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REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON SOCIAL ISSUES

**INQUIRY INTO DOMESTIC VIOLENCE TRENDS AND ISSUES IN
NEW SOUTH WALES**

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At Sutherland on Wednesday 21 March 2012

The Committee met at 11.30 a.m.

PRESENT

The Hon. N. Blair (Chair)

The Hon. H. M. Westwood (Deputy Chair)

The Hon. G. J. Donnelly

GREG ELKS, Solicitor, Law Society of New South Wales,

BRETT THOMAS, Solicitor, Law Society of New South Wales,

MICHELLE JONES, Manager of Funding Program for Women's Domestic Violence Court Advocacy Services, Legal Aid,

BEV LAZAROU, Mentor for Funding Program for Women's Domestic Violence Court Advocacy Services, Legal Aid,

SUSAN PEIR, Coordinator, Women's Domestic Violence Court Advocacy Services, and

KIMBERLEY HOOD, Assistant Coordinator, Women's Domestic Violence Court Advocacy Services, before the Committee:

CHAIR: Thank you for coming along. I know we have spoken to some of you before. This is an informal discussion as to what we have seen and anything you would like to talk to us about regarding your roles, how the process works, and anything else we can look at for improvements. To put you in context, in the last two days we have been in Melbourne looking at how their court system operates, particularly around domestic violence. It is also good for us to come here today and do a comparison. We have been sent to Sutherland because many people have told us this is a good example of what we should be doing in New South Wales and how the system works well. We are assuming it works so well because of you. That is why we want to hear what you have to say. Susan, thank you for showing us around the room this morning, and we thank the gentleman from the Law Society. Would anyone like to start by adding anything from this morning or would you like us to start asking questions?

Mr THOMAS: We have already had the opportunity of appearing before the Committee and giving evidence, whereas I do not think the ladies have.

Ms PEIR: I have.

CHAIR: How about I start with something off the top of my head right now about something we just witnessed in the courtroom. This would be to the Law Society. The percentage of defendants in apprehended violence orders and personal violence order matters who are unrepresented; the majority we saw in that hour were unrepresented. Is that the norm?

Mr ELKS: It is where there are not associated charges, because Legal Aid does not appear unless there is a criminal matter associated. Invariably a lot come before this court unrepresented because they do not have the means to pay for their own private representation. That was a good example today of the norm.

CHAIR: Another observation of that is that it looks like the domestic violence liaison officers are doing some of the explaining of the conditions in the original negotiation to get consent for the order then to be made?

Mr ELKS: Indeed that is the case. Quite frankly, you are probably picking up on the conflict there. I am not suggesting for a moment that the domestic violence liaison officers are giving inappropriate advice, but their role is a bit different to that of providing legal advice. That is one of the problems with Legal Aid not being available to appear in these matters without a criminal matter being associated. I think you saw one of those chaps unrepresented then talking about the interim apprehended violence order situation. Clearly, if he had representation, we would not have got into the situation where we were—I will not say wasting five or 10 minutes but certainly it would have been resolved much more swiftly with the provision of proper legal advice.

CHAIR: That then creates a fear in my mind, and we are here today because we have been told about the exceptional work of the domestic violence liaison officers, the police prosecutors and the support staff here. You may be able to comment on this because you all work in other areas. Where we do not have domestic violence liaison officers, either through a vacancy or their not being able to attend today—and we noticed there were at least three or four floating in and out of the courtroom—are we facing a situation where we have defendants who do not understand what is going on but we also have a gap for the people making the

application, and is that one of the reasons leading to the constant breaches of these orders? Does anyone want to make any comments on the role of the domestic violence liaison officers, or the lack of them in other courts?

Ms LAZAROU: I can comment in my role as the mentoring officer for the Women's Domestic Violence Court Advocacy Services across the State. I have visited a number of areas where domestic violence liaison officers are not available. For whatever reason those positions are not filled. It creates a situation where our court advocacy workers are liaising directly with the prosecutor. So, the person in need of protection will be getting that support of our services upgrading at that court, and then those conditions are negotiated often directly with the prosecutor because there will not be an officer available in those police applications on that day.

CHAIR: We saw an example in Victoria where there were support workers for both the applicant and the respondent, in one model. It seemed to work well. Again, there was also that link in with the domestic violence liaison officers. Another observation is that people were generally represented even when they were appearing for orders.

Mr ELKS: You have seen a very good example here where the domestic violence liaison officers do a very good job. Brett and I regularly appear here and the liaison we have with them allows the system to work smoothly. If you do not have those in other areas, I can see how that would come off the rails quickly. Getting back to your original point, if everyone is properly advised, you will have fewer instances of people breaching orders and they will be fully conversant with what is going on. You also had the opportunity of seeing a magistrate today who took the time to ensure that people understand the orders. That does not necessarily always happen because of the sheer numbers in other courts. This is a good example from the perspective of the domestic violence liaison officer, who has a very valuable role to play.

The Hon. HELEN WESTWOOD: Most of those cases this morning were family members or people in the same household, rather than in an intimate partner relationship. I do not think there were many of those this morning. Do you have the same level of representation or non-representation in the domestic violence liaison officers where there is an intimate partner relationship?

Ms PEIR: Yes. Speaking as non-legal and non-police, in intimate partner violence the same situation occurs particularly where it is an apprehended violence order only, with no charges, the defendant is often unrepresented.

Mr THOMAS: Could I just comment in relation to that representation question, and Sergeant Walker would be a good person to raise that with, together with Magistrate Trad. I would have thought, being in the shire, that while not everybody is represented, I would have thought the level of representation is perhaps a little bit higher than in other parts of Sydney.

The Hon. GREG DONNELLY: Yesterday, while we were in Victoria, one magistrate informed us that she serves orders via Facebook. The Chair approached her about what appeared to be the illegitimacy of doing it electronically through Facebook, and she said that under the relevant legislation down there she believed she had the scope to do it and emailed the orders—

The Hon. HELEN WESTWOOD: Or text them, because she gave evidence that the phone was being used. Part of the case was that this was a phone that had been used, often to threaten, so they never had access to it, and under the legislation they served.

CHAIR: To be sure I have this right in my mind, with Legal Aid the way it is at the moment, unless you have been charged you do not get access to legal aid?

Mr ELKS: Yes.

CHAIR: So if someone, either the police or a private person, is taking an order—

Mr ELKS: And also it has to be a domestic situation. There is no representation at all in AVOs. If there is a charge at the end of the day and it is associated with the charge, you will still fall in, even with an AVO, as long as you meet the means test requirement as well.

CHAIR: So again the thing that concerns me is that the lack of understanding and advice upfront surely is creating a backlog of representation and work at the other end with breaches. So, once I breach I can then qualify for legal aid?

Mr ELKS: Yes. That is exactly right. The point of getting legal advice is too late; they have already committed what is regarded as a serious offence in that it is a breach of an apprehended violence order. Through legislation and everything it is a view that that is a very serious offence. It is not just your garden variety. There are different levels, as we discussed in giving our evidence, of seriousness but it is still a serious offence.

Ms JONES: Legal Aid is piloting a defendants program out of Mount Druitt court, providing legal advice for defendants in all AVO matters with or without charges. The defendants as well as the victims are getting legal advice. The Legal Aid Early Intervention Unit is available out there as well as, I think it is called, the Shed which is a non-government organisation out at Mount Druitt. That is in its pilot stage, as I said, and once the pivotal issues are ironed out that will be trialled also in Dubbo.

The Hon. HELEN WESTWOOD: The sentiment I felt this morning was that legal advice is available here through Legal Aid but some defendants or respondents did not seek that legal advice.

Mr THOMAS: Yes, that can happen. In that last example we saw there was clearly a charge for the defendant. It appeared to me he had some advice, purely from what he had indicated from the questions that he was asking. That is a classic example there where Magistrate Trad could do nothing other than to say, "Go and speak to Legal Aid". I went and spoke to him. I introduced myself and once I explained the situation to him he understood it. I went back in. I explained to Magistrate Trad that I had spoken to the defendant who now understood the situation and the matter was able to be adjourned, and that is not something that all lawyers do.

Again, it would vary from place to place—there would be some lawyers or even magistrates, I imagine, in those circumstances, a bit like what you see on American television. They say, "Mr Smith is here. He is a senior lawyer. He has been around for a long time. He will give you a couple of minutes outside". Not all magistrates will do that, depending again on the complex, but that is the way you do it sometimes because Legal Aid—Mr Fisher was in there. He had a number of matters in there today and on a busy day he would have any number of matters. He would have custody cases and would not be available.

The Hon. GREG DONNELLY: The Committee received an answer to a question at an earlier hearing—I will not nominate who gave the answer and these are my words, not his—that in a general sense there is nothing really special about what is happening at Sutherland in that all magistrates courts have the capacity, if they do not already have, special list days to deal with matters and there should be the capacity for the particular magistrate's court to get itself organised to deal with matters in an efficient way. It was a generalised statement that was not designed to be a back-hand but it did not seem to give recognition to what clearly is an integrated and thorough approach to the way in which matters are dealt with here, taking into account the evidence the Committee received from yourselves as practising solicitors, obviously the co-ordination with the domestic violence liaison officers and particularly the work done by the service providers.

To get it clear in my mind, and perhaps for the record, with the benefit of a perspective of looking across the State, does Sutherland Court distinguish itself in the way it is set up? I also mean the physical infrastructure as well in terms of the safe room, which appears to be of a decent size, and what have you. When all those factors are brought together does this court distinguish itself in your mind as being quite capable of dealing with these matters in ways better than other courts around the State? Is that a fair statement?

Ms LAZAROU: I think that is a fair statement. It is not to say that there are not good systems operating in other courts as well. All areas have to respond to their local situation, different magistrates, accommodation at the courthouse, local area commanders' views around domestic violence tend to feed down through the police, and a whole range of things that impact in all those areas can be challenging. I suppose I have a vested interest at Sutherland because I have worked here for the service for a long time since the program was started in 1996-97. I have the benefit of being here for a very long time and of being able to develop those relationships, which is certainly an advantage.

The relationships with all of those key people are at the heart of it working effectively, and the goodwill of all of those people to meet to discuss what is going to work effectively on a list day, to make sure that they consider each other's needs for what they—what the police need to do on a day and what are the needs of the legal practitioners. Everyone needs to have a hand in all of that and that is what makes the goodwill. I

suppose the intention is at the end of the day it is going to be efficient. We are not going to be taking up any more of the court's time than we need to and people are going to walk away with an order that is effective, that is workable for both sides. On that note, considering what Greg Elks was saying about defendants being represented. That is also potentially a good thing because everyone can get that appropriate advice.

Mr THOMAS: I agree with Bev Lazarou entirely but I think the best evidence of the system at Sutherland is that over the past four to five years we have had a number of different co-ordinating magistrates that have come into Sutherland, and that is the position that Magistrate Trad currently fills. I think I am right in saying that not one of those co-ordinating or senior magistrates at Sutherland that have come into that position has sought to change the way that the domestic violence list has been run of a Wednesday. If anything, it has been the opposite; they have talked about it openly. Magistrate Kennedy, who had been a magistrate for more than 20 years, retired last year and at his bench farewell in October he said the way the system is run at Sutherland is the best anywhere in the State. At the end of the day Bev Lazarou, the police, the lawyers and people like that can do all they want but if the co-ordinating magistrate for that complex or that court wants to do things differently they are perfectly entitled to change the way it operates and that has not happened here. We think that is probably an indication as to why.

The Hon. GREG DONNELLY: Could you point to another Local Court which you think does it quite well? I am not seeking to put Sutherland in competition with it but you said in your comments that there are others in the State. Are you bold enough to say what those others are so that the Committee can think about what might be done there as well?

Mr THOMAS: That work as well as Sutherland?

The Hon. GREG DONNELLY: Yes—certainly try to compete to be as good as Sutherland, yes.

Ms LAZAROU: I think the system at Bankstown works very effectively. They probably do work similarly to Sutherland court. Certainly the prosecutor has had some input there.

Mr THOMAS: That is recently, though, at Bankstown?

Ms LAZAROU: In the past couple of years, yes.

The Hon. GREG DONNELLY: Essentially they are picking up the same pieces of the formula?

Ms LAZAROU: Yes. I think the police are doing that to some degree across the State. We certainly promote a consistent approach to delivering the service across the State so that, hopefully, someone can go to court in Ballina or Albury and get a semblance of the same service. I just want to say that ultimately we do not know, I suppose, in terms of breaches whether the system that we think works really well is totally effective. We do not really know that except that I think that people do leave here armed with the means to deal with those breaches effectively and understand what their apprehended violence order means and what they might need to do, and have those relationships already established with the police so that they can be assisted should that happen.

The Hon. HELEN WESTWOOD: I accept that today's list was quite small but I noticed that no-one needed an interpreter. Do you have many cases where either the applicant or the respondent needs an interpreter?

Ms PEIR: Yes, we do. On the first mention an interpreter is ordered by the police. Once again we do have good police area commands in this area that do make sure that interpreters are ordered when required. We feed in from Hurstville too, where there is a higher population of people not speaking English.

Mr THOMAS: It would be fair to say that we would not use interpreters as often at Sutherland as at other places.

Ms PEIR: And the numbers have dropped over the years as populations established here.

Mr THOMAS: If we did not take Hurstville it would probably be very rare here.

CHAIR: I know that Ms Lazarou has mentioned the value of relationships a number of times today. What do you think makes the way that you do business here in relation to domestic violence work, that could be tangible things that can be rolled across or the way the relationships are set up? What do you think works?

Ms HOOD: I think what works is the pre-court contact that we have with our victims. We are often getting in contact with them before court so we are able to establish that relationship with them. When they arrive here they know exactly where to come. They often know to see Susan Peir or myself. We can also pass that work onto our seconded work as a bit of background to conversation that we have with those victims. When they arrive I think that helps with them to feel more relaxed and comfortable at the court environment as well.

Ms PEIR: I flag with Brett the importance of having a co-ordinating magistrate that supports the structure, because that is certainly with the best interests of everyone that is where things can fall apart.

Ms LAZAROU: Not to bang on further about the relationship, which I always feel I am doing, but it is absolutely crucial. I guess I have seen that over many years.

CHAIR: Who needs to have the strong relationships for the good model?

Ms LAZAROU: Primarily it needs to be between the police, the Women's Domestic Violence Court Advocacy Services, the court staff to some degree and the local legal practitioners—and Legal Aid, of course, is in that mix.

CHAIR: When you say "police" do you mean the DVLO, the police prosecutor, general duties or all?

Ms LAZAROU: I would say that is an area that needs work: the education of general duties officers. I present at the domestic violence liaison officers courses with the police and at other training they do, but it is sometimes difficult to get the message out to police on the ground. That relationship needs to be built at all levels, even with the local area command, because that feeds down to people on the ground.

Ms JONES: Relationships, of course, and consistency. As a funding body, promoting consistency across the State and us at a higher level, so Legal Aid and the funding program having good relationships with police and local court staff and magistrates at a senior level—promoting that consistency.

CHAIR: When will the Mount Druitt trial be evaluated?

Ms JONES: It probably will not be evaluated for a few months.

The Hon. HELEN WESTWOOD: Has it begun?

Ms JONES: It has begun, yes.

Mr THOMAS: Just on relationships, we have to make sure that those people we have spoken about who are going to give evidence after us are on message this morning, otherwise there might be a problem. From a lawyer's point of view, I think making sure lawyers know how the system works. To me that means lawyers knowing that what you do not do is roll into court and just mention the matter like you might do in any other matter in any other court. Unless you have spoken to the appropriate liaison officer beforehand, you are just going to be wasting your time. From a local lawyer's point of view that is important.

Whenever I am here of a Wednesday, I have not needed to do it today, if a lawyer speaks to me about how it works I always make a point of saying to them, "You need to go to the room, speak to the liaison officers. Don't go into court and mention it because you'll get nothing done." If they want to get away, which, if they are visiting, they probably do, it is important that they understand that that is how the system works. They might not like it. They might prefer the normal system of just going into court and mentioning their matter. But that is the key: understanding that is how the system works, whether or not because they have spoken to somebody beforehand or they have spoken to somebody when they first arrived is just making sure because that is important.

Mr ELKS: Lastly, touching back on the relationship issue is having experienced people who are prepared to work basically in a team environment. Whilst it is not a team environment, each has a different role to play, but perhaps also understanding how they fit into each of the roles and how each one knocks on to the

other. Experienced people is the key and, of course, as those experienced people go out at the top, before they go out at the top training the new ones coming in. That is the battle.

CHAIR: Again, thank you for hosting us today, also for your evidence and appearing before us this morning. We really appreciate it.

(Mr Elks, Mr Thomas, Ms Jones, Ms Lazarou, Ms Peir and Ms Hood withdrew)

KAY PORTER, Court Officer, Sutherland Local Court,

LANCE TEMPLETON, Registrar, Sutherland Local Court,

JACQUELINE TRAD, Magistrate, Sutherland Local Court,

SHARON WALKER, Police Prosecutor, Sutherland Local Court,

ELIZABETH MUNCE, Domestic Violence Liaison Officer, Hurstville Local Area Command,

JANELLE CHARLESWORTH, Domestic Violence Liaison Officer, Miranda Local Area Command,

MEL RADBURN, Domestic Violence Liaison Officer, Sutherland Local Area Command, and

VANESSA CURMI Domestic Violence Liaison Officer, Sutherland Local Area Command, before the Committee:

CHAIR: Thank you for attending this informal discussion on how things operate at Sutherland. We will commence with some quick introductions. My name is Niall Blair. I am the chair of the Standing Committee on Social Issues. We have been conducting this inquiry into domestic violence trends and associated issues in New South Wales since late last year. This is another of our site visits. We have had four site visits. We were in Melbourne the past two days looking at its courts and particularly police response. We were told that Sutherland was a good place to look at a good example of how domestic violence lists are heard in New South Wales. That is a brief background as to why we are here. Welcome back Sergeant Walker, who has provided evidence before the Committee at Parliament House. The Deputy Chair of the Committee is the Hon. Helen Westwood and the Hon. Greg Donnelly is another Committee member. This afternoon we thought we would have a brief informal discussion about what you do at Sutherland that makes it work particularly well, listen to any recommendations you may have for improvement but try to identify the real strengths in how you do things here. Would anyone like to start by telling us their impressions or views? Magistrate Trad, would you like to commence?

Ms TRAD: Thank you. I recently was appointed to Sutherland Local Court. When I say "recently" I started in June last year. Prior to that I was at Bankstown Local Court, prior to that I was at Toronto Local Court for three years, and prior to that I undertook the usual boundary riding that happens with magistrates when they go from court to court in different places. My impressions in coming to Sutherland, certainly on the bench amongst my colleagues, is that the way the process happens at Sutherland during list days is well respected. I would say it is a model that various local courts are attempting to replicate across the board. I know, for instance, that Bankstown has a very similar model, I have done the AVO list at the Downing Centre, I have been at Liverpool and obviously in the three main courts to which I have had responsibilities or been appointed. I consider the model itself is very similar to those being implemented in those other courts. The difference is the way it works and how it works. That is probably something on which I can give my impressions from the bench, but certainly I have to be less interventionist at Sutherland than I was at other places in controlling matters.

My impression is that managing the list relates directly to the dedication of experienced resources. That is not to say that the resources are not dedicated at other courts, but I think it is the level. I do not know whether it is simply a matter of experience. Obviously, it has to do with the talent and skill of those who are managing the lists from outside the court process, but also too I think it has to do with the dedication of particular officers who have the responsibility; they take it on because they do it week after week. What you find at other courts is that there is probably more of a shifting through of personnel on the police side, the prosecutors' side and so forth. In other courts I have been at I would have to be more proactive in saying, "No, I won't hear from that matter unless you have made contact with the prosecutor and there are instructions in place." Obviously, at Sutherland that already is the practice and the private practitioners and Legal Aid are aware of that practice. They know the benefits of being able to stand up and complete their matter rather than having it stood in the list.

Perhaps other people from their perspective can say their reasons, but my view is the consistency of the people running it. Obviously, experience is important, such as that of Sergeant Walker. Not only does she take primary responsibility for the list here, but also domestic-related matters in the court. I think that makes a big difference. The DVL officers obviously are very experienced officers who have been doing it for some time.

That has to have an effect. Whether or not that is something that can be replicated at every court, I do not know, but certainly there is a model that other courts strive for.

CHAIR: Sergeant Walker, would you like to add to that?

Ms WALKER: I agree with Ms Trad. As I mentioned to the Committee on the last occasion, it is experience, dedication and devotion to their roles. So much of what happens at our court complex occurs before court and before the practitioners come to the table. As Her Honour just indicated, our local practitioners and Legal Aid are all aware of the process we have here. The relationships we have with them, that I have with my DVLOs and that we have with our court assistance workers cannot be measured because of that. Ms Trad, as she said, has been here now since last year. Our prior magistrates also adopted and accepted this process, and the magistrates prior to them. It is a team effort, as I said on the last occasion to the Committee, in so far as the police service devoting experienced resources, the commitment of the commanders, the commitment of their crime managers right down to myself being the prosecutor who deals with the matters week in to week out. From my command's perspective, we try to have in each complex a dedicated prosecutor. It does not always work. We try for that to happen for this process to come about and to be successful. And, of course, from the magistrates' perspective, they come on board and accept and adopt the processes we have here, right down to the court staff. The court staff here and the Registrar, we will work in together as a team. Because of that it functions well.

CHAIR: From what I saw this morning, it seemed very well organised. The role of the DVLOs was quite evident in their rapport with the people they were assisting and representing. There was obvious contact and negotiation with the other side; things seemed to be in order and well organised. Being there to provide you with additional evidence also seemed to work. It probably creates a bit of fear about what happens when we do not have those key people—particularly when we see that we have four here today—in regional areas or in areas where the DVLO role is harder to fill or maintain. From my observation that probably creates a bit of fear and may be something we need to examine. Certainly, what we saw today was a good example of how that role fits in with the process.

The Hon. HELEN WESTWOOD: My question to the DVLOs is whether they have worked in other commands and how that experience compares to their experience at Sutherland. We have taken some ideas from Melbourne and, in fact, your association representatives raised with us the issue of being able to take out orders immediately the violent incident occurs. Victoria has a safety notice, which is an interim order virtually for 72 hours. I am interested in your views on whether that would be worthwhile considering for New South Wales?

Ms MUNCE: I am based at Hurstville. I have only been at Hurstville. I have been there for 11 years. I have been doing this role for about six years now. I probably have not got any other experience from other courts that I can relate to how well this operates. In relation perhaps to suggesting taking those AVOs out in Melbourne I cannot really partake in. We have a system here where provisional orders can be taken out. So we can send them through our computer system where they come back straight away. That is probably something similar to what we already have in place here. We can get an urgent order, serve it on the defendant and those orders are enforced until they come to court the following Wednesday. In my opinion, I think that process works very well and that has probably only been in place a couple of years. I like that system.

CHAIR: Does that have to be done from a station?

Ms MUNCE: It has to be done from the police station so it gets transferred. The Registrar might be able to speak a bit more about it.

Mr TEMPLETON: I am on the after-hours justice panel.

CHAIR: The officer then would have to return to serve—

Ms MUNCE: To the station, yes. You have to create a Computerised Operational Policing System [COPS] event outlining the incident that occurred, fill in some other paperwork for the AVO and it then gets transferred by our electronic system where the registrars will then hopefully grant the order. They scan it. It comes back on a field computer system. We print it out and serve it on the defendant.

CHAIR: You still have to find them to serve them?

Ms MUNCE: Yes. If it is an urgent order, more than likely they are in our custody.

The Hon. HELEN WESTWOOD: With the Victorian notice they do not have to return to the station.

CHAIR: They serve it on the spot.

The Hon. HELEN WESTWOOD: Yes. It is immediate.

Ms MUNCE: Obviously there are benefits there, yes.

Ms CHARLESWORTH: Is that the one the Police Association has listed?

The Hon. HELEN WESTWOOD: Yes. The association raised it in its evidence as an issue and the officer actually was a serving officer. So it was in the command as well.

Ms CHARLESWORTH: I think it has to be authorised by a sergeant. I think we both commented on something like that last year.

Ms CURMI: Yes, it was the same panel we spoke at.

Ms CHARLESWORTH: It would be beneficial. Once again it just expedites that process as well. I suppose if they were going to contest it, they could come to court. Otherwise, it would just be in force from that point on. As far as listing as well, it would also reduce the amount in the list. I think this is the model the association was seeking.

CHAIR: One comment from a number of people, including the police and the service providers, was that that interim safety notice removed the heat and anger from the issue, and enabled people to cool down until they appeared within the 72 hours the next day. That is just an observation.

The Hon. GREG DONNELLY: Looking firsthand at what operates at Sutherland, did it come about through design or accident? If we take this as a model example at a local court, was it set out from day one to result in the various component parts that work as well as they do? If that is so, who designed it? Or has it evolved, in effect, to reach the point where the component parts work well together and, therefore, we have the result? Would anyone like to comment on that?

Ms WALKER: I think it has evolved. There were relationships in the beginning that as AVOs themselves evolved the system has gone with it to an extent where we have that increase, of course, in applications, more need for dedicated courts and perhaps dedicated prosecutors, and more services to be provided by the police in relation to DVLOs. Add to that the court assistance scheme that we have. There is a relationship between the police department and Legal Aid in relation to that and their involvement. I know there were people involved in establishing the relationship. Who they were goes way back and I cannot tell you. But we routinely meet, I would like to say once a month but perhaps it is not always that frequent. We do have and have had in the past court user meetings where we will sit and discuss issues or things that have come up in our listings and come up with ways perhaps to improve those. We meet with the Registrar with suggestions as to how we might improve, simplify or resolve issues that might have come up. We do that fairly regularly as a team when we need to or think we should involve the court staff and Her Honour. Of course, that happens as well with the magistrates here. So, it is an evolving process, I would say, one that has grown with the times, and the need for it as well.

Ms TRAD: I would agree with that because of my observations at other places. As I said before, it seems there is a general similarity as to the way the list operates, and I can only think that has evolved in response. For instance, when I was in Toronto—I was there for three years—we had our own apprehended violence order list on a specific day. We separated them out of the private apprehended violence list as well. It ran along similar lines. So, it seems to me it is something that has developed out of necessity to deal with the applications. What is the most efficient way of dealing with it? Then differences come in different locations. For instance, in Toronto you have one magistrate and one prosecutor. It would be unfair, indeed, if there were more against one, but he would do all the hearings, whether they be driving matters, domestic violence matters, other sorts of matters. He would do all the list work. So, the opportunities he had to focus specifically on issues dealing with domestic related matters would have been reduced.

Likewise the domestic violence liaison officers in those areas: My understanding—and I could be incorrect—was that there was an officer at each station who was a designated domestic violence liaison officer, who also had a lot of other responsibility to try to manage as well—say, follow up with protected persons and all that stuff that is best if it can be done very quickly after an offence or before coming to court, which saves time. Then of course other court resources and court support organisations are further stretched, so much so that in the Hunter we ensured our domestic violence days were on different days, as we had several courts in the region, so they could get around to it. The last time I did a domestic violence list at the Downing Centre was about 12 months ago. I believe there is more changeover in who is running them, the prosecutor, but I could be wrong with respect to that. Certainly at Bankstown there was not a particular officer who did it but they were all quite experienced prosecutors, so that addressed that issue to some degree.

It seems to me the evolution and concept is the best description of it because it has got to the point where it has at this stage at this court. It seems to have been refined over time to respond to specific issues that have been raised. They have addressed that and they look to the next issues to make it as streamlined as possible.

CHAIR: I am curious at the development of the list for the day. Is there a previous meeting that involves the registrar and the police prosecutor together to work out how they are going to structure the list? The reason I ask, again in Victoria there is a prelist meeting where triage is the term that was used to work out how the list should be structured, making sure that those who need to speak with Legal Aid are spoken to; and those who need other support services, and that is run by the registrar to increase the efficiency. Again, do you have an informal way or are these meetings just every now and again you get together to talk about other issues and see how we can evolve further?

Mr TEMPLETON: Specifically with the domestic violence, we do not have a list. From the registry point of view we have a registration desk and we have a very passive role in the process as a registry in relation to the mediation that takes place. Our main role is to have someone on the registration desk to direct the persons who need protection and the defendants to the protection room, where they note the appearances of either party and bring the people in and tell the defendants where to sit. So, they know they can begin the mediation because at the people there to mediate with. That is as far as we go in the process because thankfully are not part of that mediation that takes place between the person in need of protection getting what they want and the defendant.

The Hon. HELEN WESTWOOD: Could I ask about breaches because that issue has come up in some of the other hearings we have had, particularly from witnesses who are outside the metropolitan area and where the conditions of the order are not thoroughly understood perhaps by the defendant or some are unrealistic and they end up breaching them. Do you do the breaches here or are you aware of what the breach rate would be in the matters you see here?

Ms TRAD: Breaching an apprehended violence order is an offence, so the Bureau of Crime Statistics and Research or someone of that nature would be able to tell you rates or numbers. If you compare that then to the statistics that are kept on the number of orders made you might be able to come up with some idea, but bear in mind that somebody will breach 20 times and someone will never breach during the course of an order. I cannot answer that. I do not know if anyone else here could. Prosecutions for breaches come back to the local courts. It would depend where the breach occurred. The breach does not necessarily come back to the court that made the order, but if the breach occurred in the Sutherland catchment area and the order was originally made here or an interim order was made here or a provisional order or people resided here it would come here for prosecution. So, you know you will get that.

But with the number of matters dealt with, I could not give you anything other than some very bare anecdotal evidence as to breach rates. Certainly the breaches come back here and will be prosecuted by the prosecutors here and, as I understand, the system as it runs at Sutherland, and Sergeant Walker will correct me if I am wrong, there is within the prosecutor's scrutiny of any of the cases by Sergeant Walker that have a domestic related matter so that the approach that is taken is one that fits in with the model that has developed here. Magistrates hear what we get. So if the charge is there and is a breach of an apprehended violence order, that is the charge

The Hon. HELEN WESTWOOD: Is there a sense that that is a problem there, the rate of breaches or recidivism? That was certainly raised with us in some of the other hearings.

Ms WALKER: I don't think so. Going back to part of your first question about people knowing the standing orders or complicated orders, that is something my team works towards, and, because of their experience, we do not have complicated orders. We do not put in an order conditions that are hard to understand. We do the exact opposite. We do our level best to make it very easy to understand and as uncomplicated as possible, for our benefit as well as the person in need of protection's benefit and the defendants benefit—at the end of the day, as simple as possible.

CHAIR: From observations we have seen, Ms Trad, the way you explain to those orders should be the standard. It was clear plain language and you made sure they understood them, which is something we were yet to have seen in our travels, and that is fantastic. I also agree with the role of the domestic violence liaison officers in doing that, which makes me fear again that without the domestic violence liaison officers there to explain that to the person the order is being made again stand without a magistrate who potentially has the time—I will not say will—to clearly explain in some of these other courts where we have long lists and they have to get through the work, would it be fair to say that there could be people who are receiving orders who have not had an appropriate order because that upfront work has not been done or get an order that they do not understand? That may then contribute to the breaching? Again, it is hypothetical. In Victoria we were seeing that everyone who was appearing had access to advice on the development of the order. Again, we are learning here in New South Wales that those people will not get legal aid, for example, unless there is an associated charge. Another observation from this morning was seeing a lot of people representing themselves, which was surely adding to court time.

Ms TRAD: And it is normally the non-associated charge—usually but not always. Often if there is a charge that is serious enough, Legal Aid will take the matter, but perhaps not on the first occasion but interim orders are often made because of the nature of the charge itself and will be made on the first occasion. So, representation or lack of representation certainly must be a contributing factor to a non-understanding. Offences of breaching an apprehended violence order or contravening a domestic violence order, knowledge is required and that becomes an issue in one of the elements of establishing a breach, but it would be very difficult I imagine to establish because certain presumptions are made in the legislation. If they are there and they are there in person, they have signed the form, all of those certain things that apply in this court and most courts I know of, it would then come down to how well is explained by the domestic violence liaison officers who are dealing with the person. Prosecutors, I have noticed, certainly Sergeant Walker does and I have noticed it occurring at Bankstown court, they always reaffirm with the defendant, "You have signed this? That is your signature? You have agreed to that?" The legislation requires magistrates to explain the order, but I do not appear before any of my colleagues so I do not know what they do.

Mr TEMPLETON: In relation to orders that the magistrates make, they go to the registry and they are explained and they sign into it. They acknowledge it. In relation to apprehended violence orders there is no requirement for that. Because of the explanation given in court, we always give the person an option whether they want to come and get the order immediately—and 99 per cent of them do not because they want to go—and they simply leave and we mail out the order that has been made by the court, instead of other court orders where they come in and sign it and someone is sitting down and explaining it. There is not that requirement.

CHAIR: Is it the role of the domestic violence liaison officer to be working with the defendant in explaining it or are you doing that to ensure the safety of the applicant?

Ms MUNCE: It is not our role to give them legal advice—

CHAIR: Not legal advice but explaining and hoping they understand that they are getting their most appropriate order.

Ms MUNCE: Yes, I certainly do that.

CHAIR: You are doing that for the safety of the party you are representing?

Ms MUNCE: Or both parties. They have to be informed about what they can and cannot do after they leave the court. It is basically for both people.

Ms CHARLESWORTH: And also for the police who are going to be enforcing it and trying to prosecute a condition that is obscure. We have to do it for the whole system to work really. If we put something on there or they ask for something inappropriate the police will not be able to enforce that. They might want a

condition I do not want them within two kilometres of where I live but if it is right next to a main road, there will be thoroughfare issues. We experience that sort of thing a lot. We need to explain these things to them, when there are main roads in the area. We need something that we are able to prosecute.

CHAIR: Is that a problem in the case where someone is unrepresented, then dealing with the domestic violence liaison officer who is working with both parties prior to it going into court? I understand why we are doing it but is there any issue with that?

Ms TRAD: Are you asking is there a conflict of interest?

CHAIR: Yes.

Ms CURMI: From the time the apprehended violence order is served on the defendant, you have general duties when they are serving the apprehended violence order and they are explaining the conditions. So they are quite well aware of it. Then they get to court, and once again we are talking to them about the conditions and explaining the conditions. In relation to what you said that maybe other courts take a lot longer, I believe the system we have in place streamlines it. Obviously the magistrate then knows that we have already explained the conditions to them. We have already explained that it is a serious offence if they breach those conditions and what can happen if they do do that. All those conditions are reread, they sign the forms, as the magistrate said, and then it goes into the court. I believe then, because the system we have in place makes it streamlined, we do not have any hiccups in court and things seem to work well.

CHAIR: I agree. I guess the question is: Is it a conflict to talk to them about consent to certain conditions on the order so that it proceeds through quickly?

Ms WALKER: I do not believe it is because the system that we have in Sutherland is that domestic violence liaison officers, from my perspective—and I have to trust their instructions to me—do not provide legal advice. They provide information as to the process, the options. They then will, for want of a better term, negotiate. As Senior Constable Charlesworth was just saying, there may be conditions where, in effect, what we are doing is to the benefit of the defendant. What we are doing is making it workable for all parties. They certainly make sure that they do not cross boundaries where they are providing legal advice. If they are asked they can refer on—"It is not my position to give you legal advice." We reaffirm constantly that that is not what we do; we provide information as to the process.

The magistrates at Sutherland do exactly the same thing with unrepresented offenders. They advise them of their options. Generally it would be as the officers have indicated to you: "Are you aware of your options A, B and C?" I know that the answer will be yes because I know that that is what they do.

Ms CURMI: We all have the same spiel when we speak to our defendants. So everything is done in accordance with the same spiel. The first question we are going to ask is if they have legal representation. If a solicitor is there then we move back, wait until that solicitor approaches us, or if they say they are going to see Legal Aid then we take them to the Legal Aid office. That is done the first thing in the morning. Once again, it is just streamlining the process.

CHAIR: Is that the same spiel for all domestic violence orders throughout New South Wales or is that the spiel only for those at Sutherland?

Ms CURMI: I am involved in the training of the new domestic violence liaison officers who come on board through education services at Hurstville. I attend the two training days for those new domestic violence liaison officers. I am not sure the reason why I do it or why I have been chosen—

CHAIR: You are obviously very good—

Ms CURMI: I think it is because it is the best practice and it comes through. Certainly we all want to get things done professionally and get the best result at the end of the day for our victims. I train them in our spiel here, the involvement with Susan Peir and with everyone that is involved in then training them in that process. I guess then it is up to them what they are going to be doing at their local area command.

CHAIR: There is no standard, for want of a better term, operating procedure for how a domestic violence liaison officer operates on a list day? That is something that has evolved here that you would recommend as best practice that you are going to pass on to future domestic violence liaison officers?

Ms CURMI: Yes, that is correct.

The Hon. GREG DONNELLY: One view is that Sutherland has fallen on its feet in terms of the way in which domestic violence matters are handled. As the latest magistrate you have inherited, in some sense, the custom and practice that operates at Sutherland. Can this model be readily replicated elsewhere if you start with a blank sheet of paper? If we take Sutherland as the best practice in the State, and if the Committee were minded to recommend in its final report consideration of adopting what is done in Sutherland for the Government to consider, how do we describe it? It is made up of components. It works. Obviously there is complementary synergy between the various parts that we have discussed this morning, or is it a one-off? Is Sutherland a oncer? For example, we could not have a model like Sutherland in Toronto because there does not appear to be a critical mass of key resources or key persons. Even if we wanted to, we could not succeed in Toronto but we might be able in a court that has a certain amount of throughput. Would you comment on that?

Ms TRAD: There will always in the criminal justice system be differences between resources available in the metropolitan area and country areas. It is a reality, even at the most basic with sentencing options. There will always be those issues to overcome. Your first question was: Could you start with a blank page and replicate it? In saying this model was an evolution, not a start-out design, I do not think that excludes being able to replicate the model from now on. I do not think that will be a difficulty. In terms of the principles of how it applies, what support services you need, how many domestic violence liaison officers you need, a dedicated prosecutor or perhaps one or two, and some of the other systems that apply like the instruction sheet, which is what the DVLOs were talking about. All of those things can be replicated, could be developed as a model as such and could apply across the board but where it would change would be the level of experience of the component parts.

That will be a reality. I would like to think that the way Sutherland runs at the moment it will just be like it is, but that is not reality. People change, the level of experience and expertise. They are going to get better jobs. This is the sort of thing that will have to be something that has got to be tackled in any attempt to replicate a system across because whilst we can rely upon it at some point there will be staff changes and we will get that mix of less experienced staff. That is not to say that that cannot be managed or cannot be replicated in other areas. As for the country, such as what occurred in the Hunter, I believe that related to the way the prosecutors were run in that area. They developed with the court a system whereby what resources there were were not stretched. Maitland was not running its AVO day the same day as Toronto or Newcastle. Some of those practical issues can be addressed. Whilst in reality you are going to have limited resources and you are probably going to have those officers stretched doing other things, as well as the domestic violence stuff, you can optimise what you can with it.

The Hon. HELEN WESTWOOD: The Committee has heard different responses in relation to the yellow card. The Committee has heard that victims and services did not know the existence of the yellow card at all. What is your experience of the yellow card? Do you think the card assists victims?

Ms CURMI: I believe that we instigated the Domestic Violence Proactive Support Services [DVPASS] to begin with and Miranda came on board shortly after, and obviously now Hurstville and St George have now come on board. Where I see its benefits is when victims give consent when there is an apprehended violence order. That is when Susan Peir and her team have got that pre-court preparation which is very, very important. Obviously we are still police officers and sometimes they feel more confident in speaking to a support agency and they have that contact. We generally speak to Susan Peir and her team nearly on a daily basis. They might contact us and say, "I have contacted Betty Joe. She is actually coming to court." They talk to them about the process of what actually happens when it is here.

So it allows us to then continue on with other things that are just not court or DVPASS. I think that is a huge benefit to us how they can help us. It is a continued support for the victim. Obviously after they have spoken to them at home they are speaking then generally to the same person that they have had that contact with. It makes them, I guess, feel supported. They then know what is coming their way. It is a great process for us.

CHAIR: You said that you started it and it went to Miranda and Kogarah. Who makes that decision? Surely it should be available to all local area commands?

Ms MUNCE: Funding mainly.

Ms CURMI: We were successful in receiving funding. I think that support and that really important networking with your local support agencies and everyone being on the same strength on the same lines as to its benefits, and we have certainly seen that. Obviously we have been successful in obtaining a large amount of funding. I could not comment on whether other local area commands take it on or whether they do that to the strength that we do. It is compulsory at every single domestic violence incident that they are offered that yellow card.

CHAIR: In your local area command?

Ms CURMI: In our local area commands that manage this court, and that is where we generally seem to be on the same lines. If a process is taken on we want it to then obviously be across the same board, especially at this court where we do things the same way. We manage, say, between, about 55 up to sometimes over 70 per cent on consent by a victim, which is fantastic, but it is compulsory that general duties must do that. They have seen the benefits as well and that is why I think you are seeing a higher consent rate in our particular area.

CHAIR: Obviously you also bring that up in the training of the new domestic violence liaison officers?

Ms CURMI: I think training is the crux of it. We are not delivering the yellow cards, general duties are. I think it is the sell point of what is the benefit to that victim and how it will reduce the incidence of domestic violence, how those victims are supported at court, and the possibilities obviously to prevent withdrawals, because they are guided and supported even before they get to court.

The Hon. GREG DONNELLY: Given the amount of work that police do in this area now, and on some assessments it will increase, do you believe that adequate time is spent in training and explaining the matter at the Police Academy for training police? I gather from evidence the Committee has received that domestic violence is not a particularly large component of the training. A relatively short time is spent covering it. Do you believe that better training for new police officers at the academy would be an enhancement when they hit the road, so to speak, and they would be better off?

Ms CHARLESWORTH: Absolutely.

Ms CURMI: I do not know how much training they actually receive but the academy could speak to you about that. Certainly we would not step back from any extra training.

CHAIR: Will you comment on in-station training and ongoing professional development in this area for existing serving officers?

Ms CURMI: We deliver a two-day training package to all general duties police.

CHAIR: Is that voluntary or mandatory in your local area command?

Ms CURMI: It is across the board. I do not believe it is mandatory. Education Services from Hurstville would be able to comment on exactly whether it is compulsory. But certainly it is very accepted and that support from senior management down that that training happens and continues. We hold about three to four two-day training sessions a year for general duties to attend.

The Hon. GREG DONNELLY: Does that require special funding appropriated each year or is that part of the whole?

Ms CURMI: No. The Domestic Violence Liaison Officers deliver that training to the general duties staff.

The Hon. HELEN WESTWOOD: I have some questions about new recruits coming to your commands. Firstly, do you get many of them? When I was mayor of Bankstown we ended up with an awful lot

of new recruits and a number of commanders spoke to me about that being an issue they had to deal with. Secondly, do you feel that when the new recruits arrive they actually have enough knowledge and understanding of domestic violence to then be sent out on jobs? Are you comfortable that they would respond appropriately?

Ms MUNCE: No, definitely not. That is why they have that probation period for 12 months where during that time they will develop and learn how to take appropriate action.

Ms RADBURN: When they first come to our LAC we introduce ourselves to the new probationers. We tell them what the domestic violence-related crime incidents are like in our area, what they are likely to come up against and we also explain the yellow pass, the DVPASS, at that time. My opinion only, I guess that helps.

CHAIR: I am sorry for returning to this topic but we have been to an LAC where the DVLO position is currently not filled and has not been for some time. For a new probationary constable starting in that LAC, whose job is it to explain the type of incidents, the DVPASS and all those things if there is no DVLO?

Ms CURMI: That would then become the education officer's responsibility.

Ms CHARLESWORTH: Or the field-training officer. There will be a six-weeks buddy period with two of those. So they will be with a buddy who will be trained as a field training officer to explain.

Ms CURMI: On-the-job training virtually.

Ms CHARLESWORTH: That is everything about policing as well.

CHAIR: That is right. Do they attend extra training in domestic violence for the two days?

Ms CHARLESWORTH: They would normally. I can only talk about our area, but they will be trained. They would have gone through our training days anyway.

Ms CURMI: That is the two-day domestic violence investigators course. They would do that.

The Hon. GREG DONNELLY: But that is only delivered by DVLOs or is an education officer capable of delivering that?

Ms CURMI: Yes. For Sutherland, Miranda and Hurstville the domestic violence officers deliver that course. Sometimes it is in conjunction with the education officers as well. I guess it depends on their resources. With this particular LAC you are talking about that does not have a DVLO, it would then be reliant upon the education officers to deliver that two-day training course.

The Hon. GREG DONNELLY: What you are saying is that that person has the experience and qualification to deliver that training?

Ms CURMI: Yes. They certainly do and that is probably their portfolio, what they do. However, we are seen as the specialist and we are called upon to deliver that course. Our probationary constables also rotate through our office two shifts. So that is one shift at court. The benefits are that they see the mistakes that they may make out in the street and how it can then impact at court. They find that very valuable. Whether or not that is done in other LACs I could not tell you.

CHAIR: Could I confirm that we have your correct rank? Are you all senior constables?

Ms CURMI: Yes.

CHAIR: Is it unusual to have DVLOs at that rank?

Ms MUNCE: It is probably most common I think at this rank.

CHAIR: It is the most common?

Ms MUNCE: I would say so, yes.

Ms CHARLESWORTH: I have had constables in a two-person job at Miranda and at each of our stations there have been constables who have been in the job as well. It depends I suppose on location and resources. Everything generally comes down to resources.

CHAIR: We will have to conclude shortly, but it is rare to have four of you before us and I apologise to the rest of our witnesses if we have been sidetracked a little. One thing we hear is that it is difficult to fill DVLO roles in some areas. Would anyone like to share with us why they chose to move into this area? Is it because it suited family? It certainly is not about the rank and the pay, we have been told.

Ms CHARLESWORTH: For me it was something I started only as a constable after about three years attending numerous domestics. It was finding something that I had an interest in and just wanted to pursue something further that way and went down that path.

Ms CURMI: I guess for me it certainly was obviously having that great rapport with the DVLOs but to initially get me back to do it was Bev Lazarou. She was my main reason, and the real good networking we have with court assistance. That was my biggest thing and the process that is here, being happy and Sharon, who just supports us all the time that you really want to come and remain as a DVLO. There is always something else we would like to implement and we are supported. That is the reason I remain and wanted to start.

Ms RADBURN: The relationships are very positive. How we run this and what we do is very positive in a not-so-positive situation. We are not dealing with the most positive times in people's lives.

Ms MUNCE: I had been doing general duties for five years, so I decided after attending so many domestics that there was an interest in a field I would like to get into just perhaps to offer the assistance you learn in general duties back to the new recruits coming through.

The Hon. GREG DONNELLY: To the Registrar, with the formal training of registry staff, is there any component that specifically elaborates, elucidates or talks about dealing with domestic violence matters and the need to deal with them in a particular way or is it just part of the overall training that you go to domestic violence matters?

Mr TEMPLETON: There is no specific DV training as such with us because we are not really interactive. The most interactive person would be the court officer calling the people into the court, but that is more facilitating the magistrate to have the parties present. In these situations the parties have virtually already made decisions themselves because most of the time they have signed consent forms. They are quite happy that they are a party to orders that have been made and are waiting for the magistrate to review what they seek.

CHAIR: Ms Porter, would you like to add anything?

Ms PORTER: No.

CHAIR: We like all our attendees to be inclusive.

Ms PORTER: I am happy to sit back here.

CHAIR: On behalf of the Committee, I first thank you, Magistrate Trad, for allowing us to watch the proceedings this morning in your court. Lance, thank you for taking the time to get everyone together. To Sergeant Walker and the rest of the DVLO team, thank you very much. Obviously, you are doing a great job. We hope that the Committee makes some recommendations that will have a positive impact on your work. On behalf of the Committee thank you for your time. We really appreciate it.

(Ms Trad, Mr Templeton, Ms Porter, Ms Walker, Ms Munce, Ms Charlesworth, Ms Radburn and Ms Curmi withdrew)

(The Committee adjourned at 1.10 p.m.)