

FAMILY AND DOMESTIC VIOLENCE — PRESUMPTION OF INNOCENCE

1827. Hon Ben Dawkins to the parliamentary secretary to the Attorney General:

I refer to the presumption of innocence until guilt is proven, and I ask:

- (a) does the presumption of innocence apply to men when they are accused of domestic violence;
- (b) if yes to (1), what standard of proof is required for a Family Violence Restraining Order to be issued; and
- (c) what steps is the Minister taking to ensure men are not wrongly accused of serious offences by angered partners in emotional circumstances?

Hon Matthew Swinbourn replied:

- (a) The presumption of innocence is a fundamental principle of the criminal justice system in Western Australia and in Australia.
- (b) The granting of a Family Violence Restraining Order (FVRO) is a civil matter and decided by the judicial officer on the balance of probabilities. It is not a criminal matter.
- (c) Where a criminal offence is alleged and reported to the police, it is a matter for the police and/or the Director of Public Prosecutions to decide on the available evidence whether to prosecute. If they do prosecute, it is a matter for the courts to determine guilt. It is not appropriate for the Attorney General to intervene in this process.