a decision together and be in agreement together on how the case is meant to proceed. If there was disagreement they would have to work it through. The meetings are meant to continue on a fortnightly basis to produce accountability in terms of have the services or the government agencies who said they were going to do what they were going to do done exactly that so that each organisation can be held accountable for what they have said they're going to do. So any

disagreement should be able to be resolved in those models

through that process. I'm not sure if I'm answering your question. Do you want to take me there again?

- Q. It was just really an expression, but I think that you have answered it and ultimately you said it's a group decision and it has to be an agreed decision about the best interests of persons affected?
- A. Absolutely. And, as I've said previously, I think the piece that's missing is the empowerment of the victim. If she's not part of this then there's a problem. As I started out in this testimony, she needs to feel less isolated and she needs to feel as if she can take control of her life. These are big decisions and if others if we look at power and control in the issue of violence, the perpetrator has had all the power and control; right? Then we're putting her into an integrated model where government agencies are taking all the power and control; right? How does the victim take power and control back over her own life if one group is taking it from her at each stage?

Q. I was going to say I suppose importantly from that, even if she is in hospital with a head injury or she's had some other sort of serious other injuries, she still deserves a voice and you say must have a voice at those meetings?

A. Yes, absolutely.

MS HILLARD: I don't know if anyone else has any questions, but it will just be a moment. Thank you.

COMMISSIONER: Can I just ask you something, Dr Cripps, whether you've got any thoughts on this. One of the things that I'm finding it difficult to reconcile is the need for a victim to have a voice and some power over what happens to her or on her behalf but also the need, particularly in remote communities or First Nations communities, to make a very strong statement that violence against women is not tolerated and the need for police to act on criminal offences and offences of violence in the same way that they might against stranger/stranger violence and not undervalue in effect the violence in the home.

A. Yes.

COMMISSIONER: Any thoughts?

A. They don't need to be separate issues. They can be - I think that police can still take a stand against violence and I don't think that - you know, when I think

about victims wanting to take a stand against violence, the women just want the violence to stop; right? They are very clear. When I'm out in the community the women are very clear they just want the violence to stop, and they will use whatever methods or processes they can to get that violence to stop, whether that's community services, whether that's women's groups, men's groups, community organisations, whether that is the police. So having all of those options available to them is an absolute requirement. It's not an either/or. It is having all of those options so that people have choice in those moments.

COMMISSIONER: We wouldn't give choice to someone who, for example, is outside a nightclub and someone comes up and king hits them or whatever, and it's on CCTV and they end up in hospital. The person is going to get charged.

A. That's right.

COMMISSIONER: In this situation the woman may not want the partner charged.

A. That's so.

COMMISSIONER: So there is that tension, isn't there?

A. There is that tension, and I think that in that - I mean, at the end of the day the law is the law and I think that, you know, charges may have to be done because the law is the law, and there is accountability in these kind of processes. Sometimes it is the accountability process that enables a perpetrator, for example, to realise that, "I've done the wrong thing," and it enables someone else in our community, whether it's an Elder, whether it's a community organisation, to take the perpetrator aside and say, "What's going on in your life that we can help you

with so that this doesn't happen again?" So sometimes it's that moment, that brush with the law, that enables another

action that sees those consequences in a different light.

COMMISSIONER: It pulls in the support.

A. Yes, it pulls in the support so that the preventative actions can take place. I think that that's what we need to be looking at, is how do we resource those other options so that we can identify those individuals and those community organisations in our communities that can do that work, and there are people that are doing that work across our nation. When I look at the Koori Courts and the circle sentencing and all of those kinds of options, there are Elders and Indigenous leaders across the country that will

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1 2 3	pull people up and say, "You've done the wrong thing. This isn't on."
3 4 5 6 7 8 9 10 11	I've heard some wonderful stories in communities where, you know, a young one has turned up before the Koori Court and then later is down at the local supermarket and aunty has pulled him up and says, "So how are you behaving these days? What are you involved in? How is your employment? How is your life back on track?" So it's an opportunity to produce community cohesiveness as well.
12 13 14 15 16 17	So the law is blunt in these moments of violence and it is a very blunt instrument in producing accountability. But it can be backed up with community options in terms of producing further accountability and supports so that prevention options can be achieved locally through that holistic response that I talked about earlier.
19 20	COMMISSIONER: Thank you. Mr McCafferty?
21	MR McCAFFERTY: Nothing, Commissioner.
22 23	COMMISSIONER: Ms Williams, you've lost Mr Hunter again?
242526	MS WILLIAMS: He is otherwise committed, Your Honour. I have no questions.
27 28	MS O'GORMAN: Might Dr Cripps be excused?
29 30	COMMISSIONER: Thank you very much, Dr Cripps.
31 32	<the td="" withdrew<="" witness=""></the>
33 34 35	MS O'GORMAN: Commissioner, I call Professor Andrea Phelps.
36 37	<pre><andrea affirmed:<="" phelps,="" pre=""></andrea></pre>
38 39	<examination by="" ms="" o'gorman:<="" td=""></examination>
40 41 42	Q. Professor Phelps, can you see and hear me? A. Yes, I can.
43 44 45 46 47	Q. All right. You're the deputy director of Phoenix Australia, the Centre for Post-Traumatic Mental Health? A. That's correct.

- Q. And Phoenix Australia, the Centre for Post-Traumatic Mental Health, is an independent not-for-profit organisation with an affiliation with the University of Melbourne?
 - A. That's correct.

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- Q. Its purpose is to help individuals and organisations understand, prevent and recover from trauma?
- A. That's correct.

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- Q. In terms of your own personal background over the span of your career you have and continue to consult with government departments about organisational responses to psychological trauma, including with I think the Australian Border Force and the Australian Federal Police?
- A. That's right.

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- Q. And also with state police, fire and ambulance services?
- 20 A. Yes, that's right.

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- Q. In your capacity as the deputy director, you and others at Phoenix Australia have provided the Commission with a report dated 26 July 2022?
 - A. That's correct.

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- Q. Thank you. I just have some questions for you arising out of the contents of that report. Do you have a copy of it there with you?
- A. Yes, I do.

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- Q. All right. Thank you. Can I ask you, please, to turn to page 3 of that report, and I have some questions for you about the three categories of risks for compassion fatigue and burnout.
- A. Yes.

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- Q. Firstly, you've identified that exposure to another person's suffering and disclosure of traumatic events can be an exposure factor?
- A. Yes, that's right.

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- Q. You've indicated that there are certain high-risk work areas which are known to be problematic for police in this regard, and that would include, wouldn't it, responding to domestic and family violence?
- 47 A. That's one of the categories; that's correct.

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Q.

A. PHELPS XN (0'Gorman)

In answering the question as to

Thank you. Then in terms of the second of

So that's a more general finding rather than

And that would apply, although you've stated it there

On the other hand, longer term service can also

So the findings, as you suggest

It's not a very clear

the risks, the individual factors, you've identified that

specifically in relation to working in family violence. But, yes, that is something that's been found for police

in a more general way, would it not, to police officers

be a risk, can it not, for individuals because it can mean

trauma over long periods of time, if they are still in the

job, that their risks will likely increase over time.

I understand it the research clearly demonstrates that

of organisational culture and burnout of an individual

on the individual when we thought about resilience, but

increasingly now we recognise that organisational factors

what is the current best practice for preventing compassion

fatigue and burnout in organisations like the QPS you talk

about primary preventions, and in the third paragraph under that heading you say, "There's considerable interest in the

promise of pre-incident exposure training in building

resilience and mitigating the effects of exposure to

trauma." Can you tell us what pre-incident exposure

can be very important. Things like morale, team spirit,

But certainly when people have been exposed to

Then finally in respect of the third risk they fall

Yes, I think that we used to focus almost exclusively

If I could take you then, please, over to

under the umbrella term of "organisational factors", but as

there is a direct correlation between negative perceptions

but for other caring professions as well, that being younger and less experienced can increase the risk.

can place a police officer at higher risk?

dealing with domestic and family violence? Yes, I believe it would apply.

there's that cumulative prolonged exposure?

Yes, that's correct.

within that culture?

page 7 of your report.

there, are a little bit unclear.

leadership are critical factors.

training means in this context?

being a younger person or a less experienced police officer

A. Yes. So it's a preparation for the sorts of exposures that people may have in their role, and it's teaching people to use cognitive and emotional coping strategies while they're exposed to those events. It's a bit like the idea of inoculation, that you give people a smaller dose of what they might be exposed to, teach them how to cope with that, in the hope that that will actually help them to cope when they are exposed in the course of their work.

When I say there's considerable interest in that, there's not yet any proven effectiveness of it in a sustained way. So there have been a small number of studies, but one of the things that Phoenix does is we've developed the NHMRC guidelines for the prevention and treatment of PTSD and we know from the evidence that there's not enough evidence at this stage to say with any confidence that pre-incident training does make a difference. But that doesn't stop us from valuing the research and the need for ongoing trials.

- Q. In terms of the research that is available it seems looking at the bottom of that paragraph there that we've just been referring to that in your view modifying organisational and operational risks by training or operational and line managers are the most promising opportunities for primary prevention; am I understanding that correctly?
- A. Yes, that's right. That's where, as I say, the field is sort of moving a bit away from just looking at individual resilience and looking at how you can improve an individual's resilience by changing the organisational factors around them.

- Q. And are you referring there in particular to training for line or middle managers as a way of protecting staff working underneath those managers?
- A. Yes, well, for their own benefit as well perhaps. But things like the awareness of mental health issues, tackling stigma associated with mental health so that people will actually put their hand up if they are having a problem; an awareness of a trauma-informed way of approaching the work and working with each other. So a whole host of things really come into that.

Q. In respect of secondary prevention you do mention over the page the importance of ensuring that recruitment and induction processes foster clarity of the role that the person is going to enter. How important is it in the context of an organisation like the Queensland Police Service that applicant recruits be told about how much of their time is likely to be spent responding to domestic and family violence, for example?

- A. I think that is important. I think that we don't yet have the science to say who's going to cope well and who's not going to cope well. But what we can do is give people as much information as possible about the nature of the work role, and their own judgment of their capacity to cope with that might be an important factor in them deciding whether or not to go ahead with that.
- Q. Later in your report you identify as another well, as a systemic issue that affects the function of the Queensland Police Service as an organisation or equivalent organisations being what the research says about the rates of psychological distress doubling amongst those who have more than 10 years service. What can be done for that cohort of people to attempt to protect their resilience once they reach that level of service?
- A. Look, it is about systemic approaches, I think. A lot of people who have been in police services across Australia for several years have done so when there hasn't been much attention at all paid to mental health and wellbeing. Once people have developed mental health disorders obviously we want them to get the best practice approaches to treatment and to get back to work, if and when they can. But much more attention should be paid to the prevention and early intervention rather than just focusing on that group. But, once people have developed problems, that's not to say they can't recover; but it is a longer journey for them, I think, to recover and to get back to work.
- Q. Is there at least reason for some cautious optimism that, given that in recent years organisations like the Queensland Police Service seem to be more aware of mental health issues for their employees, that in 10 years time and more from now we may see that less people who have had that amount of service are affected by the rates of burnout and compassion fatigue than historically?
- A. Excuse me, my screen froze for a moment then.
- COMMISSIONER: Can you hear us, Doctor?

 A. Yes, I'm fine now. I'm not sure what happened then.
- 47 MS O'GORMAN: Can I just repeat my question for you and

see how we go. I was noting that historically there had been research that demonstrates that people in professions like police suffer significantly higher rates of burnout and compassion fatigue after about the 10-year mark. My question was whether the research would tend to indicate that, given that organisations like the Queensland Police Service are now more aware of mental health issues and putting more efforts into prevention, that that might change in the future; that those hitting that 10-year mark, if there's been sufficient preventative strategies put in place, might be faring better?

- A. That would certainly be the hope. I think there's no doubt that there's an increased awareness of mental health issues. I think the challenge is still across all police services in actually embedding that in a day-to-day sense in terms of how people relate to each other, the sorts of work practices that are engaged in. So it's really the implementation of that that is going to make a difference rather than just the awareness.
- Q. I have two more topics about which I wish to ask you some questions. First of all, in relation to section 9 in your report which is on page 10 you talk about the importance of creating a trauma-informed culture by which I take it you mean a trauma-informed culture within the Queensland Police Service?

 A. Yes.
- Q. If that's right, how does one go about creating a trauma-informed culture within the Queensland Police Service?
- A. So there are two elements to this that are important, I think. One is recognition that the police members themselves may be exposed to trauma and therefore need that trauma-informed approach, but also that a lot of the people that you come into contact with in the course of their work will also have a background of trauma. So an understanding of that and the way they interact with people is all part of having a trauma-informed culture. So it really is both for the people who they're serving in the community and for themselves.

The sorts of things that we would promote in terms of having a trauma-informed culture is being aware of the sorts of impacts trauma will have on people. When people are affected by trauma it tends to affect their sense of safety and need for control. So we really want to promote

 environments where there are fair rules, there are transparent rules, where people feel that they can safely speak up without negative consequences, where within the limits of what's possible they can maintain a sense of control and agency. A trauma-informed approach really builds on people's strengths, so we talk about a strength based approach, rather than necessarily highlighting shortcomings or difficulties but really trying to build on strengths and build professional and personal self-efficacy and agency.

- Q. Lastly, you mention in this section of your report the importance of peer support programs, and I'm just wondering if you could explain for us what those programs would look like within an organisation like the Queensland Police Service and how they would benefit officers?
- A. So typically peer support programs are made up of a representative group of peers of police from different genders, different hierarchical levels, and they're typically selected so that they're the right sort of person who has empathy but can maintain appropriate boundaries with people, has had enough experience to be able to be a reasonable sounding board for people.

One of the things that we always recommend is that peer support services are set up in such a way that it also looks after the interests of the peers, because that in itself can be quite a taxing role if they are the sounding board for other members; so having ongoing support and supervision for the peer supporters, but having them being available for people who might not want to go and see a chaplain or a mental health practitioner but might just want that lower intensity sort of intervention of just having someone to talk to.

 But it is really critical that the role of the peer supporters is understood and fits within a broader wellbeing framework, and that the peer supporters themselves and the people who are seeking their support know when it's appropriate to go to the peer supporters versus a mental health practitioner, for instance. We're not asking them to take the place of a qualified mental health practitioner.

 Q. Just so I understand you're not talking there about a group setting type therapy arrangement; you're talking about individual police officers being known within the

2	A. Correct.
5 5 6 7 8	Q. All right. I understand. A. The evidence really suggests that group based approaches to this sort of thing probably aren't the most effective.
9 10 11	$\mbox{MS O'GORMAN:} \mbox{ Thank you, Professor Phelps.} \mbox{ Those are the questions that I have for you. There may be some more now. A. Thank you.}$
12 13	MS HILLARD: No, thank you, Commissioner. No questions.
14 15 16	MR McCAFFERTY: No, thank you, Commissioner.
17	MS WILLIAMS: No, thank you.
18 19 20 21	COMMISSIONER: That was easy, Professor Phelps. Thank you very much for dialling in, and you can cut the line. Thank you.
22 23 24	<the td="" withdrew<="" witness=""></the>
25 26 27 28	MS O'GORMAN: Commissioner, I can tender tender bundle M, which comprises the statement of Mr Shillito and the expert reports of Dr Nancarrow, Dr Drew, Dr Cripps and Professor Phelps.
29 30	COMMISSIONER: Exhibit 19
31 32	EXHIBIT #19 TENDER BUNDLE M
33 34	MS O'GORMAN: That's all of the evidence for today.
35 36 37	COMMISSIONER: Thank you. Just adjourn until Monday. I think it will be 10 o'clock.
38 39	MS O'GORMAN: Thank you.
40 41	COMMISSIONER: You're not here, Mr McCafferty?
42 43 44	MR McCAFFERTY: I won't. Ms Morris and/or a combination of Mr Craney will be here next week, though. Thank you.
45 46 47	AT 3.05PM THE COMMISSION WAS ADJOURNED UNTIL MONDAY, 1 AUGUST 2022
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organisation as being peer support officers?

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