ROYAL COMMISSION
INTO DOMESTIC, FAMILY
AND SEXUAL VIOLENCE

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WEDNESDAY, 26 FEBRUARY 2025

COMMISSIONER NATASHA STOTT DESPOJA AO, Presiding-

Commissioner: Good morning. Welcome to day six of the public hearings for the Royal Commission into Domestic, Family and Sexual Violence. My name is Natasha Despoja, and I'm the Royal Commissioner for this Commission. I begin by acknowledging the traditional owners of the land on which we meet today, the Kaurna people, and I pay my respects to their elders past, present and emerging, and acknowledge any elders from other communities who may be present or listening today. During these hearings we've examined a range of issues including housing, including homelessness for victim survivors of domestic, family and sexual violence, emergency accommodation and funding arrangements for assistance. We've investigated access to forensic medical examination, particularly in regional and remote areas, and we've looked at primary prevention, including education strategies, so trying to prevent the violence before it begins. Yesterday, we examined the topic of children and young people. So today, our hearing is intended to examine the issue of intervention orders, how they are used for both victim survivors and for those who use violence. We will hear from SAPOL, the Legal Services Commission, Embolden and a legal expert from Melbourne University. During my listening sessions and meetings around the state, I've heard many stories about intervention orders, their impact and their effectiveness.

Many people talk about them being important for safety, but a number of people have also told me about their personal situations where intervention orders have not worked. I've sat with many people, men and women, and heard that the system, on occasions, has let them down, particularly women, and that there is often little accountability for those who breach those orders. Some of these storeys have had terrible outcomes, some leave people frustrated and often vulnerable and scared for their safety and the safety of their children. So today it's an opportunity to examine some of these issues and I now ask Counsel assisting to explain the plan for today. Thank you, Ms Orr.

MS K. ORR: Thank you, Commissioner. Today is the Royal Commission's sixth day of public hearings and the second day for this year. As the Commissioner said, it is centred around intervention orders. I again acknowledge the domestic, family or sexual violence lived experience of anyone involved in the hearings following on the live stream or watching the recording of this hearing at a later time. As for our other days of hearings, people may find the content of today's hearing distressing. I remind anyone watching or listening that if you wish to seek support or advice, a list of support services can be found on the Royal Commission's website www.royalcommissiondfsv.sa.gov.au.

Also, as I've indicated at our previous public hearings when we refer to domestic and family violence it includes all forms of violence that can occur within relationships. This includes intimate partner violence, violence perpetrated between family members and in family-like settings, coercive and controlling behaviour and sexual violence. Sexual violence, whether in a domestic or family setting or otherwise, includes any sexual activity without a person's consent. We will continue to use the term victim-survivor refer to people who have experienced or who are currently experiencing domestic, family or sexual violence, and we will use the term person who uses violence when referring to an individual who uses domestic family or sexual violence to cause harm to another.

During today's hearing we may also use terms that refer to these people in the context of an intervention order and in the court systems. For example a protected person is any

person who is listed on and protected by an intervention order. An applicant is a person who is applying for an intervention order and a respondent is the person responding to that application, usually for our purposes the person who uses violence. An intervention order is a civil mechanism offered by the legal system which is aimed at providing protection to people and preventing further harm. Intervention or protection orders as they are often called in other jurisdictions are a common tool used in jurisdictions across Australia and elsewhere. In South Australia, their operation is governed by the Intervention Orders Prevention of Abuse Act 2009. In accordance with that legislation, an interim intervention order may be issued by South Australia Police or by a magistrate if it is reasonable to suspect that a person will, without intervention commit an act of abuse against another person. Abuse is broadly defined and includes physical, sexual, emotional, psychological or economic abuse. It can include depriving someone of their liberty, keeping someone under surveillance and threatening or harassing behaviour. They may be imposed on people who are under 18. A breach of a condition of an intervention order is a criminal offence for which imprisonment may be imposed.

Intervention orders in South Australia are unique in that they have no end date, they have ongoing effect. This means that the order will not have an expiry date and will continue to operate unless the court revokes the order. While intervention orders may be imposed in circumstances outside domestic family and sexual violence, they are most commonly used in this space. In South Australia, the volume of intervention orders related to domestic abuse is high and is increasing. So too are the number of breaches of orders which come before the courts. Data obtained by the Royal Commission indicates that the number of applications for domestic abuse-related intervention orders in the Magistrates Court was in 2022 to 2023, 3317 applications and in the following year 2023 to 2024, it was 3969 applications. There are also applications in the Youth Court. In 2022 to 2023, 128 applications for domestic abuse-related intervention orders were lodged. And in 2023 to 2024, 121 applications were lodged in that year. For breaches of conditions of an intervention order, there were 2581 applications in total across the various South Australian Magistrates' Courts in 2022 to 2023 and in 2023 to 2024, 2711. In the Youth Court there were 58 applications in 2022 to 2023, and 55 applications in 2023 to 2024.

In its work so far the Royal Commission has heard from many people and organisations about intervention orders. Many express the view that intervention orders can be an important safety tool if used appropriately and effectively. However, many described what they saw as issues or difficulties with how they are being imposed, monitored and enforced in South Australia. The Commission has heard that many victim survivors feel that intervention orders are not providing effective protection from domestic, family and sexual violence and that they are also not effectively holding the person using violence to account. The Commission has heard about inconsistent approaches to the implementation and enforcement and lack of understanding of the system generally. Including children on intervention orders and the interaction with the Family Court system has also been a consistent theme. The Commission has heard that people who use violence also face issues including a lack of understanding of the intervention order itself, a lack of information for the person using violence which can include a lack of legal representation and the significant criminal consequences if an order is breached.

There have been reviews of the intervention order legislation and amendments made which, amongst other things, broadened the definition of abuse provided for recognition of intervention orders interstate and increased the penalties for breaches. But the

Commission has heard that despite this, issues like the ones I have just referred to still commonly arise. Effective police and justice responses is a key component to addressing domestic family and sexual violence and is reflected in the first action plan of the national plan to end violence against women and children 2022 to 2032. It says, "Improve police responses and the justice system to better support victim survivors through the provision of trauma-informed, culturally safe supports that promote safety and well-being and hold people who choose to use violence to account." The Royal Commission has heard that while intervention orders have the potential to play a critical role as a safety mechanism for domestic, family and sexual violence victim survivors and an accountability mechanism for people who use violence, the way they are operating in practise within the criminal justice system warrants close consideration.

Today's hearing is intended to explore the intervention order system, to understand how they are working in South Australia and to understand some of the complexities involved in their application and enforcement. The first witness today is Ms Catherine Coleiro. Ms Coleiro is a senior lawyer at the Legal Services Commission of South Australia and spent many years working at the Women's Domestic Violence Courts Assistance Service, known as WDVCAS. This service provides assistance for women wishing to make an application to the Magistrates Court for an intervention order to be imposed. Ms Coleiro will assist us with some information about how the intervention order system works in South Australia. She will also explain the role that WDVCAS has in assisting women to make applications for intervention orders and explore some of the issues that they see in this area. She will also explain how coercive control can feature in the intervention order space. We will then hear evidence from Chief Inspector Kellie Watkins from South Australia Police. Chief Inspector Watkins will explain intervention orders from a policing perspective including the issuing of orders by police officers and the prosecution of breaches. After the lunch break, Professor Heather Douglas AM will give evidence. Professor Douglas is a teacher and researcher at Melbourne University whose main research area is legal responses to domestic and family violence.

She will speak about the policy purpose of intervention orders, explore some common issues she sees in relation to intervention or protection orders across different jurisdictions in South Australia and explain what, in her view, it would take to develop and maintain an effective intervention order system. To finish today, Ms Mary Leaker will give evidence. She is the General Manager of Embolden, South Australia's peak body for domestic, family and sexual violence services. Ms Leaker will speak about the experiences of front-line workers in working with victim survivors and people who use violence. She will speak as a representative of this front-line to explain some of the realities of intervention orders from the perspectives of victim survivors and people who use violence. Thank you, Commissioner. I call Catherine Coleiro.

>CATHERINE COLEIRO, SWORN

[9.43 am]

MS DESPOJA: Welcome.

MS ORR: Thank you. Ms Coleiro, you currently work at the Legal Services Commission of South Australia, and what is your role at Legal Services Commission?

MS COLEIRO: Currently, I'm leading Domestic and Family Violence programs within the Family Law Division, which is the Family Safety and Support Integrated Services program.

MS ORR: And what was your role immediately prior to that?

MS COLEIRO: Prior to that, I was the team leader of the Women's Domestic Violence Court Assistance WDVCAS program and implemented and delivered that program for several years and still remain closely linked in under the family law leadership group with that program.

MS ORR: When did that program begin?

MS COLEIRO: With the Legal Services Commission it began in 2019 was when we received the tender for that program.

MS ORR: So today I want to ask you about that program and WDVCAS as we'll call it, but that's the Women's Domestic Violence Court Assistance Service.

MS COLEIRO: That's correct.

MS ORR: So what does WDVCAS do?

MS COLEIRO: So WDVCAS assists women across the state with intervention orders or housing tenancy matters.

MS ORR: How is it funded?

MS COLEIRO: So it's currently funded under the state funding scheme.

MS ORR: In addition to the normal legal services commission.

MS COLEIRO: Sorry, that's correct, yeah. So in addition to the core funding, it's a state funded program through the Attorney-General's Office.

MS ORR: I will ask you more about what WDVCAS does, but first I want to ask you to explain some general information about intervention orders in the system for our assistance. Can you describe for us in general terms what an intervention order is?

MS COLEIRO: It's an order that is either given from the courts or from the police, it's made by the court or police to protect a person from further acts of abuse from another person, so protecting one person from another, where that abuse is imminent and at risk of harm.

MS ORR: So the risk of harm is required, and then the order is intended to protect that person from - - -

MS COLEIRO: Correct. So there needs to be a reasonable risk of further acts of abuse occurring and then appropriate in all the circumstances for that order to be made.

MS ORR: The intervention orders and the procedure around them is governed by the Intervention Orders Act.

MS COLEIRO: That's correct.

MS ORR: And is it correct, as I said in my opening, that in accordance with that act, if terms of an order are contravened, it's a criminal offence?

MS COLEIRO: That's correct

MS ORR: Under the act, there are interim orders and then final orders. Can you explain, first of all, what an interim order is?

MS COLEIRO: So an interim order, if it's an order made by police, they may have attended an incident, is one way that an interim order could be made, and it's made immediate on the spot. The private application, which is where WDVCAS assist, that is an order that's made to the court, where the court will hear the evidence from the protected person, and that's called ex parte hearing, and they'll make a decision whether there'll be further acts of abuse occurring without protection and is it appropriate to make that interim order.

MS ORR: The protected person would be, in most cases, the victim survivor of violence?

MS COLEIRO: Correct.

MS ORR: And when you talk about the court hearing evidence from that person and it being ex parte, does that mean the respondent or the person using violence doesn't appear before the court at that stage?

MS COLEIRO: That's correct.

MS ORR: If an interim order is given, what happens next/?

MS COLEIRO: I might just explain a little bit more with the interim order, so it's a preliminary hearing is what it's referred to in the private sphere. When that order is made, if that's made, it then needs to be served onto the respondents, on the person using violence. Once it's served, and usually there'll be a further court date as well that will be listed within eight days, that's what is legislated. And if the person using violence has served that order, it then becomes enforceable at that point in time. So once that's occurred, and we're now at the second hearing, the return date, so within eight days usually with the metro courts. With the regional courts it will depend upon when the court is sitting. It'll generally be two days within that date that court's sitting. Then the respondent is called to the court to respond to that application. Most times that second hearing is adjourned for the respondent to obtain further legal advice or legal advice if they haven't if they've just been served the order and then the next date is usually within eight days as well. What we find a lot of the times is that legal advice

hasn't been obtained, a lot of the respondents remain unrepresented, and the legislation states that these orders still have to keep going but in reality there can be quite lags in the system from once an interim intervention order is in place.

MS ORR: Just picking up on what you said there about it's intended to keep going, we have an interim order, which I understand what you're saying is meant to be interim, it's meant to be short term, and then is the next step a final order?

MS COLEIRO: That's correct.

MA ORR: Yeah. And that's what you're talking about in terms of there would be a hearing in order to obtain the final order.

MS COLEIRO: Yes.

MS ORR: It's a very simplistic overview.

MS COLEIRO: It is a bit of a simplistic overview because a lot happens in between - - -

MS ORR: Yes.

MS COLEIRO: - - - obtaining the interim order and in the event of it obtaining a final order, so lots of different steps and negotiations can happen through that phase and depending upon also what the WDVCAS team are presented with in terms of evidence from the respondent, they're assessing merit right at the beginning and through each stage of these orders. Is there merit to be obtaining or applying for an interim order once it's been obtained? They'll then receive the evidence from the respondent as well. Circumstances might change as well, so there will be a period of perhaps negotiation that can occur. That may change merit, what we would term the merit assessment. It may be at that point that the respondent might agree to the order and there's a consent order put in place. There might be negotiations in order to obtain that consent and those negotiations could be you know, removing certain protective clauses in that order. That's sometimes when children, if they've been put on the interim order, there could be negotiations for the removal of children. So a lot of negotiations can happen between the interim and a final order, and a final order is not necessarily that a trial has occurred, it could be that there's been consent by both parties to achieve an order.

MS ORR: I'm going to go back and ask you about that procedure and for some more details about it. Just to clarify though, at the outset, interim orders are still enforceable, is that correct?

MS COLEIRO: That's correct, yeah.

MS ORR: If they're breached - - -

MS COLEIRO: Yes.

MS ORR: - - - it's still a criminal offence. And is it also correct that once a final order

has been made, they have no end date, they are indefinite in South Australia until - - -

MS COLEIRO: That's correct. In South Australia, yeah.

MR ORR: Yes. Until an application's made to the court for it to be with withdrawn.

MS COLEIRO: That's right to be revoked, but the respondent cannot make an application within 12 months of that order whereas the applicant can make an application at any time.

MS ORR: Okay. So I'm going to go back and start through the process of an interim order being made through to how a final order might be made. That first application when the respondent is not there, and it's just the applicant for the interim order, is it correct that there is a test under the act for the circumstances in which an order will be made?

MS COLEIRO: Yes, so it's a two-pronged test and is it reasonable to suspect that without intervention, a person is at risk of further acts of abuse occurring and the second prong is and is it appropriate in the circumstances to make that order?

MS ORR: You mentioned earlier that police have powers to make an order, but also people may apply to the court for that order, and that is where your service fits in?

MS COLEIRO: That's correct, yes.

MS ORR: I want to ask a bit more about your service now. How do people get to WDVCAS?

MS COLEIRO: They can either self-refer, so WDVCAS has a dedicated website separate to the legal service's website, so people can self-refer, women can self-refer, or those that identify as women can self-refer. Referrals come through the police as well, where women may have attended a police station and police will refer them through to us. They could be referred through from the court, where they've made their own application to the court in the first instance and the magistrate or registry even if they've gone to the counter in some of the courts will refer through to the program as well as other community service providers as well.

MS ORR: Is it correct that you have a presence in the courtrooms when lists are taking place?

MS COLEIRO: Yes, that's correct. So the family violence list in the metro courts, we're present in those for women that have applied or needing that assistance.

MS ORR: And as I understand it, the role of WDVCAS is to assist those women to - I'll ask you about eligibility in a moment, but to assist those women to make the application to the court for the intervention.

MS COLEIRO; That's one role of WDVCAS, yes.

MS ORR: Can you assist us with some numbers? How many people do WDVCAS

assist?

MS COLEIRO: So in the last financial year, 2022 to 2023, they assisted just under 1000 people.

MS ORR: Does that necessarily mean that an application was made?

MS COLEIRO: No, no, because that's one arm of the program. The other is with intervention orders and making applications, but the other arm might be liaising with police if there's a police intervention order and women are unsure of what's happening in that space they may come to us for further assistance. It could be that they have called and wanting to find out more about an intervention order and maybe assess that there's no merit to apply at that point in time for the order, so they'll just be given information and advice around intervention orders. So those numbers don't necessarily equate to applications being made, and it's difficult to sort of delineate the data as to how many applications were specifically made by the WDVCAS team how many were assisted within the court where the women had already made an application et cetera.

MS ORR: The Royal Commission has some data obtained from the Magistrates Court and I referred to some of it earlier this morning. The number of applications total for domestic abuse related intervention orders in the Magistrates Courts was 3969 in the 2023 to 2024 financial year. The majority of those were police issued or police applications, but in that year there were 454 private applications to the Magistrates Court for an intervention order.

MS COLEIRO: That doesn't necessarily mean they were represented by WDVCAS, but that's the kind of numbers we're talking about in terms of private applications by individuals.

MS ORR: I want to ask just quickly about eligibility before I then ask about what you do when people come to you. Are there any eligibility criteria for the WDVCAS service?

MS COLEIRO: The only criteria is for people that identify as a woman and that are experiencing family or domestic violence, and it's a state-wide service. So that's the criteria to enter into the program.

MS ORR: Is that criteria that it must be a person identifying as a woman part of the funding arrangement?

MS COLEIRO: The funding arrangement just says for a women's domestic violence court assistance service.

MS ORR: And your work is in the Magistrates Courts?

MS COLEIRO: That's correct, yeah.

MS ORR: Because you've mentioned that you operate stateside, does that mean WDVCAS service is available across the state?

MS COLEIRO: It is.

MS ORR: How is your service offered in regional or remote areas?

MS COLEIRO: It's difficult to offer it in those areas. The WDVCAS team don't sit at the regional remote courts, just the metro courts as I've explained. So it's a matter of building those stakeholder relationships with the courts, with the registry and with the police, with the community service providers, the people that are referring, that would refer women through to the program, and then it would be through telephone link-ups, AVL link-ups and if required attending those regional courts when or if necessary.

MS ORR: So, when a person comes to WDVCAS asking for help with an intervention order, they're referred through the courts as you've described, what do you do for them?

MS COLEIRO: So they've met the criteria, they've come through. Doesn't always mean that there will be that immediate assistance in terms of a merit assessment is then conducted. So the team will have an initial appointment with them. Actually, the very first step is there'll be a call back. So the woman will ring up, a referral will be made, and they'll have an initial call back with one of the lawyers to discuss, is this something that sits within the program, or is it better dealt with elsewhere? Then it will be sent through, if it is for the program, for an initial assessment. For a merit to test to be looked at, as to whether there is merit to make an application to the court, that's one area, and it might be that, look, there is merit, and we will assist you to make that application. It could be that they've already made an application themselves, and they have an interim order.

It could be that they've gone to make the make an application, but the courts have referred them through. Again, we do that merits assessment as to whether there's merit and using that two-pronged test. That's one part of what WDVCAS do as well though with the intervention orders and I know that's what we're here to talk about today, but they also assist with the housing break-lease matters as well, so there could be that element as well that's happening for the women. They'll also assist with giving information and education about intervention order. So it's not always work that is just done in the courts. There's quite a large education piece around intervention orders. There's a lot of work that's done in that space particularly in relation if it's a police intervention order, whether that's an interim or a final order, they may come to us for advice as to you know what does this order mean or there might be some changes that have happened in their lives if they want the order revoked or varied or there's been breaches, and they may have attended SAPOL to report those breaches and had some difficulty or trouble in reporting them or feeling that they're not getting anywhere with those reports. So then we can liaise with SAPOL as to you know what's happening with the police order.

MS ORR: I want to ask you a bit more about this merits assessment, you talked about assessing merit. How do you do that?

MS COLEIRO: Looking at the evidence and the woman's story as well because some women will come and all they'll have is their story. There will be no further evidence. So it's looking at that two test of is it reasonable to suspect that further acts of abuse will occur if there isn't an intervention? So looking at what is the abuse that's

been occurring, what's been happening for her? Is it situational violence? Is there something else that's happening in her life? Has someone moved away? Is there a breakdown in the relationship. What have been the acts of violence, the frequency.? So it's really getting her story to then assess whether there's merit and how the courts would view that story.

MS ORR: And whether it would satisfy the test under the act.

MS COLEIRO: Correct.

MS ORR: Do I understand from your evidence that if you don't think there's merit to an application WDVCAS will then not make the application?

MS COLEIRO: Yeah, that's correct. If it's assessed that there's no merit for the application, then they wouldn't proceed with making an application, but they'd certainly proceed with working with the women to look at their safety and whether there are other organisations that can assist with some support, whether it's a psychosocial support or safety assessment safer homes through (indistinct) so they would certainly still provide that that sort of wraparound and assist her and also if it's assessed at that point that there's no merit, it may be the advice of you know continue to journal what's happening and come back to us, so it's not a matter of just saying, "Well, you don't have merits, see you later, off you go now." It's really holding that woman and saying, "Okay, well, where to from here if that's not an immediate fix for you?"

MS ORR: And is that decision explained to the woman?

MS COLEIRO: Yes. And about why there might not be merit and why it's not a good idea to make the application at the time, I suppose.

MS ORR: Yes. Why does WDVCAS make that merit assessment? Why is it important to make that merit assessment?

MS COLEIRO: There's a few reasons why it's important. One, if every application went to the court that didn't have merit, that was assessed as having no merit, it would clog up the court system. But the more important reason is the women have been through so much already and feel let down a lot of times by systems already and the systemic abuse that's already occurred. They don't feel in control or have power over their situation, and it's almost setting them up to fail again. It's almost setting them up again for that systems abuse and particularly when we hear, "No one believes my story." So it's a very delicate line to sort of tread to empower a woman and help her to gain control back of her life and have those safety measures but also not setting them up for an unrealistic expectation that may not occur.

MS ORR: If you're of the view it does have merit, you would go ahead and make the application to the court - - -

MS COLEIRO: Yes.

MR ORR: - - - and you've explained the process for an interim order, and then we touched on the process then moving forward if a final order was to be made. Can you

just explain a bit more about what might happen? So say we've heard you say we've got the interim order, it's been served on the respondent. The respondent has come to court. What happens next in that process in trying to obtain a final order?

MS COLEIRO: Like I've mentioned previously, it can be negotiated, so it may be that there's a negotiation of the protective clauses that still provide protective measures for the woman that she is satisfied, and sometimes she's not always satisfied, but there'll be that negotiation process. What can be really challenging is when the respondent hasn't obtained legal advice or representation. A lot of times they are unrepresented and may be quite aggrieved. I mean these are really serious orders. They do restrict someone's freedom of movement, and they may not understand the order themselves and this is the respondent, so there can be that lack of education for them and understanding of these orders. If they remain unrepresented it can be very challenging because they may not want to negotiate, they may just want to say, "Well, you know, this is all garbage, this order. I don't want this order." And that can be difficult, very difficult. A lot of these matters, even if they are set down for a trial, are generally resolved without having to go to trial. It may be a situation where, as I mentioned before, situational violence, there's been a breakdown in the relationship, and there's many other different ways that this can occur, but this is the main one, is that there's been a breakdown in the relationship. Situational violence has occurred. One party may have left the home, or they might still be in the same home. The woman has come to us, assessing her, we've attained obtained an interim intervention order. One of the parties has then perhaps left the home or moved away, or something's happened, there's been quite a change there. Violence hasn't occurred before in the past at all, and it may be that what I would term sort of like this the circuit breaker, and it's almost for the respondent, like there's somebody else and there's an institution, the court, the law that is aware of what has occurred and for some that can be enough and a final order may not be necessary. It may just be that the interim order for a short period of time although under the legislation it's supposed to run through quite quickly. In practise that doesn't really happen and particularly if we can think well, this could be a circuit breaker situation then we might seek a longer adjournment time to see whether we could actually then enter into perhaps what's called a civil undertaking. Did you want me to talk about that?

MS ORR: I might come back to civil undertakings if that's okay.

MS COLEIRO: Yeah, yeah.

MS ORR: So I've got a few questions about that. This process is happening with a view first of all, whether an application for a final order should be made and then secondly, that application. Do I take from what you're saying that all through that process you are making this merits assessment that you've talked about previously?

MS COLEIRO: That's correct. And because the preliminary application, the preliminary hearing is ex parte, so it's just the women giving their evidence to the courts for the magistrates to make that decision as to whether there should be an interim order in place, the respondent's evidence hasn't been heard at that stage. So it could be that we then receive the respondent's evidence or further information then we assess merit again, so the merits assessment continues the whole way through because there may be more and more evidence that comes to light also through police reports, the respondent's evidence, and it may be that at that point we say, "Well, actually in response to this application, the respondent is now going to be saying X, Y and Z, which will really

diminish the merit for a magistrate to view that you've met the two-pronged test."

MS ORR: Or, as you've said before, the circumstances may have changed - - -

MS COLEIRO: Correct, yes.

MS ORR: - - - which would then change the risk under the act.

MS COLEIRO: Yes, that's right.

MS ORR: And you've spoken about the circuit breaker is it what you're saying, that that will allow the situation to change such that that risk may no longer be there?

MS COLEIRO: That's right. So it might be that one party moves away and there could have been talks about that Hypothetically it could be that. You know, it's always been on the cards that one of them was going to move interstate and that then eventuates or from different ends of the state that may eventuate as well. Or it could be sometimes, not often, but sometimes the applicant could have that breathing space, and it's enough time for her to get supports in place, safety measures in place, where it's no longer required to have this intervention order because they are really serious orders.

MS ORR: Assuming that it is still required and the applicant wishes to proceed to the final order, you've spoken about negotiations and the final order may be agreed. If it's not agreed, what happens?

MS COLEIRO: So if the final order isn't agreed by the courts - - -

MR ORR: Sorry, if the final order's not agreed by the parties - - -

MS COLEIRO: Oh, negotiated before a trial.

MR ORR: So, you've mentioned the trial. I'm sorry.

MS COLEIRO: Yeah.

MS ORR: There is a hearing or a trial about whether the final order will be made.

MS COLEIRO: That's correct and that then is up to the magistrate to make that decision and both parties will be present to give their evidence et cetera in that trial.

MS ORR: Is that common in your experience for them to go to trial?

MS COLEIRO: For them to go to trial? No.

MS ORR: I should have asked earlier, intervention orders have conditions on them, is that correct?

MS COLEIRO: That's correct.

MS ORR: Could you give a couple of examples of some common conditions that might be included?

MS COLEIRO: Yeah, so a common clause will be a restrictive clause of distance, so you known that the respondent must keep 50 metres, 100 metres distance from the protected person, the respondent is not to go to the place of residence or their work. It might actually list particular places where the applicant regularly frequents. A basic order is that the respondent is not to harass, intimidate or threaten, directly or indirectly, via a third party. But then the more full order would be, the full non-contact order is when it has that dissonant clause, and they can't contact them at all, directly or indirectly.

MS ORR: And is it correct that the conditions included vary from person to person, order to order?

MS COLEIRO: Yes, they can do.

MS ORR: And when you've talked about negotiations and agreements, is part of that about actually negotiating the precise terms and conditions of the order?

MS COLEIRO: Yes.

MS ORR: So a respondent might agree to certain conditions, but they wouldn't agree to other conditions.

MS COLEIRO: Yeah and typically that's when children are involved. So that was the one clause that I should have mentioned before is that when children - and I suppose children are not necessarily the clause, but they're actually another protected person under the order, so generally that's where a lot of negotiations can occur is around the children because the respondents are usually quite agreed that children are included on the order, so that you know, can be looked at. Is it safe to have them removed from the order and is there a matter that's going through the family law courts at that time and getting them on the order is probably another thing.

MS ORR: I will ask you about that, but we might come back to that in a moment if I can.

MS COLEIRO: Yeah.

MS ORR: Once either the final order has been made or an application for the final order has been refused, does WDVCAS have any other involvement beyond that?

MS COLEIRO: No, not unless something happens. So it may be that the woman comes back because the order has been breached and has either reported to police and is feeling that those reports are not being heard or taken seriously, that's her perception of the situation. Whether that's true or false, she may come back to us to assist. So we may end up assisting her to report those breaches to police or making inquiries with police as well as to you know what's happening here. It could be that she returns because she herself would like the order varied or revoked. That is then something that we would then do a sort of a risk assessment with. We're not sort of driven just with

what the woman wants, we will have to look at you know, what's the safety, what's the risk of making these variations and talking her through that. But also a really important question is to ask why right at the beginning as well. Why do you want the order, and what do you think that this order will achieve for you because sometimes right, if I go right back to the beginning asking that question and what women expect in order to be able to achieve for them isn't what it's going to achieve?

And again, when they're coming back, it's, "Well, why do you want this varied or revoked? You know, what are you hoping to achieve?" Sometimes it will be family law matters with children or even property as well. I need to be able to speak to him, and you know about the property, or it could be pressure from external if it's family members or friends. Cultural reasons as well will come into play a lot. So it's not necessarily that our assistance or support will end at that point, and we say, "Well, you've used up all the resource that you have now, see you later", because domestic violence doesn't work that way, unfortunately. It doesn't just end at the intervention order.

MS ORR: If someone comes to you, if a woman comes to you wanting an order varied or withdrawn, and you think there's external pressure and that there may still be risk, what does WDVCAS do in that situation?

MS COLEIRO: They'll speak to police as well and see what's police's response to this order. And the courts will want to hear from police as well. If police have made the determination that they would not support this order, then it's highly, highly unlikely that we'd provide assistance in that matter.

MS ORR: Do you mean that police wouldn't support the withdrawal?

MS COLEIRO: The revocation, yes.

MS ORR: The revocation, yes, sorry.

MS COLEIRO: Yeah, the withdrawal and that can be a really difficult conversation to have with the women because for some they feel that again their power and control over their own situation their own lives has been taken away, and they wanted to make this decision, so it would be linking them in then with the psychosocial supports and perhaps saying to them as well, "Okay, this is the situation now" and I have one actually up in the regional northern area where it was a First Nations and you know that she'd had this final order. It was a full non-contact order and had rung through and explained why she wanted the order removed. Police weren't totally opposed, but they weren't in favour either, so they were just going to be neutral about it and then in talking to her, it was putting forward, "Well, why get rid of the complete order in itself? You could just have a basic order" and there's a big difference between non-contact and basic orders, so the basic order is don't threaten, intimidate, harass the other party, or you breach the order. The full non-contact is you can't communicate at all with that person, can't come within a certain distance, can't attend a certain place, so sometimes you know that is a really good result and negotiation, so the women are still protected, but there's a lot of discussion that has to occur around that because of the stigma from both parties of any intervention order being in place.

MS ORR: Yeah. You spoke about if the woman still wants the order revoked, you might not represent them. You would connect them with other supports. Are they still able to make the application to the court themselves?

MS ORR: Yes, and certainly we would take them through the process, so we wouldn't just say, "No, we're not helping you, and we don't agree with your decision" because it's their decision. We might not represent them, but absolutely we would give them the information, education how to make that application on their own and say, "Well, you actually can make this application and this is what you need, and you know, there's been a change in circumstances for you and that's you know the reasons as to why you want to revoke and alert them that police will be informed of this as well" and they'll have an opinion, and usually we obtain what police's opinion will be, so we can give her the heads up and this is what to expect. So we would provide that type of assistance and support, we just wouldn't represent them through that.

MS ORR: That police opinion that you're talking about, is that based on information that police have available to them?

MS COLEIRO: I can only presume that it would be yes.

MS ORR: Is it only a view about the risk of the situation?

MS COLEIRO: Yes.

MS ORR: You've spoken a little bit about negotiations and agreements, and you also spoke about some of the difficulties negotiating when a respondent is unrepresented. Just on that representation issue, is there funding sources, representation sources available to respondents in this scenario?

MS COLEIRO: No.

MS ORR: No.

MS COLEIRO: And it is a really big gap, and you know (indistinct) I do think that a lot of these matters would either be resolved more quickly if there was a service that could provide that representation to the respondent really at a very early stage. Gold Star Service would be there served with the interim intervention order because they must be served for it to be enforceable and with that comes a little flyer of here's a service that you can now contact specifically for you as a respondent. It is a large gap yeah, and when they're not understanding also and particularly if there are children involved, and we know that from the reports from police that the women are actually more at risk one to two weeks after the respondent has received that order because of their response and how they view the interim intervention order, particularly when children, if children are listed, that that could then accelerate or exacerbate, and then they've breached the order and as we know that's a criminal offence and that's why I continue to say these are really serious orders, really serious because they restrict freedom of movement but if breached, it's a criminal offence and prescribed applicants.

MS ORR: So obviously the respondent is served with the order, and they have a reaction to this restriction on their liberty, are you saying that the lack of understanding

around that process you think doesn't help with their reaction?

MS COLEIRO: Correct because then they've got to court generally within the eight days. That's what's legislated, so they attend quite often what we see is I don't agree with this and magistrates are saying, "Well, you need to get some legal advice. "I don't agree with this." Fair enough. That's okay. They just don't understand how it operates and so there's no support there for them to have that education and that information. And there's no service. I think the community legal centres may, but I'm not sure of what their individual - they all assess matters differently. So I'm not sure what their capacity is, but there's certainly no dedicated service.

MS ORR: People could be privately represented if they had the means to pay.

MS COLEIRO: They could be, but again, they're already aggrieved by the order. They're then aggrieved by, why does she get a service for free, and I don't? And that can then be another sticking point of, I'm not agreeing to anything. I'm now really aggrieved. I've got this order restricting my freedom of move and my liberty to move. She was the problem, not me. So sort of that accountability's gone, but it's dealing with someone who's very aggrieved where there is nowhere to send them to say, "There is someone that can assist you just as much."

MS ORR: Just one more question on this topic and the Legal Services Commission provides legal aid subject to criteria obviously for people charged with criminal offending.

MS COLEIRO: That's correct.

MS ORR: But I understand what you're saying, that doesn't apply in the intervention order space.

MS COLEIRO: No, because it's a civil order so until it's breached and then because of the seriousness then they'll get legal aid. But because it's in the civil jurisdiction, but it's heard in the criminal division of the Magistrates Court, it's still a civil order, and you know, based on that balance of probability. It's not beyond reasonable doubt. So there's no representation afforded to them through the legal services.

MS ORR: Back to negotiating, we have heard, generally speaking, this isn't just in the intervention order space, but negotiations in general in a domestic family violence situation can be complex, and they can be risky due to power dynamics and control. Is that something that you see?

MS COLEIRO: When you're referring to negotiations, are you referring to mediation side or are you - - -

MS ORR: I meant generally, but - - -

MS COLEIRO: But in negotiations?

MS ORR: Yeah/

MS COLEIRO: Yeah, because it's really difficult because some respondents will behave or curb the behaviour or their use of violence against the victim survivor whilst the order is there. But then there can also be an escalation as well. So if there's negotiations - I think it just puts the women in a very difficult situation during that time where they can feel very pressured to either negotiate to obtain an order or they can actually feel very protected. Some will feel very protected and go well, "Well, no, I want this order as a final order because I now feel protected by him, from him using violence against me." Certainly in the negotiation period, I mean generally the respondent usually abides by the order because if they don't, there's a breach of the order, but the problem will arise when there's what they say you know the technical breach which is just as traumatic for the victim-survivor, you know, and it's that, what I mean by that is it's a full no-contact order, might be able to communicate in relation to children. So suddenly she's receiving five texts a day, and it's got the word child in it. So if that goes to be reported to police, it's seen as, well, it's to do with the children. It's fine, don't worry about it. But for her, every time that phone dings, it provides a response within her, that trauma response. And so she's still living on those eggshells daily. So I think in that sort of situation, the violence can still remain.

MS ORR: Is it fair to say that being represented by WDVCAS through this process gives protection? I'm not talking about the breaches that you've spoken about but just in the process in negotiations.

MS COLEIRO: Absolutely, and if we take WDVCAS out of the equation, and we are just dealing with a protected woman who's made this application, then my response to your previous question would be very, very different. And I would be very concerned for her safety and her well-being physically, psychologically through that negotiation phase. I wouldn't know how that would actually take place, to be honest. But absolutely the team provide that buffer because that's that's her mouthpiece and there are instances where the respondent will contact her and then WDVCAS will write him a letter to say, "Refrain from contacting her, you contact us. That is a breach of the order." But again, there's no service that's giving the education for the respondent, so it does make it very difficult.

MR ORR: You mentioned mediation. What is mediation?

MS COLEIRO: Yeah, so mediation is generally between the two parties. It can be ordered by the courts. Very rarely both parties have to agree and there can be you know, in domestic violence generally there's a power imbalance with most if not all. There's a power imbalance, so both parties have to agree to mediate. I have had reports that in some instances it's been quite empowering for the women to go through that process. WDVCAS don't generally go down that avenue or agree. Women generally don't opt in for mediation, so it's unlikely and unusual, but I do know where it has occurred a couple of times.

MS ORR: You mentioned a civil undertaking before, and I said we'd come back to it, so can you describe what that is?

MS COLEIRO: So a civil undertaking, it mirrors an intervention order, so you've applied for the intervention order, the magistrate has agreed to the interim order, the negotiations are taking place. And there could be all sorts of reasons as to why a civil undertaking is put forward. A civil undertaking is basically a promise to the court that

I'll abide by the same clauses, so the undertaking is written in the same terms and clauses as the intervention order, but it's just deemed a term to civil undertaking, and it's placed in the court file, and it's basically a promise to the court that the respondent will abide by the terms of that undertaking which are the mirrored terms of the intervention order.

It's not enforceable by any means. It's a really good mechanism and a really good vehicle for situations where perhaps the domestic and family violence has never been brought to the attention of the authorities before and the person using violence is now recognising that an authoritative body is aware of what's happening within the home. It's no longer in secret any more. There's somebody that's aware of it and watching so to speak even though the courts no longer watching but what occurs is it sits on the file. It's also then if that let's say the terms of that undertaking are breached like I said, it's not enforceable it's just a promise to the court but that then can give rise for WDVCAS to say, "Look, he's breaching all of the terms of the undertaking. Okay. Well, now we're going to apply for an interim order, and now we're going to keep going. There's going to be no negotiations here. That was the chance to sort of do the right thing so to speak. So I think it's a very useful mechanism to use.

MS ORR: Would it be useful, in your opinion, when there is long-established violence, criminal history, sort of really entrenched violence in a relationship?

MS COLEIRO: No, no and that's what I was going to mention before. This is a really useful vehicle when you're negotiating, and it may be that you realise that WDVCAS are realising there may not be enough merit for a final order. It may be situational violence. And all violence is serious but the escalation of the violence depending upon the severity of the escalation of the violence and where they're sort of path of using violence will determine whether that is a useful vehicle or not, I think they have that place but if there is a long entrenched history of domestic and family violence, the likelihood of a promise to the court and a person using violence, seeing that as sort of like a telling off from the headmaster so to speak, is not going to be useful at all.

MS ORR: I want to turn to coercive control if I can, and before I do, I just wanted to clarify something that I should have asked you earlier. We spoke about police issuing inter-intervention orders or police making applications for intervention orders. Is it correct that police do that where there are criminal charges in place?

MS COLEIRO: Yes.

MS ORR: Usually it follows a charge. So WDVCAS are in the space where there are no criminal charges on foot. So turning to coercive control can you give us a very basic overview of what cohesive control is.

MS COLEIRO: Can I just mention that there have been instances though where there is a charge that's been made, quite a serious charge and there is no intervention order because the response has been that the bail conditions protect the victim-survivor. We have big concerns with that because bail conditions cease and can be varied and whereas the intervention order remains there, particularly if it becomes final. So there have been instances where there are serious offences that have occurred where there is

no intervention order. So I just thought I'd mention that. Coercive control, sorry, what was the question again?

MS ORR: That's okay. Can you explain it to us in a very general way?

MS COLEIRO: Okay. So it's not physical violence, so it's not physical assault or sexual violence. It is the emotional and psychological violence. So it includes verbal abuse. It's really any behaviour where the victim-survivor, their control over their feelings of self-worth, value, their ability for example, to work or participate in the community, perhaps in cultural engagements, their ability to have access to finances, where there is psychological injury of the continual verbal abuse and put downs, it can be quite passive. It can happen slowly over time, so it's a series of multiple incidences, it's not just one incident that occurs. So it's really the playground that WDVCAS have been in because it hasn't been a criminal offence to send 100 text messages in a day or to call someone incessantly unless you make threats to kill.

MS ORR: Okay.

MS COLEIRO: And then it becomes a criminal offence, so that psychological violence is an area where because there are no charges that can be laid, that's predominantly where WDVCAS do their work.

MS ORR: Because of the nature of this type of conduct, can it be harder to identify?

MS COLEIRO: For those that have worked in it for a long time, no, but for in general, yes, because there's the, I think, the lack of education and training around what is coercive control, what are the types of behaviours, and that it's like that slow burn. It's the pattern of behaviour that happens over a period of time, which of itself, a few incidences seem insignificant. The person who's in violence is just asking you know, what time you'll be home, but it's everything else that comes with that as well. So the education, I think, is a big issue.

MS ORR: Does that connect back to the "technical breach" that you were describing before?

MS COLEIRO: Yes. Because a lot of the orders that WDVCAS deal with coercive control, so women will return and say the person using violence is still sending the emails or still driving past the house, and he's supposed to be 50 metres away or whatever that might be, and then that's reported, and it can be seen as insignificant of a breach, so we will often say, "Make a journal of these breaches" and unfortunately, our advice has to be - and when you have enough then let's take that to the police and that's really disappointing because she's already had enough.

MS ORR: I think you said before the context is really important for this kind of behaviour, is that correct? There is a bill before Parliament which would create a criminal offence of coercive control. I just want to talk about kind of the practicalities of that. If that legislation is passed and coercive control becomes a criminal offence, do we anticipate that SAPOL, South Australia Police, will then be making applications or issuing intervention orders in that space?

MS COLEIRO: I think we should anticipate it. I think there would need to be a lot of education in this space because from my understanding and Ms Watkins will be in a much better place to answer this than myself, the Intervention Order Prevention of Abuse Act, as we know, allows for an intervention order to be put in place for aggressive control already. The police's policy was well unless we can attach an offence to that then we won't be making those applications hence WDVCAS' involvement. Okay. Now, there's a criminal offence. Will SAPO: have the requisite training and understanding of coercive control? Will they have the resources? Because this is a pattern of behaviour that occurs over a extended period of time or period of time. Will SAPOL be afforded the resources to actually deal with reports coming in? Will they have funding and resources to have a designated team to be able to deal with people reporting coercive control? So I would hope we can anticipate that that will occur, but they need to have the resourcing afforded to them and the training, the education, the understanding and I think the designated resources to assist in that space.

MS ORR: Is there any plan currently for any changes at WDVCAS in terms of the circumstances in which you would assist with an application if that legislation is passed?

MS COLEIRO: No, I wouldn't think so, no, because even as I said before, we would at times, see where there's been a serious offence that has occurred where there's no intervention order, so no. I wouldn't anticipate that.

MS ORR: You've mentioned education a few times in relation to coercive control. In your view, is education needed? Are there any particular people that need the education? Are you saying this is anyone involved in the system?

MS COLEIRO: I think anybody and everybody in the system should be educated in this space, anybody that's that's dealing in the domestic and family violence space. Where we've seen education lacking in because that's the space that WDVCAS operate in is the lack of education awareness information in the judiciary as well. And because it's not new, it's been around forever, it's having that different perspective and understanding of what domestic and family violence can look like and how it can present. And for example, we've had cases where there's reams of emails being sent and telephone calls and a response may be well just change your email address, just change your phone number, which sometimes that's the advice we will give women but if this is a woman who's built up a small business or any business or may have changed her phone number or email addresses multiple times and is now saying "Why do I have to keep doing this? How come this can't just be stopped?" And so it's that education around understanding what it is and also technology is a big thing too, particularly when the person using (indistinct) is a little bit tech savvy, and they're using different email addresses, and you might not understand. How can you prove that? You now need to prove it which of course is correct, you've got to have the evidence, we understand that. So yeah, education, training and awareness will definitely be required in this space.

MS ORR: Changing topics slightly now. I just want to follow up on something else you said before about understanding in relation to intervention orders in the system, and we have discussed this a bit this morning starting with the protected people or the applicants or the victim-survivors, you've talked about how the WDVCAS sort of process involves explaining to them throughout the process, the system, the

conditions, how it works. What do you see as the importance of those people understanding those things and having that information?

MS COLEIRO: For the victim's (indistinct)

MS ORR: Yes.

MS COLEIRO: Yes, hugely important because this is their life, and they're right in the thick of it. So they do need to understand the process, absolutely. They do need to understand the order, what that means for them, the protections it can afford, what does it mean if it's breached. I think it's a really important piece. It's empowering the victim-survivor because it gives her that autonomy again and control over what is happening. It's not being taken away from her and that has been a report that we have had from some women if police attend an incident and the intervention order, the interim order is put in place by police and police can follow that and again Ms Watkins will talk about this I'm sure, and they can actually take that away from the victim-survivor and that they can feel disempowered by that now, which would be quite rightfully so that that should be taken away in some instances, that it should. So I think it's a really important part that they play.

MS ORR: And then turning to the respondent or the person using violence, you've spoken already today about the unrepresented respondent that sort of doesn't know what's going on and - - -

MS COLEIRO: Yes.

MS ORR: - - - you've talked about the reactionary response to being served with it. And I think you spoke about greater understanding would probably assist with some of those things. Is here any impact on compliance and breaches in your view if you see that sort of lack of understanding and information?

MS COLEIRO: Yeah, because they're not understanding the seriousness of the order, and they're not understanding that it's a criminal offence if they breach the order. They feel aggrieved that it's there in the first instance, and it's either then the argument of well why do I have to pay money, and they may not have the money. A lot may not have the money, it's expensive. So they may feel aggrieved which can escalate the violence that they have to pay someone, or they don't have the money to pay somebody, so they don't understand exactly what this order means, what they can and can't negotiate through. You know, their whole merits assessment, what their argument could be, what evidence they may have to say, "Well, you know, I dispute what's being said and this is why."

MS ORR: And I take it from your insight, that's something that you see commonly, especially with unrepresented respondents.

MS COLEIRO: Yeah.

MS ORR: You mentioned children before, so if we can turn to that. Do you sometimes apply to have children included on an intervention order?

MS COLEIRO: Yes.

MS ORR: And when I say that, I mean as a protected person, listed person on the intervention order.

MS COLEIRO: A listed person, yeah.

MS ORR: Yes, so that might mean in some cases that the respondent was not allowed to contact those children. Can you just talk us through in what circumstances you might make that application to have them included?

MS COLEIRO: Well, if they've witnessed the violence, been in the home when the violence has occurred. If they've been subjected to the violence, they'll be included. It's difficult to have them included, but that's a separate question.

MS ORR: That's my next question. Are they successful, those applications to have children included?

MS COLEIRO: They are becoming less and less successful, less and less.

MS ORR: Is that your answer in relation to interim orders and final orders or do they differ?

MS COLEIRO: No, they do differ. It could be that again remembering that on an ex parte order there's only the evidence from the protected person that the court is hearing at that time. They may be included on the order at that time as further information or evidence comes out from the respondent, or it'll be the view of the judiciary as well can be put forward that the children can then be negotiated off of because we determined that it's unlikely that if this matter were to proceed to a trial that the judiciary would agree for the children to be included as a protected person. Generally, unfortunately, it's a negotiation that they are removed and that can then lead to a consent order.

MS ORR: By that, do you mean the respondent will agree to the order if the children are not included on it?

MS COLEIRO: Yes.

MS ORR: Do you see any particular reasons that the judiciary are hesitant to include children on these orders?

MS COLEIRO: Well, a lot of the time it's because they think it's the - well, perhaps I shouldn't be presumptuous in that manner. It would appear that the view is that it's a Family Law Court matter, that the judiciary don't have, and this is what has actually been said in the court, so anecdotally, I can say this, that there is not the forensic investigative powers of the Magistrate Court to determine the safety of the children and the best interest principle of the children and that is best left to the Family Law Courts. That's not up for us to determine. Family law matters for children.

MS ORR: Are you saying they're because the family courts do have those investigative powers?

MS COLEIRO: That's correct, yeah. Yeah.

MS ORR: Do you hear suggestions about depriving parents of access to their children, interfering in that parenting relationship?

MS COLEIRO: Yeah, it's the comment of you know, not here to determine what happens with the children, which is really quite interesting because what's happened to the children is that they've been exposed to domestic and family violence. Again, I think it's an understanding as to a child being a victim-survivor in their own right. That domestic and family violence doesn't have to occur directly for it to have an impact and - - -

MS ORR: Yeah.

MS COLEIRO: - - - children are particularly vulnerable in this space. They could be in another room, they're hearing everything that goes on, they might not even be in the house, they could be out of the house and re-enter the home, but they're going to be picking up on all that emotional lens of what's happened within the home, picking up on what's happened with mum. They're quite intuitive and sensitive in those spaces, so they should be seen as a victim-survivor in their own right, but quite often it's told, well, they didn't view it, they didn't see it, they weren't there when it happened, or even if they were, there have been times where it's been said that, well, the violence is just directed at mum. So if we just remove dad and mum, or mum and mum, from the equation, the violence will stop. It doesn't really have anything to do with the children, does it? So why are we including them?

MS COLEIRO: It's a very simplistic view of domestic and family violence.

MS ORR: You've spoken about the Family Court and sort of that investigative ability, I suppose. Is that, I would guess, a slower process? I mean you've also spoken about the eight-day turnaround for an interim order.

MS COLEIRO: Yeah, that's right. So it's a slow, complex, drawn-out process. Costly, again, process. And also then, so it could be many years before a decision. I mean, there are the interim orders, again, in the Family Law Courts that are put into place. But it may be some time before, you know, there are the independent children lawyers, the ICLs. You know their views are put before the court, risk assessment, the family assessments are done. That's a long process, so the children are still exposed to everything that's been going on.

MS ORR: I've just got one final question on that topic. You did say it's more common to have children included on an interim order. Can I assume that that's about the immediate safety.

MS COLEIRO: Yeah, and even then it's becoming less and less likely to have children included. The judiciary are really not keen to have children included in those orders. So, yeah, it's becoming less and less the norm.

MS ORR: Thank you. I have no further questions, Commissioner.

CMR DESPOJA: Thank you. I will start with a question for you, assisting counsel. Do you have the data to which you referred from the courts in a sex

desegregated - so do we know how many of those applications out of the 3969 to which you referred?

MS ORR: Not to hand, Commissioner.

CMR DESPOJA: That's fine, we can take that on notice because you made the reference to a respondent, you know, being he, but I'm assuming in the majority of cases, through you if I may ask, Ms Coleiro, the majority of cases with which you deal, the respondent is a man?

MS COLEIRO: Yeah.

CMR DESPOJA: Can I start with the issue of withdrawal or the revocation of the intervention orders and I take your point about respecting the agency of the applicant, particularly if that applicant is a woman and has felt disempowered et cetera. But, assisting counsel and I have sat in the courts, in the Magistrate Court, and watched applicants come in and withdraw or request withdrawal of the orders, even when you might suggest other agencies are hesitant. Do you see that a lot?

MS COLEIRO: What we do see is when women have come and there have been police intervention orders in place previously and the woman has had them withdrawn or revoked. So we see that side a lot - - -

CMR DESPOJA: Yes.

MS COLEIRO: - - - where it's already happened - - -

CMR DESPOJA: Yes.

MS COLEIRO: - - - and then police then are reticent to perhaps put forward another order. It might have happened two, three times in the past and that can cause some issues. To my knowledge, I can't say whether we see a lot of women coming to the program requesting I want this revoked, will you help me and I don't have the data on that, but I certainly could find out.

CMR DESPOJA: Thank you. When you referred to the lack of legal support or information for respondents, which can then delay the process, obviously as you've explained to counsel assisting, that it would be useful to have some form of support and greater information for the respondent, but some of the applicants I've spoken to tell me that this is a tactic. It defers the process. It can also be a mechanism by which they feel unprotected and disempowered and traumatised. Is that a fair comment in some cases?

MS COLEIRO: I think it would be a fair comment, particularly in the cases where the women don't have the representation themselves. So I think it would be fair for a woman to make that comment that they feel it's a tactic for him to get representation. And it is difficult because I can see both sides of the coin there in that in a lot of instances when respondents are not understanding the orders, it will just be adjournment after adjournment after adjournment. I'll get legal advice. I'll get legal advice or just digging in of the heels of I don't agree to this at all.

CMR DESPOJA: Yeah.

MS COLEIRO: And particularly in those cases where there's clearly merit for this order, and it should just be consented and let's all you know, move on and have the protections in place. Certainly we've also seen as well that there are respondents that will have representation, and generally it's criminal law representation and negotiations have been quite difficult as well. So I can understand that comment and how that perception could arise, absolutely, well, how it could be viewed that way.

CMR DESPOJA: When we talk about a lack of education or understanding of an intervention order, a couple of submissions, and I'm not sure if this is too simplistic, have suggested there should be something that's signed, you know, to acknowledge comprehension of the order. Is that just a little - - -

MS COLEIRO: Yeah.

CMR DESPOJA: - - - sort of simple in terms of the mechanism?

MS COLEIRO: I think so.

CMR DESPOJA: Have you got an idea as to what kind of education - - -

MS COLEIRO: Yeah.

CMR DESPOJA: - - - or information could be provided as well as that sort of legal support?

MS COLEIRO: And that's referring obviously, Commissioner, to the respondent signing something to say that they're - - -

CMR DESPOJA: Yes, the respondent. Yes.

MS COLEIRO: Yeah, I think it is a little bit simplistic because my mind turns to the culturally and linguistically diverse communities and also those that their literacy competency may not be very high, and in some regions, you know, literacy is a really big problem, that that would be an issue, that they may just go, whatever. Yeah, I think it is very simplistic and that there needs to be a little bit more. It's difficult because then my mind turns to well is there a fact sheet that then goes with these orders but again requires somebody to be able to read that, interpret and understand it

CMR DESPOJA: So clearly, in terms of what you might be advocating, there has to be a much more comprehensive opportunity for understanding education, but I suspect at the heart of that, it's the legal or the service to which you referred that probably would be more useful for respondents in that category.

MS COLEIRO: Yeah, I would agree with that, even with women that come and speak to us, sometimes it can take several conversations to explain intervention orders, merit, what this all means, the process. So I think a conversation that may need to be had several times for respondents as well - - -

CMR DESPOJA: Yeah.

MS COLEIRO: - - - so that they've got a better understanding.

CMR DESPOJA: Now in the Legal Services Commission submission, you reference the idea of a false sense of security and not protection being provided by an intervention order. Can you elaborate on that for us, please?

MS COLEIRO: Some respondents will view it as a piece of paper and I think particularly in the coercive control space, which is where predominantly intervention orders come from, from coercive control, women will often report going, "Well, there's no point having this intervention order because the behaviour will continue." And we do see that, that behaviour does continue, and again it's a lack of education and response, perhaps from police or from the judiciary, of if a breach, particularly police, if a breach is reported, that it's not really taken into account, the coercive control isn't taken into account, so women become quite displaced about, "Well, how is this protecting me? I'm still receiving all these emails. You know, he's sending things indirectly to me. He sniggers across the room over the sporting event or" so it's for that type of violence it's difficult and it is that we have reports where it's just a piece of paper, that's not going to protect me from him, or it's the other end where it's really, really serious - - -

CMR DESPOJA: Yes.

MS COLEIRO: - - - and they're in fear of their life and there might be a very long history that the person is in violence, criminal history that they have which includes breaches of intervention orders before because they don't feel that it applies to them, I'm not sure. So in those instances there's that fear and in some cases we've said, you know, "Go interstate." But again, we know that sometimes fleeing interstate - - -

CMR DESPOJA: Yeah.

MS COLEIRO: - - - you can just be followed.

CMR DESPOJA: You also suggested that there may be inadequate attention and resourcing being applied to the actual issue at hand as a consequence of that sense of, oh, we've got the intervention order, other things don't necessarily have to be pursued. Is that something that you feel is legitimate?

MS COLEIRO: Inadequate resourcing, sorry?

CMR DESPOJA: As in, there is risk that the imposition of such an order will lead to inadequate attention and resourcing being applied to the actual issue at hand, being behaviour and acute risk.

MS COLEIRO: Yes, so again, it's the going down to the root of the problem. You know, you've got the protection for the woman, but where is then the resourcing perhaps for both the victim-survivor and the person using violence as well? The men's behavioural change programs, the support for the person using violence, where's the resourcing to address that? Where's the support mechanisms for women leaving a

violent situation? They've got the intervention order. That's great but then the additional resourcing to address those, perhaps the psychological needs and trauma that's occurred as well as housing and then there could be children or property family law matters and providing a trauma-informed response in these spaces for everybody that is working in domestic and family violence from the work the legal and the non-legal supports that are provided. So I think the resourcing is a big issue.

CMR DESPOJA: You mentioned on a couple of occasions, or you referenced the journal that you advise an applicant to keep and maybe start with when you were talking about breaches and the journal, and you said, "Keep gathering that information until you have enough." What's enough?

MS COLEIRO: Yes.

CMR DESPOJA: What's enough?

MS COLEIRO: And I think this comes back to the awareness and understanding of domestic and family violence and the psychological abuse and coercive control and what does that look like. We tend to hear, "I have gone to the police station, and I've reported a breach of the intervention order, and I've been told that's not enough. I've been told, oh, look, it was to do with the children. You know, I've been told, come back, he didn't hit you, basically you don't have enough", that's the term that we've heard. And depending upon what's going on, we'll go, "Okay", because again, it's not a criminal offence, coercive control, and it's trying to establish that the breach, even though it's a technical breach of this intervention order, which is a civil order. And I do understand police position in saying, "Well, if we lay a charge for breach of that order, yes, it's a technical breach, but do we have enough evidence to put before the judiciary to be successful in the laying of that charge?"

CMR DESPOJA: Yeah.

MS COLEIRO: So I think it's a very complex and multifaceted issue. It's not just police don't want to do anything. They're also looking at, well, if we were to prosecute this, how would this be viewed?

CMR DESPOJA: Yeah.

MS COLEIRO: And that then lands with the judiciary. So unfortunately, when we get these situations, we'll say, "Well, keep a record and when you have enough" and we don't know what enough is, "But we'll keep reporting to the police as well when there's a breach." And there are different responses when women go to police stations, depending upon who they're reporting to. They'll report back and say, "I was told to come back, or I felt that I wasn't believed, or I was laughed at, or they didn't really take it seriously or we've had one situation where it was a culturally and linguistically diverse woman who English was her second language and no interpreter was provided, and the breach actually was quite serious, so it seems to be a lack of education, training, resourcing with that trauma-informed lens, but it's not just with police it's in judiciary as well because that's where sort of like the buck stops I suppose, and the police can't really do anything unless they feel that it's likely that the charge being laid that they're going to have a successful prosecution with that. Otherwise, they don't have the

resources to pursue everything either.

CMR DESPOJA: Yeah, understand. You also referenced the keeping of journals and gathering information for the purposes of the initial application, private application. I don't want you to have to give away your methods, but are there other ways that you advise women, men, your client, women as your clients to gather evidence?

MS COLEIRO: Talk about it, so reach out to other professionals and report basically.

CMR DESPOJA: Right.

MS COLEIRO: So, make reports to police, but again we've just spoken about some of the difficulties with that and particularly even harder in regional and remote areas because the communities are quite small and particularly harder if the person is married to somebody in the law enforcement or in a relationship and that's where the violence is occurring. Very, very hard. So it would be reporting as much as they can to whom they can. You know, teachers, their mandate reporters, the child abuse support line. So making third parties aware of what is happening and thinking who else may have witnessed what's going on as well. But sometimes they don't need anything else, sometimes they come, and their stories are really horrific - - -

CMR DESPOJA: Yeah.

MS COLEIRO: - - - that that's enough. Okay, we're going down to the Magistrates Court, and we're going to make an urgent application, and it will just be your voice being heard because this is really serious.

CMR DESPOJA: Do you deal with many respondents who are female or identify as women?

MS COLEIRO: We have. It's not a large number. Yeah.

CMR DESPOJA: I guess finally that issue that you raised at the end regarding the role of children it's particularly top of mind at the moment because yesterday our focus was on children and young people. I think your reference was that judiciary is not keen. I think that was your terminology and I know that you've answered this in detail for assisting counsel, but why exactly is the judiciary not keen in your opinion?

MS COLEIRO: In my opinion?

CMR DESPOJA: Yes.

MS COLEIRO: I believe they don't want to make decisions in relation to children and family law, what they deem as family law matters. And one has been that, well, we don't have the same forensic investigative powers. We don't have everything before us, which I believe might be a little bit of a cop out because you have the violence in front of you - - -

CMR DESPOJA: Yeah.

MS COLEIRO: - - - and the link that the children have seen it. I think a large part as well is just the understanding of domestic and family violence and the impact. It's one thing to understand what it is but then the impact and how that can impact upon children being in a home where there's domestic and family violence even though it's not directed towards them. I do wonder whether it's, you know, a federal jurisdiction so we're not going to tread on the toes of a federal jurisdiction even though they have the discretion of power under the Section 68R of the Family Law Act gives them the power to vary, set aside or suspend family court orders. That's one element is when there's already family court orders in place. We often see a lot when there's no family court orders, but the comment is made, well this is a family court matter. This is not for me to make that decision. The children are involved, that's a children's matter. So the problem with that is it's not immediate, the protection is not immediate, and the risk is immediate. Also if they get a personal protection injunction through the Family Law Courts, it's a bit of a slap on the wrist if that's breached and the State Police don't act on them immediately. And I know this was something that came out in the inquiry into family violence orders just last week, was that interplay between the Family Law Court's - - -

CMR DESPOJA: Yeah.

MS COLEIRO: - - - jurisdiction and the state jurisdiction. I think that's a really big problem. They're not immediate. You can't enforce them, you can't go to the police if something happens. It's a long protracted, arduous system, the Family Law Court system. The recommendations that came out were fantastic in relation to the Family Law Court system. I just think it's the understanding of the impact and perhaps that hierarchy of different jurisdictions.

CMR DESPOJA: You pre-empted my question around the consequences, depending on - - -

MS COLEIRO: Yeah.

CMR DESPOJA: - - - which jurisdiction. I guess finally then, who is best placed to provide some of this education to which you refer? And I'm not suggesting you have to know the answer to that, but whether it's judiciary or police or lawyers.

MS COLEIRO: To deliver or receive?

CMR DESPOJA: To deliver, yes, to deliver that training to those articular groups - - -

MS COLEIRO: The deliver?

CMR DESPOJA: - - - or is that something that provided it's insisted upon that they can organise themselves?

MS COLEIRO: No, I think there needs to be a deliberate delivery. To have uniformity - - -

CMR DESPOJA: Yes.

MS COLEIRO: - - - and consistency across, funding should be provided - - -

CMR DESPOJA: Right.

MS COLEIRO: - - - to deliver that education for both legal and non-legal people that work in the sphere, more so for legal professionals, whether it's private NGOs, community CLCs, police you know, for all of those judiciary - whoever's working in the legal sphere. In terms of who would be best placed to deliver that information, I think would be best if there was a conglomerate of lived experience, people that already operate within that system through a trauma-informed lens already, looking at perhaps you know, interstate counterparts that probably already deliver or may deliver something, but I do think it would be best if people are working in the space that that is a mandatory piece of education that has to be delivered, but there is no opting in or opting out if you choose to sit on a family violence, this is judiciary, or you choose to run a domestic violence program, legal program, or if you're working in the family violence units with SAPOL or children and family investigation sections, that that is a mandatory piece that you need to do. Yeah.

CMR DESPOJA: Thank you. That's very helpful. Thank you for your evidence today. Counsel assistant.

MS PEARCE: I'd ask the witness to be released.

CMR DESPOJA: You're free to go, thank you very much.

MS COLEIRO: Thank you.

CMR DESPOJA: We'll take a short break and return in a few moments.

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CMR DESPOJA: Good morning and welcome back to the sixth day of public hearings for the Royal Commission into Domestic, Family and Sexual Violence. I now ask Assisting Counsel to explain the next witness.

MS PEARCE: Thank you Commissioner. I call Chief Inspector Kellie Watkins.

KELLIE LOUISE WATKINS, AFFIRMED

MS ORR: You are a Chief Inspector of South Australia Police.

MS K.L. WATKINS: That's correct.

MS ORR: Could you tell us what your role is at South Australian Police?

MS WATKINS: I'm currently the officer in charge of family and domestic violence section.

MS ORR: In general terms, what is that section responsible for?

MS WATKINS: The section has two key areas. One of those is the multi-agency protection service management, also known as MAPS and then the policy and training section. Policy and training section breaks down to three key portfolios. The first of those is the Family Law Information Sharing Scheme. The second of those is the Guardianship Child Abuse and Elder Abuse Portfolio and then lastly, the Domestic Abuse Portfolio. All of those areas are responsible for training and policy development and the operational overlay of police response to those issues.

MS ORR: I understand you also have experience, among other things, as a police prosecutor.

MS WATKINS: Yes.

MS ORR: And with that, you have experience prosecuting criminal offences in the Magistrates Court, including domestic, family and sexual violence.

MS WATKINS: That's correct. Yeah.

MS ORR: And, in that context, experience dealing with intervention orders. And you have experience investigating those crimes.

MS WATKINS: That's correct.

MS ORR: We have heard this morning that under the Intervention Orders Act, there are police issued intervention orders. Could you give us a brief overview of what they are?

MS WATKINS: Sure. A police issued intervention order is a legislative tool that police can use to ensure the immediate safety of a victim or victims that are at risk of acts of abuse. Police officers will assess the risk to a victim and if the conditions are as stepped out within the legislation are met, they will issue an order. That order allows for essentially an on-the-spot order to be issued for the protection of those victims. However, it is important to note that the order is interim and will come before a court within eight days of having been issued. That eight days there is some variation so that in regional and remote areas and that is just generally dependent on the frequency of the court sittings in those areas.

MS ORR: You mentioned that the police officer will assess the situation or the risk against the act. We've also heard this morning there are criteria in the act for when an order will be granted.

MS WATKINS: That's correct. Yeah.

MS ORR: Are there additional criteria that must be met for police to issue the order?

MS WATKINS: Yeah, one of those criteria are that there can't be a national order, domestic abuse order of any kind in place, so they will check prior to issuing the order if there is one already in existence for that protected person and that respondent. And then

the key element to the police issued order is the urgency and immediacy for the safety need of that victim and that's really the key aspect as to how the police issued order would be slightly different to the court issued intervention order.

MS ORR: Okay. Is it also correct that under the act the defendant or the respondent must be present - - -

MS WATKINS: That's correct.

MS ORR: - - - for the order to then be served?

MS WATKINS: Yeah. And there are powers under the act for us to arrest or hold that person for the purpose of serving that order if they are not otherwise under arrest for a substantive offence.

MS ORR: Yeah. So they are called Police Issued Intervention Orders under the act, and they are known as PIOs in practise.

MS WATKINS: That's correct, yes.

MS ORR: We might call them PIOs because everyone calls them PIOs.

MS WATKINS: Yeah.

MS ORR: Can you give us a bit more information about how a PIO works in practise, so when police respond to an incident and give consideration to that order?

MS WATKINS: Sure. So if we accept a standard domestic abuse response where patrol have been called to an address for a report of a domestic abuse incident, it's likely that that police patrol will be dealing with an offender in relation to a substantive offence which is often an aggravated assault. At that time they will conduct a risk assessment with the victim or victims, so that could include the partner and the children that might be present at that location. The risk assessment will capture all victims present, and the officer will take into consideration any circumstances relevant to that situation that would inform their decision around the issuing of an order and in particular, what conditions of that order may be relevant for that victim or victims.

MS ORR: Those conditions that you've referred to, are they standard form, are they able to be selected as appropriate?

MS WATKINS: It's a little bit of both, actually. So there is standard conditions and language that are utilised and that assists police issuing an order being common language with a court issued order. So there is consistency around the drafting of terms, however terms do allow for some specialisation and that would be in the form of distance clauses, so the distance that someone might be prohibited from an address or a person, but also addresses as well, so certain locations that person would be prohibited from attending.

MS ORR: I think you said earlier the officers who are in attendance making a case by case assessment of what conditions might be appropriate in those circumstances.

MS WATKINS: That's correct, and those conditions can range from you know a very basic not to assault, threaten harass or intimidate to a full non-contact order but the most significant of those conditions which police have the authority to impose is the vacate condition where it would see the respondent vacated from their home and not able to return and reside at that address, so that's quite a significant authority that police have, and I think it really recognises that you know when police are responding to these incidents it's the opportunity to create the circuit breaker for the family, so it gives the victims and protected persons an opportunity to have a moment in time to have some breathing space, feel protected, not have to worry about that person coming home or having a right to be at that address.

MS ORR: Is it correct that once a police intervention order, a PIO, has been made and served on the defendant, it's effective immediately?

MS WATKINS: That's correct.

MS ORR: We heard this morning, that generally speaking, police will deal with, I suppose, intervention orders when there are related criminal offences. Is that correct?

MS WATKINS: That's correct. So the policy around our involvement in intervention orders is such that there must be a criminal offence or the threat of a criminal offence. It doesn't have to have happened, we just have to suspect that it may happen and that that's in line with our core function and also our expertise within the Police Force. Any applications or situations where there is no link to an associated criminal offence, we would be making a referral to organisations such as WDVCAS who you've heard from this morning, or we'd be providing that protected applicant with information on how they can make a private application to the court.

MS ORR: Going then to the process after a PIO is issued, and you did talk about this briefly before, can you just step us through what happens next?

MS WATKINS: So the respondent would be summonsed to appear before a court often within eight days. Depending on the court scheduling that might be two days, or it could be seven days. Every area has their own scheduling day. They'll appear before the court on the summons for the police interim order and at that stage, the order transfers to become a court interim order, and essentially, the management and the judicial process around that order is then taken over by the Magistrates Court. It also provides an opportunity for essentially a checks and balances across the use of the police authorities in relation to the intervention order acknowledging it is a significant authority that police exercise here in South Australia.

MS ORR: And so the magistrate reviews the order, reviews the circumstances and determines if, in their view, an interim order is appropriate?

MS WATKINS: Yeah.

MS ORR: Can the Magistrate impose, can they change the conditions, impose conditions that they think are suitable?

MS WATKINS: They can. I will say that it is uncommon for there to be any

significant move away from that initial order because the time from the initial offending or the incident giving rise to the order is still quite close in proximity and the magistrate at that point, has only the presentation of the respondent before them, so they are limited in the facts that they've been able to ascertain in relation to the matter.

MS ORR: Not much has changed since police attended the incident.

MS WATKINS: Exactly.

MS ORR: So that's PIOs or the police issued interim intervention orders. Is it correct that on some occasions police will actually make an application to the court for an order?

MS WATKINS: Yes, that's correct. However, the vast majority of our applications are police issued orders and that would align to the volume of front-line response we do in the domestic abuse space, but we do have occasions where we will apply for the court issued interim order, but those cases are much rarer that we would do that.

MS ORR: And are those applications made in cases which are still linked to criminal matters as you described before?

MS WATKINS: Yes, yes.

MS ORR: We do have some numbers which I have referred to this morning, but we can now divide up a little bit further the numbers that we have. So in the 2023, 2024 financial year, there were 3969 applications for domestic abuse related intervention orders made in the Magistrates Court. 3481 of those were from police issued PIOs. 168 were police applications that we've just discussed and 454 were private applications.

MS WATKINS: Yeah.

MS ORR: The year before there were 3317 applications for domestic abuse related orders. 2850 were PIOs, 160 were police applications and 307 were private applications. Is it correct that intervention orders can also be made against people who are under 18?

MS WATKINS: That's correct yes.

MS ORR: In that case does that proceed through the Youth Court?

MS WATKINS: That's correct.

MS ORR: We have some numbers for those as well. In the 2023, 2024 financial year, 121 applications were lodged for a domestic abuse related intervention order. 116 were PIOs, five were applications made by police and there were no private applications. The year before 128 applications for domestic abuse related intervention orders were lodged. 111 were PIOs, four were private applications and six were applications made by the police to the court. So that is consistent I suppose, with your evidence about the volume of PIOs compared with other applications.

MS WATKINS: Yes.

MS ORR: Stepping along the chronology of procedure, what happens once an interim order has been made by the court?

MS WATKINS: At that stage, the order then is processed through the Magistrates Court till a conclusion that would either see the order confirmed in perhaps as it's been put before the court, or it may have been negotiated with conditions modified and then confirmed, or ultimately, the order is withdrawn. But once it's before the court it'll reach some final resolution and depending on the victim's wishes, the respondent's wishes and instructions, and the magistrate's considerations. Each case would turn on its own specifics as to how that journey would look.

MS ORR: You've explained that for the intervention orders that SAPOL deals with, they are connected to criminal matters. How does that impact the process of the intervention order application through the court?

MS WATKINS: So it's quite common that when the intervention order appears before the court on its first return date, which is the eight-day window that it will be before the court, the magistrate will often ask if the intervention order will travel with the substantive offence that has been triggered from the incident relating to the order.

MS ORR: That's the criminal charge.

MS WATKINS: The criminal substantive charge, yes that's correct, and it is common for that order to be adjourned to the same bail date as the substantive offence. So to step that out a bit more simply, if the respondent was arrested and bailed in relation to an aggravated assault and that was appearing before court at four weeks time, this intervention order would be adjourned off to marry up with that substantive offence appearing on that day.

MS ORR: Does the intervention order finalisation usually await the finalisation of the criminal matter?

MS WATKINS: It is common that that will occur, however it is open to the respondent to confirm the order at any stage, and it is the case that sometimes respondents to confirm the order prior to that although I would say that that's rare and if they do confirm the order early, it's often that they will not necessarily agree to the affidavit provided to support the order, but they will agree to accepting the order without confirming the facts of the matter.

MS ORR: In the cases where there's no agreement, what's the rationale behind waiting for the criminal matters to be finalised?

MS WATKINS: That's usually the application made by the respondent or the defence application. It is sometimes utilised for negotiation and the testing of the evidence. The criminal matter, there are two separate burdens of proof that are required in relation to the substantive criminal matter which is proof beyond a reasonable doubt that it's occurred, and the intervention order can be confirmed on the balance of probabilities.

MS ORR: Which is the lower standard.

MS WATKINS: The lower, yes, that's correct. So in proceeding through court, evidence will be called to establish proof beyond a reasonable doubt and if that is established then one would assume that the court can make an order based on the balance of probabilities.

MS ORR: You've answered part of my next question, so then the other part is, what if the criminal charges end up either being withdrawn or the person is found not guilty? How might that impact whether the final intervention order is made?

MS WATKINS: Again if a person is found not guilty and the victim survivor has been engaged through the journey, and they're still seeking that order, then a trial can progress in relation to the intervention order. So that is one option of how it may continue through. Often there's an element of negotiation that may sit behind that where prior to a criminal matter reaching trial or resolution, the instructions from the protected person or the victim survivor might be that they actually don't want to attend court and that they don't want to proceed with the criminal charges in which case negotiations will occur in relation to confirming the order so that there is some form of protection for that person moving forward.

MS ORR: Is it correct that waiting for the determination of the final order can take some time?

MS WATKINS: I think, on average, it takes about 200 days for an intervention order to reach finalisation is the figures that I've seen. So yes, however, in noting that, the order is in force, so that process really sits around the confirmation and ongoing assurity that the protected person has of the longevity of the order, it doesn't change the way in which it's policed or enforced, whether it's interim or confirmed.

MS ORR: I can add some data to yours. We have data from the Adelaide Magistrates Court specifically which shows the average time for an intervention order to be finalised is 182 days. In the Peterborough Magistrates Court just to pick one, the average time is 269.33 days. Leaving aside the criminal matter now, and let's assume we're moving to finalisation of the intervention order, how does that work, or what happens in relation to that application?

MS WATKINS: How do you mean?

MS ORR: You've mentioned that it can be negotiated and agreed. If it's not agreed, what happens?

MS WATKINS: The prosecution will call evidence to present the case of the investigating officer to the court. Instructions are taken from the protected person in relation to their wishes. At that point, the prosecution would be proofing and preparing for trial in relation to the matter and if all the grounds are met under Section 6 of the Act, the matter will proceed to trial.

MS ORR: And that might involve the calling of evidence - - -

MS WATKINS: Yes.

MS ORR: - - - to prove that the test has been satisfied. Is it correct that along this process or while ever the intervention order is in place, applications can be made to vary the conditions of the order?

MS WATKINS: Yeah.

MS ORR: Is that something that the police prosecutors would be involved in?

MS WATKINS: The police prosecutors will appear on the protected person's instructions. They also will overlay a risk assessment in relation to any variation of order. So if they perceive that the reduction of any sort of protective condition might expose the protected person of any risk, they will obviously make that known to the court, but it's for the court to determine ultimately the conditions and variations and if they're accepted or not.

MS ORR: I'll ask you a bit more about that in a moment. You've mentioned negotiations a few times, and we've heard about that this morning about negotiating the terms of an intervention order with a view to agreeing them. How in practise does SAPOL go about that or do the police prosecutors go about that?

MS WATKINS: In practise, that would be communicating with the respondent or their defence counsel. If it's the case that we're concerned as the prosecution that the substantive matter may not have enough evidence to reach the evidentiary threshold, we may be seeking to negotiate as I said earlier, to ensure that if we can confirm an order, in some form, it's a better alternative than the victim or protected person leaving with nothing, and it can be challenging in relation to managing victims' expectations and protected persons' expectations because obviously they may be seeking an outcome that may not align to the evidentiary burden that we need to establish to successfully prosecute the substantive offence.

MS ORR: Is that something that is discussed with the victim-survivor protected person?

MS WATKINS: Absolutely, yep.

MS ORR: And who's responsible for that discussion?

MS WATKINS: That would be the prosecution and the investigating officer.

MS ORR: We should perhaps explain the different functions between an investigating officer and the police prosecutor. Can you - - -

MS WATKINS: Yeah.

MS ORR: - - - explain that briefly?

MS WATKINS: Sure. So the investigating officer is generally the officer that's responded to the incident or the officer responsible for investigating the offence when

it's reported. So they will work closely with the prosecution to assess any evidence required to support the charge, and they will provide the evidentiary package to the prosecution to make an assessment if the conditions or the elements of the offence can be established and whether there's sufficient evidence to continue to proceed in the court process.

MS ORR: And police prosecutors perform that function in the Magistrates Court?

MS WATKINS: That's right.

MS ORR: Ultimately, if an intervention order is to be negotiated and terms agreed, who's responsible for that final decision? Is it the police? Is it the protected person? Ultimately, it's the court, I suppose.

MS WATKINS: Yeah, it is the court but having said that, it is a process where you know the views of the protected person from a prosecution perspective are front and centre. However, there are conversations had with that that protected person about likely outcomes and that may include honest conversation around the fact that there may not be enough evidence to support a charge, or it may include a conversation around the likelihood that it may proceed to a conviction if we're confident that the case is strong. So it's an honest conversation around the state of the evidence and the likelihood of outcomes, but it's a conversation and a negotiation with that sort of being behind it as to whether we will go on to negotiate with the defendant or the respondent to the order. So it's a complex piece and every case is so individual it's difficult to answer specifics when all of these things sort of operate together and quite uniquely for any particular case.

MS ORR: Just one more question about communication with a victim survivor or a protected person. You've spoken about the prosecutor doing that in conjunction with the investigator when you're negotiating. What about in relation to the intervention order process more generally, who's communicating with the protected person?

MS WATKINS: Prosecution units are located in different geographical locations across the state, and they serve as quite unique communities in some of those locations, so in providing that contact to victims there's local policy within each of those units which dictate how they undertake that process. For example, it may be that there's a victim contact officer employed for specifically undertaking that function. Whereas another area may place that responsibility on the prosecutor, or it may be the investigating officer. There's also family violence workers that cross over into this space as well. And then there's also the automated notification of letters that are sent out to any victims that we're representing across the state for crime type. So it's the combination of those notification streams and as I said, each individual location will adopt a process that best sort of adapts to the community that they're servicing.

MS ORR: Generally speaking, do SAPOL try or is it best practise to keep these people informed?

MS WATKINS: Yes, absolutely it is. We obviously have responsibilities under the victims of crime legislation. We represent victims not just in the domestic abuse space but every crime type across you know, a myriad of types of offences that we prosecute

within the state. It is a hugely important communication and I guess it's important to say that if the victim contact has not occurred, it's often indicative of the workload that a prosecutor or an investigator might be facing or challenged by or that it might be that they have attempted to contact and haven't been able to locate or contact that victim.

MS ORR: Can I ask now about circumstances where a protected person might not be engaged with the process or may in fact want the order withdrawn once it's been made? Does that happen?

MS WATKINS: Yes, it does. There's probably two key areas where this is a live issue. So it could be at the incident police are attending, prior to us moving into the Magistrate's Court and back at making the interim order. The victim or protected person may not want that at that time, but the drafting of the act obviously contemplated situations where they may not have wanted it but police perceived risk to that individual or individuals and allows for the making of that order, and it also allows for exceptions to the rules of evidence in court where the magistrate can make an exception to the hearsay rule and police can give evidence on behalf of that in support of that order. So again that goes back to the core function of police and that you know, the safety of vulnerable people, I think. Yeah, so that's the operational sort of front line piece of it. If you want to ask me about that, I can take a question, or I'll move on.

MS ORR: I might go back, and then we will come to that but what about when it's before the Magistrates Court?

MS WATKINS: Yes. So, before the Magistrates Court, if a victim or protected person at any point becomes disengaged from the process or does not want the matter to proceed, and the prosecutor perceives a risk to that individual, they will notify the family violence worker. They will contact the investigating officer and conversations and support is provided to that protected person to help them understand any risk that is perceived and conversations and risk mitigation strategies are discussed with that person. Ultimately there is a burden of proof that must be met in the courts and when prosecution have an unwilling protected person, it is really challenging in domestic abuse and sexual abuse matters. If that evidence cannot be called, it is very difficult to reach a burden of proof that would allow for the successful prosecution of that matter. And I do just want to say on that, that this is actually a really challenging piece for police officers because victim agency in relation to these matters that must exist against a risk assessment framework that police take their responsibility quite seriously in relation to wanting to protect people in the community. It is a really challenging relationship with a victim that may not want to proceed and police identifying a risk in not doing so.

MS ORR: With that context in mind, you've talked about, going back to when we were before the court, you've talked about situations that are reliant on the victim-survivor's evidence and then there becomes no proof if they don't wish to proceed. What happens in cases where there might be, and I know these are less common, but there might be other evidence, independent evidence or third party evidence of the behaviour that might give rise to the intervention order?

MS WATKINS: Yes. So the prosecution will make an assessment on whether there is sufficient evidence to proceed and a great example of that would be perhaps there's a third party witness that has seen some of the behaviour or it might be CCTV footage. If

it's the case that there is some evidence, there will be an attempt to prosecute however as I said, without the victim's evidence, it is really difficult to overcome any defence raised of self-defence or any issues around consent and so it's quite rare that a prosecution would be successful and continue without the victim's evidence based on the burden of proof that must be met within the court.

MS ORR: You've spoken about victim agency and that being considered in the context of the risk focus if I can explain it that way. How does that play out when you're considering whether to prosecute a matter or make an application against the victim's wishes?

MS WATKINS: How do you mean?

MS ORR: So you talked about the burden, the evidentiary burden, can you explain the sort of justification for SAPOL going ahead with that application even if you can prove it? What's the basis for going ahead against the victim's wishes?

MS WATKINS: I think that need for ongoing safety. Domestic violence is hugely complex. We know that you know the trauma inflicted on a vulnerable person or a victim can be significant, and it can obviously have a role to play in their judgement and how they may perceive risk versus how we may perceive risk and I think sometimes the concern from a police perspective is that they may not identify some of the key risk indicators that we do, and again it fundamentally comes back to that core duty of keeping people safe, and you know trying to provide support for them in any way we can to assist in mitigating any risk that they may be exposed to.

MS ORR: Thank you. And I want to go back now to what you were talking earlier about this very similar issue in the context of a PIO so police at the scene. How might that play out? So police attend a scene, they respond to an incident, but the victim-survivor says, "I don't want an intervention order in place" Is that what happens?

MS WATKINS: Yeah, that can happen and if police have enough evidence to satisfy the conditions stepped out in the act, and they do not believe that the risk can be mitigated in any other way, then they will go on to make the order.

MS ORR: And is the sort of basis for that approach, similar to what you've explained - - -

MS WATKINS: Yes.

MS ORR: - - - in relation to the prosecution.

MS WATKINS: Yeah, and I think it's even more critical at that point in time because the reality is things have escalated to a point where somebody has called police and so if you think about that happening in the community at the point at which a decision is made for police to be attending at an incident, things have escalated to a point where there's a safety concern or there's a fear and when police respond and as I mentioned earlier you know, it's that circuit breaker opportunity so if the intervention order goes on, it gives that person and at that time they may not want that, they may not want to proceed, they may not want the order, but two days later they might, and it gives them

that time and space to have that opportunity to think about you know, their future and what they want to do. I think that anyone making such significant and critical decisions at a point of crisis if that can be taken away and somebody else identifies that for them to say, "You're at risk, and you need protection" that's a good thing and I think that there's an opportunity there at that point in time for a support service to a victim to engage because the order has created the time and space, and generally it's non-contact, so there's no contact that's allowed, so there's almost a window there where that opportunity for victim support is critical, and I think that that's not a role necessarily that police need to provide that support but more that therapeutic support for them.

MS ORR: And you explained before that the police are making these decisions with this sort of risk and safety lens at that time of crisis, is that right?

MS WATKINS: Yeah, and operating with legislation that's you know it's quite clear that the legislation talks about prevention you know focusing on protecting people from acts of abuse and as I said the act has been drafted in such a way that it's actually allowed for this because it's recognised obviously, the need for police to have this authority.

MS ORR: I want to change topics slightly now and ask about children on intervention orders, which we did hear a bit about this morning.

MS WATKINS: Yeah.

MS ORR: From a police perspective, perhaps if we start with the PIOs, so the police issued orders, are children sometimes included on those orders?

MS WATKINS: Yes, absolutely. And again, the act is quite clear about any child that's present and may be exposed to the effects of domestic abuse is a victim. And that's certainly how SAPOL has interpreted the legislation, and that is consistent with our training and policy in this space, however an officer attending at any job must consider the case on its own merits, but that's certainly the policy and training lens that all officers receive.

MS ORR: Yeah. What about down the track a bit if we're either police making an application to the court or once the process starts to continue towards a final order - - -

MS WATKINS: Yeah.

MS ORR: - - - are children included on orders at that stage?

MS WATKINS: Yes, yes. If the grounds are met under Section 6 of the Act, then there would be no reason for us to remove them from the order or seek to have them removed.

MS ORR: Do you mean included on the order?

MS WATKINS: Yes, sorry, included on the order.

MS ORR: And how successful are those applications before the courts to have children

included on the orders?

MS WATKINS: I don't think I can answer that question because each case obviously is subject to individual negotiation or as I said, like the factual basis for any matter is quite specific and ultimately, it's for the court to determine, so I couldn't answer that question.

MS ORR: We've heard evidence this morning that for the private applications at least, it tends to be easier, or the court tends to be more willing to include children on orders at the interim stage or at the early stage of things, but they are less willing at a later stage and when final orders are being made, would that be consistent with your observations?

MS WATKINS: Again, I don't think I could make an observation. What I could say, though, is that from the initial interim order, whether children are placed on it to the resolution of a matter or a final order being made, the court has taken into consideration a multitude of factors that could include orders from the Family Court that have been made post the intervention order being in place, that could include representations from the respondent and also the police prosecution on behalf of the protected persons. So how those matters generally resolve are very individual.

MS ORR: We also heard evidence this morning that for private applications there is often a tendency from the judiciary to explain or suggest that the decision to include children on orders is a matter for the Family Court and for that jurisdiction. Can you say whether that is consistent with your experience?

MS WATKINS: Yeah, I think that there's definitely complexity around the authority of the Family Court and the role of magistrates and conditions in intervention orders notwithstanding the magistrate has the power to vary the order based on the Family Court order and just I will say that it's clearly a consideration that the magistrates turn their mind to, but their decision on that is ultimately a matter for them.

MS ORR: And finally on this, we also heard this morning that children as protected people it's a point of negotiation. It might be included on the interim order, but they will agree to a final order if the children are removed. Is that something that you see?

MS WATKINS: That can be subject to negotiations - - -

MS ORR: Yeah.

MS WATKINS: - - - but again, it's going back to, as I said, if the conditions are met and the evidence exists in relation to the order and that the children have been exposed to the abuse, we would not willingly remove that if we have the evidence, and we have a willing party to proceed.

MS ORR: And then it would be a matter for the court to determine - - -

MS WATKINS: That's correct.

MS ORR: - - - what they thought was appropriate.

MS WATKINS: Yes.

MS ORR: I want to ask about orders in regional and remote areas. Do they follow the same process from a policing perspective?

MS WATKINS: They do, but they do take longer, and that by and large, is due to the frequency of the court sittings. For example, some areas have a court sitting bimonthly, which means that matters take a much longer time to resolve. Some sit once a month, so depending on where you are in the state, the impact is the time taken to resolve the matter.

MS ORR: Prosecution of breaches, turning to that, so I think we've heard this morning that a breach of an intervention order is a criminal offence. Is it correct that SAPOL then respond to that as they would for any other criminal offence?

MS WATKINS: That's correct.

MS ORR: Yeah. And police are responsible for prosecuting any breaches as a criminal offence?

MS WATKINS: Yep.

MS ORR: Can you give us a brief answer about how that works, how a prosecution for a breach happens?

MS WATKINS: Okay, I might just start at the investigation part, so if a report of a breach of an intervention order is received, obviously the investigating officer will be undertaking an investigation to see if the requisite level of evidence is able to be obtained to allow for a successful prosecution. So, they'll be undertaking the investigation to establish the breach. If it is unable to establish a breach has occurred, then the matter may be filed. If there is sufficient evidence for the matter to proceed, then the offender or the accused in the matter would either be arrested or reported and brought before a court. At that stage, the file will transfer over to the prosecution services area, and they will then maintain that prosecution through the court process.

MS ORR: When you talk about requisite level of evidence or sufficient evidence, is there a test that you are applying?

MS WATKINS: Yes, so when investigating officers are considering that, it's a reasonable suspicion that a defendant has committed the offence. That slightly changes when it transfers over to prosecution. It has to be a prospect of conviction. So they essentially put a test against the evidence and make an assessment on its likelihood to be successful in proceeding in court.

MS ORR: And is that the case for any other criminal charge before the court?

MS WATKINS: Yes, yes.

MS ORR: We again, have some data about the number of breach applications before the court. So for applications relating to breaches of conditions of, and this is for all

intervention orders, In 2023 to 2024, there were 2711 applications and the year before there were 2581 and that's across all of the South Australian Magistrates Courts. So that is quite a high number of breach applications in any particular year. In your observations, are the penalties imposed for these breaches variable?

MS WATKINS: Well, they are based on the sentencing provisions of each individual categorisation of the actual offence.

MS ORR: Do you mean that the sentencing or the penalties differ based on the circumstances of each breach?

MS WATKINS: Well, based on the categorisation of the offence, so for example, if it's a first offence, and it's a basic offence, the sentencing provisions that exist for that offence are different to a first offence, aggravated offence, and then a second or subsequent offence, basic or aggravated, are stepped out with different sentencing provisions as well.

MS ORR: And then within those levels, do you see variability depending on different courts?

MS WATKINS: Yes, yeah, and again that's consistent with any other matter across the state that you might have an occasion where you've got two thefts that sit within the same penalty range and due to the circumstances relating to individual nature of each case, a magistrate will issue a different penalty, but it will be within the provisions of that categorisation of offence.

MS ORR: And you're saying that does apply in the intervention order space.

MS WATKINS: Yep.

MS ORR: Turning now to coercive control which we heard about this morning, so we heard this morning that coercive control of itself is not a criminal offence, so based on your evidence that intervention orders dealt with by police tend to be connected to criminal matters, is it the case that generally speaking police intervention orders would not be connected with coercive control behaviour of itself?

MS WATKINS: Now?

MS ORR: Yes, now, currently.

MS WATKINS: Obviously, coercive control is not yet a substantive offence here in South Australia, however we do know it's on the Government's reform agenda. The term coercive control captures individual behaviours, some of which we do currently police. For example assault, sexual assault, property damage, but some of those behaviours we do not police such as emotional abuse and social abuse. So I think it's likely that we will see change in this area and obviously an impact in relation to how we respond to intervention orders given that the criminal nexus needs to exist for police to be the applicant for the order but what that looks like is unclear. I think that what we do see though, in the absence of a clearly defined definition of what coercive control is, is that we do see in investigating and prosecuting and taking evidence from victim

survivors, there is a theme in there that would be consistent with a definition of coercive control.

MS ORR: So you see that type of behaviour in the context of - - -

MS WATKINS: Yes.

MS ORR: - - - the criminal matters that you deal with.

MS WATKINS: Yeah, and so it's not the case that when taking evidence that those behaviours are ignored by police. It's just the case that we're proceeding based on a criminal offence or the threat of a criminal offence. When we take the evidence from that victim-survivor, their story and their journey is important to the court. So we will take the evidence that considers a social abuse, emotional abuse, financial abuse, it will form the basis and be part of their affidavit. It's just that if there's not the associated criminality then that would be undertaken by a different organisation.

MS ORR: WDVCAS.

MS WATKINS: Yeah. So, it's not the case that we split it out and don't hear about that, yeah.

MS ORR: But I guess if you had coercive control type behaviour with no associated criminal offence then you would be unlikely to deal with the intervention orders in that space.

MS WATKINS: That's correct.

MS ORR: And that's what we heard from - - -

MS WATKINS: Yes.

MS ORR: - - - the WDVCAS witness - - -

MS WATKINS: Yeah.

MS ORR: - - - this morning. You've mentioned the current bill before Parliament about coercive control and what it looks like in the future is unclear. I think you said that if it's criminalised that will have an impact on SAPOL, obviously. Do you think that's likely to have an impact on SAPOL in the intervention order space?

MS WATKINS: It's difficult to say without knowing what the specific policy position is. Any new policy position that requires police resourcing to invest more or lean further into the domestic abuse space will have a resource impact. That needs to be considered. That's a matter for the Commissioner to consider. Domestic abuse and the policing of domestic abuse is a significant demand investment for policing as an organisation and that's not just front line response, that's the need to continually update the workforce in relation to training, in relation to policy development, in relation to front line response and also in relation to the prosecution of these matters. So it is any change, any new policy has far-reaching consequences within the organisation.

MS ORR: And then with the bill before Parliament, is there a plan from SAPOL in terms of the plan for that change and those consequences?

MS WATKINS: SAPOL's continuing to work with government to be in a position to enforce any new policy position, but I do not know the status of that engagement, and so I'd need to take that on notice.

MS ORR: Right. Thank you, Commissioner. I've got no further questions.

CMR DESPOJA: Thank you. Chief Inspector, thank you for your evidence so far. I want to start maybe with your last points, not necessarily pertaining to coercive control per se, but the broader issue of the amount of your workload, arguably disproportionate amount of time and resources that are spent dealing with domestic, family and sexual violence. I mean, in terms of domestic and family violence, can you give us a sense of what impact this has on your resources and your staff?

MS WATKINS: On average, police are attending 100 domestic incidents a day, and they're issuing on the data you've provided in relation to intervention orders, nine intervention orders a day. That's a significant response commitment to this issue. Time on task, so to make that a little less police-ie, so the time spent for patrols at an incident for domestic abuse in the last several years has gone from an hour and a half up to over three hours. So there is a significant investment in relation to responding to a domestic abuse incident and the time on task rise you know it really demonstrates the complexity and the investment that police are making in relation to those families and trying to provide that support and protection.

CMR DESPOJA: So that does or doesn't include the paperwork and the investigative work that's in addition?

MS WATKINS: That's in addition that's that's in addition so - - -

CMR DESPOJA: Right.

MS WATKINS: - - - the prosecution, the ongoing investigation of the matter is outside of the average three hours.

CMR DESPOJA: You know that a number of people have called for submissions? Organisations have called for a review of the intervention order process or systems to determine whether or not it is a sufficient deterrent in the current circumstances. Do you have a view in terms of deterrence? And I guess one of the other things is people are curious to know what impact it actually has on the number of domestic violence, family violence incidents. Is that something you have a sense of or think would be beneficial for us to perhaps get some of that information and research?

MS WATKINS: I think that the reality of an intervention order is that it is a deterrent from a respondent behaving in a certain way. The limitation of the order is that it is deterrent only - - -

MS ORR: Yeah.

MS WATKINS: - - - and so there have been recent amendments in relation to trying to increase that deterrent aspect that we've seen in changes to the Bail Act.

CMR DESPOJA: Yes.

MS WATKINS: So they are, anybody who breaches an order with an act of violence or threat of violence, firstly they become a prescribed applicant.

MS ORR: Yeah.

MS WATKINS: So the presumption in favour of any person having a grant of bail is reversed. And it's on that respondent or defendant to identify special circumstances that would warrant their release on bail. And then now, if they are able to establish that, they'll only at a minimum be released on a monitored home de-bail. So I think those are steps to try and increase the deterrent aspect and improve that in the intervention order space. However, a motivated offender or a motivated respondent, obviously they can breach the order.

CMR DESPOJA: It's an interesting terminology, isn't it, because you sort of associate motivation with something good.

MS WATKINS: I know, yeah.

CMR DESPOJA: So de-bail, I'm assuming electronic monitoring and home detention?

MS WATKINS: That's correct, yeah.

CMR DESPOJA: Right.

MS WATKINS: Yeah.

CMR DESPOJA: In response to counsellor assisting's questions around whose responsibility it is to keep applicants informed, you gave quite a comprehensive answer in terms of whose role, depending on where and what have you. Unsurprisingly, we have heard storeys from victim-survivors who were frustrated by what they perceived and in many circumstances could show us was a lack of information, which they said added to the stress and trauma. You suggested workload might be one of the reasons for that, but do you feel that there's sufficient processes in place to keep applicants informed? Is this something you hear that there's a frustration out there of not being kept up to speed with what's happening and how the intervention order is processing?

MS WATKINS: Yeah. I think that there are a couple of factors that impact that and one is the time taken for a matter to resolve. So you can imagine that there's multiple court appearances in relation to that and with that timeline, people move, the relationship may have broken down, so there's a new home, there's a new address and there's some challenges in relation to those brought about simply by some of the logistical challenges. I don't have the figures around how many matters we are prosecuting per annum, but there is a high volume of prosecution files moving through the system at any point of time and there's a high volume of victims of crime that are in the community that require victim contact and so when I mention you know sometimes

it's the pressure on the system and workload for victim contact, that it is significant, and so I think the system could be supported by some investment in supportive victim contact. In the past few years we've seen the loss of the victims advocate program in court where victims were supported by a member that would attend as their advocate and that advocate could engage with policing organisations such as our own. So greater support in that area would only serve to benefit the state.

CMR DESPOJA: So the victim advocate role is a loss in your opinion?

MS WATKINS: Yes.

CMR DESPOJA: There are a number of submissions that made the recommendation that a respondent who breaches an intervention order should be taken into custody immediately. I was listening to you when you were explaining the process and obviously there has to be, in some way, some investigation to - - -

MS WATKINS: Yeah.

CMR DESPOJA: - - - determine that breach which you outlined for us today. That recommendation, is it simplistic or is that not taking into account natural justice? Why are people suggesting that it should be immediate when you've explained that once it's investigated it actually does result in an arrest, so where is that suggestion coming from, do you think?

MS WATKINS: It can result in a arrest or a report. So I think that there's an expectation in relation to the reporting of an offence and quite rightly victims in this area might say, "Well, he's driven past my house, or I've got a message." There's still the obligation on police to prove so can we identify that person, are we satisfied the elements of the charge exist that we can proceed, and sometimes we can't and that can be the source of some frustration but if the defendant or the person involved has committed an offence and which includes the breach of the order - - -

CMR DESPOJA: Yeah.

MS WATKINS: - - - where there's been a threat or actual violence and as I said, the presumption against bail is active and live on that issue - - -

CMR DESPOJA: Yeah.

MS WATKINS: - - - so they would be arrested, they would not be given police bail, and they'll go before a court. So there are some mechanisms that exist within the current system that are quite - again, to use possibly the wrong way around, are quite a positive response as far as a focused response to deal with that behaviour straight away. Sometimes in matters where it might be the breach would appear more trivial - - -

CMR DESPOJA: Yeah.

MS WATKINS: - - - in nature, such as a text message, or I think some of the common ones we see whether there's a mention of a child because the order will allow contact for

the purpose of the welfare of the child, but then they may get 50 messages a day seeking contact for the welfare of a child, so there's some complexity in that as far would that be sufficient to be considered a breach given their defence will be, I'm allowed to contact for the purpose of the child's welfare.

CMR DESPOJA: Yeah. And I suspect all of this, as has been pointed out, will be further complicated, or maybe simplified, who knows, as a consequence of coercive control and - - -

MS WATKINS: Yes.

CMR DESPOJA: - - - subsequent definitions.

MS WATKINS: Yes.

CMR DESPOJA: I suspect I know the answer to this, but given that a basic intervention order prohibits assaulting, harassing, intimidating behaviour, as I heard one magistrate explain it as, well, it's very basic.

MS WATKINS: Yeah.

CMR DESPOJA: It's what the law provides for anyway. What do you see is the benefit of intervention orders in that circumstance? Is it just a piece of paper or does it have an effect and - - -

MS WATKINS: Yeah.

CMR DESPOJA: - - - is it partly because of the ability to breach and the penalties that come with that? Can you just - - -

MS WATKINS: Yes, yeah.

CMR DESPOJA: - - - explain that for me?

MS WATKINS: So I agree with you on face value, it seems quite simplistic that an order tell you something that you shouldn't be doing anyway, but I think that the power of the order is the system then is able to be triggered by virtue of any breach of that order, so if on a basic order it is breached by threatening violence with any new offending, then the bail laws and the prescribed application, the need for that defendant to display special circumstances before a court and all of those things then come into play. If they did not have an order and that offence was committed then they do have the presumption in favour of bail. So they would be arrested and if suitable they'll be given bail. So the system does provide a protective element even on that basic order which at a quick look at it, you may think that it's limited in its power. It's the power of the bail process and movement through the system.

CMR DESPOJA: I think that's very useful to have on record, so thank you for that. My final question relates to the issue that you may have heard of with our first witness and if not, it relates to the issue of education and understanding of intervention orders certainly with the applicant, but our focus this morning was around the lack of services

or support or understanding of those issues for the respondent. Do you have a view on that in relation to what education should be prescribed or explained or what support services and whether or not that would facilitate and expedite some of the orders being placed as opposed to, you know, delays in legal support, delays in other areas?

MS WATKINS: I think any education or support in understanding orders can only be viewed as beneficial. It might be the case that that would go a long way to preventing some breaches. So I think that that is hugely important. The translation of orders into other languages, that's important. Any support we can provide a respondent in relation to the understanding of those conditions is critical.

CMR DESPOJA: What do you do with other languages?

MS WATKINS: We can bring in translators. We currently are working to have the orders translated into 11 other languages. The explanation is provided to the respondent on service of the order.

CMR DESPOJA: Yeah.

MS WATKINS: However, if English is a second language the benefits of translation is significant.

CMR DESPOJA: When that respondent receives that and is served with that order, what happens? Is it just a case of being served and that's it?

MS WATKINS: Yep.

CMR DESPOJA: Yeah.

MS WATKINS: So when I spoke earlier about the opportunity to provide the victim therapeutic support, the circuit breaker of the order, there is also an opportunity for perpetrator intervention on the service of that order also and you know that dealing with the perpetrator and preventing the behaviour in the first place would seem a sensible and a sensible investment around that understanding of the order and that intervention at that point in time where the perpetrator is also being held accountable for their actions.

CMR DESPOJA: Thank you, Chief Inspector, you're writing my recommendations for me now, are you? No, it's all good. Thank you very much for your evidence today.

CMR DESPOJA: I'd ask the witness be released, thank you, Commissioner.

CMR DESPOJA: You are free to go.

MS WATKINS: Thank you.

CMR DESPOJA: Thank you. We will now adjourn for a lunch break.

RECORDING SUSPENDED

RECORDING RESUMED

CMR DESPOJA: Welcome back to day six of public hearings for the Royal Commission into Domestic, Family and Sexual Violence. We open the afternoon session and I hand over to Counsel Assisting to introduce the next witness.

MS ORR: Thank you Commissioner. I call Professor Heather Douglas who is appearing online.

HEATHER ANNE DOUGLAS, AFFIRMED

MS ORR: Thank you, Professor, can you see and hear me?

PROF DOUGLAS: I can.

MS ORR: Let us know if at any stage you can't, if we have any technical difficulties, and we'll pause.

PROF DOUGLAS: Sure, thanks.

MS ORR: So you are a professor?

PROF DOUGLAS: Yes, I'm a professor of law at the University of Melbourne in Victoria.

MS ORR: And what is your main research area?

PROF DOUGLAS: My main research area for the last over 20 years has actually been in family violence, but I've also done a lot of research in legal responses to family violence in particular and also in criminal justice responses more broadly.

MS ORR: Is it correct that you coordinate the National Domestic Family Violence Bench Book for judicial officers?

PROF DOUGLAS: Yes, that's correct. So I've done that since 2016.

MS ORR: And you are the deputy director of the ARC Centre of Excellence for the Elimination of Violence Against Women.

PROF DOUGLAS: That's correct also.

MS ORR: And your work has included research into intervention orders or protection orders as they are called in other jurisdictions, is that correct?

PROF DOUGLAS: That's correct.

MS ORR: I want to start if we can by asking you a bit about the sort of background or theory in relation to intervention orders and I will call them intervention orders today because for our purposes in South Australia that's what they're called. Can you describe

a bit about what their policy purpose is and what they are intended to achieve?

PROF DOUGLAS: Yeah, sure. I think when protection orders were introduced, the idea was that they were forward-looking to promote safety for an individual seeking safety from domestic and family violence, and they were brought in in the context where the criminal justice process has a higher level of proof, the burden of proof is beyond reasonable doubt, and they're backward looking. They're determining accountability and blame and have a punitive idea in the criminal process compared to protection orders which are forward-looking and designed to protect people into the future and create a safe set of circumstances for them. So the view originally was that these two things should run together.

MS ORR: You've mentioned safety, is that one of the important policy considerations around intervention orders?

PROF DOUGLAS: Absolutely, and as you say, safety or in other jurisdictions as you mentioned, they're called protection orders, so protection and safety for individuals who've experienced violence and also potentially their family members and children.

MS ORR: A level of accountability and keeping an eye on people, the subject of the orders, if I could describe it in that way?

PROF DOUGLAS: Yeah, absolutely. And the special thing, I suppose, about protection orders as well was that in all the jurisdictions where they were introduced, they were really flexible in terms of the conditions that could be applied to them, so that they could really be responsive to the particular conditions of individuals. They didn't just have you remain safe from violence. There could be particular conditions, for example, around the distance from someone's home or their workplace or the school where the kids went, those kinds of things. Even obviously they've developed to protect people in online spaces as well, so not to harass on Facebook and things like that can be part of protection orders now. So they're inherently flexible tools that can be used to, in line with the circumstances of the individual who's experiencing abuse, to create conditions that are appropriate to the circumstances that they're facing.

The conditions of protection orders can also have implications for changing arrangements for families. So for example, in most jurisdictions, courts can make arrangements about staying away from the family home, for example, which by default means that just the kids and the protected person can stay in the family home if the person's got to stay away from it. So it actually can change the conditions of life for people who are affected by protection orders. Obviously also, they do operate essentially as a flag for police as well. Once people have a protection order, police usually in Australia are in involved in applying for protection orders and supporting people to get protection orders. So police are more aware of those situations and houses where there is family violence being identified. And so the perpetrators are arguably kept in greater view and the survivors are too as a result of that. And that can ideally, in an ideal world, that can also support their safety as well.

MS ORR: I want to ask now and spend some time on some sort of issues or themes that you've seen in your research across Australia in relation to intervention orders in current Australian systems, and I'll just start with some topics that we've discussed in

preparation for today. One observation that you've made is in relation to protection orders or intervention orders being an entry into the criminal justice system.

PROF DOUGLAS: Yeah. So although protection orders are a little bit different to the criminal law in the fact that they have a civil standard, so to get a protection order it's usually a probability standard rather than a beyond reasonable doubt standard, if the protection order conditions are breached, then that becomes a criminal offence. So people talk about the protection order system as a kind of hybrid system, and increasingly we've seen breaches of protection orders being taken more seriously, and what that's tended to mean in our justice system, I guess, is that prison is more commonly associated with breaches of protection orders than it has been in the past. So I think it's fair to say that across most jurisdictions in Australia, there are increasing numbers of people being imprisoned as a result of breaches of protection orders. And the penalties, certainly, if we look at the legislation in most states and territories the penalties have actually increased over time. Usually, obviously, penalties of imprisonment are associated with multiple breaches or a third or fourth breach situation, but nevertheless, it can be the case that people are in custody simply for breaching a protection order in the end.

MS ORR: Do you have some specific research that you can point us to or explain to us about this entry into the criminal justice system that you're talking about?

PROF DOUGLAS: Yeah. So certainly with Indigenous women, for example, and younger people, so we've done a couple of studies. A lot of my study has been in Queensland, I should say, too, and we've done a lot of work looking at the administrative data from courts, looking at what happens as a result of breaches of protection orders, and who's breaching protection orders and what sort of result is happening in the justice system in relation to those breaches. And we found some not surprising perhaps in terms of higher rates of imprisonment for Indigenous people in relation to protection order breaches, but what was surprising was that if we look at the women going into custody for breaches of protection orders, 60 per cent of those women are Indigenous women, which obviously is massively disproportionate to the number of indigenous or the proportion of indigenous women in the community that are facing breaches of protection orders.

So that's a bit of a concern, I think. We also see similar statistics around breaches of protection orders landing people in jail to other offences within the criminal justice system, that around 20 per cent of people that go jail as a result of breaches of protection orders, 20 per cent of men are indigenous men, so obviously that is way out of proportion with their proportion of the community overall. But I think it's fair to say that there are particular implications of our hybrid protection order system for Indigenous people in our community. And that flows down also to young people. We looked at dating relationships amongst young people. Now this was a particular cohort of people involved or under the notice of the child protection system at some point in their lives, so they had a child protection file, but we found that one of the ways those kids were getting into the criminal justice system for the first time that they were confronting the criminal justice system was through breaches of protection orders.

So these were usually dating relationships amongst young people who were 16, 17 years old, and there would be a protection order applied to them often by police, and that would be breached, and that would be the first time they would confront a criminal

justice process, and that was also disproportionately women who were in that situation for the first time breaching a protection order. So there's some interesting questions around the punitive response we've had to breaches, which has increased, I think, over time, and in some ways that suggests that people are being held more accountable and obviously the accountability mechanism associated with protection orders is what we do when they're breached, but our focus has been on the fairly traditional tools that criminal law operates such as fines, community-based orders and ultimately imprisonment and sometimes those are not really targeted very appropriately to the individuals who they're being applied to, in my opinion.

MS ORR: I want to pick up on that and ask what's the impact, or what are the negatives I suppose, of leading them into the criminal justice system in this way when all we have or all we are using to respond is those traditional tools you're talking about, fines, imprisonment, in particular in relation to imprisonment?

PROF DOUGLAS: Yeah, I mean, I could talk about fines and the problem with that, and so my focus would be preferred sort of position on community-based orders of some kind or some kind of community-based response. But fines, of course, we've seen a lot of problems with fines in the sense that women claim often that basically people just have to pay to hit me, or they eat into the household money. She's maybe sometimes ending up paying those fines. So there have been problems with fines identified already in other research that I've done and others have done. But in terms of imprisonment, one of the problems I think about imprisonment is that the majority of people in prison now are in prison for DV offences, what they call DV offences. And so I think that the problem with prison and the context of prison is that DV is incredibly normalised in that context. And so we have, if there was misogyny, tendencies around talk and action outside of prison, that is just re-entrenched in the prison context now, given the numbers of people in there. So we get these conversations, we've interviewed men in prison for domestic violence-related offences, and there's certainly re-entrenching ideas around minimising what they've been doing, blaming victims for what's happened to them, talking about how feminism has taken over family life, all these kinds of negative comments about the domestic violence that they've actually perpetrated. So we don't see it working as a very good accountability mechanism. It's not a situation where they're reviewing their behaviours and thinking about what they're doing. So I think that's a real concern about prison. And obviously we need to interrupt that context somehow. So we need to make sure that there's not that overwhelming talk in prison is not overwhelming any efforts of change.

So I think that's a real issue. The other point to make too is that a lot of people who commit domestic violence offences end up serving all of their sentence on remand. So although if they get to prison, they might get access to a domestic violence program of some kind or a drug rehab program of some kind, whatever might be useful to interrupt their violence, but what we find is that people who are imprisoned are often on a long list of people waiting to get into a behaviour change program, so it'll be people that are in the longest that'll eventually get there who are most kind of "in need" of it. But what we also see is that a lot of people are serving their entire sentence for DV-related crimes actually on remand, and that's not a place where they're getting any intervention programs of any kind, let alone domestic violence focused programs for intervention. So, we see situations where, for example, people are staying on remand for five or six months at a time, so that's enough to disrupt their work, it's enough to disrupt their housing, it's enough to disrupt their family relationships, but it's not enough to, being on

remand, it usually won't connect them into programs that's saved up for when they're found guilty and sentenced later.

So, I think that's a problem as well, that we see this situation really where people are potentially coming out worse off and feeling worse about the world and more angry at the world than when they went in. So I think there's real concerns about this punitive response that we're focused on, I think, increasingly. The other point to make, of course, is that imprisonment is really expensive, as is remand, so there might be better ways for us to be thinking about how we use that money in terms of directing it to more rehabilitative-focused programs, but obviously we need to keep community protection and victim-survivor protection and family protection in view, but I think there might be better ways to spend the small fortune of over 100,000 a year that's spent on people who are incarcerated.

MS ORR: Can I just ask you to explain, for the benefit of anyone who might not be familiar with the system, what you mean by someone being on remand?

PROF DOUGLAS: Yeah. So if someone is waiting to be sentenced or if they haven't pleaded guilty yet, and they're waiting for their sentence down the track, maybe they're negotiating their charges, maybe they're just waiting for a time to plead not guilty and go to trial, they'll be placed on remand, which is a separate kind of building in most states and territories. There's a real mixture of people in remand as well, so people aren't sorted as carefully as they are in the prison system when people are sentenced. So it can be the case that a relatively new person into the incarceration system is with someone who's been there 10 times. So you can imagine that mix in a remand context is also really problematic as well in terms of learning new skills towards criminalisation in other contexts. So I think there's real concerns about remand.

MS ORR: And are you also able to explain, you said, "Many people in custody for domestic violence offences often just serve that time on remand and then are released." Why is that?

PROF DOUGLAS: So often what we find, we did recent studies in Queensland, for example, on strangulation offences, and we found about half of the people who were sentenced to imprisonment served their entire sentence on remand, because essentially the sentence that they were given by the court when they were finally sentenced, was backdated to cover the period that they'd spent on remand and ended at the point of sentencing. So it just meant that they'd spent their whole sentence effectively on remand. And I mean, there's good reasons for that. Remand is considered to be particularly hard for people who are incarcerated because there's no closure, they don't know when things are going to be finalised, it could be next month, it could be next week, so they often don't want to put their affairs in order at that point, so there's just real uncertainty and obviously coupled with the issues about the lack of sorting in terms of danger of other people in the remand centre and also the issues about not getting access to services that people might need beyond the basic medical services.

MS ORR: Thank you. Moving to another topic slightly now, you mentioned when we were talking about the background intervention orders or their policy purpose about being able to be flexible and responsive. Can you talk about, in your view, the importance of treating orders on a case by case basis?

PROF DOUGLAS: Yeah, look I think it's really important for us to think about the conditions and I see lots of protection orders made by both courts and police officers that are just to be of good behaviour and stay away, stay 100 metres away, whatever metreage it is that is to stay away from the victim,-survivor or the children or both, and I think really they need to be carefully crafted for the individual circumstances, so this is especially I think the case where people live in relatively small communities where it's really difficult not to have contact, so it's really not contact always that's the problem, sometimes it is safe contact, so that might actually mean that when there are people around it's kind of okay for that, it may not be, but it might be okay in some context for people to be near each other when it's in public for example, so at a school, at work, but it's obviously coming to the home, that's the specific home or the fence line, that's the problem.

So I think we really need to be careful about how we craft the orders. Also, the message that it gives to respondents as well, I think they need clarity on what they can and can't do, and I think it helps them to understand the limits and the boundaries on their behaviour. So I think that's important too, because if we have a bog-standard requirement not to be violent, I think that's just not enough thinking about what kind of conditions are necessary here. When I've spoken to women about what makes protection orders work for them from their perspective, one of the things they did say was that their protection orders set boundaries for them and those women were usually women who had clear boundaries around certain behaviours that weren't allowed to happen as a result of the protection order. You know, many women are going to continue to have these guys in their lives. They've got children, they might have financial co-commitments, there might be lots of things going on that mean friends and family, small communities, all those kinds of contexts, they might have continuing relationships with these people in many, many cases. So considering how to craft orders that are realistic for their circumstances is also important, I think.

MS ORR: Are there some groups of people or particular types of people for whom intervention orders might work better than others? I'm talking about the respondent now.

PROF DOUGLAS: I've actually lost audio, but can you hear me?

MS ORR: We can hear you.

PROF DOUGLAS: Okay. I can't see you at the moment. I'll just continue on. So look, there's various studies that have looked at this and there's a little bit of uncertainty about where and when protection orders work best. One of the things that seemed to be the case when I spoke to a group of about 65 women all together in Queensland, men who are on insecure visas responded really well to protection orders. And the criminology theory about stakes in conformity, people who have stakes in conformity, people who don't want to have a criminal conviction on their record, they seem to work best for those people. So ironically, it's not the people perhaps that are the most dangerous, that are the most criminally involved, that they will work so well for because they're normalised to it. Whereas people who are perhaps from more professional backgrounds who don't have criminal records, people on insecure visas, they've got stakes in conforming to what the rules tell them to do, so they are more likely to abide by the protection orders. I mean, obviously the role of police is really important here. And when I spoke to women about where protection orders were

unhelpful, they said where the police didn't respond to the breaches they reported, particularly the non-physical breaches that they reported. So coming within contact, text messages, things like that. They said that they weren't helpful when the response from the court was insufficient. And what they meant by that differed in terms of what they thought would have been a sufficient response. In terms of what was positive for them was for those situations where the police did take it seriously, where he did change his behaviour as a result, where he did stay away, they were the kinds of things that made it positive for those women. But there were also more theoretical ideas about what made it positive for them. They felt that when the court gave them a protection order, it essentially shifted power to the woman in the relationship, so she had the backing of the state behind her, so she did like that. It also did, as I mentioned before, the conditions set up really clear boundaries, and the other point to make too is that for a lot of women they felt that the protection order was an important part of the whole process, that it set up a paper trail for them whether they were going to the Family Court or other justice system processes so yeah, where they work is it is a good question. I think there's variety in that, but stakes in conformity does seem to play a part.

MS ORR: Picking up on something that you've mentioned in there about responses to breaches or enforcement and I think you said then there might be a different response to a physical versus a non-physical breach. Can you explain that a bit more for us please? Professor, I'm sorry to interrupt you. We might just need to pause for the audiovisual link. I'm sorry, we'll just pause for a moment. Thank you, professor. I'll go back to that question again. I was asking you about responses to breaches and enforcement that might vary in particular when a breach is physical or non-physical.

PROF DOUGLAS: Yeah, look, I think there continues to be a misunderstanding that non-physical breaches are less serious than physical breaches, so that if someone is hit, it's not as bad as someone being stalked for a few days or texted and followed on Instagram, which is essentially stalking. So we have really good data on some risk factors, and one of the risk factors we have really good data on is stalking. People are twice as likely to be really seriously harmed or killed if they're stalked by a partner, so if we see this as repetitive stalking behaviour, that is terribly risky for that victim-survivor, so it needs to be taken really seriously, and that could include things that look relatively banal individually, like text messages or likes on social media posts or things like this. So I think the distinction between physical and non-physical needs to be blurred, and I think in South Australia you've been having the debate about coercive control, and I think understanding domestic and family violence as coercive control, which includes both physical and non-physical behaviours, but importantly, that pattern of behaviour that's over time, which is directed to that specific individual, I think that can help police to understand the seriousness, potentially, of non-physical breaches. And the problem with domestic and family violence, obviously, is it's not the same experience for each individual woman.

And the "best abusers", if I can put that in inverted commas, are the ones that best target the vulnerabilities of the victim they're trying to target. And if they're setting out to control that victim, different things will work with that person. And so I think that has to be kept in mind when we're thinking about is this text message part of a broader pattern of coercive control and therefore very serious, we need to take this seriously, or is it indeed just a one-off and something that we can forgive because he missed the point of time where he was allowed to be texting about the kids or whatever it might be? So I think really keeping coercive control in sight is really important, and I think historically

that hasn't been the case. I think it's greater knowledge about that concept I think, but I still think it's an issue.

MS ORR: Are you saying that not only does there need to be an understanding of the ways in which domestic violence can present, but in particular the conduct needs to be considered in the circumstances of that particular relationship or the situation that they're in?

PROF DOUGLAS: Absolutely. I mean an obvious example is someone in Australia making a visa threat to me is never going to be very impactful, whereas obviously to somebody else it will have a significant impact potentially in controlling their behaviour. So I think these kinds of things have to be kept in light by police, which makes their response even more complicated. They need to think carefully about who they're dealing with and what the issues for that individual person are. So, that really means listening to the individuals carefully and listening to what they have to say about their circumstances and the individual incidents that have worried them.

MS ORR: Well, that was going to be my next question. How do we design a system or how do we deal with breaches in a way that is taking into account the individual circumstances of each case rather than having any kind of - - -

PROF DOUGLAS: Look, I've - - -

MS ORR: Sorry.

PROF DOUGLAS: No, go on.

MS ORR: Rather than having any kind of tiered, you know, this conduct is necessarily more serious than the other conduct.

PROF DOUGLAS: Yeah, I mean, I think if we think about coercive control, and we think about the pattern of it and can describe the parts of that that have affected this individual, we can draw a picture that is more and less serious, I think, and we have risk tools. Some are developed differently in different states, but we do have risk tools that police need to be across, and they need to be updated as new information comes to light, new studies come to light. Not all risk factors have really great research backing. There's a couple that I can think of, like strangulation, for example, stalking, both of which have really good research behind them about the risk they pose.

But I think understanding the risk factors, understanding coercive control, something that's been really opaque to me since I started doing this work is police training and how that happens and how regularly that happens, and I know that review after review has talked about police training and I think that really needs to be reviewed and reviewed regularly, and I think that it's really important for both senior and more junior members to be going to police training regularly. Some studies in the UK, for example, say that police should be retraining every eight months, which is obviously a resource constraint that probably most places aren't going to be able to manage to keep up with, but that sort of tells you that training, you know, at your cadet program for policing is not going to be enough to keep you up to date with the knowledge that we have about family violence and to keep it in front of mind. I mean, we have to think about policing now,

really, as to family violence and mental health. So I think training, very good training on those things is really important.

MS ORR: And just one last question around the breaches, this sort of what might be seen as inconsistency or certain breaches not being taken seriously, what's the impact of that on both the victim-survivor and the perpetrator or person using violence?

PROF DOUGLAS: Oh, well, the impact on the victim-survivor is obviously potentially fatality, so it's a really important question. But it's also, do they engage with the system or not? So I think in family violence, we want to keep people in view. We want to keep them engaging with the system because if they fall out of the system because we're not supporting them, or there's risks in that as well, that they disappear out of the system, so they're not searching for support, that can have pretty negative implications for them ultimately, but also for their kids. So we want to keep them engaged with the system, so we want to be responding carefully to their claims.

On the same token, if breaches aren't responded to appropriately by the system to perpetrators, then essentially we're not making them accountable, we're also giving them a licence essentially to continue what they're doing and potentially escalate their behaviour. So it is really important that we respond to each claim. I'm thinking of a really recent case a couple of years ago in Queensland, a woman called Doreen Langham, who was ultimately killed by her partner and had made about 15 calls to the police about various things, like having flowers left on her car. She thought that he'd come into the backyard and left a note on her table even though the backyard was locked. The police didn't take those things seriously. They didn't look serious individually, but when we looked at the whole pattern of his behaviour, it was clearly a pattern of behaviour designed to control her, and it was happening more and more, it was escalating, and the less police did for it, the more it escalated, and she eventually was killed. So I think it is really important to take it into account.

MS ORR: And that illustrates the point you were making about considering the whole context of the circumstances.

PROF DOUGLAS: Yeah, that's right. And the problem, I think, is that the risk of seeing behaviour as neutral, and I think we need to be interrogating that question. Is this behaviour neutral or is it actually about the continuing control? And there are some studies also that talk about how the victim survivor's views on her risk are important considerations as well, and can be quite important to consider in terms of working out what we do. So if she's saying that the text message is not a problem, that needs to be part of the consideration as well. It's not the whole consideration, but it needs to be part of it.

MS ORR: You make some observation about the volume of orders. We've actually had some statistics this morning about the number of applications every year in South Australia. Is it fair to say in general, there's a large volume of applications for intervention orders and in fact, existing intervention orders all over Australia?

PROF DOUGLAS: All over Australia. I mean, I think this is a problem because, again, it's normalising this process of protection orders and there are concerns, I guess, about judicial officers feeling like this is just another DV and not kind of interrogating

the individual circumstances of each application. So it is obviously a really big concern and obviously there's all of these applications and then there are applications for changes to conditions, and then there are breaches of those applications, and then there are renewal of those applications. So it is a lot of court time.

MS ORR: I think you said this, but do they lose meaningfulness or lose impact?

PROF DOUGLAS: Look, I think that they lose meaningfulness certainly for perpetrators. If they're surrounded by other people who have protection orders against them, they do become like, oh yes, so have I, I've got one too. So they do seem to be like, everyone's got a protection order. But I think more concerningly is that judicial officers and police officers, you know, take them as just daily grind stuff and don't get into the nitty gritty of the individual cases, which I think gets lost if they're just doing it every day and not thinking about the individuals involved, which can be a problem, I think. I hate to say that some protection orders may not be needed, but there may be cases where they're not, and I think there's a real resistance for anyone now to not get a protection order when it's asked for you know, police want to protect themselves, judicial officers don't want to be on the front page of the newspaper, nobody wants to take the risk of not granting the protection order. But maybe the answer to that is being much more careful about the targeting of the conditions in relation to the protection order to make sure they're appropriate to the particular context.

MS ORR: And have you, in the work that you've done, gained an understanding of perceptions of, and I'll start with judicial officers, you've mentioned them, but their perceptions of the effectiveness of intervention orders? Are there any common themes?

PROF DOUGLAS: I do a lot of training with judicial officers, and I probably see the judicial officers that are most engaged with being willing to kind of think about this issue seriously. So, you know, that's an interesting starting point. And I do find them complaining that, you know, they're just endlessly -that's what they do on DV list days, is just hand out protection orders to everyone that comes into the court. And then they say things like they can't send everyone to prison, so, I think there is a bit of frustration and perhaps cynicism about that volume that they're confronting in the courts. I also think that in the way that our systems are set up currently, there's really not sufficient time. If we think about the DV courts that they set up for a while and I think they're falling apart a little bit in Victoria, you know, I think they are, but originally the plan was that each domestic violence protection order would have around 30 minutes allocated to it, which doesn't sound like much when I'm sitting here saying it on this call, but we see domestic violence protection orders churning through within five, 10 minutes or less, so 30 minutes is actually a long time for a magistrate to spend on them, but that's the idea in the specialist court, so that's sort of best practise.

MS ORR: What about the views around effectiveness from other perspectives, so victim-survivors to start with?

PROF DOUGLAS: Yeah. So I sort of mentioned this before a little bit, and it really depends on individual perspectives of their context, I think. Interestingly, people who I interviewed, and I've interviewed lots of people over many years, but the most recent study was about 65 women. There were originally 80, but it came down to 65 women who I interviewed over three years and talking about their engagements with legal systems, one of which was the protection order system. And they were really diverse,

the perspectives on the helpfulness or not helpfulness of protection orders. But certainly some of the key things were around enforcement, were around police taking them seriously. And that didn't always end up being a breach. Sometimes the police officer would come and talk to them and explain why they weren't going to breach at this time. They understand it's happened. They're on call, they can come quickly, you know, kind of working through what's available and maybe making a referral to a support agency and so on. So this kind of individualised treatment by a police officer was really helpful for women in feeling safe.

They also talked about, as I mentioned before, having specific conditions attached to their order that created the boundaries that they were hoping to get and where they worked, that they were really happy, of course, with that. But I would say that overall, the view of protection orders was really diverse, and I think every study I've read would say that the experience is pretty diverse in relation to protection orders, and it really comes down to how the perpetrator responds to them in the initial phase and in the second part, if they're breached, how the system responds to the breach. So how police respond and how courts respond. So, you know, both of those points really are where the rubber hits the road for women really assessing the usefulness of the protection orders, what the perpetrator is doing as a result of them and what the court is doing, or the police is doing in response to breaches. So that really affects their experience.

MS ORR: Are you able to assist us with any information about the effectiveness from the perspective of the respondent or the person using violence?

PROF DOUGLAS: I have never interviewed perpetrators of violence except in a prison context. So that is a fairly small group of men in Queensland prisons who all had protection orders but also had other criminal offences attached to those protection orders and were in prison a reasonable amount of time which gave us enough time to organise to interview them and so on and the time it takes to research people and that was where some of those comments around entrenching misogynistic views and so on and victim blaming and actually refusing accountability were really common, but I can't really comment more broadly than that in relation to protection orders, I don't think.

MS ORR: We've heard some evidence this morning about sometimes in South Australia, and I'm sure it's common across Australia, police officers will either impose an order, which they have the power to do in South Australia, or make an application to the court, even in circumstances where the victim-survivor, protected person may not want that. Is that something that you've seen in your research?

PROF DOUGLAS: Absolutely, yeah. And again, something that's disproportionately common amongst indigenous people also. I think protection orders have become - I mean, the police have a limited toolbox. They have criminal offences, and they have protection orders in this context. And I think that's problematic. And of course, they're really required to do something that if they go to a coronial inquest or if the local news gets wind of them not doing something, I think there is an expectation from the community that police will do something, and they're the two things they can do. So I do see that that's a concern, that they will go down the protection order path, even though a protection order may not be wanted, they don't have a lot of options, and they need to protect themselves as much as the people that are in the community that they're working with.

So I think that's problematic. Something we saw a lot of when we've done research in Queensland and in Victoria is police making protection order applications for both parties as well which is highly problematic of course and now generally shouldn't be happening because of various rules that have been put in place in legislation, but they should make a choice about the person most in need of protection, but I think still happens that there are dual protection orders in place in some cases and that's obviously really problematic because that really waters down the effectiveness of them. But yeah, look, I think that is correct that police do impose protection orders and pursue criminal offence charges even where victim survivors don't want that to happen.

MS ORR: Have you got any suggestions about a solution to this, the balancing the orders?

PROF DOUGLAS: Yeah, it's interesting. With this, it is a balancing act, and we actually did some training recently on the back of some of our research with DPP in Queensland, and I've given this talk in Victoria as well, about imposing a social entrapment framework on groups. So basically thinking about coercive control, thinking about the kinds of effects in the woman's life that are meaning that she can't engage with the system, and more systemic issues, racism and so on, that might be influencing her decision-making. So trying to think about that package of issues that might be confronting the woman to want to withdraw from the system, and thinking about whether you can offer support in any of those things. If she's fearful about child protection engagement, for example, going down this route of having a protection order, if that's what stopped her engaging with this process, what can you do to support her so that doesn't happen? And unfortunately a lot of the time there's not a lot that can be done, so we're kidding ourselves that we can stop those other systems engaging with women. So they're right to be fearful of engaging with the system in some cases, but ideally police and prosecutors would bring the woman along with them on that journey.

MS ORR: Thank you. We've heard evidence this morning about interactions between the intervention order system and the Family Law system. Have you seen anything in your research about that interaction?

PROF DOUGLAS: This is something that's come up in my judicial training and also in interviews with judges and magistrates largely, and across Australia in fact, through the Australian Institute of Judicial Administration, and a lot of judges in the Magistrates Courts do not want to engage with the Family Law system. Obviously the exception is Western Australia where the systems are state systems, but in all of the other systems where they're separated out with Family Federal Court and family federal law and protection orders and intervention orders being in the state systems, magistrates tend to not want to get involved in anything to do with the kids. And I think this is a real problem because most people aren't going to go to the Family Court. And if they do, and there are still risks with the Family Court orders, magistrates are sometimes the best placed people to be aware of those risks because she's coming back for conditions to be changed on her protection order. And there are powers in the Family Law legislation that magistrates can use, and I think they have to be supported better to use those powers, and also to be thinking maybe they need a little bit more training about the Family Law principles so that they can engage with those to some extent in terms of thinking about the impact of conditions in their protection orders or their intervention orders at the state level.

You know, it's really important that the kids be kept safe, and that might mean having conditions around when he can go and have kids and so on, and when the kids are not to have contact with him and so on. So there might be ways to build those into protection orders actually, in ways that historically magistrates have been really unwilling to engage with. And I appreciate why, that why add more to their list of things to do, but I do think that it's an important point where we can make some interventions into making sure the kids are safe and that the handover arrangements are safe because a lot of women point to those circumstances as being points of real friction because they're not sorted out yet, and they often take a while to sort out if we're relying on the Family Court. The other point to make too is if the conditions don't say anything about the kids and both the parents exist, there are two parents for those kids, state police will often just allow things to happen with the kids because they'll say, "That's a Family Law matter." So if we don't include the kids in the protection order process, we may water down the possibilities for the police to support that woman and those kids.

MS ORR: And to finish off your evidence for today, I would like to ask you perhaps a more positive question. What do you think, in your view, it might take to devise and implement a more effective or an effective intervention order system?

PROF DOUGLAS: You know, I think a lot of what I've been saying talks to more resources, which is just always such a problem, isn't it? But I do think police do spend quite a bit of time already interacting with survivors and perpetrators of family violence, and often they know them quite well. And I think they really need to think about making the orders more bespoke, thinking about the conditions being fit for purpose for that relationship in that community. There might be some tools that we could develop that point out the particular issues in particular context. So there might be, for example, smaller communities, I'm thinking indigenous communities, but other smaller communities, where there is only one shop. So thinking about conditions that make sense for that community so that they can both go to the shop in a safe way, et cetera. So thinking about what are the particular issues for that community in terms of what might be the limitations or how to get around particular issues in that community would maybe be useful. And I guess the same for breaches, how we respond to breaches.

I think we need different options. I think that we've talked previously in other contexts about the possibility of counselling being mandated. That's happened in Victoria in relation to intervention orders and that's been problematic because perpetrators have come back to court in the absence of victims in front of a new magistrate and said, "Get rid of the counselling part of my intervention orders" and magistrates have often let it go on the basis of sort of philosophies around you can't mandate counselling and so on. So I'd probably prefer to see more community-based responses that involve work or curfews or requirements to interrupt your life a bit to come and do this or whatever it might be. So I think we need more thinking around those community-based initiatives. And obviously the clarion call about better resourcing, both evaluations for, but also the men's behaviour change programs that do seem to offer some hope. So for example, Walking with Dads is a program that seems to be doing well and that really focuses on not the perpetrator's relationship with his ex-partner or partner but his relationship with his kids and being a good dad and that seems to have had some positive effects, and the Safe and Together program also seems to be useful in terms of working with perpetrators as well that David Mandela runs. So there are a few programs out there that seem to be having some positive effects which we could roll out

more broadly. I would also say that we need to resource women. So I know in some women's shelters, and full disclosure I'm involved with the Refuge Victoria Women's Shelter and there is the recognition that women are in shelter for three to six months. We need to capacity build women in shelter so that they have the skills they need to go out into the community and live by themselves without living with the perpetrator to go back with the perpetrator. So that might mean resourcing refuge and shelter to actually facilitate women's capacity building in that context a bit more than we do.

MS ORR: Thank you, Professor. I have no further questions, Commissioner.

CMR DESPOJA: Thank you, counsel assisting. Professor Douglas, I've just got a few questions. I guess I wanted to just expand on something you've already been asked when you were talking about the response of respondents or applicants to protection orders. My question goes to some of the issues that were raised earlier today around the level of knowledge or understanding for a respondent as to what a protection order or intervention order means. Do you have any ideas around that? Increasing education or information to someone who is the subject of that order and or provision of services legal or otherwise to assist them so that they are more likely to abide by the conditions.

PROF DOUGLAS: I actually think that's true. I think that having a clear knowledge of the conditions does improve the application of them and there is less likely to be breach. There's been a lot of work, for example, in Queensland South Port Magistrates Court, which found some success with making sure all of the perpetrators were represented, even for that had a legal representation at the point of agreeing to the protection order. They found greater consent to the orders and more discussion around the conditions of the orders. So in the long run, the implications for having lawyers for all those perpetrators was reduced. So I do think that having legal representation for all the parties, even though it's not ongoing representation, but at the court on the day, I think that can be really helpful, for example.

CMR DESPOJA: Thank you.

PROF DOUGLAS: So a duty law program in some ways.

CMR DESPOJA: No. That's very helpful, and I just want to expand slightly, and I'm not sure if you do have an answer to this but when you were discussing you know, police applications that were in spite of the victim-survivors reticence or reluctance to proceed, what about those people, those women primarily who then withdraw, so they've got the order in place but then seek withdrawal or revocation of the order based on real or other perceptions of their safety or pressure to withdraw? I'm quite concerned about that but at the same time as witnesses have done today, I'm conscious of the agency of victims of violence - - -

PROF DOUGLAS: Yeah, I appreciate that.

CMR DESPOJA: - - - but - - -

PROF DOUGLAS: Yeah.

CMR DESPOJA: - - - having sat in a Magistrates Court and you know, watch in this case, women come in and request you know, withdrawal of an intervention order that even is at its most basic, really you know, may as well leave it, as one magistrate said.

PROF DOUGLAS: Yeah, look, the variability of magistrates' responsiveness in these contexts is extraordinary. And I think I've watched a number of really good magistrates in action, I won't name them, but who really try and figure out what's going on here. And when there's an application for withdrawal, it's certainly not a rubber stamping exercise, and I think that's really important. And in some cases magistrates have slightly changed the condition, so they've tried to work out what the problem is with having this order in place, what is really the problem here, and if there's no kind of explanation about this particular condition is causing the issues, there's no real explanation. I think the magistrates who are saying it will end up trying to talk the person into saying, "Well, you know what's the problem with having this order in place? There's really no problem for you to continue it. If everything's going along fine, there'll be no problem having this order in place." So I think it's really important to work through that. I guess the issue is that unfortunately the that magistrate can't walk out the door with that applicant. And when she confronts her partner who says, "Did you get it taken off? No, you didn't. We'll come home now and let's sort that out" kind of thing. So I've seen this before. I literally was in court recently and there was an application for withdrawal. The magistrate refused to allow the withdrawal and the two people went out of court with each other, him just berating the other person about the fact that they've failed, and so I don't know what happens next with that couple. But I suspect it's not very good. So the magistrate can only deal with what they're in front of the court with I guess, and that's that's the reality. And I suppose the best ones would really try and interrogate why this is being applied for, and in some cases, they would refuse the withdrawal, or they would change the condition slightly. Or they would ask the perpetrator to come in and explain what's going on, because often if they ask the woman, "Is he outside", she will actually say "Yes", and then the magistrate can ask him in and then try and explain what's going on. So I think there are some ways that magistrates deal with this really well, but it's a case by case basis, I guess.

CMR DESPOJA: Yes, you remind us again of the complexity to which you refer.

PROF DOUGLAS: Yes.

CMR DESPOJA: You mentioned training of judges, DPP. Do you train police?

PROF DOUGLAS: No, I don't. I don't think I've ever been invited to train police, which I do know people that have. I don't think I've ever trained police, and it is rather obtuse how that happens and who gets to do that and when it happens for police officers, I think. Having said that, it probably is for judges as well, it's just that I do it, so I know about it. But it does seem to me that there's not clear programs that open the police up to scrutiny within that context of training. So, you know, who's doing the training? Is it people from outside? I think it's really important that it is and that it's done regularly, that's all I would say. But no, I don't, if I'm cross-examined, no, I don't.

CMR DESPOJA: I suspect the mention of an eight month cycle has probably caused a few (indistinct) today and police and other land.

PROF DOUGLAS: Yeah.

CMR DESPOJA: But my other question on that you raised is who, who is best to train some of these key parts of this system? I mean obviously your background and your insights are appropriate, but what do they actually need to know?

PROF DOUGLAS: Yeah, look, I think they need to hear from victim-survivors about their experiences as well. I think they need to know how the whole experience of interacting with police officers, how that feels. I think they need to hear about that. And there's obviously lots of advocacy groups now that support victim-survivors to skill up, to do that kind of training. So I think that that's available now. I think social workers and support agencies that work with these issues every day. I think there's a lot of women in those agencies that are well equipped to do this kind of training. And I know police do reach out for them from time to time. There are a few academics in criminology programs too that are called on to do certain aspects of policing such as tech facilitated abuse and things like that. So I think there are people that can be found. David Mandel does a lot of training as well, so it is quite expensive but also available. So there are a range of possibilities, I think.

CMR DESPOJA: Yeah. I'm really haunted by that 60 per cent figure that you gave us around indigenous women being, you know, jailed for breaches. I mean obviously it's something we must be concerned about because it's so disproportionate.

PROF DOUGLAS: So just to clarify that statistic, so that is women incarcerated for breaches of protection orders.

CMR DESPOJA: 60 per cent of those are?

PROF DOUGLAS: That's right, yeah.

CMR DESPOJA: Right. Sorry. Yeah, I knew what you meant but forgive me. I'm obviously concerned, but I'm wondering are there cases of misidentification that you are conscious of as well?

PROF DOUGLAS: Look, yes, I do think that is not uncommon as well, and I think that's a real struggle and I think a lot of Aboriginal people have been talking about the issue of misidentification. I don't think that's uncommon, that's all I can say. I haven't actually studied it specifically. I did have a number of women who I've spoken to who were clearly misidentified by police, which led to outcomes such as a protection order being made against them when they used a knife to defend themselves against a strangulation, for example. They were charged with assault, and they were locked up overnight and got a protection order made against them. All of this went away in the following days when they got legal advice, but it's a pretty traumatic set of circumstances to be placed in. S o certainly misidentification occurs.

CMR DESPOJA: And not to conflate those two, but the issue, for example, when I went to the women's prison to talk to female prisoners, it was interesting to pick up your point about the entry point. The first entry point to prison was a breach of a protection order. So we've taken on board, certainly, your points around the limitations with, in many circumstances that carceral approach but also as you've indicated the

disproportionate impact on First Nations people, women in particular and young people.

PROF DOUGLAS: I mean, it's not a small statistic, obviously, that 20 per cent are men as well.

CMR DESPOJA: Oh, no, absolutely. As you said in your comments you know, absolutely disproportionate and something that we're very aware of throughout the context of this commission. People have been talking about and submissions have gone to the idea of reviewing our intervention order system here because we don't really know, we don't really understand how much of a deterrent intervention orders really are, but also it would be interesting to see research that determines if the rate of domestic and family violence is impacted as in is there a causal connection, and thus you know a reduction in that violence? I'm wondering if your research can give us any ideas around the deterrent factor of intervention orders. Obviously there's a protective factor you hope, but obviously deterrence is really what they're there for.

PROF DOUGLAS: Yeah. Look, I think that that's what I was getting to in the discussion earlier about stakes in conformity - - -

CMR DESPOJA: Yes.

PROF DOUGLAS: - - - and the problem that the people that are possibly the most serial offenders are the least likely to conform. So people with no prior convictions who want to keep a clean record, people with visa issues, those kinds of things, they are likely to have high levels of deterrent value because getting a conviction is obviously something those people don't want. So it's probably similar for other criminal offending as well in that context. So this notion, I think this criminological idea of stakes and conformity probably is quite important. And I think that gets back to as well the notion of getting the conditions clear to make sure that there's no weaselling around what you're allowed to do and not allowed to do, and I think making sure for those more persistent offenders that the conditions are very clear and taking them very seriously when they're breached is an important thing. So what really are the safety risks for that particular individual? What do we need to focus on?

CMR DESPOJA: Thank you. Yes, I'm very conscious of your points around almost that it is complex for police and magistrates to deal with but also that finesse-ing that time, and again it goes back to your comments about resourcing I would imagine.

PROF DOUGLAS: Yeah, I have seen some fantastic sentencing though, that provides maybe a very short period of imprisonment, a few weeks or a month, and followed by a curfew and maybe a tracking device. So there's different efforts being put in place to try to finesse the sentencing response to individuals to make sure she's safe, gets to safety, sorts things out, for example, so the short period of imprisonment, followed by these kinds of other factors like curfew, tracking devices and so on. This was for a stalking case, this particular example I'm thinking of. But there are ways to make the penalty more fit for purpose in the individual circumstances, even within existing options.

CMR DESPOJA: I think here we'll be looking to examine the impact of some changes, recent changes to bail laws that do allow for that kind of electronic tracking. Sorry, I promised that was my final question, but I'm just wondering if you've got any comments

on or would like to provide us with sex disaggregated data. I'm really interested in any reflections you have on or any specifics around the gender breakdown in relation to application for orders or breaches.

PROF DOUGLAS: My understanding is, and this is probably something that I'm probably not as up-to-date to as your statistics are, but it's around 80, 20 per cent in terms of applications, 80 per cent women applying, 20 per cent men applying, and often there are cross-applications within those statistics as well, so that the male applicants are often responding to an application, so that's another issue.

CMR DESPOJA: Indeed. Thank you very much for your evidence today, professor. It's been really enlightening. Counsel assisting.

MS ORR: I'd ask the witness be released. Thank you, Commissioner.

CMR DESPOJA: You are released, Professor Douglas.

PROF DOUGLAS: Thanks very much. Bye.

RECORDING SUDPENDED

RECORDING RESUMED

CMR DESPOJA: We're reopening proceedings for the Royal Commission into domestic, family and sexual violence. It's day six of public hearings, and we're ready for our final witness for today. Counsel assisting?

MS ORR: Thank you, Commissioner. I call Mary Leaker.

MARY LEAKER, AFFIRMED

MS ORR: Thank you. Ms Leaker, you are the general manager of Embolden. Could you explain for us what Embolden is?

MS LEAKER: Embolden is (indistinct) specialist domestic family and sexual violence services in South Australia. So we represent 23 organisations and discreet services that deliver those specialist domestic family and sexual violence services. And our key role is to support, represent and advocate for that specialist sector in our state.

MS ORR: These services, is it correct that the majority of them work with victim-survivors, but there are also services in there who work with people who use violence?

MS LEAKER: That's correct. So we have four services that deliver support specifically targeted to people using violence. We also have a number of Aboriginal community controlled organisations and two services that primarily deliver legal support, as well.

MS ORR: And it's in that role as a representative that you're giving evidence today.

MS LEAKER: That's correct.

MS ORR: Is it fair to say that you're effectively the representative of the front line workers that you have as members?

MS LEAKER: That's right. So, Embolden towards the end of last year conducted a survey of our members and particularly heard from front line teams about their experience in delivering front line services both to people experiencing violence, so victim-survivors and also people using violence and one of the areas of focus for that survey was intervention orders. So I'll do my best today to reflect what Embolden heard through that survey and also my subsequent engagement with members in preparation for giving evidence today.

MS ORR: And so the aim of your evidence today is for us to hear a perspective from victim-survivors and people who use violence via the front line, effectively. So I'm going to address your evidence, if we can, by asking about some themes that have arisen in this sort of consultation, I guess, process that you've just described. Can we start with, I suppose, in a chronological sense, and that is seeking assistance in the first place?

MS LEAKER: Yes, certainly.

MS ORR: Are there any themes that you can help us with in that context?

MS LEAKER: Absolutely. And I may put on my glasses in case I need to consult my notes.

MS ORR: Course.

MS LEAKER: And just before I respond to your question, I might just note too, that of course, in my role, as is the broader sector, we're aware of research that's been done in the South Australian context into intervention orders in recent years. So I'm specifically referring to the Powerful Interventions Research Report that was undertaken by the University of South Australia in partnership with Uniting Communities, and so of course our consideration of these issues reflects our understanding of those research findings as well. And I can say that, speaking generally, there's good congruence between what Embolden has heard from our front line services who are members and the research and recommendations from those reports. In terms of initial help, the experience of victim-survivors of seeking help and as we've heard earlier today that's principally from police in the first instance in relation to intervention orders. I think it's what Embolden has heard is that experience for victim-survivors is highly variable and it ranges from the very positive to the very negative. So just to reflect on what constitutes a positive experience for victim-survivors in the first instance. We know that victim-survivors are more likely to feel positive about their experience of initial help seeking when they receive a trauma informed response and at its foundation that involves being treated with care, with respect and having a private space in which to make an unhurried and full disclosure about their experiences, and we know that that isn't the case for all victim-survivors, so we do hear about victim-survivors being in a

circumstance where they attend a police station and are required to disclose their experiences in a public space at the front counter of a police station, so you know given what it often takes for victim-survivors to seek help and their experience of distress and harm that is not a trauma responsive circumstance.

We also understand from victim-survivors that they're more likely to have a positive experience if the first responding police officer or officers is, you know what we might call domestic, and family violence informed, and we've heard, you know, previous witnesses today reflect on that. So this is where victim-survivors can feel that the person they're disclosing to understands the nature and gender dynamics of domestic and family violence and understands and recognises the pattern of coercive and controlling behaviour that victim-survivors, you know, are often subjected to. And we hear from victim-survivors that they tend to feel positively about their interaction with South Australia Police's specialist domestic and family violence officers, and we really think that speaks to, as has already been discussed by previous witnesses, the need for that trauma responsive domestic and family violence informed education for first responding police and also for access and strong pathways to those specialist officers within the South Australia Police.

Thirdly, this has been covered by previous witnesses today as well. I think we definitely hear from victim-survivors that where they have really accessible information and early referral to specialist domestic family and sexual violence services and also specialist legal services that victim-survivors are more likely to feel supported and empowered through this process. So again as we've heard, certainly our sector places great value on accessible culturally safe services that can really walk alongside victim-survivors in their engagement with police and justice systems.

MS ORR: Is your evidence that these are the aspects of the positive experiences that some victim-survivors are having?

MS LEAKER: That's right.

MS ORR: But there are also experiences that are being described as negative, and often they don't feature these aspects.

MS LEAKER: That's right. Sorry, to be clear, I thought it was useful to reflect on what positive looks like, but - - -

MS ORR: Yes.

MS LEAKER: - - - but absolutely what I'm suggesting is that that's not the case in the experience for all victim-survivors. And so where those elements are not available, we hear victim-survivors talk about responses that are not trauma informed, first responding police not understanding or recognising or taking seriously their experience particularly of non-physical forms of abuse and feeling confused and if you will, disempowered in relation to systems, not understanding the terms of the order, not understanding next steps, not understanding what to expect from police and judicial processes, so yeah, that's absolutely an experience that many victim-survivors have, and we know what positive looks like and certainly from the perspective of our sector, you know, we would love to see more of those elements in place to support victim-survivors.

MS ORR: Are there additional barriers? Do there tend to be additional barriers for certain groups of people?

MS LEAKER: Yeah. Absolutely. So, certainly more broadly than only intervention orders, groups of victim-survivors in our community experience additional barriers to seeking help from police, so certainly Aboriginal and Torres Strait Islander culturally and linguistically diverse victim-survivors, victim-survivors who are members of LGBTIQA plus communities and victim-survivors with disability experience, additional barriers. I had a conversation and was contacted by JFA Purple Orange earlier this week, and they're happy for me to speak explicitly about our conversation, really keen for me to talk and reflect in my evidence today about some of the experience of victim-survivors with disability and the need for the additional communication needs that people with disability might have to be met through that initial help seeking process. Again, earlier referral to disability specific support and advocacy services is really important, and I also heard about the importance of disability rights and inclusion education for first responding police. So again, I think if we come back to the need for targeted, community-led, culturally safe services, that would go a long way to really mitigating and supporting, and mitigating the additional barriers that certain groups of victim-survivors have in seeking help.

MS ORR: Moving, I suppose, to the next step in the timeline of whether an intervention order is granted, and I mean by either the police or the courts, are there any common themes in the feedback you hear around that?

MS LEAKER: Absolutely, and if I may, just before we get to the circumstances around granting, do you mind if I touch on a couple of elements I haven't yet focused on?

MS ORR: Yes, I'm very conscious of reflecting the breadth of what Embolden has heard from our members.

MS LEAKER: Definitely. I might just mention too, just in terms of referral to supports that are important for victim-survivors, we've also heard in addition to specialist domestic family and sexual violence services and specialist legal services, that it's important to recognise that victim-survivors may require referral to healthcare, including specialist healthcare responses. So, you know, Yarrow Place delivers specialist response in terms of sexual assault, but Cedar Health Service delivers a domestic and family violence responsive health care. So that was made clear to Embolden just again initial help-seeking is such a critical opportunity for additional wraparound supports, and we really wanted to make that point.

Just one last one before moving to the circumstances around granting intervention orders. I also heard, and I note Professor Douglas' comments around intervention orders being an avenue for criminalisation of young people. On the other side of that, Embolden has also heard that for some young people who may be experiencing violence and abuse within their relationships and perhaps a short-term relationship where the violence and abuse then extends beyond the end of the relationship, that because perhaps the young people themselves may not recognise that experience as domestic abuse and some of the services around young people may not view it that way either, that there may be barriers for young people in accessing intervention order system as a protective system. So I just wanted to make that point because we've also heard that

reflected. Sorry, just add those additional points. Moving to victim-survivor experiences around the granting.

MS ORR: Thank you.

MS LEAKER: When, in your opening remarks this morning, you noted that the definition of domestic abuse within the Intervention Orders Act is quite broad, and we've heard about the grounds for granting of intervention orders. What we have heard from front line services, from their experience, is that there's a gap between the provisions within the intervention order legislation on paper and the decisions around granting of intervention orders in practise, and obviously we've heard a lot today through previous witnesses around an emphasis on physical violence which is perhaps certainly more easily evidenced than other forms of abuse and so certainly what Embolden is hearing from our members who work with victim-survivors every day is that it's more difficult for victim-survivors to be granted an intervention order for behaviour that doesn't constitute physical violence, including behaviours like property damage. I think too, additionally, and I noted Chief Inspector Watkins' comments around South Australia Police's policy that they will pursue an application to court where criminal charges are also applied. One of the things that Embolden has heard is that even in circumstances where the behaviour that the victim-survivor is experiencing actually does constitute a criminal offence or may constitute a criminal offence, where those behaviours are non-physical in nature, it's more difficult for victim-survivors to have criminal charges brought in relation to that behaviour and therefore associated applications to court for an intervention order. For example, I would use stalking as an example, so we've heard of circumstances where victim-survivors are subject to stalking, criminal charges are not brought and associated applications for intervention orders are not brought.

And so there is a sense from what we're hearing from our member services, again that theme of where the experience doesn't relate to physical violence, victim-survivors are feeling that their experiences are not responded to by the system, to the same degree. And again, previous witnesses have reflected on this, from the perspective of the sector, what we see is what we can call a hierarchy of harms, where physical violence is viewed as more serious, more significant, more impactful than non-physical forms of violence and abuse, and again that leaves victim-survivors feeling that the harm, distress, fear and trauma that they've experienced is not responded to.

MS ORR: Is that the case in the courts as well as police?

MS LEAKER: That's my understanding.

MS ORR: Can I ask about children on intervention orders, which we've heard a bit about today, but would appreciate your perspective on that?

MS LEAKER: Yeah. And granting. So, again, as previous witnesses have indicated, certainly what Embolden is hearing is that it's more difficult, it's difficult for children to be included as protected persons on intervention orders. That's certainly what we're hearing from our front line services. We note that there's complex intersections between intervention order system and provisions under the Family Law Act. The concerns for victim-survivors of children not being included as protected persons on the

Intervention Orders Act are really significant. Victim-survivors feel really concerned for the safety and well-being of their children. Again, I think previous witnesses have mentioned this, from our sector's perspective, we are keen to see that really strong recognition of children and young people as victim-survivors of domestic and family violence in their own right and that regardless of whether they have directly experienced that violence and abuse or whether they've experienced the violence and abuse being directed by one parent or caregiver to another.

We know that there are really significant impacts for children and young people and our systems need to respond to children and young people as victim-survivors in their own right. I may just add that I think a previous witness has reflected this as well that what Embolden has heard is that children have not been included on intervention orders even in circumstances where there is an assessed risk to the children's safety or where there's been a direct threat to children which is incredibly concerning. And I might just add one more again just attempting to reflect everything that we have heard, and I know that previous witnesses have reflected this as well, but certainly we have heard that victim-survivors may be under pressure to have children removed from an interim order as part of the negotiation around terms and I think Catherine Coleiro certainly referenced that this morning, and again I think when we're talking about negotiations, I think we need to be conscious of dynamics of power in those negotiations and the risk that victim-survivors may actually be seeing some form of systems of youth, so for example, where they might be pressured to take children off an order because it's been intimated to them that they may be presented as hostile in Family Law Act proceedings or considered to be engaging in parental alienation through

Family Law Act proceedings. So I guess in talking about the concept of negotiating terms, I guess from our sector's perspective we'd like that recognition of the way that dynamics of power can be reproduced through those interactions and systems abuse can be perpetrated.

MS ORR: You've mentioned the Family Court in the context of children and the interaction between those two systems. Have you got anything to add about how the Family Court system is affecting or interacting with the interventional system? You may have covered it already.

MS LEAKER: Certainly, previous witnesses have spoken to this as well. We have heard two key observations from front line services. Again, I think that had been reflected by previous witnesses. Certainly, what we've heard is that there are instances where an order made under the Family Law Act is inconsistent with the protective features of an intervention order, again, you know, raising the risk of harm for victim-survivors, including children. And secondly, and I think this has been referenced by a previous witness as well, where there might be conditions in the intervention order for the parties to be able to communicate around children, just noting that the scope of communication may extend beyond that, so it kind of opens a gate for more harmful and abusive engagement while technically meeting the requirements of the intervention order. And I think I would just reflect too, that we certainly understand that the provision in the Family Law Act I think at section 68 are, where state courts can actually act to vary, revoke a Family Law Act order to prioritise the safety of victim-survivors or to resolve inconsistency with intervention orders, that it's rare that judges take that step. And so I think the clear view within our sector is that at the intersection between the intervention order and the Family Law systems, children and young people

are falling through that gap in a way that doesn't adequately prioritise their safety and well-being.

MS ORR: That is an important question that we may not have touched on today because we've been speaking with people this morning who work within the state jurisdiction, but from the victim-survivor's perspective, sorry I'll go back a step. The assumption would be from what we're hearing that the Magistrates Court thinks that these issues will be sorted out, if you like, by the Family Court but do I understand from what you're saying that that's not really happening, and they're falling through the gap?

MS LEAKER: Look, we would certainly note that there's been significant efforts in recent years within the Family Court to improve the system's responsiveness to domestic and family violence, and that's absolutely fair to acknowledge, but still what we're hearing is that the safety and well-being of children and young people are inadequately prioritised and responded to. And obviously we've just had this month the Federal Parliament report into, to use the generic national term here, domestic violence orders and their intersection with Family Law Act processes and I note one of the recommendations of that report is to propose that that provision for the state courts to resolve inconsistencies, to prioritise the safety of victim survivors, including children, actually be strengthened so that it's more of a requirement of state courts. So yes, in answer to your question, noting the significant improvements that the Family Court is making, we still see that there's absolutely room for improvement in terms of the prioritisation of the safety of children and young people as victim-survivors of domestic and family violence in their own right.

MS ORR: Can I move to another topic which you have touched on?

MS LEAKER: I would just like to talk about, if I may, the experiences of Aboriginal and Torres Strait Islander - - -

MS ORR: Indeed.

MS LEAKER: - - - people briefly and I know that Aboriginal South Australians, leaders of Aboriginal community controlled organisations working in our space as well as SACON as the peak body has had an opportunity to engage directly with the Royal Commissioner and her team which is absolutely as it should be. We, through our survey, heard from Aboriginal front line workers, and also I had a conversation with Olive Bennell in the last few days, who's the Chief Executive of First Nations Healing, and Olive is happy for me to mention our conversation explicitly because I'm keen to reflect as a non-Aboriginal person as best I can, what we've heard from our Aboriginal community controlled organisations.

MS ORR: Of course.

MS LEAKER: Again, previous witnesses have touched on this, particularly Professor Douglas, what I hear, what Embolden hears, it's harder for Aboriginal women to be granted an intervention order relative to non-Aboriginal women. There's also the experience of Aboriginal women and Aboriginal (indistinct) services is that. when those orders are granted that the terms of the order is perceived to be less protective so weaker if you will, compared with intervention orders in place for non-Aboriginal women. And

again as Professor Douglas has spoken about, I can share that we are certainly also hearing that Aboriginal women are more likely to be subject of reciprocal orders. Professor Douglas touched on misidentification, but I'd like to be really clear that from the perspective of our sector, the misidentification of Aboriginal women, you know, as the person using violence and abuse rather than the person most in need of protection is of really significant concern.

We know that that's consistent with research and advocacy nationally. Professor Douglas spoke about her research. That was also a finding of an Australian Human Rights Commission report, the Women's Voices report in 2020. So absolutely that's a critical concern to our sector. And I think, for us, also, we would like to reflect on the fact that in a South Australian context we have limited data capability and therefore systems level accountability in relation to some of these critical issues. And so if we reflect on the experience of victim-survivors and really critical issues like misidentification that have significant implications for victim-survivor safety and well-being, we need greater systems level accountability to community around these issues.

MS ORR: Thank you. Can I ask about support to navigate the system?

MS LEAKER: Absolutely. What Embolden has heard from our members is very consistent with what we've heard from other witnesses today in terms of the importance of both the person experiencing violence and abuse and the person using violence and abuse being well-informed, understanding the terms of the order and understanding judicial processes that they might be involved in and having the support to understand and engage with those processes. We hear from our front line services that a strong focus on what happens for the person using violence once they're served with an order is really, really important. Certainly, you know, our services working with men have communicated that for a proportion of their clients where they understand the terms of the order and that's clear to them that they're motivated to comply with the order. So again, that understanding is really critical, but there are also people for whom there are additional barriers as we've already heard to understanding the terms of the order and to navigating their engagement with systems. So certainly we see great benefit in additional services for people using violence to support them to understand the terms of their order and promote compliance to again promote victim-survivor safety. I note, it was interesting reflecting on the evidence given by Jonathon Main from Relationships Australia South Australia who noted that only for 90 per cent of men who are respondents to intervention orders, they're not actually referred to the abuse prevention program. So certainly, our sector's perspective is that we would like to see much greater availability both of targeted men's behaviour change programs but services that can support and walk alongside people using violence to promote compliance. I think to look clearly for victim-survivors, it's really important that they are kept informed as we've already heard today too. So certainly just to confirm that that's something that we're clearly hearing from our front line services as well. If I might just make a couple more comments about some of the barriers that people might experience in having access to information. Again, we reiterate the importance of those really accessible, culturally safe services. Previous witnesses have also mentioned the importance of translated materials, but I think that is really necessary but not sufficient to promote access.

We need to ensure that both victim-survivors and the person using violence have access to independent domestic and family violence trained interpreters and also that each

party, particularly in a court context, have separate interpreters. I might just reflect too, again, on my conversation with Olive Bennell, just thinking about the need for people using violence to have services to promote their understanding of the terms of the agreement and their engagement with those processes. Olive reflected on the fact that for both victim-survivors and people using violence who are parties to an order, within the context for Aboriginal people of that extended family and kinship network, people may experience, particularly where they have children together, pressure and an expectation from extended family that the person using violence should have access to children and people may not be aware, including the extended family network, not be aware of what would constitute a breach. So again, just the importance of accessible and culturally safe services that can support people to understand the context of their order within the cultural context that they're living in.

MS ORR: You've explained that victim-survivors need to be well-informed, and they need to have the information about the processes. Are you able to just elaborate a bit more on what they are saying the impact of that is when they don't have up-to-date information or when they don't understand?

MS LEAKER: For victim-survivors?

MS ORR: I think you've addressed it for people using violence, but could you give us just a little bit more information about the impact for victim-survivors?

MS LEAKER: Certainly. Look, the main impact is that where a victim-survivor may not be aware that the person using violence and abuse has been served with an order, that moment potentially raises the risk for victim-survivors. And so if they're not aware of that development, they're not in a position to manage their safety accordingly. And that's the reality for victim-survivors every day they are managing their safety and our systems need to support victim-survivors to do that and in this instance, with that critical information.

MS ORR: We've heard this morning about victim-survivors feeling further disempowered, further kept in the dark. Is that a consistent theme?

MS LEAKER: Absolutely. Again, just to reiterate what we've heard, both the victim-survivor, the person using violence, information, accessible information, culturally responsive information and support is really critical. And I think that speaks to our sense and some of the conversations that have been had today already that intervention order is an important tool, but it's often the service context around those orders that makes the difference in terms of compliance, the victim-survivor safety, the trajectory for both victim-survivor and the person using violence.

MS ORR: Can I move now to breaches?

MS LEAKER: Yeah.

MS ORR: What are you hearing about the response to breaches of intervention orders?

MS LEAKER: I will just comment that one thing we're hearing is that when breaches are policed effectively, certainly for a certain cohort of respondent, the consequences for

breaches can be effective in preventing re-offending future use of violence and abuse. So I will say that at the outset. We are certainly hearing that from our front line workers that victim-survivors are experiencing inconsistent responses to breaches, both in terms of policing responses and also responses by courts. And we've heard that certainly through our survey responses from front line services. Victim-survivors are very concerned about circumstances where breaches don't seem to be taken seriously or where there's minimal and inconsistent consequences for breaching of orders. This is a really significant issue for victim-survivor safety and also around accountability for the person using violence. And again I think you know, it's a consistent theme right through the experience for victim-survivors of initial help-seeking, the circumstances under which intervention orders will be granted, and now in the context of how breaches are responded to, that theme of physical violence as we hear it, treated more seriously, responded to with much greater alacrity than experiences of non-physical abuse.

Workers have commented specifically around the fact that technology facilitated breaches may not be taken seriously and this is concerning in a context where we know that in recent years there's been a really significant increase in the use of technology facilitated abuse and so our services need to respond to the changing ways in which violence and abuse are being used. We're also hearing that even where there are multiple and repeated and consistent breaches that they're not being responded to, and I would echo Professor Douglas' comments that this is a significant concern because of what we know about where we see an escalation in behaviours that might be an escalation of monitoring and surveillance, technology-facilitated abuse, where we see that escalation, that really needs to be understood as a red flag for increased risk to victim-survivor safety. We know that from international research into intimate partner homicide, for example, the work of Jane Monckton-Smith, where you see a pattern of escalation, we need to really understand the accompanying risk for victim-survivors.

MS ORR: It there variation between different police officers, different courts, or is it across the board that's always happening and that's a consistent pattern?

MS LEAKER: I can't give you a definitive answer on that. That's not clear from what we're hearing from the front line, but I would speculate that that's the case. There seems to be, across the range of elements we're discussing, a sense of variation and inconsistency, you know, even if reflecting again on people using violence being referred to the Abuse Prevention Program, what I'm hearing is that there's incredible variation by judges around that response. So given the context of other things we're hearing, I think it's reasonable to speculate that there's significant variation across judges and across police responses, but I couldn't give you a definitive answer on that.

MS ORR: You've talked about the impact of this inconsistent approach to breaches on victim-survivor safety, and they can feel like their experiences are not being taken seriously. What's the flow-on impact of them feeling like their experiences are not being taken seriously? Is there a flow-on impact, I should ask?

MS LEAKER: I mean certainly victim-survivors talk about that subjective experience of distress, compounded trauma, ongoing fear, and I think it's really important that we understand that some breaches, non-physical breaches may not on the face of them seem like particularly abusive or distressing behaviours, but in the context of a history and pattern of coercive control, they are enormously significant and impactful for victim-

survivors. And as we know, the project of the person using coercive and controlling behaviours is to create and maintain an environment of fear. And that's the environment that victim-survivors live in and live with, and these processes where there's this ongoing abuse that isn't then responded to by a system, it compounds the maintenance of that environment of fear. In further answer to your question, victim-survivors lose faith in a system that doesn't recognise and respond to their needs, or the needs of their children.

MS ORR: I think you mentioned something like if we are responding inconsistently then there's no accountability for the person using violence. So turning to the impact on the person using violence, is that the theme that you've been hearing about, the impact of inconsistent breaches?

MS LEAKER: Yes and I think Professor Douglas reflected that as well and certainly, you know, we don't want to have a system where people feel that they can perpetrate violence and abuse with impunity and if that's the message that inconsistent or inadequate responses to breaches is giving to people using violence then that needs to be addressed. So certainly, that's a concern for our sector.

MS ORR: What about penalties for breaches, do you have any feedback on that?

MS LEAKER: Yes. Look, certainly, one of the strong themes that we hear from front line services in their work with victim-survivors is a sense that penalties are inadequate and inconsistently applied. And we hear that for many victim-survivors, you know, the full force of the law being applied in terms of sentencing is for them, justice. So we absolutely hear that. I would reflect, and look, we've heard a lot about the complexity and nuance of some of these issues, I might reflect in relation to sentencing, and this speaks to the fact that victim-survivors aren't a homogonous group, so there isn't one-size-fits-all, but for some victim-survivors, perhaps an additional context here when we're talking about significant penalties, including custodial sentences for breaches, one concern that has been raised is that in a context where Aboriginal people are at increased risk of criminalisation compared to non-Aboriginal people that where the respondent is an Aboriginal person, an Aboriginal man most commonly, partners may be concerned about reporting breaches because they don't want their partner to go to jail. And that's not just true only of Aboriginal and Torres Strait Islander women. So strong penalties can inadvertently act as a disincentive for some victim-survivors in seeking help and reporting breaches. But as I said, for other victim-survivors, that really strong response in terms of penalties is really critical for their sense of justice and also safety.

MS ORR: Can I ask you, you have addressed it throughout your evidence today, but you've spoken about the sort of understanding of people working in the system about the nature of domestic family violence and in particular in that coercive control space. Is that a theme that kind of flows through the whole system?

MS LEAKER: Absolutely. It's a really, really consistent theme and given that South Australia is on the cusp, or we anticipate, on the cusp of criminalising coercive control, we really risk letting victim-survivors down in relation to the criminalisation of coercive control if we don't build our systems capacity to respond to patterns of coercive and controlling behaviour, you know, right across our systems, not just our police service and justice agencies. I might mention something specifically around training, if I may,

and we often hear, and our sector would echo that, that we need the police for justice agencies, the courts, absolutely really strong education around coercive and controlling behaviour and the dynamics and nature of domestic abuse. I think you were asking before what training should look like and who should deliver it. From the perspective of our sector, I think we need to get beyond training where people do it for a few hours and say, "That's excellent, I've done that training" and then go off and do precisely what they've always done. I think, again, it's that systems level accountability piece. I think we need training that really speaks to the operational processes and how the training relates to the operational processes, whether that's our police service, our justice agencies. We think training would be best developed and delivered in partnership between those agencies as relevant and specialist domestic and family violence services. But if they are partners to the development of it, it speaks to their processes. And I think people will see much more significant impact from training where people feel that they can go away from that training and apply it in really material ways to their processes. And then taking that one step further, we would like to see greater monitoring and accountability around the impacts of that training. So what's changed? What was the intent of the training and has it had the intended intent? So again, I think it's that uplift in our systems level accountability.

MS ORR: Which is what I was going to ask you about next. You've mentioned it a couple of times, this systems level accountability. Would you like to explain that a little bit more?

MS LEAKER: Yeah, sure. I think we see in our context, certainly from the perspective of the specialist domestic family and sexual violence sector, we sometimes struggle to know how things are working, what's working. We certainly lack, within our sector, data capability and the capacity to report on and monitor what's happening even in our own systems and I think that's true of a range of government systems as well. So systems level accountability is really having the capability and the transparency to be able to monitor and report on outcomes and I think certainly from our perspective you know there's room for improvement within our South Australian context in relation to that.

MS ORR: Final thing to ask you, overall what are the views from your sector about whether intervention orders are effective and do they have potential?

MS LEAKER: Yeah, certainly. Look, similar I think again to previous witnesses, and I hope I'm accurately reflecting the views of the sector here, again, where the terms of an intervention order are clear and where breaches are effectively policed, the sector's view would be that certainly for a cohort of victim-survivors and people using violence, they are an effective tool. Victim-survivors talk about the fact that the police issued interim order can give them that immediate sense of safety in the context of an incident. You know for people using violence as we've heard there's a cohort where the intervention order creates clear parameters around their behaviour that they work to comply with.

We also know that intervention orders can work in to create parameters for victim-survivors where they may be under pressure to engage with the person using violence and abuse. So there's absolutely context and circumstances where they work well but as you've heard, the perspective is there's across a range of elements there's significant room for improvement, but I'm not getting a sense from our front line services that

there's a call for a kind of wholesale jettisoning of intervention orders. I think to reflect further too, while you know done right, I think they're an effective tool. We're not going to police our way out of domestic family and sexual violence and so you know alongside these policing and justice tools we really need much more significant investment at of the front end if you will, and it's that investment in primary prevention, in early intervention, in strengthening our systems to be able to walk alongside families at an earlier point. I think that that's the clear message that certainly Embolden is hearing from our front line services as well. So it's important to locate intervention orders as a tool amongst what needs to change from a more holistic sense in responding to domestic and family violence.

MS ORR: Thank you. A few questions from me. Firstly, thank you for recognising the fact that the Royal Commission has had the opportunity to meet with, engage with representatives, including leaders from the Aboriginal and Torres Strait Islander communities. Indeed, we have an Aboriginal Partnership Committee and that is co-chaired by myself and the head of SACON to which you referred. Scott Wilson. So we take very seriously that any of the recommendations that we consider or design will be co-designed and led by Aboriginal First Nations voices. You have preempted a lot of my questions and thank you for your comprehensive evidence today. Just a couple of quick ones. When you talk about the need for support to navigate services agencies, specifically dealing with children and young people, which we've obviously touched on today and you've made comments, particularly in relation to Family Court and Section 68R has got to work out today.

MS LEAKER: I can tell you.

MS ORR: But are there any specific ways that you or the sector consider we should be providing better services or supports for children and young people, whether it's navigating legal issues, family court, indeed access to psychosocial support, health, etc. It's just there's a dearth of services and I'm just wondering if you have any ideas around on that.

MS LEAKER: Yeah, one comment I could make is that, and certainly, you know, in Bolden's submission to the Royal Commission, we have advocated for dedicated children's workers within specialist domestic and family violence services, and again it's that recognition that children and young people are victim-survivors of domestic and family violence in their own right and have their own specific needs as victim-survivors, so that's certainly one thing that we have have advocated for, I think, you know, recognising to where children are at and who they might be in contact with, because we also know that many people experiencing domestic and family violence may not come into contact with specialist systems as well. I think there's a broader question about the support that children and young people are receiving and how domestic and family violence informed those supports and services.

MS ORR: Thank you. I mean I didn't mean to be so general on that because I'm presuming that those kind of additional supports or a support does relate to engagement with or application for intervention orders as well or an understanding of you know what happens when if you are covered you lose it at a certain age or whether or not you are considered in the first place so just curious about what agency we can give young people particularly.

MS LEAKER: I think, again, similar with adult victim-survivors, where young people receive age-appropriate information support, that's really critical, I note the recommendation in the Federal Parliament report around a proposed role for a children's advocate, particularly in the family law context. I think dedicated advocacy for children and young people may have a lot to recommend in this space.

MS ORR: When you talked about early referrals and sort of integrated services and again relating to intervention orders in that one way of keeping applicants informed, etc. Is the hub model an example of where, say the Northern Hub for example, where women can access information about an intervention order, for example, and get assistance in making those applications, but at the same time have access to other services ranging from Centrelink to, say, Poll. Is that where it does work?

MS LEAKER: Absolutely, and look certainly the information that Mbolden has is that there are significant benefits for victim survivors, that integrated service model as demonstrated through services like the Northern Hub. So the survivors can access a range of accessible, co-located, integrated supports, that's a really, really important response. One observation too about the Northern Hub from things that Embolden has heard, and I think comments from police officers connected to the Hub is that that might also be where victim-survivors experience barriers to reporting to police. The fact that at the Hub, as I understand it, the police officers are not uniformed, they're integrated with those other services and work alongside them, so I think there's also something to be said there around reducing barriers for some victim-survivors in terms of help seeking and seeking support from police through a model like the Hub as well, which is a benefit.

MS ORR: We also get the impression that it allows for a more nuanced risk assessment as well if you've got you know, workers who do this you know for a living in the sector, but you've also got police, so there's that opportunity for discussion which again relates to intervention order space.

MS LEAKER: Yeah. Which is a significant benefit and I may not have actually mentioned that really explicitly in my comments around the granting of intervention orders, but certainly one of the things that our sector is really aware of is that our current risk assessment processes are not always adequately responsive to coercive control and non-physical forms of abuse. So again, if the co-location and integration of services is supporting a more nuanced risk assessment that's responsive to patterns of coercive and controlling behaviour, then that's absolutely a benefit to victim-survivors.

MS ORR: This may seem a strange recommendation, but one submission said that - maybe I'll rephrase it in the sense that you talked about that first impression or that first response, so hopefully trauma informed response when someone goes to a police station, we've heard so many stories, not unlike your survey, of good experiences and bad experiences, but one submission recommends that the person on that front desk should be a police officer and not necessarily an administrative person, but does that really make a difference if someone's trauma informed, and you have space and a room that actually caters for the other criteria that you mentioned in order to make people feel safe and secure?

MS LEAKER: I'm not sure that I would make a specific comment around that, but as you said, the bottom line is that people need an initial response of care and respect and

then very quickly where they are a victim-survivor of domestic and family violence, they need support around that, there's very quickly access in a private space and a response that is both trauma informed and domestic and family violence informed. So whether it's a police officer or another person sitting at the front desk, as long as there's clear access and a clear pathway to an appropriate response within the processes, then I think that would make the difference for victim-survivors.

MS ORR: So just adding on to that, when you talked about early and good referrals, whose job is that? Is it SAPOL if you're reporting to police? Is it police officers themselves or is it someone, maybe even another position within a police unit? Or is it the domestic violence support units? Who is responsible because we're hearing a lot today about the pressures on police not only to do their job in relation to domestic violence, family violence, sexual assault, that there's extra hours involved, but now we're talking about additional need for training. I'm not doubting these things, I'm just curious as to, you know, are there other roles or positions that can ensure with alacrity that people get those referrals that they desperately need?

MS LEAKER: Look, I think there's no one size fits all for victim-survivors and I think we need, as best we're able to, to create a system where whatever point of contact people have, there is effective support and referrals. And so how that works within South Australia Police is clearly an operational consideration for SAPOL.

MS ORR: Yeah.

MS LEAKER: And it depends on the needs of the victim-survivor as well and whether it's appropriate in that moment to refer them to a specialist Domestic and Family Violence Service and if it is, I think then certainly, connecting with other services would be a reasonable responsibility for that specialist service, but we certainly want to create a system where there isn't any wrong point of contact to be connected with the supports that people need and how that works operationally for SAPOL, you know, I think that's something that clearly SAPOL would work through and look, our sector is very aware of the operational pressures and the context for SAPOL in a context where there are increasing reports of domestic and family violence, and we're about to embark on a new phase with the criminalisation of coercive control, so certainly considerations around resourcing and the best approach to ensure that victim survivors coming up against metaphorical brick walls is a consideration right across our systems as we work together to respond effectively to victim-survivors.

MS ORR: Thank you. Last question In terms of the services that you represent, what involvement do you have in terms of applications for intervention orders, or do you refer to legal services and other organisations or legal services?

MS LEAKER: So front line - - -

MS ORR: Yeah, front line.

MS LEAKER: - - - so our case managers, what role would they have in - - -

MS ORR: Yes.

MS LEAKER: - - - supporting people? Look, operationally, I don't know that I could give you from where I sit in Embolden a definitive response to that. I'm happy to take that on notice. I know that in the Northern Hub, for example, Legal Services Commission staff are located there. So, you know, I would generally imagine that front line workers would be engaging that specialist legal support for victim-survivors as well as supporting victim-survivors within the context of their case management role, but I will take that on notice and provide more clarity.

MS ORR: Thank you for that. I have no further questions. I'd ask the witness to be released, thank you.

CMR DESPOJA: You're free to go. Thank you, Ms Leaker. Well, that ends the proceedings for day 6 of the public hearings into domestic, family and sexual violence for the Royal Commission. We have examined a number of aspects to the intervention order system today and I thank all witnesses for their contribution. I want to acknowledge particularly that we've met with a number of people today who work every day to keep people safe, particularly women and children and I thank them for their efforts. I do understand that some of the evidence that has been given to us today may be triggering, disconcerting, confronting and upsetting for some people, and so we do urge you to consider accessing our website for some of the services and supports that are available to you. The website is www.royalcommissiondfsv.sa.gov.au and that ends today's hearings. Thank you.

ADJOURNED at 4.04 pm