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THE HOUSE OF ASSEMBLY STANDING COMMITTEE ON GOVERNMENT ADMINISTRATION B INQUIRY MET IN COMMITTEE ROOM 1, PARLIAMENT HOUSE, HOBART ON MONDAY, 5 OCTOBER 2026.

INQUIRY INTO TASMANIA POLICE RESPONSES TO ALLEGATIONS OF OFFICER MISCONDUCT

Law Society of Tasmania

The Committee met at 9.30 a.m.

CHAIR (Ms Haddad) - Good morning and welcome to today's hearing of the Tasmanian Parliamentary Inquiry into police responses to allegations of officer misconduct. Thank you for joining us today and for the written submission from the Law Society. Could I ask you please just to state your name and the capacity in which you are appearing before the Committee?

Mr PURCELL - Callum Purcell, and the capacity I'm appearing is a member of the Criminal Law Committee of the Law Society of Tasmania.

CHAIR - Thank you very much. Can I confirm that you've received and read the guide sent to you by our Committee Secretary?

Mr PURCELL - Yes.

CHAIR - Thank you. I will just remind you of the pertinent parts. The hearing is covered by parliamentary privilege, which allows you to speak with freedom and without fear of being sued or questioned in any court or place outside of parliament. However, this protection is not accorded to you if statements that you make may be defamatory and are repeated or referred to by you outside of these parliamentary proceedings.

This hearing is public. There may be members of the public or media present in the room. There aren't any right now but they could come in during the morning and indeed be observing online. Should you wish aspects of your evidence to be heard in a private *in camera* hearing, please just make that request of the committee at the time and we can move into an *in camera* session.

I'll introduce the Committee. My name's Ella Haddad. I'm a Member for Clark and the Chair of the Committee. We're joined by Rosalie Woodruff, the Member for Franklin; Peter George, also a Member for Franklin; and Jen Butler, who's a Member for Lyons; and we're supported by Michael and Georgia here from the Secretariat and Terry on Hansard, so all of the people you can see in the room. We have a few committee members away today as well.

Could I ask you please to affirm the following statement?

Mr CALLUM PURCELL, CRIMINAL LAW COMMITTEE MEMBER, LAW SOCIETY OF TASMANIA, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED via TEAMS.

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CHAIR - Before we get underway, the Committee also has agreed to provide some support prior to each hearing, recognising that during these hearings we may discuss highly sensitive matters that have deeply impacted people. This may be distressing for people listening to or participating in these proceedings. Anybody who does need support can contact services such as Lifeline on 13 11 14. Other support contacts are listed on the Committee's website and available in hard copy in the room today as well.

With those formalities dealt with, Callum, would you like to make an opening statement?

Mr PURCELL - Yes, I can do. I do have reference to the submissions provided to this Committee and I thank the Committee for seeking these submissions. I also would like to recognise the tremendous work by Regina Weiss in relation to the report undertaken. Obviously, I understand this Committee's terms of reference aren't solely based on the matters covered by Ms Weiss, but the work gone into that report certainly assisted the Society in its submissions to this Committee.

I'd also like to recognise the difficult work, as Ms Weiss had done in her report undertaken by Tasmania Police. I deal with criminal law matters. I see the difficulties that police frequently address each day. Their job is certainly one that only certain people would wish to go into and the difficulties that they face, and the manner in which they do it, is on the whole commendable and they should be recognised for that.

That being said, as identified in the submissions made by the Law Society, the position that police find themselves in is a position of power and that is recognised both, not only in their professional, but also their civilian lives, and with that comes extra precautions that should be taken by them when dealing with matters. Unless there's anything further, I suppose that is all I wish to address in my opening submission.

CHAIR - Thank you very much. I might start with referring to your written submission, and as you've said in your opening statement, there is support from within the Law Society of some kind of external function. Can you share with the Committee your views, or the views of the Criminal Law Committee, around the current architecture of how complaints like this are dealt with currently, noting that there has been significant development and improvement of internal systems in recent years within the police?

Mr PURCELL - Yes. I suppose the difficulties that have occurred in the past, in particular as Ms Weiss predominantly dealt with, it is unclear, with what's in place now, whether something like that would occur. In particular, it's more the clarity that comes about when complaints are made, as well as the reasons for any decisions to not proceed with complaints or the like. I think the current *Integrity Commission Act* does provide for reasons to be provided back to it, but not necessarily to the complainants, and that does cause some difficulty.

CHAIR - So, you're referring to the existing role of the Integrity Commission in terms of when they are engaged?

Mr PURCELL - Yes.

CHAIR - But the current process that is in place when a complaint is made about police, police officer misconduct or indeed, any kind of offending behaviour that involves Professional

Standards and then the Office of the Director of Public Prosecutions (DPP), does the Criminal Law Committee have views about that current referral architecture and the internal investigation components of that? I know that they've changed and improved in recent years as well.

Mr PURCELL – Yes, and I would need to review that more if I can adequately address the Committee in respect of that, so if I may take that on notice. I'm certainly happy for the Committee to provide a response to that, but I would need to be confident that I'm across the current circumstance before I comment on that.

CHAIR - No trouble. I'll open up to the Committee for questions.

Ms BUTLER - I'm happy to go. Thank you for joining us today. I appreciate your time and your expertise and thank you for the submission. In the submission you refer to the Integrity Commission, and “strengthen the statutory powers of the Integrity Commission”. And you recommend: “powers including direct access to relevant Tasmanian Police investigation databases; coercive examination powers; and the ability to conduct wholly independent investigations.”

Which of these reforms do you regard as the highest priority and why?

Mr PURCELL - I would perhaps say the coercive examination powers, and meaning by that being able to compel members of Tasmania Police to give evidence, allowing for there to still be the restrictions in place regarding privilege and the like, as there currently is under the relevant Act, but perhaps that more than anything. In particular that would allow the Integrity Commission to, hopefully, not only get access to the information held by Tasmania Police in their databases, including through Axon and body-worn camera footage and all of that other information, but without evidence from the officers that may be required, that information is only half of the story. And I suppose that's the reason why having those coercive examination powers is perhaps prominent out of all of those points raised.

Ms BUTLER - Thank you. Whilst we're on the Integrity Commission, aspect of your submission, you do state in your submission: “the Integrity Commission needs adequate resourcing.” You state that: “the agency responsible for investigating police misconduct should not be dependent on the organisation it oversees due to inadequate resourcing.” Have you identified specific examples where resourcing limitations may have affected oversight of Tasmania Police, more so than the current Reynolds, and so forth, that we've been discussing?

Mr PURCELL - Yes, I'm unable to give a specific example. It may be that a member of the Criminal Law Committee has a specific example in respect of that. If I may take that on notice and then I can address that at a later stage, if possible.

Ms BUTLER - Okay, thank you.

Mr GEORGE - Just a quick one. Thanks for joining us, Mr Purcell. I think your submission is a good, clear submission with a lot of serious points to be made. The one particular question I have is when you speak about the obligations that arise with the police when misconduct is reported, sorry, the obligations that arise when the allegation is received, rather than after Tasmania Police has undertaken a preliminary investigation of whether it

considers the allegation credible. Are you able to describe what that first step should look like, from the Law Society's point of view?

Mr PURCELL - I suppose it would be training for officers to identify exactly when that obligation would be activated. So, when an officer, a frontline officer, receives a complaint, when they are to refer it on to their internal organisation to investigate the matter. It would also ensure that officers are trained to identify that and that the matter can then progress quickly, as opposed to taking time to go before their internal processes or up to their senior sergeants or the like, they acknowledge that they have to deal with it in an expedient manner. And as a result, it's not going to stagnate, and also will avoid future harm. A lot of the time, particularly identified by Ms Weiss in her report, complaints can be made to various people but if they're not taken seriously, or they're not dealt with in an expedient manner, then unfortunately, further harm can be caused to those that are suffering in the community.

Mr GEORGE - Do you have any concept of what that first step could look like with better handling? Because obviously that first step of a complainant making the complaint and going to the police is often probably the most fearful moment. Does the Law Society have a view of how that whole process can be eased upfront?

Mr PURCELL - Perhaps - it's difficult for people, if there's a complaint, to go to a specific place. Often people may make a complaint as part of a police investigation, they may raise certain matters. It would be, I think, incumbent upon all police officers to be able to identify when such a matter requires further internal investigation, and the obligation would be on them to do it. I don't think having a single point of entry, as may be the current method for if you have a complaint, there's a specific line that you call or a specific email address that you email. I think it would be best if all officers had the obligation, if certain matters arise, that they would refer them on to that body as well, not only it be upon the complainant. Because often, as well, they can be incredibly vulnerable, and it's difficult for them to, I suppose, have the expertise to be able to find where complaints should be made and lodged.

Dr WOODRUFF - Thank you, Callum, for what you've told us so far. Following up on what Mr George has just asked you, I think my question is: do you think, given the Weiss review recommended that the Integrity Commission take responsibility for investigations on matters of serious misconduct, sexual misconduct of Tasmania Police officers - that's her recommendation, not yet enacted - do you think there would also be a role for the Integrity Commission to take on the responsibility for reporting of misconduct? Because as it stands, the submissions we've heard, and many victim-survivors have noted that they didn't make the first step because they didn't trust who they were making it to as to be independent. Does the Law Society think the Integrity Commission could have that role, or do you have a view of another model?

Mr PURCELL - The Integrity Commission is what we already have, and I suppose this was why the submissions made about resourcing, ensuring that if there are external complaints made about Tasmania Police, that the Integrity Commission is able to deal with those. It would perhaps be most appropriate that the Integrity Commission would be dealing with those complaints. That would also take the pressure off Tasmania Police in its internal capacity having to investigate itself and the inherent difficulties that arise from such internal investigations. If the Integrity Commission had adequate resourcing to undertake those inquiries, I think it would be best for that body to deal with it as opposed to Tasmania Police.

It would also avoid the need, as you rightly identify - victims or the like often are in a position where there is an inherent distrust of Tasmania Police, in particular given if they are complaining about certain officers, that they feel a third entity is better to go through. As a state, the Integrity Commission is what we have, and I think that is perhaps best situated to deal with those matters.

Dr WOODRUFF - Thank you. You mentioned the statutory right for complainants to receive a statement of reasons about an investigation, and I presume you're talking about something at the - so, a person would make a complaint and then often they've reported that there isn't feedback from Tasmania Police about what happens past that point. But you've listed a number of things in your submission that you think should be required by law to be provided to complainants about the evidence that was considered, witnesses who were interviewed, allegations - whether they were substantiated, unsubstantiated or not - and why particular allegations weren't investigated.

These, on the face of it, sound very sensible, but can you talk about what it's like now for people that are represented, and some stories or some experiences, I suppose, for us, about the everyday life of representing a person who's got an allegation of officer misconduct and the information you get back - what's the exchange you have at the moment with Tasmania Police on those sorts of questions?

Mr PURCELL - Yes. So, I'm not able to, I suppose, give specific examples. I have myself, and again this is in my capacity as a lawyer, have not had to deal directly with complaints against officers; however, I do know of people that have. The difficulty is the limited information, and this is the reason that the Criminal Law Committee has taken this position. I understand there may be members of the Committee that have more experience than I in this particular area, but in their experience, it is rather limited and you're also unsure as to what information has actually been considered at the time, which are the reasons why the Committee has suggested including all of the matters you have just listed, in particular, avenues of complaint that have not been considered often. People that have had difficulties with officers in the past have simply had a response along the lines of 'Your concerns haven't been substantiated' or something along those lines. They're unsure as to, 'Well, I had probably five things that I had raised, which of these was considered?' It's rather a short response as opposed to that, rather than actually being a substantial - it doesn't necessarily need to be rebuttal, but just at least what the process has considered and the witnesses called and the like. That would certainly go a way to alleviating any distrust in the outcome that Tasmania Police reach.

Dr WOODRUFF - You've just mentioned then, it does sort of feed into a culture of distrust. That is certainly what's been represented to us by some people. Do you have any experience of lawyers who try and access this information on behalf of clients? Is this a sort of standard - not information coming out? Or is it mixed? Does it depend on who you ask on the case? Is there sort of - I'd be interested to get a picture of what people get now.

Mr PURCELL - I don't think it's uniform, unfortunately. I think it really depends on the circumstance and then who is dealing with it. If there were some more regularity as to what was required in a response, that would likely alleviate the inconsistency as to how matters are, not necessarily dealt with, but the responses that are received. I do note some allegations made against officers have been quite detailed in the response that people have got back, but it can also likewise be the single sentence of 'The allegations haven't been substantiated' and the like. Having that would certainly assist in more consistency and also ensuring that officers dealing

with the complaints understood what was required of the investigation, ensuring that they've detailed who they have spoken to as part of the investigation and why they've come to the determination would certainly assist in, not only the person who's made the complaint getting proper responses, but it also ensures that the trust in Tasmania Police can remain, with them saying 'We have fully investigated all of these matters'.

Dr WOODRUFF - Finally, just on that, you wouldn't expect from your recommendation about a statutory, sort of mandatory complaints response from Tasmania Police that it would prejudice an investigation in the future or a trial in the future, if one were to happen? There's not a reasonable case that could be made for withholding that sort of basic information that you've outlined?

Mr PURCELL - There may well be at times. Again, I suppose if there was information that could potentially prejudice a trial, that would be perhaps a reason to withhold certain information. But it would be important that following the conclusion of those criminal proceedings that that information was then released after the appeal period or the like.

Dr WOODRUFF - Great. Thank you.

Ms BUTLER - You speak in your submission about accountability beyond resignation, and this was also raised in the Weiss report as well, and that you recommend that investigations continue after an officer leaves employment because:

The complaint system should not incentivise resignation as a pathway to avoid accountability.

Has the Law Society or members of your Committee, when you were pulling together this submission, identified examples in Tasmania or elsewhere where resignation has undermined the accountability of outcomes?

Mr PURCELL - I apologise. I'll need to take that on notice. I would not wish to try and draw from my memory of the discussions when compiling these submissions. It would be best if I perhaps take that on notice and then provide a written response if able.

Ms BUTLER - Yes, and in your own experience, how important, when there's a process of an investigation and the gathering of evidence and statements and so forth, how vital can that be to eventual outcomes? I'm not asking to give exact examples there, but how important can that be when determining, say for instance, repeat offenders or when there's been ongoing misconduct or criminal activity? How important is that information when building together a legal case?

Mr PURCELL - In particular with repeat offenders, having record of that so that they can be identified as repeat offenders is incredibly important. Often when officers may be first identified as having performed something illegal or some other kind of misconduct it may be perceived as quite minor. However, if they're identified as doing this over a period of time and it happens a number of times, in order to be able to identify that there needs to be the evidence gathered for it, and then I suppose kept, so that can be used at a later stage to identify that this isn't the first time this has occurred or this person has been reprimanded in the past for these things. And that's why having the basis of the reprimand or having the basis of the misconduct is incredibly important.

Ms BUTLER - Could that also point in some cases to an escalation of activity or misconduct as well?

Mr PURCELL - Yes.

Ms BUTLER - Thank you.

Mr PURCELL - Yes. As identified by Ms Weiss in her report, I suppose, the escalation over a period of time, particularly with the most serious kinds of misconduct - they will really push the parameters until it's identified, so I think it is really important to have the evidence, and I suppose the basis of why Tasmania Police have reached a determination in relation to the misconduct or illegal activity, and then that those are kept so that they can use it for that purpose.

Ms BUTLER - Thank you.

Mr GEORGE - Thanks, Chair. Can I just go back to what I raised, and Dr Woodruff raised? Do I take it that your Committee's view is that the Integrity Commission should be the first step or the front door for a complaint, in other words, avoiding going through the police process at all as the first step?

Mr PURCELL - I think, depending on the nature of the complaint, certainly for serious misconduct, but so long as the Commission is able to deal with those matters and that is the main concern - let's just say they are adequately resourced, that would certainly be ideal, but also though if a person does go to Tasmania Police with the complaint and the process is that it is dealt with by the Integrity Commission, that it would be incumbent upon them to ensure that the complaint does make its way to the Commission and is dealt with by the Commission.

Mr GEORGE - Great, and the same would apply, would it, for members of the police force who might be victim-survivors or may indeed be whistleblowers?

Mr PURCELL - Yes. And again, that is why having an independent Integrity Commission and dealing with the matter as opposed to internally would allow the whistleblower to speak more freely than they otherwise would in their internal investigations or the like.

Mr GEORGE - Thank you.

Dr WOODRUFF - Thanks. I have a question about the Right to Information framework. Your submission says that the Right to Information framework needs to be reviewed because "there are significant barriers to accessing and obtaining information... long delays and refusals predicated on undue burden and the protecting of ongoing investigations."

It's certainly feedback that we've received from other submitters. Could you please provide some more details about what the experience is of people representing complainants and how that impacts on justice?

Mr PURCELL - Yes. So, a delay is a major issue when it comes to justice. Obviously, as I had touched on earlier, ongoing investigations or charges that are before the courts, it is

very important that those investigations or those proceedings remain unimpeded by information being provided to others. That being said, there is a significant delay at times when information is sought. This doesn't particularly go to the legislatively required disclosure. If you have a regular criminal matter and I have a client, I apply for disclosure and under legislation I'm required to obtain certain things within a period of time. If you are acting for a complainant and you go through the regular Right to Information mechanisms, that is not the same. It's not the same process and it's not clear. There can be some delay as to why you're not receiving the information that is sought, or access to a particular database or the like.

Obviously, I completely appreciate police investigations relating to criminal charges, they need to proceed, but there is delay in obtaining information, and the reasons given for refusal of providing the information sought isn't always clear like it would be, for example, if there were criminal proceedings on foot that related to this officer and there was information associated with that. It's not always clear. Perhaps if there was more regularity around how long and the types of information, the reason why they're not being provided, that would certainly assist. Delays, as I say, one person who's making a complaint against police, there is likely an already inherent distrust there and if you're requiring information from Tasmania Police and it's not being provided, that I suppose, further cements their opinion as to how their complaints are being viewed and how Tasmania Police is dealing with their matter.

Dr WOODRUFF - What do you think the motivation is for? If you access information, it's got to be through Right to Information and then you go through a long, protracted process and then the information is eventually provided. What do you think the motivation is for not just releasing that information in the first place?

Mr PURCELL - I couldn't speak to that. I think that that's more - Tasmania Police would be in a better position to answer that question. The outcome of that, though, the outcome of not providing that information, I suppose, results in distrust of the system, in particular, for the people who are already facing issues with the police force and feel like they have suffered some harm, or they have suffered some harm having to be denied information to be able to progress their matter does cause difficulties to them and also delays in any proceedings that are made.

Dr WOODRUFF - You said the Right to Information (RTI) framework should be reviewed, but is it really a review of the RTI framework, or is it a review of Tasmania Police's information that needs to be collected through Right to Information? I think, from what I understand from what you're saying, there's a whole lot of stuff which should not go through an RTI process; it should just be released. Or maybe there's, obviously, a range of things. You haven't provided a list of the changes that you think need to be made. Who do you think should do the review? Does the Law Society have a bunch of recommendations on this, or what would you suggest?

Mr PURCELL - If I may - and I do apologise - if I may take that on notice, and I can give you a more extensive submission, then, as to how the RTI framework -

Dr WOODRUFF - That'd be very helpful.

Mr PURCELL - Yes, I'd be happy to do that.

Dr WOODRUFF - Thank you.

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Ms BUTLER - I'd just like to go back to Mr George's previous questioning around whistleblower protections and your submission talking about the strengthening of whistleblower protection. You state that police officers may "be uniquely positioned to identify misconduct by colleagues". Are there any jurisdictions with a more robust framework that we may, as a Committee, be able to draw guidance from?

Mr PURCELL - Yes, and I would need to look into that. I do note - and apologies, I'll need to take that on notice. But I do know that there are some other jurisdictions that have it almost not just as a separate body but a separate organisation within the ambit of the police force in that jurisdiction that assists whistleblowers - I believe it may be New South Wales, after various reviews into its own whistleblower protections. But I would need to take that on notice so that I can adequately address which jurisdiction I'm particularly thinking of.

Ms BUTLER - Thank you, because it's not just a unique issue for Tasmania Police, is it, when it comes to whistleblower protections?

Mr PURCELL - Yes.

Ms BUTLER - It's right across all agencies as well -

Mr PURCELL - Yes.

Ms BUTLER - But it's the unique opportunity to provide information from a serving police officer who would be able to spot misconduct by colleagues, so it is quite a unique opportunity, isn't it? So, thank you for that.

Mr PURCELL - Yes, absolutely.

Mr GEORGE - My research into what's happening in other jurisdictions seems to sort of expose, to some extent, where we are lacking in Tasmania. I'm wondering whether, given the sort of unique circumstances that we've got in Tasmania, would your Committee, do you think, consider perhaps a hybrid investigation might be appropriate in Tasmania - one that perhaps the Integrity Commission, which may not have the expertise to investigate, could supervise or monitor a police investigation?

Mr PURCELL - The only reason I would perhaps caution such an approach would be just the availability of resources. Again, if it is the case that both Tasmania Police and the Integrity Commission are fully resourced for that kind of model, then that would certainly benefit.

I suppose, the Integrity Commission, if they were to have the power to compel witnesses, they would be able to obtain the relevant information from the officers to obtain that expertise to, I suppose, find where the guardrails are and what would've been an appropriate response in a specific circumstance or the like, because it is difficult for a layperson to see a situation and determine whether an officer has acted appropriately. But, at the same time, I would hope that the Integrity Commission would have expertise from Tasmania Police so that it had the information to be able to investigate matters and the like. My concern with having two separate investigations, or perhaps the Integrity Commission reviewing Tasmania Police's internal investigations, would just simply be the resources required for that. I would say that the

Integrity Commission may be able to be best to deal with the investigation themselves, whilst ensuring that they had appropriate expertise to be able to determine the matter appropriately.

Dr WOODRUFF - Thank you. On the Integrity Commission again and talking about justice, as we were with the RTI framework, what are the effects of justice? The Law Society submission talks about needing to strengthen the Integrity Commission. It talks about the resourcing of the Integrity Commission being inadequate. What are the implications for justice in Tasmania of having an Integrity Commission that is not adequately resourced?

Mr PURCELL - Well, it would result in the delay, but also perhaps investigations are falling away at times, so when somebody may have a genuine complaint, and if it were to be dealt with by the Integrity Commission, it would be crucial that the Integrity Commission is adequately resourced to be able to deal with that matter. And as I said before, particularly for victim-survivors, they can often have a myriad of issues outside, or as a result of, any conduct against them, and it's important that they're dealt with the respect they deserve. But that also goes to ensuring that they have adequate responses to the genuine grievances that they have. For that reason, it's crucial that the Integrity Commission would have adequate resources to be able to provide those responses to them and adequately address their concerns.

Dr WOODRUFF - Thanks. Your submission talks about, additionally, legislation to preserve evidence. There's a bunch of things here which, from the Law Society's experience, sounds as though you've heard that there's problems with evidence being destroyed because it's got old, or for many reasons. That means that at a later point, a trial cannot be undertaken because there's no evidence. Can you talk about any experiences that people have discussed in this area and the implications for justice, and why you've listed these as the reforms that are needed?

Mr PURCELL - Yes. So, in particular, as we were discussing about - sorry, the submission's about the issues with repeat offenders, and in particular from the most serious avenues, this goes to that submission as well. If evidence is destroyed or witness statements aren't kept, for whatever reason, it may not be clear 10, 20 years down the track that there is an issue with a particular officer. And, in particular, when attempting to gather tendency evidence or the like, that can cause big issues with cases being heard at a later stage. As to how this would impact on justice, as the members of this Committee will appreciate, and certainly having read Ms Weiss's report, people can be reluctant to come forward at an early stage within the time period when records may be kept. For this reason, it's crucial that if somebody comes later, regarding allegations that have occurred some time ago, it's important that historical allegations are addressed as well as allegations made yesterday. It's important that they're adequately dealt with, and for that there has to be the evidence to support the allegation, not only, I suppose, for the benefit of the victim-survivor, but also for the benefit of the officer who has these matters alleged. It's important that they have that information.

Dr WOODRUFF - Thank you. You also point to members of the Law Society Committee having observed officers turning off body-worn cameras and microphones -

Mr PURCELL - Yes.

Dr WOODRUFF - on a, quote, "regular basis at various points of interaction". You talk about making it mandatory that officers not be allowed to switch off microphones or cameras during an interaction. Can you talk a bit more about that?

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Mr PURCELL - Yes. As the Committee may know, frontline officers - and, again, this may be a secondary issue - but frontline officers have body-worn cameras on their kit that they wear. They turn them on and what happens is the camera is actually always recording, but when they press the button, it goes 30 seconds prior to when they had pressed the record and then 30 seconds after that, the sound begins. So, you'll be able to see the footage for 30 seconds prior to that time and then after then the sound will play. They can turn those devices off; so, they may turn them on for a period of time and then they may turn them off for whatever reason. Officers should be able to turn them off at various times, obviously if they're going to the bathroom and the like or other privacy-related issues. But the Society is stating that it ought to be mandatory for when they have those interactions with members of the public and it is not just another officer in their own vehicle or the like.

Dr WOODRUFF - Has the Law Society raised this with Tasmania Police previously?

Mr PURCELL - I would need to take that on notice. I'm uncertain as to whether this has been raised with Tasmania Police in the past.

Dr WOODRUFF - Okay.

CHAIR - Thank you very much, Callum. We've reached the end of our time. Is there anything that we didn't go to in our questioning that you were hoping to raise with the committee today?

Mr PURCELL - No, I believe you've addressed everything. If there is anything more after finishing this, please do let me know and, as I say, I'll attempt to get the information that I sought to have on notice to the Committee when I can.

CHAIR - Thanks very much, Callum. We'll write to you with those matters that you took on notice.

Mr PURCELL - That would be greatly appreciated.

CHAIR - But likewise, if there's other matters that you'd like to raise with the Committee over the life of the Inquiry, please don't hesitate to do so, or any of your colleagues at the Society. Thank you for joining us this morning.

Mr PURCELL - Thank you very much.

The witness withdrew.

The Committee suspended from 10.18 a.m. to 10.31 a.m.

PUBLIC

Office of the Director of Public Prosecutions

CHAIR - Good morning and thank you for joining us. Welcome to today's hearing of the Tasmanian Parliamentary Inquiry into Tasmania Police's response to allegations of officer misconduct. Could I please ask each of you to state your name and the capacity in which you are appearing today?

Ms MASON - My name's Linda Mason and I'm the Acting Director of Public Prosecutions.

Ms LANCASTER - I'm Rebecca Lancaster, and I'm a Principal Solicitor at the Director of Public Prosecutions.

CHAIR - Thank you very much. Can I confirm that you've received and read the guide sent to you by our Committee Secretary?

WITNESSES - Yes.

CHAIR - Thank you. I'll just remind you that the hearing is covered by parliamentary privilege, which allows you to speak freely and without fear of being sued or questioned in any court or place outside of parliament. This protection is not accorded to you if statements that may be defamatory are repeated or referred to outside of these parliamentary proceedings. This is a public proceeding. There may be members of the public who come at some point during today's hearings, or indeed the media, and there may be members of the public observing online. If you wish any of your evidence to be heard in private, please just make that request of the committee at the time and we can move into an in-camera session.

I'll introduce the Committee very briefly. My name's Ella Haddad. I'm the Chair of the Committee. We're joined by Peter George, Member for Franklin, Dr Rosalie Woodruff, Member for Franklin, and Jen Butler, Member for Lyons. We might have Member for Clark Helen Burnet joining remotely. We also have apologies from a couple of members of our Committee today. We're supported in the room by Michael, our Committee Secretary, who you've corresponded with, and Georgia, and Terry assisting us from Hansard.

Ms LINDA ANNE MASON SC, ACTING DIRECTOR OF PUBLIC PROSECUTIONS, AND **Ms REBECCA CLAIRE LANCASTER**, PRINCIPAL SOLICITOR, OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Thank you. As a Committee, we also recognise that during these hearings we may discuss highly sensitive matters that have deeply impacted Tasmanian people. This may be distressing for anybody listening to or participating in these proceedings, and there is support available. Anybody requiring support can access the services that we have listed on the Committee website, as well as in hard copy in the room today. I'll open up to the Committee for questioning.

I might just start with a brief one. Thank you for your written submission, first of all, that the Committee's received and read. I just wondered if you could talk us through, as you have in this written submission, a little bit about the process of when things are referred to your

office, and the interactions between Tasmania Police and the Office of the Director of Public Prosecutions once that does occur?

Ms MASON - Thank you, Chair. So, there's an arrangement that's been in place for many years now, certainly since I've been working within the Office, and at least for the past 30 years, I believe, whereby investigations that are referred to our Office for review - we are not an investigative agency; we assess files, consider the quality of the evidence and the material before it, and then determine, in accordance with legal principle, the rules of evidence, whether we consider there's a reasonable prospect of conviction.

The files that are sent to us by arrangement between the Commissioner of Police and the Director are requesting our review, so they don't actually make recommendations themselves. They just ask whether we can review them to determine whether an offence or crime known to law has been committed. Our review is conducted by senior members of our Office. The Director personally reviews every file that comes in. He will often engage the services of someone like our Principal Solicitor, Rebecca Lancaster, to assist, to triage, and to often review. In circumstances where it's determined that a crime known to law has been committed and there is a reasonable prospect of conviction, and, of course, it's in the public interest to prosecute, we will pass that information back to the Commissioner and request that charges be laid. Our Office then takes carriage of the proceedings, so we are engaged at that first point and throughout the life of the prosecution. Irrespective of whether it's a summary offence or a very serious criminal offence, our Office will undertake the prosecution.

In circumstances where we determine that a crime hasn't been committed, or there are no reasonable prospects of conviction, we will return the file with that advice. Of course, that doesn't prevent Tasmania Police from then engaging in disciplinary proceedings or misconduct proceedings. That's, I think, in a nutshell, what we do.

CHAIR - In terms of the process that occurs prior to the request for your Office to review matters, I know there has been significant change and updates and improvements of those internal processes that occur within police before engaging the services of your Office. Do you have any views to share, or experiences that might be useful for the Committee to hear, about those processes that happen before things reach your Office, and if you're confident that everything that might need to reach your Office, in fact, does?

Ms MASON - I think that, as a whole, we would say that the quality of the files that we receive from the Professional Standards Unit is very high. What we're looking at is often the quality of the evidence. In the event that we were dissatisfied with the quality of the evidence, that information is passed back down the line and that can enable review. But as a general proposition, we don't see that there's any difficulty with the systems that are in place at the moment. You're dealing with situations where you've got very experienced officers dealing with these types of investigations. I think they've got to be the rank of Inspector or above to be involved in the Unit. And you've got pretty significant structural supports in place to carry out the investigation. So, from our perspective, bearing in mind we only see what we get in, the standard of the files and the quality of the files are very high.

CHAIR - Thank you. I'll open up to the Committee.

Dr WOODRUFF - I think that raises the question about the things that you don't see, I suppose. I think you just said, and I think your submission makes it clear, that you don't think

that there's anything that needs to change in the current system of reporting an investigation about matters of police misconduct. Is that a fair assessment?

Ms MASON - Well, we're not an investigative body, but what we receive, as the gatekeeper, I suppose, to initiating and undertaking prosecutions, is good-quality files. That can be observed or determined by the quality of the evidence that's been gathered during the course of the investigation, how the complainants have been treated and how the accused are being treated, and whether the investigation's been conducted in accordance with law. So, that's the framework around how we would approach it.

In the event that we have concerns about how an investigation was conducted - and I'm not particularly talking about Professional Standards, that information is conveyed back in a memorandum to the Assistant Commissioner when we indicate why we haven't charged.

Dr WOODRUFF - Thank you. And you've presented a case that you think, for the reasons you've outlined in your submission - the quality of the investigation that's required and the capacity to do that, that the investigation processes for officer misconduct should stay with Tasmania Police?

Ms MASON - We're happy with the quality of the files we're receiving, yes.

Dr WOODRUFF - That's right. My question is: most people, I think, would be able to understand why a victim of police officer crime or misconduct wouldn't have much faith in going to the police about a complaint, especially in a small place like Tasmania. Your submission has argued for responsibility for investigations to stay with Tasmania Police. But what's your view about reporting pathways? Do you have a view that reforms that would create a different reporting pathway that is independent of police would improve justice?

Ms MASON - I think that's the issue, a significant issue, in this space. And it's difficult to say because the way the investigative body, which is Tasmania Police, works is that often they're dealing with two possible scenarios. There is an acute situation where the frontline services are going to a significant, say, violent event, and they are the best equipped to go there to assess and ensure that all parties, including potentially children, are safe, to ensure that evidence is preserved, to potentially effect an arrest, to interview a vulnerable witness and to elicit the best and most reliable account from that witness, to take them to places of safety and ensure that they're forensically examined, and then, of course, to deal with the potential offender and to interview them. In those scenarios the victim may not get a choice because the event has occurred and that frontline service is going to be available and able to step in.

There are other occasions, of course, in a more chronic situation, where the victim has real concerns about who to report to and trust, which absolutely has to be acknowledged. My experience, having prosecuted crimes of family violence and sexual abuse for many, many years is often the first point of contact, whether it's a police officer or not, is a family friend or a work colleague, or someone they trust. And it could be a general practitioner or a psychologist. That person will normally be a conduit to making the report to police. So, it may be that the victim doesn't want to engage with police, whether the offender is a police officer or not. Now, I haven't quite answered your question, but -

Dr WOODRUFF - No, I suppose all of that is true. All of that we've received submissions about. But you've said that the evidence that you get is good, that you get?

Ms MASON - Yes, correct.

Dr WOODRUFF - And we've heard from submitters that lots of evidence does not get to you and there's many, many reasons for that. So, do you think that there should be independence in the reporting pathway to enable more confidence in a lack of conflict in officers receiving information about misconduct of officers?

Ms MASON - I think, firstly, education about how you can go - a way in making complaints is absolutely vital, as the Chair has done today, encouraging people if they are concerned that there are agencies available. I think any independent agency that would be able to facilitate the taking or the conduit between making the decision to report and then the investigation would be, I'm sure, of assistance. But it would have to be set up in the right way. And again, sometimes you've got to ensure that you're not compromising the integrity of an investigation by having a separate reporting agency in place. You just have to be careful that the reporting agency knows how vital it is to preserve evidence and the most reliable account.

Dr WOODRUFF - Sorry, just the last thing. You could have a family violence agency or some other agency that a person could go to first but, ultimately, a complaint still needs to be made about a -

Ms MASON - In the first place.

Dr WOODRUFF - police officer with a name to another police officer.

Ms MASON - Correct.

Dr WOODRUFF - And the independence of, the understanding that there's no conflict in those connections, I suppose, is what people have raised. So, that begs the question about independence of a reporting pathway.

Ms MASON - Yes. I'm not going to suggest that another possible avenue for reporting would be a nonsense or ridiculous. Our only concern would be if we are tasked with assessing the evidence and the integrity of a prosecution, we would want to make sure that, at that point in time, the evidence isn't compromised.

Dr WOODRUFF - The process isn't contaminating the evidence?

Ms MASON - Correct. Probably a better way of putting it.

Mr GEORGE - You're only seeing, obviously, what the police present to you as files. But out there in the bigger world, New South Wales, Victoria, Queensland, Western Australia and not to mention internationally, particularly Nova Scotia, which is considered to be something of a leader, have all implemented increasingly versions of an independent investigation into serious police misconduct. Recognising that you must know about these things, I wonder why you could recommend that this process should stay within the police force, when internationally, let alone nationally, the movement is towards independent investigation?

Ms MASON - The observations that we would make are, any independent body that were to be tasked with the investigation of serious misconduct by Tasmania Police would have to be properly resourced, as you've heard from everyone. But it's not just about the resourcing. It's about having experienced and knowledgeable investigators who understand the legal system, are properly resourced in the sense of having the appropriate scaffolding in place, know how to use their powers, know the ambit of their powers, have the ability to exercise their investigative skills to engage in covert surveillance, to conduct forensic testing of items such as phones, act really quickly and decisively when an investigation turns in a particular way, be trauma-informed in their approach to interviewing witnesses, ensure that they're not compromising the rights of accused persons. You can't have directed interviews, for example. You'd run into problems with admissibility.

So, the difficulty is, it may seem self-evident that if you have an independent body who have investigators, that they can step in and do it. It's actually far more complex than that. It's a multi-layering of complexity which is evidentiary and legal. The bottom line for the Office of the Director of Public Prosecutions is: do we have cogent, credible and reliable evidence that we can assess properly and which will withstand the scrutiny, obviously, of legal and evidentiary challenge, and does that provide a proper foundation for a prosecution? The Director, in his response, has given the example of, currently within the Professional Standards Unit, there are very experienced officers. If one of them gets sick or leaves, another one can step in very quickly. If you had an independent body like the Integrity Commission, the staffing would, at the first point, have to be significant.

Mr GEORGE - Resourcing of it?

Ms MASON - Yes. Also, their ability to, to use another example, to seize a phone and then to forensically download it, to have powers to search and seize, and take samples, forensic testing. So, the investigations that are conducted on a day-to-day basis by the Professional Standards Unit take into account all of those, the support framework that exists, as well as the experience and knowledge of the investigators within it.

CHAIR - I had a follow-up question to that. I know that there has been significant change to the processes, particularly in the last 10 to 15 years or so, within Tasmania Police. But I think there is still, nonetheless, whether it's real or perceived, feeling of matters not necessarily making their way to you when it is an alleged police perpetrator. Particularly, I want to reflect on family violence allegations. We've heard evidence that national research shows that the rates of family violence perpetration by police officers or non-police officers, civilian people in the population, is roughly the same. And yet around 80 per cent of the general population are arrested or prosecuted for family violence offences, compared to around about 20 per cent when the alleged perpetrator is a serving police officer. That's national data. I don't know what the Tasmanian data is. I'm not sure that that data has been collected at a local level, so I'm not making any pejorative reflections on anybody in particular. But I wondered if you have any reflections on that because data like that does encourage at least a perception, or a kind of cynicism around whether or not alleged perpetrators who are police officers are investigated, or whether the complaints, in the first instance, are taken as seriously by their own colleagues.

Ms MASON - It's hard to answer that question because I think - and I'm not in any way trying to make light of police officers generally, but this is a systemic issue in relation to family violence, whether it's police officers or elsewhere. That's been my experience prosecuting in this area. I can say that there has been an increase in the number of family violence-related

investigations referred to the Office of the Director of Public Prosecutions in more recent times. Just out of interest, we've had a decrease in the number of what we could call 'street violence' or allegations of excessive force being used by police officers in public. And that's come about, in part, because of the body-worn camera footage.

But just to get back to your point, Chair, I don't disagree that an avenue that could be made available for people to provide an alternate route wouldn't be out of the realms. It's just, if you look at it from our perspective, ensuring that we are maintaining the integrity of any investigation - and as I said, as far as investigations are concerned that we see, if we consider that, for example, there are avenues that need to be further explored, we'll ask for that to occur, if we see a file and we think further things need to be done. But across the board, the investigations that we see we don't have any issues with.

Mr GEORGE - Could we just follow that up, Chair, because I was going to ask before, are you actually able to give any figures of the number of files that you receive each year and the number that you return for no prosecution on matters of family violence or sexual assault that involve complaints against police?

Ms MASON - The short answer is no. I think the figures that have been revealed in our correspondence was, we've received 130 matters involving offences, but that doesn't separate it into family violence. As I indicated, we have seen an uptake in investigation files that are referable to family violence, but I don't know what the figures are.

Mr GEORGE - Would be possible to produce them?

Ms MASON - I would have to take that on notice. I'm not sure whether we can.

Ms BUTLER - I have a question in relation to police making complaints about their fellow officers, so internal complaints. In your experience, because it's my understanding of the process that you've outlined in your submission that those potential complaints or allegations coming from a potential whistleblower may not make it to your office just due to the blue code, which keeps coming through in a lot of the evidence that's submitted to us. A reluctance by serving officers to make complaints about other officers due to fear of retaliation, or also kind of breaking that blue code of loyalty. Do you understand or interpret that that could be a real barrier to identifying potential cultural issues or misconduct within the current police service?

Ms MASON - Well, the only observation I would make is I suspect that that would occur in any workplace. But obviously, as I understand it, Tasmania Police have got systems in place now where you can make anonymous reporting, and it's difficult for us to say.

I can say that I've personally prosecuted a matter where a serving member of Tasmania Police had made a complaint against another officer in relation to family violence committed, and I conducted the prosecution successfully. It was one police officer making allegations against another, and the police officer that made the allegations was not the victim.

Ms BUTLER - So, there is clear evidence where the process has worked. Can you provide any more information around what that process would look like and whether or not there may be more beneficial or easier avenues, just in light of that amazing discretionary power

and different powers that police officers do hold, that may make that whistle-blowing process easier for serving officers?

Ms MASON - It's difficult for me to really make any observation other than, as the Committee have observed, that having alternate pathways for reporting may well be an option or an avenue to safeguard against that kind of systemic cultural issue. That would again - you've got your ability to report confidentially within the current system and then avenues outside. The Integrity Commission, obviously, is one potential avenue and there are other agencies. The sexual assault service and family violence services external to Tasmania Police I would have thought are appropriate agencies upon which someone could make.

Ms BUTLER - It's also my understanding that Tasmania Police have implemented a number of measures over the last decade or more, conscious of the fact of cultural change and trying to improve systems. Could you provide evidence to the Committee, based around what you've seen in your interactions with Tasmania Police, on some of the different strategies that have been used to start to make significant cultural change?

Ms MASON - Well, I tend to see it from the top down, and the current Commissioner, I think her approach of leadership perhaps illustrates the need to, or has illustrated her recognition that you have to concede where things are going wrong and take positive steps moving forward. In my time with the Office of the Director of Public Prosecutions, our Office has been prosecuting police officers since I've been there, and that's been a very, very long time. I wouldn't necessarily say that's indicative per se of the cultural issues that you've observed. But I'd probably find it difficult to make any observations other than the encouragement of coming forward and being heard is something that I've noticed has developed as a new cultural initiative. That's come from the top down, from both the males and females that operate within the Tasmanian police service.

Dr WOODRUFF - You gestured before to supporting the need for an alternative reporting pathway. I suppose my question is about the evidence that's been received by the Director of Public Prosecutions (DPP) and the quality of that evidence. In Mr Coates's submission to the Committee, he said:

In my many years of reviewing allegations of misconduct or the potential commission of criminal offences involving police officers, I've never held concerns to the objectivity or standard of the investigation.

I am absolutely sure that that is true in the general sense. but there have been instances, not just of Senior Sergeant Paul Reynolds but also of the Griffin case, where information was provided to Tasmania Police but there were clear problems in police not following it up. The Griffin case in 2015 where Australian Federal Police (AFP) evidence was provided to Tasmania Police but then that wasn't investigated at that point.

My question is, do you think that there needs to be independence in the investigation? You've pointed to a lot of concerns about maintaining quality of evidence and collecting information, and so on. Can you provide a suggestion for how we could insert more independence in the investigation, recognising history and instances where Tasmania Police, unfortunately, have not been able to do that effectively?

Ms MASON - I think if you hark back to - there's two issues here, isn't there? There're the reporting and the reluctance to report and how that can be improved or at least, other avenues being made available. And then the investigation itself. And the difficulty, for example, with having two agencies involved in the investigation is often you're stepping over one another's toes, you're trying to work out where your remit is. So, you really are looking at, if you have an agency who's conducting the investigation, how do you ensure that that is done properly and appropriately? And so, really, is it a case of oversight, the appropriate oversight, and the ability to have checks and balances in place by an independent authority if and when necessary.

As I understand it, there is a Memorandum of Understanding between the Integrity Commission and Tasmania Police at the moment. But whether that should be expanded or what that should look like in the future - really, it's about putting safeguards in place to ensure that, at a time when an investigation is on foot in particular circumstances, is that moving appropriately, or is there a body that can exercise appropriate oversight? Whether that should occur at the conclusion of the investigation and after we've made our own assessment, or whether it should occur during the course of it, it's not really for me to say.

Dr WOODRUFF - So, you don't have suggestions on how to improve oversight of the process?

Ms MASON - Well, I think it's difficult because the Integrity Commission have various powers. They have powers at the moment, but they have responsibilities across the public sector. So, if you were going to have an intensive oversight, they would need to be appropriately resourced and have, again, experienced investigators and/or appropriately experienced people to be able to conduct that oversight.

Dr WOODRUFF - Do you accept that the situation that we currently have has failed in a number of instances and it does have deficiencies?

Ms MASON - In relation to the investigations?

Dr WOODRUFF - The cases that reporting never occurred because of a lack of independence, failure to bring cases to the DPP, failure for justice, really, in many, many situations. Griffins and Reynolds are just two.

Ms MASON - I think I can speak for everyone in our Office that we are very conscious of the important role that we play in instituting and undertaking prosecutions. We're also conscious of how difficult it can often be for people to make the decision to report. And that could be indicative of systemic issues in place or it could be just indicative of the difficulty it is for people to get agency in that decision. It's a far more complex issue than just having a point of contact available for a report. That's been my experience. It can be very, very difficult for people to make that initial decision. And so, yes, as a public service organisation, have we let people down? I'm sure there are people who have been let down for one reason or another. But I think that with the resources that each of the agencies have, we do the best we can, too.

Dr WOODRUFF - I have no doubt you do. I suppose the Committee is looking to the future. We're looking to how we fix a situation which has failed victim-survivors. And so, just your thoughts on inserting independence in the current system would be welcomed.

Ms MASON - Well, certainly, as I say, some form of oversight. Our concern would be about, from an investigative perspective, whether the investigations are going to be conducted in a way where the evidence is not going to have that quality, and then we are really failing victims if we can't take that next step. So, it's that exercise of caution in ensuring that –

Dr WOODRUFF - Balance.

Ms MASON – Yes, that's correct.

Mr GEORGE - Obviously, you provide oversight for those files that come in front of you. In other words, you can assess the standard of evidence that is produced and therefore make a decision whether to prosecute or not to prosecute. That means you are an independent body providing independent oversight. One would surely have to think, therefore, looking at the investigation from day one, which is conducted at the moment within the police force, should surely have the same sort of independent oversight. It doesn't mean that an independent body would necessarily interfere in the investigation, but it would be able to monitor the investigation and make sure that investigation is carried out with, presumably, the good will which you say that you get from male and female senior officers in the police force.

Ms MASON - I'm not suggesting that it wouldn't be appropriate to have an independent oversight. The issue that's been raised in our submission is, to take over an investigation would be a -

Mr GEORGE – Right. No, I'm not going that far. And it is not beyond the bounds of possibility that you might even get retired police officers, but you'd certainly find people with investigative skills who are quite capable of overseeing, without interfering, a police investigation which involves police.

Ms MASON - I'm not suggesting that some form of oversight, appropriately resourced, with people who understand the investigative needs and legal and evidentiary framework in which investigations are conducted would be - I'm not suggesting it wouldn't be inappropriate.

Mr GEORGE - And that might add to public confidence that investigations into allegations against serving police officers are being properly investigated, including by the DPP, in terms of whether to prosecute or not.

CHAIR – I've got a question online from Ms Burnet, Member for Clark.

Ms BURNET - Thank you, Chair. Thanks so much for your evidence. I'm curious to know, with any of the investigations that have come through to you, has there been any feeling of any cover-up or any frustration of the process that you have seen?

Ms MASON - Not from our perspective, no.

Ms BURNET - Have there been examples of a complaint against more senior officers or whistleblowers having any problems with evidence that's been provided to you?

Ms MASON - Sorry, when you say senior officers, is that the allegations being made against senior officers? Or senior officers being -

Ms BURNET - Yes.

Ms MASON - No, we haven't seen any difference or discrepancy between the way in which they're investigated, irrespective of their rank in the force. As far as whistleblowers, I'll just ask Ms Lancaster. We don't tend to have investigations where we - when you talk about whistleblowers, we would talk about witnesses or complainants, so you might find that whistleblowers are more likely to go to the Integrity Commission. We would use the term 'witnesses' as persons who might make a complaint against a police officer, and they'd form part of the brief or the investigation.

Dr WOODRUFF - I've got a question about the complaints process, and I don't know if the DPP has a view about that. But a view presented by the Law Society is that there should be mandatory provision of information to complainants, a statement of the reasons for progressing or not progressing with a case, or just a statement about where the complaint has got to with Tasmania Police. Would you support developing a sort of legislative requirement for a mandatory statement of reasons, and putting some context around that?

Ms MASON - I think there's a couple of difficulties with that. At first blush, I can't see any reason why you wouldn't be able to be informed about the progress of an investigation. So, as a general proposition, is it still on foot? Has it been referred to the Director? Something of that nature. But to provide any further information at the time an investigation's on foot could be problematic because you could be inadvertently contaminating the -

Dr WOODRUFF - This was once it's finished.

Ms MASON - Oh, sorry. Okay.

Dr WOODRUFF - Yes. At the moment, it's very haphazard. Some people get no information, no response. Other people get bits of things, that sort of thing.

Ms MASON - Right. Well, I agree that there should be at least a position. At the conclusion of an investigation, I can't see why it wouldn't be appropriate for there to be a requirement to let the person know the outcome. Certainly, that's what occurs for investigations into allegations of sexual assault across the board. The Sexual Assault Advice Service that we provide to Tasmania Police means that, in the event that a request has been made for us to assess whether there's a reasonable prospect of conviction and we say no, then the investigator will inform the complainant. In the event that, as in a case with Professional Standards, a file comes to us and we consider there is a reasonable prospect of conviction and charges are laid, in the event that we, at a later time, determine that there no longer remains a reasonable prospect of conviction, if it's a person crime, then the Director's guidelines require us to inform the complainant about the decision to discontinue and, in general terms, the reasons behind that. And for any person crime, whether it's involving a police officer or not, we have the Witness Assistance Service available, who provide updates and regularly communicate with the complainant.

Dr WOODRUFF - So, if the DPP decides not to proceed in the first instance, before starting down the path and then withdrawing, does the DPP, through Tasmania Police, provide that advice and reasons why to the complainant?

Ms MASON – In the event that we determine that there isn't a known crime committed or a reasonable prospect of conviction, we'll send the file back and give the reasons why.

Dr WOODRUFF - To Tasmania Police?

Ms MASON - To Tasmania Police, yes. But we don't to -

Dr WOODRUFF - But not necessarily to the complainant?

Ms MASON - Because we're giving advice, it's privileged information, so we're giving advice to police. If you were to use the example of the sexual assault arrangement, ordinarily, Tasmania Police would then communicate with the complainant. If you were suggesting a system like that, where it's an obligation for Tasmania Police to then notify the complainant of the outcome, I can't see any difficulty with that.

Dr WOODRUFF - And would that notification - I suppose it's been recommended that there be more than just 'Your complaint could not be proceeded with'; that there actually be some reasons. Are you aware whether Tasmania Police at the moment provides reasons if a charge is not going to be laid?

Ms MASON - It's difficult for me to speak on behalf of Tasmanian Police. However, I would say in circumstances where it's an allegation of sexual assault or, say, family violence, one of the reasons we may not proceed is matters that are referable to the credibility of the individual making the allegations. And it would not be sometimes appropriate to pass that information back. It can be quite distressing. There can be occasions where the evidence is absolutely inconsistent with the allegation that has been made.

Dr WOODRUFF - Could that be passed through a third party? I mean, I'm not proposing a system here. I'm just sort of wondering how - because to get nothing is also distressing.

Ms MASON - I understand that, yes.

Dr WOODRUFF - And I recognise what you're saying. But where do we find a spot which gives agency to the person and some resolution?

Ms MASON - Correct. There are occasions where, in the event that the person presses, we will explain to them. It's really an exercise of judgement. I don't see any difficulty with an arrangement or an obligation to provide the complainant with the details of the outcome. As for exactly what information should be passed on, that would have to be, I would have thought, an exercise of judgment, depending on the crime that's alleged to have been committed or the allegations that are being made.

Dr WOODRUFF - And then the question is whose judgment and how do we give agency to the victim-survivor to make a decision about what information they're prepared to receive? It gets into difficult territory where it would be good for the victim-survivor to be able to be involved in some way.

Ms MASON – Yes. And there are support agencies also in place that could assist, as you say, third parties that might be able to -

PUBLIC

Dr WOODRUFF - In a translation.

Ms MASON - Yes.

CHAIR - We've gone a little bit over our time. Is there anything that we haven't gone to in our questioning that you were hoping to raise?

Ms MASON - No.

CHAIR - Okay. Thank you. Please remain in touch with us. We will write to you as well for those couple of things that you took on notice. I think there were a couple of things. We'll write to you formally about that. Equally, if there's other information after today's hearing that you'd like to raise with the Committee, please don't hesitate to do that.

I'll just remind you that what you've said to us today is protected by parliamentary privilege, and once you leave the table, be aware that privilege doesn't attach to comments that you may make to anyone, including the media, even if it's just repeating what you've said at the table today. Thank you very much again for your time this morning and for your appearance.

The witnesses withdrew.

The Committee suspended from 11.25 a.m. to 11.30 a.m.

PUBLIC

Integrity Commission Tasmania

CHAIR - Good morning and welcome to today's hearing of the Tasmanian Parliamentary Inquiry into Tasmania Police responses to allegations of officer misconduct. Thank you for attending today and thank you also for your written submission, which we've all received and read. Could I please ask each of you just to first state your name and the capacity in which you're appearing?

Ms McKENZIE - Ellen Marie McKenzie, Chief Executive Officer of the Integrity Commission.

Ms MARTIN EDWARDS - Naomi Lee Martin Edwards, Integrity Commission's Director Complaints and Oversight - Advice, Policy and Projects.

CHAIR - Thank you very much. Can I confirm that you've received and read the guide sent to you by our Committee Secretary?

WITNESSES - Yes, thank you.

CHAIR - Thank you. I'll just remind you that the hearing is covered by parliamentary privilege, allowing individuals to speak with freedom and without fear of being sued or questioned in any court or place outside of parliament. However, this protection is not accorded to you if statements that may be defamatory are repeated or referred to outside of these parliamentary proceedings. This is a public hearing. There may be members of the public in the room or observing online and if at any point you would like any of your evidence to be heard in private, please make that request of the committee at the time and we can move into an in-camera hearing.

I think you know all of the members of the Committee, but I'll introduce everybody: Jen Butler, Member for Lyons, I'm Ella Haddad, Chair of the Committee and Member for Clark, Dr Rosalie Woodruff, Member for Franklin, Peter George, Member for Franklin, and we're also joined by Helen Burnet online, who's the Independent Member for Clark. We're supported by Michael, our Committee Secretary, who you've corresponded with and Georgia from the Committee Secretariat, as well as Terry assisting on Hansard.

Could I ask each of you, please, to make the statutory declaration on the cards in front of you?

Ms ELLEN McKENZIE, CHIEF EXECUTIVE OFFICER and **Ms NAOMI MARTIN EDWARDS**, DIRECTOR COMPLAINTS AND OVERSIGHT - ADVICE, POLICY AND PROJECTS, INTEGRITY COMMISSION TASMANIA WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Thank you very much. As a Committee we recognise that during these hearings we may discuss highly sensitive matters that have deeply impacted people in Tasmania and elsewhere, which may be distressing for people listening to or participating in these proceedings. Anybody who does need support can contact support services. We have them listed on our committee website and available in hard copy in the room today.

I'll move into opening up for questions.

Ms BUTLER - Thank you. Thanks for coming in today and also for the fine work that you do in your everyday business. Could you run us through, I understand that you have a Letter of Understanding with Tasmania Police, that involves the Integrity Commission's oversight. Could you talk us through what that process looks like and under that Letter of Understanding what role you play in working with Tasmania Police?

Ms McKENZIE - Madam Chair, in response to that question. Yes, you're quite right, we do have a Letter of Understanding with Tasmania Police and under that Letter of Understanding, Tasmania Police automatically notifies us of certain categories of matters. I think we've covered that to some extent in our submission, as has Tasmania Police in their submission. Upon receipt of those notifications, our Oversight and Compliance Team undertakes a triage of that notification and then we monitor that matter going forward, which entails us reviewing the outcome of the police process in relation to that matter and we may decide, depending on our assessment of what's occurred in the police handling of the matter, to undertake further activity surrounding that matter. That might entail a more detailed review of the way the police handled the matter, and in some cases it might entail us making a recommendation to our board to conduct what's known as an own-motion investigation.

Ms BUTLER - Can you talk us through what an own-motion investigation looks like?

Ms McKENZIE - An own-motion investigation is an investigation that arises out of a matter about which we become aware, but in respect of which we've not received an actual complaint. To be able to investigate that matter, we require board approval. Upon receiving the board's approval, it then becomes an investigation which we are conducting on our own motion as opposed to it arising out of a complaint matter.

Ms BUTLER - Can you identify any shortcomings within that agreement between Tasmania Police and the Integrity Commission or any positives that work really well within that Letter of Understanding?

Ms McKENZIE - Our assessment - and I think we gave a bit of a flavour of this in our submission to the Committee - is that our overall oversight and compliance function in respect of Tasmania Police is working very well. They are notifying us, Tasmania Police, of all of the matters covered by this Letter of Understanding and we undertake an oversight and compliance triage process in relation to all of those matters. In some of those matters we decide to take further action depending on what's arisen in those matters. One area that I know has been the subject of some interest is our lack of direct access to IAPro, which is their records management system. Having said that, however, whenever we conduct a review of any of their matters, they collaboratively provide us with whatever we request from them.

Ms BUTLER - Okay, so that can be triggered by your request based on a need for more evidence potentially or - what does that look like? Can you explain that to us?

Ms McKENZIE - Say, for example, Tasmania Police have handled a complaint matter and then they report to us on the outcome of their handling of that complaint matter. And we look at that and we think, 'Oh gosh, that looks like there's something not quite right there'. They may have missed a step, or we're not satisfied about the outcome of that matter. It doesn't look right in terms of the seriousness of the sanction that may have been applied, or we think that

they may have overlooked something. We then write to them and say we'd like to conduct a further review of this matter, 'Can you please provide us with your investigations file in relation to that matter?', and then we do a deep dive into what's actually happened in the course of their handling of that matter.

Ms BUTLER - Do you find that there's enough expertise within Professional Standards? Is it Professional Standards that you deal directly with?

Ms McKENZIE - Yes, we do.

Ms BUTLER - Do you find that there's enough expertise within the understanding of evidence and providing that information and working collaboratively with the Integrity Commission? How do you find that relationship?

Ms McKENZIE - Our assessment of the relationship is that it works quite well and that we are dealing with a group of very professional and experienced police officers who take their responsibilities very seriously.

Having said that, occasionally when we will examine a matter that they may have dealt with as part of their investigations process internally, we identify some gaps or issues that we think they need to address. When we do identify issues, we will meet with them and report that to them and our experience in terms of their response to that, is that they are receptive and they respond to those recommendations positively in terms of actually making changes internally to the way they deal with things.

Ms BUTLER - Sorry, Chair, just one more on that - are there timeframes associated with those communications at all between yourself and police? Do you find that there's not lengthy delays in wait times from responses and correspondent sharing?

Ms McKENZIE - I don't believe we experience lengthy delays.

Ms MARTIN EDWARDS - That would be my assessment.

CHAIR - Can I just ask a couple of follow-up questions about that? First of all, do you have - and it could be that this is reported in your annual report and I haven't gone to check that - but if you report on the numbers of matters that do get referred to you under that Letter of Understanding, and subsequently how many of the matters that are referred to you, you triage in such a way as you conduct a further investigation?

Ms McKENZIE - Well, we do report in our annual report on the number of matters we received from Tasmania Police. That would be notification matters. We also report in our annual report on the number of complaints that we received directly from the public or whoever it might be in terms of complaint matters.

I'm not sure if we go into more detail in our formerly tri-annual, soon to be quarterly reports, which are kind of like a dashboard reporting that we regularly do. I haven't had an opportunity, I'm afraid, before this morning to check that, but we do report in our annual report in detail about the work that we're doing in the oversight and compliance space in respect of Tasmania Police.

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CHAIR - Thank you. The Letter of Understanding, is that a publicly available document or something you'd be able to share with the committee?

Ms EDWARDS - Chair, my understanding is no, it's not publicly available.

CHAIR - It's not? Okay. Is there any -

Dr WOODRUFF - Can you provide that to the Committee, though?

Ms McKENZIE - I could make some inquiries and certainly come back to you on that if you would allow us to take that under notice.

CHAIR - Yes, happy to do that. If it's the case that you're unable to share it with the Committee, perhaps if we could get a flavour of what those conditions are that mean that matters are referred by police to your office.

Dr WOODRUFF - The Letter of Understanding, which was an update on the MOU, which was first written in 2010 between the Integrity Commission and Tasmania Police about the oversight of investigations, was prepared in 2021. Since then, there was the Commission of Inquiry findings, the coronial inquest into police officer Reynolds and the Weiss review. The Weiss review has found deficiencies in the current process for investigating officer misconduct, serious misconduct, and has recommended a pretty substantial change to the Integrity Commission, which is far different to what you're doing now. All of which seems to suggest, from the external observation of Ms Weiss, that the current systems of checking aren't sufficient to be able to ensure that officer misconduct is properly investigated and independently enough investigated and provides a capacity for victim-survivors to feel confident in making reports. What is your view - in fact, could you just tell the Committee what the status of the Integrity Commission's conversations with the Government is about implementing recommendation 5 of the Weiss review - because the Government has accepted that recommendation in principle?

Ms McKENZIE - In relation to - perhaps if I start with the latter part of the member's question first. Recommendation 5, which related substantially to the Commission, a number of the powers that Ms Weiss recommended the Commission be given, the Commission already has. A couple of key issues, though, that we don't currently have are, one, the identification as a law enforcement agency for the purposes of various pieces of legislation, an example of which is the ability to either intercept or receive intercepted telecommunications. We've indicated, for example, to the Department of Justice, which is handling the process of implementation, that we would be pleased to receive intercepted telecommunications, but we're certainly not interested in being the interceptor of communications because we're just not set up to do that.

CHAIR - So, you wouldn't welcome being prescribed as a law enforcement agency for that purpose?

Ms McKENZIE - We would, but we're only interested in receiving, not actually in intercepting. In terms of how oversight as a whole is functioning, we oversight the work that they're doing, all the work that they're doing in terms of what we're aware of. I mean, we're obviously not being told about level 1 matters or other sorts of matters. However, we would be happy to do more - not in the criminal investigation space because I need to put that to the side. We are not a criminal investigatory body. If there were a suggestion that we should take on the

work of investigating police officers for commission of family violence or sexual misconduct offences, we are neither equipped, nor skilled, nor resourced to actually do that work and, indeed, it's contrary to our Act because our Act predominantly focuses on investigating misconduct and arming the public sector to deal appropriately with misconduct.

Dr WOODRUFF - At the moment it's contrary to the Act?

Ms McKENZIE - Yes, that's right. However, we would be pleased to undertake more oversight and compliance work, but we don't have the resources to do that. Indeed, I imagine the Committee members are aware that after the Weiss recommendations were made in her report, our then-Chief Commissioner released a public statement where he said that we're not equipped to undertake the degree of oversight that Ms Weiss has recommended that we undertake.

Dr WOODRUFF - So, Ms Weiss's review identified at least 52 people – victim-survivors of Paul Reynolds - and they were not, for many reasons, empowered to speak up or they spoke up and were not listened to and an investigation wasn't undertaken earlier. So, there are many issues in the failures from 2008 to when she did her report. But her recommendations are quite clear that there's an incapacity of Tasmania Police to be able to investigate police officers because of the question of independence and the credibility, perception of independence and the risk of not being independent. She's pointed to the Integrity Commission to take up the mantle. You're saying that you don't want to take up parts of that.

Can you just talk more about where you think Tasmania should be? How we can fix up the situation where victim-survivors are concerned about not being able to get justice in the future? What do we do in this situation? What does the Integrity Commission need?

Ms McKENZIE - Well, there's a few parts to that question, so I'll try and work my way through it. In terms of what we need - for us to do the level of oversight and compliance work that is being posited by Ms Weiss and others, we would need a substantial injection of additional resources. We'd be very happy to start doing that work tomorrow. We're just not resourced to do it. And I can talk a little bit, if the Committee is interested, in what that might look like in terms of additional funding.

Dr WOODRUFF - Yes, that would help.

Ms McKENZIE - The committee may be aware that in terms of the budget bid for the current 2026-27 Budget, we sought \$1.3 million to employ seven additional staff. We only received half-a-million. So, that's already an example. We'd already identified the need for additional resources. That's even before we started talking about us taking on an enhanced oversight role in respect of Tasmania Police.

In terms of victims being able to raise issues, they can always make a complaint to the Integrity Commission, and a number of people do make complaints to the Integrity Commission. I'm not sure whether that's widely known, but people do make complaints to us regularly about alleged misconduct by Tasmanian police officers.

Now, true it is to say that if they were to allege that a police officer had engaged in an inappropriate sexual way with them or had committed violence against them, we're not equipped to undertake a criminal investigation and we would refer that matter to Tasmania

Police, as we would any other allegations of criminal conduct that may be made to us in respect of any other public official in the Tasmanian state sector.

CHAIR - Can I ask in respect of that, if members of the public made multiple complaints about behaviour that might start out as what looks like professional misconduct of some kind - it could even be quite a low level of professional misconduct, as we've seen from some of the recent examples (Reynolds is one of them - some of that offending might have started as what looked like questionable behaviour in terms of conducting his duties as a police officer that in time escalated to criminal activity) - does your agency keep a record of each of those complaints that might not on the first instance require an investigation or justify an investigation by you, but the cumulative impact of multiple misconduct complaints being made about one person, for example? Would there be a record kept either by you or by Tasmania Police that would establish that potential pattern of behaviour?

Ms McKENZIE - I can't speak to the records that Tasmania Police might keep, but I can certainly speak to the records that we keep, and we do keep records. And every time a new complaint comes in or, indeed, a notification comes in, when the team members write up their triage reports, they always report on previous matters involving that particular officer. And part of what we are doing with our additional funding under the current Budget is we are recruiting an investigator who will work with Naomi to establish an intelligence function, so we can really be mining the data and identifying some of these trends and issues that might be coming up. But we're already doing that where we have people who are coming up on multiple occasions in complaint matters or notification matters.

CHAIR - That's great. So, if you got to the point where there were multiple reports that gave rise to further concern, would you likely initiate an own-motion investigation or is it something that you would refer back to police to say there's something bigger here that needs to be looked at?

Ms McKENZIE - I guess it would depend on the type of conduct involved. If it's criminal conduct, well, then we would have to refer it back to Tasmania Police. But if it's, I don't know, some other pattern of conduct that fits the definition of misconduct under our Act, then there are a number of avenues that we could pursue. One would be conducting some form of project or an own-motion investigation, but we can only do the latter with the approval of our board.

Mr GEORGE - Could you explain the elements that might trigger an own-motion investigation?

Ms McKENZIE - Sometimes what happens is that we receive a complaint, which we then will triage, assess and investigate, and during the course of the investigation we identify other potential examples of misconduct, but they are not covered by the current terms of reference of the current investigation. We then go to the board to seek the board's approval to investigate it, because without the board's approval, we can't actually investigate those additional allegations.

Now, in terms of other matters, I don't know, we might receive a notification where we're looking at something that's happened in a particular matter and it might be that we identify concerns or issues about an area of potential misconduct, whatever it might be. We would then potentially go to the board and say, 'Could we please have your approval to commence an investigation into this matter?'

Mr GEORGE - Okay, specifically going to our remit, would it surely not be better that the Integrity Commission is involved in any investigation into police misconduct about family violence or sexual misconduct from the word go, in the sense of not necessarily investigating it yourselves, but being across that investigation, to some extent or another, supervising it?

Ms McKENZIE - Well, I can actually give a recent example of that. We were involved in a project called Project Daedalus, which related to a very complex and resource-intensive investigation into alleged misconduct and also criminal, potential criminal offending, by this particular officer. We were notified almost from day one that this matter went live. We then had a meeting with the Commissioner and others of her staff, and then there was a process set up whereby Tasmania Police regularly reported to us on the progress of that investigation. Then, finally, when their investigation was concluded, it was reported to us in the usual way that they report to us about the conclusion of investigations. Then we undertook a triage process, as we always do, in relation to the way that investigation was conducted.

Mr GEORGE - Good. Well, that's something that could surely be part of almost a day-to-day, week-to-week, year-to-year operation when it comes to questions of police malfeasance.

Ms McKENZIE - Absolutely, and I think we said in our submission that we would be more than happy to do the enhanced monitoring of those matters and undertake more oversight of them, if only we had the resources to do so.

Mr GEORGE - So, more broadly, let's put aside resources at the moment, alright? Let's accept the fact that, somehow or another, you get the resources. You would be aware that in New South Wales, Victoria, Queensland and Western Australia, they're operating with versions of independent investigations of serious police misconduct. That's nationally. Internationally, we've been referred to Nova Scotia and other jurisdictions where investigation of these matters are put into the hands of an independent body with investigatory powers. Now, let's not worry about resources for the moment. Would that surely not be a better way of handling questions, broadly, of police misconduct, let alone just of family violence and sexual misconduct?

Ms McKENZIE - I'm not really sure that I'm qualified to really answer that question in the abstract. All I can go on is our own experience of the way the oversight process is working with Tasmania Police and the work that the Professional Standards team is doing, and by and large, from our perspective, the work that they are doing is good work. On the occasions - and it is only occasions - that we identify issues, we will raise those with them, and they are receptive to responding to those issues.

Mr GEORGE - So, you don't see a need to be following in the footsteps of what seems to be a general trend on the mainland and elsewhere?

Ms McKENZIE - All I can go on is the way the process is working at the moment, and from our perception it is working well in the current structure.

Ms BUTLER - I just want to run through some of the recommendations from the Cox review - recommendation 35 and the interesting overlap that had with recommendation 5 from the Weiss report around the Integrity Commission, too. It states that:

Seek Commonwealth recognition to access telecommunications interception powers.

That was also referred to within the Weiss recommendations, and you raised that in your initial statements here today. Can you talk us through what that actually means and what that looks like and how that would assist you in some of your investigations?

Ms McKENZIE - I suppose if we were an interceptor of telecommunications, that would give us real-time access to what may or may not be happening in a particular matter. It would be more likely to be probably criminal rather than just standard misconduct under our Act. If we were a receiver - I mean, I'm not quite sure about the timeframes of when we'd be actually receiving those communications - but I guess it would give us direct access to evidentiary material that we don't presently have at least direct access to, I suppose.

Ms BUTLER - What statutory changes would you need? Before you raised the fact that resources are an issue, but is there a limitation on the powers that are currently provided to the Integrity Commission and are there some statutory changes - because we understand that there were recommendations made in the Cox report as well as the Weiss report in relation to coercive examination powers in the ability to conduct public or private hearings? Are they some of the statutory restrictions that you have at the moment? How could statutory changes enable the Integrity Commission to be able to conduct more robust investigations into potential misconduct by police?

Ms McKENZIE - If we're talking about misconduct generally rather than criminal conduct, then there's not a great deal of - maybe I need to back-step here. A number of the recommendations made in the Cox review and other reviews, as members of the Committee would be aware, are being addressed through the legislative reform program that the Government is currently engaged in. Tranche 1 has already passed through parliament, which is mandatory notifications. Tranche 2, which picks up the overwhelming volume of recommendations made by Mr Cox in his review, and then there will be tranche 3, which will do the mop-up as well as addressing any other issues that we might identify in the meantime.

In terms of powers to do things, we actually already have a number of powers. For example, we already have the power to conduct hearings. There's never been a public hearing, but there's been one integrity tribunal matter that the former Chief Commissioner presided over. We have power to execute warrants, search warrants, on premises. So, we already have a bunch of the powers that Ms Weiss identified in her review. I probably should just point out, in case members of the Committee don't know this, when Ms Weiss was conducting her review, we weren't consulted during the course of that review. So, we didn't get an opportunity to address any issues that she may have been intending to raise in relation to us, and we would have most certainly have pointed out that we already have these powers. I think the main one that she's identified that we don't have is in relation to the intercepted communications.

Ms BUTLER - It also states under the Cox review, under that recommendation 35: "clarified jurisdiction over misconduct by public officers." Is that going to be rectified within the review?

Ms McKENZIE - I'll just consult my colleagues. I'm not sure I have any visibility on that. I'm not sure I can really answer that. I'm just not sure what that's referencing, because I'm not aware, as I sit here at the moment, that there's any jurisdictional issues that we particularly

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have. I mean, there are things that need to be tidied up in the Act and there are certainly some things that we'll be looking further to engage with the Department about - to tidy up further of our powers, particularly following the introduction of mandatory notifications, because that's a new universe that we're going to be inhabiting. We think there will be a need to clarify some of our powers in relation to that, but that will fall under tranche 3.

CHAIR - Could I go back to own-motion inquiries. How many of those have been conducted regarding police specifically in the last, say, 12 or 24 months?

Ms McKENZIE – Last 12 or 24 months? We currently have one in process at the moment. We're going through procedural fairness in relation to that matter at the moment, and we hope to resolve that in the not-too-distant future, we hope.

In terms of - I think there's only been that one own-motion investigation in relation to Tasmania Police that I'm aware of in the last 12 to 24 months. If the Committee were interested in broader figures, I would have to, with the Chair's permission, take that on notice.

CHAIR – Okay. Happy to do that, if you'd like to. You indicated that own-motion inquiries can only happen after the approval of your board. Have they ever refused a request for you to conduct an own-motion inquiry?

Ms McKENZIE - I'd have to make inquiries about that.

CHAIR - Okay. Are you happy to take that on notice as well?

Ms McKENZIE - We can do that.

CHAIR - Great. Thank you.

Dr WOODRUFF - On investigations that have been undertaken, as I understand it from your submission, the Letter of Understanding with Tasmania Police means that they will notify the Commission in writing whenever it is reasonably suspected a member has engaged in serious misconduct. Was the Integrity Commission notified about the evidentiary material found on Snr Sgt Paul Reynolds in 2018?

Ms McKENZIE - I don't know the answer to that question. I'd have to take that on notice.

Dr WOODRUFF - Yes, please. And if you were, what engagement did the Integrity Commission have on the matter at that point?

Ms McKENZIE - With the Chair's permission, we can take that on notice.

Dr WOODRUFF - Thank you. I have some concerns about, I suppose, the fact that the Letter of Understanding only requires Tasmania Police to provide the Integrity Commission with information when it's reasonably suspected. For victim-survivors who have made reports that haven't been actioned on, it leaves a lot of space for things potentially not to be considered reasonable or suspected. I'm also wondering about the fact that the Integrity Commission doesn't have access to the IAPro - which for people watching, is the Tasmania Police's recording management and compilation of data, their management system for complaints. Have you tried to get access to IAPro and has that access been refused? Do you consider, in order to

be able to conduct independent investigations and audit, that you really need to have access to that system?

Ms McKENZIE - I believe it has been discussed between our two agencies in the past. I believe that there is receptivity at least in some quarters in Tasmania Police to giving us direct access to it. I suppose the main advantage of it would be that we could directly ourselves go to it if ever we required access to material relating to matters that we may be currently investigating or overlooking.

Dr WOODRUFF - At the moment, you're receiving reports from Tasmania Police about the actions they are taking or not taking in relation to complaints that have been made and you're assessing them on the face of the material that you've been given. But you don't have any capacity to look at things that were missed or that should have been taken up or to check the veracity of the material that you receive. Is that correct?

Ms McKENZIE - Well, if -

Dr WOODRUFF - Again, when I'm asking this question, I'm not intending to make a statement questioning the material that the Tasmania Police provide. I'm simply looking at the gaps which the Weiss review identified exist in the current system and how they should be plugged. So, just back to the question.

Ms McKENZIE - Well, if we were looking at a matter that's been notified to us and we are concerned about what may or may not have been done in the matter, that is when we will undertake further review of that matter, in whatever form it is that we decide to take that review, and that is when we would be seeking access to additional material.

Dr WOODRUFF - But I suppose it could be reasonably argued that you don't know what you don't know, and unless you have access to the complaints that have been made and the full IAPro, then you don't really know what questions necessarily to ask.

Ms McKENZIE - Well, I think that will always be an issue when you don't have access at large to any system in whatever context you might be operating in.

Dr WOODRUFF - Yes, fair.

You said before that that you think that the current work structures are working well between the Integrity Commission and Tasmania Police. That's not what Ms Weiss found in her review, and she found that the current oversight and the assessments of the police misconduct system is not working at the moment, therefore, she's recommended a whole range of changes for the Integrity Commission to have more oversight. Do you see that she's raising some concerns which don't appear to be able to be addressed by the Integrity Commission with the current powers and resourcing that you have?

Ms McKENZIE - We could certainly do more in terms of oversight and compliance if we had additional resources. In terms of our exposure to the way the process is working, in terms of our engagement with Professional Standards at Tasmania Police, I don't have concerns in terms of the way that engagement relationship is working and I can only go in terms of their response, I suppose, to misconduct and findings that we might make when we undertake our reviews or other actions is that they are receptive and responsive and our experience is that

they have made changes as a result of the feedback that we have given to them. That's my experience and, yes, I admit it's that experiential space that I'm operating out of, but that is what I have to go by.

Dr WOODRUFF - How much money would the Integrity Commission need to do the enhanced monitoring that you talked about earlier?

Ms McKENZIE - If we were looking at taking on, say, one additional Senior Investigator and one additional Investigator, we're looking at - in fact, I've got the figures here.

Dr WOODRUFF - This is the coercive powers examination. Is that right? Telecommunications?

Ms McKENZIE - This this is just overall - well, the telecommunications, I guess, it would depend on the volume of intercepted telecommunications that we would be having to deal with, but that would be in the context of the matters that we're dealing with. It would be about 350 odd thousand to get one Senior Investigator and one Investigator. If I were to get two more Investigators and a Senior Investigator, it'd be about half-a-million - and if I had those resources, I could establish a dedicated police oversight team whose primary role would be to oversight police matters.

Dr WOODRUFF - Would that allow you to do what the Weiss review has recommended that you have access to Tasmania Police investigation databases, the IAPro?

Ms McKENZIE - Well, that would certainly help and I understand there is some receptivity at Tasmania Police for us to have direct access to that system.

Mr GEORGE - When you said, 'oversight police matters', do you mean oversight of police investigations?

Ms McKENZIE - Well, it's really two things. One, it's us oversighting their handling of investigations and we also have our own Tasmania Police complaints practice as well.

Mr GEORGE - Thank you. I'm wondering whether you might agree that the Integrity Commission is a much better front door for complaints about police, particularly on sexual and family violence, a much better, appropriate front door for people to make that first step than it is to go to the police themselves?

Ms McKENZIE - Anybody who has a concern about misconduct in any shape or form, we would encourage them to report those matters to us and, indeed, we've been running an education campaign to encourage that to occur.

Mr GEORGE - What then happens? What do you do if a complaint comes to you about these issues? What happens next?

Ms McKENZIE - Are you talking specifically about family violence and sexual misconduct or are you talking more generally in this case specifically?

Mr GEORGE - Yes, against police officers.

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Ms McKENZIE - If we were to get a complaint about family violence or sexual misconduct allegedly committed by a police officer, those are criminal matters. We cannot investigate those. We would refer those to Tasmania Police.

Mr GEORGE - And then?

Ms McKENZIE - And then we monitor.

Mr GEORGE - What oversight do you provide?

Ms McKENZIE - Then we will oversight their handling of that matter. If, for example, it's a complaint matter, what we generally will do - and it depends to a certain extent on the nature of the allegation, but the more serious the allegation is, then I'm going to be seeking very regular reports from that agency about what's happening.

Mr GEORGE - Right, so you're likely to get a far better outcome if you are a victim-survivor who's made an allegation, frankly, if you go to the Integrity Commission, because then you have a supervision of an investigation?

Ms McKENZIE - Well, anybody who wants to make a complaint, we'd encourage them to make it to us and we will, as we do with all the matters, we will oversight the response to those matters.

Ms BURNET - Thank you, Chair. I think a lot of my questions have been answered from previous questions already, but I'm curious to know what you think about the length of time to conduct and conclude any investigations. Do you think it's done in a timely fashion?

Ms McKENZIE - I'm not sure that I can answer that question really in any great detail. We certainly monitor the length of time that's taken for agencies to deal with matters that they may be investigating and we become concerned if matters are unnecessarily delayed. But I can't really speak to any particular issue regarding delays in the handling of complaints by Tasmania Police or any other agency particularly, unfortunately.

Ms BURNET - Just a question about access to telecommunications, how would that enhance your investigations?

Ms McKENZIE - It would give us material, evidentiary material that would go to the allegations of misconduct, whatever those allegations might be. If we're getting it in real time, then it creates an immediacy and, I suppose, a greater efficiency in the conduct of the handling of that matter.

Ms BURNET - Thank you.

Dr WOODRUFF - The reporting pathway for senior police has been something that's been difficult for people who have pointed out in submissions, that it's hard to make a report to an officer about someone who might be of a higher rank. How would you recommend that process be handled? Do you think it should be any different? For example, if it came to you, from what I understand, if a person makes a complaint to you about a police officer or serious misconduct, you would then refer that directly to the police. How would you assess the appropriateness of the person that you're referring it to, in terms of the conflict of interest for

the person who's made the complaint? What would you recommend happen to provide some safety and security for the person, to make sure that the police officer who the complaint was being managed by wasn't somebody who had some conflict of interest?

Ms McKENZIE - We do sometimes have to deal with matters involving senior police personnel and we do take a slightly different approach in those matters if we need to. Self-evidently if one of those matters relates to - and I'm not saying yes or no whether they have - but if one of those matters were to relate to somebody in the Professional Standards team, then obviously we could not refer that matter to the Professional Standards team or indeed the officers above that team who monitor that team. It would have to go to the Commissioner, as an example, if any of those people were affected. That's probably really the only pathway that I can see at the moment in terms of dealing with that matter.

Dr WOODRUFF - Do you think that there needs to be independence? Do you just think going to the Commission of Police is the best approach in all matters of police?

Ms McKENZIE - I'm not saying in all matters. It depends on the matter. Because at the moment we deal primarily with Professional Standards. The example I was just elucidating was that if the matter were to involve somebody either responsible for managing or someone operating out of that Professional Standards team, then obviously we could not refer that matter to that team.

Dr WOODRUFF - On the question previously about complaints being made, do you think it would be appropriate to have more engagement with the family and sexual violence sector in terms of - well, I'll start again. How does the Integrity Commission staff who would receive a complaint, what sort of trauma-informed training do you have and do you think that you would be the appropriate first port of call for victim-survivors who want to make a complaint?

Ms McKENZIE - All of our investigators, certainly previously, we're recruiting now we may need to organise some further training, have had trauma-informed training. If we are going to become more involved in this space, then you'd probably be looking at engaging some form of victim-liaison or witness-liaison type officer. I certainly had experience with that when I was a federal prosecutor. We actually had a witness-liaison service and that person was the first port of call for any victims of online child-sex exploitation matters or human trafficking or whatever it might be. You'd probably need a dedicated resource, and I guess that's what we were alluding to in our submission when we talked about needing some more specialist expertise in that space.

Dr WOODRUFF - Yes. You said that there could be scope for the Commission to play an advisory role on the Family and Sexual Violence Involving Police Review Committee. What does that Committee do?

Ms McKENZIE - That's the Committee that has an oversighting function, as I understand it, in relation to the matters involving family violence and sexual misconduct. We've actually had some discussions with Tasmania Police about whether we could play some form of role as a member of that Committee. That would sit nicely with the role that we already play in providing independent ethics-related advice to public servants. We kind of run an ethics hotline. I think some public servants may not be aware of it, but it would fit nicely into that function that's run out of our Education and Engagement Unit. There would be a Chinese wall,

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if you like, between our operational staff, and our education staff. We'd be very keen, provided we could reach agreement about the appropriate protocols and what that might exactly look like, to play a role in that space.

Dr WOODRUFF - How has that been received by Tasmania Police, that request?

Ms McKENZIE - Well, in fact, they raised it, and we're very receptive to it.

Dr WOODRUFF - Are you in the process of that?

Ms McKENZIE - Yes, we've had the discussion and we've received some correspondence from them about that, which we'll need to follow up on. We just haven't had a chance to do that yet.

CHAIR - We've gone a little bit over. Is there anything that we haven't gone to in our questioning that you'd like to raise?

Ms McKENZIE - I don't think so.

CHAIR - We'll write to you to confirm those matters that you took on notice. Otherwise, I'd really like to thank you for your appearance and your time today and remind you that what you've said is protected by parliamentary privilege. Once you leave the table, be aware that privilege doesn't attach to any comments you may make to others including the media, even if it's just repeating what you've said to us today. Thank you very much for joining us and thank you for your time.

The witnesses withdrew.

The Committee suspended from 12.19 p.m. to 12.30 p.m.

Community Legal Centres Tasmania and Inner Melbourne Community Legal

CHAIR - Welcome back everybody. Good afternoon and thank you for joining us today. Welcome to the Tasmanian Inquiry into Tasmania Police's responses to allegations of officer misconduct. If I could ask, please, for you first to state your name and the capacity in which you're appearing today. Not the whole card, just your name and the capacity.

Mr BARTL - Benedict Bartl, Policy Officer with Community Legal Centres Tasmania.

CHAIR - Jana, can I ask you to state your name and your capacity for appearing?

Dr KATERINSKAJA - Jana Katerinskaja for the Police Accountability Project for Inner Melbourne Community Legal Centre.

CHAIR - Can I confirm that you've both received and read the guide sent to you by our committee secretary?

WITNESSES - Yes.

CHAIR - I'll just remind you that the hearing is covered by parliamentary privilege, which allows you to speak with freedom and without fear of being questioned in any court or place outside of parliament. The protection is not accorded to you if statements that you make may be defamatory and they are repeated or referred to by you outside of these proceedings. The hearing is public, so members of the public might join us in the room. Members of the media might join us in the room and may be observing online as well. If, at some point, you would like any of your evidence to be heard in private, please just make that request of the committee and we can move into an in-camera session.

More so for your benefit, Jana, I'll introduce everybody at the table. Hopefully, you can see us okay. My name's Ella Haddad, I'm a Member for Clark and the Chair of the Committee. Online with you is Helen Burnet, Independent Member for Clark, and at the table Jen Butler, Member for Lyons, Dr Rosalie Woodruff, Member for Franklin, Mr Peter George, Member for Franklin. And we're joined at the table by Michael and Georgia from our Secretariat and Terry on Hansard.

Mr BENEDICT BARTL, POLICY OFFICER, COMMUNITY LEGAL CENTRES TASMANIA, AND **Dr JANA KATERINSKAJA**, POLICY LEAD - POLICE ACCOUNTABILITY PROJECT, INNER MELBOURNE COMMUNITY LEGAL, WERE CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - I'd like to invite you to make an opening statement.

Mr BARTL - Thank you for the opportunity to present to the inquiry today. Both Jana and I are intending to provide short statements. My brief statement is about the 2008 investigation into Senior Sergeant Paul Reynolds and Jana will speak more fully about the Police Accountability Project and the need for an independent investigative body.

The 2008 police investigation into Senior Sergeant Paul Reynolds was, to put it mildly, unsatisfactory. The Internal Investigations Unit, who were informed that Reynolds had been

described as a paedophile at a social gathering held at the police academy bar, sent two senior police officers a letter seeking clarification. An Assistant Commissioner was then made aware of the responses before providing a similar response to those of his colleagues. No inquiry was made of a police officer's wife who had expressed a town's concern about Reynolds' behaviour. Nor did Internal Investigations seek to interview the teenage boy who was found at Reynolds' home, between his legs, being given a massage.

In stark contrast, if a police officer was at the pub over the weekend and overheard two members of the public discussing allegations of paedophilia by a colleague of theirs, it is likely that an investigation would take place, with the two brought in for questioning, as well as the accused and the 15-year-old boy both being interviewed.

Both Community Legal Centres Tasmania (CLC Tas) and the Police Accountability Project (PAP) are calling for an independent body to investigate complaints against the police. This is not just to ensure that police misconduct involving members of the public is appropriately investigated and acted on, but also to ensure internal accountability, with police officers more likely to report misconduct against their colleagues when it occurs.

Dr Jana Katerinskaja will now provide a brief overview of PAP, her experience as a victim-survivor of police misconduct and Victoria's experience with their Integrity Commission equivalent, the Independent Broad-Based Anti-Corruption Commission (IBAC).

Dr KATERINSKAJA - Thanks, Ben. As stated, I'm here from the Police Accountability Project, run by Inner Melbourne Community Legal Centre, and we wholeheartedly support the position of Community Legal Centres Tasmania. The Police Accountability Project is a specialist legal service in Victoria for people who've been harmed by police misconduct. We've got nearly two decades of experience with the police oversight system in Victoria, and what we see echoes what our colleagues report in Tasmania.

In Victoria, importantly, our integrity oversight body, IBAC, is our police complaints oversight body, which is quite a similar system to what's been recommended by some submitters to you for Tasmania. It is widely accepted that our system in Victoria is failing, with IBAC referring around 99 per cent of the complaints it receives about police back to police to self-investigate. If there is one message I want you to take from what I say today, it is this: we have messed up police complaints oversight in Victoria, so please learn from our mistakes and do better, and show the rest of Australia the way. Police cannot investigate police. You need genuine independent oversight, not oversight in form and not in substance, as we have in Victoria.

Through our partnership with Beyond Survival and the survivor advocacy group that I founded, too often we see the harm caused by police-perpetrated sexual and family violence, harm exacerbated by a system without independent investigation and oversight, where police investigate police. This situation is particularly bad in regional areas of Victoria where investigators know, or know of, the perpetrator and can have subconscious, 'Oh, he's a good bloke, that can't be right' sort of views. They can, but not always, struggle to take the blue out of it.

I've supported, and I personally know, the victims of police perpetrators in Tasmania. One whom I've known for around four years has made a really strong confidential submission to this Inquiry. I've read it for her, and I strongly encourage you to do the same. Her harrowing

story of the failure of police to investigate police is one that I don't doubt. She has felt so unsafe because of those failures and her perpetrator still working for Tasmania Police that she's recently moved to Victoria. For her, the betrayal of mates closing in to protect a colleague was compounded because she has police in her family. She knows good cops who wouldn't accept what happened to her or protect their own. She trusted police, but now she can't see a Tasmanian police car without having a PTSD episode. That's one of the reasons why she's left the state. I asked her last night if I could reference all of that, and she's watching us today on the link, as are several others.

I know and I've advocated with victims of family violence and policing failures in Tasmania, women who were misidentified as perpetrators by police and served with an order, with all of the child removal and employment consequences of that, plus the ongoing family violence that police still aren't actioning because the victim isn't believed. These women have few options given how hard and expensive it is to get an order revoked. They aren't safe. Engender Equality has done a wealth of work in this area, and I support what they and Laurel House have already said in evidence to you.

If you google my name, you'll see that I have a very close personal interest in this topic which informs my work with other victims of police perpetrators, including in Tasmania. My case is quite well known in Victoria. My then-spouse, a serving police officer, was a violent alcoholic with PTSD. He terrorised us for years and when I finally snapped and sought help from police after he hurt the kids, we weren't believed and my escape plan was leaked to him with catastrophic consequences. I have permanent injuries from his violence that I'll live with for the rest of my life. I complained about police being able to take the blue out of it to our integrity body, IBAC, and IBAC referred my complaint back to police to self-investigate. It ended up with the same officers I complained about and with their near colleagues. And needless to say, they initially dismissed my complaint and the violence continued. In Tasmania, if you end up with an integrity body that refers complaints back to police to self-investigate, a case like mine could happen in Tasmania, too. Hearing Ben speak before about the Reynolds case, I could hear echoes of my own case in some of that narrative.

As a lawyer and a Freedom of Information fiend, I used the system against itself, managed my own safety, compiled evidence and eventually my perpetrator was convicted of what the judge described as 'grave, protracted and violent family violence offending'. My earlier complaints about police leaking my escape plan, conflicts of interest, to failing to act on family violence complaints were reinvestigated by Victoria Police and eventually substantiated. Substantive statutory reform, as well as Victoria Police policy change, resulted from my case. And there was a damning report about it all tabled in the Victorian Parliament in late 2022, called the Emma Report. And earlier this year, after a protracted restorative justice process, our integrity agency, IBAC, made a public apology to me for its significant failings in the handling of my case, including referring it back to Victoria Police and not managing conflicts of interest. That apology is still on its website. It followed a similar written apology from Victoria Police, litigation, and a finding that Victoria Police hadn't acted as a model litigant in dealing with me by our Attorney-General.

Needless to say, most victims of police perpetrators in Tasmania and in Victoria aren't like me. They're not lawyers working inside the system that is failing them and knowing how to weaponise that system against itself. I know women in Tasmania and elsewhere with stories as compelling as mine. They just haven't been able to evidence it the way I could because of my profession.

If we don't take perpetrators out of the ranks of police, it will compromise public safety further, and confidence in police. It is in the interests of everyone, including the police, to have effective and properly funded police oversight. In Victoria, in part informed by my case, we now have a specialist unit within the Professional Standards Command to deal with the worst of police perpetrator cases. But the bulk of the other cases are still dealt with locally rather than by that unit, with all the same issues for victims. Even where conflicts of interest are well managed by police, particularly in the new unit, I still come across victims who are reticent to report because of the perception of conflict of interest and inadequate independent oversight from IBAC if something goes wrong.

There are lessons for Tasmania from what we've done in Victoria, both good and bad. We strongly support CLC Tasmania's call to adopt international standards for effective investigation of complaints against police. A system without independence is unsafe for victims to complain to.

I respectfully put it to you all that you have likely only seen the tip of the iceberg when it comes to police complaints in Tasmania. The experiences of people who come into contact with police are particularly important to this Inquiry. For people who are already experiencing disadvantage, trauma or barriers to accessing justice, the process of making a complaint against police is really difficult and it carries significant personal and practical consequences. An effective accountability system must therefore be accessible, independent, procedurally fair, and capable of producing outcomes that the Tasmanian community can trust. As I said at the start, if there's one message I want you to take from what I say today, it's this: we've messed up police complaints oversight in Victoria, so please learn from our mistakes and centre the victims of police criminality in your reforms. That will not just help them, but also the police and the wider Tasmanian community. Thank you. Ben and I now welcome your questions.

CHAIR - Thank you, both Ben and Jana, for your opening statements. Jana, thank you sincerely for generously sharing your own story and for supporting victim-survivors who have provided submissions and evidence to this Inquiry. I strongly believe that the work that we need to undertake as a Committee, as well as some of the other recent reviews, cannot be profoundly impactful without the lived experience of victim-survivors, who I recognise generously share their own experiences, often to their own detriment and increased hardship and re-traumatisation. I do want to put on the record from my own perspective, but also on behalf of the Committee, how important and powerful it is to be informed by those stories. Thank you very much for not only sharing your own, but also for supporting people here in Tasmania through your day-to-day work and also those who have felt comfortable enough to provide submissions to this Inquiry.

Could I start with a question to you, Jana? You put it very succinctly when you talked about the current oversight mechanisms in Victoria and some of what's changed in recent years. Could you dig into that a little deeper in terms of what, if any, recommendations your organisation has made to the Victorian Government about improving the oversight mechanisms that operate in Victoria? And whether or not the Government has been receptive to making any changes to the current situation or current regime?

Dr KATERINSKAJA - Yes, we gave evidence and made submissions to the Parliamentary Integrity and Oversight Committee last year about IBAC's defects in overseeing police. The submissions have been going in, the Inquiries've been going on, for 10 years in

Victoria about those failures. We strongly advocate for a standalone Police Ombudsman modelled on the Police Ombudsman of Northern Ireland. The reason why we advocate for that is that an anti-corruption body, by virtue of how it functions, needs to be secretive if it's going to expose corruption. But for police complaints, you need transparency and trust, and those two things can't work under the same statute, and they don't work in Victoria. So, we've recommended a standalone separate body. Failing that, we've said that IBAC needs a new piece of legislation and a separate division so that you can get copies of your statements, you can get information from your investigator at IBAC, which presently you can't because of the secrecy provisions in the IBAC legislation. If you follow the recommendations that some submitters have made to you about giving your integrity body police oversight, I think you need a separate piece of legislation for that police oversight and you need to make sure that it is trauma-informed and it is a standalone division within that integrity unit so that people can get information and it is supportive of them, and doesn't cause further trauma, the way the IBAC process does.

In answer to whether our recommendations to the Committee have been accepted, they've been placed under review. They were adopted by the Committee in its final recommendations to the Victorian Government, but they've been put under review and the Government has promised to make further police oversight reforms in the second tranche of IBAC reforms next year.

Ms BUTLER – Emma, my name's Jen and I'd just like to reaffirm the remarks made by our Chair and thank you very much for speaking with us today. We understand that it's not an easy thing to do and we really appreciate your time. I'm sure that the information you provide us here today will be very informative in trying to reshape how we go about providing good systems of governance around this.

One of the areas that I'm really interested in is preventable measures that can be implemented when we are looking at ways in which we potentially recruit police, or ways in which we can stop escalation of behaviour and create really healthy cultures within police. In the work that you've undertaken and are fighting for at the moment in relation to IBAC, can you speak to any preventative measures that you've come across in your research?

Dr KATERINSKAJA - I have seen some improvements in Victoria Police's attitude towards perpetrators in the ranks. Once members start seeing other members held accountable by IBAC or by Victoria Police - but we haven't seen much change in IBAC, most of our change has been within Victoria Police. It does change culture, and I have seen an increase in upstander behaviour within Victoria Police. There is still a lot more work to do, but the first step is owning the problem within the police force, whether that's forced by your integrity agency or it's driven by the police force itself. That things are called out promptly, they're dealt with promptly, and the person who discloses and witnesses who support them are not penalised or punished, and are seen not to be penalised or punished. It makes a massive cultural difference. That's the first step in shifting the dial.

Ms BUTLER - That culture of retribution, or that blue code - that loyalty to one another, because it's a unique work experience, isn't it, when you serve? But you've also got the perspective of being a family member, as well, within your background. Is there a code, did you find, within families as well that may not be serving themselves?

Dr KATERINSKAJA - It's families within families. So, when you are a member of the police, you see yourself as part of the 'blue family'. When you're a member of a policing family, you see yourself as part of the 'blue family', too. When people make disclosures of family or sexual violence, particularly when they live in regional areas - and I have this lived experience myself - everyone feels like they need to take a side. It's almost like a divorce in the family, but only worse. So, there's definitely that dynamic. There is definitely that blue code, and it is very hard to challenge. You can challenge it to a point. You can dilute it to a point with good training and good culture, good policy, good practice, but you can never completely get rid of it because of the nature of policing. You need to be able to trust the person next to you has your back in dangerous situations. But that filters through to not-dangerous situations as well, such as family violence, where people back their colleagues without realising that their colleague actually is a perpetrator. We all think that the person next to us and the people we like aren't perpetrators. Perpetrators are 'others'. We know that's true in society, but it's also true in policing as well, only it's much more dangerous in policing. So, you do still have to have that independent oversight because you can never completely get rid of the code.

Ms BUTLER - Can I just quickly ask one more question as well? I'm interested in your journey and how you were able to achieve that justice. You stated in your submission there are a number of people who don't get access to that kind of justice because you're a solicitor or a lawyer and you have the understanding of the legal systems and procedures, and how that works. What was that journey like? Was there an experience where everything changed for you within that?

Dr KATERINSKAJA - For me, it was realising I had to compile my own brief of evidence. Then when I started compiling the brief of evidence, I did a whole lot of Freedom of Information (FOI) requests, and I got a bunch of information back that wasn't fully redacted. From that, I could then do further requests. And once I could substantiate my complaints and prove that my escape plan had been leaked, that was the change. That's when I got politicians to start listening to me. Also the media. I could leverage the media. I could say, 'This is not just a story, this is not just my truth - this is the truth. Here's the documents on Victoria Police letterhead.' And there were emails with police officers questioning my veracity and saying that I was trying to harm my perpetrator's career, when there were text messages from my perpetrator threatening to hunt down and harm one of my children. So, I clearly, you know, you can't make that sort of evidence up. That was the thing that changed it; it was evidence-based. But the key thing I want to stress is I could only get that evidence because I understand how to frame an FOI request. I think if other people had put one in, it probably would have come back as entirely black ink.

Dr WOODRUFF - Thank you, Jana and Ben, particularly Jana, for your harrowing and very important personal testimony that you shared with us. Can I just drill down into independence, because you'd be aware, Ben, you referred to the Weiss Review, the Reynolds child sexual abuser who, for decades, went unaddressed by any action in Tasmania Police despite complaints coming forward. So, clear failures in the system in Tasmania. Just the IBAC situation in Victoria: the Weiss review has recommended that our Integrity Commission undertakes investigations of police. There are questions being raised about the capacity in a small jurisdiction to be able to do that effectively. We can come to that.

I would like you to say, if you can, at the first instance, what you think best practice would look like, Jana in particular, or Ben, about a report being made from a complainant about a police officer? How can that initial approach be made so that an investigation starts where

they can be confident that the police officer receiving it and acting on it isn't somebody with a conflict of interest? The reporting pathway process, what do you think best practice looks like?

Dr KATERINSKAJA - Best practice is you need to actually have a really strong conflict of interest declaration and assurance process. We don't have a fantastic one here because it's self-assurance. There needs to be a deeper conflict of interest check than that, similar to what we would do when we're doing a legal conflict of interest check.

Dr WOODRUFF - So, sorry, that would be done within Tasmania Police, by the people who would be undertaking the investigation? There would be an assessment of whether any of those officers would have a conflict of interest, and it would be done in the rigorous manner that you're suggesting?

Dr KATERINSKAJA - Yes, and it would be subject to oversight from your integrity body or your ombudsman, whichever model you're adopting. And they need to do periodic checks to make sure that those declarations are being properly done because what we found in Victoria is that people start doing a bit of a tick-and-flick after a while, except if they're subject to oversight. So, the first thing has to be that clearance. Then you have to have a second pass at it, too, because sometimes someone, an officer, can have a conflict of interest and not realise it, but when the victim sees them, 'Oh, I know that guy because of this' or 'know that woman because of this'. You have to be able to then raise concerns and for that conflict of interest to be revisited, because we've seen that a few times in Victoria as well. So, they have to be able to have a second bite there. And recognising that conflicts of interest can come up at any time.

There's another type of conflict of interest I'd like to speak to quickly as well. That is one where it is a perceived conflict of interest but it is also, in my view, a true conflict of interest: Where you have been dealing with a case for too long and you start having very strong emotions about one or other of the parties, that clouds your judgement. So, if you think that the complainant is a pain - and they may be but they may also have a really valid case, you need to rotate staff through and have a good handover and a fresh pair of eyes. I see that, and I've seen that happening in the past, where people who are perceived as difficult personalities don't get just outcomes because the investigator burns out. That is a form of conflict of interest as well.

Dr WOODRUFF - To be clear, are you arguing that the best practice is just that process that you suggested, but then that the investigation itself could be done by Tasmania Police, or by Victoria Police, as long as it has an ongoing independent oversight body monitoring the progress of that investigation as it continues?

Dr KATERINSKAJA - Yes. I have a view that in some quarters would be fairly controversial, and that is that there are some types of investigations that police are better placed to do because they're trained to do it and they do it day in, day out, particularly child sexual abuse cases, a lot of sexual violence cases and, obviously, homicide. They can do that, but you must have a sanitary investigation channel, and the start of that sanitary investigation channel is the conflict-of-interest checking. And it's a continuous conflict of interest vetting process, too. It's not just a point in time. It has to be iteratively continuous, and close oversight. So, I believe that police can investigate, but they must be subject to independent oversight. And sometimes, is it appropriate, if you're looking at a very senior member of a police force like an Assistant Commissioner, to get another police force to do the investigation.

Dr WOODRUFF - Okay.

Dr KATERINSKAJA - And we don't see enough of that either, with oversight from the independent - yes.

Dr WOODRUFF - I assume independent oversight requires the body to have access to, in Tasmania, the IAPro, which is the complaint-handling system that Tasmania Police use. So, they'd need to be able to have independent access to that to be able to -

Dr KATERINSKAJA - Yes. And that has been a problem in Victoria, too, with IBAC not having access until recently to a lot of Victoria Police systems.

Dr WOODRUFF - Okay.

Dr KATERINSKAJA - But you can deal with that with legislation. You can deal with the safety concerns that the police will have as well with those systems access, too. It's not something that you can't address.

Dr WOODRUFF - No, correct. Thank you.

Ms BURNET - Thank you both for your presentation so far. It's been very helpful. Just to follow up on some of Rosalie's comments: the investigation and for the Integrity Commission to have access to telecommunications, would you be supportive of that change in legislation? This is to both you, Jana, and Ben.

Dr KATERINSKAJA - Yes, absolutely. You have to, to be able to have a proper investigation.

Ms BURNET - Yes, it looks that way, doesn't it? You talked about a police ombudsman, and I suppose with some limitations - and you're both are fully aware of the limitations in the Tasmanian context, what do you see as the best and most possible in the Tasmanian context to have that separation and deep investigation into any of these police matters?

Dr KATERINSKAJA - I think, given your size and given everyone, all governments, are financially challenged at the moment, if you move it into your integrity oversight body, it needs to have a separate statute addressing all the issues that we were talking about in the Inquiry to the Victorian Government. And you need separate staff members within that integrity agency who are trauma-informed, who are trained in dealing with traumatised people and understand that if you don't provide regular updates and information to complainants, that they will escalate and fill a void with fear. That's a very different skill set to what you have in investigating corruption. You need new staff and a separate statute even if it is housed within the same agency.

Mr GEORGE - Benedict, just a quick question for you. Have you experienced a positive change in approach and attitude at a higher rank of the police force in relation to the issue that we're investigating here?

Mr BARTL - What I would say is that there was a marked difference between the investigation in 2008 and 2018. In 2018, a complaint was made and within a couple of days a search warrant had been obtained and his house was searched. Yes, although I have pointed

out the inadequacy of the initial investigation, the second investigation a decade later is to be commended.

Mr GEORGE - Do you think there is a change in culture at the top?

Mr BARTL - There was in this case. I think that's as far as I can go, Peter.

Mr GEORGE - Jana, you've mentioned Northern Ireland where the Police Ombudsman - I wonder if you could describe that for us. And then maybe we'll move on to what might be considered to be, I don't know, international gold standards or even perhaps national standards. Maybe not gold standards, but certainly improvements in the situation that we've got here.

Dr KATERINSKAJA - I think the Northern Ireland model is considered the international gold standard because they do all investigations, including homicides. They basically act like a police force themselves and will run the investigation from start to finish. They file the charges, they run the prosecutions - well, to a point. That is very different to what we do in any Australian jurisdiction. I think of the Australian jurisdictions, obviously you have the Law Enforcement Conduct Commission (LECC) in New South Wales. That is a standalone police oversight body, but it has its own problems. And then we have the model in Victoria, which is police oversight in form only because IBAC refers pretty much everything back to Victoria Police. That said, we have seen some improvements within IBAC now that they have a focused police complaints project. But they still have an issue with the resourcing and with just having one statute that governs everything.

Mr GEORGE - I think you partly addressed this anyway. A hybrid investigation in which perhaps complaints are made in the first place at the first door you step through - it might be the Integrity Commission, there has been in evidence that we've had from the CEO of the Integrity Commission. It would work in this sense: that report to the Integrity Commission; the Integrity Commission then reports it to the police; the police do an investigation with a supervisory role, as it were. Is a hybrid investigation of that nature satisfactory? Or would you just dismiss that as being far too closely linked?

Dr KATERINSKAJA - I wouldn't give a binary answer. I think it depends on the guardrails. You can make it work, and I have seen it work in some instances in Victoria where the conflict of interest is managed and you have that sanitary investigation channel that I was talking about. We have certainly seen improvements in Victoria since we've had that new standalone Sexual Offences and Family Violence Unit (SOFVU) to deal with the worst of the worst predatory cop cases and family violence cases. But it doesn't work for the majority of cases which are theoretically overseen by IBAC because they're not overseen well enough.

Mr GEORGE - So, it obviously has to be a totally separate unit? Chinese walls, I think, is the description there.

Dr KATERINSKAJA - Yes. And proper oversight. It can't be perfunctory oversight. They need to be able to go in and look at police records and look at police systems.

Mr GEORGE - Contemporaneously, I assume, as the investigation goes on, someone is keeping an eye on it all the way through?

Dr KATERINSKAJA - Yes.

Mr GEORGE - I think, Benedict, you're nodding there.

Mr BARTL - Yes, totally. As you know, Peter, the Integrity Commission is seen by many as a toothless tiger at the moment. Thankfully, I have privilege today, Ella. It is a toothless tiger, and it does need significantly more power so it can do the job it needs to do.

Dr WOODRUFF - Just to be clear, Jana, before when I was asking you the question about the initial contact, and you were talking about having a codified process of determining conflict of interest and oversight of that process. That would be part of the hybrid system where, possibly, the doorway would be through our Integrity Commission body, through a statute which would govern the process and govern how it be undertaken by a separate, completely sanitised area, if you like, within the Integrity Commission. Through that portal, it would go to Tasmania Police, have a checking process for conflict of interest and a continual checking throughout the process. And then there would be an oversight throughout the process through access to IAPro in Tasmania and the other mechanisms of the progress of the investigation. That's kind of - ?

Dr KATERINSKAJA - Yes. And they would also need to have the power to be able to take the investigation back for those circumstances that I touched on before, where you have someone who's very senior and you decide that that conflict of interest just cannot be managed. So, you may want another police force to look at it or to appoint a barrister to run the investigation. You would want to have that for those edge cases too. That won't be most cases, but you will get them now and then and you need to have the mechanism for dealing with them. But yes.

Dr WOODRUFF - There's also the reporting back, which other submitters have made comments about, which is the provision of information to complainants about the progress of an investigation or about what's happened and the timeliness. Ben, your submission makes it really clear that there needs to be information available for people about the progress and the process of their investigation. Could you just talk about your experience about what happens or doesn't happen now, and the impact on people of the current process?

Mr BARTL - Sure. I mean, I'm not an expert on what happens at the moment. Jana can probably speak to that. But what I can say is that with prosecutions, the prosecution has staff who will keep victims of family violence in the loop as to the process and where the case is at, and where it's going. I think if the prosecution is able to provide resources to ensure that victims of sexual and physical violence are kept in the loop, there's no reason why it can't happen with police misconduct.

Dr KATERINSKAJA - There's normally a vacuum of silence and people fill that with fear. They assume that their complaints are not getting investigated or that it's being mishandled, and I've seen that with people I've supported in Tasmania. It's the same thing that happens here. With our new unit here, you get a Witness Liaison Officer who you can contact at any time with concerns. If you're having issues with your investigator, your Witness Liaison Officer will advocate for you. That sort of model within your integrity unit is really needed, and you need social workers to do that.

Mr GEORGE - I'm not sure that either Benedict or you can help on this. Given that one case of police sexual violence, or sexual violence in family or otherwise, is one too many, we have no idea here really of the extent of the problem, other than the fact that these cases emerge and shock everybody, and then sort of disappear again almost from a public consciousness. But do you have any idea either in Victoria or nationally, or internationally, of the extent of this as an issue?

Dr KATERINSKAJA - I couldn't put a number on it. But what I can say is this: and that's when I first went public with my own story in Victoria, the ABC dashboard, because I was on the radio, went nuts and then we started getting inundated with correspondence in my workplace. There are a lot more people who don't complain than do complain, so you just see that tip of the iceberg. The other thing to point out, too, is not everyone wants to complain to the police. It is only a small subset that will complain to the police. So, even if you can quantify the people who are complaining, the size of the problem will be significantly bigger than that. Not everyone wants to involve the police, for various reasons, but you need to make it safer for them to come and complain. Currently, I don't think people have that confidence to complain, so it is massively underreported in all states.

Mr GEORGE - I should add that, of course, it isn't a question of raw statistics anyway. It's a question of this being a problem that has to be dealt with, no matter what level of issues there are.

Dr KATERINSKAJA - It is. And it's also seeing the societal impacts, too. So, for family violence, if you have a family violence perpetrator in the ranks who's going out and attending family violence calls, they're probably not going to do a very good job with those family violence calls. It will cause more problems. It's just that.

CHAIR - Can I ask a question of you, Ben? It goes a little bit to what Jana just shared. You've spoken about the 2008 investigation into Reynolds. I wanted to invite you to speak a little bit further about what changed between 2008 and 2018. Obviously, in that decade, he was able to continue offending and escalate his offending. Can you speak a little bit to the importance of people being able to make complaints or alert their colleagues, I suppose, to questionable behaviour that they might see? I think a lot of what was revealed between those two investigations and the report since is that his behaviour, some of which might not have constituted a potential charge of grooming under the Criminal Code, but it was nonetheless important for police to know, or for investigators to know, to establish a pattern of behaviour that was worrying and could have been a pointer or a flag to look and investigate deeper into this particular individual's behaviour. Can you speak a little bit to the importance of those reporting pathways being open and available to people to be able to make reports like that, even if they might not be something that, in their individual instances, are enough to justify a criminal charge?

Mr BARTL - Yes, sure. I think it's really important that the process is anonymous. In the Weiss report there are police officers on the record. They say, 'It would have been a lot easier for us if there was an anonymous process'. That's coming from the horse's mouth in the sense of, it's police officers who are wanting to report against other police officers. My understanding is the new model that Tasmania Police has introduced is anonymous, so that is a step in the right direction.

As I said earlier, the process does seem to have improved. The 2008 complaint wasn't taken seriously. In any criminal proceeding, the accused is never written to and asked, 'Can you please explain your behaviour?' They're taken into an interview room, they're interrogated. If there's two potential accusers, they are never in the same room at the same time. When they're giving the evidence in court, they never give the evidence at the same time, or they're not able to hear what the other accused thinks. It doesn't seem like the 2008 investigation was taken seriously. But, as I said, by 2018 it had significantly improved.

Dr WOODRUFF - I have a question, for maybe Ben or Jana, about the resignation of police officers, which has been referred to by a number of victim-survivors who made submissions about the inaction after a police officer resigns. Do you think this is something that needs to be changed so that investigations would continue within Tasmania Police? And could you speak to what happens in Victoria or anywhere else, if you're aware of that?

Dr KATERINSKAJA - We have exactly the same problem in Victoria, and it is a source of constant angst for victim-survivors because investigations will stop because someone has resigned. They'll normally resign whilst under investigation, or the day before a discipline hearing. My perpetrator, for example, resigned within days of his discipline hearing when he knew he was going to get fired because he'd just been convicted.

I understand why investigations don't continue, but I think it is actually important that they do because I have seen instances in Victoria of officers who've resigned and have then ended up working in roles that they should not be working in. Had there been a discipline finding against them, or some sort of adverse finding against them, even if it were not a criminal finding, they could not work with children or they could not work in security, and they would not have access to a firearm.

Dr WOODRUFF - Ben, you talked about the improvement between 2008 and 2018 in relation to Tasmania Police's handling of complaints around Paul Reynolds. It was five years after he took his life, a coronial inquiry, a Commission of Inquiry, the Weiss review, before the true extent of his offending came to light, and Tasmania Police didn't investigate that themselves. There were 52 people who did not get any justice. There are systems that are obviously manifestly inadequate.

Mr BARTL - Yes, I totally agree, Rosalie. But for the coronial inquest, we may well never have known about the investigation that had stopped because Paul Reynolds died by suicide.

Dr WOODRUFF - Yes. So, both the resignation of an officer or death by suicide should not end an investigation?

Mr BARTL - No. In our submission we do point out that, over the last three years, Tasmania Police has provided records of police that have been charged with serious criminal offences and, in some of those cases, the investigations have stopped because they've stopped working for the police. It is important. I totally concur with Jana. The investigations need to continue, not just to provide justice to the victim but also to ensure that, in future, they're not able to work in areas that may well be of issue, given the criminal charge.

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Dr WOODRUFF - I assume you'd both agree that any evidence in relation to a complaint of an officer's serious misconduct should be retained and not destroyed, because there are times when evidence has just disappeared and is not available for a later prosecution?

Mr BARTL - Well, yes. That's shocking. I mean, criminal charges, there's no limitation period, so they can be laid in 50 years' time, which is why it's so important that the evidence is retained.

Dr KATERINSKAJA - It's not just about individual officers, too; having the anonymous reporting through to your integrity agency or ombudsman, whichever model you choose, it's really important so that you pick up systemic trends. At Inner Melbourne Community Legal, we look at a lot of racist policing, so you'll get things that are not bad enough to action, but if you see a whole lot of them come in from the same area, then you know you've got a problem. If you're getting reports about predatory police conduct or misuse of police access to police systems, a whole lot of anonymous reports point to a systemic issue that you're otherwise never going to find. So, that anonymous reporting is really important, particularly for members. In Victoria, that's something that member survivors of family and sexual violence, and people who are good upstanders have raised with me, saying that they would like a better way to report so that they can raise concerns because they don't want to be working alongside these guys.

CHAIR - Thank you. We've gone a little bit over. I want to thank you both sincerely for your evidence today, and for writing to the Committee. I want to reiterate that the Committee is committed to doing our work in an as trauma-informed way as possible. We have discussed matters that might be very distressing to people participating in these hearings today or observing them online. Anybody that does need support can contact services such as Lifeline on 131 114. There are also other resources listed on our Committee website, which is part of the Parliament of Tasmania website.

I also reiterate that what you've said today to us at the committee table and online is protected by parliamentary privilege but once you leave these proceedings, please be aware that the privilege doesn't attach to comments that you may make to anyone, including the media, even if it's just repeating what you've said to us today. Thank you again, both, sincerely for appearing.

The witnesses withdrew.

The Committee suspended from 1.19 p.m. to 1.45 p.m.

Women's Legal Service Tasmania

CHAIR (Mr George) - Thank you for coming. Welcome to today's hearing of the Standing Committee on Government Administration B and its Inquiry into Tasmania Police responses to allegations of officer misconduct. Thank you for your attendance. I'll start by introducing members of the Committee: I'm Peter George, Member for Franklin and temporary Chair for this hearing; Dr Rosalie Woodruff, Member for Franklin; and Jen Butler, Member for Lyons; and online, Helen Burnet, Member for Clark, is joining us from Korea. I also note other members of the Committee who are unavailable for this hearing: Ms Haddad, Ms Howlett and Mr Fairs.

If you could please state your name and capacity in which you are appearing before the Committee.

Ms MACKAY - Hello, I'm Siobhan Mackay, I'm Acting CEO of the Women's Legal Service Tasmania.

Ms CRAVEN - I'm Zoe Craven, I'm the Principal Solicitor of the Women's Legal Service Tasmania.

CHAIR - Thank you. Can I confirm that you have received and read the guide sent to you by the Committee Secretary?

WITNESSES - Yes.

CHAIR - I'd like to reiterate a couple of important aspects of that document. This hearing is covered by parliamentary privilege, allowing individuals to speak with freedom without fear of being sued or questioned in any court or place out of parliament. This protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the parliamentary proceedings. This hearing is public; the public and media may be present. Should you wish aspects of your evidence to be heard in private, you must make this request to the Committee at the time as you desire. Could you please take the statutory declaration that's on the card in front of you?

Ms ZOE CRAVEN, PRINCIPAL SOLICITOR, AND **Ms SIOBHAN MACKAY**, ACTING CHIEF EXECUTIVE OFFICER, WOMEN'S LEGAL SERVICE TASMANIA, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Thanks. I'll read a sensitive content statement that the Committee has agreed to. We recognise that during these hearings we may discuss highly sensitive matters that have deeply impacted people. This may be distressing for people listening to or participating in these proceedings. Anyone who needs support can contact services such as the Lifeline Tasmania Helpline on 13 11 14 or via text at 0477 131 114 for 24/7 mental health support. A list of additional contacts and services are published on our website and hard copies can be provided to those in the room.

Do you wish to make an opening statement?

Ms MACKAY - Yes please. I will on behalf of the service. Women's Legal Service Tasmania provides legal and wrap-around social supports to women, those who identify as women, and non-binary folk across Tasmania. We did not make a standalone submission to the Inquiry; however, we're one of the nine community legal centres represented by Community Legal Centres Tasmania's submission and Benedict's evidence prior to us.

We strongly agree that there's a clear need for an independent investigative body that's not just institutionally independent, but that is practically, culturally, and politically independent; one that's appropriately resourced to undertake oversight of police conduct and not only those complaints or conduct that are deemed to be the most serious; and one that has a gendered and family violence lens and expertise.

Our main areas of practice include family violence, family law and child protection, and we often speak with women whose users of violence are members of Tasmania Police; women who have sought the protection from police to seek safety from family violence and that response has fallen short; and women who are yet to report to police due to fear of not being believed or worse, being treated not as the person most in need of protection but misidentified as the primary user of violence.

We particularly recognise that historical individual and community experiences of police and justice system responses and failures, particularly where police enforce state-sanctioned violence and dispossession, cause profound ongoing mistrust.

We know that reporting family violence is a major challenge for victim-survivors. The Tasmanian Family and Sexual Violence Alliance has given evidence to this Inquiry that 40 per cent is a conservative measure of those who do not report, regardless of who the perpetrator is. When that perpetrator is a police officer - with their position of authority, knowledge of policing systems, access to information and professional relationships - it creates even greater challenges for victim-survivors to report a crime or make a complaint, let alone being part of any subsequent investigation and prosecution. The victim-survivor is often facing interpersonal and institutional positional power.

As the Law Society's submission highlights, the integrity of policing depends on the adequacy of systems designed to investigate, review and respond to misconduct, as well as the conduct of individual police officers. Our evidence today, where we speak to themes or failures, is based on what we've seen in our practice and hear consistently from women. It's not intended to diminish the work of individual members of the force, but we sit here today as the holders of so many women's stories to highlight the need for police accountability reform that is informed by and responsive to victim-survivors' experiences.

CHAIR - Zoe, do you wish to make a brief statement?

Ms CRAVEN - No. It was a collective statement.

CHAIR - Questions, Dr Woodruff.

Dr WOODRUFF - Thank you. We've heard a lot of evidence in the form of submissions and in spoken hearings about the need for independence in reporting and investigations, both of those areas. There have been recommendations about a completely, wholly standalone independent assessment and a sort of a hybrid system where there would be some retaining of

independence through ongoing oversight of an investigation, possibly through the initial reporting and determining conflicts of interest. I'll just also say the Weiss recommendations were that the Integrity Commission be responsible for undertaking investigations of serious police misconduct. Does the Women's Legal Service have a view about what the best model for Tasmania would be?

Ms CRAVEN - We were listening to the evidence of Jana earlier today and much of what she said resonated with our position and the recognition that there are some offences that police, by virtue of their expertise and training, are best placed to investigate. Having said that, the need for a strong oversight of those investigations and ensuring that there are checks and balances at each and every level to address things like conflicts of interest, particularly in a small state like Tasmania. We're very much aligned with the views put forward by CLC Tasmania, in terms of having that independent body, but also recognising that there will need to be some police involvement in some scenarios where their expertise is best placed to undertake that.

Dr WOODRUFF - Would you have a view about who else, other than the Integrity Commission or in addition to the Integrity Commission, should be involved in that independence and oversight? Were an investigation to be being undertaken by Tasmania Police for example, who else would be best placed to be speaking for the victim-survivors' perspectives - or just that independence, do you think that's an Integrity Commission role or a sort of a changed Integrity Commission with a different expanded mandate?

Ms CRAVEN - I think the difficulty with allocating that responsibility or those powers to the Integrity Commission is firstly, you've heard that they're very much not resourced to do that, and secondly, the absence of that specialist gendered family violence lens on the work and the need to really understand the victim-survivors' needs need to be at the front and centre of those responses and ensuring that the pathway to making a report is as safe as possible for them. Short answer is currently no, and if it were to be the Integrity Commission that was given that responsibility, there would need to be a lot of work done and a lot of resources thrown at ensuring that it is the best placed body to do that work.

Dr WOODRUFF - Trauma-informed, and do you want to just unpack a little bit more about what you mean about the extra expertise that would be needed by whoever would be doing that?

Ms CRAVEN - I think that organisations like Laurel House, who you heard from yesterday, are probably better placed to speak to the specifics of how victim-survivors should be involved in that process, but certainly some lived experience involvement I think is absolutely essential. I think, not wanting to put anyone in it, but those sorts of agencies that have that day-to-day experience of counselling and dealing with victim-survivors of sexual violence need to have a significant input into what that body looks like in the type of work that it does.

Ms BUTLER - Thank you very much for coming in today and speaking to us and, being respectful of potential identification of some cases that you may have worked with, would you be able to provide some experiences where you have worked with women and young people who may have been caught up in cases of potential allegations of misconduct with Tasmania Police at all, and what that looked like in a general way and what were some of the barriers to seeking justice for those victim-survivors?

Ms MACKAY - Can I just clarify, when you say misconduct, do you mean serving members using violence or in responding to violence?

Ms BUTLER - Serving members.

Ms CRAVEN - Serving members using violence?

Ms BUTLER - Yes please, or both.

Ms CRAVEN - We definitely see across the board a reluctance to report because of fears for safety in reporting and lack of trust in the system responding appropriately and safely, and that applies to perpetrators who are not members of the police forces as well, equally to those who are. We also see that making a police complaint as such is not really the priority that these clients have when they present to us. It's keeping themselves safe and their children safe and getting out of those situations, getting the court orders or whatever it is that's needed in place to get them out of that situation. The idea of making a police complaint through that process, whether it's through Tasmania Police or the Ombudsman or the Integrity Commission, that's a side issue. You're probably not seeing those processes utilised as much as they could or should be by our clients because we're seeing them at that very coalface, I suppose, where their safety is the priority and the safety of their kids.

Ms MACKAY - I was going to speak more to the barriers. We try to be out in the community as much as we possibly can be, but most of our clients do reach out to us by phone initially, so making sure that things like they're calling from a safe line that isn't being monitored and so forth. But then we're often speaking with women who don't want to share the other party's name because they are so frightened of seeking help. So, even that first threshold to reach out to us, but then even in seeking help from us, there is still so much fear and concern, particularly then when you've got members of rural, regional and remote communities. There might be very small police presence there. The barriers are compounded, as well as our ability to be out on the ground and maybe meeting those women in safe spaces that they're already accessing and where they have trust that they could speak about a user of violence being in the force.

Dr WOODRUFF - This is to a completely independent Women's Legal Service?

Ms MACKAY - That's absolutely right.

Dr WOODRUFF - I mean, it just goes to show how difficult it is.

Ms MACKAY - Yes. We will receive questions like, 'Oh, if you're government funded, will they find out the name?' and so forth. Yes, absolutely. We of course think of ourselves as fully independent, but it is amazing that you still encounter concerns in the community that even us - then we would always just be speaking through women about what their options are and just giving information because, again, it might be that hearing about a police complaint or applying for a Family Violence Order isn't the right choice for them at that time because of all of the other concerns.

The additional thing is if it is a young person, our current definition of 'family violence' - I don't know if you want to speak a little bit more about that, Zoe - how, really, only a very small portion of our communities are protected by that. But I'll hand over to Zoe.

Ms CRAVEN - We spoke about this in our submission in response to the discussion paper that was released by the State Government late last year. The definition of 'family violence' under the *Family Violence Act 2004* in Tasmania is well out of step with the rest of the country - legislation in all other states and territories. It's very narrow and it only protects intimate partner relationships; it doesn't protect people in those broader family or extended family kinship network relationships.

Ms BUTLER - Elder abuse and so forth.

Ms CRAVEN - That's right, yeah. That's a barrier in and of itself for a person going into the police station to report, that they will often be told, 'Sorry, this is not a family violence matter. This is a restraint order matter and you'll need to go and apply for that through the courts yourselves. We don't deal with that sort of abuse or violence'.

Ms BUTLER - And that was requested to be reviewed some time ago, wasn't it?

Ms CRAVEN - Yes.

Ms BUTLER - Do you have any understanding of where that review process is up to?

Dr WOODRUFF - The submissions are in.

Ms MACKAY - Yes, the Government has just announced the second tranche of reforms and it isn't included in that.

Ms BUTLER - It isn't?

Ms MACKAY - It isn't, no.

Ms CRAVEN - We've been asked to respond or provide submissions in response to the bill; they're due, I think, at the end of next week. In line with the views that have been adopted by a lot of other values-aligned organisations, such as Laurel House, we're quite upset that all the resources and time that was put into making lengthy submissions to the Government in response to that discussion paper, very few had been listened to.

Ms BUTLER - How frustrating.

CHAIR - You've already raised the question of what I think of as the front door, which always seems to me to be one of the biggest hurdles that - I mean, I know there are many hurdles. Can you describe a method by which you think you might actually ease that beginning of the process when it comes to making complaints, which of course involve police? So, there is this fear of your organisation, let alone any other. Can you describe something that would make the beginning of the journey easier?

Ms CRAVEN - How we've navigated that in terms of us not being a safe space to approach in the first instance - a lot of our clients don't want to just approach a legal service,

don't want to just walk in the door of a mainstream legal service. How we've tried to address that at Women's is getting out into the community and building partnerships with other services or agencies that are trusted by the women or the clients. For example, we partner statewide with the Child and Family Learning Centres, who have a range of early education providers and other service providers that come into those spaces, including CHaPS, the Child Health and Parenting Service. They're often the first people that our clients disclose to or the first people who see the red flags when things are not right. So, they then have the ability to bring the clients to us through those spaces. That's one way we've tried to tackle that issue of trust and accessibility of our service. That model, or something akin to that, might be a way of opening those doors, I guess.

CHAIR - Would you have more confidence, or do you think your clients might have more confidence, if the initial reporting portal tended to be through the Integrity Commission, were it set up and resourced to do so, rather than through a police procedure? Would that help build confidence?

Ms MACKAY - I would think so, yes. Of course, every woman's experience is different, but resoundingly what we hear is that there is that lack of trust and, you know, it's police investigating police. And yes, for many of the clients that we speak to, being able to go via an independent body would be safer and more trusted.

CHAIR - Right. So, if the Integrity Commission were set up for hybrid investigation - in other words, it might be investigated by police, but it would be overseen from the word go by the Integrity Commission - would that seem to be at least a better step forward? If not perhaps the gold standard, at least a better step forward in holding police to account for their investigations and making sure that they are properly carried out?

Ms CRAVEN - I would say, in principle, yes, but you would want there to be a high level of transparency as to what that oversight actually looked like. So, exactly what does oversight mean of the investigation and what happens if the oversight identifies issues or deficiencies in the investigation?

CHAIR - Yes, it's got to be well set up.

Dr WOODRUFF - There's a recommendation from the Law Society that there be a statutory right for complainants to receive reasons about what the outcome of their case has been, or their investigation. Do you have any comments about the current situation that exists for people that you represent in terms of information coming back from them from Tasmania Police about the status of their complaint and the outcomes or reasons for not proceeding if that happens?

Ms CRAVEN - In terms of a complaint as in a criminal complaint, or a complaint about a police officer?

Dr WOODRUFF - Both. I mean, they can be together, but we're talking here about allegations of serious misconduct. If an allegation is made to police about another police officer's serious misconduct, what's your experience, if you have anything to speak to, about the process of information coming back to them about how an investigation is being conducted and where it's up to?

Ms CRAVEN - We see a lot of clients who are going through the criminal justice process, and a lot of what we're told is that they don't get a lot of information about either where that's up to or the outcome of it if, for example, a charge is withdrawn or downgraded. So, for example, a non-lethal strangulation charge being dropped down to a common assault, and the explanation for that is usually very brief and verbal, if any. So, those sorts of themes we see across the board.

As I said, we don't often get to the stage with our clients where we're making formal police complaints, either through the Integrity Commission or the police themselves, because that's not the priority that they're presenting with, I suppose. But certainly, strong themes of not getting information back about status or outcome of investigations or criminal proceedings, and often that's because the Witness Assistance Service or the court support service is not well resourced and they're dealing with a lot of other victim-survivors that they also have to contact. So, the conversations are very short and provide only very limited information. And sometimes it's left in the hand of the investigating police to inform the victim-survivor of the outcome of their complaint, and that either doesn't happen or happens in a fairly perfunctory way. So, definitely some more comprehensive system of reasons being provided, preferably in writing so that -

Dr WOODRUFF - Something standardised?

Ms CRAVEN - Yes.

Dr WOODRUFF - And presumably with some review that would get views from other people in the sector, like yourselves, about what it should contain and what reasonable feedback would be. What about Right to Information information at the moment? That's usually the only mechanism that complainants have got to access, and that is mixed and variable in terms of what comes back and how long it takes to come back. Do you have any experience? And what are your views about standardising and improving that process?

Ms CRAVEN - We do a lot of work in the victims of crime assistance space, so assisting clients to put together their applications, which usually is preceded by an application under RTI for police records or other medical records. We have had experiences where clients have reported to us that they've contacted police multiple times about assaults or family violence incidences, but when we go to get those records, only a very limited amount of information comes back. So, there's concerns there that some of those reports are actually not being formally entered onto police systems, or something's going amiss there.

Dr WOODRUFF - Do you think it happens that people walk into police stations and make complaints - I mean, this is something that's been alleged - and there's no record taken at all of that complaint?

Ms CRAVEN - I think that's certainly a possibility. That has been an experience reported to me personally by a client that they don't think the police officer took any notes down when they went into the police station. Again, going back to what Jana was saying earlier today, that may well be because the victim-survivor is quite vocal in their need to get information and to pursue a complaint being followed through, and they might be perceived ultimately as a bit of a pest and kind of told to go away.

Ms MACKAY - Vexatious.

CHAIR - Ms Burnet, sorry, I've failed to notice your hand raised.

Ms BURNET - Not at all, Chair, that's fine. I think Dr Woodruff has asked along the line of questioning that I have. But could you, for the record, provide the number of cases that you're helping with or prosecuting on behalf of people who've come to you?

Ms CRAVEN - We don't prosecute. We represent clients in applications for family violence orders where they have to go through the court. We provide advice to clients who are considering making a report to the police in an effort to get a Police Family Violence Order put in place. And we sometimes, through our allied support team, actually assist the clients to attend police stations and make those reports. But then the police and the Director of Public Prosecutions (DPP) are the ones responsible for prosecuting those charges if they're laid.

Our role in that, up until quite recently, has been limited in the sense that we can provide advice around navigating that system, but we've recently received some funding from the Federal Government to run a Sexual Violence Legal Service Pilot for two years. That service will employ three lawyers across the state and a Peer Navigator, who will be employed by Laurel House. Those lawyers, part of their role will be to support victim-survivors who are actually going through that criminal justice system and the various other legal issues that they're dealing with through that process, including victims of crime assistance, family law and family violence.

Ms BURNET - Quite often we see delays in justice and a very slow process. Are you finding that as well in the cases that you're helping with?

Ms CRAVEN - Yes, lots of delay, both in the Magistrates Court and the Supreme Court. Supreme Court matters can go on for years and years, again often with only little bits of information filtering through to the victim-survivor about what's going on with it. Magistrates Court matters, not as much delay but still definitely a lot of delay there. And often what will happen is multiple charges will be accrued over a period of time, and they'll just continually be adjourned to join them up with other charges or other new charges that are potentially or likely to be laid. So, it becomes this whole process of nothing actually getting finalised until quite far down the track.

Ms MACKAY - And particularly where the victim-survivor has been misidentified as the primary user of violence and those charges are sitting with her, those delays can obviously have considerable impacts. There are also knock-on effects to other areas of practice, so family law and child protection. Again, Zoe can talk a lot more to what it looks like then, when the Family Court is gathering evidence and they can see either that mum might be making a series of allegations against police officer Dad, but if there isn't the evidence to back it up because it hasn't been investigated or it hasn't been recorded, or she's been misidentified as the primary perpetrator of violence, then that has profound impact in the Family Court. Similarly, if Child Safety are involved. So, we're not just looking at police conduct or investigation of complaints, or seeking a Family Violence Order, or prosecuting an assault or other criminal matter. It actually flows through in a whole other range of ways.

Ms BURNET - As you heard before, Jana talked about some of the failings or the limitations of IBAC in Victoria. We also heard that Northern Ireland has probably the gold standard in approach. What do you feel would work best in a Tasmanian context?

Ms CRAVEN - I think, because we don't do a lot of work in that police accountability space in terms of models and structures around what that should look like, I'd be more guided by someone like Jana, who has that very much hands-on experience of what's gone wrong in the Victorian system and how we could do it better in Tasmania, rather than trying to answer that.

Ms BUTLER - I had a question based on what you were talking about a few minutes ago in relation to all the different systems, understanding that there's not much information-sharing between, say, different agencies and so forth. And I think police, or the Department of Police, Fire and Emergency Management (DPFEM) as an agency, can sometimes be quite protective of their own. There's a certain culture within. In your expertise, do you come across much systems abuse which could be gendered, and how that can be used in ways that we might be able to prosecute that as a Committee and potentially be able to make recommendations on how we could address that?

Ms CRAVEN - Yes, we definitely see a lot of systems abuse. I guess there are different views on what is and isn't systems abuse. Certainly, a lot of, for example, what we see for our clients is abuse through the child support system. So, either not paying child support or refuting paternity to drag out proceedings, or using the child support system to further the abuse. For example, having someone's Centrelink payments reduced by falsely reporting income. Things like that.

Ms BUTLER - And for a review again and again and again for the paperwork.

Ms CRAVEN - Meanwhile, the single mum's living on a reduced Centrelink payment that doesn't recognise the percentage care she has with the children. So, we do definitely see a lot of that. In terms of systems reform, one of the suggestions we made in our response to the discussion paper was around having a specific offence recognising systems abuse as a particular form of family violence and actually introducing an offence in the same way they have done with other types of family violence.

Ms BUTLER - Within the culture, within DPFEM, have you come across a culture where it's quite male-dominated or could be viewed, potentially, as misogynistic? Or have you seen the increase of women coming into Tasmania Police service and that improving, in your experience? Can you talk to the Committee about that?

Ms CRAVEN - I think culturally there's a long way to go. Certainly, we deal with a lot of female police officers, so numbers-wise perhaps there's been improvement. I wouldn't be able to speak specifically to the statistics but from a cultural perspective, I would suggest there's still a long way to go in that space.

Ms BUTLER - Quite male-dominated still.

Dr WOODRUFF - I've got some questions about evidence. How well set up is Tasmania Police, in your experience, to develop tendency evidence to be able to track a range of small things that have occurred in the past, complaints that might have been made, and then use that? I'm thinking of grooming, but not just grooming. In terms of a complaint being made at a later point, the systems that are there to be able to record that? Do you have any experience of that?

Ms CRAVEN - We don't have a criminal law practice to any significant degree at Women's Legal Service so, in terms of speaking to the specifics of the *Evidence Act*, that would need to be looked at to address those sorts of issues, I couldn't answer that. What we do see a lot of is a tendency to do what we call incident-based policing, as opposed to looking at the spectrum of the evidence and the various instances that have been reported historically in order to identify who was the actual primary aggressor. As opposed to, as Siobhan mentioned earlier, the misidentification of a woman, for example, who has been a victim of family violence for many years and has reported it to police. But then on the 60th occasion the police turn up, she happens to present as the more aggressive party in the dispute. Not making that more contextual assessment of who should actually be protected in that scenario. So, that's something we're probably better placed to speak to than the tendency evidence and any amendments that might be needed to the *Evidence Act* around that to better equip that.

Dr WOODRUFF - Okay. What about the retention of evidence? We've heard recommendations that in cases where an allegation has been made of serious misconduct of a police officer, all the evidence around that should be retained because of the possibility of a later allegation not having information available to be able to bring a case. Would you support that happening?

Ms CRAVEN - Definitely, yes. And I think that aligns with what we know about reluctance to report. It sometimes takes many, many years for the whole scope of the offending that has occurred in a relationship to come out, particularly, for example, sexual assaults that occurred during the course of a relationship only being reported post-separation, is just one example, I think.

Dr WOODRUFF - What about the Tasmania Police Family and Sexual Violence Advisory Review Committee? Has Women's Legal Service ever been involved in that Committee, or have you had any engagement with it? Are you aware of it?

Ms CRAVEN - No. I'm aware of it, but have never been invited to contribute in any way to it. I do have questions around, I guess, the independence of that if it's only got one member that's not a member of the police force, and the need perhaps to involve other members of the community sector with more nuanced expertise in working with victim-survivors of family violence.

Dr WOODRUFF - There's also a question about how the Committee membership is chosen and looking at the decision-making around the selection of the Committee in the first place. At the moment there isn't any mandated position for the family and sexual violence sector?

Ms MACKAY - No, there isn't. And we would welcome one.

Dr WOODRUFF - And we don't yet know what the terms of reference for that Committee are?

Ms MACKAY - No.

CHAIR - I've got a quick one, which is going back to what you said early on that a lot of your clients, who I assume are mostly, if not all, women. The last thing on their mind, or the least priority is actually instituting a complaint and following that up. On the other hand - you

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will have to pardon my ignorance on this, isn't that the first step that you need to go through to be able to seek assistance from other areas of the law like Family Court and so on? You know, if there's not a case against someone who's committed violence against them, then doesn't that complaint trigger everything else?

Ms CRAVEN - Not necessarily, because the complaint might be about the way a police officer handled the complaint at the police station, versus a complaint about a perpetrator of family violence.

CHAIR - Okay. But even that has to be a case that has to be launched in some way or another, doesn't it, to get relief from other areas of the legal system?

Ms CRAVEN - Yes. What I was referring to was in relation to if a client presents needing assistance with getting out of a violent relationship, for example, and getting her children out of that relationship. If she's already been to the police and received a lacklustre response, the priority is not to pursue a complaint against that police officer; it's more, 'Get me out of the situation'.

CHAIR - I see, okay. Get you out of a difficult situation.

Ms CRAVEN - That was more so what I was referring to there. But certainly, if you're wanting to initiate a criminal complaint for a family violence offence that's been committed against you by a serving police officer or former police officer, then the gateway for that is currently reporting to Tasmania Police and would rarely, I suspect, be the Integrity Commissioner or the Ombudsman.

Ms MACKAY - Well, no, because they'll often say that you need to have addressed it with the agencies first. Again, speaking of the knock-on effects, for example, making a victim of crime application later, if you haven't reported a crime to the police, then you may be prohibited from seeking compensation. Similarly, if you're then litigating a parenting matter in the Family Court but there's no evidence of the family violence that either you or the children have been exposed to, there's knock-on effects for not making -

CHAIR - So, you've really got to go through the system?

Ms MACKAY - Yes. I suppose it also then links into the time limitation for making complaints. The current six-month time limitation - like Zoe said, if your priority is getting out of an unsafe situation, that can take a lot longer than six months. Having circumstances where that time limit can be extended and the discretion for when that time limit can be extended would also be welcomed, to make sure that we are not just relying on the fact that women aren't going to make a complaint at that time because that is not their priority, and they don't have the resources to do it at that time, which then means that a whole range - you know, we're probably missing so much of the story because women aren't being allowed to make complaints later, which would tell us a lot more of the story of what's happening on the ground.

Dr WOODRUFF - There already is the discretion to do that, but the problem is, it's not written down. What do you think should be there? I mean, six months appears manifestly inadequate. Should there be a time limit in relation to officer serious misconduct? Do you think that's reasonable? Or what would be a more reasonable time limit?

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Ms CRAVEN - I think the position in relation to making an application for victims of crime assistance in relation to allegations of child sexual assault, there's currently no time limit on that, whether you're still a child or not. I think we would support something similar in this instance for child sexual abuse offences. More broadly, we'd probably have to give that more consideration in terms of what would be both procedurally fair but also allow enough time for people to come forward in circumstances where there's a lot of complexity.

Ms BUTLER - I was going to ask a question around Women's Legal Service and whether you operate statewide, where your offices are and, for anyone watching on the broadcast as well, how they could potentially get in contact with you if they thought that you might be able to help them with their services? And also whether you're able to meet the demand of what's coming in to you at the moment?

Ms CRAVEN - We're certainly almost always at capacity in terms of the work coming in and what we're able to do, so more resources are certainly welcome. In terms of who we are, where we are, we are statewide. We've got offices in Hobart, Launceston and Burnie. We employ a bit over 45 people now across the state. We have solicitors in all of our offices. We work, as Siobhan said in the opening statement, in areas of family law, family violence, child protection and victims of crime primarily, but do provide some assistance in criminal matters to misidentified perpetrators.

We've got a statewide 1800 line that is a free legal phone advice service to clients across the state, but we also operate a number of outreaches and community legal education activities across the state. We try to get out into the community there and meet the clients where they are. We also participate in things like this so we get our faces out in that way as well.

CHAIR - Thank you both for your appearance. I should have acknowledged Georgia and Michael, who helped run the Committee, who actually do run the Committee, and Terry on Hansard. What you said to us here today is protected by parliamentary privilege. Once you leave the table, you need to be aware that privilege does not attach to comments you may make to anyone, including the media, even if you're just repeating what you said to us. I guess you'd probably be well aware of that. Do you understand that?

WTINESSES - Yes.

Chair - Thank you very much for your appearance.

The witnesses withdrew.

The Committee adjourned at 2.32 p.m.