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Royal Commission into Domestic, Family and Sexual Violence
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Dear Commissioners,

APS response to the *Royal Commission into Domestic, Family and Sexual Violence Issues Paper*

The APS welcomes the opportunity to provide input into the South Australian Royal Commission into Domestic, Family and Sexual Violence and is happy to provide comment on the *Issues Paper*. We commend the initiative for its holistic approach to addressing the critical aspects of reduction of domestic, family and sexual violence including prevention and early intervention.

Many of our members work with clients who are victim-survivors or perpetrators of sexual violence, domestic and family violence and coercively controlling behaviours in a range of settings. As with all our work at the APS, we consider the current issues in light of the Sustainable Development Goals (SDGs)¹. Of particular relevance to coercive control is SDG Target 5.2 Eliminate all forms of violence against all women and girls² and 16.1 Significantly reduce all forms of violence and related death rates everywhere in the public and private spheres, including trafficking and sexual and other types of exploitation³.

Historically, the lack of victim-survivor-centred approaches has not only perpetuated harm but also undermined the efficacy of our justice system. Enhancing the role and voice of victim-survivors in these processes is not just a matter of justice but also of necessary reform to ensure their rights and needs are adequately protected and addressed. Given this, we suggest the use of a lived-experience expert advisory group to ensure victim- survivors can participate in and influence system improvements (as per *Issues Paper*, page 5, ^{see also 4}).

In considering our response, we would also like to reiterate the importance of cultural safety and sensitivity positioned at the heart of all reform. As mentioned in the *Issues Paper*, the Commission intends on working in partnership with Aboriginal people (Page 2). It is essential that the outcomes of this Royal Commission are genuinely co-produced with Aboriginal and Torres Strait Islander peoples. This is particularly important for a number of reasons including:

- The unique impact of colonisation means that there must be deep recognition of the intergenerational trauma and ongoing disenfranchisement that has been created in Australian society.
- The important role of culture as a protective factor and as part of positive wellbeing for individuals and groups⁵. This can be expressed or experienced in many different ways such as being on country, or through language or art. These factors all need due attention and must be responsive to individual and community's needs. Culture can be used to build and strengthen social and emotional wellbeing and resilience.⁶
- Acknowledging that many of the social determinants of domestic, family and sexual violence and other crimes are not uniform across communities. Interaction with the criminal justice system,⁵ racism and discrimination,⁷ service inequalities, disconnection from country, education outcomes, health outcomes, and substance use are some of the many factors

that may contribute to violence and poor mental health. These inequalities must be addressed appropriately to see tangible progress.

We also recognise that access to mainstream domestic, family and sexual violence services is not equitable. When dedicated services for Aboriginal and Torres Strait Islander peoples are not available, some initiatives need to be adapted to become more responsive to the particular needs of these communities.

While we have attempted to respond to the consultation questions in our submission, some content is outside the scope of the APS. For simplicity, we have arranged our recommendations according to the major sections of the *Issues Paper* below. We also note that individuals with lived experience may find the process of responding to the consultation questions in the *Issues Paper* traumatic or overwhelming and, therefore, encourage the consultation to be as flexible as possible in receiving input.

We thank you for the important work you are doing in this matter, and we would be pleased to contribute to the next steps. If any further information is required from the APS, we would be happy to be contacted through our National Office on (03) 8662 3300 or by email at [REDACTED]

Yours sincerely



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Chief Executive Officer

The APS would like to acknowledge and sincerely thank the members who so kindly contributed their time, knowledge, experience and evidence-based research to this submission.

APS Response to the South Australian Royal Commission into Domestic, Family and Sexual Violence Issues Paper

1. Prevention

The APS strongly advocates for sufficient emphasis and funding to be devoted to prevention efforts to ultimately help minimise the incidence of domestic, family and sexual violence. The APS commends the work being done in South Australia and other jurisdictions to date regarding raising awareness of what constitutes respectful relationships, in particular regarding coercive control. Working with people who use violence, or are at risk of using violence can be challenging, as it often requires a marked shift in their long-entrenched attitudes and beliefs about what is appropriate behaviour and what is their 'right' as an individual⁸.

Insights gained from *The National Community Attitudes Survey on Violence Against Women* included an investigation of the knowledge about, and attitudes towards, the various forms of sexual assault in Australia⁹. The results suggest that many Australians still think victims of sexual offences are at least partially to blame. Similar beliefs have also previously been reported in the police force¹⁰. In particular, the following was found for Australians aged 16 and over:

- 1 in 5 (19%) were unaware that non-consensual sex in marriage is against the law,
- 1 in 10 (11%) believed that women were 'probably lying' about sexual assault if they did not report it straight away,
- 2 in 5 (42%) agreed that 'it was common for sexual assault accusations to be used as a way of 'getting back at men',
- 1 in 3 (33%) believed that 'rape resulted from men not being able to control their need for sex',
- 1 in 8 (13%) agreed that a man is justified in having non-consensual sex if the woman initiated intimacy in a scenario where a couple had just met, and
- 1 in 7 (15%) agreed non-consensual sex was justified in a scenario where the couple were married and the woman initiated intimacy.⁹

There will clearly need to be widespread social change to reverse this culture in Australia. Psychologists are equipped to **support attitudinal change** and overcome biases in perception and information processing using evidence-based approaches^{11,12}, ideally commencing from early in life (i.e. school age). On a related issue, it is clear that Australian media still features, and in ways promotes, violence against women¹³. Increased acceptance of aggression and sexual violence helps to normalise it and contributes to the perception it is 'too difficult' to fix¹³⁻¹⁵. Widespread attitudinal change programs should be targeted to the current community readiness level¹⁶.

We acknowledge, however, that there has been significant progress made in this area at the Federal level. For example, the **'Stop it at the start' campaign** is a positive step towards raising awareness of the potential negative influences of social media on respect (particularly towards women)¹⁷. This is particularly crucial for young people who are still forming their ideas of what constitutes healthy relationships. We also support school-based programs which are being rolled out in different jurisdictions. The APS would be pleased to assist in the further extension and co-design and implementation of initiatives to increase the knowledge and understanding of respectful relationships in South Australia as this is critical to reducing the long-term incidence of domestic, family and sexual violence.

2. Early intervention

Early intervention is a current member-identified area of underinvestment that could have marked positive impact in the future. Psychologists, in particular forensic psychologists with relevant expertise, are able to identify children, adolescents, and young people who are at risk of perpetrating domestic, family and sexual violence. For example, young people with a background of experiencing abuse or neglect themselves, instability of care, being exposed to domestic and family violence at a young age are at higher risk of perpetuating the cycle of violence¹⁸⁻²¹. Often, these young people begin to show harmful or fixated sexual behaviours and attitudes consistent with perpetrators and, therefore, should be provided with psychological support to intervene before an offence takes place.

To achieve this in South Australia, our members suggest:

- Increase the **number and proportion** of **Senior Rehabilitation Clinicians** (in particular psychologists) working in **prevention and early intervention** to identify and work with children with known risk factors. Currently, there are approximately 3 FTE Rehabilitation Clinicians working with children and adolescents in South Australia compared to approximately 40 FTE working with adults.
- Support a **whole systems response** across education, (mental) health, justice, and corrections to reduce and address domestic, family and sexual violence. While we commend early efforts to form cross agency working groups, there must be more done to ensure initiatives are coordinated to prevent individuals 'falling through the cracks'. A whole system response also includes ensuring that pay **classifications for psychologists are equivalent across SA agencies**. For example, pay scale classifications (HP3 vs HP4) for psychologists differ if working in education, health, or corrections. It is important that relevant staff in different parts of the system are treated equally, to ensure there is a balanced, holistic approach to reducing violence.
- Greater training and support of work in the context of **family systems**, as psychological work is much less effective in treating young people in isolation i.e. one-on-one only. To achieve optimal results, young people need the support of all major elements of their environment e.g. family and kin and school and significant others.
- Implementation and further development and evaluation of programs and initiatives such as the **KIND program** which was developed in South Australia and has been taken up in other jurisdictions²².
- **Support psychologists to enter and stay in the public sector** workforce by providing **opportunities for quality supervision** with senior psychologists. As part of our consultation with APS members, we heard that previously there were South Australian government partnerships with higher education providers to facilitate state government internships and early career opportunities. Ideally this, or a similar scheme, should be reinstated. As psychologists gain experience and become senior clinicians, care must be taken that their workload expectations take into account requirements for continuing professional development and the demands of providing quality supervision to junior colleagues and peers.
- Increase the **availability of psychological services available in rural and remote communities** where the abovementioned issues are only exacerbated.

3. Response

Based on evidence-informed input, we have identified a number of opportunities to improve the whole system response to hold the needs and interests of victim-survivors paramount. Professional training including **trauma-informed curricula**²³ for police, court staff, medical personnel, and others involved in the criminal justice system is essential. We advocate for this to be extended to all effective prevention practices²⁴ to further advance justice responses.

At present, there are limited **centralised support services** that can assist a person who has experienced domestic, family or sexual violence. Originally concentrating on supporting children, The Barnahus model in Europe shows significant promise where medical professionals, law enforcement and support services are co-located to provide individuals with access to specifically trained persons to assist with evidence collection and therapeutic interventions²⁵. In Australian contexts, access to practical support to establish safety is paramount and administrative processes (e.g. waiting in long Centrelink queues) must consider the risks and practical challenges victim-survivors face when trying to leave an abusive relationship (e.g. trying to care for young children while accessing Centrelink payments).

The APS commends policing practices that **empower victims** to decide, in consultation with attending police, what action they prefer to occur. In the context of domestic violence or coercive control, this may be moving the victim (and possibly children) to a safe location unknown to the perpetrator, or removing the perpetrator from the family house. Collaborative decision-making enables victims to be informed of the impact of their choices and be empowered to have agency over their situation²⁶. Empowerment is central to the core principles of **trauma-informed practice** which supports the recovery of victims²⁷.

Another example of a practice that could be more acceptable to victims while ensuring valuable information is not lost is **pre-recording complainant evidence** as a means to avoid further questioning in open Court²⁸. This has the following advantages:

- With an effective and trauma-informed interview, the complainant's statement can be taken in full and presented as Evidence in Chief,
- The complainant is in a more relaxed environment, which may encourage them to provide more information,
- By producing a video-recorded interview, investigators have access to the linguistic, psychological and factual evidence produced. Much of this evidence is removed in a transcript, or summarised statement,
- By using a trained, experienced, and independent psychologist to conduct interviews, any evidence will be tested as to its admissibility during the interview, and this can inform police investigations, reducing attrition rates upon trial, and
- Legal professionals can also have confidence in the interviewing process.

However, we acknowledge that to be effective, the use of pre-recording of evidence would constitute a 'profound shift' in police processes and approach²⁸. Central to any changes should be the **safety of victim-survivors**.

Similarly, we support the use of psychologists, as experts in human behaviour to act as intermediaries and advocate for increased funding and support of their involvement.

Need for best practice interview approaches

APS members have reported their clients' (often negative) experiences of police handling of sexual violence reports. Clients have reported not being taken seriously and/or not being informed about the process or progress of their case. This is particularly challenging for adults reporting historical abuse as it often takes many years and considerable anguish to come forward to report the incident. The psychological impact of coming forward must be understood by police personnel, and at all times, all activities must be trauma-informed. We also strongly advocate for **psychological support** for complainants who must engage in a phone conversation with the alleged perpetrator to gather evidence as this can be a highly traumatic process.

The APS strongly endorses evidence-informed **interviewing techniques** and acknowledge that there has been some recent movement in some jurisdictions to improve interviewing of complainants of sexual violence^{29,30}. Interviews conducted by appropriately trained and experienced psychologists can avoid retraumatising complainants and produce increased levels of probative evidence to continue legal actions. Important considerations include:

- Evidence indicates that 41% more detail is elicited using a **cognitive interview** than standard investigative interviews alone³¹. A newer study using an **enhanced interview technique** elicited four-and-a-half times more information than the cognitive interview³¹.
- A significant challenge to these interviews is the time taken (two to three hours), which is longer than many police officers have, given their other duties.
- An interview with a significant contribution from a psychologist can clarify the information that police are often reluctant to engage with including the difference between consensual sex and rape, will test the veracity of the information, and can also address 'rape myths' in the evidence elicited, potentially removing the requirement for cross examination.

Skills such as rapport building, question selection, and wording for successful interviewing are maintained by psychologists, particularly forensic psychologists, in these settings. The use of evidence-based measures of coercive controlling behaviours (e.g. the Checklist of Controlling Behaviors) and psychological assessment to shift the burden of proof away from victims³² is also required. Finally, ensuring that victims trust that coercive control will be treated in the same way as physical violence, despite the lack of physical evidence, will be imperative.

In the United States, the 'Start by Believing' philosophy began to take shape in April 2011, which **includes trauma-informed approaches** to interviewing, policies, practices, training and collaboration of responding professionals³³. Again, specialist interviewers work with complainants of sexual assault, recognising the impact of trauma on an individual attempting to provide information. This philosophy draws from a neurobiological basis of trauma and seeks to identify additional cues of trauma in the interview, such as narrowed attention, dissociation, impaired reasoning etc. By recognising these cues within the complainant's narrative and being able to elicit this information, more thorough evidence-

based investigations can be supported by the interview. We also support the NSW SARO³⁴ approach as an alternative to speaking directly with a police officer.

Aspects relating to trial processes

- **Assessment of the credibility and reliability of complainants:** Suggestions that complainants prior sexual activity, preferences, clothing, alcohol use, or work is related to their experience of being sexually assaulted is both (1) undermining and can have devastating consequences on the mental health of complainants as well as (2) being discouraging to others who have been assaulted to come forward³⁵. We agree that judges and personnel must be trained in the relevant memory scientific literature, as well as common 'rape myths' or misconceptions that can influence interpretations of complainants' accounts³⁵.
- **The importance of process:** A large body of work stemming from procedural justice theory³⁶ demonstrates that decision-making *processes* are equally, if not more important than *outcomes* for achieving justice. In particular, features such as trust, neutrality, respect and voice are key in determining victim satisfaction with justice responses³⁷. Procedural justice is particularly important in the context of sexual violence, and can reduce the distress experienced by victims of such crimes, for whom the need for expression and understanding is heightened^{38,39}.
- **Restorative justice procedures:** One approach that has attracted support from many victims of sexual assault is restorative justice procedures. But because different victims may have different justice needs, ideally they would be able to choose from a suite of process options⁴⁰. However, victim preferences regarding particular sentencing outcomes should be balanced against the likely reintegrative potential of that sentence (e.g., sex offender registries, which are stigmatising and some evidence suggests do not reduce recidivism⁴¹).
- **Use of victim impact statements:** While we cannot comment on the legal implications of Victim Impact Statements (VIS), our members report them as being therapeutically helpful for their clients. The opportunity for victim-survivors to describe the impact of their experience can provide restorative elements to proceedings but may not necessarily have an impact on offenders' remorse⁴².

Organisational considerations

Another component of addressing domestic, family and sexual violence is workplace and organisational support of staff who are victim-survivors. While we commend the inclusion of family and domestic violence leave being included in the National Employment Standards⁴³, disclosure of abuse at work must be handled carefully by employers and managers because it is a particularly vulnerable experience for victim-survivors. Psychologists, in particular organisational psychologists, are well placed to help workplaces ensure that they are best placed to manage the disclosure of domestic and family violence and to support staff in every step of the process. Based on member input, we have identified the following three key components:

1. **Managing disclosure** – often the nature of domestic and family violence means that the victim-survivor is cut off from friends and family and work represents, therefore, a rare opportunity to seek support. Importantly, the victim-survivor is vulnerable at this time and so supervising staff must be appropriately trained to manage conversations and how to proceed.
2. **Empowering staff** – victim-survivors should be empowered and given a sense of control regarding what they would like to happen. This involves consulting with the victim-survivor at each juncture and not making assumptions e.g. disclosing information to other team members or changing task allocations. Importantly, this aligns with the commendable new South Australian legislation which requires employers to manage the "risk of psychological illnesses" at work⁴⁴.
3. **Avenues of escalation** – throughout large organisations we recommend having psychologists or other highly trained staff placed in a senior position to act as a point of escalation for managers when they are unsure of how to best support a staff member who has disclosed experiencing domestic and family violence at work. Appointing a senior staff member to such a role helps to reduce stigma and also shows organisational commitment to supporting employees.

Psychologists play a key role in improving outcomes for victim-survivors and perpetrators of coercive control and domestic, family and sexual violence. Psychologists can also assist in improving family and community outcomes by implementing psychologically-informed education, awareness and

training programs and conducting appropriate research. As we have previously advocated ^{e.g. 45}, and given that victim-survivors may access assistance through a number of channels, it is important to:

- Provide education, and awareness training in coercive control for all front-line health workers as part of on-boarding ^{see 46},
- Extend education and training for mental health workers and teachers and promote a no-tolerance stance for witnessing disrespect or controlling behaviours,
- Develop education and training programs as a prevention mechanism for the general public, schools, the police and other stakeholders,
- Support trauma-informed policing practices that foster the empowerment of victims to have agency over their situation,
- Expand the provision of day and night online support services for victims, particularly those in regional and remote areas,
- Promote a comprehensive co-response model which prioritises victim and family safety.

4. Recovery and Healing

The APS supports efforts to promote recovering and healing of victim-survivors of domestic, family and sexual abuse. Adequate psychological support is vital to the long-term recovery of many victim-survivors and we strongly advocate for access to the support they need. For example, we have called for the Federal Government to reform the Medicare Benefits Scheme to enable psychologists to provide services to victim-survivors without the need for a GP referral or mental health diagnosis as victim-survivors often experience other hardships such as financial abuse ^{e.g. 47}.

We acknowledge, however, that we must also provide offenders (or would be offenders) opportunities for behavioural change. There is a critical need to develop and evaluate offender programs to ensure that behaviour change programs are evidence-based ^{see 48,49}. Funding such programs may not be as attractive to governments as initiatives to support victim-survivors, however, action must be taken to stop the cycle of abuse from perpetrators.

Research clearly demonstrates that punitive measures (imprisonment) do not necessarily lead to a decrease in aggressive behaviour or changes to perpetrator attitudes towards violence⁵⁰. In part, this could be due to their **experience in prison lacking opportunities** to learn new skills, approaches, or strategies to cope with often very challenging life in the community. Importantly, as mentioned previously, a very high proportion of people in prison have histories of trauma: a predictor of both offending and reoffending⁵¹. For example, up to 75% of child sex offenders have experienced child sex abuse themselves^{52,53}. Restorative justice provides an alternative that could be explored but, at the very least, this indicates a high need for **psychological support** for people in prison.

An APS member with specific expertise in the area of coercive control drew our attention to one program which uses a different approach to working with perpetrators of domestic violence (and other offences). Using immersive, outdoor activities and other counselling and mentoring sessions, *Hard Cuddles* facilitators and mentors, some with lived experience, create an environment to **remodel communication patterns** and address a variety of emotional challenges⁵⁴. Similarly, The Australian Institute of Criminology has recently released details about an integrative 'nature-based' intervention with men who have perpetrated domestic and family violence⁵⁵. Initial results are positive, with trends towards improving men's engagement and enabling informal conversations. It is clear, however, that more research is needed including with larger sample sizes and in different settings.

It is important to acknowledge that effective cognitive and behavioural change is not the same as merely attending any intervention or rehabilitation program ^{see 56}. Thorough psychological assessment is required to determine whether any behavioural change program has been effective. We would be pleased to work with the Commission to research and develop the best evidence-based interventions and rehabilitation initiatives.

Finally, we acknowledge the toll that witnessing and working with violence takes on our wider community and systems which also need support to recover and heal.

Summary of recommendations

- *Undertake widespread community initiatives to help promote positive attitudinal change regarding respectful relationships.*
- *Invest in early-intervention initiatives including psychologists to work with children and adolescents with known risk factors for perpetrating violence.*
- *Utilise trauma-informed, evidence-based practices that encourage respect and empowerment to support victim-survivors.*
- *Use best practice, evidence-based and trauma-informed interview approaches, ideally undertaken by psychologists or other highly trained police personnel.*
- *Train judges and judicial personnel in issues relating to trauma-related memory and common domestic, family and sexual violence misconceptions including the impact of coercive control.*
- *Ensure workplaces are equipped to support the disclosure of violence as well as promote empowerment and provide pathways for escalation.*
- *Consider processes that may provide restorative justice options for victim-survivors.*
- *Ensure victim-survivors have access to support from psychologists without the need for GP referral and a mental health diagnosis.*
- *Develop evidence-based interventions and rehabilitation opportunities for perpetrators and/or would be offenders.*

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