

NATIONAL FAMILY VIOLENCE PREVENTION LEGAL SERVICES

WORKING TO ACHIEVE IMPROVED JUSTICE OUTCOMES FOR ABORIGINAL AND TORRES STRAIT ISLANDER
VICTIMS/SURVIVORS OF FAMILY VIOLENCE AND SEXUAL ASSAULT

15 June 2017

Royal Commission into the Protection and Detention of Children in the Northern Territory
PO Box 4215
Kingston, ACT, 2604

By email: ChildDetentionNT@royalcommission.gov.au

National Family Violence Prevention Legal Services Forum **Response to the Commission's Interim Report**

Dear Commissioners,

This submission is provided by the National Family Violence Prevention Legal Services Forum (National FVPLS Forum) in response to the Commission's Interim Report dated 31 March 2017. The National FVPLS Forum works collaboratively with member Family Violence Prevention Legal Services (FVPLSs) across the country to increase access to justice for Aboriginal and Torres Strait Islander victims/survivors of family violence. Further information about the National FVPLS Forum and FVPLSs is provided in Appendix 1.

As a national peak body, we have a number of members that operate in the Northern Territory. We would like to formally endorse the submission made to the Royal Commission by our member organisation Central Australian Aboriginal Family Legal Unit, which we note was provided to the Commission in confidence.

In addition, this short submission identifies two issues arising out of the Interim Report.

No references to family violence

The National FVPLS Forum acknowledges both the scale and complexity of the issues that are the subject of this Royal Commission. However, we are concerned that the Interim Report does not identify the role and impact that family violence plays with respect to both child protection and juvenile detention. Aboriginal and Torres Strait Islander women – and their children – experience family violence at alarmingly disproportionate rates in the Northern Territory.

Family violence is a leading cause of child removal for Aboriginal and Torres Strait Islander children.¹ Family violence is also a significant underlying cause of children and young people being exposed to youth detention, and is both a cause and consequence of imprisonment in adult life. Accordingly, any consideration of options and pathways to prevent exposure to the child protection system and youth detention in the Northern Territory necessarily involves consideration of measures to reduce and prevent family violence.

¹ Australian Institute of Health and Welfare, *Child Protection Australia 2014-15*, 2016, page 54, table 5.4, available at <http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129554973>.

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In order to ensure the effectiveness of the Royal Commission's recommendations, it is essential that the Commission's work considers issues relating to the prevention of family violence.

No references to specialist, holistic and culturally safe services

The National FVPLS Forum also notes that the Interim Report does not contain explicit reference to the importance of access to specialist, holistic and culturally safe services. Through our extensive work with Aboriginal and Torres Strait Islander women and their children, our organisations witness the multitude of interrelated issues that our clients face and the inherent links that these issues have with family violence, child protection and youth detention. We also understand the many barriers faced by Aboriginal and Torres Strait Islander women in accessing services and supports, which in turn exacerbates the risk of their children coming into contact with the child protection and juvenile justice systems. These barriers include:

- mistrust of mainstream services and the justice system;
- lack of availability of culturally safe services;
- fear of child removal when reporting violence;
- poor police responses when reporting violence;
- language and literacy barriers;
- lack of awareness of legal rights;
- poverty; and
- geographic isolation.

In addition, there is a significant lack of support for early intervention and prevention programs for Aboriginal and Torres Strait Islander women and their children to build resilience and reduce vulnerability to violence (in turn reducing vulnerability to coming into contact with the child protection and juvenile justice systems).

Aboriginal and Torres Strait Islander women remain the most legally disadvantaged group in Australia. We consider that the final report and recommendations of the Royal Commission must:

- (a) identify the importance of Aboriginal community controlled organisations, like FVPLSs, in providing access to specialist, holistic and culturally safe legal and non-legal services and supports; and
- (b) identify the need for significantly increased, secure and long-term funding for Aboriginal community controlled organisations.

We would be very happy to provide further information to contribute to the Royal Commission's important work. Please contact us if the National FVPLS Forum or our member organisations can assist in any way.

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Yours sincerely

Antoinette Braybrook

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Appendix A

About the National FVPLS Forum

The National FVPLS Forum is comprised of 14 Family Violence Prevention Legal Services (FVPLSs) member organisations across the country that provide culturally safe legal assistance and support to Aboriginal and Torres Strait Islander victim/survivors of family violence – predominantly women and children. They also deliver essential community legal education and early intervention and prevention activities.

The Forum was established in May 2012 and works in collaboration across its member FVPLS services to increase access to justice for Aboriginal and Torres Strait Islander victims/survivors of family violence.

National Forum members are:

- Aboriginal Family Violence Prevention and Legal Service Victoria (Melbourne HO, Mildura, Gippsland, Barwon South West)
- Aboriginal Family Law Service Western Australia (Perth HO, Broome, Carnarvon, Kununnura, Geraldton, Kalgoorlie, Port Hedland)
- Aboriginal Family Legal Service Southern Queensland (Roma)
- Binaal Billa Family Violence Prevention Legal Service (Forbes)
- Central Australian Aboriginal Family Legal Unit Aboriginal Corporation (Alice Springs HO, Tennant Creek)
- Family Violence Legal Service Aboriginal Corporation (Port Augusta HO, Ceduna, Pt Lincoln)
- Many Rivers Family Violence Prevention Legal Service (Kempsey)
- Marninwarnitkura Family Violence Prevention Unit WA (Fitzroy Crossing)
- Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council Domestic and Family Violence Service (Alice Springs, NPY Tri-state Region)
- Queensland Indigenous Family Violence Legal Service (Cairns HO, Townsville, Rockhampton, Mount Isa, Brisbane)
- Southern Aboriginal Corporation Family Violence Prevention Legal Service (Albany, WA)
- Thiyama-li Family Violence Service Inc. NSW (Moree HO, Bourke, Walgett)
- Warra-Warra Family Violence Prevention Legal Service (Broken Hill)
- North Australian Aboriginal Family Legal Service (Darwin HO, Katherine)

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About the Family Violence Prevention Legal Services (FVPLS) Program

FVPLSs provide frontline legal assistance services, early intervention/prevention and community legal education activities to Aboriginal and Torres Strait Islander victims/survivors of family violence.

FVPLSs were established in recognition of:

- the gap in access to legal services for Aboriginal and Torres Strait Islander victims/survivors of family violence and sexual assault;
- the high number of legal conflicts within Aboriginal and Torres Strait Islander Legal Services (ATSILS); and
- high rates of family violence in Aboriginal and Torres Strait Islander communities.

FVPLSs have adopted holistic, wrap-around service delivery models that prioritise legal service delivery while recognising and addressing the multitude of interrelated issues that our clients face. The primary function of FVPLSs is to provide legal assistance, casework, counselling and court support to Aboriginal and Torres Strait Islander adults and children who are victims/survivors of family violence.

FVPLS lawyers provide legal assistance in the four core areas of:

- family violence law;
- child protection;
- family law; and
- victims of crime assistance.

FVPLSs also provide culturally safe community legal education and early intervention/prevention activities. Where resources permit, some FVPLS units also provide additional assistance in other civil law issues arising from family violence such as Centrelink, Child Support, infringements and police complaints.

Ninety per cent of FVPLS clients are Aboriginal and Torres Strait Islander women and children. Family violence is complex and the issues our clients face are complex. Our clients live with intergenerational trauma, removal of children, family violence-driven homelessness, discrimination, poverty, mental health issues, disability, lower levels of literacy and numeracy, as well as a range of other cultural, legal and non-legal issues.

FVPLSs play an important role within the family law system and within family violence and child protection systems at the State and Territory level. FVPLSs provide vital, culturally safe legal representation and associated support to Aboriginal and Torres Strait Islander clients throughout the life of their legal matter and frequently assist clients to identify their multiple legal issues and navigate the corresponding multiple jurisdictions (such as family violence

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matters in Magistrates Courts, child protection matters in the Children's Court and Family Law parenting or other matters in the Family Law Courts).

Aboriginal and Torres Strait Islander victims/survivors of family violence face a wide array of complex and compounding barriers to reporting family violence, accessing the family law system and accessing culturally safe support. These barriers include:

- Inter-generational trauma from the legacy of Australia's colonial history, including oppression through legal and government systems, the Stolen Generations and policies of forced assimilation leading to a profound mistrust in police and the legal system;
- Fear of child protection notifications and child removal initiated by family law proceedings;
- Lack of understanding of legal rights and options concerning family law and how to access supports;
- Poor police responses and discriminatory practices within police in relation to the enforcement of family violence orders leading to a lack of faith in the capacity of court orders to provide protection and compliance;
- Mistrust of mainstream legal and support services to understand and respect the needs, autonomy and wishes of Aboriginal and Torres Strait Islander victims/survivors;
- Risk of renewed or escalating violence and threats by the perpetrator (and/or his supporters) to re-exert control over the victim/survivor;
- Community pressure or backlash for 'breaking up the family' and/or utilising the Western legal system which, for many, is intrinsically linked with the over-policing and over-incarceration of Aboriginal and Torres Strait Islander peoples and the removal and cultural dislocation of Aboriginal and Torres Strait Islander children from their families and communities;
- Poverty and social isolation;
- Lack of cultural competency and indirect discrimination across the support sector, including for example discriminatory practices within police and child protection agencies, lack of culturally appropriate housing options, alienating and deterrent communication and client/patient approaches by medical, legal, community services and other professionals.

Aboriginal legal service providers are best placed to respond to these unique and complex barriers.