



**Legal and Social Issues Committee
Legislative Council**

Inquiry: Inquiry into Children Affected by Parental Incarceration

Hearing Date: 31 March 2022

Question taken on notice

Directed to: Karen Fletcher, Chief Executive Officer, Flat Out Inc.

Ms Burnett-Wake Page no. 43

As noted by yourself:

The Women's Alcohol and Drug Service have a lot to do—not as much as we would like but something to do—with women at DPFC and also the Sunshine Hospital. But yes, there are serious concerns which we will, through our network or ourselves, provide further evidence on or point other people in your direction.

Response:

Please find attached the following documents:

- Newborn baby dies at Dame Phyllis Frost Centre, Melbourne;
- Transcript of Amy's evidence to the Inquiry into Vic CJ System – 21 October 2021.

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Coroner to probe newborn baby's tragic death in Melbourne prison

An 'incredibly vulnerable' newborn baby died in tragic circumstances in a Melbourne prison, a court has been told.



Caroline Schelle

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Prison guards and a nurse didn't try to resuscitate an "incredibly vulnerable" 12-day-old baby who wasn't breathing in a Melbourne prison, a court has been told.

The baby girl, who cannot be identified for legal reasons, died in the mothers and children unit at the Dame Phyllis Frost Centre on August 18, 2018

A coroner will probe the 12-day-old girl's death in the unit and is expected to examine circumstances around the tragedy, including the prison program, the environment and her medical care.

The infant's mum woke up between 5am and 5.30am to feed the newborn when she realised her baby wasn't breathing and her dummy wasn't in her mouth, counsel assisting Rachel Ellyard told the court on Thursday.

The mum and another prisoner in the unit tried to resuscitate the girl on a nearby couch and rang a buzzer to call for help, she told the court.

"Prison officers and a nurse entered the unit but it appears no CPR was attempted by any of them," Ms Ellyard said.



The 12-day-old girl died in the Mothers and children unit at Dame Phyllis Frost Centre at Ravenhall in Melbourne.

The little girl had only been released from her second hospital stay the day before, the court was told.

Her proposed medical cause of death was SIDS under category two, Ms Ellyard said.

The baby's mum was in prison during much of her pregnancy and on methadone treatment, she told the court.

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The infant was “incredibly vulnerable”, Ms Ellyard told the court.

“She was vulnerable because she was a newborn baby. She was vulnerable because she’d been born with an opioid addiction from which she was withdrawing and which gave her additional medical needs.”

The little girl was born on August 6 at Sunshine Hospital and was admitted three days later to the special care nursery where she was found to be jaundiced and losing weight since birth.

The nursery staff said the mum was “keenly involved” in caring for her daughter, stayed on the ward and was able to settle the girl when she cried, Ms Ellyard told the court.

The mum and baby were discharged from the hospital after eight days on August 14, but when a midwife visited the pair in the prison the next day, she found the little girl was still jaundiced and her weight had dropped again.

The pair were taken back to hospital and the infant was found to be “clinically well” but was mildly dehydrated, jaundiced, and it appeared some feeding advice hadn’t been followed.



A nurse and prison officers didn't perform CPR on a 12-day-old baby girl who stopped breathing at Dame Phyllis Frost Centre (pictured).

They stayed in hospital for another three days before the mum and baby were discharged back to the prison unit. The newborn died the following day.

Ms Ellyard told the court the baby's death raised important questions about children in prisons and how they were cared for and whose responsibility it was to ensure their welfare was "in view".

At the time the Department of Health and Human Services raised concerns about whether the infant should be in her mother's care because of fears about her access to drugs in custody.

The scope of the inquest had yet to be decided, but Ms Ellyard said it would be appropriate to get evidence from medical experts into the baby's care and evidence from child protection officers about supports available to the baby if she had been subject to a report.

She said how the decision was made to allow the infant to stay in the care of her mother at the unit, the environment at the prison and whether there were adequate supports in place and her medical care were key themes.

An inquest will be held at a later date.

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LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into Victoria's Criminal Justice System

Melbourne—Thursday, 21 October 2021

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WITNESS (*via videoconference*)

Amy.

The CHAIR: Good morning, everyone. Good morning, Amy. I just need to give you a little bit of information about parliamentary privilege, and I am sure that you have been alerted to this as well.

All evidence that you provide today is protected by parliamentary privilege and that is under our Constitution Act but also the standing orders of the Legislative Council. This means that any information that you provide to us is protected by law. You are protected against any action for what you say today. Of course if you were to go and repeat similar comments maybe outside this hearing, you might not have the same protection. Any deliberately false or misleading information or evidence may be considered a contempt of Parliament.

I mention from the outset that we will be recording this session, but rest assured that no names or anything will be made public.

So, Amy, if you would like to make some opening comments, and then we will open it up for a committee discussion.

AMY: Thank you, Fiona, and thank you for letting me appear before you today to share my story.

At the beginning of 2019 I had a seemingly idyllic life. I was living with my husband, and we had a beautiful baby boy who completed our blended family perfectly. I was working within the criminal justice system and in the final stages of completing my law degree. Even though I was married to the man I loved, over the years we were together when things were bad they were really bad. There was alcohol abuse, anger and arguments that escalated into verbal abuse, and actual physical assault occurred on occasion. In one such incident he strangled me and pushed my head back into the wall with such force that it left a dint that required repair.

Despite the instances of physical violence, the worst thing he did to control me was with threats to call the police if I did not behave the way he wanted. It was what I feared the most, and he knew it. He weaponised the system I worked within against me. Since I worked within the criminal justice system, I would lose my job and the kids would be taken away by DHS because I had exposed them to family violence. At the times he followed through with these threats he presented as a calm, rational man—putting up with a crazy, drunk wife—who just did not know what else to do but call the police.

One night in early 2019 I learned that my husband had transferred the proceeds of a house sold during our marriage into his mother's name in an act of deception and in an effort to thwart my access and right to this money if I ever left him. A verbal argument ensued that led to my husband holding me down and strangling me. I fought to pry his fingers off my throat, knowing that non-lethal strangulation is recognised as a significant precursor to intimate partner homicide and that this man was more than capable of ending my life that night. My efforts in defending myself were successful, but in doing so he was hurt. When this happened, he stopped attacking me, left the property and went to a neighbour's house across the road. By this stage I knew the police were coming. I did not know what was going to happen next, but I was determined to tell the truth. At this point I still had faith in the system I worked within and held the firm belief that truth equated with justice.

While there are moments of that night I do not remember, I can recall crystal clear my gorgeous 12-year-old son with tears in his eyes saying, 'Mummy, I saw him hold you down. I don't want to be taken away from you'. Even now, I can picture him standing there saying those words. Three years later, just thinking about that hurts my heart. I did not want to be strangled or killed by my husband that night, but I never wanted to hurt or abandon my children either.

As expected, the police arrived. I was as calm, collected and cooperative as I could be. I told them everything: he was strangling me—holding me down and strangling me; my son had witnessed it. One of the police officers at the scene walked off as I was in the middle of describing what had happened, dismissing the events of the night as a fight about money. The police arrested me, put me in the back of a divvy van and put me in a cell. For hours I still naively thought I could just explain what had happened and they would let me go. There would be consequences, and I could deal with those, but they needed to let me go.

I needed to go home to my children. The police denied me bail but told me I would be taken to court in the morning. While being held in the cells of the court I briefly saw a duty lawyer, who told me to apply for bail myself and, if that did not work, a lawyer could make a bail application on my behalf later down the track. I waited for what felt like an eternity to plead my case. When it was my turn, the magistrate explained that there was a presumption against bail and that I would need to demonstrate compelling reasons why I should be granted bail. In my mind I had a multitude of compelling reasons. I was 30 years old and had never been arrested, charged or convicted of any offence in my life. I worked within the criminal justice system. If remanded, I would lose my job. If remanded, I would lose my house and my two older children would go into foster care—and my eldest child, who witnessed my assault, had autism. My children needed me. I was defending myself. Bail was my last chance at keeping the remnants of my life together, and this was denied.

I was taken back down to the police cells, expecting to be put back in a cell down there. I was told I was getting on a bus, which is a deceptively pleasant way to describe prison transport vehicles. I asked where I was going. For all my intelligence and experience I was legitimately totally clueless. The police officer casually said, ‘Dame Phyllis’. At that moment that casual remark seemed to stop time right there and then for me. I had understood the process up until now, but I could not actually go to prison. I understood my arrest, my interview, my charge and having to sit in a cell, but I could not actually go to a real prison. But indeed, that is where I went. That journey was the scariest of my life, but I also sat there never wanting it to end, never wanting to reach my destination. Upon reception at DPFC, officers took pictures of the bruising on my neck and back caused by my husband. I asked that they send these photos to police. This either never happened or was merely ignored by police; either scenario seems equally likely. I was placed in protective custody given my work history.

I was given no information about my children. It was difficult to get in touch with my lawyer. It was impossible to contact DHS. I was held on remand for 110 days. During this time I only ever saw my youngest child on two occasions despite Children’s Court orders stating that he was to have contact with me once a month. Child protection disregarded these court orders without consequence. My two older children were in the care of the state, and child protection did not facilitate phone, video or contact visits at any stage—again, despite the existence of court orders directing them to do so. I did not see or speak to my older two children the entire time I was in prison.

My most serious charge was intentionally causing injury. While I firmly believed and still do that my actions occurred in self-defence, I was advised that such a plea would require my son, who had witnessed my husband strangling me, to give evidence and that the court does not look favourably upon subjecting children to cross-examination. Ultimately, not wanting to exacerbate my son’s trauma by making him testify and wanting to get out of prison so I could actually see my children, I entered a guilty plea. I was sentenced to 120 days of imprisonment, 10 days more than I had already served, plus an 18-month community correction order. During the sentencing hearing I had to listen to my husband’s victim impact statement, which made my stomach churn. I was informed by the magistrate that if I had not entered a plea of guilty my prison time would have been doubled.

The day I was released from prison was one of the worst days of my life, which is equally true and ridiculous. I had a stranger from ACSO pick me up from prison and drop me off at emergency accommodation that had been paid for for three nights. It was a worse environment than a cell at the prison I had just been released from. On the day of my release I had to report to corrections. I attended my appointment and burst into tears and told my case manager that this was the worst day of my life and I wanted to go back to jail—and that was me after 120 days, with no prior convictions or prison time, who just four months ago had been married, living with my husband and children, and had a full-time job. 120 days in custody was enough to crush my spirit, take away everything I loved and cared about and leave me homeless and thinking it would be easier just to go back to jail.

I have rebuilt my life, and I have a lot to be grateful for. However, there are other aspects of my life—some of the most important—that have been destroyed beyond repair. I will never again have custody of my youngest child. He is now four years old, has been diagnosed with autism and is completely non-verbal. Being denied bail, not being able to meet that impossible threshold of compelling reasons and being imprisoned for 120 days was enough to irreparably sever the bond I had with my baby and destroy any chance I had of ever regaining primary care of him. 120 days in jail meant that the first 17 months of his life in my primary care essentially counted for nothing in the eyes of the law and child protection. DHS did not believe nor were they ever

interested in my version of events. A guilty plea was the beginning and end of their investigation. Even now that I have rebuilt my life to the best of my ability and I have secure stable housing, employment and sole custody of my daughter, the best I can hope for is to one day attain equal shared care of my baby through family law proceedings.

I refuse to simply chalk up my 120 days of imprisonment and 18 months CCO to experience. I will use my privilege and unique combination of professional experience working within the criminal justice framework and lived experience of incarceration and my law degree to do everything I can for the voiceless and disempowered women who are, have been or will be condemned to being incarcerated at the state's only maximum-security prison for women. With this in mind I have some important messages for the committee.

Firstly, we know that the overwhelming majority of women in prison have experienced childhood trauma and family violence as adults. Prison replicates the exact dynamics of an abusive relationship and consequently inflicts the same powerlessness, harm and trauma. It takes away all of your freedom and autonomy. It tells you what you can wear, what you can do and when you can do it, what you can eat and when, and when you can see or speak to your family and friends. Prison robs you of your fundamental rights, such as access to legal representation and basic medical and health care.

Prison isolates you from the world. Prison quite literally reduces you to a number and places you in a concrete cage where strangers are suddenly entitled to search your belongings and subject you to an invasive strip search at any given moment. In order to have contact with visitors you must strip naked and change your clothes in front of an officer. Women are compelled to choose between seeing their children, friends and family or this degrading treatment, which in almost any other scenario would constitute a sex crime.

We are routinely sending already traumatised women into a place that reproduces their trauma day in and day out with the expectation that they will somehow come out changed or rehabilitated. How can we expect people born into intergenerational poverty, who are entrenched in cycles of disadvantage, who have complex mental health or substance abuse problems to even survive this system, let alone come out better? How can we expect this system to somehow reform people when it is a struggle to even survive it? And, quite frankly, the number of Aboriginal deaths in custody alone shows that some people simply do not.

Every day this state funnels broken women into a system, takes what little dignity, hope, family relationships and material possessions they have left and releases them into society a short time later hopelessly destroyed. This is what the system does in the name of community safety and rehabilitation. Even brief periods of imprisonment, and I dare say especially brief periods of imprisonment, are enough to ruin a person's life and change the trajectory of their children's lives.

Research has shown time and again that having a parent in prison exponentially increases a child's likelihood of being imprisoned as an adult. This is particularly so for women and children. The incarceration of a mother more often than not leads to child protection involvement, which increases the likelihood of a child coming into the youth justice and then later the adult corrections systems.

Secondly, we need to end the punitive response to complex social problems. Police cannot be society's only response to family violence. The solution to family violence is not handing an abusive man a piece of paper telling him not to assault his spouse again. So much funding is allocated to addressing family violence, yet our approach to the issue does not change. We keep doing the same things over and over again, the police keep responding the same way and women keep dying at the hands of their partners.

The police have consistently demonstrated that they are not adequately equipped to accurately identify primary aggressors in family violence situations. Incorrectly identifying the primary aggressor and the subsequent misinformed decision-making by police can have lifelong and devastating consequences for women and their children, especially when police determinations lead to child protection intervention and the removal of children from their mother. I was misidentified as a primary aggressor, and I thought if I just told the truth people would understand; instead I spent four months in custody and lost almost absolutely everything. Research undertaken by the Women's Legal Service Victoria found a staggering number of women are misidentified as primary aggressors of family violence. Their research shows that this is not a case here or there that the police are getting wrong; it is a systemic and ingrained practice which actively harms women and their children every day.

In my case, and in the case of so many women, men weaponise the system. Worse than any threat of physical harm, my husband controlled me through threats to call the police, knowing I would lose my job, knowing the kids would be taken away and knowing that that is what I feared most. Men know what women value most—their freedom and their children—and they can control women through fear of losing either or both. Abusive men control women in their home and in every aspect of their lives that they can. The manipulation of the system is merely an extension of that dynamic beyond the four walls, making it impossible for a victim to seek help from police, family violence services, mental health or other services. Criminalised victims of family violence feel isolated and can be actively prevented from accessing family violence support services as they have been labelled as perpetrators.

The police say they can only respond to what they see when they attend a scene, which seems a fair enough statement until you actually examine the response of police attending family violence incidents. In my case the police seemed entirely disinterested in what I had to say, because the argument that started the events of that night involved my husband transferring the proceeds of a house sold during our marriage into his mother's bank account. Instead of recognising this as financial abuse, the police thought it was entirely appropriate to walk away, dismissing the entire incident as a fight about money, as I was halfway through explaining the events of the night to them, which had involved me being held down and strangled. Given the lack of interest in even listening to what I had to say, it is unsurprising that police did not believe my account of what had happened. No further investigation occurred beyond the police's initial attendance and interview with me on the night of my arrest. I felt my experience was isolated, but the more people I speak to the more I realise that it is widespread and that every woman thinks she is the only one.

As I meet more and more women who have had experiences like mine, I find solace and comfort in the fact that I am not alone; that I am not crazy, as my husband had everyone believe, or dangerous and violent, as the police told the court I was. I am not the monster child protection court reports paint me to be, but I am utterly dismayed that the manipulation by men of systems like police, child protection and CAT teams—services intended to help people—to perpetrate further abuse runs rampant and unchecked, and that police and support services are seemingly blind to the fact that they are being manipulated and weaponised to harm the people they are designed to protect. We need an entirely different system in place that is not punitive and that genuinely supports women to get out of violent relationships without punishing them.

We need to make sure our systems work towards keeping families together. My 12-year-old son's last words to me were that he did not want to be taken away from me. After what he witnessed, his concern was being taken away from me, yet that is exactly what the police and child protection did. They arrested me and issued IVOs protecting my children from me, because I had exposed them to family violence. My other two children were asleep in their beds at the time. After seeing what he saw, my son wanted and needed me, yet the government agency, whose legislative mandate is to act in the best interests of the child, thought they knew better, as did the court, who rubberstamped the police-initiated IVOs.

My 17-month-old baby was taken away from his mum one night and never returned. The extent of the damage from that separation and trauma can never truly be known, I suppose. However, given that he is now four years old and he is completely non-verbal, with no method of communication, I believe that demonstrates some indication of the extent of the harm he endured by being abruptly separated from me, a separation solidified by a series of determinations by police, child protection and courts, meaning that he will never return to my full-time care. The trauma he suffered in 2019 impacts him to this day and by all accounts will impact him for the rest of his life.

Police, child protection, family violence and mental health services need to be made aware and be trained to detect men's weaponisation of support services to further perpetrate abuse and to isolate women experiencing family violence. Police must stop being the response to family violence. This approach does not work and costs women their freedoms and their lives. We need to stop demonising women and let them seek help without punishing them. Instead what we have is a system that routinely removes children from their mothers who are sent to prison, single-handedly ensuring that children are far more likely to end up in prison themselves.

Third, and my final point, is that we must urgently amend the bail laws. We must restore the presumption of bail and revert to the principle that remand and imprisonment should only ever be used as a last resort. We are told that it is society's worst people being kept in prison and that we are being kept safe. This is categorically untrue. The Ombudsman has reported that the majority of people in prison come from just six postcodes. Our

prisons are not full of our most dangerous citizens; they are full of our poorest, our homeless, our most vulnerable and disadvantaged.

I know I was remanded because of bail laws that removed the presumption of bail, and I know that these bail reforms were enacted in a kneejerk reaction to the gross acts of violence perpetrated by men—because the police failed to show that James Gargasoulas was a risk to the community. These law reforms are enacted in the name of community safety, when people like Adrian Bayley and Sean Price rape and murder women while on bail or parole, yet these reforms disproportionately affect women and their children. There are literally hundreds of women who have had their lives ripped apart by tough-on-crime policies that should not target them. Women like me are denied bail, despite the Law Institute of Victoria's submission to this inquiry stating that a lack of criminal history and their vulnerability in custody can constitute compelling reasons to grant bail.

In applying for bail I explained to the court I was defending myself after being held down and strangled in front of my son. I told the court that I had no criminal history; I had never been arrested or charged for anything in my life; I had a steady job in the criminal justice system; I had three children, including a 17-month-old baby who had never left my side and two older children, one of whom had autism; denying me bail would mean that my two older children would go into foster care, I would lose my house and my job and I would need to be placed in protective custody in prison. And if all my circumstances did not constitute compelling reasons, then I literally did not know what does.

Once I got to prison I was so constrained in what I could do. I was not able to contact a lawyer; I had to wait for a lawyer to arrange a time with the prison to speak to me. I never knew when this would be. I did not know when I would next be going to court. Women told me that they often did not know until the morning of a court date, when they were told to get ready to get on a prison transport vehicle to court. By the time I had actually spoken to a lawyer and been allocated a court date for a bail hearing I was in a much worse position than the day I was arrested. I had lost my housing. I could not even make an application for bail without a fixed address. So there was absolutely no opportunity to have a lawyer present my compelling reasons to the court. Remand should be a last resort, and an accused person's parental and caring responsibilities must be considered by the court as constituting compelling reasons. The consequence of not doing so is so harmful to children that it cannot be justified.

I know I have said a lot, but I have tried to keep it to these three points. I would like to finish off by saying that I survived this experience by the skin of my teeth. It is the result of my privilege—the fact that I finished high school with a VCE certificate and a high-enough entry score to gain entry into a bachelor of laws, that I had a solid work history, that I had a small but supportive group of friends and family—that I eventually rebuilt my life. I got a job, I finished my degree and I regained custody of one of my children and see the other two regularly. I can only imagine how much more difficult it is for people who are entrenched in cycles of poverty, homelessness and offending, who grew up with parents in prison or in an environment where it was the norm, who also have substance abuse or mental health issues. It is a product of my privilege of being a white woman in prison that not once did I think I would die in custody, but for Aboriginal people death in custody is a very real and present risk. I certainly spent nights lying in bed locked in a cell wishing I was dead, but it never crossed my mind that there was even the possibility that I would not walk out of that prison alive. I know that that is a privilege, but at the same time I am absolutely outraged that it is.

This is my story, and I recognise that I am privileged enough to have been able to recover and rebuild my life. I know not all women will or will even get the chance to. I know that there are women sitting in cells as I speak missing their children, facing the prospect of never regaining custody of them, being revictimised by a system that calls itself justice. I am speaking here today because I want to share my voice with every woman who has been silenced by the system. I want the reality of the impact of the bail law reforms to be known. These laws, police and prisons are not keeping us safe. They are destroying women's lives and tearing families apart.

As my final remark I will say that the fact that the majority of the prisoners at DPFC are being held there on remand is, in and of itself, a grave injustice that should not be tolerated in a legal system that is underpinned by the fundamental right to the presumption of innocence. Thank you for listening.

The CHAIR: Amy, that was extraordinary. Thank you so much. It was remarkable. It was so eloquent and so beautiful and you have managed to encapsulate, I think, every single submission that we have received in that. You covered so many of the issues, so we really thank you. Your testimony will really help this inquiry. I

am optimistic that this inquiry will meet some of those issues that you have raised in your submission. Again, thank you. I will start the questions; we have just got a little bit of time for a few questions. You talked about that experience with the police and you talked about how police are not the answer to family violence and the issuing of a piece of paper. Have you got a picture of what it should have looked like when the police came to your home? Do you have a picture of who should have been there and how that should have or could have played out?

AMY: I guess ideally it never would have escalated to the point of the police being there. But I also had an opportunity to speak at a forum with the monitor of the family violence review, Jan Shuard. I shared my story, and she asked me the same thing. She said, 'Well, what could have been done beforehand to stop it getting to that point?'. I said to her, 'There's nothing in place that I could have done'. I had three options. I could have just let my husband kill me. I could have fought back, like I did. Or, presuming he stopped strangling or trying to kill me, I could have gone to the police the next day and said, 'My husband strangled me in front of my son' and then they could have either not believed me, like they didn't, or they could have under the existing legislation and policies been ordered to mandatorily report to child protection and my children would have been taken away because I exposed them to family violence, and they would have automatically applied for an IVO against him. And I am just supposed to hope that the police, in approaching a man and giving him a piece of paper that says, 'Don't strangle your wife. She told us what you did', do not enrage him enough to come and kill me. There are no other options for women while mandatory reporting and punishing women for exposing their children to family violence, like it is some choice that we actively make—there is no other option.

If I could have accessed a family support service and got advice, made safety plans, accessed housing or put any other supports in place without triggering a mandatory report to child protection, I would have. But that is not how it works, and that is exactly what my husband and many other abusive men know. So women stay because they are making the choice to keep their children with them, as safe as they can, and they also know that leaving a violent relationship is one of the most dangerous times.

The CHAIR: Thank you, Amy. I will go to Dr Tien Kieu. Thank you.

Dr KIEU: Thank you, Chair. Thank you, Amy, very much for appearing here today and sharing the very concerning story of what you have gone through, and may we congratulate you, for lack of a term, for what you have achieved. I know that there are many more challenges ahead. I also want to commend you for your dedication in raising the lives of people in the situation like you have gone through. And you have raised many, many interesting and very valid points, and that will be helping us very much in our report.

Now, going back to the police, when they came to your place at the very beginning of the whole story it was misinterpreted. Rather than family violence, it was somehow put down as a financial argument. So my question is: is there any special unit in the police force to deal with family violence? Because normally, as the first responder, the police will come, and they will not have the knowledge, they will not have the empathy and they will not have the culture, and they cannot empathise with the people in that situation. So do you think that we should have a special unit in the police force or in the system to deal with family violence situations? Because it is very complicated and it is requiring a lot of special understanding and training.

AMY: I do not know what exists for family violence victims within the police, because I was treated as a perpetrator. You know, how much training can you do? How many specialised units of police can you make? It is just so ingrained in their culture. You can set up, you can train them, but that does not really seem to do much. Nothing in what the police do, whether it is misidentifying women as primary aggressors or even when women do leave and report family violence and get IVOs and then still end up being murdered—like, the police response does not work at any stage. It is a complex issue, and it needs to be addressed on so many more levels than two guys with guns showing up one night and deciding what happened and then that is it—that is the rest of my life and that is the rest of my children's lives.

The CHAIR: Thank you. I will go to Tania, then Matthew, then Sheena.

Ms MAXWELL: Thank you, Chair. Amy, thank you for being here today and telling your story. We are all very grateful that you survived that terrible incident and that you are able to articulate so well your story. In order for us just to get some further information on how the system has let you down I am interested to know: were there any charges laid on your husband? You have stated in your story that there had been other assaults

which had occurred on different occasions. Had you ever reported him to the police, if that was him perpetrating those prior assaults?

AMY: No charges were laid against him despite me having bruises on my neck and back from him. The police did not believe me. They did not even consider that I was acting in self-defence. And I did not report any prior physical assaults or the ongoing coercion, the coercive control and financial abuse, again because if I on a prior incident reported to the police or a family violence service that my husband strangled me to the point where a dint was left in the wall while my children were present, that again triggers mandatory reporting and DHS would intervene because I had exposed my children to family violence. And it is entirely irrelevant whether they actually see it or not—like, being in the house. So there is actually no way to access support without having your children removed, so you are punished again, in the event that the police believe you. Also, reporting to police with their standard response being to issue an IVO—like, every week a woman is killed by a former or current partner. We know that the police response aggravates them. So it is a risk assessment that I do and that women out there do every day that I can stay and stay alive, or I can try and leave, try and get someone to believe me and hope that I do not end up like Hannah Baxter, being burnt alive.

Ms MAXWELL: Did you ever seek support from other organisations to help you? Obviously with these previous physical assaults and things, had you ever been able to speak to an organisation to help you to perhaps leave?

AMY: No, because they take away your children.

Ms MAXWELL: That is not always the case though, if you are not the perpetrator through other instances, that the children will be automatically removed. That is simply not true.

AMY: I can tell you it is, because the grounds for DHS intervention and removal of children is exposing them to family violence—not that they are harmed, that they are present in the house and exposed to family violence.

Ms MAXWELL: Astonishing. That is just absolutely astounding. So, Amy, you said that you had photos and things of that strangling. That is horrendous. Were you taken to the hospital?

AMY: No. They did not take photos until I got to the prison the next afternoon.

Ms MAXWELL: So still no medical care to do a full report that he had actually strangled you?

AMY: No.

Ms MAXWELL: Thank you.

The CHAIR: Matthew.

Dr BACH: Thanks, Fiona. Thanks very much, Amy, for being with us. As others have said, I found your testimony to be very compelling. I find you to be a very compelling witness. Can we stick on police for a moment? I hear you loud and clear on bail, and I think I understand you clearly on bail. Is it correct, following on from questions from others, Amy, that on previous occasions your husband had followed through on threats to call the police—that he had called police about you before?

AMY: Yes.

Dr BACH: All right, fine. Many years ago when the coalition was in government I was an adviser to the minister for the prevention of family violence, and at that time we put in place a report that found very clearly, of course, that family violence is deeply gendered—that the number of female perpetrators is incredibly low and the number of male perpetrators is very, very high. So therefore you would hope and presume that responses from police in this case—and again, I hear you that you would prefer responses to come from elsewhere, and I do not disagree with you there—would be handled differently. On the face of what you have said, at a minimum what you have described would look like, to people attending your house after being called by a husband, a case of ‘he said, she said’. There were marks on your husband, there were marks on you. He had a story, you had a different story. And yet you were treated very, very differently, as you have said. Is part of your assessment about why that occurred the fact that presumably the coppers had looked up beforehand and

seen, ‘Amy’s been reported to us on a number of occasions’? Is that part of what you are saying why it is they bought the story that you are a violent person? You said before that part of the narrative was that you were bonkers, you were mad, which so often is part of the slur that violent men direct towards women. Is that part of the reason, do you think?

AMY: Absolutely, and that is a very good observation. And also to tie back, yes, there were occasions where he did call the police on me, and they were verbal arguments. Neither of us was physically hurt. As a follow-up to Tania’s question, every time the police attended—and they attended to defuse the argument; there were no intervention orders or charges or any follow-up—the DHS were notified every time. In that case even when the police took no further action, they still reported it to child protection. They called us. They are still calling me and saying, ‘You’re a perpetrator of family violence’.

But to answer your question, Matthew, yes. There would be an argument that really escalated, and I would not back down—purely verbal. To get me to shut up or behave the way he wanted, or whatever it was he wanted in those circumstances, he would call the police—again, a handful of the times that he actually threatened to. By the time they arrived I was beside myself. I was distressed. I was crying. We had argued. I was so worried about the police coming and the consequence of that. And he was just calm. He was just like, ‘You know, what else could I do?’. It was that, ‘I’m so sorry to bother you, but it’s just I’ve got this crazy wife and I can’t get her under control. If you could just help me out’. And the police—they talked to him. They sent a female officer in to me, they sent a man in to—and they diffused the verbal situation.

Dr BACH: Thank you, Amy. What would you have us recommend? You said before that your assessment is—and I do not want to verbal you, but this is how I understood you—that the police came and had a certain understanding of the case and, kind of, that was it. Your life was set at that point on a very different trajectory, as you have said. Now, again, I have heard you on bail and a whole range of other areas, and like the Chair said, we take that evidence very seriously. It backs up evidence we have heard from elsewhere. We will most certainly consider that in a very serious way as we compile our report. On this nonetheless really important matter, about training for law enforcement and the way they view these sorts of situations, what would you have us recommend about that initial interaction? I hear you: you prefer a different response to a police response; nonetheless, if people call the police, well, the police are going to come. Okay. So if that occurs, what would you have us recommend to hopefully—notwithstanding the facts of the matter in your case—ensure that there could be different responses for women in future?

AMY: I guess I do not have a specific thing—like, how to train the police. I do understand they have to assess the situation that they are called to and that they make snap decisions. The problem with my case is that decisions were made that night and there was no follow-up. I was never questioned again. The police’s stance on what happened that night did not change from the night. They still during sentencing maintained the same narratives. So it was not like, ‘We were responding to an emergency situation, but look, we’ve looked into it over the last four months and have found these patterns of’—they stood by their narrative and their initial investigation, and that was it.

So I think if it is going to be a police response, there needs to be so much education and training about making broader assessments. Look at this research that says—it is not just me; this did not just happen to me. Look at this systemic abuse and recognise financial abuse. Like, that was not even considered. Yes, police have to respond to the situation, but if they are going to charge someone or make intervention orders or decisions about where people go or children go—financial abuse, that is a huge red flag; calls to verbal arguments—they can be trained to look out for these things and make broader assessments when there are these patterns. It is the same with reports to child protection. I did not personally experience this, but another way men can control is by making calls to the CAT team and trying to get women. You know, they are so crazy.

Dr BACH: Just crazy, yes.

AMY: ‘They are going to kill themselves’, ‘They are going to harm themselves’, and they get them detained at a psychiatric hospital. If police were willing to see beyond what was presented to them and not just make snap decisions about bad guy, good guy: the thing that struck me in my case is that it did not seem strange to the police, the court or child protection that a 30-year-old with no criminal history who works within the criminal justice system would just suddenly offend—one crime. That did not raise a question of why she would do that.

Dr BACH: Thank you, Amy.

The CHAIR: Sheena.

Ms WATT: Hi, Amy. Good morning. Thank you so much for firstly writing to us and your submission but then also coming before us today. I think that my colleagues here on the committee have asked some really excellent questions with respect to the police system and the family violence interface, but I recall you talking about the financial abuse, about the transfer of the money from the sale of your family home, and I just wonder if you have any commentary or thoughts around financial abuse and how the system really supports victims of financial abuse, because it is a very substantial issue to have your family wealth lost in such a devious way, I must say. So I just wanted to know if you had any comments to share about that journey and what that has meant for you and how hard that has been and what we need to do about it.

AMY: Thank you for your question—

Ms WATT: It is a little bit different to the others.

AMY: and recognising that as an issue in itself. It is sort of a minor issue in the narrative. I do not have any experience of what support is there, because it has never been dealt with. The only thing I can say is that it is not a concern of the police. It is not even taken into consideration in informing their decisions. Even though I told the police what had happened—I said this—it did not inform their decisions about bail, intervention orders or charges. It was not presented to the court. It was not considered relevant at all—what the fight was about—and I have not accessed any family violence or financial counselling, because I am the perpetrator. So that is just gone.

Ms WATT: Wow. That seems to me like such a giant injustice on top of everything else that you have already faced. Getting back on your feet after all of this is enormously difficult—and yet still to not have access to what is really part of your wealth and being able to provide for yourself and your family. I was really impressed by your statement earlier on and some of your questions. I did not really have a follow-up except for that question about financial abuse, so thank you very much.

The CHAIR: Thank you so much, Amy. This has been a really powerful testimony. This will be a really important part of our inquiry. I think that you covered so eloquently the harm of prisons, the effect that this has on children—the ongoing effect—the problems with our bail laws and, most importantly, I think, that misidentification of victims. I think this will be something that we will continue to ask others about how we fix that. Should there be a secondary referral when a female is seen as the perpetrator? Should that trigger another action or further questions, which did not happen in your case? So while I am so sorry for what happened to you, we are so grateful for you telling this story, because hopefully it will change things in the future.

As I mentioned, I suspect there is a bunch of people in Hansard crying and listening to every word that you said, but they will send you a transcript of today, so please have a look. Make sure that we did not mishear you or that your transcript does not misrepresent you in any way. Thank you again, and I hope you have got a nice cake or cup of tea to have after this—it is well deserved.

Witness withdrew.