HEALTH, COMMUNITIES, DISABILITY SERVICES AND DOMESTIC AND FAMILY VIOLENCE PREVENTION COMMITTEE

Members present:

Ms L Linard MP (Chair)
Mr MF McArdle MP
Mr SE Cramp MP
Mr AD Harper MP
Mr DC Janetzki MP
Mr JP Kelly MP

Staff present:

Mr K Holden (Research Director)
Ms E Booth (Principal Research Officer)
Mr J Gilchrist (Principal Research Officer)

PUBLIC HEARING—EXAMINATION OF THE DOMESTIC AND FAMILY VIOLENCE PROTECTION AND OTHER LEGISLATION AMENDMENT BILL 2016

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 14 SEPTEMBER 2016

Brisbane

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Committee met at 9.22 am

CHAIR: Good morning, ladies and gentlemen. Before we begin I request that all mobile phones be turned off or switched to silent, please. I now declare open this public hearing of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee. I would like to acknowledge the traditional owners of the land on which we meet today and pay my respects to their elders past, present and emerging.

My name is Leanne Linard, chair of the committee and the member for Nudgee. The other members of the committee here present today are: Mr Mark McArdle, deputy chair and member for Caloundra; Mr Joe Kelly, member for Greenslopes; Mr Sid Cramp, member for Gaven; Mr Aaron Harper, member for Thuringowa; and Mr David Janetzki, member for Toowoomba South. Today's hearing is part of the committee's examination of the Domestic and Family Violence Protection and Other Legislation Amendment Bill 2016. The bill was referred on 16 August 2016 and the committee is required to report on the bill by 4 October 2016.

The committee is a statutory committee of the Queensland parliament and as such represents the parliament. It is an all-party committee which takes a nonpartisan approach to inquiries. This hearing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind you that intentionally misleading the committee is a serious offence. You have been provided with a copy of the instructions for witnesses, so we will take those as read. Hansard will record the proceedings and you will be provided with a copy of the transcript. This hearing will also be broadcast.

I remind those attending today that these proceedings are similar to parliament in that the public cannot participate. Please also note that this is a public hearing and you may be filmed or photographed. We will invite each witness to make a brief opening statement of up to five minutes and members will then ask questions. I ask witnesses to please identify themselves for Hansard before speaking for the first time and to speak clearly into the microphone when addressing the committee.

AWYZIO, Ms Deborah, Chair, Domestic Violence Working Group, Queensland Law Society

POTTS, Mr Bill, President, Queensland Law Society

CHAIR: I welcome representatives from the Queensland Law Society. Mr Potts, would you like to make a brief opening statement?

Mr Potts: My full and correct name is William Murray Potts, but I think my mother called me that when I was in trouble. For the purposes of this hearing my name is Bill Potts, and I am the president of the Queensland Law Society.

Firstly, through me the society is very pleased to appear before this committee today to speak about what is clearly a very serious issue of domestic and family violence in Queensland and the initiatives in the Domestic and Family Violence Protection and Other Legislation Amendment Bill 2016. The Queensland Law Society applauds the government's commitment to rapid action on the issue of domestic violence and the initiatives being undertaken to reduce the impact of this scourge on our community. I note that I have also had contact with members of the opposition, and I also take this opportunity to applaud their commitment to what is a significant scourge on our community. Whilst opinions may differ as to what is good law, the commitment of our Law Society is always to good law that is effective, that meets objectives, that is evidence based and that is—I suspect this is always a political issue—properly resourced. It is one thing to have excellent legislation, but if there is no proper resourcing, for example in this area around perpetrator courses, diversion courses and the like, then we are concentrating on only one part of the puzzle and we are missing a significant issue. I applaud broadly everybody's commitment and the involvement of this committee.

I will talk briefly about the society, for those of you who do not know who we are. The Queensland Law Society is the peak professional body for the state's legal practitioners, over 9,000 of whom we represent, educate and support in carrying out its central ethos of advocating for good

law, and we obviously hope that is what parliament is all about. It is often said that the only person who entered parliament with good intentions was Guy Fawkes, which is not something that I necessarily agree with. The society proffers its views, which are truly representative of its member practitioners. We are about good law and good lawyers. The society is an independent, apolitical representative body upon which government and parliament can rely to provide advice which promotes good, evidence based law and policy. I am sure that it annoys government and oppositions from time to time, but because we have such a deep well of expertise which we offer free of any form of charge or free of any political bias—we are apolitical entirely—we hope that our consultation is not merely one of listening but also one of hearing, so we thank you for your attention.

The Queensland Law Society, as you may well know, has recently developed best practice guidelines to assist practitioners in dealing with legal matters that are impacted by domestic and family violence. This is a direct response to recommendation No. 107 of the task force report *Not now, not ever: putting an end to domestic and family violence in Queensland*. To achieve this, QLS formed a cross-discipline domestic violence working group shaped by Ms Deborah Awyzio, who is appearing here with me today, to guide and lead this important work. We recently launched this outside the Banco Court and it has been distributed throughout Queensland to our member practitioners. Additionally, the Queensland Law Society has created a public referral list on our 'find a solicitor' service for Queenslanders seeking the assistance of practitioners who specialise in the legal issues associated with family and domestic violence.

That completes my opening statement, but I will of course be here for questions. I should say to begin with that, although my practice has been essentially in criminal law for the past 36 years, Ms Deborah Awyzio has a much more detailed practice in the area of domestic violence, so if you have questions we will try and work them out between us.

CHAIR: Thank you very much, and thank you for your submission to the committee.

Mr Potts: Do you wish to also hear an opening statement from Ms Deborah Awyzio?

CHAIR: You would only have about 1½ minutes because we have a combined five minutes, but you are most welcome to make comments in that 1½ minutes or to make your comments in response to questions.

Ms Awyzio: I am happy to take questions. I was just going to reiterate some of the matters in our submission, but I am sure you have all read that.

CHAIR: Yes, thank you very much.

Mr JANETZKI: My first question might then be to you, Ms Awyzio. Given your specialisation, can you give the committee a flavour of some of the matters that QLS members face and maybe a couple of practical examples?

Ms Awyzio: Certainly. I was involved in a hearing in the Pine Rivers Magistrates Court last week and that hearing related to a woman making an application and seeking protection in circumstances where she had left the matrimonial home. She was fleeing with her children. She filed an application in the Pine Rivers Magistrates Court and obtained an order the same day which had extensive conditions on it, including the children being named on the order and the father being prevented from spending any time with the children and approaching within 100 metres of the children. I give that as the most recent example of a matter that I have been involved in. I was involved in it in that I was acting on behalf of the father. I suppose that is an example of protection being granted in circumstances where the magistrates are just hearing from the applicant without any input from the respondent. That matter was then changed in circumstances where the respondent then filed an application to vary the domestic violence order which was heard the next week and then the magistrate hearing that application determined that there needed to be a variation and the children removed from the order and said that if the evidence submitted in the application to vary had been submitted at the time that the original application was there or if the respondent had had the opportunity to respond the order would not have been made in such strict conditions. That is my most recent example of appearing in the domestic violence court.

There are other matters where you have seen applicants for protection orders really be able to change their circumstances because they have the availability to get an order which is for their immediate protection. There are circumstances where people are subjected to terrible deeds that you just could not even fathom—people acting towards each other in the way that some people have. There seems to be a lot of surveillance of victims at the moment. Quite a number of applications recently have included examples of GPS tracking devices being inserted in victims' cars and microphones being inserted in smoke alarms, so they take out the battery in the smoke alarm and

they put a microphone in there and they can essentially hear everything that is happening. A client came to see me this week and that had occurred and she discovered that the husband had moved out of her home but he was still able to hear every private conversation that she was having. She has now had to resort to getting a security company to come in and do a sweep, essentially, of her home because she obviously does not feel safe there. I suppose that is giving a view from both sides because I do not just act for aggrieved parties; I do act for respondents. Certainly, these amendments are welcomed. I think they are very consistent with the task force recommendations and this is an area where protection needs to be the focus.

Mr JANETZKI: We are seeing some conflicting evidence between the two- and the five-year protection orders. The QLS submission seems a little technical just in terms of how the protection order is obtained. Do you have a view on the appropriateness of two or five years?

Ms Awyzio: I think five years is a long time, and certainly it is appropriate in serious cases of domestic violence where you are talking about controlling violence happening over a period of time, but that is not the only form of domestic violence. This is an extremely complex area where there are different forms of domestic violence. There is that controlling type of violence and then there is situational type violence. Situational type violence tends to arise in circumstances around separation, where there is a traumatic event. In saying that, I am in no way excusing violence that is happening in those circumstances, but there is research to suggest there are those two different types.

With regard to the five years, I think that is a long time. You might have somebody who has been in a relationship for six months who is then subjected to a five-year order. I think we have well-trained magistrates. The Bench Book that has been developed with the resources applied to the Magistrates Court is fantastic. I think we can rely upon judicial discretion to make those difficult decisions, but they might be assisted by having some examples in the legislation as to what they would look at in terms of determining whether the order should be, as it is worded at the moment, five years unless they have a reason for inserting another time period. They might be assisted by having some guidance into things that they would take into account such as the type of violence, the duration of the relationship and personal circumstances of the parties.

Mr JANETZKI: I do not think the QLS submission addresses it, but personal information is being shared between different government agencies. What is your experience with that so far and do you think the bill offers sufficient protection? I know that other jurisdictions have a privacy protocol or something similar. Should that be developed? What are your views on those issues?

Ms Awyzio: I think given the nature of domestic violence, and consistent with the recommendations from the task force, it is very important that there is information sharing. This is a difficult problem to address, so I think you need to have that in the back of your mind when you are considering what needs to occur in relation to that information sharing. From the perspective of the Queensland Law Society, I think our submission was on the basis that we thought there were appropriate protections built into the draft proposed legislation.

Mr KELLY: For the record, my mother calls me Joseph Patrick Kelly. Ms Awyzio, you gave an example of acting for both parties. I have been approached on some occasions by constituents who have been the subject of domestic violence orders where they feel as though their side of the story has not been heard and that those orders have been used strategically to achieve other objectives. I cannot comment on the validity of those cases because I do not have that investigative power, but in your opinion does this legislation seek to address that issue and provide that opportunity for proper consideration of all parties in these matters?

Ms Awyzio: I think the legislation does provide for that, but it is more a resource issue. If an urgent application is made there certainly seems to be the ability for that to be heard quite urgently—on the same day in a lot of circumstances—but then it is the issue of when you make the next return date after that initial ex parte hearing has occurred, where the respondent has not had the opportunity for any procedural fairness. If you have made a temporary order which applies for 12 months, that respondent is stuck with that order and it is only based on one person's account of what has occurred. In saying that, I am not suggesting that that should change. Domestic violence by its very nature needs that type of attention, but if extra resources were devoted you would have the ability to bring that matter back potentially within a week to then have the respondent be able to address the court as to their response to the application.

Mr Potts: The member for Toowoomba South asked us questions about our experience. My local court is the Southport Magistrates Court, and you must have heard some reports about the massive spike in material in terms of applications and breaches coming before that court. I want to tell you that it is a war zone in that court and that it is becoming something of a sausage factory, not

because the magistrates do not care—there are significant resources—but that to some degree is the Rolls Royce version. As it is being rolled out throughout the state, unless there are better resources for the courts you are going to see some of the delays that Ms Awyzio refers to. Again, to some degree, with all the will in the world and with all the legislation in the world and with all the good intent in the world, it is not much use unless you actually put the resources in. I do not want to appear to be demanding limited resources, but the Magistrates Court, which is at the coalface of this area, is being worked into the ground. The Magistrates Court of Beenleigh has 150 to 160 applications a week and they are struggling and they need better resources.

Mr KELLY: Thank you for that. In relation to the police protection notices, it is my understanding that the police can issue them even if the person they are issuing them to is not in attendance. Some other submitters have raised concerns where there might be situations where someone, even when the police are able to contact them, may have language barriers or cultural barriers. Do you have any practical experience in that area and are there ways to overcome those issues?

Ms Awyzio: There is obviously the use of a telephone interpreting service that could be made available. I do not have any direct practical experience. I have acted for clients who do have language barriers, but I have not had specific experience in dealing with someone who has been the subject of being served with something and they are not aware of what it actually says.

Mr KELLY: Thank you.

Mr CRAMP: Thank you very much for both coming in here today. Mr Potts, in your submission—and you spoke about it—you said that perpetrator rehab courses are a holistic approach. I note that you have put in the submission that there is a 10-month wait with Anglicare. As this is a learning process, are there other providers out there or even potential providers? How do we as a regulator encourage people into that space to ensure we do not have this backlog? I agree with you: I see that rehabilitation of the perpetrator is a definite way forward in this matter as well.

Mr Potts: To assist you, member for Gaven, I tender to the committee appendix 22 to the domestic violence Bench Book, which sets out a significant number of those approved intervention programs throughout the state. That may be of some assistance.

CHAIR: If you would like to seek leave to table, that would be great.

Mr Potts: I seek leave.

CHAIR: Leave is granted.

Mr Potts: To use a terrible analogy, it is a bit like squeezing a tube full of toothpaste. We have put a lot of resources into it, and that is good. The spikes are being caused because the police are not effectively utilising any form of discretion. They are prosecuting in every case, which is a good thing—and that means, by the way, that quite often when they turn up at a scene they will take out domestic violence applications with respect to both parties rather than one. That then breaks down fears, of course, and that means more people, thankfully, are coming forward to reveal their stories and their personal issues. If you just put that into one end—you put those resources—the courts bank up, the processes are delayed and then all of these intervention programs, unless they are properly resourced, do not meet the purposes of it, which of course are to deal with the issues. The issues may be addictions or they may be intergenerational violence—'My daddy flogged me, therefore it's okay for me to flog my children' and that kind of argument. It is also about the situational violence—the attitude to violence. Much of that really needs to be addressed by those sorts of intervention courses. If we do not, then we are only really seeing one part of the problem.

Mr CRAMP: It sounds like there is an avenue there, Mr Potts, for a general education of the public just based on that subject. Is there a danger in going into that?

Mr Potts: No, I do not think so. I think general education is a good thing but, as we see in other areas—for example, the LGBT area—if it is just reduced to 20 minutes in secondary school education or a lecture once a week or once a year, that is not really purposeful.

Mr CRAMP: My apologies, Mr Potts. I meant not for the perpetrator; I mean for the general populace to get societal attitudes to change so that these sorts of things can be helped if you need it and that it is not acceptable.

Mr Potts: Part of the problem is with silence—silence by the victim, silence by the perpetrators, keeping things in the family—but we recognise now by the number of deaths, by the number of victims and by the ripple effect throughout our community that this is too big an issue to remain silent about. Yes, public education plays a particular role, but public education to some degree is not really going

to help Mr and Mrs Average who are going through an emotional breakdown and Mr Average drinks too much and comes home and takes it out on the wife and kids. We really need to be saying to him, 'Think about this. Wake up to yourself. Here are some processes by which you can address it.' They both have a role, but I suppose the point I was trying to make is that we need to ensure there are resources so that these immediate problems—the reactionary violence—can be dealt with immediately.

Ms Awyzio: In relation to education and the best practice guidelines that the Law Society has developed, there is a big component of educating lawyers. It is not just the public you are educating; you are also educating the people who are dealing with victims of domestic violence, with perpetrators of domestic violence. That is something, obviously, that the Law Society takes very seriously and is fostered through our best practice guidelines.

Mr CRAMP: I have brought up the concern before about the role and the responsibility of the QPS. I note that, in the legislation, the police powers have increased. Mr Potts, in regard to your comment, the QPS are rightly prosecuting every case. I have a concern about the amount of paperwork and procedure that the QPS is currently subjected to and this increase in decision-making. Obviously, we always need more police resources, but this is certainly going to place extra strain. I am concerned about the possible recourse for officers who make a decision in what they believe is the best interests, but they go to court and somehow it is deemed that that was not in the best interests of either party. Do either of you have any comments on that?

Mr Potts: I can say three things about that. Firstly, whilst I appreciate that it is a reasonable concern, the reality would suggest that—somewhere in the region of the high 90 per cent—these things do get tested. When they get tested, invariably, the police are doing a very difficult job. Sometimes they turn up to break up people fighting and, in essence, both the parties then turn upon them.

Allegations against police officers are particularly difficult things. It is overcome by a number of things. One is the commissioner is now running a program out of GoPros, or body cameras, which prevents many of the allegations. Some of the powers that they are exercising might seem a little unusual. For example, there is a detention power. You can be detained for a period of time. You are not arrested but you are detained. What could be done there is, as it is, for example, under the Drugs Misuse Act, when people are detained, or the subject of search warrants and detention—where they are not arrested but they are prohibited from moving—they are given a list of their rights and they are given a list of their obligations. There is a way of streamlining and making sure that people have some explanation. It is a balance thing—I accept that—but, quite frankly, our police generally do a very good job and we should be proud of them.

Mr CRAMP: Absolutely. It sounds from that answer that the position of the Queensland Law Society is very supportive of their efforts out in the field, which probably puts them in a more protective environment.

Mr Potts: Without a doubt. I am a criminal lawyer. My entire business is effectively attacking police officers to see whether they have, in fact, proved their case beyond a reasonable doubt. I can tell you from very long experience that the police invariably do a very good job. As in any area, there will be bad apples and there will be extreme circumstances, but we should have faith in them.

Mr HARPER: Thank you both very much. It is interesting to hear from the QLS—from the back end of my experience in the Ambulance Service of 25 years and yours at the front end—about the work of your 9,000 members. It is interesting and challenging in this space, no doubt, as a result of those recommendations.

I meet quite regularly with the Kirwan police, who have some 1,200 interactions a year in domestic violence. That says to me that your members are going to be incredibly busy in that space. Can you elaborate on your concerns surrounding new part 4, which is division 5, which provides police with the power to direct a suspected respondent to remain in place? You started to touch on that before.

Mr Potts: I will ask Deborah to do that and I may make some comments to assist, as I have broader experience in other areas of criminal law.

Mr HARPER: We have just announced 138 body worn cameras. I hope that we see a reduction.

Mr Potts: That is great news. It is literally a conscience that they are wearing.

Mr HARPER: Having been on those scenes, I can absolutely agree.

Ms Awyzio: The concern that we were raising in our submission was really about clarity. It is important that if someone is being directed to do something they understand what the consequences are if they do not do it. The submission really just turns to the point that they need to be made aware that if they do not follow the direction they could be arrested. Really, that is what it was getting at in respect of that issue.

Mr Potts: Often the people who are being dealt with in those circumstances are distraught. They are highly charged. It is emotional. They are turning on everybody in sight. The police are in that very difficult position. They do not know the family background. They do not know what has just occurred. Their job is to calm down the situation. Something that clarifies the obligation, such as a handed notice, as they do under the Drugs Misuse Act, as they do under the search warrant legislation, is just a key step, I think.

Mr HARPER: Do you find that there are significant delays in progressing these cases through the Magistrates Court? You were just talking about the Southport Magistrates Court.

Mr Potts: The Southport Magistrates Court is excellent. We have two very hardworking magistrates, but they have thrown a very large amount of resources at it. They have three duty solicitors. They have three specialist prosecutors. That simply financially cannot be replicated in every court. Each region, for example, is going to have difficulties. A domestic violence court based just in Cairns would have to go up into the cape. It is important that resources be given to the courts—with extra magistrates, extra training, extra specialist prosecutors and duty solicitors—because, invariably, the people who are the subject of these orders do not have significant financial resources. It is an investment, in my view, in the future. It is an investment in our children, because anything that lowers domestic violence is going to protect the future generations. That is a very important task that we are undertaking.

Ms Awyzio: There is no significant delay. In respect of filing a protection order application and having it dealt with, that is being handled very efficiently. Most of the time it is heard on the same day. The delay is in respect of when it can then come back and the respondent can be heard in relation to it.

Mr HARPER: You raise some very valid points. Thank you very much.

Mr McARDLE: Thank you very much for being here today. Mr Potts, you raised the issue of resourcing of the courts. Many applications are dealt with by the police, not a practitioner. Are you finding, from word back from your members, that the police are also overworked in regard to these matters?

Ms Awyzio: I can answer that. In fact, one of our members was speaking to me about this issue. With police applications, there seems to be a little confusion about what the police are doing in their applications. There has been an issue identified by one of our members where the police brought the application for the protection order and then there has been a lag in the resources that they can devote to preparing the application, because, obviously, it is very intensive. You have to prepare for a hearing; you are preparing statements. You are doing all of that. I have heard that victims have been asked to prepare their own statements and provide them to police.

There have also been circumstances where a victim has had the police make an application. It has not been dealt with and then they have applied for Legal Aid funding to have a lawyer represent them rather than the police continue with the application. Recently in the Caboolture Magistrates Court there was an example of that happening. The Legal Aid lawyer was appointed. The Legal Aid lawyer then turned up at the court, was ready to proceed with the hearing, had done all of the preparation and then an objection was raised saying, 'It's a police application. That lawyer has no standing.' That lawyer was prevented from representing the person and the hearing was adjourned. That is just one example that I have heard of.

Mr McARDLE: On the same topic of resourcing, how would you categorise the comments coming back to the society over the past 12 months as to the increase in applications that you had were taking place, the delay in a final hearing, which is always a major concern for both parties, and the resourcing of the courts? Are you getting feedback from your own members about those issues?

Ms Awyzio: A lot of our members who practise in this area also practise in the federal courts. The delays in the state courts are nowhere near like the delays in the federal courts. From the practitioner's perspective, there is not a significant delay in getting a final hearing. It is almost the injustice of those temporary orders being made ex parte. The more concerning delay is in respect of the respondent having an opportunity to be heard in relation to the temporary order rather than proceeding to a final hearing about whether a final order should be made.

Mr Potts: Just to add to that, I have regular meetings with heads of jurisdictions. I know and understand that, despite the fact that, particularly in the Magistrates Court, the Chief Magistrate and the deputy chief magistrates have done an incredible amount of work—and they have been very impressive with the amount of work that they have done—there is a need for extra magistrates to effectively work in this specialist area.

Mr McARDLE: Would I be right in categorising your commentary earlier that Southport is the gold standard—my words, not yours—but, as you see it rolling out across the state and getting into less populated areas, for example Cairns and the Townsville, you anticipate that issue being exacerbated because of distance, because of a desire not to go regional, if I can use that word, whether that be police, whether that be legal practitioners, whether that be magistrates?

Mr Potts: I agree entirely and endorse it. The difficulty is that the parliament represents all Queenslanders. We represent all members of the Queensland legal profession.

Mr McARDLE: Indeed.

Mr Potts: The problems are not just in South-East Queensland; they are all over the state. It is appropriate and proper that a significant look is had at properly resourcing particularly the regions.

Mr McARDLE: Under the amendments there is a change in the wording when looking at an order that deals with children, or impacts upon children, that the court now, in essence, 'must' look at the Family Court order. The greens indicate that that implies that the court then must vary the order to amend the Family Court order under section 78 of the act. My concern with that is that you may have had a full blown trial in the Family Court before a judge—or a federal magistrate, as the old term used to be. You have gone through a two-day hearing before one of those magistrates. You then go to the Magistrates Court and the Magistrates Court is obliged to look at it and potentially vary it, even though the issue has been litigated earlier. Does that raise concerns in your mind?

Ms Awyzio: It does raise concerns. In practice, magistrates are very alive to the issue that certain matters are family law issues—as they say—every day in many different courts. There does currently appear to be a reluctance to deal with that and to say, 'The proper avenue for this to be explored is through the Federal Court system.' The changing of the word to 'must' potentially could change the current practice adopted by the magistrates.

Mr McARDLE: How would a Magistrates Court deal with that? They have just made an order under state legislation. The Family Court order sits in front of them. How do they give the correct process to the respondent to deal with it?

Ms Awyzio: I think it could be tidied up by referring to what could be varied. For instance, you do not want to be varying living arrangements for children, but you might want to vary the changeover arrangements. If the order provides that the parties are to go to each other's homes to collect the children, it would be perfectly appropriate for a magistrate to consider, 'There is a domestic violence order in place here' and inquire, as they do from the bar table with the parties in front of them, as to whether there can be a changeover venue adopted where the parties do not have to come into contact with each other, for instance, picking up from school, or going to a public place. Those types of variations are consistent with the objectives in the domestic violence legislation to protect victims.

Mr McARDLE: My concern is: does it give due process?

Ms Awyzio: As you are aware, family law matters are extremely complex and are often litigated over a number of days at trial. It would not be possible for the magistrate to devote the same attention to those issues as the Federal Court can.

Mr Potts: Just to balance that out, sometimes it is very important for the magistrate to know what the orders were because sometimes they have distraught parties in front of them who say, 'I have an order that says this,' or, 'I have an order that says that.' I was recently at a function where Magistrate Strofield, who is the main magistrate at Southport, was saying that they now have a very cooperative arrangement with the Federal Circuit Court and the Family Court to ring up their registry and within a very short period of time they can get a copy of the order. It stops incorrect claims being made.

CHAIR: Thank you, Mr Potts and Ms Awyzio, for your time. Our time for questions has expired. Thank you for your submission and thank you for your willingness to assist us with our inquiry.

SARKOZI, Ms Julie, Solicitor, Women's Legal Service Queensland

SHEARER, Ms Gail, Solicitor, Women's Legal Service Queensland

CHAIR: Ms Shearer and Ms Sarkozi, welcome. Thank you for coming before the committee today. I offer an opportunity for you to make a brief opening statement of up to five minutes. Then we will open it up to the committee for questions.

Ms Sarkozi: Good morning. My name is Julie Sarkozi. I am a lawyer at Women's Legal Service. This is my colleague Gail Shearer, another lawyer from Women's Legal Service. I begin today by acknowledging the traditional owners of the land upon which we meet and pay my respect to the elders past, present and emerging. The Women's Legal Service would like to thank the committee for the opportunity to appear today in relation to the bill. We would also like to acknowledge and commend the Labor government for their response to domestic violence in Queensland and, in particular, their decisive action and adoption of the Bryce recommendations and the implementation of these recommendations.

Women's Legal Service is a community legal centre that provides Queensland-wide specialist legal information, advice and representation to women in matters involving domestic violence, family law and some child protection. We are currently providing domestic violence duty lawyer services at the Holland Park court, the Ipswich court and the Caboolture court. We provide legal advice at the Family Relationship Centre at Mount Gravatt and Logan. We also provide a legal service that is termed the regional, rural and remote service. We have established specialist domestic violence units in Brisbane and on the Gold Coast and the Health Justice Partnership at the Logan Hospital. We have been in existence as a service for 31 years, and in 2015-16 we assisted 4,777 clients.

Women's Legal Service welcomes many of the proposed amendments. In particular, we welcome the mandatory requirement under section 57(1) for the court to consider other conditions that may be required for the protection of the aggrieved and named people. We also welcome the amendment that such conditions be considered in the context of 'necessary or desirable', changing it from 'necessary and desirable'.

We are pleased to see that the mandatory requirement under section 78, that the court must consider Family Court orders, has also been included. Approximately 80 per cent of the clients at Women's Legal Service have children, and the overlap between domestic violence and family law is undeniable. We do, however, consider that the court's requirement to provide for the protection, safety and wellbeing of children when there is a Family Court order could be reinforced by requiring the court to make all decisions not only in accordance with the principles of the act but also in accordance with the objects of the act, particularly section 3(1) (b), which states that one of the objects of the act is to reduce the exposure of children to domestic violence. This would provide further clarity that the existence of a family law order should not override the magistrate's obligation to make decisions in accordance with the act.

Women's Legal Service Queensland supports an increase in the duration of the protection orders but recommends that the court must give reasons if an order is to be made for a period of less than five years. We consider that the proposed legislative amendments around police protection notices provide the police with the tools to be generally more responsive to domestic violence. We do not, however, support the family law order inquiry process that is proposed when considering if children should be named on the order.

At a practical level, we do not consider that a family law order inquiry process in a matter where an officer clearly considers that protection is needed for the children promotes the principles or objects of the act, nor does it provide the necessary protection. Women's Legal Service also considers that the legislative requirements in section 110(2) and 110(3), outlining the range of matters that a respondent is to be advised of when a police protection notice is issued, limits the efficacy of a streamlined process.

With regard to the information-sharing provisions as proposed, Women's Legal Service Queensland considers that the concept of information sharing amongst agencies has the capacity to provide for enhanced safety responses for an aggrieved and her children. We do have concerns, however, that the common risk assessment has not yet been finalised or that an integrated response to domestic violence is still developing and that we do not have any guidelines to address the issues of privacy and confidentiality. We do consider that those elements are integral to ensuring the success of information sharing and need to be considered holistically as a part of the legislative reforms.

We note that the report by the Women's Legal Service New South Wales 2016 titled *Sense and sensitivity* at pages 18 to 21 highlights 'greater information sharing is unlikely to improve responses to domestic and family violence where service provision is ad hoc' and consideration of the victim's views need to be taken into account when considering making referrals and/or information sharing without consent.

CHAIR: That is five minutes. We are limiting you to time so we can ask questions. Thank you for your submission. I have two questions. I was interested in the first point in your submission around section 84 where you talk about agitation and types of behaviours. Can you speak to that from a practical example point of view and explain what you are referring to there and your concern?

Ms Sarkozi: I am one of the solicitors who attends the Holland Park Magistrates Court and acts as a duty lawyer there for the domestic violence service. Regrettably, respondents are sometimes agitated and very defensive. Saying, 'This is the behaviour that you have done and it is unacceptable,' at a time when they are actually in court and feeling very defensive already can inflame their level of defensiveness and feeling of being a bit persecuted by the system.

CHAIR: From my reading of your submission, you are not saying that that should not occur; you are just raising the point that you feel there should be some additional measures. What practically might that look like? What are you proposing or suggesting there around safety?

Ms Sarkozi: Security does need to be increased in general at that particular court. I am not sure whether that comment is useful for the other domestic violence courts. I know that security is an ongoing issue at that particular court. We currently separate women aggrieved and the respondents, who are predominantly men, using a pull-in partition. The women have to walk past the respondents when going to the bathroom and when going into the court. Children will often run out, because it is literally a temporary wall. It is about security. The other recommendation would be making those comments at a time when the agitation level is perhaps not quite as heightened.

CHAIR: When might that be, though?

Ms Shearer: Examples could maybe be written in the order. There could be standard examples written on the domestic violence order under each heading—for example, 'Examples of emotional abuse include ...' and those examples could be written in the order.

CHAIR: You are saying that this point does not necessarily have a more general broader application but is a reflection of the experiences that you have had at that particular locality.

Ms Shearer: Having attended Caboolture, I think it is also true to say, especially once both parties are leaving the courtroom. It is often very difficult then. They are both entering into a common area and having to leave. We know of instances where the respondents are waiting outside or waiting 100 metres down the road. It can be difficult.

CHAIR: I am very aware of the time. I wanted to ask a question in relation to point 7. The comments there were interesting around the types of relationships covered by the act. This was something that was raised in another submission around the definition of 'family relationship'. Could you speak briefly to that part of your submission?

Ms Sarkozi: Yes. That is a situation where an aggrieved new partner becomes the target of the respondent's abuse and domestic violence. The new partner is currently often not considered to fall into the category where a domestic violence order might be relevant in terms of curtailing the respondent's domestic violence behaviour towards the new partner.

CHAIR: Currently, such instances would be prosecuted under obviously assault if there is physical—

Ms Sarkozi: Yes, but usually that new partner is getting information, often very abusive threats and very abusive information, about his new partner or her new partner from the respondent. A good example is where they will send text messages about the aggrieved to the new partner basically saying that she has a questionable character, that she does this with everybody et cetera at 11 o'clock at night or at one o'clock in the morning.

CHAIR: Your submission mentions that the definition of 'couple relationship' is not sufficient to cover violence in shorter intimate relations.

Ms Sarkozi: That is right. This is an example where people have begun some kind of a relationship online that could have gone on for some time and then they meet once. After that one meeting they no longer continue a relationship but domestic violence starts to occur. This is particularly prevalent in the internet space. There is harassment that occurs online—harassment and

threats that occur online. That relationship does not currently fall into what is the accepted definition of what is a 'couple relationship' or a relevant relationship in the eyes of the court. Therefore, a domestic violence protection order will not be granted.

CHAIR: Obviously those definitions are not directly related to this bill, but it is an interesting point that I am sure the department will respond to at a future time.

Ms Sarkozi: I understand that everybody is very busy, but I personally would also like to highlight the extraordinary deficiency that is currently within the act in relation to service. All that is required from a respondent for the order not to take effect is to avoid service. I recently had a circumstance where a respondent was in custody, and because the service requirements are so specific and we could not apply to the court for substituted service—which is, 'Here is the evidence of the attempts that we have made to serve him'—the aggrieved had to come again and again because, in my view, the respondent simply denied ever receiving the paperwork. Really, there are other ways that we should be able to satisfy the court that the aggrieved has done everything they need to and can to find and locate the respondent, and that person is either deceiving the court or evading service. I would really like to highlight that as a very significant issue.

Mr JANETZKI: You expressed reservations in respect of part 5A of the bill in relation to information sharing. Can you expand a little on those reservations for us?

Ms Shearer: We are not clear at what point in time the legislation is going to be enacted with regard to the guidelines, so we are not sure if it is anticipated that the guidelines will be enacted at the same time as the legislation, like it was in New South Wales. We are not clear when the legislation and the guidelines are going to be enacted in relation to the development of the integrated responses. We know there are three trial sites at the moment and that work is progressing well, but we do not know the time line for the implementation of that in relation to the information-sharing provisions.

Mr JANETZKI: Specifically with regard to information sharing, is your concern that women's personal information may be disclosed?

Ms Shearer: Yes. Without seeing the guidelines, we are just not clear. I think our submission points to the fact that there were 108 pages of guidelines developed in New South Wales. They are very extensive and they include provisions such as sexual assault communication privilege. That is obviously very important when the legislation provides for those specialist services to exchange information when responding to a situation of a serious threat, but we do not know where that information is going to and what sort of privilege, in practical terms, will be accorded to that information. I guess what we are saying is that without seeing the guidelines it is hard to envisage the degree of protection that the legislation is offering an aggrieved in terms of their information.

Mr JANETZKI: Generally speaking, in your experience would personal information often be breached to the detriment of someone involved in a domestic violence matter?

Ms Sarkozi: I say this knowing the limits of my own personal experience, but what I tend to find is that personal information that is potentially kept by existing government departments can be used in informal ways to make it less likely that a protection order will be taken out. An example is something like, 'Yes, we know that this family has problems, the department of child safety is involved here and we see there is drug and alcohol abuse, so we will not do anything because that is just what the Joneses do every Friday night.'

Mr KELLY: Thank you, Ms Sarkozi and Ms Shearer, particularly for the work you do in the Holland Park courthouse, and thank you for taking me on a tour down there. I am interested in section 7 of your other suggested legislative reforms. You talk about an increasing number of women seeking advice about their legal options regarding violence from their teenage children. I am also interested in children who have become adults, particularly where that violence is caused by the perpetrator having some sort of intellectual disability or other mental health issue. How do you anticipate that those issues would be dealt with in future legislation?

Ms Shearer: Is your question concerning children who have intellectual disabilities who are committing domestic violence?

Mr KELLY: You put forward a suggestion that we need to do something about violence from children who are not 18.

Ms Shearer: Yes, later teenage years. That follows the legislation in other jurisdictions which provides for parents to take out domestic violence orders against children they just cannot control any longer.

Ms Sarkozi: People are taking out domestic violence orders against their children who are older than 18. That is happening already. Quite frequently that covers adult children who have either mental health issues and/or are experiencing really significant drug and alcohol issues, so that is happening already. I am just not clear on your question.

Mr KELLY: Let us stick to the children under 18. If the child has a disability that is causing them to perpetrate that violence, what effect will the order have if they are unable to control their behaviour because of some sort of clinical reason? How does that work in practical terms?

Ms Sarkozi: How it works in practical terms I think is an overarching issue for a domestic violence order where we are asking people to be of good behaviour and not commit acts of domestic violence. If the mother and the father want to continue to care for the child in their own home, usually what the court is then asked to do is make an order that manages quite intimate and private behaviour—what goes on in the household. Where there is someone who has some kind of a disability that might be a contributing factor to the behaviour, I know that some of the mothers that I have spoken to will say, 'This empowers me to say to my child, "Just you watch out, because I'll call the police."' I am not sure whether that is a very satisfactory answer, but certainly I know that there is a sense of empowerment. There is a sense of having been taken seriously—'The behaviour that you are exhibiting to me is not condoned by this community and is not condoned by the court'—and that is apparently an effective tool in some families.

Mr KELLY: I refer you to page 4 of your submission regarding interstate orders. In your experience, how frequently do we have issues with people who have interstate orders we are not aware of in Queensland and who then have to go through the process again in this state?

Ms Sarkozi: Very frequent.

Mr KELLY: Will these provisions assist in relation to that?

Ms Sarkozi: Yes, they definitely will.

Mr KELLY: Do you find that, if an order is applied for here in Queensland and someone then moves somewhere to try and make a fresh start, perpetrators of violence will follow and use the fact that the order does not apply interstate?

Ms Sarkozi: Yes, to locate, to harass and to threaten, yes.

Mr CRAMP: Thank you, ladies, for attending today. I have a question around the PPNs. I was speaking to previous witnesses about the increased responsibilities on police officers under the new legislation. I note that every day police officers in their general duties deal with people with heightened emotions and it is usually their obligation to explain fully their rights, what they have been charged with and all aspects of the matter to a person who is in some way in trouble with the law. How is a domestic violence situation different? I note that you are talking about not identifying the wrongdoing or illegal behaviour, so I wonder what the benefit of that would be. Considering the fact that we are giving police more complex decision-making processes to take into account these events, how is it going to assist, in your view, if they do not have to provide the wrongdoing and illegal behaviour?

Ms Shearer: I would refer back to the statements made by the department on 31 August where they advise that not having to advise a respondent of all those matters provides a streamlined process.

Mr CRAMP: Do you think there is any recourse for officers if a person says, 'It was not fully explained to me what I was doing wrong and what my legal obligations were'? It is not to bring it into account? Is it just the fact that you have noted it? I am just interested in your thoughts on it. There is no wrong or right answer. I just hope you can expand a little on why you think it is a good idea for the police to go down that track.

Ms Shearer: I think because it presents a streamlined opportunity to avoid all the paperwork et cetera that is required at a scene in order to process the PPN.

Mr CRAMP: In your view, are there any issues that could be brought up in the hearing where a respondent could say, 'I was not fully informed of the whole situation'?

Ms Shearer: My understanding is that the respondent will be informed later on, once the paperwork is completed. The grounds will be laid out and the types of behaviour will be advised. Section 110 does propose that, where possible, the police officer should be advising the grounds on which the officer believes the violence has been committed and the reasons and the type of behaviour that constitutes domestic violence. I assume that, where possible, a police officer will advise a respondent of that on the spot.

CHAIR: Thank you both very much for your time today and thank you for assisting the committee in our examination of the bill.

BOLHUIS, Ms Carly, Support and Advocacy Worker, Queensland Domestic Violence Services Network

MARSHALL, Ms Jude, Secretary, Queensland Domestic Violence Services Network, via teleconference

WALSH, Ms Karyn, Chief Executive Officer, Micah Projects

CHAIR: Welcome, Ms Marshall. My name is Leanne Linard; I am the chair of the committee. Thank you for joining us today. I am sure you have been advised that present in the room we have Ms Karyn Walsh, CEO of Micah Projects, and Ms Carly Bolhuis, support and advocacy worker, Brisbane Domestic Violence Service. Of course also present are committee members, members of the department and members of the public. You have the opportunity to provide an opening statement of up to five minutes. Ms Marshall, will you be making an opening statement?

Ms Marshall: A very short one—certainly not five minutes.

CHAIR: If you would like to make those opening comments now, we will open for questions.

Ms Marshall: Thank you very much for hearing me today. I am representing the Queensland Domestic Violence Services Network, which you can see in our submission comprises managers of services throughout the state. We are very happy with the proposals that we have outlined in the submission and the positive manner in which the government is proceeding with this amendment. We have outlined a couple of concerns.

I want to highlight that there is very little in the bill with reference to people with extra needs or people from culturally and linguistically diverse backgrounds, Aboriginal and Torres Strait Islander people and people with impairments and other extra needs. I feel that the act should reflect the diversity of needs within our communities, and I extend that to the needs of children and young people who are affected very much by the incidence of domestic and family violence but who are not specifically assisted in the bill as presented.

I also want to emphasise the provision for referrals between police and specialist domestic violence services. While in principle we are very happy with that, we do have reservations about the unintended consequences of people who do not wish to have their details provided to other services. Because specialist domestic violence services operate within an empowerment model, we would be cautious about doing anything that does not include the specific permission of the aggrieved. Beyond those factors and the factors that we have outlined within our submission, I would just recommend that you have consideration of the people who work within specialist domestic violence services on a day-to-day basis.

CHAIR: Thank you very much, Ms Marshall. There are three minutes remaining. Ms Walsh, would you like to say anything as an opening statement? If you do not, we will open it up for questions.

Ms Walsh: Yes, thanks. I just want to acknowledge the traditional owners and their elders past and present. We are a regional service, so we are one of the members of the DV network, and we provide a range of services across a coordinated response to high risk, which includes the perpetrator programs; closely working with police and Probation and Parole in Brisbane, which is a newly funded aspect of the service; children's workers; support and advocacy workers to women; and a 24/7 crisis service that works with DVConnect and the police in looking at the safety of women in the community. Some of our responses are to do directly with how we can implement these services in a more effective manner with legislative backing.

CHAIR: Thank you very much. Ms Walsh—and, Ms Marshall, please speak up if there is a particular question that you would like to respond to, because we will openly direct them—in reading the bill, obviously it is very technical and I do not work in this space. I am really interested in practically what this means for you on the ground. What is the information that you currently have access to, what is it that you need and will the bill provide that access to information that would better assist you to provide the services that you do?

Ms Walsh: There are probably two issues. I will speak to one and Carly, as the coordinated community response manager, can speak to some of the ones directly related to coordinated responses at a high risk level. We really support a lot of the amendments in the bill. The information-sharing amendments and consent are really critical to how we do our work from an empowerment way, so that women actually know that services exist. We are really concerned that consent is preventing women from even knowing that specialist domestic violence services exist. Of course, we always gain consent every step of the way as we meet and work with women, but at the

moment it is a barrier to actually getting those referrals at the point when the violence is occurring. We would like to redress the 30 per cent of women who we do not get in touch with because we cannot get a proper referral process going after the event. We are working that through with the police, but consent is often an issue that is raised for not being able to co-respond. We think that the earlier support and advocacy workers can work alongside police with the aggrieved, from the time of the event to after, there is more opportunity for the women to engage and have the support of the system, including the NGO system, not just government services, to work with them so they can be supported by the system in their safety and protection but also to make the decisions that they might need to make in relation to their relationship.

Ms Bolhuis: To add to that, the reason we are so keen on a co-responder model or the utilisation of support and advocacy workers a lot earlier on in the process is that at the time of a domestic violence incident the trauma and the psychological state of the victim makes it quite difficult to even judge whether obtaining consent can be informed and whether that is informed consent to access service and if it is declined at that point with the police officer whether or not there are other opportunities for them to access support, particularly if the relationship continues and the power and control continues. The image of police officers attending their residence can be quite confronting for them at times, so there needs to be the ability to provide a more neutral image of support and advocacy workers being there to assist them, and particularly if an aggrieved has their own history of criminality or anything like that that can be quite a barrier in itself.

From a practical standpoint, since commencing particularly the perpetrator program but even just trying to open up a coordinated response across Brisbane, DV services frequently have access to an abundance of information from the aggrieved but limited information about the respondent because that is often held by police, Probation and Parole or Child Safety—statutory organisations that have access to that information. Since we have opened up that line of communication our ability to assess risk and consequently respond and assist the aggrieved in their own safety planning, because we also operate from a model that they are experts in their own safety, makes it a lot easier from a practical standpoint in order to make recommendations or a safety plan with the aggrieved around how to proceed from there.

CHAIR: That is particularly what I am interested in—that information about the respondent and how much is enough to be able to do what you need to do and how much is too much. Obviously it is significantly sensitive data that QCS and QPS hold and it is just trying to understand what it is that you actually require and the safety of that sort of information. That is what I am very interested in.

Ms Walsh: We commenced Safer Lives as a 24/7 crisis service that works with DVConnect for women in motels as well as working with direct referrals from the police at the scene. The learnings from this process have been that when police can give us accurate information about the respondent—the woman may be confused or may not be able to fully understand what has happened—we can reinforce that. We can let her know that he is going to be released from the watch house in four hours time or we can communicate with the police that the aggrieved has told us that he is on a probation order and they can get that process going in terms of whether it is a breach of their order. It has made a really important difference to the way we all do our work, and that could be enhanced if the ambiguity about consent was removed. Giving consent is not saying, 'Therefore everything you ever know about someone is now open to share.' It is for the purposes of the protection and the safety planning.

Certainly, our practice is that every step of the way you are working with the aggrieved about what they want to share. If they cannot make that decision, you are working around the priority of risk to make sure that they are safe. In mental health areas and in other areas, safety is paramount before privacy. If there is a decision that needs to be made, you keep reinforcing that communication to the person that it is for their safety and people do not object to that. They agree with the process, they work with you and it is really important.

With regard to information sharing for case coordination and the issues of consent across departments, it does need to have rigour and it does need to have a set of guidelines which we are advocating should be in the act, not at the chief executive's direction. In England with the MARACs, for example, they have found that where there is discretion it is not as effective. The New South Wales model is obviously a very good model where it is very clear why we are sharing information and for what purposes across all areas, but it has to include the non-government sector that is working closely with the aggrieved all the time. Our 24/7 service does respond to respondents if they need referral or if they need accommodation, but we do not provide the case management for them. We provide it for the aggrieved.

CHAIR: Given the dynamic nature of the situations that you are dealing with, how in practice do you access what are fairly complex systems and systems that do not necessarily currently talk to each other between, say, QCS and QPRIME even? How do you access that information and even know who holds what information in a dynamic situation where a respondent may only be held in a watch house for a short period of time?

Ms Walsh: The communication lines with the police and the VPU.

Ms Marshall: It is essential that the relationships that our court assistants have with police and court processes in the justice system are held in high regard and reinforced. There is a lot of important work done just under the legal level with our court assistants.

CHAIR: Thank you. Would that come under Project Amity as a co-responder type model and access and relationships there?

Ms Walsh: It has been replaced by Safer Lives.

Ms Bolhuis: Yes, expanded to cover the whole Brisbane region.

Ms Walsh: Carly can speak, but the VPU here has made some differences.

Ms Bolhuis: Yes. At the moment we acknowledge that it is still quite relationship based around that sharing of information and knowing who has what, and we welcome the act that embeds it in legislation that we can obtain information to assist risk, knowing that each agency holds a piece of the puzzle. Our perpetrator program is a prime example. Given it is a mandated program, all referrals are from Probation and Parole and, to a lesser extent, Child Safety and we work quite closely with those organisations and with police around the management of those perpetrators whilst providing support to the aggrieved so that we have that ability to assess risk from both sides as opposed to just one and have that overall oversight and transparency at every step of the way, not just for the two hours whilst they are in the program.

CHAIR: Thank you very much.

Mr McARDLE: In relation to the consent, clause 44 of the bill in relation to information being shared says consent 'should be obtained'. Is that not strong enough for you, do you think?

Ms Walsh: It still lends itself to a bit of ambiguity, but it is better than what it is. Obviously everyone operates from a position of respect and you want to get consent, but if the safety issues and the risk issues are higher then I think all you are doing is linking people in with other people who will also work towards getting consent.

Mr McARDLE: In that clause on page 50 there are some 16 entities that can share information. Would you say that consent for each of those entities is required or just a general consent is required, because they are very diverse and some you would not necessarily immediately associate with domestic violence? A local hospital, so to speak, may be a treating hospital but not come to mind. To get consent across all those bodies would be quite difficult, I would have thought.

Ms Bolhuis: It would be. As a best practice approach you always obtain consent for each individual interaction, and again it comes down to the prioritisation of safety and ensuring that the information that is shared cannot then be used to the detriment of the aggrieved for non-domestic-violence situations. You are right: those organisations are very diverse and come from very different frameworks and models, and rightly so. They have different priorities. I think again it comes down to the ability to assess that risk through perhaps a common risk assessment and then the ability to assess the safety and whether the sharing of that information to a particular organisation subsequently—

Mr McARDLE: The more urgent it is, the less consent should really be taken into account because of the nature of the event taking place?

Ms Bolhuis: Absolutely.

Ms Walsh: We have women who have been through significant personal injury who have never been referred to a specialist service, and I think we really need to be making sure that if we are looking at an integrated approach we are saying that some of these things are enabling women to make decisions with informed information. They do not know what anything is when you are just saying, 'Do you want me to refer to so and so?' They would not know. Is that actually informed anyway when they are in a heightened sense of trauma and not sure what is happening for them? Certainly we all have to act with professionalism, we all have to make sure there are no unintended consequences and we need the guidelines for how we do it, but we should not be avoiding linking people with the services and relationships that they need to be protected.

Mr McARDLE: I think one of you ladies made a comment regarding information to the aggrieved about a spouse being released from a watch house within four hours. Do you see the information covering the details of both the aggrieved and the respondent? That example requires the police to contact an aggrieved in relation to the respondent's time in the watch house. Do you see information going both ways—that is, of the respondent to the aggrieved and of the aggrieved to a third party?

Ms Walsh: The police would be telling the woman at the scene that they are detaining him, so that is not the issue. The issue is whether the woman understands it.

Mr McARDLE: Under the act here, do you see clause 44 as giving the right to the police to give information to a legal practitioner or to the aggrieved of the respondent being released from the watch house? That is what I am getting at.

Ms Walsh: I think it would. I am sorry, I would have to see the clause.

Ms Bolhuis: I do not want to talk out of school. I am not too sure about police procedure.

Ms Walsh: At the moment they tell the aggrieved that they are being detained for a period of time. The issue is being able to reinforce that information while we are providing that support. When we do not know that information we cannot reinforce it and we cannot plan and give the woman options about what she wants to do in that period of time. I was referring to the police giving us the information. The woman would have already have that information at the scene.

Mr McARDLE: I have looked at the clause and I have assumed—the department can correct me later—that clause 44 allows information to be shared. I have taken that to mean that that is information in relation to the aggrieved and the situation they are in. I have not taken it to mean details of the respondent that are maintained on police files being shared as well. The department is here and they can perhaps answer that question. Your comment raised the point in my mind, so I will leave it at that and the department can perhaps address that.

Ms Walsh: Certainly in our submission we have said that we think all information relevant to a person's history in the case coordination process should be shared—not just the information about domestic violence but any criminal history that the police know. That is in the case coordination process; that is not so much at the scene.

Ms Bolhuis: And that is relevant to the task at hand and to the high risk and high need for safety at that point in time—not in all circumstances, obviously.

Ms Marshall: Section 169D(1) relates to a prescribed entity and goes on to say 'or specialist DFV service'. If the DFV service sits at a similar level to a prescribed entity, the same rights should apply.

Mr HARPER: I thank you very much for the important work that you do. It definitely sounds like you have some challenges in that information-sharing space to establish with police. If you were here you would have heard previous witnesses make the important point that police procedures for the handling of domestic violence have been established over a period of time. Are you engaged in training police officers or the judiciary at all?

Ms Bolhuis: We do provide community education when requested by police, particularly to police support officers and police liaison officers. We do provide support and training, particularly around specialist activities that we do, like the Safer Lives mobile service. We will provide police with as much information around that as possible in whatever manner they see fit. We would obviously like to see an increase in training of police around domestic violence incidents, given a high proportion of their work is domestic violence and attending to those sort of situations and disturbances.

Ms Marshall: Under the *Not now, not ever* recommendations there is a requirement for police and judicial training to be given, and this is underway. I know that one of our members, the Queensland Centre for Domestic and Family Violence Research, is involved in that process.

Ms Walsh: I think there is a difference, though, between the training that is needed to work together and the training around the dynamics and issues of domestic and family violence. I think that, in looking at an integrated response for the Brisbane region and how we work together, we need a lot more direct training with that and we need this legislation to back that up. I think that is different to the big-picture training that is required in the *Not now, not ever* report. That is something we would like to see, and hopefully with the enactment of this legislation there is an opportunity to look at direct training with front-line police and front-line domestic violence workers in how you do work together and how the information-sharing protocol is implemented. I think that is a really important piece of work that has to happen after this legislation.

Also in the prescribed entities I think it would be good if specialist domestic violence services were named. At the moment they are just under community services, but I think we are funded for a specific reason and that is to work much more closely. It is not there, so it is just so they are all together.

Mr CRAMP: I acknowledge the time constraints, but I am interested in your comments around the criminalisation of women. Obviously it is always a concern when you see cross-applications and concerns from both parties. Groups that represent both men and women feel that this is used as a weapon. Do you have any statistics on the percentage of cases in which there is a cross-application and it turns out that perhaps both parties are at fault? How often do you find—especially in cases of a woman—that a man will put in a cross-application and it turns out the man is correct in the instance and there is a form of fault on both sides, or perhaps the woman is the perpetrator? I come from 14 years of ambulance experience and I have seen a lot of cases where men are the victims in certain circumstances, so I am interested in your thoughts around that and your experience.

Ms Marshall: The issue around domestic violence is centred on power and control, and it is a fairly rare occurrence when that power and control is exerted over a man by a woman over a long period of time. What we find mostly in cross-applications is an element of revenge—the other party being able to make an excuse for their behaviour. We still seem to abide by the imperative that the aggrieved must just take whatever punishment she has been given without any reaction or any logical counteraction that she might take.

Mr CRAMP: Ladies, do you have anything further on that?

Ms Bolhuis: I do not have any particular statistics, unfortunately, but we would be supportive of what Jude just said. Knowing what we know about domestic violence, it is a pattern of power and control and there is that element of fear from the aggrieved. There are elements where aggrieveds demonstrate resistive violence. They are resisting the power and control that they have received, and men are victims as well, though not as many. Statistically we know they are more likely to be victims of violence from other men. We tried to think out of the box a little bit in our submission and put forward a separate order—that is, the protection from violence order—as opposed to a domestic violence order to differentiate between the types of violence. Domestic violence is that ongoing pattern of coercive control as opposed to a one-off incident, and there are certainly situations that do need a protection from violence order that are not necessarily domestic violence in the definition as we know it to be.

Ms Walsh: The other reason we recommended that—and it is similar and Western Australia has adopted it—is triaging at the point of people getting protection orders and what service systems people need to respond to their issues. For example, an adult child with schizophrenia or drug use who has been violent towards a parent is quite different to the dynamics of intimate partner violence. I think to what extent women are respondents in the family violence context or intimate partner violence context is really important to look at as well as generally being able to look at the nature of violence in families. There are different dynamics, but we need to have the data to inform the service responses and the nature of the problem. Intimate partner violence is a particular issue that does require training and skill, and women resisting violence and being engaged in violent behaviour to protect themselves requires a certain amount of training around self-defence. These issues would be better served if we understood the nature of the dynamics of such violence. Is it violence with a family member or is it violence from an intimate partner? That was one of the reasons we thought it was worth considering that.

Ms Bolhuis: A particular gap that we have been noticing, particularly with children and young people—we have not addressed in our submission; I have only just thought of it—is that we are increasingly seeing victims around the ages of 16 and 17 who are victims of family violence or intimate partner violence. Because they are under the age of 18 and are also a little bit too old for the child protection system, they often fall into the gaps. It is a gap that we are increasingly noticing coming through our service and that we are increasingly having to support. I guess the most abundant aspect of this that we are seeing is violence towards daughters. Of course, when parents are involved they then cannot be named on DVOs because they need the parents' permission, and if the mother is absent and Child Safety—whilst they are still children, they are often a little bit too old to be placed in care or they are self-placing and those sorts of things. That is just something that I guess we are increasingly noticing as a regional service which is becoming increasingly difficult to manage.

Mr CRAMP: You mentioned intimate partner violence, but you mentioned father-daughter relationships. Were they connected or are they separate statements?

Ms Bolhuis: Separate statements, sorry.

Ms Walsh: It is about the age of the victim. It is the age of the aggrieved.

Ms Bolhuis: The most common one that we are seeing, aside from intimate partner violence, is 16- and 17-year-old girls who are experiencing power and control from their fathers—not in an intimate partner context.

Mr CRAMP: That is a very interesting area.

Ms Bolhuis: That is something that we are noticing that might need to be considered in the development of the bill.

CHAIR: Thank you very much for coming before the committee today and thanks for the work that you do. Ms Walsh, it is always a pleasure to see you. You do a lot in my electorate and many other electorates. Thank you all very much.

GILES, Ms Megan, Executive Director, Legislative Reform, Department of Communities, Child Safety and Disability Services

SHAW, Ms Barbara, Executive Director, Office for Women and Domestic Violence Reform, Department of Communities, Child Safety and Disability Services

CHAIR: Thank you for coming today. It is wonderful for us to have the opportunity to give you the opportunity to respond to some of the issues that have been raised today. I do appreciate that sometimes the department has an opportunity to provide a written brief in response to some of the issues raised, so you are doing that on the basis of what you have heard today. That is of great assistance to us, and members will ask questions if they need any further clarification.

Ms Giles: Thank you for the opportunity. We were not planning on giving an opening statement, given the fact that we gave a very detailed opening statement at the last public briefing, so we are happy to take questions from the committee.

CHAIR: Was there anything in particular that you heard raised today that you wanted to respond to—I know you were busy making notes—that may be of assistance or might answer some of the questions before we ask them?

Ms Giles: There are a couple of things that I would not mind drawing your attention to. One is that there were a number of questions around protections from liability for Queensland Police Service personnel, and I draw your attention to section 190 of the Domestic and Family Violence Protection Act, which clearly states that a member of the Queensland Police Service does not incur civil liability for an act done or an omission made honestly and without negligence under the act. That is a provision in the current act. It applies in relation to the exercise of police powers and functions across the whole legislation. I know it is very difficult sometimes, including for myself, to read amendment legislation with the existing piece of legislation that is being amended, so I just thought it was important to draw your attention to that provision.

The other matter I draw to your attention is the amendment that is proposed in relation to family law orders in clause 11. There was some suggestion that that amendment in the bill will require courts to have to amend a family law order. In fact, the amendment provides that courts 'must consider' family law orders that are in place. That is changing a current word in section 78 of the act from 'may' to 'must'. Section 78 of the act currently includes a provision that makes it clear that the court can only consider a family law order that it has been made aware of. There is no obligation on the court to consider an order that it has not been informed about.

The section before that, section 77, places an obligation on parties to a domestic violence matter to disclose to the court any current family law matters. That will continue to operate in the same way as it does under the act now. Parties must disclose family law orders to the court. Section 78 will be amended to then require the court to have to consider using the powers under the Commonwealth legislation for the state court to amend the family law order if they consider it necessary. Under the Commonwealth legislation, any amendment to a Commonwealth order lapses after 21 days. I am happy to provide some further information to the committee, as part of our written response to the submissions, which sets out the provisions of the relevant Commonwealth legislation to make that clear.

I think they were the only two matters that I noted were particularly pressing to make clear. We are happy to answer any questions, unless Barb had anything else she wanted to raise.

Ms Shaw: No.

Mr McARDLE: In relation to section 78 and the review, my questions stem from the explanatory notes on page 18 where they state, 'It sets a clear expectation courts will use their powers to revive, vary, discharge or suspend family law orders ...' The wording there is 'a clear expectation courts will use their powers'. You have just said that that is not the case, but the explanatory notes make it quite clear, on my reading of those words, that the courts are required to vary orders. You are now saying that is not right: the courts are required to consider it but not required to vary the orders if there is a conflict between the proposed order of a Magistrates Court and the current order of the Family Court. The words here convey something completely different.

Ms Giles: The intention of the words in the explanatory notes is to make it clear to courts that, by requiring them to consider any current family law order, including to consider whether or not there is any inconsistency between the domestic violence order that is being made and the current arrangements in a family law order, there is an expectation that courts will then use their existing powers under the Commonwealth legislation to vary that family law order. That is the intent of the words in the explanatory notes to which you are referring to.

Mr McARDLE: If you go to page 18, where it says 'courts will use', should the word 'will' be 'may'?

Ms Giles: Sorry, I am not sure where you are referring to on the page.

Mr McARDLE: On page 18 of the explanatory notes, about halfway down it says 'Clause 11 amends section 78(1) ...' The last sentence says, 'It sets a clear expectation courts will use their powers ...' Should the word 'will' be deleted and the word 'may' be inserted?

Ms Giles: It is our position that the amendment in the act to require courts to 'must consider' the family law order then sets the expectations that courts will exercise their current powers under the Commonwealth legislation.

Mr McARDLE: It will amend the Family Court orders, then.

Ms Giles: It is a discretion of the court.

Mr McARDLE: It is a discretion of the court. That is what I want to understand. That clarifies that wording. The QAO in its report *Managing child safety information* in relation to the department some time ago now outlined concerns in relation to information being moved or sent from A to B. The report outlined six recommendations to protect that information from either being disclosed or being left in a position that could be accessed by people who were not really authorised to have access to it. I know it is Child Safety but it is also your department. The question I posed on the last occasion is: how do you make certain that the information being passed from A to B is maintained by the right person in the right format?

Are you able to identify—and maybe you can take this on notice—steps taken by the department to deal with the report by the QAO? That would satisfy me, because the report talks about 'storing' information 'in spreadsheets and databases, and downloading it on to mobile and memory devices'. I do not think that is what you want to have happen with this information. I am quite keen to understand how the department has gone in relation to this report because the same questions will arise, I suspect, in regard to information under clause 44 being disseminated across some 16 different organisations and bodies and literally 10, if not 20, state based organisations that deal with people. Your assurity that that information is protected outside will be greatly appreciated. Is that okay?

Ms Giles: I will take that question on notice, not having had the opportunity to look at that prior to today.

Mr McARDLE: You heard me ask the ladies who were at the table before you, 'Does the information referred in clause 44 cover information about an aggrieved and a respondent?' The reason I posed the question is that I thought it related to the aggrieved only. Section 169B highlights the principles underlying this part. Paragraph (a) refers to 'consent should be obtained'. I can certainly see that an aggrieved would readily give consent; I do not know the respondent would do so. Is the information under section 169B(c) about the aggrieved and about the respondent and about children as well or is it predominantly about the aggrieved, just for clarification purposes? If it is about all of those, particularly about a respondent, how does section 169B(a) apply in regard to consent being obtained?

Ms Giles: The intent of the provisions in clause 44 is not to limit the information that can be shared within the parameters of those provisions to information that relates to a particular purpose but rather to limit it to information that is relevant for the purpose for which it is being shared. If information is relevant for a risk assessment to be undertaken, it can be shared within the wording of the provisions. That could include information about other people.

Mr McARDLE: It could be about a respondent. The case example given here was a respondent who had been released from the watch house. That would fall under clause 44, as I understand your words at the moment. You would not get consent, I suspect, of the respondent for that. It would be most unlikely.

Ms Giles: The provisions in section 169B are principles; they are not requirements. Then there are provisions throughout the act that enable information to be shared without consent, noting that the first principle is that consent should first be obtained. This information sharing could occur even before a person is a respondent because a person becomes a respondent when an application is filed before a court. A risk assessment may be undertaken by virtue of people coming into contact with police before an application for an order has been made.

Mr McARDLE: I think you made the comment to me in response to my question that you took on notice last time that a provider is then required to meet the provisions of the Privacy Act and other legislation to secure that information. Again, my question here is that there are many providers that

are not state government departments—they are NGOs—and they are staffed by volunteers on a regular basis. How do you satisfy yourself or will there be an audit process so that information that is provided is in fact kept on a secure basis and those who are not allowed access to it do not get access to it—again, following on from the QAO report?

Ms Giles: As I have already outlined, I am not able to answer in the context of the QAO report. I will take that question on notice. In terms of the provisions in the act, information can only be received under the information-sharing enabling provisions in the bill by NGOs who are specialist domestic violence services as defined in the bill. Those are limited to organisations that are funded by the state government or by the Commonwealth government. The state government agencies are bound by the information privacy principles, as we have already outlined in our response to you in answer to a question on notice, as you have alluded to. Certainly they are also bound contractually to comply with the requirements under that piece of legislation for maintaining proper records and storing personal information.

Recourse, then, and how you assure yourselves that those things will be done appropriately is, firstly, through undertaking proper procurement processes, where services are selected when they can demonstrate their capacity to meet the expectations of the department under our contracts; also, services that we fund are human service quality framework accredited, which provides another mechanism for us in terms of them being accredited by an external independent person and can be regularly audited in relation to that; and, thirdly, by the fact that they are bound by the legislative provisions in the Information Privacy Act which are taken very seriously in terms of collecting and storing personal information.

Mr McARDLE: Madam Chair, I have a number of questions that derive from Mr Potts's evidence. I think the evidence should be given by the Attorney-General's department, which is here today. Rather than take up the time of the committee here today, I propose that a series of questions be put to the Attorney-General's department, which was one of a number of departments that put the bill together. Is that permissible?

CHAIR: We can discuss that as a committee at the end of the hearing.

Mr KELLY: I have a couple of questions arising out of other submissions that we have received and that have touched on some of the things I raised with you last time you were here. The submission from ATSILS goes to the issue of the PPNs and the respondent being notified of those. They raised concerns about the respondent not being able to be served with that information in a manner that they would be able to understand or even linguistically comprehend due to language barriers et cetera. They feel that that potentially could lead to an increase in incarceration for Aboriginal and Torres Strait Islander parties. What protections are in place or what is in place to try to deal with those difficulties in terms of serving respondents notice of the PPN?

Ms Giles: The bill includes proposed amendments that enable police to issue a PPN and that a breach of that PPN comes into force when the court can be satisfied that a respondent has been told about the conditions. The court has to be satisfied that a respondent has been made aware, has been told, of the condition that they are alleged to have breached before they can be prosecuted for a breach. That is one of the mechanisms that provides a safeguard. It is a matter for a court, then, in a particular circumstance to be satisfied that a respondent or a defendant, as they would be in that matter because it is a criminal prosecution as opposed to a matter before the court under this act, has been sufficiently made aware of the fact that they are breaching a particular condition of a PPN. I guess that would be a circumstance in a particular matter for a defendant to raise, that they had not been made aware of the condition that they are alleged to have breached or that they had not been sufficiently made aware of a condition. Does that answer your question?

Mr KELLY: Yes. In looking at the submission from the Domestic Violence Services Network—unfortunately, I did not get to ask them some questions due to time—on page 2 at point 13 they talk about the concept of a woman who refuses services when they have been referred by police. I guess they are talking about the fact that that person may become identified as someone who is difficult or does not want to comply. They have put forward a system for police to maintain a system of welfare checks in those cases where a person is deemed to be at high risk. Is that a practical solution? Is it something that is dealt with in your legislation? I am happy for you to take it on notice.

Ms Giles: I may need to take that question on notice so that I can look through the details of the submission in more detail. However, I can say that the intent of the provisions in the bill about enabling police to provide referral information to a service is to respond to some concerns that were raised with us by police, as were outlined by Ms Walsh and Ms Bolhuis in their previous evidence

before the committee, about it being very difficult for police who are called to an incident to gain proper fully informed consent and that that might be not an appropriate circumstance to have that conversation with a victim of domestic violence.

What we heard was that police are then required to come back the next day, or the day after, or when they are back on shift again, to try to obtain consent and that there are difficulties around uniformed police officers obtaining fully informed consent from victims of violence. From service providers we heard that if information were provided to them about who people are then they would know at least to be able to offer some immediate assistance. That might include some very practical things like making sure that broken locks on a house are fixed or ensuring that a broken phone line is fixed or ensuring that a victim of violence has a mobile phone that they can use should a perpetrator come back to a premises. That can be put in place in that intervening time before a service can fully engage with a victim and obtain their proper informed consent and then work with them in the voluntary engagement processes that all of our services work through with victims of violence.

Mr KELLY: I guess this is probably based on my ignorance in that area, but would it be fair to say that quite often a person who is in that situation would already be known to the services that they are being referred to from previous interactions?

Ms Giles: I would not like to hazard a guess of how often they are, but certainly that is a circumstance that could very well occur.

Mr KELLY: Again, this may be beyond the scope for you to answer, but in the Micah Projects submission, at recommendation 9, they make the suggestion of the consideration of the merits of an 'end violence against women' act to complement this domestic and family violence act. Do you have any thoughts about that? Has the department given that any consideration, or has it dealt with that in other ways?

Ms Giles: Certainly, a number of stakeholders raised, through our consultation process for part of the review of the act and also through the face-to-face consultation sessions that we held, that there was a need for the government to consider whether there needed to be some differentiation between intimate partner violence and family violence. Karyn Walsh, the previous witness, talked to you about that.

There are also some specific recommendations from the special task force that we look at the impacts of domestic and family violence on people with disability, and previous parliamentary committees have considered issues around elder abuse and whether the legislation adequately meets the needs of older Queenslanders. Those two pieces of work—issues of elder abuse and issues of people with disability being impacted by the legislation—are currently being reviewed by the department. We have engaged specific external consultants to do pieces of work separately on each of those issues and expect some advice back to the department early next year in relation to both of those issues.

It is the intent, then, that, in the context of those pieces of work being done, we will look at the broader issues around the definition of 'relevant relationship'—whether that should be broadened—and then whether there is the need to go further around any other amendments to the legislation about distinguishing between the types of orders that can be made in relation to those relevant relationships. Yes, we have heard those issues before. Some work is underway and it will be considered more fully early next year.

Mr KELLY: The last point made by Ms Bolhuis is an issue that I think is worth consideration. I have had a number of constituents contact my office in relation to that. It is that age group of 15, 16, 17—a little bit too old for Child Safety involvement but too young to be an adult. Is there anything in the legislation that deals was those?

Ms Giles: Section 22 of the act enables a child to be named as a respondent or an aggrieved person in an application for a domestic violence order if they are in an intimate partner relationship or an informal care relationship—not extending then to the broader other issues of relevant relationship. That is an issue that has been raised with us through consultation processes and, again, will be considered in the context of the work that I have already outlined to you. My colleague might have some further information that she can also provide.

Ms Shaw: I can add that the department has contracted with a non-government organisation to trial a new program working with young boys who are using violence against their mothers in particular. That will be trialled and evaluated and, if successful, rolled out more broadly. That is a new initiative that we are taking. One of the reasons for that is that providers told us that those women are

reluctant to subject their sons to domestic violence orders or any contact with the criminal justice system and that they are looking for programs that can assist them to address those issues rather than having to go down a legislative path.

Mr KELLY: Thank you.

CHAIR: My questions were related to what you have already spoken about, which is the additional work that has been done around the definition of relationships and whether that is broad enough. If it is not broad enough, obviously we have people who do not have the benefit of the protections. That is something that we will have discussions about in future. The other was around the safety of applicants, but I believe that is also part of ongoing work and you have made comments in regard to that as well when they are coming before the courts.

There being no further questions, I thank the department for coming today. You have taken a number of matters on notice. I know that our secretariat, Lucy, will be in contact with you about when you respond to those matters. I declare the hearing closed. Thank you.

Committee adjourned at 11.21 am