

The First Nations Advocates Against Family Violence submission on the Domestic and Family Violence and Victims Legislation Amendment Bill 2025



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Acknowledgement of Country

First Nations Advocates Against Family Violence (FNAAFV) acknowledges Aboriginal and Torres Strait Islander peoples as the traditional custodians of all lands and waters across Australia. We wish to pay our respects to Elders, past and present, and to the youth, for the future. We extend this acknowledgement to all Aboriginal and Torres Strait Islander peoples reading this Submission.

About the First Nations Advocates Against Family Violence

Until the 1st of July 2024, [*First Nations Advocates Against Family Violence*](#) (FNAAFV) was known as the National Family Violence Prevention and Legal Services (NFVPLS) Forum. FNAAFV is the only National Peak Body Aboriginal Community Controlled Organisation (ACCO) that supports Family Violence Prevention and Legal Services (FVPLS) around Australia who provide specialised domestic, family and sexual violence (DFSV) supports through culturally safe, holistic services to First Nations – predominantly women and their children. FNAAFV provides expert national advice in areas of policy, planning and law reform, sector capacity building, supporting innovation and best practice, and advocating for safety and justice for First Nations peoples affected by family violence. We collaborate across all sectors, both ACCO and mainstream with the aim of delivering safety and supporting self-determination for our First Nations peoples in line with [*United Nations Declaration on the Rights of Indigenous Peoples*](#).

FNAAFV represents 16 FVPLSs, with 14 FVPLSs who are members of FNAAFV. The FVPLSs span more than 30 office locations across all jurisdictions. FVPLSs provide culturally safe and specialist legal and non-legal family and domestic violence assistance to more than 250 Aboriginal and Torres Strait Islander communities. FNAAFV members include:

- Aboriginal Family Legal Services Western Australia (Perth Head Office, Broome, Carnarvon, Kununurra, Geraldton, Kalgoorlie, Port Hedland)
- Aboriginal Family Legal Services Queensland (Toowoomba Head Office, Roma, Murgon and Gympie)
- Binaal Billa Family Violence Prevention and Legal Service (Forbes)

- Central Australian Aboriginal Family Legal Unit Aboriginal Corporation (Alice Springs Head Office, Tennant Creek)
- Djirra (statewide service with head office in Melbourne and 8 regional offices in Bairnsdale, Warrnambool, Bendigo, Echuca, Shepparton, Morwell, Melton & Mildura)
- Family Violence Legal Service Aboriginal Corporation (Port Augusta Head Office, Ceduna, Pt Lincoln)
- Many Rivers Family Violence Prevention and Legal Service (Kempsey Head Office, Grafton)
- Marninwarnitkura Family Violence Prevention and Legal Service (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 Head Office, Townsville, Mackay, Rockhampton, Mount Isa, Bamaga, Thursday Island and Brisbane)
- Thiyama-li Family Violence Service Inc. NSW (Moree Head Office, Bourke, Walgett)
- Warra-Warra Family Violence Prevention and Legal Service (Broken Hill)
- North Australian Aboriginal Family Legal Service (Darwin Head Office, Katherine)
- SiSTAS (Hobart Head Office, Tasmania)

FNAAFV works with its members, communities, governments, and other partners to raise awareness about family violence affecting First Nations people, and it also advocates for culturally safe legal and holistic responses to this issue. FNAAFV provides a unified voice for its FVPLS members in areas of national policy, planning and law reform, and representation as a member of the national Coalition of Peaks. FNAAFV's work is informed by evidence, and we aim to ensure that all strategic planning and policy positions link to the Closing the Gap Agreement and Priority

Reforms; National Plan to End Violence against Women and Children and associated Aboriginal and Torres Strait Islander Action Plan 2023-2025.

First Nations Advocates Against Family Violence Submission

Introduction

We welcome the opportunity to respond to the *Domestic and Family Violence and Victims Legislation Amendment Bill 2025*. As an Aboriginal Community Controlled Organisation working to prevent and respond to domestic, family, and sexual violence in our communities, we are deeply concerned about the implications of several provisions in the Bill—particularly the introduction of mandatory sentencing for breaches of Domestic Violence Orders (DVOs).

Our submission outlines the likely consequences of these reforms for Aboriginal and Torres Strait Islander communities, especially the increased risk of misidentifying women as perpetrators of DFV, and the broader impacts of mandatory sentencing on already over-policed and over-incarcerated First Nations women.

The Bill, as currently drafted, contradicts national frameworks on justice reform and violence prevention, including the *National Plan to End Violence Against Women and Children 2022–2032* and the *National Agreement on Closing the Gap*. It risks causing deep and lasting harm to those the legislation is intended to protect.

We believe that any legal or policy response to domestic and family violence must be guided by the following principles:

- **Cultural safety:** Responses must be rooted in respect for Aboriginal and Torres Strait Islander identities, cultures, and community structures.
- **Trauma-informed care:** Systems must recognise the deep and often intergenerational trauma experienced by many victim-survivors.
- **Gender equity and intersectionality:** Legal reforms must account for the specific ways gendered violence intersects with race, class, disability, and colonisation.

- **Accountability:** Perpetrators must be held accountable through approaches that centre victim-survivors' safety and healing—not through blunt punitive tools.
- **Self-determination:** First Nations peoples and ACCOs must be partners in the design, delivery, and evaluation of reforms that affect our communities.
- **Do no further harm:** The law must not compound the violence, discrimination, and disadvantage already faced by Aboriginal and Torres Strait Islander women.

These principles form the strategic framework for our submission.

Summary of Key Concerns

Mandatory Sentencing (Clause 5 – s122). The Bill introduces mandatory sentencing for certain breaches of DVOs, removing judicial discretion and obliging courts to impose a term of actual imprisonment. This approach ignores context, undermines trauma-informed justice, and will lead to the unnecessary incarceration of Aboriginal women—many of whom are themselves survivors of violence.

Misidentification of Aboriginal and Torres Strait Islander Women as Perpetrators. Mandatory sentencing will intensify a systemic problem: the misidentification of Aboriginal women as primary aggressors. This commonly occurs when women use defensive violence or retaliate under coercive control. Misidentification denies women access to protection and further exposes them to criminalisation and incarceration.

Disproportionate Impact on Aboriginal and Torres Strait Islander Women. First Nations women experience the highest rates of DFV in the country and are vastly overrepresented in the criminal justice system. Legislative changes that increase punitive responses without culturally safe, trauma-informed, and community-led alternatives will entrench inequality and intergenerational harm.

Legislative Language Recommendations. While we strongly oppose Clause 5, if Clause 5 is retained, it must include a **judicial override provision**. This would allow the court to depart from mandatory sentencing where the accused is:

- A known victim-survivor of domestic or family violence;
- Acting in self-defence or under coercive control;

- Facing circumstances where imprisonment would exacerbate harm to children or community stability.

This kind of judicial discretion is essential for avoiding miscarriages of justice and recognising the complex realities many First Nations women face.

Misidentification: Systemic Risks and Consequences

Misidentification occurs when police or courts wrongly identify a victim-survivor of violence as the primary aggressor. This often arises in:

- Situations of mutual violence
- Acts of defensive or retaliatory force
- Incidents where coercive control is at play

Police responses frequently rely on physical injuries, incomplete information, or biased assumptions, particularly in high-stress settings with no access to interpreters or culturally safe support.

Aboriginal and Torres Strait Islander women are more likely to be misidentified due to:

- Systemic racism and over-policing
- Communication barriers
- Lack of DFV-specialist police
- Inadequate or culturally inappropriate risk assessment tools

The Queensland Women's Safety and Justice Taskforce (2022) explicitly identified misidentification as a key driver of Aboriginal women's criminalisation. Similarly, Douglas & Fitzgerald (2018) through ANROWS, found that misidentification disproportionately affects women who have experienced prolonged coercive control.

In Victoria, systemic reforms following the Royal Commission into Family Violence acknowledged the extent of this issue and led to the introduction of police misidentification audits and reforms to support better identification of primary aggressors.



Mandatory sentencing eliminates judicial discretion, even where there is clear evidence of misidentification. A woman misidentified as the perpetrator will face an automatic term of imprisonment under this Bill—regardless of her circumstances. This is unjust, retraumatising, and entirely avoidable.

Mandatory Sentencing: Ineffective and Harmful

There is no credible evidence that mandatory sentencing deters DFV-related offending. Instead, it:

- Displaces judicial discretion
- Undermines rehabilitation
- Increases prison numbers without reducing violence

First Nations women represent 3% of the population but 34% of the female prison population (ABS, 2019). DFV is a primary driver of their incarceration, often linked to misidentification, breach of DVOs, or failing to meet complex conditions. Incarceration has cascading effects: loss of housing, child removal, disconnection from Country and kin, and further trauma.

Imprisoned mothers are at greater risk of having their children removed. Children of incarcerated parents are more likely to enter the child protection and justice systems. These outcomes are incompatible with Closing the Gap Target 12.

The NT has one of the highest incarceration rates in the world. Prisons are overcrowded, and post-release support is grossly underfunded. Investing in incarceration, rather than healing and prevention, will only escalate the crisis.

Policing and Enforcement: A Systemic Problem

Police play a central role in how DFV cases are interpreted, recorded, and charged. Poorly trained or overburdened officers may:

- Misidentify the primary aggressor
- Fail to investigate coercive control
- Escalate trauma through arrest-first responses



Recommendations:

- All DFV police in First Nations communities must be specially trained in coercive control and cultural safety
- Implement independent review mechanisms for DVO breach-related arrests involving Aboriginal women
- Require consultation with ACCOs before charges are laid in high-risk or contested cases

There Are Better Alternatives

Community-Led and Culturally Safe Responses Work

Instead of mandatory sentencing, the NT Government should expand investment in:

- Justice reinvestment models, such as those piloted in Bourke (NSW), that divert resources from prisons to local, community-controlled solutions
- Cultural healing camps that restore connection to land, family, and law
- Community Justice Groups, which support accountability, mediation, and reintegration
- Diversionary courts, such as the Koori Court and other culturally specific models
- Men's behaviour change programs on Country, tailored for remote and regional contexts

These models are proven to be more effective, reduce reoffending, and align with national reform priorities.

Implementation Safeguards (If the Bill Proceeds)

Should the government proceed with mandatory sentencing, the following minimum safeguards must be enacted:

- Judicial override mechanism, as outlined above
- Quarterly public review of sentencing data, disaggregated by Indigeneity and gender, with attention to misidentification patterns
- Mandatory trauma-informed DFV risk assessments by culturally competent practitioners prior to any DVO breach prosecution

- Requirement that prosecutors consult with ACCOs before initiating DVO breach charges against Aboriginal and Torres Strait Islander women
- Establishment of a Misidentification Review Panel, to assess and advise on contested or high-risk cases

Without these protections, the Bill risks formalising injustice.

Alignment with National and International Strategies

The proposed Bill is misaligned with key national frameworks and international human rights commitments:

National Plan to End Violence Against Women and Children 2022–2032. This Plan commits to:

- Trauma-informed and culturally safe services
- Recognising intersectionality and lived experience
- Strengthening partnerships with First Nations organisations

Aboriginal and Torres Strait Islander Action Plan 2023–2025. This companion plan calls for:

- Accountability through community-led strategies
- Building healing-informed systems of support
- Greater investment in First Nations-led early intervention

National Women’s Safety Alliance. The Alliance emphasises co-design with lived experience advocates, funding for ACCOs, and rejecting punitive reforms that harm women.

Recommendations

- Mandatory sentencing must be repealed.
- If Clause 5 proceeds, insert a judicial override clause, a statutory definition of misidentification, and a mandatory review process.
- Fund Community-Led Alternatives
 - Allocate a proportion of the offender levy to ACCOs

- Secure long-term funding (5+ years) for prevention and healing programs
- Expand justice reinvestment and on-Country programs
- Improve Transparency and Oversight
 - Quarterly publication of DVO breach sentencing data
 - Misidentification data monitoring
 - Establish an independent First Nations DFV oversight group
- Do not proceed without genuine, full consultation with ACCOs, DFV experts, and victim-survivors.

Conclusion

The *Domestic and Family Violence and Victims Legislation Amendment Bill 2025*, in its current form, risks undermining the safety of Aboriginal and Torres Strait Islander women. It replaces nuance with rigidity, compassion with punishment, and healing with harm.

Mandatory sentencing is not justice. It is a shortcut to incarceration.

We urge the NT Government to:

- Withdraw Clause 5,
- Strengthen protections for misidentified women,
- Fund healing-based community responses,
- And commit to true partnership with the people most affected by these laws.

End notes

For any further information, please contact FNAAFV at info@fnaafv.org.au.