



TRANSCRIPT OF PROCEEDINGS  
*Fair Work Act 2009*

**VICE PRESIDENT WATSON  
DEPUTY PRESIDENT GOOLEY  
COMMISSIONER SPENCER**

**AM2015/1**

**s.156 - 4 yearly review of modern awards**

**Four yearly review of modern awards  
(AM2015/1)  
Family and domestic violence clause**

**Melbourne**

**10.05 AM, MONDAY, 14 NOVEMBER 2016**

PN1

VICE PRESIDENT WATSON: Can we have the appearances, please?

PN2

MS BURKE: Good morning, members of the Full Bench, Ms Burke for the Australian Council of Trade Unions.

PN3

VICE PRESIDENT WATSON: Ms Burke.

PN4

MR B FERGUSON: If the Commission pleases, my name is Ferguson, initial B, for the Australian Industry Group. With me is Ms Bhatrr, initial R.

PN5

VICE PRESIDENT WATSON: Mr Ferguson.

PN6

MR M WARD: If the Commission pleases, Ward, initial M, appearing with Mr Arndt. I continue my appearance for the Australian Chamber of Commerce & Industry, the New South Wales Business Chamber, and Australian Business Industrial.

PN7

VICE PRESIDENT WATSON: Thank you, Mr Ward. Yes, Ms Burke?

PN8

MS BURKE: I begin with some very minor administrative matters. I understand that some additional material is sought – well, I don't understand, I know that the additional material is sought to be tendered by the ACTU and that material was emailed and hard copies have been provided to members of the Full Bench. There may be some objections to some of those and we propose to deal with those as the witnesses come up, if that's appropriate.

PN9

VICE PRESIDENT WATSON: Thank you. Yes.

PN10

MS BURKE: The second matter is just to confirm that on 5 October 2016 when the ACTU filed its reply material, we also filed an amended clause, proposed clause, and I have got copies of that if anybody needs additional copies. I understand there's no objection to those amendments.

PN11

VICE PRESIDENT WATSON: No objection to the claim being amended?

PN12

MS BURKE: Yes, no objection to the claim being amended.

PN13

VICE PRESIDENT WATSON: Yes. I thought I understood what you meant. Yes.

PN14

MS BURKE: We live in hope. The third administrative matter is, this morning we received some objections from AIG to lay witness statements and I've had some discussion with my friends and we propose to deal with those, to the extent we can, overnight and tomorrow morning. Those we can't resolve, we will deal with as the witnesses appear, if that's convenient to the Commission.

PN15

VICE PRESIDENT WATSON: Those objections relate to – I think they're described as lay witnesses, or non-expert witnesses?

PN16

MS BURKE: Yes.

PN17

VICE PRESIDENT WATSON: And the first of those is tomorrow?

PN18

MS BURKE: Yes, Ms Beaumont.

PN19

VICE PRESIDENT WATSON: Yes. Yes, well, I think that's an appropriate course to deal with that tomorrow, to the extent of ongoing disagreement.

PN20

MS BURKE: Thank you. And finally, I would just like to do a short outline before calling the ACTU's first witness, Dr Cox. The ACTU has brought this application for paid family and domestic violence leave as part of the four yearly review of modern awards conducted by the Fair Work Commission. The modern awards, together with the national employment standards form part of the guaranteed of fair, relevant and enforceable terms and conditions of employment. As per section 138 of the Fair Work Act, modern awards can only include terms to the extent necessary to achieve the modern awards objective and it is the ACTU's case that family and domestic violence leave is a necessary part of the safety net of minimum terms, in the most literal sense of that term, the safety net. In this short outline I want to set out the framework for this application by addressing three matters. First, the relationship between family and domestic violence, and the workplace; second, a brief summary of the evidence relied on by the ACTU; and finally, the demographic profile of award covered employees and the necessity of the proposed course.

PN21

This application proceeds from a basic premise which is that family and domestic violence is a workplace issue in Australia. It is a workplace issue in the way that many other events in employee's lives interact with and have an impact on work. For example, being sick and unable to attend work, or being a parent, are workplace issues. Family and domestic violence leave is a workplace issue because financial stability, and therefore employment, are crucial to enable

women and men affected by family and domestic violence to leave violent relationships and to recover from those relationships. And the evidence is that a worker's economic status shapes their capacity to escape violent relationships and of course employment is central to economic power.

PN22

It is a workplace issue because Australian workplaces are already losing money each year because of family and domestic violence. The most recent costings provided to the commonwealth government in May this year are that family and domestic violence cost the Australian economy 22 billion dollars per year and Australian employers bear 96 million of that cost arising from staff turnover including search, hiring and replacement costs and associated management costs. The costs to employers are significantly higher when taking into account lost productivity and absenteeism. And I have referred there to the KPMG report provided to the commonwealth government. Those figures are approximately consistent with the figures in the PWC report, that's the next statement of Ms Eckersley. The PWC will be giving evidence on Thursday.

PN23

Finally, family and domestic violence is a workplace issue because the rates of family and domestic violence in Australia are at a crisis point and require a whole community response. Family and domestic violence is different to other forms of violence because in its most common form, it takes place in the home, it's ongoing and it disrupts workers' social and economic participation. It is a chronic form of crime and partly for that reason it's a complex problem that requires a multi-faceted response, and workplaces, being a vital part of the community, are a vital part of that response.

PN24

Over the next week the Commission will hear evidence from a range of experts and professionals working in domestic violence support services and conducting research on what family and domestic violence looks like in Australia, and what is necessary to prevent violence and to support victims. The best data that we have about the prevalence and the incidence of family and domestic violence is from the Australia Bureau of Statistics Personal Safety Survey which is a household survey, completed face to face, about inter-personal violence in Australia. The ACTU will call Dr Peta Cox to give evidence about what the PSS shows, which is that one in four Australian women over the age of 15, or nearly 2.2 million women, have experienced violence by an intimate partner with the majority reporting that the violence occurred more than once, and approximately 694,000 men have experienced violence by an intimate partner. In the most recent version of the PSS the ABS reported that approximately 187,000 women and 75,300 men experienced domestic violence in the previous year and of those, the majority were in paid work. These statistics are based on reported incidents, and most instances of family and domestic violence go unreported. So it's widely recognised that prevalence and incidence figures are likely to be higher.

PN25

Family and domestic violence affects women and men across the socio-economic spectrum. Economic resources do not insulate people from family and domestic violence but financial resources, which of course, for most people, are derived

from employment, are crucial to recovery. The impact of family and domestic violence is multi-faceted and this is relevant for the purposes to which paid leave is directed. First, there's a substantial impact on health. Among women aged between 15 and 44, intimate partner violence is the leading contributor to death, disability and ill health in Australia and is more damaging than any other risk factor for chronic disease. These figures have been unchanged for over ten years.

PN26

The evidence points to a clear line between economic security and health and wellbeing which is why continuity of employment is necessary to enable victims of domestic violence to recover from the impact of that violence. Second, there is a significant impact on children who are also victims of family violence. The evidence is that children are significantly more likely to manifest higher rates of depression, anxiety and behaviour problems and because women are overwhelmingly the carers of young children and assume responsibility for attending to those problems, this can deplete carers' leave over time and give rise to a need for additional leave.

PN27

Third, the financial detriment suffered when leaving a violent relationship is substantial. By way of example, the PSS tells us that seven out of ten women who leave violent relationships leave behind property including their home and assets. And following on from this, family and domestic violence has a profound impact on housing and is the most common reason that people give for seeking assistance from government funded homelessness services. Half of women with children seeking assistance from homelessness services are doing so because of family and domestic violence.

PN28

So it's clear that the needs of people affected by violence are numerous and in particular, there are many urgent and necessary tasks that need to be attended to in a short time in order to leave an abusive relationship. And the Commission will hear evidence this week from witnesses about those tasks and they include visits to police, appointments with lawyers, attendances at court, hospital and medical appointments including counselling, financial counselling which is necessary to deal with the increasing likelihood that financial abuse is part of their experience of family and domestic violence, making arrangements for children affected by family and domestic violence, and most crucially, escaping and making emergency alternative accommodation arrangements. Aside from the obvious trauma associated with domestic violence, the sheer logistical challenge of seeking support for family and domestic violence should not be underestimated. It bears stating the obvious that many support services, particularly courts, counsellors, schools and refuges only operate during business hours. Further, the nature of family and domestic violence means that accessing support services is rarely something that can be done in an orderly and predictable manner outside of working hours.

PN29

At present, award covered employees affected by family and domestic violence have no recourse to paid leave for the purposes of attending to many of the activities that I have just outlined. So who are these award covered employees?

Well, relying on the most recent data from the ABS Employee Earnings and Hours collection, we know that award covered employees make up 1.86 million employees. That's about 18.8 per cent of all employees in Australia. Over 57 per cent of award covered employees are women and the majority of all award covered employees do not work full time. Forty-five per cent are employed on a casual basis, and 18 per cent on a part-time basis. There is a clear gender split between how men and women are employed. More than half of male employees working under awards are employed on a full time basis but by contrast, 75 per cent of award covered women are employed on a casual basis, that's 51 per cent, or a part-time basis, about 24 per cent.

PN30

Award reliant employees are generally low paid and fall behind in terms of income when compared to other wage earners and to household income measurements in Australia, and that's cited in the *Annual Wage Review* from this year at paragraph 462.

PN31

DEPUTY PRESIDENT GOOLEY: Sorry, what paragraph was that?

PN32

MS BURKE: 462. But what all this means is that the 45 per cent of award covered employees who are employed on a casual basis have no access to paid leave in any form, and this includes 51 per cent of all women paid under a modern award. And those employees that do have paid leave entitlements, for those employees their rate of pay is comparatively low and the result is, in many situations workers affected by family and domestic violence have to choose between their safety and their wages. It is for these reasons that the ACTU is seeking the inclusion of up to ten days paid leave in all modern awards for persons affected by family and domestic violence, in order for employees to attend to the activities necessary to recover from violence and abuse. It is important to emphasise that the ACTU recognises that no single initiative will prevent family and domestic violence. But just as sick leave does not prevent illness, the provision of sick leave is nonetheless a necessary component of the whole of community response to illness.

PN33

Sick leave, along with health and medical services, public health, education and primary prevention strategies, plays an important role in the community's response to illness by allowing employees who are unwell time to recover and return to work. In the same way, paid family and domestic violence leave to allow people to attend court or to see a counsellor, or to make arrangements for emergency accommodation will help prevent the financial instability that is so devastating to a person's attempt to recover from a violent relationship. And so by providing paid leave, employers will enable employees to safely escape violent relationships while maintaining their employment, which will help prevent future violence. In this way, it falls under what we call a "tertiary prevention strategy." And over time, it's expected that will lead to a reduction in the cost per year of family and domestic violence already being incurred by Australian employers and it will enable workplaces to be part of the solution to a complex and pervasive

problem. That's all I want to say by way of opening. The first witness I will call is Dr Peta Cox.

PN34

VICE PRESIDENT WATSON: Doctor Cox.

**<PETA COX, AFFIRMED**

**[10.19 AM]**

**EXAMINATION-IN-CHIEF BY MS BURKE**

**[10.19 AM]**

PN35

VICE PRESIDENT WATSON: Thank you, Doctor Cox, please be seated. Ms Burke.

PN36

MS BURKE: Doctor Cox, can you please state your full name again for the Commission?---Peta Cox.

PN37

And your address?---31 Market Street, Sydney.

PN38

And your occupation?---I'm Senior Research Officer.

PN39

Can I hand up a folder please, to the witness. This is a folder of all of the expert witness statements but of course, it's only proposed to take Dr Cox to her statement. It is just for convenience. Doctor Cox, have you prepared a report for the purposes of this proceeding?---I have.

PN40

And could I ask you to open that folder and look for the tab with your name on it and there should be two sub-tabs there, marked 1 and 2. Looking at the first one, is that a document headed, "Statement of Dr Peta Cox", 12 paragraphs, signed and dated by you on 26 May 2016?---It is.

PN41

And there are three annexures to that statement, marked PC1, which is your curriculum vitae, PC2, which is a letter of instruction from the ACTU, and PC3, which is a report prepared by you dated 29 April?---That's correct.

PN42

And I understand that you wish to annex a further document to this report, and that is the report titled, "Horizons"?---Yes, that's correct.

PN43

MR FERGUSON: I object to that additional – well, to that question and I will object to that additional report being tendered when the (indistinct) seeks to do that. I'm happy to address the Full Bench at this point in relation to those objections.

\*\*\* PETA COX

XN MS BURKE

PN44

VICE PRESIDENT WATSON: Is it necessary the document be tendered through this witness?

PN45

MS BURKE: The witness is the author of the document and if I can just explain, it's the primary source material from which the witness has derived her report to this Commission. So this report was prepared as an analysis of the PSS and there is a lot in that report and we've asked the witness to pull out what is relevant and put that in her report before the Commission. So it's really background material that may assist the Commission's understanding of the report as a whole.

PN46

VICE PRESIDENT WATSON: And why wasn't it provided earlier?

PN47

MS BURKE: It was referred to and hyperlinked in our submissions but it wasn't annexed. It was an oversight.

PN48

MR WARD: I want to raise an objection because I'm the person who's examining Dr Cox to day. If I'd had the knowledge that I'm going to rely on the report as evidence, I would have reviewed it in preparation for cross-examination.

PN49

VICE PRESIDENT WATSON: So your objection is a fairness one in terms of you're not in a position to cross-examination effectively - - -

PN50

MR WARD: Yes, correct.

PN51

VICE PRESIDENT WATSON: Without the opportunity to review this document in advance.

PN52

MR WARD: Yes, Commissioner. That could be resolved, obviously, by you accepting this report and giving me an opportunity to read it, and recalling Dr Cox if needed.

PN53

VICE PRESIDENT WATSON: Can you cross-examination partly, at this stage, or is it - - -

PN54

MR WARD: Commissioner, I'm fully comfortable with what I've got to do today, but there may well be things from the Horizon report that I would also want to take Dr Cox to which, at the moment, I don't know of.

\*\*\* PETA COX

XN MS BURKE

PN55



So if you had that opportunity to cross-examination later then that would address your concerns?

PN56

MR WARD: It would, your Honour, yes.

PN57

VICE PRESIDENT WATSON: Mr Ferguson, is it going to address yours?

PN58

MR FERGUSON: No, your Honour.

PN59

VICE PRESIDENT WATSON: Nice try.

PN60

MR WARD: I'm the helpful one, obviously.

PN61

VICE PRESIDENT WATSON: Right.

PN62

MR FERGUSON: There were directions set last November for the filing of material and that included a direction that all documents upon which the parties intended to rely was to be filed. Now in accordance with those directions this sort of material ought to have been filed in June. Now there is unfairnesses that flow from the union's attempt to now tender that material. The first is similar to what my friend has put in that this material is going to be tendered along with, I understand, a raft of other similar material that the unions have foreshadowed are proposing to tender during the course of this hearing. We were made aware of this intent on Thursday but not provided with a link to all the relevant material until Friday. But the reality is, as I think my learned friend just put, it is a detailed report. Now from a practical sense we have not had an opportunity to properly consider all of that report. Had we been in receipt of that material that would have coloured our decision as to whether or not we'd require the doctor for cross-examination. It may well have also gone to our consideration of whether we would have sought to add some additional material in reply. We can't properly consider all of that material or make those determinations now. So we say there is an unfairness in the union now seeking to try and lead that material.

PN63

It is true that the doctor, in her statement, replicates certain text of this report in the statement itself but it seems from the preliminary review that we've had of this, that the material now goes well beyond what is covered in the statement and we say it would be incredibly unfair to allow that sort of volume of additional material to now be tendered.

\*\*\* PETA COX

XN MS BURKE

PN64

VICE PRESIDENT WATSON: Is your concern allayed by being given a further opportunity to cross-examination once you've had a chance to review that material

further, and if the supplementary report – I think the statement attaches are report and this is a reference to a different report, if you have the opportunity to make submissions as to weight to be given to any material that doesn't assist in the determination of the matter, how is there actual unfairness or prejudice to you?

PN65

MR FERGUSON: Part of the difficulty is we don't know fully all of the detail that is in this report and it is difficult therefore to answer whether or not my concerns can be addressed through an opportunity to consider it and potentially cross-examination the witness. If we come to that second point I raised, that depending on what is in here we may have advanced additional material, be they submissions or potentially, evidence or rather, similar documents in reply. Now we won't potentially have that opportunity before the case commences and I think part of that is we should be entitled to know the full case that is being presented to us, as we commence it. So some of our difficulties or unfairness is modified but not all of it. And there is a cumulative impact. There are, as I understand it, a raft of documents similar to this that the unions are going to propose to tender through witnesses and there's a cumulative workload that flows from that. Now I suppose that is an issue for time, in part, but it may well be too hard to try and deal with all of that as the case goes. It is detailed with statistics and so forth, and not the sort of material that we could necessarily do an adequate job of dealing with just over the course of the week, so to speak. So we say it shouldn't be permitted.

PN66

VICE PRESIDENT WATSON: Yes?

PN67

MS BURKE: At paragraph 12 of Dr Cox's statement she says, "This report uses text from the ANROWS PSS Report" and that is the Horizons report referred to that's the subject of this debate. She says, "Here, most text is verbatim with minor changes made to adjust the material to the needs of the Commission". So in my submission there's no issue with being taken by surprise about the existence of this report and its relevance to Dr Cox's report. It's a publicly available document and it provides - - -

PN68

VICE PRESIDENT WATSON: So you say that Mr Ferguson and Mr Ward could have looked at this document in May when they received a copy of Dr Cox's statement?

PN69

MS BURKE: That's right, and if they had any issue with any of the content of Dr Cox's report to the Commission they could have very easily gone to the Horizons report and looked at the context of that information. They could have done all manner of things including going to the ANROWS website where the ABS data cubes are replicated and available, and dug into those spreadsheets. In that sense, there has been no unfairness that would warrant this objection being sustained.

\*\*\* PETA COX

XN MS BURKE

PN70

VICE PRESIDENT WATSON: We propose to allow the tender but also reserve the right of the other parties in the proceedings to seek to recall Dr Cox if necessary at a later time this week if there are additional matters that they wish to cross-examine on arising from that report.

PN71

MS BURKE: If the Commission pleases.

PN72

Dr Cox, I think we were at paragraph 12 of your statement, please?---I'm sorry, do you mean the expert report?

PN73

No. Sorry. Of your statement. The two-page document at the front there?---Yes.

PN74

Yes. Do you now wish to annexe the ANROWS PSS report described there, "Violence against women additional analysis of the Australian Bureau of Statistics Personal Safety Survey of 2012" to your report – to your statement?---Yes, please.

PN75

If that could be marked PC4.

PN76

MR WARD: Is there a copy available?

PN77

MS BURKE: I'm sorry, I understood copies were provided last week.

PN78

MR WARD: We've found it.

PN79

MS BURKE: Okay.

PN80

MR WARD: We've found it.

PN81

MS BURKE: And I understand the members of the full bench have been provided with copies of that report as well in the separate folder. Do you have a copy of Horizons up there?---Yes, I do.

PN82

I also understand you want to make some minor corrections to your statement and your report. I understand that there's no objection to those. They have been foreshadowed with my learned friends. The first one is at annexure PC3 which is your expert report. If you can turn to page 7, please?---Yes.

\*\*\* PETA COX

XN MS BURKE

PN83

It is heading 5, the third sentence of the heading, should be – should that be "informed our conclusions" not "your conclusions"?---That's correct.

PN84

DEPUTY PRESIDENT GOOLEY: Sorry, what paragraph was that?

PN85

MS BURKE: It's heading 5.

PN86

VICE PRESIDENT WATSON: Delete the 'y'?

PN87

MS BURKE: Yes. Delete the 'y'. And could you turn to page 16, please, of your report. Paragraph 7.8. The third line there reads:

PN88

*The rate of sexual assault experienced for both groups –*

PN89

should that read:

PN90

*The rate of violence experienced for both groups.*

PN91

?---That's correct.

PN92

VICE PRESIDENT WATSON: That's a substitution?

PN93

MS BURKE: Yes, it's a substitution.

PN94

DEPUTY PRESIDENT GOOLEY: So it's violence or partner violence?---Either is fine.

PN95

MS BURKE: Right. And I also understand there are some typographical errors in the Horizons report, but in fairness to my learned friends I have not had the opportunity to raise those with them, so they may – if any objections arise I can deal with them on my feet. The first one is at page 78 of the Horizons report. At graph T, the first bar there, "Boyfriend, girlfriend, date", it goes to about 8.8 per cent there. Should that measure 11.3 per cent?---That's correct.

PN96

Is there any objection to that? Could you also please turn to page 106 of the Horizons report. Figure J, the top left-hand green box says:

\*\*\* PETA COX

XN MS BURKE

PN97

*Women whose most recent experience of sexual assault –*

PN98

should the words "sexual assault" be replaced with "physical assault"?---That's correct.

PN99

And, finally, could you please turn to page 121 of the Horizons report. And this is sat graph AF. There are three descriptions there of what the colours mean, temporary, two or three temporary separations. And finally the text reads:

PN100

*Three or more temporary separations.*

PN101

Should that read:

PN102

*More than three temporary separations.*

PN103

?---That's correct.

PN104

Right. And does that report – this is the – your report prepared for the Commission, not the Horizon's report, does that report accurately set out your opinions formed by you on the basis of your expertise?---That's correct.

PN105

MR FERGUSON: I object.

PN106

DEPUTY PRESIDENT GOOLEY: Why do you object to that?

PN107

MR FERGUSON: I objected to that on the basis of – it may be too late. But as I understood it this report was only being tendered as relevant background material. That was the basis that my learned friend sought to tender this report. As I understand it now, the witness is giving evidence that it accurately reflects her opinions. That is new material and should have been led in the witness statement.

PN108

MS BURKE: Sorry, just to clarify, the report that I asked Dr Cox about in terms of whether it reflects her opinion based on her expertise, is her report prepared for this commission dated 26 May 2016.

\*\*\* PETA COX

XN MS BURKE

PN109

VICE PRESIDENT WATSON: You mean the report attached to the original statement?

PN110

MS BURKE: Yes.

PN111

VICE PRESIDENT WATSON: Annexure PC3.

PN112

MS BURKE: Yes.

PN113

MR FERGUSON: I withdraw.

PN114

MS BURKE: I tender that report, that statement and the annexures thereto.

PN115

VICE PRESIDENT WATSON: Yes. The statement of Dr Cox together with the four attachments will be exhibit B1.

**EXHIBIT #B1 STATEMENT OF DR COX WITH FOUR ATTACHMENTS**

PN116

MS BURKE: Dr Cox, have you prepared a second report for the purposes of this matter?---Yes, I have.

PN117

Could you please turn to the tab marked 2 in your folder there. Is that a letter from you to the ACTU dated 28 September 2016?---That's correct.

PN118

And annexed to that letter is a letter from the ACTU to you dated 23 September 2016?---I don't appear to have the other letter under tab 2.

PN119

Sorry. Perhaps I could give you - - -?---I'm sorry, it's after the yellow piece of paper. Thank you. Sorry.

PN120

Does this report accurately set out your opinions formed by you on the basis of your expertise?---Yes.

PN121

I tender that.

\*\*\* PETA COX

XN MS BURKE

PN122

VICE PRESIDENT WATSON: I'm having trouble locating that document in the folder.

PN123

MS BURKE: I think it might be in the folder of additional material – hard copies and additional material provided to the Commission. It was filed when we filed our reply materials but hard copies are being brought up now.

PN124

VICE PRESIDENT WATSON: Is it in the folder volume 2, or is that something else? It looks like it's an unmarked folder with unmarked indices. I have an index – I have a folder with an index page. It says volume 1 and it refers to a witness statement first of Dr Cortis. But the fourth document and the sixth document refers to Dr Cox. Am I in the right folder? This is what has been provided by the ACTU.

PN125

MS BURKE: Yes. I'm sorry, Vice President. I'm sorry. There has been a failure of indexing.

PN126

VICE PRESIDENT WATSON: This is the – I think a document. And has only one copy been provided?

PN127

MS BURKE: I can hand up additional copies.

PN128

VICE PRESIDENT WATSON: Well, what's the title of the document?

PN129

MS BURKE: It's a letter on ANROWS letterhead.

PN130

VICE PRESIDENT WATSON: How about I give you the two folders that I have and you can show me where it is. I see. So it's a letter on ANROWS letterhead dated 28 September 2016.

PN131

MS BURKE: Yes.

PN132

VICE PRESIDENT WATSON: There's a letter from the ACTU to Dr Cox dated 23 September in that same tab.

PN133

MS BURKE: That's right. That's the whole of the reply report. Thank you for your patience.

\*\*\* PETA COX

XN MS BURKE

PN134

VICE PRESIDENT WATSON: There's two letters. So you're tendering the two letters?

PN135

MS BURKE: Yes.

PN136

VICE PRESIDENT WATSON: Well, those two letters will be exhibit B2.

**EXHIBIT #B2 TWO LETTERS BETWEEN ANROWS AND DR COX**

PN137

MS BURKE: If the Commission pleases. Dr Cox, just wait for some questions. Thank you.

PN138

VICE PRESIDENT WATSON: Mr Ward.

**CROSS-EXAMINATION BY MR WARD**

**[10.43 AM]**

PN139

MR WARD: Thank you. Dr Cox, I might just introduce myself so there's no ambiguity. My name is Nigel Ward. I appear for the Australian Chamber of Commerce and Industry, and we are opposing the claim. Can I start with a few benign questions. Is Dr Cox the correct way to address you?---That would be fine. Thank you.

PN140

Okay. Thank you. You say you're a senior research officer?---Yes.

PN141

Could you just explain to me what that job actually entails?---It has a range of functions. I do some of my own qualitative and quantitative research under the ANROWS research program, but I also manage the core grant within the research program.

PN142

Is your field of study exclusively domestic violence?---No. I've had a range of different fields.

PN143

Currently what are your fields of study?---So I have PhD in public health and community medicine. I have an honours degree in gender studies and I'm now working at ANROWS.

PN144

Would you describe yourself as an expert in domestic violence?---I have expertise in the PSS.

\*\*\* PETA COX

XXN MR WARD

PN145



So you would describe yourself more as an expert in the Personal Safety Survey and the data that comes from that?---Yes.

PN146

Okay. Am I right in saying that the survey – that is the PSS – is the primary data source for the policy-makers?---It's one of the key sources, yes, of quantitative information.

PN147

What would others be?---I would expect things like the NCAS, the National Community Attitude Survey would be another source. And you would also have specific surveys and research done with different priority populations.

PN148

Do you have a copy of your statement in front of you?---I do.

PN149

At paragraph 2.1 you say there that the survey was undertaken in 2005 and 2012?---Yes.

PN150

Am I right in saying that the survey was in the same form in 2005 and 2012?---Roughly. There are ongoing improvements made to the survey through the advisory group but it is largely comparable across time.

PN151

So just help me out, I'm not an academic or a statistician – that roughly means what?---It means that the main modules are the same. There might be some tweaking of wording.

PN152

So it's comparable, the data from 2005 to 2012?---Almost all of it. I believe that there are some questions where the ABS has outlined concerns about comparability but that's available through material in the ABS website.

PN153

You also say in paragraph 2.1 that, in your words, a similar survey was completed in 1996?---Yes.

PN154

Was the principal difference in 1996 that it didn't ask questions about males?---That's my understanding. I believe that there was also some significant work done between 1996 and 2005 but I don't have the detail.

PN155

Does that mean that it's less comparable between 1996 and 2005?---It means that it is less comparable for some of the detail but the prevalence information, my understanding, is very comparable.

\*\*\* PETA COX

XXN MR WARD

PN156

So in terms of having information about the prevalence of domestic violence we have a reasonably strong data set from 1996, 2005, 2012, for women?---That's correct.

PN157

And then from 2005 to 2012 for men?---Yes.

PN158

Thank you. Do you know why it was extended to men in 2005?---My understanding was to ensure that that information was being collected and to enable more broad policy decisions to be made, and to ensure that it was being accurate.

PN159

When you say more policy decisions were being made, so broad policy decisions about violence generally and the role of men in violence as victims?---Yes.

PN160

Thank you. Now, can I take you to paragraph 2.9. You state in paragraph 2.9 that 41,345 households were – and I'm phrasing this as "approached". Can you tell me why this number was chosen?---No, I can't. I'm not a staff member of the ABS.

PN161

Okay. Given that you hold yourself out as an expert on the PSS, you didn't think that was relevant to inquire?---I believe it would be quite standard to approach a significantly large number of people to get the sample required.

PN162

Do you know how they were approached?---Yes. Someone comes to the door.

PN163

So somebody just walks up to the door of 41,345 households?---Yes.

PN164

Okay. And were the 41,345 households randomly selected?---They were selected to provide a random sample, which is different to it being randomly selected.

PN165

I'm sorry, you're going to have to help me again?---Sure. So the difference there is that it's not that we're just choosing houses anywhere. It's that we're choosing housing in order to have a representative or random sample. So we're trying to ensure a representative sample of the Australian community.

PN166

I will give you my version of that. Let's say that five million people lived in New South Wales; an appropriate proportion of that 41,000 would be from New South Wales?---Yes.

\*\*\* PETA COX

XXN MR WARD

PN167

You then go on and say that only 30,228 were deemed eligible. What's the criteria for being deemed eligible?---There's a range of criteria. So that will be that a – the sex of the participant is determined before approaching the household. So - - -

PN168

Can you help me on what does that mean?---That means that before someone turns up at the door, they have determined that they're going to interview a male or a female, and so if you knock on the door and say, "Can I please speak to a female in this household?" and they say, "There's no one here", then that household is ineligible. Other reasons that a household may be ineligible is that there wasn't anyone who was home at the time. It may be that the household is in fact a care facility or a domestic violence refuge or a range of other things that are excluded. It's a household survey so it's limited to dwellings.

PN169

So there's a set criteria. The person knocking on the door realises that it's one of those and it's no longer eligible?---That's only for sex, yes.

PN170

Okay. What about other things?---Other demographic features?

PN171

Yes?---No, that's not - that's addressed through the selection of the household initially and then through weighting. So the survey - - -

PN172

We'll come to that?---Yes.

PN173

We'll come to that. So if you're deemed eligible who contacts the person to set up the interview?---The person who is at the door.

PN174

So is it the case that they might conduct the interview on the spot?---That's my understanding, but I'm not part of the team who actually goes out.

PN175

These people who do the interview, what qualifications do they have?---My understanding is that they have specialist training through the ABS.

PN176

I didn't ask that question. I asked what qualifications they have. Do you know if they have any qualifications?---I do not know.

PN177

Do you know if they have any experience in the area?---My understanding is that they have training by the ABS both in collecting information and appropriate responses.

\*\*\* PETA COX

XXN MR WARD

PN178

In terms of appropriate responses what does the training involve?---I do not know.

PN179

Do you know whether or not the ABS ensure that the people doing the interviewing are not themselves victims of domestic violence?---I do not know their screening processes.

PN180

Do you think that would be an important thing from an objectivity perspective to understand?---No, I don't.

PN181

Really?---No.

PN182

Do you think that - - -?---My understanding is that the survey is highly scripted, that it uses a computer aided survey, so no, I do not think that that would be relevant.

PN183

You don't think that would introduce some potential concern for bias?---No. It's a quantitative survey based on specific questions.

PN184

You have a different view to me, doctor. Now, when the interview is being conducted you've said in your statement that the interviewer can prompt?---Yes.

PN185

That's the words you used. What does "prompt" mean?---So a prompt can involve, if someone is asking for specific detail about who is included within the category, that a list can be provided, for instance. There's a range of material that is available for giving further information and that's also available on the ABS website.

PN186

I take it the ABS hope that an interviewer simply refers them to those lists and data sources.

PN187

MS BURKE: I object to the question. This witness can't give evidence about what the ABS hopes.

PN188

MR WARD: Well, that's true, but this witness has also said they're an expert on the PPS. I'm trying to find out whether or not the witness actually understands how it's conducted.

\*\*\* PETA COX

XXN MR WARD

PN189

MS BURKE: There's a difference between being an expert in the data and being an expert for the purposes of being an ABS employee who puts the survey together and conducts the survey. The witness said that she was an expert in the material derived from the ABS.

PN190

MR WARD: I'll withdraw the question. Do you have any personal knowledge of what occurs at an interview?---I have not been interviewed.

PN191

I'll ask the question again. Do you have any personal knowledge of what occurs when somebody from the ABS is interviewing a subject?---I'm sorry, I don't understand the question.

PN192

Somebody knocks on the door. The person they're speaking to is eligible to be interviewed. They arrange to have an interview with that person. Are you with me so far?---Mm.

PN193

Okay. They come back later and interview them?---Or at the same time, yes.

PN194

Or at the same time. Do you have any personal knowledge of what actually occurs in the interview?---I do not have information about what happens in the interviews that have been run, no.

PN195

Thank you. At paragraph 1.1 you say that over 17,000 women and men completed the 2012 survey?---Yes.

PN196

Do you know how we get from 30,228 deemed eligible households to 17,000?---Yes. It's a round the number of people who completed the survey.

PN197

Sorry?---It's the number of people who completed the survey.

PN198

So some of the deemed eligible houses might not have completed the survey?---That's correct.

PN199

Okay. Do I take it then - and if you don't know this please just say so. Do I take it then that some people decline to answer the survey?---Yes, that's correct, as with all surveys.

PN200

Well, I'm not sure about that, because I'm not asking about all surveys, but in relation to this one some people decline to answer the survey?---Yes.

\*\*\* PETA COX

XXN MR WARD

PN201

You go on to say at paragraph 2.9 that 13,307 women responded and 3743 men responded. Who arrived at that breakdown of the 17,000 - that is, why 13,307 of the 17,000 were women and why 3743 were men?---The ABS.

PN202

Was that on some statistical basis of some kind, to your knowledge?---Yes. It's around ensuring that we have a nationally representative sample for both men and women but that we provide an additional detail and disaggregation is available in representative forms for women.

PN203

Does the ABS keep statistical data on how many men and women decline to answer?---My understanding would be yes, but I have not seen that information.

PN204

It's not in your report, is it?---No.

PN205

No. Now later on, and I'll take you to paragraph 6.1 as an example - I'll come back to this in more detail later, but just for now, you say in paragraph 6.1, "Since the age of 15, 3.6 million women have experienced violence." Now, I take it that the ABS have managed to move from 13,307 on some basis to get to the number of 3.6 million?---It's a weighted modelling. So they've used the information that they got from the 17,000 and then done some calculations to make that representative for the Australian population using the demographic information available.

PN206

Just for my benefit, and I'm sure you'll know this, is the extrapolation done for the Australian population as a whole?---Yes.

PN207

Is it then broken down and done separately, for instance, for those people who are 55 and older, those people - - ?---Disaggregations are available for different demographic groups, yes.

PN208

Yes. I didn't ask - the disaggregation issue, I'm asking when they move from the 13,307 to these big numbers did they simply do the move for the Australian population as a whole?---I don't know.

PN209

Okay, but there's some basis upon which it's extrapolated out?---I'm sorry, I don't understand.

PN210

There's some basis upon which one moves from 13,000 to numbers like 3.6?---Yes.

\*\*\* PETA COX

XXN MR WARD

PN211

But you're not fully aware of them?---I wasn't involved in the modelling.

PN212

Right, okay. You've just taken them on - you've just taken them on - you've just accepted them?---Yes.

PN213

Now, if I can stay with the example I've given you before, which was paragraph 6.1, which says, "Since the age of 15, 3.6 million women have experienced violence." Now, can I put this to you and see if you agree with me? I'm trying to understand that that means. Does that mean this, that a percentage of the 13,000-odd female respondents who were interviewed at some time in their lives between the age of 15 to whatever age they were when they did the interview, be it 20, 30, 40, 50, 60, 70, 80, that they experienced somewhere in their life at least once the categories of assault and threats that you set out in your statement?---Yes.

PN214

So without being crass, those are lifetime experiences that they're talking about?---Yes. A lifetime prevalence rate.

PN215

Thank you. Later on if I use the phrase "lifetime experience" that's not an inappropriate one to use?---No. The only clarity I would have with that is that it is since the age of 15.

PN216

Yes?---So that means it's about an adult. It's not involving child sexual abuse, for instance.

PN217

Yes. As I understand your statement, you say in your statement that you only interviewed - the only people interviewed were over the age of 18, but they were reflecting on their experiences since they were 15?---That's correct.

PN218

Do I take it then that child abuse is seen to be something that occurs below 15?---Yes.

PN219

Thank you. So subject to one comment you make in your statement which I'm going to bring you to later, if you take that 3.6 million by way of example, those experiences could be a year old, 10 years old, 20 years old or 50 years old?---Yes.

PN220

And a portion of those experiences could have happened between the ages of 15, 16, 17, when the person is under 18 years of age?---That's correct.

\*\*\* PETA COX

XXN MR WARD

PN221

Can I digress for a minute from your statement, and if you don't feel comfortable answering these questions, please - your barrister will jump up very quickly and say something. In your opinion, given the work you've done in this field generally, what do you believe are the root causes of violence in our society?

PN222

MS BURKE: I object to the question. Dr Cox is not – giving evidence about the PSS and its contents. These questions stray beyond her expertise and beyond her report, about root causes of violence.

PN223

MR WARD: You're not able to answer that?

PN224

MS BURKE: Well, the objection is that the question ought not be asked, not whether or not she's able to answer, whether or not she should be in a position where she's being asked to give her opinion as an individual as opposed to an expert witness.

PN225

VICE PRESIDENT WATSON: Is the objection based not on relevance but on expertise?

PN226

MS BURKE: It's based both on relevance and expertise. The question is broadly relevant to the Commission's purpose, but there are other witnesses giving evidence about the causes of domestic violence and they're appropriately qualified and experienced.

PN227

MR WARD: If I can respond. One of the very important issues in this case is the extent to which an employer, in addition to how they already contribute, has to contribute more to a social issue, and in that context the cause of the social issue is entirely relevant. As to whether or not it's a question that Dr Cox can or can't answer in her experience and given her professional field of study, I would have thought that's a matter for her to answer. She might very well be comfortable answering it.

PN228

MS BURKE: The test of whether a question is objectionable or not is not whether the witness is comfortable answering it, it's whether the question is ultimately probative of any issue before the Commission. Whatever answer Dr Cox gives or doesn't give, how will that assist the Commission? She's not an expert in the causes of domestic violence, she's an expert in dealing with the data about experiences, prevalence and incidence of domestic violence.

PN229

VICE PRESIDENT WATSON: How is this question or Dr Cox's opinion about these matters going to assist us?

\*\*\* PETA COX

XXN MR WARD



PN230

MR WARD: Well, your Honour, I don't know the answer to that until I hear the answer.

PN231

VICE PRESIDENT WATSON: Perhaps you should establish a foundation for the question before asking the question.

PN232

MR WARD: I'll withdraw that question. I'll ask a different one and we'll deal with the objection to that one. In your field of study have you formed any views about what the root causes are of violence between men and women who cohabit?---I would refer you to some of the other research that ANROWS has done. I consider that it would be more informed than my opinion.

PN233

You don't have a view?---I think that it wouldn't be the best evidence available.

PN234

I didn't ask that. I asked if you have a view based on your experience and all of the research you've done.

PN235

MS BURKE: I object to the question. If I could be broken into two parts. Experience and research are quite different. Dr Cox may derive entirely an entirely different view from different sources.

PN236

VICE PRESIDENT WATSON: If you break up the question and, Dr Cox, if you could answer the question that's asked of you?---Could I have the question again please?

PN237

MR WARD: Based on your research have you formed any view on what the root causes are of violence between men and women who cohabit?---I haven't had any research that's been specifically about prevention.

PN238

Based on your experience as a person in this field who has studied this area generally, do you have any view on the root cause of violence between men and women who cohabit?---There is a wide range of evidence of which I am not an expert but with which I am familiar which engages particularly with the gender nature of violence against women and the variety of root causes. There's research completed by ANROWS and Our Watch as well as VicHealth which is particularly focused on that and was released either late last year or early this year.

PN239

Go to paragraph 7.18 of your statement?---Did you say one eight?

\*\*\* PETA COX

XXN MR WARD

PN240

7.18. Please feel free to read the whole paragraph if you need to refresh your memory, but about halfway down that you say, "A similar percentage reported that alcohol, drug use, contributed to their most recent incident of violence"?---Yes.

PN241

Is alcohol and drug use a material cause of violence?---It is generally understood in the literature as a contributing factor in particular contexts, which isn't the same as a cause.

PN242

Okay. What does that mean? Sorry, I - - -?---So it is a factor that may increase the likelihood of severity of injury, for instance, however it is not understood as a cause of the violence.

PN243

So if I can just put that in lay speak, the circumstances that triggered the violence is separate to the alcohol and the drugs. They just make it worse?---Yes.

PN244

All right. Can I take you to paragraph 4.3?---Yes.

PN245

Now, these aren't trick questions. I'm just trying to

PN246

understand this material, and I'm trying not to be crass. I don't want to be crass in any way when I ask these questions. Am I right in saying that physical assault and physical threat are both subsets of physical violence?---That's correct.

PN247

Right, and assault, as I understand, reading this, is physical force with intent to harm, also physical force with intent to frighten. Is there a particular definition that the PPS put on the notion of frighten?---PSS.

PN248

My apologies. PSS?---No. My understanding is that it is up to the person who is responding to the survey.

PN249

Right, and the list of assaults is broad, from pushed, grabbed, shoved, slapped, all the way up to some quite grotesque things such as stabbed and shot and the like. It's a very broad category?---Yes.

PN250

Now, does - and this is not meant to sound crass, but does the survey disaggregate between those categories of pushed, grabbed, shoved, slapped, kicked, bitten, hit?---It can, yes.

\*\*\* PETA COX

XXN MR WARD

PN251

It does. You decided not to do that in your report?---There is a little bit of information within the Horizons report on that, however it is information that is grainy. It's got a high RSE.

PN252

Sorry, you're going to have to stop there. What was that, a high?---Relative standard error.

PN253

Right. So because you don't have very large numbers of people in all the different categories - you don't have that many people who are shot, for instance - - -

PN254

Okay?--- - - - then you don't have - it means that the numbers have more variability in the estimates. So, no, I didn't include it in - - -

PN255

In lay speak, if I can then, what you're saying is that the most reliable level of disaggregation is the one you've put in your report?---Yes.

PN256

Okay?---At times that is at the physical violence level, at times it is at the physical assault level, because of the way the most recent incident data is collected.

PN257

Thank you very much. Like I asked you about the phrase "frightened" - sorry, I'll withdraw that. The notion of physical threat, I'm right in saying that it's the definition you've included in 4.3.3, and that's a physical threat in relation to those matters listed in the physical assault?---Yes.

PN258

That's correct?---Yes.

PN259

Sorry, was that a yes?---Yes.

PN260

Yes, sorry?---And that needs to be face to face and with a belief that the threats would be carried out.

PN261

Yes, and can you help me out, because I'm struggling. What does suggestion of intent mean?---The belief that it would be carried out.

PN262

Right, okay?---So it would be different to if someone was driving in a car and yelled out that they wanted to kill you and you didn't know the person or - - -

PN263

It depends who's yelling it out?---Yes.

\*\*\* PETA COX

XXN MR WARD

PN264

I'm right in saying then, I think, from what you've just said, that it's the subjective opinion of the person being interviewed as to whether or not that's the case?---Yes. It's a victim survey.

PN265

It's a victim - okay. Thank you. So it's not an attempt against an objective standard, it's really just to try and get their opinions and views?---Yes. It's a victim survey.

PN266

Thank you very much. Can I just for completeness, before I ask you some more questions - in 4.4 you talk about current partner and then previous partner. I'm right in saying, aren't I, that the way this survey operates, it asks you about those violence sets in the context of both current and then previous partners?---Yes, that's correct. It is your previous partner at the time of the survey. So it's not that the violence necessarily occurred at a time when you were no longer in a relationship, but rather at the date of the survey you were no longer in a relationship with that person.

PN267

In your report when you use the phrase "partner" are you referring therefore to current partners and previous partners?---Yes.

PN268

Right, okay?---Unless I've said "current" or "former" in front of it - or "previous" is another term that I use.

PN269

Yes, but the phrase "partner" refers to both?---Yes.

PN270

Can I take you then to 7.1? I understand what "cohabiting partner" means. Can I take you to the definition of "intimate partner" in 7.1B - and again, I'm not trying to be crass, doctor. You've used there the word "dates"?---Yes.

PN271

I'm old and I've been married for 25 years, so what does that mean?---So this is a category used by the ABS. So historically they had focused their analysis around cohabiting partners, so people who live together. As part of the additional work that I did last year we used another category that they used. So that is a broad category, boyfriend, girlfriend, date, and that is - it's quite a broad definition and can include people who you've had a fleeting relationship with or a quite established relationship but you're not living together. Unfortunately the data can't be disaggregated in other ways so those were the two categories that were available.

\*\*\* PETA COX

XXN MR WARD

PN272

And again, not wishing to be crass, but if I met somebody for the first time that would be a date?---Yes. It could be.

PN273

It could be a date?---It's up to the respondent to determine.

PN274

I see. So it's subjective, what you call a date?---Yes.

PN275

Okay, and did you just say that boyfriend, girlfriend, date is an aggregated category?---Yes - well, it's a category that is used within the ABS. I don't know whether dates would be able to be separated. I don't think they could be, but what we have done is with the intimate partner category used both the cohabiting and non-cohabiting and brought those two together.

PN276

Am I right in saying again that for present purposes you decided that intimate partner was the safest data set to disaggregate down to?---Did you say safest?

PN277

Yes, in terms of its statistical reliability?---No. I wouldn't say that that was the reason that I did it. I wanted to use a definition that included non-cohabiting partners, but a lot of the material that's available within this report and within the PSS generally is about cohabiting partners specifically. It doesn't have information available for that broader definition but we wanted, particularly in the prevalence information, to be able to show, I guess, that broader scope of the issue.

PN278

It's the biggest category you could find?---No, that's not correct either.

PN279

Okay. What would have been a bigger category?---A bigger category would have been one that included emotional abuse, for instance, in it, or stalking.

PN280

You talk about that later in your report?---We do.

PN281

Yes?---But it's not within the category of violence.

PN282

Okay. So in terms of the category of violence it was the biggest one?---For intimate - for partners, yes.

\*\*\* PETA COX

XXN MR WARD

PN283

Thank you very much. Thank you. Now, you also use a phrase on occasions in this report - you use the phrase "stranger". Can you just help me? What's a stranger?---So within the ABS work they have a category of stranger. So again, it's up to the participant to select that, but in some ways a stranger I think would be defined by someone in relation to what it isn't. So there's a broad range of things. That would be kind of an acquaintance, that would include, you know,

kind of, minister of religion, a friend, a neighbour, a co-worker, those kinds of things, and a stranger would be someone who didn't fall within that.

PN284

In paragraph 8.6 for the first time in your report you use a phrase called "other known male"?---Yes.

PN285

Can you help me with that one?---That would be equivalent to - so that is everyone apart from a stranger who is male and not a cohabiting or intimate partner. I don't know - let me check in there what context we - - -

PN286

I'm happy for you to have a look at it. You only used it once, that's all?---Okay, yes. Yes, so other known male would be people who are not - males who are known to the victim - - -

PN287

So platonic friendship would be a good example?---Yes.

PN288

Yes, okay, good. That's very helpful. Thank you. Now, can I take you back to 6.1? I'm going to do this just by way of making sure I understand what's going on and I might be a little repetitive and boring for about 10 minutes, and I apologise. In 6.1 you've said - and I've already referred to it. You said, "Since the age of 15, 3.6 million women have experienced violence." Now, that's the number that's statistically extrapolated from the 13,000?---Yes.

PN289

Yes, and that particular number represent that lifetime experience and the reference there to violence, I'm right in saying that it's the aggregation of both physical and sexual assault, physical and sexual threat?---Yes. It's a prevalence stat, though.

PN290

Yes?---So it's not - so if someone has experienced both a physical assault and a sexual assault, they're only counted once.

PN291

That's right?---Yes, it's for people.

PN292

So if somebody's, unfortunately, in an abusive relationship, there would be only one statistic for them, but they're obviously living in a very different situation?---Yes.

\*\*\* PETA COX

XXN MR WARD

PN293

Bear with me if I'm wrong when I say this and please correct me straight away. That statistic there simply refers to women. Is that violence that you refer there

inclusive of intimate partner violence?---It's inclusive of, but it includes others as well.

PN294

I am just going through them and see if I've got it right. I've got intimate partner violence, cohabiting partner violence?---I wouldn't separate those out.

PN295

Cohabiting partner violence is a subset of intimate partner violence?---Yes.

PN296

Does it then include strangers and all sorts of other things?---Yes.

PN297

Bear with me, so it would include strangers?---Yes.

PN298

Other known males?---Yes.

PN299

Could it include siblings and people of that nature?---Yes.

PN300

Parents?---Yes.

PN301

That could also include violence between say a father and a daughter when she was 16?---Yes.

PN302

Thank for you that?---There's information in the Horizon's report around the percentage of that overall number that are for cohabiting partners.

PN303

But they are not in this report?---I don't think so.

PN304

Just again, the 1.7 million women referred to in 6.1.1?---Yes.

PN305

This is a reference to sexual violence. Am I right in saying that's both assault and threat?---Yes.

PN306

Again, this is a statistical extrapolation from the 13,000?---Yes.

PN307

It's the lifetime experience again?---Yes.

\*\*\* PETA COX

XXN MR WARD

PN308

Am I right in saying again there because we have simply referred to women and violence that it's cohabiting partners, intimate partners, strangers and everybody else?---This is for all types of. So this is a statistic related to a type of violence, not who did the violence.

PN309

I understand. Who did the violence is the broadest possible scope?---Yes.

PN310

Am I right in saying that that's the same for 6.1.2, but it's now referencing physical violence which is both physical assault and physical threat?---Yes, that's correct.

PN311

Am I also right then in saying that, in effect, 6.2, which then refers to men, it's the male version of what we have just talked about?---It's basically the same sentence as that.

PN312

Now, 6.3, if I can take you to that?---Yes.

PN313

And I am going to come back to 6.3 in some detail later on, but just to make sure, this is now, it says, in the 12 months prior to the survey. Am I right in saying this is the 12-month snapshot before the survey was taken?---Yes.

PN314

This refers to incidents that actually occurred in those 12 months?---Yes.

PN315

You say close to half a million women and close to three quarters of a million men experience at least one incident of violence. I acknowledge there could be more than one. Violence there, again, is the broad set?---Yes.

PN316

Sexual assault, sexual threat, physical assault, physical threat?---Yes.

PN317

Can I ask you to go to 6.6 in your statement?---Yes.

PN318

That's, I think, your first reference to the stranger?---Mm-hm.

PN319

I think you already said to me that that's a subjective view as to what a stranger is for the person being interviewed?---As with all perpetrator categories.

PN320

As with all the categories?---Yes.

\*\*\* PETA COX

XXN MR WARD



PN321

Again, those very large numbers of 1.1 million, two million, 978,000, they're again all statistical extrapolations from that original 17,000?---Well, not the two million because that's the male sample.

PN322

That's the extrapolation from the 3,000 or so males; is that right?---Yes.

PN323

Again, there you are talking about what I have described as the lifetime experience?---Yes.

PN324

Can I take you to 6.7?---Yes.

PN325

I think this figure becomes quite important later on. That is a statement about a broad category of violence again?---Yes.

PN326

Cohabiting partner is the definition you gave me earlier?---Living with.

PN327

Living with, yes?---So it's the slightly narrower one.

PN328

There is 1,470,200 victims by a male partner. That's again the extrapolation from the 13,000?---The entire survey.

PN329

I won't ask you that again. I am just trying to make sure I understand. The 1,470,200 referred to in 6.7, that's a proportion of the 3.6 million in 6.1?---Let me double check.

PN330

Please do?---Yes, that's correct.

PN331

Am I right in saying that the 427,900, is that also part of the 3.6 or have I got that wrong?---No, the 427,000 is for male victims of female perpetrated violence.

PN332

That's part of the 4.1 million in 6.2, is it?---Yes.

PN333

Thank you for that. Thank you for that. If I can take you to 6.10?---Yes.

\*\*\* PETA COX

XXN MR WARD

PN334

You introduce a phrase there: "With regards to their most recent physical assault." Am I right by saying "recent" could be a day old or 20 years old or 50

years old?---Yes, it's a reference to a particular module within the survey. So do you mind if I explain a little bit about how that - - -

PN335

No, please do. Please do?---So the survey asked people about: "Have you experienced physical assault? Have you experienced sexual assault?" If you say "Yes" to that, then you are asked to reflect on your most recent incident and then a great deal more information is elicited from you. So, that includes things like the location, whether you believe that drugs and alcohol were involved, whether you went to the police. But it's only for that most recent incident. So there is some limitations with the data for that survey or module precisely because there is only one incident. So that incident may or may not be typical of your usual experience.

PN336

It could have been a long time ago or a short time ago?---It could have been.

PN337

Am I right in saying then that where in other parts of your statement, 6.11, 6.15, you use the phrase "most recent", the same thing applies?---Yes.

PN338

Can I ask you to go to 6.16? This is data about people not being at work and in 6.16 you say: "One in 10 employed men and one in five employed women had due to the assault." Again, that's the category of physical assault or sexual assault?---No, this is for most recent physical assault by a male.

PN339

But it could have been either a physical assault or a sexual assault?---No, it can only be a physical assault.

PN340

I read "physical assault" for that?---Yes, so in the rest of that sentence it says so.

PN341

My apologies, you're right?---So after their most recent physical assault by a male.

PN342

You're right. You have them then. The words you use are: "Time off work in the year." You haven't reported here how much time people took off?---That's not asked in the survey.

PN343

Sorry?---I don't believe that it's asked in the survey.

PN344

In my words, it's not available from the survey?---Yes.

PN345

Would I be right also in saying it's not available from the survey to find out if the time off work was paid or unpaid?---That's correct.

\*\*\* PETA COX

XXN MR WARD

PN346

It's also therefore not available from the survey to find out why it was paid if it was paid?---That's correct.

PN347

Thank you. This is just me struggling, so there's nothing tricky about this question. Can I ask you to go to 6.19?---Mm-hm.

PN348

I am reasonably numerate, but I couldn't work out - you say there:

PN349

*238,600 women took time off work as a result of their most recent physical assault by a male. This represents 20 per cent of the women who had experienced this type of assault.*

PN350

Can you help me out? Twenty per cent of what figure somewhere else in the report?---Okay. So we're dealing with women who were working during that period. So all women who were employed. Those statistics would be available within the data cubes that are on the ANROWS website.

PN351

You haven't put what the 100 per cent figure is actually in this report?---No.

PN352

That's why I couldn't find it?---Yes.

PN353

That's all right. Is it the same for the 7.6 in 6.20, we don't have the 100 per cent figure?---That's correct.

PN354

I have to go looking in the cubes to find that?---Yes. You would be able to use the Horizons report to find the grid reference for that if you wanted.

PN355

You wouldn't know where it is off the top off your head?---I can look at it pretty quickly if you like.

PN356

I would love you to. That would be very helpful?---Do you want physical assault, opposite sex, same sex, perpetrator or sexual assault?

PN357

If you give me a couple of page references, I'll do my homework?---Table 20 of the data cubes that are available on the ABS website. So there are two sets of data cubes available to you, one of which are those that ANROWS requested and they're on our website. And then the ones that have previously been publicly available on the ABS website, this is table 20 of the ABS website.

PN358

What page is that on?---This is page 45 of the Horizons report.

PN359

Thank you very much, Doctor, I appreciate that. Can I take you to 7.2?---Mm-hm.

PN360

You say that on one in four women in Australia have experienced violence. Again, that's the broad category?---Yes.

PN361

"Intimate partner" includes boyfriend/girlfriend date; yes?---Yes.

PN362

You say there that the actual numbers, 2,194,200, which represents 25.1 per cent, can you help me out, Doctor, 25.1 per cent of what?---Of women in Australia.

PN363

Not of any number you have given me previously, but of the whole female population?---That's correct.

PN364

From what age?---From adult women, so aged 18.

PN365

I apologise. I didn't hear you?---Aged 18 and over.

PN366

Even though the survey asks questions - - -?---Yes.

PN367

Does that seem to be a little out of alignment?---No, not at all. So you are asking about adult women's experiences of violence and that includes their experiences when they were younger. So you're caring about lifetime prevalence.

PN368

I'm with you. So in terms of your sample set, your sample set is 18 years and older?---Yes.

PN369

I'm with you. So that's all adult women?---Yes, and as an extremely minor point with that, it's women in Australia, not Australian women, so it does include women who don't have citizenship here.

PN370

So women who are physically in the country?---Yes.

\*\*\* PETA COX

XXN MR WARD

PN371

Do I take it then that the reference to 1,479,900 is also a reference to all women in the country?---Yes.

PN372

Hence it's that percentage?---Yes. That 1.5 approximately, million, is the cohabiting partner category.

PN373

Yes, it is. I was struggling to work out what it was a percentage of, that's all?---Okay.

PN374

Now, 7.4 seems to be quite an important statement and I am going to come back to this in a little bit more detail later, but I just want to make sure I understand it first. It says here that it's looking at 12 months prior to the survey. So again this is the 12-month snapshot of incidents that occurred in that 12 months?---Yes.

PN375

I am right, am I not, in saying that this is women in Australia experiencing at least one incident of violence. That's the broad category?---Yes.

PN376

That includes assault and threat?---Yes, and there's further information in the report regarding type of violence.

PN377

Yes, I understand. Yes, fine?---Yes.

PN378

It is by an intimate partner, so that's both cohabiting and non-cohabiting?---Yes, for the one in 50.

PN379

The number there is 186,900?---Yes.

PN380

That's the annual snapshot for that statistic?---Yes.

PN381

We have already agreed that "cohabiting partner" is a subset of "intimate partner." You then say that that's 132,500 for cohabiting partners?---Yes.

PN382

I am going to come back to the maths later, if I can. Can I just move onto your observations about statistical variation?---Yes.

\*\*\* PETA COX

XXN MR WARD

PN383

I don't say this facetiously; actually I'm very interested. You have dispelled many of my views about this subject. It was quite interesting. Am I right in saying this, that you make a number of conclusions. Is one of the conclusions you make that

the more educated you are, the more likely you are to be a victim of violence?---Yes, there is a statistically higher rate for women with university education. Let me just double check the phrasing on that one. Post school - - -

PN384

Sorry, 7.11, sorry?---Yes, post school qualifications, yes. That variation in relation to the national rate is statistically significant.

PN385

Do you have any knowledge as to why that might be the case?---There is, I guess, a range of theories that could be put forward, but the PSS doesn't specifically - - -

PN386

Deal with that?---No.

PN387

It just tells us that's the data?---Yes.

PN388

Then I think between 7.13 and 7.17, you say that - these are my words, not yours, but my paraphrasing - I think you say that socioeconomic status does not affect the likelihood of being a victim of violence?---So what we see is a slight trend, but it isn't statistically significant, yes, you're correct.

PN389

Can you just help me as a lay person? A slight trend is statistically significant, what does that actually mean?---Sure. So what it means is that we're seeing - let me get the numbers for this right - so if we're dealing with, say, male cohabiting partner violence and we're looking at SES kind of divided into five different groups within a particular categorisation that is, you know, typical for the ABS, then you are seeing a kind of rise in rate as people become more disadvantage from, kind of, 1.6 in your, kind of, most advantage, through to 1.8 - most advantage to 1.8 in your least advantaged group. But that variation, because of the sample and because of the fact that you are dealing with a small period of time, so you don't have as many people saying, "Yes, I have experienced this", the variation isn't coming up as being statistically significant. So there is a chance that it isn't a real difference, rather it's a difference related to the way that the sampling has happened.

PN390

If one is being an objective academic, one doesn't draw anything from that at this stage?---No, you keep an eye on it.

PN391

Keep an eye on it?---Yes.

PN392

Can I take you back to 7.18, if I can?---7 point?

\*\*\* PETA COX

XXN MR WARD

PN393

One eight?---One eight, sure.

PN394

You will recall I quickly jumped there because of the alcohol and drugs reference?---Yes.

PN395

But I'm mostly interested in the very last sentence, if I can. It says: "Most women reported that their most recent incident of cohabiting partner violence occurred more than 10 years ago." I don't wish to be facetious when I say this, but you have been very statistically accurate to two decimal places and all of a sudden you have said: "Most women"?---Sure. So that - I consider paragraph 7.18 to be an introduction to the section and that the information related to there is at 7.23.

PN396

That's a summary of the explanation you develop later on?---Yes.

PN397

That's very helpful. Just for my completeness, if I can, if I can take you to 7.19?---Mm-hm.

PN398

There is a reference there to: "Since the age of 15, approximately 1.8 women had experienced physical assault." That 1.8 is a subset of the 3.6 we talked about earlier?---Yes.

PN399

The reference in 7.21 to the 873,000, that's a subset of 3.6 as well?---Every experience of violence within - that we're talking about for women - - -

PN400

Is a subset of that?---Yes, it's the broadest number that you're going to have in the entire - - -

PN401

It's the headline number?---Yes.

PN402

In 7.23 which you have just referred me to earlier, this is said to be the women who had experienced male cohabiting partner violence and you say there that 59.9 per cent fit a particular category?---Yes.

PN403

It's 880,1000?---Mm-hm.

PN404

To avoid playing a guessing game with you, am I right in saying that that 59.9 per cent is taken from the number of 1,470,200 in paragraph 6.7?---That sounds about right, but let me double check.

\*\*\* PETA COX

XXN MR WARD

PN405

Please do?---Yes.

PN406

Would I be right in saying then that so too is the reference in 7.2, 3.2 to 15.8 per cent?---Yes.

PN407

And the reference later on to 8.8 per cent?---They are, I guess, making up that whole.

PN408

The whole, yes, they do. I just wanted to make sure I understood what we were referring to for our submissions later on?---Mm-hm.

PN409

In 7.25, you introduce the concept of emotional abuse?---Yes.

PN410

Putting aside what my 16 year old is putting me through at the moment, what is the definition for emotional abuse?---So emotional abuse, the definition, I think, should be at the footnote 18 there. And I quote: "The PSS defines emotional abuse as behaviours or actions that are aimed at preventing or controlling a partner's behaviour with the intent to cause them emotional harm or fear."

PN411

Again that's a subjective assessment. "B" is the person being interviewed forms that view?---Yes, but there's again a kind of prompt card that provides a list of example behaviours and there are those included there as well. So things - - -

PN412

The summary says, "What does that mean?" - and there's a prompt card they show them?---Yes, and that's included in that footnote as well.

PN413

Can I take you to 7.3.1?---Yes.

PN414

I am sure you will explain this very quickly for me. You say more than three quarters of a million women were pregnant during their relationship and had experienced violence perpetrated by a former cohabiting partner?---Yes.

PN415

Putting aside twins and triplets, there's about 300,000 Australian women pregnant at any one time in this country. So is that a lifetime snapshot, rather than an annual snapshot?---Yes.

PN416

Okay. And, again, therefore, the - - ?---And it's also for former partners.

\*\*\* PETA COX

XXN MR WARD



PN417

Only for former partners?---Yes.

PN418

Okay?---Current partner data is available on the Horizon report.

PN419

It's not in this report?---That's correct.

PN420

Right. Could I take you to page 23. Am I right in saying – just by way of clarification, if I can, the third bar there, "Contacted police about most recent" - - - ?---We're at figure (i)?

PN421

My apologies, sorry?---We're at figure (i)?

PN422

I'm on page 23 and there's a table?---Yes.

PN423

Have you got – yes. The third row?---Yes.

PN424

Sorry, third row?---Yes. "Contacted police about most recent incident."

PN425

Yes?---Yes.

PN426

Yes. Is that the same as the first row of table D on page 12, or is it meant to be something different?---I think we're dealing with – no, those are different. So one of those – so table D is related to regardless of who has perpetrated that violence. So if – as long as you're a female who has experienced violence by a male perpetrator, you'll be counted within that kind of first square. When we're dealing with – on page 23, we're only dealing with violence by a male cohabiting partner. So the perpetrator is limited.

PN427

So table D could be a stranger?---Yes.

PN428

Okay. I didn't understand. Thank you very much. Thank you. And can I take you then to 8.7?---Yes.

PN429

In this part of your report about advice and support, you say:

\*\*\* PETA COX

XXN MR WARD

PN430

*Seven out of 10 women sought advice and support after their most recent physical assault by a male when that assault was perpetrated by a –*

PN431

and then you give a number and you say that's 70.5 per cent?---Yes.

PN432

Am I right in saying that that's 70.5 per cent of most recent physical assaults by a male perpetrated by a cohabiting partner?---Yes.

PN433

Right. Okay?---So the data is collected for the most recent incident modules by – there are eight different modules for that. So that's physical assault, sexual assault, physical threat, sexual threat, by a male or female perpetrator. They're separated in that kind of way.

PN434

Yes?---And so then perpetrator is actually a sub-set of those particular categories. So that's why it gets kind of wordy in those contexts.

PN435

Thank you. And can I ask you to turn the page. The reference there to general practitioner, that's just a doctor, is it?---Yes.

PN436

Yes. What would be included in "other health professionals"?---I don't know off the top of my head but I'm sure that it's defined within the ABS.

PN437

Don't try and answer if you don't know?---No.

PN438

Do you know what is meant by counsellor?---A psychologist or other person providing support who's defined as a counsellor.

PN439

Okay. I just want to make this clear – so a marriage counsellor or something like that?---I think so.

PN440

Okay. Just help me out, a support worker, is that like a social worker?---I believe so but I would use the reference material on the ABS website to double-check that.

PN441

So you're not able to answer comfortable today?---No.

PN442

No. That's fine. That's fine. And these telephone hotlines, I take it these are – these support services where people ring up and talk to somebody?---Yes.

\*\*\* PETA COX

XXN MR WARD

PN443

Yes. Okay. You would agree with me, wouldn't you, that there are many circumstances in a person's life where they might need to seek the assistance of a counsellor?---Yes.

PN444

If they had unresolved personal issues from their childhood, their marriage was struggling and they wanted to see a marriage counsellor?---That's not this data though.

PN445

Pardon?---That's not this data.

PN446

I know that but I'm just asking if you agree with me that there's many reasons why people would see a counsellor?---Yes.

PN447

Yes. Would you agree with me that there's many reasons why people might seek assistance of a financial planner?

PN448

MS BURKE: I object to the question - this line of questioning. The relevance is very unclear.

PN449

MR WARD: I would have thought it was entirely clear. A very large proportion of their case rests on what they believe is the needs of people to go and see these sorts of assistance. And I just wanted to establish from this witness' personal experience whether or not they concede that there are lots of reasons why people need to go and see them other than in circumstances of domestic violence. I thought it's entirely relevant.

PN450

VICE PRESIDENT WATSON: It's self-evident, isn't it?

PN451

MR WARD: Well, I thought it was self-evident but - - -

PN452

VICE PRESIDENT WATSON: So why is that question of this witness going to help us?

PN453

MR WARD: I was intending to ask every witness, your Honour, but if it's self-evident, your Honour, I won't need to.

PN454

VICE PRESIDENT WATSON: Isn't it self-evident that people may seek assistance of various types for various reasons in our community?

\*\*\* PETA COX

XXN MR WARD

PN455

MR WARD: Your Honour, I'm entirely comforted that it's self-evident.

PN456

MS BURKE: I have no objection to it being self-evident. The objection to my friend using cross-examination as an opportunity to dress-rehearse his closing submissions.

PN457

MR WARD: Well, as I said, I'm comfortable if it's self-evident. Now, if I can go back to 8.7, do I take it that the survey doesn't tell us when these people accessed these services?---I think that is correct. However, there is data that is available, some of which is in the Horizons report that describes who someone first contacted, who they first disclosed to.

PN458

I understand that and you've put some of that in your report. Thank you for your answer. Thank you for your answer. We're getting to the end, Doctor, if we can. Could I take you to 8.14?---Yes.

PN459

That reference to 145,700 - - -?---Yes.

PN460

- - - can you just help me? That's a set of which bigger number? So that's women who have been physically assaulted. So we're back to that cohabiting partner group again, are we?---Yes.

PN461

And physical assault not including threats?---That's correct.

PN462

Okay. Thank you for that. And, again, you say there they took time off work. I take it then that the survey doesn't assist us in knowing how much time they took off work?---No. It is time off work due to the incident – as a result of the incident.

PN463

Yes. It doesn't say whether or not it was paid or unpaid?---That's correct.

PN464

Or if it was paid, why?---That's correct.

PN465

Yes. Can I ask you to go to 8.18?---8.18?

PN466

Yes, please. There's a table there?---Yes.

\*\*\* PETA COX

XXN MR WARD

PN467

Can you just explain to me what is the distinction and what is meant by "Violence occurred all the time" versus "Violence occurred a little of the time"?---So participants in the survey were asked about the extent of their experiences of violence. They had a Likert scale so that was from all of the time, most of the time, some of the time, a little of the time, or, once. And what you have there is basically a comparison. So these two tables – two graphs, sorry, are about looking at the extent of fear and anxiety experienced by someone in relation to how much violence they had experienced. And, unsurprisingly, what you see is that people who have experienced more violence are experiencing more and anxiety and fear.

PN468

That would follow. Yes. Yes. Thank you. So there's four categories they had to choose from?---Yes.

PN469

Could I take you to 8.28?---Yes.

PN470

The first question – do you see in 8.28 you refer there to 61.8 per cent, being 731,900?---Yes.

PN471

That's 68.18 of what other figure in your report?---So I don't know where the figure is, although I can certainly show you where it is in the tables. So the figure is of women who were no longer in a relationship with a violent partner. So the former partner category. And two out of three of those women.

PN472

So the 100 per cent figure might not actually be in here?---It will be in as far as former partner but it's also available in the tables.

PN473

Then you go on to say:

PN474

*Most of these women stayed with friends or family, 63.5 per cent, 446,600.  
And 42.6 per cent, 311,900 relocated to a new home.*

PN475

This is not trickery but I'm just struggling. 464,600 and 311,900 is a lot more than 731,900. Is that just a late-night problem with the math or have I missed something?---No. It's fine. It's that someone could select all the types of accommodation they had experienced – they had used. So I could have stayed with family for three weeks and then relocated to a home – a new home.

PN476

So I'm allowed to tick more than one category?---Twice. Yes.

\*\*\* PETA COX

XXN MR WARD

PN477

Thank you for that. And then when you go to 8.29 and you've got there a refuge or shelter, 7.8 per cent, that's again meant to be 7.8 per cent of the 731,900?---Yes.

PN478

But, again, they could have ticked more than one category?---Yes.

PN479

Yes?---That's correct.

PN480

And just for completeness on this page, what does the asterisk mean against the 1.7?---So asterisks are used to indicate high relative standard error. So one asterisk indicates a relative standard error between 25 and 50 per cent. And two indicates a RSE of greater than 50 per cent. The ABS generally says that, you know, something that has got one asterisk is going to be used with caution. Something with two is not reliable for general use.

PN481

So that's with caution?---Yes.

PN482

Okay. Now, I want to do a little math. I'm not trying to trick you with this; I'm just trying to make sure I've got my math right. Could I take you back to 7.4?---Yes.

PN483

I think we – we went to this earlier and I just want to make sure I understand. 186,900, that's the number of women who have experienced at least one incident of violence, being the broad category, from an incident partner being the cohabiting and non-cohabiting category in that last 12-month snapshot?---Yes.

PN484

Yes. And I think we agreed earlier that the cohabiting partner group is a subset of cohabiting and non-cohabiting. So am I right then in saying that if 132,500 are cohabiting, 53,500 were non-cohabiting?---No. Not necessarily.

PN485

Right?---So - - -

PN486

I was hoping you were going to say yes?---I understand that feeling but no.

\*\*\* PETA COX

XXN MR WARD

PN487

No. Okay?---So the – this is a prevalence count. So if I have experienced violence by my cohabiting partner and you've experienced it by your boyfriend, and then someone else has experienced violence by both their boyfriend and someone who they were living, would each only have been counted once. So there will be a small number of people who are in the cohabiting partner violence category, and so are counted once for the prevalence. And then with the

boyfriend/girlfriend date category, won't be counted again. So it's not just a matter of minusing those numbers out. However, there would be those numbers available for you, I think within the ABS data cubes.

PN488

I will be really honest with you. I'm not sure I understood what you were trying to tell me?---Okay. So if someone has experienced – in the same way as someone has experienced two types of violence they only get counted once.

PN489

Right?---In this category, if they've experienced violence by two types of people, they only get counted once. It's a prevalence. It's the number of victims.

PN490

Right. So if I had already been picked up in the 132,500 - - -?---And you had already experienced violence by a boyfriend, girlfriend or date, you wouldn't get counted again.

PN491

Which one would I get?---It depends on which one we're talking about. So if I was asking what the cohabiting partner violence numbers were, you would be counted there. If I had asked about boyfriends, you would be counted there. But you just can't add the two together because otherwise you would get a double count.

PN492

So I'm not able to work out from this number what is the percentage who are cohabiting partners versus what are the percentage of non-cohabiting partners?---No. But the - - -

PN493

I would have to be very cautious about the?---Yes, you could use other sources but you can't use this.

PN494

Use this one?---Yes.

PN495

Okay. All right. Well, I can't wait to hear the answer to the next question then. Could I take you back to 6.3. Now, I think we agreed earlier that this is again a 12-month snapshot close to half a million women, close to three-quarters of a million men, experience at least one incident of violence. And I think we agreed last time that that's the biggest category of violence, and the perpetrator could be almost anybody?---It could be anyone.

PN496

Right. I'm desperately hoping the answer you are about to say yes to the next question but I don't think you are. The 186,907.4 I assume is a subset of the half million?---Yes, it is.

\*\*\* PETA COX

XXN MR WARD

PN497

It is. And I take it you're going to tell me it's not as easy just to - - -?---You can't just add them up, no.

PN498

You can't take 186,900 off 500,000?---Why would you be wanting to do that?

PN499

Let me explain to you what I'm trying to understand. Of the almost half million referred to in 6.3, I'm trying to understand what the relationship is between that form of violence – that is, violence at large, in the last 12 months perpetrated against women, by cohabiting and non-cohabiting partners, versus other people?---I think that you would be able to find the numbers for other known male and stranger. You might not be able to add those two together but that would be available in table A2 in the data table.

PN500

Well, let me ask this then just while I've got you in the box today, if we can. You've agreed with me that the 186,900 is a subset of the 500,000 or the almost 500,000. Yes?---Yes.

PN501

Yes?---But those people could have experienced violence by multiple people.

PN502

Yes. I take it then though that for the most part – and I'm generalising now – I'm not asking you to be scientifically to 20 decimal places or anything like that. For the most part the number between 186,900 up to the half million, the perpetrator is likely to be stranger or something of that nature?---Yes. So what you're dealing with is you're trying to use a victim survey to tell you about perpetrators, and that's why it gets a bit difficult. So because it's a survey that's about me as a victim of violence, how have I – who has done this violence to me, then it doesn't give you as reliable information about perpetrators in the way that you're trying to use it. There is a kind of text box with the Horizons report that explains about why it is that the PSS can't be used to look at perpetrators in some ways, and that may be of use.

PN503

Let me ask you a different way then, if I can. The difference between 186,900 and 500,000 is, if my math is right, about 314,000?---That figure is about right.

PN504

Bear with me. It's about right. That being the case, I take it that the 314,000 persons arising from paragraph 6.3, that doesn't including cohabiting and non-cohabiting partners?---Violence. Yes.

\*\*\* PETA COX

XXN MR WARD

PN505

Yes?---So I guess another way that you could say that would be that the 314,000 would be people who had experienced violence by people who were not – had no experience of cohabiting partner violence within that 12 months.



PN506

That's right?---But had experienced some other violence.

PN507

That's right. By somebody else?---Yes. But not – because of course you can experience violence by multiple people. So you need to say that it's excluding people who have experienced - - -

PN508

Just on that, you said before that some of these numbers – you have to be a little bit cautious because somebody could have experienced more than one form of violence. And, you know, I don't want to sound crass but the person who actually writes down the statistic when they're trying to choose between different forms of violence or - - -?---There's a rubric.

PN509

There is a rubric?---Yes. So there's a hierarchy. I can't recall whether it's in the ACTU submission but it's certainly in the Horizons report, regarding which types of violence take precedence.

PN510

If I said I was assaulted that would take precedence over a threat?---Yes. And sexual violence takes precedence over physical violence.

PN511

Yes. Okay. Thank you. All right?---So you would find information about that at 4.2.

PN512

In your report?---Yes.

PN513

Thank you?---To the ACTU.

PN514

Now, do you know very much at all about Modern Awards?---No.

PN515

Okay. So just to hope that your friend doesn't jump up and stop me immediately, can I just show you one if I can. I've just picked one. Can I just show you the Quarrying Award 2010. Now, this is one of the 122 Modern Awards, the ACTU are trying to change. I haven't picked it for any great reason. It's an industry I used to work in which is probably the reason I picked it. Just to let you know, this award regulates a very specific industry. It's defined at page 5. It says:

\*\*\* PETA COX

XXN MR WARD

PN516

*Quarrying industry means: (a) operations in line and/or stone quarries, sand pits, gravel pits other than dimension stone brick shale, slate quarries, operations other than in a quarry where the plant and equipment is principally*

*used to crush, screen and/or blend materials such as stone, brick, concrete, masonry –*

PN517

and it goes on. I'm right in saying that there's nothing in the survey that you've talked about today that allows me to determine statistics modern award by modern award?---That's correct.

PN518

Yes. And would the same be said for determining between the public and private sector?---That's correct. The survey uses an assessment of whether someone is employed, that's standard to that ABS but I don't believe it differentiates by that.

PN519

No further questions. Thank you, Doctor.

PN520

MS BURKE: Just one question from me.

PN521

VICE PRESIDENT WATSON: So you don't wish to cross-examine, Mr Ferguson?

PN522

MR FERGUSON: No. Sorry.

**RE-EXAMINATION BY MS BURKE**

**[12.09 PM]**

PN523

MS BURKE: Dr Cox, you were asked some questions about the sample size and then the extrapolation of that sample size to the survey findings as a whole. And you gave some answers about that extrapolation taking place and about weighting. Can you explain what you mean there by the extrapolation and weighting that took place in the PSS?---Certainly. So the survey obviously is designed quite rigorously by the ABS to ensure a representative sample. That sample is determined that it needs to be representative and reliable at the national level for both men and women. And that then greater detail is needed for women because of the nature of their experiences of violence. And that then what happens after the information is collected is that then a range of modelling occurs to ensure that some of the, I guess, un-evennesses that you might find through sampling – so you might end up with more people with a particular demographic characteristic – are then kind of smoothed out and those national estimates were actually produced.

\*\*\* PETA COX

RXN MS BURKE

PN524

Part of my question which was perhaps two in one, asked you also about the weighting aspect of that exercise. Can you just explain what that means, please?---So weighting means that if you have less people within the sample of a particular demographic group, in order to make it a representative sample in the

national estimates you give their answers more weight. You make them mean more within the sample.

PN525

Thank you. No further questions.

PN526

VICE PRESIDENT WATSON: Thank you for your evidence, Dr Cox. You can step down. You may be required to be recalled at some point.

**<THE WITNESS WITHDREW**

**[12.11 PM]**

PN527

VICE PRESIDENT WATSON: Mr Ward, when would you be in a position to advise the ACTU of whether Dr Cox is required to be recalled.

PN528

MR WARD: Wednesday morning, your Honour.

PN529

VICE PRESIDENT WATSON: Tomorrow morning?

PN530

MR WARD: Wednesday morning.

PN531

VICE PRESIDENT WATSON: Wednesday morning. Thank you. Do you wish to proceed with the next witness now or should we adjourn for lunch?

PN532

MS BURKE: I'm happy to adjourn for lunch if it suits everyone.

PN533

VICE PRESIDENT WATSON: Yes. We will adjourn until 2 pm.

PN534

MS BURKE: Thank you.

**LUNCHEON ADJOURNMENT**

**[12.12 PM]**

**RESUMED**

**[2.05 PM]**

PN535

VICE PRESIDENT WATSON: Ms Burke.

PN536

MS BURKE: Thank you. I call Dr Martin O'Brien.

PN537

VICE PRESIDENT WATSON: Dr O'Brien.

\*\*\* PETA COX

RXN MS BURKE

<MARTIN JOHN O'BRIEN, SWORN

[2.06 PM]

EXAMINATION-IN-CHIEF BY MS BURKE

[2.06 PM]

PN538

VICE PRESIDENT WATSON: Thank you, Dr O'Brien. Please be seated.

PN539

MS BURKE: Dr O'Brien, can you please repeat your full name for the transcript?---Martin John O'Brien.

PN540

Your address?---3 Boundary Road, Windang, New South Wales.

PN541

Your occupation?---I'm a senior lecturer at the University of Wollongong.

PN542

Thank you. Have you prepared a report for the purposes of this proceeding?---Yes.

PN543

If you could open the folder there in front of you and turn to the tab with your name on it. Is that document there a statement by you dated 17 October 2006, 9 paragraphs long?---Yes.

PN544

Annexed to that statement are four annexures and they are at MO-1, your resume. At MO-2 and MO-3, letters of instruction from the ACTU and at MO-4, your report dated 17 October?---Yes.

PN545

I understand you have some minor corrections to the statement and your report?---Yes.

PN546

Can I ask you first to look at paragraph 7 of your statement. The date there is 17 October 2015, should that be 2016?---Yes.

PN547

If you could turn please to paragraph 2.6 of your report which is on page 6. In the fifth line, the sentence which actually starts earlier in the fourth line currently reads:

PN548

*It is likely that a significant proportion of potential of FD leave applicants –*

PN549

should that read:

\*\*\* MARTIN JOHN O'BRIEN

XN MS BURKE

PN550

*It is likely that a significant proportion of potential of FDD applicants.*

PN551

?---Yes.

PN552

Thank you. Finally if you could just turn to paragraph 4.7 please which is on page 17. In the second line there, there is a reference to 0.73 per cent of male employees. Should that be 0.63 per cent of male employees?---Yes.

PN553

Are there any other changes that you need to make to the statement?---No.

PN554

So does this statement and the report annexed to it accurately set out your opinions formed by you on the basis of your expertise?---Yes.

PN555

I tender the statement and the annexures.

PN556

VICE PRESIDENT WATSON: That statement with annexures will be exhibit B3.

**EXHIBIT #B3 STATEMENT OF DR O'BRIEN**

PN557

MS BURKE: Thank you, Dr O'Brien. Just wait there please.

**CROSS-EXAMINATION BY MR WARD**

**[2.10 PM]**

PN558

MR WARD: It's nice to see you again?---You too.

PN559

I seem to be keeping you employed at the moment. Just for completeness I'll just remind you that my name is Nigel Ward. I appear in these proceedings for the Australian Chamber of Commerce and Industry and some other employer interests against the ACTU's claim?---Yes.

PN560

Have you got a copy of Dr Peta Cox's statement with you?---I think it's at the beginning of this folder?

PN561

It probably. Do you just want to make sure that?---Yes.

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD

PN562

I'm going to refer to it a little later on. I just wanted to make sure you had it?---Mm-hm.

PN563

Can I just start with your qualifications. Am I right in saying that your area of expertise is labour economics?---Labour economics and also business statistics.

PN564

Do you have a copy of your statement in front of you?---Yes.

PN565

Can I take you firstly to 3.3.

PN566

VICE PRESIDENT WATSON: Do you mean the statement or the report?

PN567

MR WARD: My apologies, your Honour. The report. All my references will be to your report, Doctor. You say there you made your assumptions on the basis of average hourly earnings data. That's correct, isn't it?---What paragraph are we referring to again?

PN568

I'm at 3.3?---Yes.

PN569

You say:

PN570

*There is no need to assume minimum wages. It is recommended that average hourly earnings data is used rather than the minimum wage.*

PN571

?---Yes.

PN572

This isn't a trick question but the ACTU has amended its claim as I understand it to make the grant of leave paid at the modern award rate. Do you know that?---Yes.

PN573

So you'd agree with me that if you were modelling this, you should actually model it at the modern award rate?---Well, I was using the available data to me on award hourly wage rates.

PN574

So you've used a rate of pay that is different to the minimum award rate?---Yes, I've used average.

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD

PN575

Which is different?---To the minimum?

PN576

Yes?---Well, yes, I guess it would be. Yes.

PN577

In paragraph 3.4 you work to distinguish between fulltime and part-time and just by way of clarification, if you might cast your mind back to the casual and part-time case, when you used the word fulltime and you use the word part-time, are you using the definitions which are adopted in the Australian Bureau of Statistics forms of employment? I'll do this shorthand just for time. I think you'll recall from the last case we were involved together that fulltime employees were persons who worked at least 35 hours or more a week which could include casuals and part-time employees were persons working less than 35 which could include casuals. So when you talk about fulltime and part-time, you're referring to what industrially would be called fulltime employees, industrially part-time but also potentially casuals as well?---Correct. I didn't make any distinction regarding casuals in my calculations.

PN578

But they would be part of the group?---That's correct.

PN579

Okay, that's fine. You've made the assumption that part-time employees which you've just acknowledged would include industrially what we would call casual, would work 75 per cent of the time of fulltime. How did you arrive at that 75 per cent?---This was an assumption because I looked for available sources of data in terms of what would be the typical number of hours worked per day of a part-time employee and I couldn't find them anywhere as far as the Australian Bureau of Statistics or other sources that I was aware of. Where we are easily able to determine the number of hours a part-timer works per week, we don't have data in terms of how many shifts and therefore how many hours per shift or hours per day that they would work. So I've said with this particular 75 per cent, it is an assumption and that's also why I returned to it later using sensitivity analysis – any of the assumptions that I thought that there was a level of uncertainty, I've returned to those and done calculations based upon other numbers later on reflecting that uncertainty.

PN580

So it is essentially a number you chose?---Correct.

PN581

In paragraph 3.5 you focus in on Dr Cox's report and in particular persons who have experienced violence in the preceding 12 months. Can I ask you to go to Dr Cox's report and paragraph 7.4 which is what you refer to. Do you have that in front of you?---Yes.

PN582

Thank you. The paragraph says:

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD

PN583

*One in 50 woman in Australia experience at least one incident of violence by an intimate partner, including habiting and non-cohabiting. In the 12 months prior to the PPS survey –*

PN584

then she gives a number of 186,900. When limited to cohabiting parties, this drops to 132,500 (indistinct). Now, I won't take you to the answers Dr Cox gave me when I questioned her on this morning – it would be unfair to do that – but can I ask this. When you have used this report to identify what I might describe as the potential cohort of people who take leave, were you focusing on that 186,900 as if you like, the maximum cohort in a year?---In terms of those experiencing violence from a partner, yes.

PN585

Well, 186,900 is both cohabiting and non-cohabiting intimate partners. You were aware of that?---Yes.

PN586

Yes. So again, just for my sake, the maximum cohort in a year that you thought might take leave is 186,900?---No, it's not because I also made another adjustment for the family violence.

PN587

I'll come to that in a minute but in terms of the material you took from Dr Cox, that was the number you took?---I took the 2.1 per cent, yes.

PN588

Which is 186,900?---Well, yes.

PN589

Thank you. You then say in your report in paragraph 3.6 that:

PN590

*This does not include family as opposed to intimate partner leave.*

PN591

What did you mean by family?---Family could be in terms of siblings or I'm assuming a parent/child relationship.

PN592

Do you understand that the data produced by Dr Cox only relates to instances of violence for people 15 years and older? You're aware of that?---Yes.

PN593

Therefore as Dr Cox put it to me today, doesn't extend to child violence?---Yes.

PN594

So when you say parent/child, what were you referring to?---Son or daughter. I didn't make any distinction regarding age.

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD



PN595

Okay. I take it sibling was just essentially brother, sister and - - - ?---Correct.

PN596

Yes. When you added in your family factor, I take it you were including physical assault, sexual assault, physical threat and sexual threat?---Well, really it comes down to the clause which is violence, threatening behaviour and abuse would have been the running definition I would have used consistent with the family and domestic leave clause.

PN597

Can you explain to me what you meant by abuse?---Well, I guess it is physical abuse. I am assuming it would probably be emotional abuse also. Something that is to harm the other individual.

PN598

When you did your numbers you were looking at physical abuse which I assume includes physical assault?---Yes.

PN599

You were looking at what you just called emotional abuse?---Yes.

PN600

You added all of that up and as I understand it, you've added in an additional 93,450 people into the mix?---Well, all of my calculations are really the percentages rather than the number of people that you're referring to ultimately I'm trying to come up with a percentage figure that I'm then multiplying through by the relevant workforce. So I'm assuming that the 189,000 et cetera is referring to a much larger population than the segment of the workforce that I ultimately apply my percentage to. At all times with this I'm trying to come up with a relative or a relevant percentage rather than to come up with a number. It's the percentage that I'm trying to find that I then multiply by the workforce and of course that workforce is going to be a different number to the general population from which I'm assuming that 189,000 has come from.

PN601

I'll be honest, Dr O'Brien, I didn't quite understand that. You said a little while ago that you relied Dr Cox's report at 7.4. It identified a number of women who experienced at least one incident of violence from an intimate partner, both cohabiting and non-cohabiting in the past 12 months. That number that Dr Cox gives is 186,900. You'd agree with that?---Yes, but it's the 2.1 per cent – is the number that I thereby use in my calculations later. The 189,000 doesn't come into any of my calculations.

PN602

At all?---No, it's the 2.1 per cent figure is what is used as the basis of the calculations rather than me using 189,000.

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD

PN603

So when you enlarge that group for your particular definition of family violence – when you enlarge it by – I think you said you enlarged it by another 50 per cent?---Yes.

PN604

You weren't adding 93,450 to that 186,900 to create the potential pool of leave takers?---No, I'm adding a 50 per cent onto the original 2.1 per cent to arrive at – I believe it's 3.15 per cent. So it's the percentages that I'm working off in each case rather than to say it's 189,000 or then I'm going to add another 90,000 odd onto that.

PN605

So you're not actually working off the women who experienced at least one instance of violence by an intimate partner in the last 12 months, you're working off percentages?---I'm working off the percentage of females, yes.

PN606

Rather than the number who actually experienced the violence?---Correct. I'm assuming the numbers that experienced the violence would include both people in and outside the workforce, therefore you're looking at a larger population of people. I'm therefore using the percentage of those when I apply my numbers to the workforce only.

PN607

In paragraph 3.7 – excuse me a moment. In paragraph 3.7, you say there that you have to make some assumptions about the people who might take leave?---Correct.

PN608

So there's a cohort who could take leave and then you have to make an assumption about how many of that cohort will take leave?---Correct. I'm trying to start off with a population of – well, we called it a population of interest, I don't really want to get bogged down on the words that – of interest. A population of interest and then out of that population of interest, a certain percentage would be applying for the leave. So the population of interest is trying to estimate the proportion of people that would be subject to the family and domestic violence and then from that, a certain percentage would be taking leave.

PN609

I appreciate you are a business statistician and a labour economist so what I'm about to ask you might be outside your sphere of knowledge but I'll try. Would you agree with me that the employees who are referred to in paragraph 7.4 of Dr Cox's report are currently entitled and able to access paid leave for all circumstances of the union's claim.

PN610

MS BURKE: I object to the question. How can this witness possibly answer that question and even if he could come up with an answer, how would it be relevant to contested fact before this Commission as opposed to an argument.

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD

PN611

MR WARD: I'll explain that. Is the question going to be allowed or is it going to be - - -

PN612

VICE PRESIDENT WATSON: Well, you should respond to the objection.

PN613

MR WARD: I need to understand the extent to which Dr O'Brien has modelled what we would call the swap over cost of people moving from leave they've currently got to the new form of leave. It would be necessary before I ask that question to establish whether or not he has any knowledge of the leave people currently have.

PN614

VICE PRESIDENT WATSON: Why don't you put a proposition to him and see whether he agrees with it?

PN615

MR WARD: I will do that, your Honour. Are you aware that employees currently can access personal carer's leave?---Yes.

PN616

Can I put this to you. That in a circumstances where somebody was ill or injured because of domestic violence, they would be entitled to access personal leave?---Yes, I assume so.

PN617

If they wanted to see a medical practitioner, they'd be entitled to access personal leave?---Yes, I don't think that's controversial.

PN618

If they were in need of caring for a child under the age of 18 because of a circumstance of domestic violence, they would be entitled to access carer's leave to do that?---I assume so.

PN619

Yes. Are you aware that employees also have annual leave – paid annual leave in Australia?---Yes.

PN620

Therefore if they needed additional paid leave, they would be entitled to access annual leave as well?---Yes.

PN621

So can I put it to you again that employees confronted by the circumstances that the ACTU claim seeks to address, you've just agreed with me could currently access paid leave entitlements?---Yes.

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD

PN622

When you did your modelling, did you do any modelling that looked at the swap over cost of them not claiming those benefits but claiming the new benefits and then still having the other benefits the employer has to pay?---No, I did not.

PN623

Is there any reason you didn't do that?---Yes, I think that that was starting to get out of the scope of what I was asked to do.

PN624

You weren't asked to do that?---No.

PN625

Okay. Have you read the Cox report carefully?---Can you repeat yourself please.

PN626

Sorry. Have you read the Cox report carefully?---I would say so, yes.

PN627

Would you agree with me that Dr Cox – her report never tells us the quantity of leave people take because of domestic violence when they take time off work?---Can I just have a moment to check my report please?

PN628

Please. Please take all the time you need?---Based upon what I've written in 3.10, I'm assuming it says they took time off rather than the length of time they took off.

PN629

I didn't ask that question. You've relied heavily on the Cox report?---Yes.

PN630

And I'm just asking you to confirm having read the Cox report and relied on it, you'd agree with me that Dr Cox never actually explains how much time people have off work because of domestic violence?---No, as far as I'm aware, it's just the percentage or the number of people that took time off.

PN631

Can I ask you, Dr O'Brien, to go to page 25 of Dr Cox's report? My apologies - 24, sorry?---Page 24?

PN632

If I can start on 24, and just so I'm fair to you, paragraph 8.7 says:

PN633

*Seven out of 10 women sought advice and support for their most recent physical assault by a male when that assault was perpetrated by a co-habiting partner -*

PN634

Then there's a percentage.

PN635

*Of these women who sought advice or support, seven out of 10 spoke to a friend, family member, work colleague or minister of religion. Other common source of advice and support were a general practitioner or other health professional and a counsellor, support worker or telephone hotline.*

PN636

I just ask you to keep that in the back of your mind for a moment if I can. Then at paragraph 8.81, Dr Cox is describing data related to women who had experienced male co-habiting partner violence in the 12 months prior to the survey. So again, this is the 12-month snapshot. And she says six out of 10 women who are employed sought advice or support about the violence perpetrated by their current partner. This percentage goes up to more than nine of 10 women who experience violence by a former partner. Did you at any stage in your analysis use that reference there to 24,700 and 31,600, being persons who Dr Cox identifies as seeking advice or support?---My report goes through a list of sources to data or reports that make reference about people seeking advice, et cetera, but at the end of the day that data is not really that useful for trying to come up with a percentage of those that are experiencing violence that are likely to take leave. So in my report I list all of the relevant sources that I can see that make reference to something of relevance in that area, but at the end of the day I choose a 50 per cent simply because it's another assumption that's got such a high level of uncertainty. So I make reference to a number of things that come out of the Cox report and I don't actually use any of those figures when it comes down to the potential take-up rate of the leave, simply because it's so uncertain. And then it's another issue that I return to and do sensitivity analysis on by changing that percentage at the end of the report to see how much it affects the estimates.

PN637

So your 50 per cent is - and I don't mean this pejoratively, but you just said you didn't rely on what Dr Cox said, so it's an arbitrary number which you've decided is appropriate?---I would certainly agree there's an arbitrary level to the figure that's chosen at the end, simply because it's another thing that there's simply no data available to give us a more reliable estimate to start off with, and that was similar to the family leave aspect as well. So all of these things I return to and do sensitivity analysis on if there's a level of uncertainty, which basically means there's no availability or no reliable data to base the assumption on, so I think I had three aspects where I returned and did sensitivity analysis at the end of the report.

PN638

I think you've just said that you didn't rely on the elements of Dr Cox that I've taken you to?---That's correct. I've mentioned them in passing as potentially relevant, but they don't really give the information that's required to come up with that assumption, so I agree that there's an arbitrary level to the 50 per cent, the take-up rate that is chosen in the end.

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD

PN639

Thank you, Dr O'Brien. Am I right in saying that you've not factored into your cost model any administrative cost or administering the leave or any disruption cost in terms of loss of productivity for people being away?---Correct.

PN640

You do seem to have some knowledge of how enterprise agreements work because you make reference in your report to the BOOT test?---Yes.

PN641

I don't want to ask you question you can't answer, but perhaps could you just explain to me what you understand by the BOOT test?---The better off overall test, so essentially if someone's on an enterprise agreement, for that to be approved it has to be shown that they're better off overall than the relevant award, and that would be taking into account the breadth of clauses within that enterprise agreement rather than looking at one thing solely.

PN642

I think that's a very good description. Many lawyers could actually benefit from hearing that description. Can I ask this of you, and I'll come back to some things you say in your report. Am I right in saying that you've modelled some flow-on if the claim's successful into enterprise agreements?---Yes.

PN643

Is your academic reason for doing that the BOOT test?---Yes.

PN644

When you did that model, given the BOOT compares the entitlement, that is, if the claim's successful the entitlement to 10 days' leave on pay, did you model it at 10 days' leave?---No, I did not.

PN645

What did you model it at?---I did it as one day's leave, and I've given supporting arguments why I left it at one. Would you like me to elaborate?

PN646

No. Is it that you didn't know that the BOOT is based on the award entitlement?---No, that didn't have anything to do with not doing the 10 days calculation.

PN647

Let me just understand this. You said to me a while ago that you accepted there would be a flow-on to enterprise agreements because of the BOOT?---Yes.

PN648

The BOOT will be calculated on the full entitlement of 10 days if the claim's successful, but you've modelled something else?---I modelled one day, so I did a comparison with the one-day cost that was in the ACCI report. There's a whole raft of further assumptions required in terms of the take-up of this leave to model the cost of 10 days.

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD

PN649

Can I just put these things to you then? Is what you're telling me that there's a whole suite then of variables about the extent to which individual unions might bargain for this particular benefit and things like that?---No. It's all to do with the fact that all of the people that took for argument's sake one day of leave, not all of them would be taking the 10 days. Not all of them would have the circumstances that requires them to take the 10 days. So I have already used a number of assumptions to come up with an assumed or estimated take-up rate of the leave, starting off with those that experienced the leave to a certain proportion that would take up the requirements to take leave, so a take-up rate. But of those that would be able to take - or would have the circumstances that they would require one day, there's a another raft of assumptions that's required to work out, well, how many of them would be taking 10 days' leave. So to come up with a cost estimate for 10 days' leave, we have to work out, well, what proportion of those that took the one day would then take 10 days, or using the same numbers that we used in the ACCI report. They used five days and then 10, so it's the same exercise. So what proportion of those that took the one-day leave would require an extra four days' leave to take five? Of those, what proportion of those would then require an extra five days to take 10? So it's not just a case of multiplying the one-day figure by five and 10 to reach the cost of five days and 10 days respectively. It needs another layer of assumptions, and to be quite honest, I thought I'd reached the scope of my report by coming up with the estimate that I did by that stage.

PN650

I apologise if I took you somewhere you shouldn't have gone. I think what you've just told me then is you formed the view that there would be a flow-on to enterprise agreements and you modelled them at a certain level?---Yes.

PN651

Can I take you to page 18 of your report? I want to make sure I understand what you're advocating. Am I right in saying that you have modelled the proposition that based on all your various assumptions the total cost of the ACTU's claim for award employees as part of the wages bill, if I can use that term, is \$2.9 million per annum?---Yes.

PN652

Put aside whether or not we agree with that - and we'll come to that at a later day - I take it as you put your labour economics hat on, you would say that in aggregate terms of the labour force in this country, you would say what, that that's inconsequential?---I don't know if I'd use the word inconsequential. My main role in this was to compare to the ACCI figures and I would say that it's quite small or relatively small compared to the corresponding ACCI estimate.

PN653

As a labour economist, do you know what the aggregate wages bill in this country is for award employees?---I would not know that figure off the top of my head, no.

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD

PN654

So your model suggests that there's a relatively modest cohort of persons taking leave?---Yes.

PN655

Would you therefore agree with me that it must be the case then that the demand for the leave is relatively modest as well?---Yes.

PN656

No further questions.

PN657

VICE PRESIDENT WATSON: Dr O'Brien, can I ask you some questions about paragraph 3.5 of your report? So this is your explanation in part of identifying the incidents of domestic violence and what proportion of the workforce - I think you're working from percentages?---Yes.

PN658

May have occasion to claim domestic violence leave if it's available, is that right?---Correct.

PN659

So you've taken the figure from the Cox Report and the figure of 2.1 per cent does not include family violence, so you've extrapolated with a 50 per cent figure in the absence of anything else reliable?---Yes. Yes.

PN660

Did you have regard to household violence?---No.

PN661

Do you have any information as to the incidence of household violence?---No, see the statistics from the Cox Report or more directly the survey from which it came, the Personal Safety Survey, it has that information about partner but from my memory it didn't have any information about that extending to family or anything more general than that.

PN662

Beyond family to household?---Yes. So I guess - sorry, I guess I've used the statistics relating to partner violence to proxy for domestic violence, and then I've made an adjustment to that for the family violence.

PN663

But in terms of assessing the incidence of the claim, did you have regard to the original ACTU claim in this matter or the amended claim?---I believe it was the amended claim, so it was family and domestic.

PN664

Was it the claim 5 October, do you know? Is it referred to anywhere in your report?---I'd have to check that.

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD



PN665

Your report's dated or your statement's dated 17 October. There was an amended claim filed on 5 October. You would have regard to an amended claim in that intervening period?---I'm just trying to check in terms of the correspondence that I've received from the ACTU to see if that answers the question.

PN666

Yes, thank you?---I'm just looking through the written correspondence or the annexure MO-2 and I'm not seeing it there. I know that I did receive it as an attachment but I cannot recall - - -

PN667

I think it's referred to as an attachment to the email of 29 September you received?---Yes, that sounds about right.

PN668

Yes.

PN669

MS BURKE: Perhaps I can assist. In the MO-3 which is the formal letter from the ACTU to Dr O'Brien, at the end of that letter there's a reference to two attachments, and one of those is the expert witness code of conduct, and the other is the proposed clause. That letter is dated 4 October and the clause was filed, the amended clause on 5 October. I'm just confirming that we're all talking about the same clause but my understanding is that Dr O'Brien was only provided with the clause that's currently before the Commission.

PN670

VICE PRESIDENT WATSON: So did you see in that claim the ability to claim leave in relation to household violence?---Not from memory, sorry.

PN671

Now I think you said in answer to a question from Mr Ward that you assume that the data that you relied upon from the Cox Report, related to violence, also included abuse?---I haven't used that in any of my direct estimates. I have a discussion - I have a discussion of the various issues that may impact upon those that experience the violence that would take up the leave. So I've mentioned a couple of things from the Cox Report there but I didn't have anything in terms of statistics that I used in my estimates from there.

PN672

But you didn't increase the percentage incidence of domestic violence by reference to claims that could arise from abuse?---No, I did not use the abuse figures from the PSS.

PN673

If they were covered by - if abuse is covered by the claim then that would be a further incidence of - potential incidence of domestic violence covered by the clause?---Yes, that would certainly increase the percentage that I used.

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD

PN674

Do you have any estimate or is there any data that might give some indication of what percentage increase would be appropriate?---In terms of abuse?

PN675

In terms of abuse?---I do recall that it was a section that was reported in the PSS but I don't recall, sorry, what the likely figure would be from that. So I restricted mine simply to the partner violence rather than the section for abuse.

PN676

But if we were looking at the potential cost of the claim, and the claim extends to abuse, then we would need to factor in something in relation to that to assess the cost would you not?---Correct.

PN677

Thank you. Ms Burke.

PN678

MS BURKE: No re-examination. May the witness be excused?

PN679

VICE PRESIDENT WATSON: Thank you for your evidence, Dr O'Brien, you can step down?---Thank you.

**<THE WITNESS WITHDREW**

**[2.52 PM]**

PN680

MS BURKE: Thank you. I call Dr Michael Flood.

PN681

VICE PRESIDENT WATSON: Dr Flood. Mr Ferguson, do you propose to cross-examine Mr Flood?

PN682

MR FERGUSON: Yes.

PN683

VICE PRESIDENT WATSON: Not you, Mr Ward.

PN684

MR WARD: Your Honour, I might have a couple of questions at the end but no, we've given the main stay of this to Mr Ferguson.

PN685

THE ASSOCIATE: State your full name and address.

PN686

DR FLOOD: Michael Flood, (address supplied).

**<MICHAEL FLOOD, AFFIRMED**

**[2.53 PM]**

\*\*\* MARTIN JOHN O'BRIEN

XXN MR WARD

PN687

VICE PRESIDENT WATSON: Thank you, Dr Flood. Please be seated. Ms Burke.

PN688

MS BURKE: Thank you. Dr Flood, can you please state your full name again for the transcript?---Sure, my name is Michael Flood.

PN689

Your address?---(Address supplied)

PN690

Your occupation?---Yes, I am an associate professor at the University of Wollongong.

PN691

Have you prepared a report for the purposes of this proceeding?---I have.

PN692

I see that you are turning hopefully to the tab in the folder there with your name on it?---Yes.

PN693

Is that that a document there headed "Statement of Dr Michael Flood" and if you turn the page it's dated 26 May 2016?---Yes.

PN694

Annexed to that document are three annexures. At MF1 is your resume?---Yes.

PN695

At MF2 is the letter of instruction from the ACTU?---Correct.

PN696

At MF3 is a report by you dated 26 May 2016?---That's correct.

PN697

Does that report accurately set out your opinions formed by you on the basis of your expertise?---Yes, it does.

PN698

I tender that report.

PN699

VICE PRESIDENT WATSON: You tender the statement with attachments.

PN700

MS BURKE: The statement and yes, thank you.

\*\*\* MICHAEL FLOOD

XN MS BURKE

PN701

VICE PRESIDENT WATSON: That will be exhibit B4.

**EXHIBIT #B4 WITNESS STATEMENT OF DR MICHAEL FLOOD  
DATED 26/05/2016, TOGETHER WITH ATTACHMENTS**

PN702

MS BURKE: Thank you. Please wait there, Dr Flood.

PN703

VICE PRESIDENT WATSON: Mr Ferguson.

**CROSS-EXAMINATION BY MR FERGUSON**

**[2.55 PM]**

PN704

MR FERGUSON: Good afternoon, Dr Flood. My name's Mr Ferguson, I represent the Australian Industry Group, a party that's opposed to the ACTU's claim in these proceedings. I've just got a small number of questions for you. Your report in these proceedings focuses on intimate partner violence doesn't it?---It does.

PN705

The term as you use it in the report includes violence by individuals against their intimate partners or ex-partners, doesn't it?---It does and - yes, yes, it does.

PN706

A partner can include a spouse, de facto partners and non-co-habiting sexual partners such as boyfriends and girlfriends?---That's correct, which is exactly where I was about to go, yes.

PN707

But the term intimate partner violence as you refer to it does not include other forms of family and domestic violence, such as violence between siblings or between a parent and a child?---That's correct.

PN708

I want to take you to paragraph 2.5 of your report. Now you there set out some types of behaviour that might constitute intimate partner violence, don't you?---Yes, I do.

PN709

At paragraph 2.6 you talk about the need to understand domestic violence as involving a systematic pattern of power and control, and I'll read that paragraph to you. You say:

\*\*\* MICHAEL FLOOD

XXN MR FERGUSON

PN710

*Thus, intimate partner violence or domestic violence between adults can be best understood as involving a systematic pattern of power and control exerted by one person against another, involving a variety of physical and non-physical tactics of abuse and cohesion, in the context of a current or former*

*intimate relationship. While the presence of an aggressive behaviour between partners or former partners in a sense can be described as domestic violence, this pattern of power and control is domestic violence in the strong or proper sense.*

PN711

Now in your statement am I correct in understanding that the term domestic violence or intimate partner violence as you term it is often broadly used to describe a range of behaviours or types of behaviour that a perpetrator might engage in?---Is often used, did you say?

PN712

Yes?---Yes, yes.

PN713

What do you mean when you say that domestic violence involving a pattern of power and control is domestic violence in the strong and proper sense?---I suppose I'm seeking to distinguish between a definition of domestic violence that focuses on the presence of any physical aggression between intimate partners or ex-partners on the one hand, and a definition of domestic violence which focuses on a - yes, a systematic pattern of coercive and controlling behaviour by one partner against the other.

PN714

Why do you say that's important?---Because I think the - highlighting the latter pattern is important because that is a significant - that is significant, I suppose, in understanding the character of domestic violence that - can you repeat the question? I want to make sure I'm answering it properly.

PN715

Why do you say it's important to understand and put it differently?---Okay. Because I think otherwise we miss the likely character and context and in particular the impact of those behaviours, and in particular the ways in which one person may be subjected to what some scholars call intimate terrorism. That is, you know, a pattern of power and abuse which typically is - you know, produces fear, produces control, produces significant limits on their autonomy and so on.

PN716

I'll move onto the impact then and talk about that?---Okay.

PN717

In part 4 of your report you deal with the impact of intimate partner violence. Is it true to say that in general terms there are different or various different consequences that might flow from intimate partner violence?---Yes.

\*\*\* MICHAEL FLOOD

XXN MR FERGUSON

PN718

It's correct to say that in general terms the impact of those consequences on men and women are different?---No, the impacts themselves are different. So if a man and a woman are - you know, are separately living with the same kinds of violence exerted on them by their partner, they're both being subject to severe and

frequent violence, they're both having their movements controlled, they're both being coerced into sex and so on, then the impacts on them will be similar. But my point in this report is that if we look at all the pool of individuals who are subjected to any kind of physical aggression by a partner or ex-partner, in fact we find strong gender asymmetries among those victims.

PN719

But if we consider the impact – well, is it true to say that the impact of similar forms of abuse on individuals of the same gender may manifest themselves in different type of injuries or negative consequences?---Can you say that again?

PN720

Is it correct to say that the impact of a similar form of domestic violence, such as a psychological abuse - - -?---Yes.

PN721

- - - may manifest itself in different injuries or negative outcomes in the context of different individuals who are of the same gender?---It's possible. You know, I wouldn't want to argue the reverse of that, that the impact of, for example of psychological violence in a relationship will be uniform across all the individuals subjected to that violence. That seems unlikely because other circumstances will shape the impact of that violence.

PN722

For example, the character of the individual person would have an influence over the level of injury or negative consequence that they may suffer, such as their level of resilience, personal resilience?---That's possible. It's probably not the first factor I would emphasize but it's possible.

PN723

Yes. And their own personal history with domestic violence, for example, may impact upon - - -?---Yes. I'm probably reluctant to comment because my expertise is not on the – I suppose the character of victimisation and the ways in which that manifests among different victims of domestic violence.

PN724

Well, coming back to your characterisation of domestic violence in the strong and proper sense, would you agree that in broad terms the impact of intimate partner violence is most pronounced where the victim is subject to the domestic violence in the strong and proper sense, as you describe it?---Yes.

PN725

So by extension, the impact of intimate partner violence will often be less pronounced where the victim is subject to domestic violence which appears, you know, at the other end of the spectrum?---Yes.

PN726

Yes. Of a one-off sort of nature?---Yes.

\*\*\* MICHAEL FLOOD

XXN MR FERGUSON

PN727

And there may well be – this is where a person is exposed to some form of intimate partner violence at that end, that doesn't result in any injury or illness, as such?---If – I would put that slightly differently. I would say that it's possible that someone may be exposed to some form of physical aggression by a partner or ex-partner with no significant injury or psychological harm. But if we're using the – but when you asked – you phrased that in terms of intimate partner violence, and I suppose my caution is, do you mean in the strong sense or do you mean in the broad sense, so – yes.

PN728

The broad sense?---Yes.

PN729

I meant in the broad sense?---So can you pose the question again?

PN730

There would be instances where a person is exposed in a one-off incident to - - - ?---Of what?

PN731

Of intimate partner violence?---Okay.

PN732

Such as psychological abuse?---Okay. Yes.

PN733

That they don't suffer any injury?---Correct.

PN734

Or significant negative consequence?---Correct.

PN735

We will talk about the Personal Safety Survey. Now, many of the statistics you refer to in your report are taken from that Personal Safety Survey, aren't they?---yes.

PN736

And most of the data you refer to in your report is based on the 2012 PSS, isn't it?---Most of the data from the Personal Safety Survey referred to in my report is from the 2012 Personal Safety Survey, yes.

PN737

Yes. But it's true that the last PSS was run by the ABS – the last PSS that was run by the ABS was in 2005?---There's the 2012 in 2005.

PN738

Prior to that. I apologise. I didn't put that well?---So the previous one, yes.

PN739

Yes. Was in 2005, wasn't it?---I believe so.

\*\*\* MICHAEL FLOOD

XXN MR FERGUSON

PN740

Yes. Doctor, I just want to provide you with a copy of an article that you authored, titled "Violence against women and men in Australia. What the Personal Safety Survey can and can't tell us"?---Thank you. It's nice to see my own work being circulated.

PN741

Well, you cite that in your own report, don't you?---I don't recall actually but - - -

PN742

Paragraph 3.15. But the article itself was published in the Domestic Violence and Incest Resource Centre Newsletter in 2006?---Yes.

PN743

And it relates to the Personal Safety Survey that was conducted by the ABS in 2005, doesn't it? Now, if I can take you to the first page and the second column there. You say in the second paragraph in the second column, you say in effect that the PSS data suggested the rates of violence against women have declined in Australia. Can you see that?---Yes, I can.

PN744

And you agree that your analysis of the data at the time was accurate?---Yes.

PN745

Can I take you to page 8 of that article. I just want to take you to the first column, second paragraph, where you make some comments regarding the way in which the PSS measures violence. You say there as follows:

PN746

*The narrow assessment of violence used in the PSS has real implications. First for the ways in which we discuss the extent and impact of domestic violence or violence against women in Australia. Violence prevention advocates typically use the term "domestic violence" to refer to a systematic pattern of power and control exerted by one person, usually a man, against another, often a woman, involving a variety of physical and non-physical tactics of abuse and coercion in the context of a current or former intimate relationship. It is simply not the case that every one of the 73,800 women noted above is necessarily living with this. All experienced at least one violent act by a partner in the last year. For some this was part of a regular pattern of violent physical abuse, but for others it was a rare or even reciprocated event. The PSS itself gives us some sense of this. Among women who had experienced violence by a current or previous partner since the age of 15, for a little over half, 54.2 per cent, there had been more than one incident.*

\*\*\* MICHAEL FLOOD

XXN MR FERGUSON

PN747

Now, the comments you make here are regarding the 2005 PSS, but there wasn't any fundamental change made to the way in which the PSS measured violence in 2012 which render your comments irrelevant to the most recent survey?---My understanding is that there have been some changes in the survey instruments



used by the PSS which were reflected in the 2012 data. I feel unfamiliar with those changes, other than – yes. No, I would be guessing at exactly what those changes were.

PN748

Because you're not aware of any change that would render – any change in the methodology which would render your previous observations as irrelevant to the current survey?---No.

PN749

Can I just take you to paragraph 3.32 of your report. You deal there and in the paragraphs that follow to some extent, with gender differences in the perpetration of intimate partner violence. I just want to be very clear, intimate partner violence is perpetrated by both men and women, isn't it?---Yes.

PN750

And in some cases, intimate partner violence perpetrated by a woman is in self-defence?---Correct.

PN751

But isn't it right that in some cases the act of self-defence is committed during an incident of male perpetrated violence but not in all instances?---Correct.

PN752

There are some instances where the woman's act may occur, from a temporal perspective, on an entirely different occasion?---True. And this then poses methodological challenges about how to judge when women's or indeed men's use of violence is in self-defence. And also regardless of its timing, challenges in judging whether a particular act of violence is in self-defence or retaliation, for example.

PN753

So it could be for various purposes. Not just self-defence. It could be for some other motivation?---Indeed. Indeed.

PN754

Are there other reasons why a woman may engage?---Are there other reasons why women may engage in violence against male partners?

PN755

Yes. Yes?---There are all kinds of reasons, as there are for male partners.

PN756

Yes?---The report 3.34 summarises existing research on women's motivations for the use of violence against intimate partners or ex-partners.

PN757

Yes. Yes?---And what it points to is that in fact there's a significant gender contrast in the typical motivations for the use of intimate partner violence.

\*\*\* MICHAEL FLOOD

XXN MR FERGUSON

PN758

Yes?---Yes.

PN759

Can I take you back to page 9 of that article. You, there in the first column towards the top, refer to situational couple violence. Now, you say:

PN760

*Some heterosexual relationships suffer from occasional outbursts of violence by either husbands or wives during conflicts. What Johnston calls situational couple violence. Here, the violence is relatively minor. Both partners practice it. It is expressive in meaning and it tends not to escalate over time and injuries are rare.*

PN761

Would you say that situational couple violence is another example of circumstances in which both the female and male in a heterosexual relationship may be subject to intimate partner violence?---Situational couple violence does describe a pattern where both partners in a relationship are using physical aggression.

PN762

Yes. So they're being violent, physically violent?---Correct.

PN763

And the violence could be directed towards both partners?---Yes.

PN764

I would seek to have that article marked, your Honour. I tender it if I may.

PN765

VICE PRESIDENT WATSON: Yes. I mark that exhibit F1.

**EXHIBIT #F1 ARTICLE BY DR FLOOD**

PN766

MR FERGUSON: Sorry, your Honour, I didn't hear that. I apologise.

PN767

VICE PRESIDENT WATSON: F1.

PN768

MR FERGUSON: F1. No further questions, your Honour. Thank you.

PN769

VICE PRESIDENT WATSON: Mr Ward.

**CROSS-EXAMINATION BY MR WARD**

**[3.13 PM]**

\*\*\* MICHAEL FLOOD

XXN MR WARD

PN770

MR WARD: Professor, how are you?---Good, thank you. I'm merely an Associate Professor.

PN771

Sorry?---I'm merely an Associate Professor. Not a professor but - - -

PN772

All right. When I was at university I was taught to call all Associate Professors, Professor?---It's a healthy habit. Encourage it as much as you like.

PN773

Is it? I was told that by every Associate Professor who taught me so - - -?---Sure. Sure.

PN774

- - - don't be offended if I call you Professor?---Sure.

PN775

My name is Nigel Ward. I appear for the Australian Chamber of Commerce and Industry and other employer interests in this matter. I only have a very few questions for you. And the first one is my inability to pronounce a name properly. In paragraph 5.7 of your report you refer there to the ecological framework, which I think is on the next page. And my first question is, how do I pronounce the author's name?---Heise, I believe.

PN776

Heise. Heise?---Would be my best guess.

PN777

Okay. Well, yours is better than mine. Can I take you to that framework. I found it – it's the latent engineer in me, I found it very useful. I take it that you, having included it, associate yourself with this framework?---True. I'm not the author of that framework.

PN778

No?---But I included it because it's a – I think a simple representation of the range of factors and, in particular, the gender-related factors which shape partner violence.

PN779

Yes. And I'm going to ask you some questions just so that I properly understand it, if I can?---Sure.

\*\*\* MICHAEL FLOOD

XXN MR WARD

PN780

The macrosocial and the community criteria, I take it they're largely social cultural elements?---So what the model is seeking to identify is the factors or determinants or causes of partner violence at different levels of the social order. So from, you know, at the level of individuals, and the level of their relationships, at the level of their families, to the communities, to the macrosocial as you say

which the macrosocial refers to social, cultural, economic and political arrangements.

PN781

Right?---And - - -

PN782

Without being crass, we sort of zone then into more personal elements and more specific motivations that might give rise to violence as this model goes along?---I'm not sure what you mean by that about zoning into or as this model goes along, because this model emphasises very strongly that to understand and to prevent partner violence we have to pay attention across these different levels of society.

PN783

But it's the cumulative nature of all of these factors that might give rise to violence?---I'm not sure about cumulative. It's certainly seems a probabilistic model and I think I make reference to that in my report.

PN784

You do?---Yes.

PN785

So let me just take you to the part which I'm struggling with a little bit. The part that says conflict arena and then you - - -?---Can you tell me which column that's in please?

PN786

Sorry, it's actually a model. It's 1, 2, 3 - - -?---Yes I can see it.

PN787

You can that?---Yes.

PN788

I'm not completely sure what is meant by the phrase "conflict arena"?---Yes, look I think this diagram does it very well actually and I've seen simpler versions of this diagram, and I think one of the reasons I put this in was because it was recent and it incorporates more of contemporary scholarships identification of factors. But my understanding of what Laurie Heise's model is doing there is pointing to the fact that there is - in terms of what can shape partner violence, there is an interaction between levels of equality or inequality in a relationship and levels of conflict. So where, for example, you have a husband/wife relationship or boyfriend/girlfriend relationship with both high levels of inequality between them, say in terms of decision making or age or power, and you have high levels of conflict you're more likely to get partner violence.

\*\*\* MICHAEL FLOOD

XXN MR WARD

PN789

Can you help them just understand what is meant by this notion of a situational trigger or a patriarchal trigger? Trigger to me suggests it's the ultimate trigger that might create?---No, that's not - that's certainly not the way the term trigger is

being used there. It's more that there are situational factors you could say, that again increase the likelihood of violence. So we know, for example, that if a woman has been living with violence by her male partner then separation, so the situational process of separation will increase the risk of violence. So let's see what situational triggers they've put there. I mean they've put a number of situational triggers there but the one - the scholarship - the situation factor I'm most familiar with is separation, where - - -

PN790

Just help me. So I think what you've just told me is that things that are listed in this model such as infidelity, male drinking, they're just things that might increase the likelihood of violence?---Correct, yes. There's a probabilistic factor. None of these are - how would you say, necessary for violence to take place.

PN791

But if there present there might be an increased likelihood of violence?---Correct.

PN792

Yes, and again I'm trying not to be crass but the things that then are in the column on the far right, these seem again to be cultural, sociological and some psychological issues as well?---Correct.

PN793

They being present again might amplify the likelihood of violence?---Correct. Without making it inevitable.

PN794

I understand that. I understand that. Yes. Nothing here makes it inevitable, is that correct?---That's correct.

PN795

Thank you. No further questions.

PN796

VICE PRESIDENT WATSON: Dr Flood, can I ask you some questions about paragraph 3.39 of your report. It's in relation to reporting and I think you're expressing the view that there's likely to be an under-estimation of men's violence against women because of the reporting issues. Is that under-estimation likely to be affected by cultural and other issues and some of the issues that are in the conceptual framework? Would it vary from different groups to others?---It is. A perfect example of the ways in which under-reporting of intimate partner violence and particular forms of intimate partner violence is shaped by cultural norms is do with marital rape. So you know where a husband sexually assaults his wife or indeed where a wife sexually assaults her husband, there are some communities where the notion of marital rape is kind of non-existent and makes no sense, because rape is a - sorry, because marriage involves the right to have sex with your wife or husband, and so that's an example where - - -

\*\*\* MICHAEL FLOOD

XXN MR WARD

PN797

What are those cultural groups?---Sorry?

PN798

What are those cultural groups?---I can't name specific cultural groups but I know that the National Community Attitude Survey conducted by Vic Health, it included a sample of selected culturally and linguistically diverse groups and recognition of marital rape for example was lower among those selected CaLD samples than in the general Australian population. Yes, there were five specific CaLD communities who were the focus of that sample but I can't recall what they were.

PN799

Yes, thank you. Ms Burke.

PN800

MS BURKE: No re-examination.

PN801

VICE PRESIDENT WATSON: Thank you for your evidence, Dr Flood?---Thank you.

PN802

You can step down.

**<THE WITNESS WITHDREW**

**[3.21 PM]**

PN803

MS BURKE: There are no other witnesses scheduled for today.

PN804

VICE PRESIDENT WATSON: Well, tomorrow there are four witnesses scheduled. Is it possible to ensure that we can move continuously through those witnesses and - - -

PN805

MS BURKE: We've asked for witnesses to be here - all the morning witnesses to be here in the morning regardless of start time and all the afternoon witnesses to be here during the lunch time adjournment.

PN806

VICE PRESIDENT WATSON: Well, I don't know whether we'll have time in the morning for Ms Jackson. It's possible we might reach that fourth witness before lunch.

PN807

MS BURKE: I'm really going to have to throw this question to my learned friends.

PN808

VICE PRESIDENT WATSON: What's the estimate of the employers' cross-examination?

\*\*\* MICHAEL FLOOD

XXN MR WARD

PN809

MR FERGUSON: Sorry, your Honour, I didn't hear that.

PN810

VICE PRESIDENT WATSON: Pardon?

PN811

MR FERGUSON: Sorry, I didn't hear that, your Honour.

PN812

VICE PRESIDENT WATSON: What's the estimate of the time for cross-examination of the three morning witnesses?

PN813

MR FERGUSON: Look I would have thought, without being specific, that you could move through our - well our cross-examination in the morning of all four witnesses, but we haven't had a detailed discussion how long they're going to be. I don't think we'd be much over half an hour with any of those witnesses as an estimate.

PN814

VICE PRESIDENT WATSON: Well, I think we'd prefer to move through all of the witnesses sequentially rather than have a lengthy delay for the afternoon. So if that can be taken into account in terms of having the witnesses ready.

PN815

MS BURKE: I'll arrange for Ms Jackson to be here earlier.

PN816

VICE PRESIDENT WATSON: Yes, thank you.

PN817

MS BURKE: Thank you.

PN818

VICE PRESIDENT WATSON: We will adjourn until 10 am tomorrow.

**ADJOURNED UNTIL TUESDAY, 15 NOVEMBER 2016**

**[3.23 PM]**

**LIST OF WITNESSES, EXHIBITS AND MFIs**

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<b>EXHIBIT #B1 STATEMENT OF DR COX WITH FOUR ATTACHMENTS</b>	<b>PN115</b>
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<b>EXHIBIT #B4 WITNESS STATEMENT OF DR MICHAEL FLOOD DATED 26/05/2016, TOGETHER WITH ATTACHMENTS.....</b>	<b>PN701</b>
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