



**NTCOSS and AMSANT Submission: Domestic and Family Violence and Victims  
Legislation Amendment Bill 2025**

April 2025

**NTCOSS**

Northern Territory Council of Social Service



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## Foreword

The Northern Territory Council of Social Services (NTCOSS) is the peak body for the social and community service sector in the Northern Territory (NT). NTCOSS's membership is comprised of community managed, non-government, not for profit organisations, which work in social and community service delivery, sector development and advocacy.

The Aboriginal Medical Services Alliance Northern Territory (AMSANT) is the peak body for Aboriginal Community Controlled Health Services (ACCHSs) in the Northern Territory (NT). For over 30 years AMSANT has undertaken a leadership role in Aboriginal health, providing high-level advocacy and policy development to improve the health and wellbeing of Aboriginal people across the NT and nationally. Our 26 member services are located across the NT, from urban centres such as Darwin to some of the most remote areas in Australia.

NTCOSS advocates for and with the domestic, family and sexual violence (DFSV) service sector in the NT to improve safety, wellbeing, economic and social justice outcomes for individuals and communities impacted by DFSV.

AMSANT's member services are the largest providers of primary health care to Aboriginal people in the NT. They deliver comprehensive, culturally secure primary health care through an integrated, holistic approach that addresses both clinical needs and the social determinants of health. In addition to health service delivery, our members are actively engaged in a broad range of health research activities that further strengthen the evidence base for Aboriginal health.

AMSANT works to build a strong Aboriginal community controlled comprehensive primary health care sector by supporting our members to provide culturally safe, high-quality care and by representing their interests through advocacy, policy, planning, and research. This includes our engagement with governments and other stakeholders on a broad range of public health priorities, including DFSV responses and reform.

We recognise that the NT experiences the worst rates of DFSV in the country and that Aboriginal and Torres Strait Islander women and families are disproportionately impacted by this violence. We recognise that families and communities are left grieving their loss. We recognise the profound effects of DFSV throughout the NT and note how it intersects with other structural disadvantage experienced by Aboriginal Territorians.

NTCOSS and AMSANT acknowledge that we live and work on what always was, and always will be, Aboriginal land. We pay our respects to Aboriginal cultures and country, and to Elders both past and present. We acknowledge the courage and dignity of those who stand up and say no to violence, and the DFSV knowledge and learning provided to us by Aboriginal people we work and live with in our communities.

NTCOSS and AMSANT acknowledge the feedback and contributions by the NTCOSS DFSV Group and AMSANT members to this submission.

## Overview

In recent years in the NT and throughout Australia, an extensive DFSV reform agenda has been implemented after wide-ranging consultation with the DFSV sector and victim-survivors, including regarding mandatory sentencing. See *Attachments A, B and C*, for some of the key research from this period. The current Northern Territory (NT) Government's reform agenda requires on-going consultation and review to ensure its effectiveness. This should be done in consultation with victim-survivors and the DFSV sector. The DFSV sector and associated peaks are committed to working with the NT Government to support and enable this continued partnership.

The following submission focuses largely on Part 2, Division 1, Section 122 Mandatory Sentencing of the *Domestic and Family Violence and Victims Legislation Amendment Bill 2025*, with some comments in reference to the other proposed amendments. In summary NTCOSS and AMSANT do not support the resumption of mandatory sentencing for domestic violence order breaches because there is no evidence this will affect the following:

- a. Victim-survivors want a responsive, safety-focussed system that contributes to breaking cycles of abuse, providing best long term community safety.
  - b. Perpetrators are supported to take responsibility for their behaviour and to change their behaviour in order to reduce DFSV offending and re-offending.
2. NTCOSS and AMSANT recommend the NT Coroner's findings in the [\*Inquest into the Deaths of Miss Yunipingu, Ngeygo Raqurk, Kumarn Rubuntja and Kumanjayi Haywood\*](#) should be the highest priority on the DFV reform agenda
3. NTCOSS and AMSANT support an increase to the victim's levy and expansion of the victims register in principle, however:
  - a. Any changes to the victims of crime scheme should include consultation with victim-survivors
  - b. Accessing these schemes presents challenges for many victim-survivors and consequently should include an increase in funding to services which support access
4. Assessors appointed under the financial assistance scheme should continue to be required to hold legal qualifications
5. Any changes to the NT DFSV reform agenda should encompass data collection regarding offending, re-offending and be monitored and evaluated for effectiveness

## Clause 5. Section 122 inserted – Domestic and Family Violence Act 2007

NTCOSS and AMSANT support reforms that aid a responsive, safety-focussed system that contributes to breaking cycles of abuse (Attachment A) and reforms that ensure offenders are supported to take responsibility for their behaviour and to change their behaviour in order to reduce DFSV offending and re-offending. The evidence regarding mandatory sentencing is contrary to both principles.

There is extensive evidence that to prevent violence against women we must tackle the drivers of this violence (Attachment B). The violence experienced by Aboriginal and Torres Strait Islander women is inextricably linked to broader colonial violence and the intergenerational aspects of dispossession, including the forced removal of children, the interruption of cultural practices- that mitigate against interpersonal violence- and the on-going economic exclusion and disadvantage experienced by Aboriginal and Torres Strait Islander communities. This, coupled with the additional inequalities experienced by women and girls across the NT and Australia, drives violence against

women. To prevent and reduce violence against women, these drivers must be addressed with high priority. We endorse Our Watch's submission on these matters.

It is known that mandatory sentencing increases incarceration, is costly and is not effective as a crime deterrent (Attachment C). NT Corrections systems are not equipped for increasingly high numbers of DFSV offenders generally and particularly for the increase of offenders on short sentences as a result of this amendment. NT Corrections facilities do not have suitable programs for DFSV offenders and as a result mandatory sentencing will not reduce offending. There is evidence that periods of incarceration can increase the chances of re-offending. We endorse the submissions made by Stopping Family Violence and No To Violence on these matters. We endorse the submissions made by Women's Legal Services and Aboriginal Family Violence Legal Services.

Mandatory sentencing may contribute further to experiences of victimisation and disadvantage with an increase in misidentification of women as perpetrators of violence, rather than victim survivors. Mandatory sentencing could further increase the incarceration and traumatisation of victim survivors of DVSV in the NT.

NTCOSS and AMSANT recommend that the NT governments highest priority regarding DFSV reform should be implementing the recommendations made by the NT Coroner in the [\*Inquest into the Deaths of Miss Yunipingu, Ngeygo Ragurk, Kumarn Rubuntja and Kumanjayi Haywood\*](#).

#### [Division 1, Clause 13. Section 24 amended \(Assessors\)- Victims of Crime Assistance Act 2006](#)

Our members are concerned by the proposed amendment to Section 24 of the Victims of Crimes Assistance Act 2006, which removes the requirement that assessors appointed under the financial assistance scheme hold legal qualifications. This change would allow the Director to appoint any person, regardless of legal training or expertise, to make complex decisions about victim compensation—many of which involve interpreting legislation, assessing causation, weighing evidence, and applying legal discretion.

Victims of DFSV often engage with the scheme during periods of trauma, instability, or legal vulnerability. These matters require legal knowledge and trauma-informed practice to be handled appropriately and fairly.

NTCOSS and AMSANT recommend the NT Government maintain the requirement that assessors hold legal qualifications and relevant experience, to preserve the credibility, fairness, and integrity of the financial assistance scheme. NTCOSS and AMSANT endorse the Central Australian Aboriginal Family Violence Unit (CAAFVU) and North Australian Aboriginal Family Legal Service's (NAAFLS) submissions about this topic and recommend continued commitment to culturally informed and safe responses to DFSV.

#### [Division 1, Clause 14. Section 61 amended \(Imposition of levy\)- Victims of Crime Assistance Act 2006](#)

NTCOSS and AMSANT agree in principle with the increase to the victim's levy. However, any proposed legislative changes that are to impact victim-survivors of DFSV should proactively engage with victims-survivors of DFSV and the specialist services and programs who support them. This is of paramount importance.

We also emphasize that victims of DFSV who have had engagements with the current victims of crime scheme are proactively engaged regarding proposed changes to the victims of crime scheme.



### Division 3, Clause 21. Regulation 5 inserted (Expansion of Victims Register)- Victims of Crime Rights and Services Regulations 2010

NTCOSS is supportive in principle of the expansion of the functions of the Victims Register. However, the DFSV sector report significant underutilisation of this of scheme by victim-survivors and challenges in providing information to victims quickly and in an accessible manner to promote their and their family's safety.

There is therefore a pressing need for barriers to accessing support to be addressed in this reform. As such we recommend that the expansion of the victims' register is coupled with the provision of increased support for Women's Legal Services and Aboriginal Family Violence Legal Services to support victim-survivors increased knowledge and access.

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February 2019 | Alex Richmond  
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# Journey Mapping Workshop Report

Exploring the voices and experiences of  
victim/survivors of Domestic and Family Violence  
in the NT Justice System

**Dedication:** This report is dedicated to the brave and generous women who shared their stories for this project. The NT Justice system failed many of you terribly. Thank you for sharing your experiences, so that we can learn from them and do better. You shared what happened to you, in the hope that it would lead to change. Thank you for trusting us in this way.

Pictured on cover: Workshop participants discuss the journey map [top image] and discuss the implications of the research [bottom image]. Images by Alex Richmond.

# Journey Mapping Workshop

## Report

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system.

## Contents

<b>EXECUTIVE SUMMARY .....</b>	<b>3</b>
<b>BACKGROUND .....</b>	<b>15</b>
WHY HUMAN CENTERED DESIGN?.....	15
RESEARCH METHODOLOGY .....	17
FORMAT AND GROUND RULES FOR THE WORKSHOP .....	17
<b>THE RESEARCH- .....</b>	<b>19</b>
THE JOURNEY MAP .....	19
WHAT THE RESEARCH TELLS US .....	20
<b>THE WORKSHOP .....</b>	<b>40</b>
REFLECTION ON THE MAP .....	40
A VISION FOR THE 'SYSTEM' .....	40
<b>IMPROVING THE SYSTEM .....</b>	<b>42</b>
PRIORITY ACTIONS .....	42
<b>AGREED NEXT STEPS .....</b>	<b>44</b>
<b>AUTHOR'S THANKS .....</b>	<b>46</b>
<b>APPENDIX A- WORKSHOP PARTICIPANTS .....</b>	<b>47</b>
<b>APPENDIX B- COMPLETE MAP .....</b>	<b>48</b>
<b>APPENDIX C – FORCES FOR AND AGAINST CHANGE .....</b>	<b>49</b>
<b>APPENDIX D- COMPLETE LIST OF IDEAS .....</b>	<b>51</b>
<b>APPENDIX E- QUOTES INCLUDED ON THE MAP.....</b>	<b>57</b>
<b>APPENDIX F- PERSONAL REFLECTIONS AND COMMITMENTS .....</b>	<b>87</b>

# Executive Summary

## Introduction

In November 2018, 23 people from across the justice system in the NT came together to listen to and understand, the experience of victim/survivors<sup>1</sup> of domestic and family violence (DFV) in the justice system. A list of workshop participants can be found at Attachment A. The purpose of the workshop was to use insights from interviews with victim/survivors, to reflect on what needs to change in the system, across policing, courts and corrections, to better meet their needs. There was consensus among workshop participants that change was needed, and it was acknowledged that the current system was not working for victims for a myriad of reasons. It was clear to participants of the workshop that throughout the system, victims need to be better engaged with, and better supported.

This executive summary seeks to synthesise the key reflections from workshop participants and to link these to the experiences and insights of victim/survivors and others who operate in the justice system. It is a longer than usual executive summary. It is unusual in that it continues to preference the voices and experiences of those with lived experience in the system. It is hoped that this will be useful in keeping the focus squarely on victims' experiences, and their needs in any planned reform. It means some quotes may be found in both the executive summary and the body of the report. All quotes that were included on the journey map used in the workshop are attached to the end of this report as Appendix E.

For many victims who were interviewed for the project, their experience of the system could be simply articulated:

*That was very clear, we had a good understanding that [offenders name] rights were above Carly's. All of us knew that. – Carly and Family*

Interviews were conducted across the NT with about 45 people, a mix of victim/survivors<sup>2</sup> and people who operate in the system from across the NT including Police officers, prosecutors<sup>3</sup>, Witness Assistance Support (WAS) officers, Judges, support workers and other lawyers working with victims and offenders. Key insights and observations from interview subjects were presented to the workshop along a 'journey map', showing a victim's contact with various parts of the justice system from before Police respond to an incident, to after the release of an offender. A high-resolution copy of the journey map can be found at Appendix B. Following the presentation of the research, workshop participants were able to identify possible opportunities for change. A full list of these proposals can be found at Appendix D.

This report seeks to capture both the research that was presented at the workshop, and the opportunities for change identified by participants. The report has 3 main sections.

1. Background - Information about the DV Justice Reform Network (DVJRN), how the project came about, details about the research methodology and the purpose and ground rules of the workshop.
2. The Research - A summary of information presented during the workshop on the insights and experiences of victim/survivors of DFV, and others who operate in the justice system, as presented chronologically along the journey map.

3. The Workshop - A summary of the observations, insights and opportunities for change identified by workshop participants.

## Key findings

Key reflections from workshop participants on the journey map and the research identified a system<sup>4</sup>:

- that is disjointed and disconnected.
- where victim/survivors have inadequate support.
- that is overloaded.
- where long time frames affect outcomes.
- where there is not a focus on victim safety.
- that is not breaking cycles of abuse, which is critical for making individuals and communities safer.

Finally, there was a question of whether the justice system alone is best placed to respond to identified issues.

## ***The 'system' is disjointed and disconnected***

We heard from victims that the system is disjointed and disconnected right from their initial dealings with Police:

*Having to retell your story again, hoping there is some notes on the system that they can just quickly get, you're giving [offender's] name, details, there's a warrant out for his address... this constant harassment is still happening. And they don't know the story. They're unable to find notes... we're explaining he's breaching conditions of DVO... Every contact, and I'm not exaggerating, every contact with Police, you're having to retell your story again and that was getting very frustrating in the end because you're just exhausted from reliving everything again... Trying to keep a track of dates and things in your head and you think, I've already told you this. – Carly*

We also heard the system is disjointed and disconnected when victims are at court, seeking information about the matter particularly when they are wanting information on 'dropping the charges' or s.18 advice and there is no independent advice available. Victims observed that they were given misinformation about what to expect from the DVO process and in court by Police.

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<sup>1</sup> Throughout this report the words victim and victim/survivor are used interchangeably to describe those who have experienced domestic and family violence.

<sup>2</sup> In order to protect the identity of interview subjects, all victim/survivors interviewed have been given pseudonyms.

<sup>3</sup> In order to protect the identity of interview subjects, all lawyers, whether prosecutors or otherwise are referred to as 'lawyer'.

<sup>4</sup> It was noted by a participant during the workshop that given its disjointed nature, 'system' does not accurately reflect what happens. In the absence of a better descriptor, I will refer to it as a system, but accept the observation that it lacks the shared meanings, linkages and connections one would hope to see in a true system.



*[I was] Totally unprepared for the reality of it... No information at the court about this... process... None of that information was available, it was like I knew the system. So [they] don't need to explain anything to you. - Carly*

We heard victims feel this disconnect right through the system.

*There was an escape from the prison... it happened on a Friday night or Saturday. How do we find out if [offender] is one of those ones who escaped? Couldn't ring the victim register mob because they're not open on the weekends. Can't ring WAS. Good luck trying to get anything from Corrections. If that ever happens, how are you to know? So, you're asking your community to find out if he's out.*

*What is the process, who contacts them? Where are the linkages? Who can they contact? This Monday- Friday business doesn't service DV victims. – Carly and Family*

While victims experienced a disjointed system, many assumed those operating in the system understood clearly how it fitted together. However, participants in the workshop identified the fact that we all spoke about it, and acted, as if this was a system, but the map and experiences of victim/survivors and others who operate in the system highlight how siloed and disjointed, and ignorant of each other's workings, the different parts (institutions, government agencies and individuals) operating in it are. One workshop participant noted that even talking of system players (to describe those operating in the system) was a mis-characterisation of what happens in the justice system, as players work together, on teams, and followed norms and rules that were shared. This could not be seen when we looked across the journey map.

Those operating in the system who were interviewed for the project, also identified how a disjointed system results in unsuccessful prosecutions.

*Did I ever have a statement taken with an interpreter? I don't know. I can't remember one. So that's saying a lot when you have hundreds of contested files handed to you. Virtually all of these people need interpreters. It's not just about the reliability of her evidence and fairness to the accused, but she's fundamentally set up to fail in giving evidence, because of course when you're in court, evidence is tested against your written statements. So, defence are handed on a silver platter these inconsistencies making for, what defence would call, an unreliable witness. But actually, it's because the statement was written by a male Police officer who was standing over her while she was in a vulnerable situation, speaking in her third or fourth language. Not even having it read back to her, just read through whatever he has written and sign away. And then maybe you get an ethical prosecutor in court, who gets you an interpreter and finally you're able to tell your story, in your language, of course it's totally different. – Lawyer*

Participants identified that those operating in the system needed to be much more aware of how this impacted victims, and of the huge gaps in communication that existed. It was identified that there needed to be much better connection, and improved communication, between government services and agencies. It was identified that people operating in the system needed to better understand how their role fitted into the system, and the implications their choices may have.



### **Possible solutions identified by workshop participants were:**

- Training and information for those working throughout the system, to better understand how other parts of the system operate and what are the roles and limitations of other system operators.
- Earlier and better-informed communication with victims about 'the system'.
- Design 'one stop shop' that allows multiple agencies Eg. Legal support, Police, TF, health to provide collaborative human-centered linked up support, information and updates to victims.
- Establish a DV hotline staffed by trained Police officers.
- Build integrated technology and record keeping systems [To allow people operating at any part of the system to be able to advise victim/ survivors of the status of their matter, and any information relevant to them around sentencing, parole and release].
- Produce culturally relevant materials for victims explaining various parts of the process and how they fit together.
- Utilise technology to aid with translation.
- Victims' rights codified and enshrined in process.

### ***Victim/survivors have inadequate support***

As demonstrated above, victim/survivors reported being unsupported throughout the system. Many detailed negative experiences with Police made them feel unbelievably, unsupported and unsafe.

*The Police need to do a domestic violence course ok. They actually have to sit down and talk to victims who have actually been through domestic violence. They have to learn the symptoms of the signs of domestic violence situation. Yes, a person may ring and complain, the person who is ringing is scared. They want you to do your job instead of saying that's probably her partner and that's probably her ex-partner. You don't know the circumstances of what that person has gone through... be a little bit sympathetic to their situation. – Pamela*

Victims felt this lack of support right through the system from treatment by prosecutors, through to sentencing comments by Judges. Many victims reported feeling unsupported throughout the process, and their confusion and lack of clarity made them want to give up. And yet if they didn't participate in the process, the system punished them.

Workshop participants noted that within the current system opportunities were being missed to link victims to support services when Police respond to the incident and when serving summons and the need to meet those gaps. It was clear to everyone that victims need to be better engaged, and to ensure mechanisms exist to assist them to navigate the system.

Almost all the victims interviewed identified a need for holistic support and continuity of contact as they navigated the complex system which was agreed by workshop participants. There was a need to transform how victims were seen in the system from 'a piece of evidence' to something much more human centered, empowering and trauma sensitive. Workshop participants

identified the need to recognise how highly traumatised victims (and offenders) are in the system, with many impacted by complex intergenerational trauma. Participants also identified that many victim/survivors have had personally negative, and intergenerationally negative experiences with the child protection and criminal justice systems that have to be recognised and acknowledged.

**Possible solutions identified by workshop participants were:**

- Trauma-informed DFV awareness training for Police/ lawyers/DPP/Judges.
- Reforming practice, throughout the justice system, to ensure the provision of more holistic, culturally appropriate and trauma-informed support.
- Recognise trauma and ensure a trauma-informed foundation for the system. Provide clear trauma-informed information for victims explaining every step of the process and how the system works. Address the trauma victims are exposed to.
- Focus on community engagement and inclusion.
- Design single access pathways for victims and streamlined support models.
- Better meeting the information and support needs of witnesses, and others impacted by the FDV, such as dependent children and other family.

***The system is overloaded***

Many victims identified that no one had time to explain to them what was going on during the process. Or that information given to them was wrong. This is very stressful for victim/survivors but also impacts on how they are able to participate in the system, and on their trust in the system itself. People who operate in the system identified it as a completely overloaded system. In an effort to manage the volume, those who operate in the system identified that they adopt practices to manage their workloads that may, inadvertently, act against the interests of victims.

*There's a completely different approach for indigenous and non-indigenous people. Certainly, the orders taken out by Police are very different. You'll have very serious assaults and they'll just put a non intox on [DVO] and not even charge him. If it's a white couple, sometimes there is a full "no contact" over threats. It puzzles me the approach Police take. It's as if it's not as bad to beat up an itinerant woman. Maybe it's because the prisons are already full and they're not wanting to set people up to fail because they've put orders on both in the past and they know they'll have contact. But sometimes I think they miss the coercive, controlling thing. Some of these guys are psychos. They do come through. But again, it comes back to how much time and energy the Police and courts want to put into looking at all the evidence.*  
– Lawyer

*Because it feels like a waste of time that can affect how Police officers may deal with the next domestic violence assault, when they've just invested maybe months looking for witnesses, doing summonses, re-doing summons when matters get put off again, it's a lot of time and effort. Especially where witnesses and victims are itinerant and can be hard to reach. And*

*without a victim and witnesses it's all a waste of time. It can feel like you've done all that work for nothing. And what can feel like a waste of time can affect how Police officers may deal with the next domestic violence incident. - Police*

Police, prosecutors and others in the system are so overwhelmed with caseloads that they identified they are not able to give victims the time and right support to ensure victims, most of whom are highly traumatized, and many of whom have English as a second language, understand what is happening and what is expected of them. This adds to the stress and difficulty for witnesses who are wanting to fully cooperate.

*I was not happy because I wanted to talk to the prosecutor. My case worker had to intervene so I could contact him [her]. Eventually [s]he gave me a short, little time, such a short time. I didn't get a clear understanding of the process or explanation about the proceedings or the charges. I didn't know about the court day and what they would ask. I know it's my story, but they had no advice. I am so upset because of the prosecutor. She didn't help me. I went into the meeting hoping to explain or describe my story, and also to get an explanation from the prosecutor about what's going to happen about the court process. Neither happened to my satisfaction because she was in a hurry. She was rushing... – Neema*

Those operating in the system identified that the system was overloaded with the sheer volume of people in the NT impacted by DFV<sup>5</sup> and recognized that it meant resources were spread too thinly across the system. It resulted in victims being unsupported. Becoming de-sensitised to violence also impacted how those working in the system saw the violence and responded to individual victims. Managing this pressure on the system was identified as a key need.

**Possible solutions identified by workshop participants were:**

- Trauma-informed DFV awareness training for Police/ lawyers/Department of Public Prosecutions (DPP) staff/Judges.
- Vicarious trauma training for Police/ lawyers/ Judges.
- Move resources from summons and hearing stage to early information system for victims.
- Keep victims engaged by offering appropriate, ongoing support. See 'Victim/survivors have inadequate support' subheading.
- Allow for earlier resolution of matters. See 'Long timeframes impact outcomes' subheading.
- Need to reduce offending. See 'Breaking cycles of abuse' subheading.
- Need to reduce volume of files in system. See 'Is this the right system to deal with the issue' subheading.

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<sup>5</sup> The NT has the highest rates of DFV in the country with 1,815 victims per 100,000 persons in the Northern Territory. By comparison, the jurisdiction with the next highest rate is Western Australia with 728 victims per 100,000. New South Wales has 366 victims per 100,000 persons. 81% of victims in the NT are women. 75% are Aboriginal.

### **Long timeframes impact outcomes**

Another key reflection was that extended time frames in the process have a profound impact on the outcomes. Victims reported that the system moves too slowly to achieve their safety, and that as it dragged on, it became less and less relevant to them. Many felt worn down by the system and just gave up participating in it.

It was observed by others operating in the system:

*The extended timeframes. That's where we're falling over. For the matters that do go to hearing, the credibility, memory, reliability of witnesses diminishes as time goes on. For a victim to have to speak about an incident that has happened five, six, 12 months later, a lot has happened in their life between when the incident happened and then. There are often more recent assaults. Memory is impaired by alcohol. And then we have to find them and summons them. And with those time frames it is really hard. Often, it's a game of chasey to try and find the victims, to try and get them to court. – Police*

*Justice delayed is justice denied. I'm not sure why there are so many adjournments, but they make it very difficult- Police*

*Our responses need to be faster- when complaints are heard six months down the track, complainants have moved on. - Judge*

Workshop participants indicated that this reflects what many of those operating in the system recognise, that the delays in the system, some as a result of a system overload, result in many victims and witnesses becoming increasingly disengaged. The court process is seen to move at pace that disconnects the system's response with the event itself. This results in more witnesses either disengaging, or the evidence being less reliable, as described above. This may impact how Police respond to future DFV incidents as described earlier. Many of those who operate in the system described a known defence tactic in the NT to plead not guilty, in the hope the victim won't show to give evidence in court. This further congests an overloaded system. People who operate in the system indicated changes to evidence collection to allow for capturing video statements on body worn cameras may impact this.

*The body worn camera evidence is compelling when they do it right. Of course, you'll advise a client differently when that is there, and admissible. - Lawyer*

One interviewee suggested:

*If you abolished mandatory sentencing, you wouldn't get so many contested hearings. It distorts all of your decision making. Why would you ever say to your client- you should plead guilty if you know they're going to get 12 months for something they should have got a few weeks for. – Lawyer*

Workshop participants noted that victims often experience a 'long silence' between the incident and the summons and this has an impact on their willingness and capacity to provide credible evidence. It was also noted that these long time-frames made it increasingly disconnected from the event, and less meaningful and relevant for many Aboriginal victims and witnesses.

### Possible solutions identified by workshop participants were:

- Law reform to allow for early pleas.
- Review of mandatory sentencing framework.
- Law reform to allow victims to give evidence early.
- Clear pathways for where victims want to drop the charges.
- Explore alternatives to adversarial system. See 'Is this the right system to deal with the issue' subheading.
- Keep victims engaged by offering appropriate, ongoing support. See 'Victim/survivors have inadequate support' subheading.

### ***The current system is not focused on victim safety***

Victims reported feeling the system was not focused on their safety, from poor initial Police responses, through to sentencing and the Corrections system. Victims reported feeling unsafe, and that people within the system did not understand the risks they were facing.

We also heard of some women taking a strategic approach to how they engaged with the system to ensure their initial need for safety did not trigger a lengthy legal process which doesn't serve them.

*I've had women from [remote Central Australian Community] say 'What we do now is we call the Police to come to help get us safe. When they ask for statement- we say, 'No.' Because they know the minute they provide a statement, it's going to go through the court process and that makes them vulnerable. So, they're managing their safety in a pretty sophisticated way, knowing a statement leads to a prosecution. – Lawyer*

This highlights that which many victims are looking for is safety in the moment, and a responsive safety-focused system. In some remote communities, Police are identifying and responding to this need, but there is no system to share good practice in the violence-prevention space in policing.

Many women, and especially Aboriginal women interviewed, won't seek help because they fear triggering responses from the child protection and justice systems. This has serious implications for their help-seeking, particularly if they are on suspended sentences, or have concerns that Territory Families will remove their children.

*The Police desperately need primary perpetrator training. We're seeing so many women being charged and locked up for assaults on very, very violent partners. DVOs are being put on them. They may be released on a suspended sentence which includes no alcohol. These women live in a constant fear they're breaking laws which makes for a very dangerous situation when the DV inevitably occurs and they are the victim. They are terrified to call Police because they may be drunk and on a suspended sentence. They're terrified to report because Territory Families might take their children. It is creating a culture where women feel that he can do anything to me, and I can't get help. They're extremely unsafe and they don't trust the legal system. Police aren't safe people for the women we work with, because they're the people who lock them up... Or there'll be a mandatory report and they fear losing their kids. So, nothing feels safe, they feel they can't get help anywhere. - Support worker*

In addition to this, there is also extensive family pressure put on victims not to testify.

*I know one lady in Palumpa, the [defence] lawyers told her not to come. In Wadeye, they get his family to try and stop her talking in court. - Support Worker*

*I don't know how we can effectively manage it when there is pressure at court for the victims to not tell the story because the family have put all this pressure on her, because if anything happens to her while he's in jail, there's a notion it's all her fault. So, there is huge pressure on these women not to tell their story. How do we compete with this family pressure? - Lawyer*

There is huge pressure put on many Aboriginal women from remote communities. Many interviewees noted that the configuration of bush courts meant vulnerable witness accommodations couldn't be made in any meaningful way and noted the need to walk past the perpetrators family to go into court and give evidence. As mentioned previously, s.18 rights are not adequately explained, and witnesses are frightened. Victims then seek to manage their own safety by not participating in the system.

*Witnesses are intimidated. I remember one victim credibly gave evidence in Police case then agreed with defence she'd hit herself in the head with a rock. - Judge*

In addition to intimidation in court, many victims report a fundamental problem exists that while they have suffered ongoing abuse for periods of time, often years, the legal system is interested only in discrete events.

*When I was there, he said his lawyer has come back to us- he's going to plead guilty to the one we have the record on, but not the other one. It's up to you if you want to go through with this. I just want him to be accountable for what he did to me, that's just two out of the many, many in the last 14 years. You cannot begin to imagine, like how many things he's done to me and most of the things he's done to me I never thought in a million years another human being would do to another person... and this is all he could come up with. He only acknowledged one. - Irene*

This has implications for sentencing. It also has implications for the messages that are sent to offenders and their families and communities about how this violence is viewed: because sentencing is reflecting the punishment of a discrete event, rather than a pattern of ongoing behaviour.

*I don't think coercive controlling violence is widely appreciated by all Judicial officers. I don't think it's picked up enough. Where you can see it is in the criminal records of those who engage in domestic violence. Many of them will have criminal records of between eight and 24 pages in length. Within those records they'll be between 12-19 convictions for domestic violence. It will be low level domestic violence and so they'll continue to get short sentences... If you were to look at it at the end of the line, in one case I sentenced someone to 11 or 12 years, but over a number of years he'd engaged in this level of violence. Utterly controlling his family, so at the end of the line you could see how serious his conduct had been over the entire period. Whereas in a snap shot, coming before a Judge in the local court who deals with low level assaults, you get these short sentences, which really doesn't assist at all. - Judge*

Participants identified that while the current system was not built around safety, we do need a safety focused system.

**Possible solutions identified by workshop participants were:**

- Trauma-informed DFV awareness training for Police/ lawyers/DPP/Judges.
- Make courts safer for victims.
- AVL/ Video conferencing in all remote communities.
- Review the impacts of mandatory reporting framework.
- Have independent s.18 advice available at court.
- Clear pathways for when victims want to 'drop the charges.'
- Victims to have input to s.45 DVOs.
- Police code of conduct on investigating and responding to DFV.
- Track multiple DV offences by making all evidence of prior relationship history admissible in DFV matters.
- Keep victims' safety a focus of appropriate, ongoing support. See 'Victim/survivors have inadequate support' subheading.
- Need to reduce offending. See 'Breaking cycles of abuse' subheading.
- Explore alternatives to adversarial system. See 'Is this the right system to deal with the issue' subheading.

***Breaking cycles of abuse is critical for making individuals and communities safer***

As one workshop participant noted, the most common refrain heard from the bench from victims is 'I just want him to stop hitting me'. Participants identified that prevention programs and programs in prison are urgently needed. Participants also identified that early intervention is critical to break the cycles of abuse and trauma and reduce the load on the system. An analogy that was used in the workshop described the criminal justice system as being the ambulance at the bottom of the cliff. Early intervention was identified as urgently needed to stop people falling, jumping and being pushed off the cliff. Offenders need help to change and break cycles of intergenerational trauma. This needs to be done in a way that holds perpetrators to account. It is clear that the current system doesn't effectively do this.

**Possible solutions identified by workshop participants were:**

- Evidence based and culturally relevant perpetrator behaviour change programs.
- Child focused primary prevention addressing intergenerational trauma.
- Have more Aboriginal men involved in the vision.



### ***Is it the right system to deal with this issue?***

*I've seen community members put in jail, put out of jail, it doesn't do anything and I don't think that it would help [me]. The idea is that some sort of change occurs, so that [the violence] doesn't occur again, but I don't think the system serves that. From what I've witnessed people get locked up, they get out and the same cycle keeps going. I don't see how jail makes anyone change, especially if they're not going to acknowledge what they did in the first place- so what's the point? – Natalie*

Workshop participants identified that the broader aim is to reduce DFV and associated harms. Questions were asked about whether the justice system alone can respond effectively to the issues raised through the research and workshop, and that any response needs to be part of a whole of government and whole of community approach. Questions were raised about whether an adversarial approach alone, within the justice system, can respond effectively. Participants reflected that 'guilty/not guilty' is the pivot point in the legal system, and the system is evidence based/adversarial and accusatory, relying on victim-based prosecutions. However, this approach may ignore broader needs of individual victims for safety, for perpetrator accountability and for families and communities to break intergenerational cycles of abuse. It may also be 'out of sync' with how other services operate, leading to disjointed engagement for the victim before, during and after their engagement with the justice system.

*It's a recurring issue in the Barkley that victims would describe his family, and sometimes her own family, blaming her for locking him up. And sometimes that extrapolates even more broadly to women victims being responsible for mass incarceration [of Aboriginal men]. – Lawyer*

### **Possible solutions identified by workshop participants were:**

- Explore the use of Alternative Dispute Resolution (ADR) processes when it's safe and what victims want.
- Explore the use of two streams- the existing punitive one and a new therapeutic model.
- Need to reduce offending. See 'Breaking cycles of abuse' subheading.
- Progress outcomes of this project through the NTG Domestic, Family and Sexual Violence Cross Agency Working Group.

### **What might an effective system look like?**

Workshop participants were also invited to build a vision for what a more effective system might look like. Key themes included a system that prioritised:

- Victim safety.
- Supporting and empowering victim/survivors (including clear information, pathways and ongoing support throughout the entire process).
- An integrated, understandable, trauma-informed system.
- Perpetrators accountability and behaviour change.
- Early intervention and violence prevention.

## Immediate priority actions

Workshop participants identified that many of the possible solutions identified require significant policy, legislative and/or service reform and investment. However, a number of priority solutions for action were identified<sup>6</sup>. The highest priority area for action identified is training. Specifically, training and education for those who operate in the system such as Police, DPP staff, lawyers, Judges and Correction staff, perpetrator behaviour change training and child-focused primary prevention training.

Other priorities included: providing genuinely 'linked up' support for victims; reforming practice to be more culturally aware; building trauma awareness throughout the system; building integrated technology and record keeping systems; utilising AVL in remote communities; focus on community engagement and inclusion, having more Aboriginal men involved in the vision and law reform and ensuring court feels safe for victims.

Workshop participants committed to progressing this work through:

- Changes to individual practice, to better recognise the victims experience.
- Progressing work in individual organisations and agencies.
- Progressing collaborative, cross agency work through the NTG Domestic, Family and Sexual Violence Cross Agency Working Group [CAWG] which is facilitated by the Office of Gender Equity and Family Domestic and Sexual Violence Reduction and the DV Justice Reform Network [DVJRN].

Workshop participants noted that to continue the work would require breaking down siloed approaches and building genuine collaboration. It would also require keeping the victims experience in sharp focus. Participants committed to this.

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<sup>6</sup> It was noted that these should be undertaken in the context of broader reform.

# Background

The Domestic Violence Justice Reform Network (DVJRN) was convened in September 2017 to bring together NT Police, DPP, Solicitor for the Northern Territory, NT Legal Aid Commission, Domestic Violence Legal Services and the Department of Attorney-General and Justice, to identify improvements needed in the Justice system for victims<sup>7</sup> of Domestic and Family Violence. It was chaired by Mary Chalmers who was then Senior Crown Prosecutor with the DPP. The network invited Alex Richmond, as Facilitator of the Domestic and Family Violence Network, to join the group.

At a DVJRN meeting early in 2018, a 'Journey Mapping' workshop was first proposed. It grew out of a recognition that the legal system in the NT is not working for many victims of domestic and family violence and there was a clear desire by members of the DVJRN to do better. It became clear to the author that the ideas of Human Centered Design might be a helpful way of approaching the problems we see in the NT. I proposed that a 'journey map' of victim's experiences in the system might be a good starting place, for understanding the system end to end, and identifying problems and opportunities for change and reform. Network members agreed. On the 15<sup>th</sup> November 2019 a workshop<sup>8</sup> was held to explore the Journey map and discuss opportunities for change in the system.

## Why Human Centered Design?

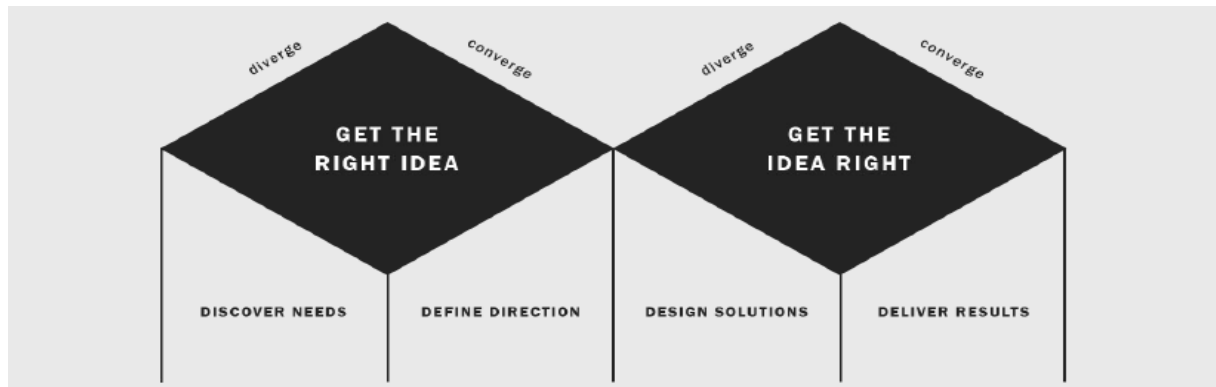
In the NT, we are all a part of a culture, where the enormity of the social problems we deal with, budget constraints and limited resources, results in a lot of decision making that is often a quick fix in reaction to crises. The problem with a piecemeal approach is we sometimes come up with quick fixes that may cause problems elsewhere in the system, or fixes that don't take into account the other factors that shape a victim's experience of the system. Traditionally, when solving problems, people will follow an approach where problems and solutions are quickly and efficiently identified (often by a small group of people), but things get messy and expensive when attempts are made to implement changes in the system - often because the 'users' of the system were never consulted. Human centred design uses processes that allow us to better understand the problems we are trying to solve, so that we can come up with solutions that will work.

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<sup>7</sup> The research, and this report, focuses on the experience of female victims of DFV, given their disproportionate victimisation in this area.

<sup>8</sup> For a list of workshop participants see Appendix A

It recognises that some of what the viable and effective solutions are, will become much clearer for us when we've got a sharper sense of what the problems are that we are trying to fix. The journey map, a tool that tracks victims' experiences through the justice system from pre-Police contact to post release of offender, gives an opportunity to explore the problems as experienced by victim/ survivors in the NT. This process uses the lived experience of those who've been through the system and those who work in it every day, to expose where the problems are in the system. Once the problems are clearly identified and understood, it allows people to build something more effective. Human Centred Design recognises that people closest to the problem are often closest to the solution and this process allows us to draw it out.



**A visual depiction of the process of divergence and convergence that informs Human Centred Design.**

In terms of where this research and workshop would sit in Human Centred Design methodology, the research, and the discussions facilitated during the workshop allowed participants to identify needs and define direction - to get the 'right' idea about where the problems are in the current system. This is necessarily 'messy' work and the purpose of the workshop was not to design the solutions needed in the system, although there was opportunity for people to begin to think about what those might be<sup>9</sup>. It is a key principle in Human Centred Design not to rush straight into problem solving, but rather to fully explore the problem, and then be given the space to think big in terms of possible solutions, to allow thinking to become broad and divergent before defining the direction that change needs to take, and then thinking big again, in terms of what solutions may be. This report captures some of that big, broad, divergent, thinking. It captures the brainstorming and the fast, initial idea generation. To continue to use the principles of Human Centred Design in the conception of solutions, is a challenge to the usual way of doing business.

As we were reminded throughout the workshop Einstein observed that:

***Insanity is doing the same thing again and again and expecting a different result.***

To genuinely reform a system, so that it works better for victims, requires putting their experiences in the centre of problem solving. This means working collaboratively with key stakeholders, including victim/survivors themselves, to ensure that system reformers are actually meeting the needs they intend to, without unintended consequences.

<sup>9</sup> For a full list of ideas generated during the workshop, see Appendix D

It also means investing in getting the idea/s and reforms right before they are launched, which may include prototyping and testing ideas. It means remembering that those closest to the problem are often closest to the solutions.

## Research Methodology

For the map, I interviewed about 45 people, a mix of victim/survivors<sup>10</sup> and people who operate in the system from across the NT including Police officers, prosecutors<sup>11</sup>, Witness Assistance Support (WAS) officers, Judges, support workers and other lawyers working with victims and offenders. Most interviews were conducted between June and September 2018. Most interviews went for a few hours, although one ran for a full day. Interviews were conducted with subjects from across the NT including Darwin, Milikapiti, Wadeye, Nauiyu, Alyangura, Katherine, Lajamanu, Ali Curung and Alice Springs. Most interviews were conducted face to face although some were conducted on the phone. Interpreters were used where appropriate.

For the map, I synthesised what I heard into some key voices and issues. These interviews and the journey map they inform are not an exhaustive look at victim's experiences, and there are some acknowledged gaps in whose voices were heard. There is a recognition underlying this project that the purpose of the research and the map was to stimulate discussion and thinking by those who attended the workshop. There was an understanding that attendees of the workshop collectively had enormous insight into the parts of the system that they operated in and so by bringing everyone together to look at the research, the workshop itself offered a chance to fill gaps in knowledge, experience or understanding about victims' journeys through the justice system in the NT.

## Format and ground rules for the workshop

To develop a shared understanding for the day, participants were asked to agree to some ground rules:

- **ABIDE** — Abide by the Chatham House Rule, so when we're discussing the workshop with others who didn't attend, we do it without attributing content to individuals, so we might say 'we discussed this' but not [an individual's name] said that.
- **SHARE** — Be willing to share your experience, knowledge, ideas, views, opinions (however well formed), challenge assumptions, ask the 'dumb' questions, identify the 'pink elephants'. Remember it is ok to disagree.
- **LISTEN** — Be willing to truly listen not just hear.
- **ENCOURAGE** — others to participate.

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<sup>10</sup> In order to protect the identity of interview subjects, all victim/survivors interviewed have been given pseudonyms

<sup>11</sup> In order to protect the identity of interview subjects, all lawyers, whether prosecutors or otherwise are referred to as 'lawyer'

- **SPIRIT** — Neither offend, nor be offended. Enter into the spirit of the occasion. Appreciate the willingness of contributors to speak their mind. We are not here to judge, blame or find fault, there are no right or wrong answers, responses.
- **PRESENT** — Be present in the discussions - tame your mobile devices.
- **LEAVE** — Leave your positions/titles at the door, ideas come from people, not positions.



Workshop participants and facilitators are pictured in front of the map. For a full list of attendees see Appendix A.

Participants were reminded that in the spirit of the workshop, we were not here to blame any individuals or institutions, but that as we looked at the experiences of victim/survivors and those who work in the system, clear failings would be highlighted. Participants were asked to lay aside our tendency to blame or defend and instead to focus on just really listening to what people are saying about the system as it functions in the NT. Workshop participants should be credited for their willingness to listen, to question, to critique, to discuss and to problem solve in the open and respectful spirit of the ground rules.

The workshop was divided into three sessions. During session 1, I walked participants through the map and the experiences of those whose stories were extracted on the map. During session 1, participants heard the voices of victim/survivors describing their experiences. During session 2, the insights, quotes and experiences of other system players were revealed, and participants explored the map and began to identify opportunities for change. During session 3, participants began exploring solutions and identifying priorities and next steps.

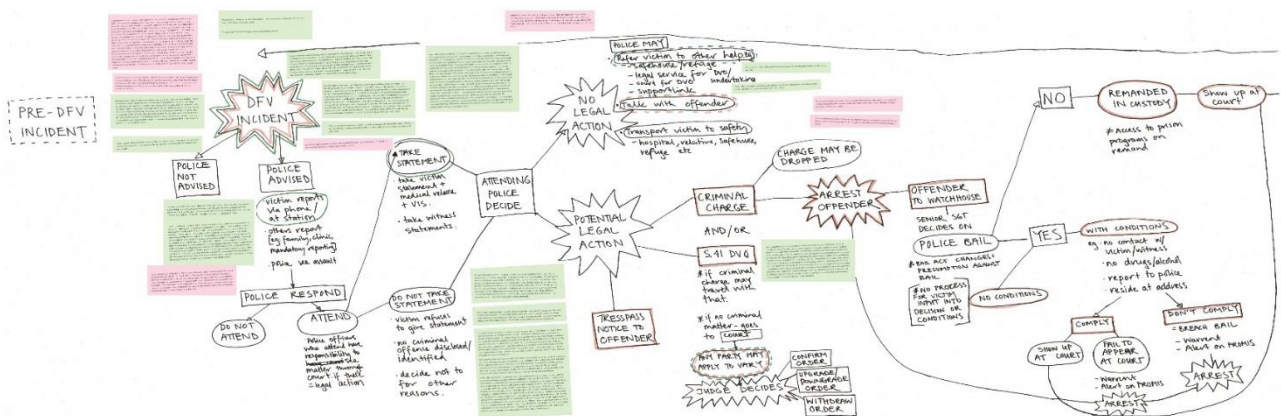
For the purpose of this report, I will document some of the key themes that emerged during session 1 and 2 in the section 'The Research'. This will be done, in the same way as it was in the workshop, by moving through the map from prior to Police contact, to after the release of an offender. The opportunities for change as identified by workshop participants are documented in the section 'The Workshop'.



# The Research-

## The Journey Map

The map itself was about 11 meters long and shows the 'system' through which victims move. A full map can be found at Appendix B. The primary map shows the journey through the local Court. Smaller, secondary maps depicted journeys through Bush Courts and the Supreme Court, in recognition that these had particular differences and issues. The map describes the journey a victim might have from before Police contact to post-release of the offender. On the map, a STAR shape signifies a pivot point where something changes in the system. A red line indicates the offender is involved in this part of the system, a green line indicates the victim/survivor is involved in this part of the system. An unbroken line indicates the person is directly participating in that part of the system. A broken line indicates the person may participate in that part of system. The quotes printed on green paper come directly from victims interviewed for the project. The quotes printed on the pink paper come from the system players - the Judges, lawyers, Police officers, prosecutors and support workers interviewed. All quotes that were included on the map can be found at Appendix E.



The first third of the map depicts the journey from before an incident to after arrest and bail [if applicable] of the offender.

The most notable feature of the map at first glance is that the victims' stories, and the colour green [that represents victims' involvement in the system] were clustered around two points in the map. The first of these is the incident itself, and the second is at the time of hearing. It is notable that between these two events, victims are often not involved or communicated with-an issue highlighted as a real problem by many victim/survivors that we will return to later. Following the hearing, we again see that the victim is often not involved or communicated with. We see a lack of clear process about who and how victims should be communicated with. During interviews it became clear that for many of those operating in the system, there were assumptions that someone else in the process was (or was responsible for) communicating with victims. These issues, and their impacts on victim/survivors, and the operation of the justice



system, emerged during interviews and some of these will be explored below. It is not possible in this report to capture and reflect on all the insights documented on the journey map.<sup>12</sup>

## What the research tells us

### Pre- DFV Incident

There was little to reflect on in the workshop about this important space, the time before an assault, the violence prevention space. In the NT, despite the worst rates of DFV in the country<sup>13</sup> we have almost no investment in primary prevention, little in early intervention and little in perpetrator behaviour change programs. These gaps are filled in some remote communities by creative Police who recognize that crime prevention, and specifically DFV crime prevention needs to be a core part of what they do.

*A lot of the people we worked with in our community, when people get angry and frustrated, they don't have great coping mechanisms- so the talking stops, they don't know what to do- instinct kicks in and that's when they just resort to violence. They just don't have processes like mediation or ways to talk about it, or processes to calm themselves down- they just don't have any of that. They get angry, they can't cope, then violence comes out. So, my partner developed this Stop. Walk. Talk thing with them and he'd say "If you're getting frustrated, if that woman has annoyed you, just stop what you're doing. Go for a walk. And find somebody to talk to". And there were a few kartia (white people) in the community who the men had respect for and they jumped on board, so some men would talk to them, some would talk to Police, some would find an elder for their family. And it really worked to diffuse situations and prevent violence. One Monday morning we got into work and [Police officer] had three men on the doorstep of the Police station wanting to come in, because they'd done their stop and their walk, and they wanted to talk. He'd sit down with them on the couch, they all drink tea and talk and get some clarity. These are all domestics that were prevented just because we could work with the men. If we got jobs that were lower level domestics, we'd make it a priority to go to the job, they probably wouldn't meet the criteria of COMMS to be called out. It might not even make it to a Police screening if the person called 000, but because we had that rapport with the community, someone would ring, we'd make an effort to get to that stuff as fast as we could to prevent stuff from happening. – Police*

### Police responses to DFV incident

We began drilling down into what the research tells us near the start of the map, by looking at Police responses to the incident. It was noted at the workshop that some Police Officers have an excellent understanding of Domestic and Family Violence [DFV] and associated trauma and are

<sup>12</sup> All quotes that were used on the journey map have been reproduced at Appendix E.

<sup>13</sup> [According to the ABS](http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4510.0~2017~Main%20Features~Victims%20of%20Family%20and%20Domestic%20Violence%20Related%20Offences~6), The NT has highest rates of DFV in the country with 1,815 victims per 100,000 persons in the Northern Territory. By comparison, the jurisdiction with the next highest rate is Western Australia with 728 victims per 100,000. New South Wales has 366 victims per 100,000 persons. 81% of victims in the NT are women. 75% are Aboriginal.

<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4510.0~2017~Main%20Features~Victims%20of%20Family%20and%20Domestic%20Violence%20Related%20Offences~6>

skilled and sensitive at working with victims. But these are not the experiences I heard much about in my interviews. Victims described a range of experiences. Victims who are part of the system having existing DVOs in place or ongoing contact with Police as a result of ongoing DFV, report their frustrations at contacting Police.

*Having to retell your story again, hoping there is some notes on the system that they can just quickly get, you're giving [offenders] name, details, there's a warrant out for his address... this constant harassment is still happening. And they don't know the story. They're unable to find notes... we're explaining he's breaching conditions of DVO... Every contact, and I'm not exaggerating, every contact with Police, you're having to retell your story again and that was getting very frustrating in the end because you're just exhausted from reliving everything again... Trying to keep a track of dates and things in your head and you think, I've already told you this. I told you this on the first attack or assault. I've been to hospital, we've had to move from where we're staying... dragging kids all over the place... Every contact we had with them you're having to educate them... After that dealing with Police I was advised 'why don't you just keep a copy of your DVO on you, carry it with you... Whatever their system allows... they don't have it... There's "no contact" from the Police, but he's still harassing us, so we're reporting every time. It was like 'It's me again, I just called again, it's still happening.' and they're like 'You're still calling?' Like we were inconveniencing them by reporting too much. - Carly*

Sometimes Police are not advised an incident has taken place. There is a range of reasons for that. Some women give up trying to get assistance because they are in remote communities trying to speak to people in Darwin who can't understand their accents, and don't know the names or places of their communities they are trying to describe.

*When we call 000, they never understand. They don't know our streets and people's names. We give up. The local Police know places and people, but they won't just give their numbers, say we got to call 000. - Mary*

Other women choose not to call because of negative past experiences. I heard many describe similar experiences to this:

*The Police came to the door, the neighbours must have called them. The kids were there, my eye was already closing. It was a huge bruise from where he hit me. But I was real rattled cause he'd been choking me. They took him around the corner at the front and they all stood around his motorbike and had a talk. I heard them laughing. Then they left. They never even spoke to me. – Fran*

A negative experience with one person can taint people's view of the whole system, and for many women these kinds of experiences mean they don't reach out for help in the future, when Police assistance is needed.

In addition to this, many interviewees reported seeing more and more female victims of violence being incorrectly identified by Police as the primary perpetrator. Victim/survivors reported perpetrators manipulating the system: *While he was assaulting me, he called them [Police]. They came and put a DVO on me. You can't trust them, they'll always believe him.* - Jenna.

Support workers and lawyers interviewed also noticed an increase in the primary victims being charged with offences.

*I've seen a striking increase in the number of women being charged, convicted and sentenced for assaults against partners who have abused them for lengthy periods.* - Lawyer

Many women, and especially Aboriginal women I spoke to, won't seek help because they fear triggering a response from the child protection and justice systems. This has serious implications for their help seeking - particularly if they are on suspended sentences or have concerns that Territory Families will remove their children.

*The Police desperately need primary perpetrator training. We're seeing so many women being charged and locked up for assaults on very, very violent partners. DVOs are being put on them. They may be released on a suspended sentence which includes no alcohol. These women live in a constant fear they're breaking laws which makes for a very dangerous situation when the DV inevitably occurs and they are the victim. They are terrified to call Police because they may be drunk and on a suspended sentence. They're terrified to report because Territory Families might take their children. It is creating a culture where women feel that he can do anything to me, and I can't get help. They're extremely unsafe and they don't trust the legal system. Police aren't safe people for the women we work with, because they're the people who lock them up. And these are the most vulnerable women we're talking about. Women whose ears are bitten off, whose partners carve their names on their bodies. A recent client had to have her spleen removed because a rock was thrown so hard at her stomach. And these women can be too scared to go to hospital because it may be recorded somewhere that they have alcohol in their system- so they'll get locked up. Or, there'll be a mandatory report and they fear losing their kids. So, nothing feels safe, they feel they can't get help anywhere.* - Support worker

Sometimes Police are advised but don't take action. Many women reported calling Police or going to Police stations to report abuse and being told by Police that if he's not hitting her, they can't assist.

*Can you just arrest him? He spit on my face, holding my hands so I couldn't make a call, that's not assault. At the time I had no idea. I was hoping the Police would know, that they would do something for me, something that is in the legislation that I have no idea about, something to get him away from me. Or give me a head start. I just want him to go. He will kill me one way or other I just don't know which way. He threatened me so many times: I know how to kill you and make it like an accident. I was frantic for him to stop. He would grab the pillow and put it on my face until I can't breathe. He enjoyed doing it to me. He said this is how easy it is to kill you. You don't have anything in you, that can push me off you.* - Irene

In Irene's case, despite multiple reports, Police only charged him for assaults on her, well after she had left the relationship. They approached her and asked her to assist with statements for the assaults she had reported to them only when they were building the case for the savage assault inflicted on his subsequent partner. Some victim/survivors I spoke to specifically advised Police that their partners had choked<sup>14</sup> them and they were advised that Police couldn't assist, and they should seek their own DVOs. Women I spoke to repeatedly said that they did not feel assaults against them were taken seriously by Police they reported it to.

Aboriginal woman in urban and regional centres say they feel they are treated differently by Police, although that said, almost every woman I interviewed who had negative experience, from every cultural background, felt that they had had a particularly and unusually bad response. One woman describes the huge frustration and anger victims feel when Police don't take action and the system lets them down.

*With the legal system they don't care about the individual. Like in my case between 2007 and 2017 I had 10 DVOs on my ex-partner. Between 2007 and 2016, the Police never served him with any of DVOs to protect me and my kids, but because it was never served on him personally, I had no grounds to get him charged, even if I put statements out- oh no, the DVO wasn't served, sorry but we can't do this.'*

*The Police need to do a domestic violence course ok. They actually have to sit down and talk to victims who have actually been through domestic violence. They have to learn the symptoms of the signs of domestic violence situation. Yes, a person may ring and complain, the person who is ringing is scared they want youse to do your job instead of saying that's probably her partner and that's probably her ex-partner. You don't know the circumstances of what that person has gone through. Take it as a first-time thing, that's what you're supposed to do, every time you rock up to a situation- it's a first-time thing. You assess what happened, you take notes, you give out a prom number? and you speak to the person- be a little bit sympathetic to their situation. Like with my ex-partner, I kicked him out in 2010. From 2010-2017, he was constantly in my house, harassing me. I did everything within a DV situation, when a perpetrator comes to your house, and tries to do anything to you- you ring the Police, you get a DVO on them, you get a trespass notice on them. I done all that, I done it the legal way, but the system let me down- it failed me miserably. I cannot understand why the Police take the oath of serving and protecting the innocent when they can't even do it. Their serving and protecting is because you've rung, like 20,000 times, 'I am sick of listening to you and your complaints, I'll turn up to your house to show I've turned up to your house', but nothing will actually happen... In May 2015, just after he'd broken into my sister's house and tied her up, my 13 year old son is standing next to me, constables rocked up, told him that [offender's name] was there at my house and that he'd stole something and the constables said, 'You know we're sick of coming to your house?' And this is in front of my child for shit's sake. What thought would my child be having? My mum rings for help and they say, 'You can get fucked, mate', so why should I trust the Police to do anything or uphold the law, when my mother, who is an adult, is told they are sick of coming to my house? When they stated to me*

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<sup>14</sup> A growing body of evidence both internationally and from around Australia recognises the particular and very real risks for victims who are being choked/ strangled by violent partners or ex-partners. Some jurisdictions are enacting particular legislation recognizing the criminality of non- fatal strangulation. Some workshop participants suggested it should be enacted in the NT.

*that I should stop ringing them, I stated to their face, 'Well maybe you should do your fucking job.' It frustrates the hell out of me. Maybe you're annoying because you're constantly ringing them about the same person that is turning up to your house and doing all this stuff. Alarm bells should go off in your head- oh shit- maybe we should actually do something about this person. Actually, get him off the street. Actually, charge him with all those things he's actually done to this person. Instead of going 'Oh well, it's fucking her again. We're sick of going out to her house', so in the end, because I've had so many DVOs I ended up losing my kids to Territory Families because of the NT Police and because of [offenders name]. – Pamela*

For those who work in the system- the anger you can hear in Pamela's voice can be confronting, and off-putting, but as she clearly articulates- she has good reason to be furious at a system, and those who operate in it. She and many others like her in the NT are profoundly let down by a system which won't protect her from a violent offender, and that punishes her for her continuing victimization by removing her children.

It is worth noting that those who operate in the system, also observe differences in approaches taken in responding to violence against indigenous and non-indigenous female victims.

*There's a completely different approach for indigenous and non-indigenous people. Certainly, the orders taken out by Police are very different. You'll have very serious assaults and they'll just put a non intox [DVO] on and not even charge him. If it's a white couple, sometimes there is a full "no contact" over threats. It puzzles me the approach Police take. It's as if it's not as bad to beat up an itinerant woman. Maybe it's because the prisons are already full and they're not wanting to set people up to fail because they've put orders on both in the past and they know they'll have contact. But sometimes I think they miss the coercive controlling thing. Some of these guys are psychos. They do come through. But again, it comes back to how much time and energy the Police and courts want to put into looking at all the evidence. – Lawyer*

*Because it feels like a waste of time that can affect how Police officers may deal with the next domestic violence assault, when they've just invested maybe months looking for witnesses, doing summonses, re-doing summons when matters get put off again, it's a lot of time and effort. Especially where witnesses and victims are itinerant and can be hard to reach. And without a victim and witnesses it's all a waste of time. It can feel like you've done all that work for nothing. And what can feel like a waste of time can affect how Police officers may deal with the next domestic violence incident. - Police*

Police themselves recognise that many lack the skills to work effectively in the area.

*It's such a complicated policing issue. It takes a heightened level of insight. We need to be better at managing probationary constables. So many of them are unable to recognise red flags, they ignore the children in the home. We just don't have the skills we need. - Police*

It is beyond the scope of this report to discuss all the Police responses described in interviews, but it is worth noting that sometimes the Police are advised and do take action. One woman tells

about helpful Police action which saw her, and her children removed from the home to the safety of a women's shelter.

*This was warning. They gave it. If he going to touch me up again, I'm going to lock him up in jail. He asked me yesterday did you put me DVO not to stay with you, don't want to tell him. He might want to take me back because I want to stay a little while, I want to get better, my body's still paining. This is from big rock. There was no power, I was standing in the cupboard. I don't know why he locked me in the dark. He came and touch me up. He knocked me out. My uncle locked him out.... He said open the door I've got sweet kit, but I didn't listen. I'm going to rest here for maybe two or three weeks, cause the kids don't want to see him. If they see him coming, they run away everywhere, because they scared now. They saw him hit me and they said, 'Mum, I don't feel like staying with dad'. The kids don't want to see him. But he wants to take the kids back and me. – Ladonna*

It's significant to note this is was her first interaction with the system. The incident was the first time her partner had hit her, and her story reveals her, and her partner's, deep confusion about whose process it is. About who is taking legal action and what her power is to stop or change it. She has no idea that she is at the start of this huge journey, and that once she has given a statement, she won't determine whether or not charges are laid, or legal action pursued. That said, she was hugely grateful for Police intervention, for getting her safely to the shelter where I interviewed her.

Some women who are more aware of how the system works are taking a strategic approach.

*I've had women from [remote Central Australian Community] say 'What we do now is we call the Police to come to help get us safe.' When they ask for statement, 'We say no.' Because they know the minute they provide a statement, it's going to go through the court process and that makes them vulnerable. So, they're managing their safety in a pretty sophisticated way, knowing a statement leads to a prosecution. – Lawyer*

This highlights what many victims are looking for is safety in the moment, and a responsive safety focused system. In some remote communities, Police are identifying and responding to this need but there is no system to share good practice.

*It's like we need some internal spreadsheet where Police can share early intervention and prevention projects with each other so we can learn from each other. A lot of Police like the remote work because they get autonomy, they get to innovate and make a difference. Be good to share what's working. There's no model for feeding it up the chain, or evaluating what's working. - Police*

## Issues with DVOs

Many women experienced huge confusion around Domestic Violence Orders [DVOs] as highlighted in some of the extracts above. A number of women were told by Police, that Police would not and could not issue DVOs; and were told that they could go to court and it was a simple process. Women described thinking that they would go to the court house and just pick one up. There was also huge confusion as to how DVOs and criminal charges related.

*I went off to court. I was initially told by Police, 'If you get a DVO, it's simple- you don't even need to show up to court,' and so I was as like if it's as simple as that I'll go ahead and do it...*



*and unbeknownst to me, that's not how it goes... when it came time to go into court, I didn't have any support people because I had no idea I was going into court. I had no idea I would be sitting in the same room as him. I had no idea I needed a lawyer. There was just no information given to me, so I'm standing there in the Court House thinking I was just going there for a 15 minute thing, and it was all going to be over with... Then I watch him walk in with his two brothers. One of his brother's says 'What are you doing this for? Haven't you done enough?' Makes me feel intimidated, so I'm shitting bricks, I was that traumatised I couldn't even look at him and I'm sitting across... having to give details to magistrate. I can't tell you if someone represented me or whether I did it myself because it was all so traumatic, but the one thing that stands out is the magistrate could actually see my distress.... Everything the Police told me was going to happen. It didn't happen that way. How could they get it so wrong? How could they tell me this is how process worked when in fact it didn't? Was I talking to an amateur Police officer? Do they even know what is involved? I couldn't find any reason that they would say- this is how it happens when in fact it wasn't how it happens... How unprepared I was, had I known I would have been in that situation, I would have got family there with me... Totally unprepared for the reality of it... No information at the court about this is when you do this process, this is what happens... No information about if you have someone who can support you, get them to come along on the day, because it can be a very traumatic thing. None of that information was available, it was like I knew the system. So, don't need to explain anything to you. - Carly*

Carly's story highlights a theme that ran through the interviews about victims having no idea how the system works and everyone in the system, who are familiar with its workings and its quirks, acting as if victims should just know what is happening, what is expected from them and what they can expect from the process. Multiple victims described being told by Police that it was a simple process to obtain a DVO and they just need to go to the court. Victims consistently reported that without a court support worker or a case worker guiding them through the process - which most victims don't have - they felt baffled, overwhelmed and frightened. Many spoke of a lack of basic plain English information, posters, or anyone with enough time and patience and trauma awareness to explain what was happening to them. Many spoke of their fear and intimidation at having to see and be close to the offender during proceedings. What emerged from interviews with others who work in the system, is that right through the system, people imagined, and relied, on it being someone else's job to explain matters to victims.

When Police did issue DVOs these could variously be hugely useful for securing safety as described below. In this woman's case, although multiple DVOs were obtained both by her and Police over almost a decade, only one was served. And once it was, it broke a ten year pattern of abuse.

*At the end of the day it's me being abused. But it's also my children, and I don't want them to go through what I went through.... It is your fault. You didn't do enough. I've rung the Police, I've taken out DVOs, constables have taken out DVOs. Where have I not been consistent in what I wanted when the system does not stand up for what it states. Alex: 'Do you think the one DVO has got him out of your life?'- 'Oh yeah, after they actually gave him that DVO, he stopped ringing my phone, he stopped texting me and he stopped coming around to my house'.... He said 'The DVOs don't mean nothing', and I said 'Yes, they do. You're not allowed - it's all stated on the DVO and how you have to abide by it'. He said that if they don't serve it,*



*it don't mean shit to me. But until they did serve it, the reason why he left me alone is that two constables made a point of serving the DVO. Not only was I being abused by my ex, but I was being abused by Police. That's how I seen it, and to top it all off, I was abused by Territory Families and had my children taken away. And all they had to do was to walk up to him and hand him a piece of paper and re-enforce it, it's all they had to do. – Pamela*

Police highlighted that there were particular difficulties around DVOs in the remote context, because of the lengthy delays between bush court sittings.

*Sometimes a woman will have a gut feeling something is about to happen, and I might feel that something may happen, but it doesn't meet the threshold to take out a reactive Police order, and if she's got that gut feeling now - something is probably happening in the next few days, not in months when court is on... Once there is an assault, we can take out an order. I'd argue- that's too late. - Police*

*Out bush we've got a problem with lack of review time, so if I issued an order, say court was on the day before in [community name], that order would not be reviewed until the next [community name] bush court which was two months away, and sometimes it would be cancelled because of royalties or weather, so it could be four months until that Police made order was reviewed. I think that lack of review is an area where things fall down. If I knew it would be reviewed by a court within a few weeks I would put in stricter conditions where I thought she was at heightened risk, even full "no contact" sometimes. But if, in the back of my mind, I'm making an order that will be two-four months before it is reviewed, that plays a part in my decision. In small communities a full "no contact" for a week or two? They can manage it. But if that order is going to be in place for months? I believe it's unreasonable to put a full "non-contact" in the order. – Police*

There are also issues in the system of the DVO and assault charges being heard together which creates delays and inefficiencies. Many victims report finding this hugely confusing.

*It would be better to keep the DVOs and the criminal charges separate. As criminal proceedings are delayed, the protected person needs to keep coming back to court. People don't understand how the two relate and it's really confusing. You'd think it would be more efficient just to make the DVO as soon as possible. – Lawyer*

*The criminal offence is dealt with by the DPP and with the DVO matters, the Police instruct the solicitor for the NT. The trouble is that the SFNT lawyers are often left sitting around the Court waiting for the thing to be adjourned because often those two things will run together until the criminal charge is heard... I think in Alice they do it more frequently than here with consent without admission DVOs and it's just sorted, but up here they tend to go 'No, no, no, we don't want this', even where there is overwhelming evidence. A lot of the time you will say 'What are your instructions on the DVO?'. "Oh, haven't taken them." They've had 25 mentions in court and they just haven't done it. The criminal lawyers, they're thinking - my issue is the criminal charge. That's the main problem he's facing and that's the main thing before the*

court. They see the DVO as a secondary thing, so they won't even think about it until the criminal charge is dealt with. – Judge

One lawyer I spoke with drew out the implications of a system where many victims and offenders are unclear on the different sorts of DVO and indeed who drives the legal process in matters related to DFV.

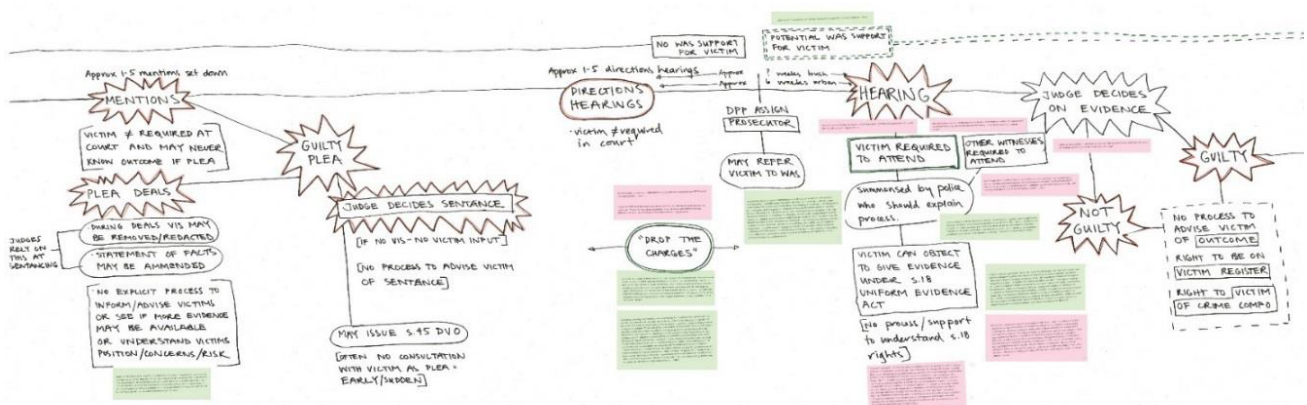
*I do worry that for many people in communities, the lines have been blurred between Police-issued DVOs and the much smaller number that are got with the assistance of women's legal services. And so that very empowering process on the civil side, has played a role in creating a perception that victims are driving the process on the criminal side. Most people don't understand that even if a woman says 'drop the charges', prosecution will probably be proceeding, so it does fall on the victims, that blame. – Lawyer*

*It's a recurring issue in the Barkley that victims would describe his family, and sometimes her own family, blaming her for locking him up. And sometimes that extrapolates even more broadly to women victims being responsible for mass incarceration [of Aboriginal men]. – Lawyer*

## 'Drop the Charges'

Sometimes Police issue DVOs [and charges] that a victim doesn't want, which triggers the 'drop the charges' response which runs right through the system. This again reflects a fundamental misunderstanding that many victims [and offenders, who are often applying pressure directly and through family] have, that they have the power to drop charges: that it is a system seeking to protect her and one that will be guided by her. Because both the Police and DPP have a vested interest in her cooperating, victims will look to defence lawyers and others, who are unable to help, for assistance and information.

*It's a tactic to keep victims in the dark when they want to drop or vary DVOs, once the Police are involved, they just get pushed aside, they're just a piece of evidence- Support Worker*



The middle third of the map depicts the journey through the court system

*Women will say ‘Drop the charges. Drop the charges.’ and they just get pushed between Police and the DPP. No-one wants to help them. But when you stop to educate them, to explain different options for DVOs they often want to vary rather than drop, but no-one wants to talk to them. - Lawyer*

## **In court- Lack of information, advice, consultation and support for victims**

This again highlights that for victims in the system there is no independent information, advice or support available to them, unless they are lucky enough to be connected with a service, usually a specialist legal service or a women’s refuge that can provide support. For the vast numbers of victims in the system- this support is not available<sup>15</sup>. As highlighted on the map, there are other points in the system, where victims are not consulted with or advised of outcomes, including bail conditions, sentencing (including terms of suspended sentences), or rights to be on the Victims’ Register or access Victims of Crime compensation.

*Crime victims are often really confused at court. They don’t know where to go or what to do and they approach us as duty lawyers and we can’t help. - Lawyer*

Although there was consistently positive feedback about the support offered by WAS Officers it is clear - despite internal directives that WAS Officers be introduced to victims in matters relating to DFV - time and resourcing constraints mean this doesn’t always happen. WAS officers are only introduced once a prosecutor has been assigned and this means much of the early part of the process happens entirely without support. Even where WAS support is offered, funding cuts have restricted the type of support WAS officers could offer which impacts their ability to build rapport and trust with traumatised, vulnerable witnesses.

Some victims will refuse any offer of court support because they fear what violent partners will do to anyone seen to be helping them. *I didn’t want to use WAS because he always threatened, he would kill anyone who helped me. – Gayle*

## **In court-Legal approach focuses on discrete events**

Many victims report a fundamental problem exists that while they have suffered ongoing abuse for periods of time, often years, the legal system is interested only in discrete events.

*When I was there, he said his lawyer has come back to us- he’s going to plead guilty to the one we have the record on, but not the other one. It’s up to you if you want to go through with this. I just want him to be accountable for what he did to me, that’s just two out of the many, many in the last 14 years. You can not begin to imagine, like how many things he’s done to me and most of the things he’s done to me I never thought in a million years another human being would do to another person... and this is all he could come up with. He only acknowledged one. – Irene*

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<sup>15</sup> One exception is the program run through NPY Women’s Council where following a DFV incident, Police immediately identify women impacted for follow up support from NPY Women’s council staff.

This has implications for sentencing. It also has implications for the messages that are sent to offenders and their families and communities about how this violence is viewed. Because sentencing is reflecting the punishment of a discrete event rather than a pattern of ongoing behaviour.

*I don't think coercive controlling violence is widely appreciated by all Judicial officers. I don't think it's picked up enough. Where you can see it is in the criminal records of those who engage in domestic violence. Many of them will have criminal records of between eight and 24 pages in length. Within those records they'll be between 12-19 convictions for domestic violence. It will be low level domestic violence and so they'll continue to get short sentences. You'll see them get initially a wrap on the knuckles or a suspended sentence, then three months imprisonment perhaps going on to seven months imprisonment and so on. The consequence of that is the same victim is constantly in strife- there's no escape. Because as soon as he comes out, after a short period of time, the same thing starts again. Because of the approach of the law, namely your criminal history effects leniency, it doesn't aggravate the ongoing offending. If you were to look at it at the end of the line, in one case I sentenced someone to 11 or 12 years, but over a number of years he'd engaged in this level of violence. Utterly controlling his family, so at the end of the line you could see how serious his conduct had been over the entire period. Whereas in a snap shot, coming before a Judge in the local court who deals with low level assaults, you get these short sentences, which really doesn't assist at all. – Judge*

### In court- Length of process

Many interviewees spoke of lengthy delays being a factor in successful prosecutions. Victims too, spoke of being ground down by long delays and beginning the process wanting to see a successful prosecution but then just being emotionally exhausted by the lengthy process

*[The Police officer] told me it would go to Court, if uncontested it would go for 10 years, but then I got there, and they were like it's 12 months and I was a bit surprised by that. It feels actually crazy because the DVO got served by them and it got breached four times, but they rolled the charges into two... the first thing was meant to be heard on February 28<sup>th</sup> and I got told by the Police that I had to go to court, but then other people were like, you don't need to be here and it was really traumatising because I got there and he was sitting right out the front and then I had to walk past him. And then his lawyer wasn't there so it just got adjourned and it happened a number of times, adjourned to Alice Springs and eventually set for hearing on 8<sup>th</sup> August.*

*So in between that time, I'd made a statement with Police in Alice Springs and basically nothing happened till I got here and met with [support worker] about upcoming court stuff with DVO and she asked about the charges and I said I've actually given up because I tried to contact a Police woman a number of times... And then I just gave up with it. Clearly no-one is doing anything. He's breached the DVO a couple of times which meant I had no sense of safety. I was scared because he's crazy jealous. The Police have the information. They haven't done anything. I think I need to just focus on my health and moving forward. I've given up. Obviously, nothing is going to happen. - Natalie*

*The extended timeframes. That's where we're falling over. For the matters that do go to hearing, the credibility, memory, reliability of witnesses diminishes as time goes on. For a victim to have to speak about an incident that has happened five, six, 12 months later; a lot has happened in their life between when the incident happened and then. There are often more recent assaults. Memory is impaired by alcohol. And then we have to find them and summons them. And with those time frames it is really hard. Often, it's a game of chasey to try and find the victims, to try and get them to court. – Police*

*Justice delayed is justice denied. I'm not sure why there are so many adjournments, but they make it very difficult- Police*

*Our responses need to be faster- when complaints are heard six months down the track, complainants have moved on. - Judge*

This reflects what many of those operating in the system recognize, that the delays in the system, some as a result of a system overload, result in many victims and witnesses becoming increasingly disengaged. The court process is seen to move at a pace that disconnects the system's response with the event itself. This results in more witnesses either disengaging or the evidence being less reliable, as described above. This may impact on how Police respond to future DFV incidents as described earlier. The system then is buckling under the weight of responding to matters where victims and witnesses are feeling inadequately supported or unaware of what is going on.

## **In court- Barriers to victims giving evidence**

In addition to this there is also extensive pressure put on victims not to testify.

*I know one lady in Palumpa, the [defence] lawyers told her not to come. In Wadeye, they get his family to try and stop her talking in court. - Support Worker*

*I don't know how we can effectively manage it when there is pressure at court for the victims to not tell the story because the family have put all this pressure on her because if anything happens to her while he's in jail, there's a notion it's all her fault. So, there is huge pressure on these women not to tell their story. How do we compete with this family pressure? - Lawyer*

Many of those interviewed noted the huge pressure put on Aboriginal women from remote communities. Many interviewees noted that the configuration of bush courts meant vulnerable witness accommodations couldn't be made in any meaningful way, and noted the need to walk past the perpetrator's family to go into court and give evidence.

*Witnesses are intimidated. I remember one victim credibly gave evidence in Police case then agreed with defence she'd hit herself in the head with a rock. - Judge*

Lawyers noted that many cases were contested on the basis that the victim probably wouldn't show up or wouldn't credibly testify for the crown.

*If I don't have victims and witnesses there, that case is not going anywhere. I feel a lot of defence lawyers rely on the fact that Police are not going to be able to get victims or witnesses to court. And if we can't get them to court- where is our case? - Police*

*I've had clients say, 'Don't worry she won't show'. It's chilling. - Lawyer*

*Defendants can be very cynical saying 'She won't come- I'll get off'- Lawyer*

*Defence lawyers rely on the fact that Police can't get "long grass" witnesses to court, without them it's all a waste of time. It definitely effects how Police deal with the next domestic. - Police*

*The tactic is to plead not guilty and hope she doesn't show and plead guilty when she does. They call it the Bourke defence, because you make sure she's out the back of Bourke. - Lawyer*

Some noted that mandatory sentencing laws impacted how clients were advised.

*If you abolished mandatory sentencing, you wouldn't get so many contested hearings. It distorts all of your decision making. Why would you ever say to your client- you should plead guilty if you know they're going to get 12 months for something they should have got a few weeks for. - Lawyer*

Many people working in the system noted it isn't safe for many women to give evidence and identified an urgent need for independent s.18 advice.

*The bench really needs to be trained properly around domestic violence and how it manifests, because whenever a s.18 objection has been raised, they don't get up. Partly because of the judge's language- they'll say, 'On what grounds do you object to giving evidence?' Victims won't understand a word in that sentence. They need to ask direct questions, 'Do you feel you'd be less safe if you told your story today?' Also, a lot of Judges have a very limited understanding of the nature of DV. So, a victim may say 'It's just going to be no good for me and him. His family are going to humbug me'. It's like they need the victim to say, 'He's going to hit me again if I tell my story'. So, objection is denied. And then when it's coming to proof and I adduce evidence from them and the defence lawyer says, 'You hit yourself in the head with a rock didn't you?' And she just says, 'Yeah I did.' That's their way of objecting at that point. I've then had Judges ask me to lay charges on this victim for contempt of Court. The judge knows they do not want to give evidence for the purposes of their safety, and will do everything they can not to give evidence, they uphold the objection, she makes up a story and then she's the person who should be prosecuted - Lawyer*

Many described the huge frustration they see in Judges when victims prioritise safety or protecting the offender over cooperating with the system.



*I've seen magistrates completely besides themselves with frustration and anger that women aren't cooperating in the system. We're trying to stop this epidemic of appalling violence but unless the women come along and tell us they've been hit, we can't do anything. There's no proof. And the Judges get really, really frustrated by that, to the point where there is evidence that a summons was served by a complainant to come to court for a hearing and she hasn't complied. They'll issue a warrant. We've had a number of occasions in the last few years where we're trying to get her out of the watch house because she's been arrested and detained, and it's cyclical. It just re-victimises her. It's such a ham-fisted and ineffective response. But I understand the frustration of Judges. – Lawyer*

Even where they want to give evidence, the reality of how trauma impacts the brain and the fact that many victims do not have English as a first language means translation can be an issue.

*Did I ever have a statement taken with an interpreter? I don't know. I can't remember one. So that's saying a lot when you have hundreds of contested files handed to you. Virtually all of these people need interpreters. It's not just about the reliability of her evidence and fairness to the accused, but she's fundamentally set up to fail in giving evidence, because of course when you're in court, evidence is tested against your written statements. So defence are handed on a silver platter these inconsistencies making for, what defence would call, an unreliable witness. But actually, it's because the statement was written by a male Police officer who was standing over her while she was in a vulnerable situation, speaking in her third or fourth language. Not even having it read back to her, just read through whatever he has written and sign away. And then maybe you get an ethical prosecutor in court, who gets you an interpreter and finally you're able to tell your story, in your language, of course it's totally different. – Lawyer*

*At the hearing there was a request for an interpreter, the defence objected... And I told the court I am not fluent enough in English but the Judge himself said 'if you can use the word fluent, you have a certain level of fluency' and I wasn't happy about that... I felt the judge was taking their side because I'm not fluent in English... Even before the hearing was started, I was down. I was struck mentally by this... I was frustrated and disappointed and sad because I did not have an interpreter... because of my limited English I used the word 'threatened' and after coming home I realised that's not the word I should have used but the defence lawyer laughed at me for that. Alex: 'And what word should you have used?', 'Beaten me'... I was really upset about being ridiculed at the court and coming home I was sad or frustrated and disappointed that I used the wrong word.' Because Judge said if we used the interpreter, the hearing would take longer which we couldn't afford, so he wanted me to explain things in my limited English, and only on some occasions the interpreter was used. – Neema [The defendant was found not guilty].*

Many interviewees felt that technology could assist in overcoming issues around time delays and intimidation of witnesses by families.

*Technology, if we can harness it, can have a huge impact in administering justice in the NT, we're already seeing the impacts of the body worn evidence. This is potentially a massive gain*

*in ensuring victims stories are heard in court. Video conferencing also extends possibilities for justice with Police, witnesses, victims and others such as health staff, being able to give evidence from out bush. - Judge*

*It seems so simple and obvious- there needs to be a much bigger uptake of AVL. Since June the Police budget cuts are making prosecution even harder. In Yuendumu, the AVL means we can dial witnesses in for evidence. It's made a massive difference. – Lawyer*

*The body worn video camera is compelling when they do it right. Of course, you'll advise a client differently when that is there and admissible. - Lawyer*

Technology certainly has a role in reforming the system, but many interviewees identified that it is a system being overwhelmed by matters.

*There are cultural problems in the DPP and unacceptable caseloads that mean people aren't using WAS and properly proofing witnesses. – Lawyer*

*It's clear from the way some Judges talk to victims and witnesses, that they themselves are jaded and de-sensitised to the extreme levels of violence we see in the NT. Sometimes they'll determine a witness is not vulnerable which can be really perplexing. - Lawyer*

Police, Prosecutors and others in the system are so overwhelmed with caseloads that they are not able to give victims the time to ensure victims, most of whom are highly traumatized, and many of whom have English as a second language, understand what is happening and what is expected of them. This adds to the stress and difficulty for witnesses who are wanting to fully cooperate.

*I was not happy because I wanted to talk to the prosecutor. My case worker had to intervene so I could contact him. Eventually he gave me a short, little time, such a short time. I didn't get a clear understanding of the process or explanation about the proceedings or the charges. I didn't know about the court day and what they would ask. I know it's my story, but they had no advice. I am so upset because of the prosecutor. She didn't help me. I went into the meeting hoping to explain or describe my story, and also to get an explanation from the prosecutor about what's going to happen about the court process. Neither happened to my satisfaction because she was in a hurry. She was rushing. She had some questions she wanted to ask me and all she said is at the hearing she wanted me to describe my experience, that's all. She did not make me aware of the process or what is going to happen the following day. I expect my lawyer to empower me, so I can stand up in court and have my day with confidence. Because of lack of briefing, even the questions my lawyer herself was asking in the court, I wasn't sure if she was asking on my behalf or if she was on the other side, so I was hesitant in the beginning. – Neema*

Judges are relying on prosecutors to explain sentencing to victims to ensure that victims understand what has taken place; prosecutors are relying on Police to explain processes to

victims, and victims are reporting that often no-one is explaining anything to them in ways they understand.

*When you have a criminal hearing, the victim is generally not there when you give your decision and move on to sentencing. So, you rely on the prosecutor to feed accurately back to them. So, you might be really good at explaining things in plain English- but the prosecutor might not be and might not be able to get that message back to the victim. - Judge*

## **In court- Lack of judicial understanding**

Even when victims are willing to testify, there can be a lack of judicial understanding about the impacts of trauma on witnesses. Although some training has been instituted, many Judges do not have a good understanding about the complexity of DFV dynamics.

*Judges need a better understanding of the impacts of trauma on witnesses. I've seen convoluted cross-examination derail victims of domestic violence. We need training to ensure that cross-examination is done appropriately and in a way that doesn't confuse witnesses. – Judge*

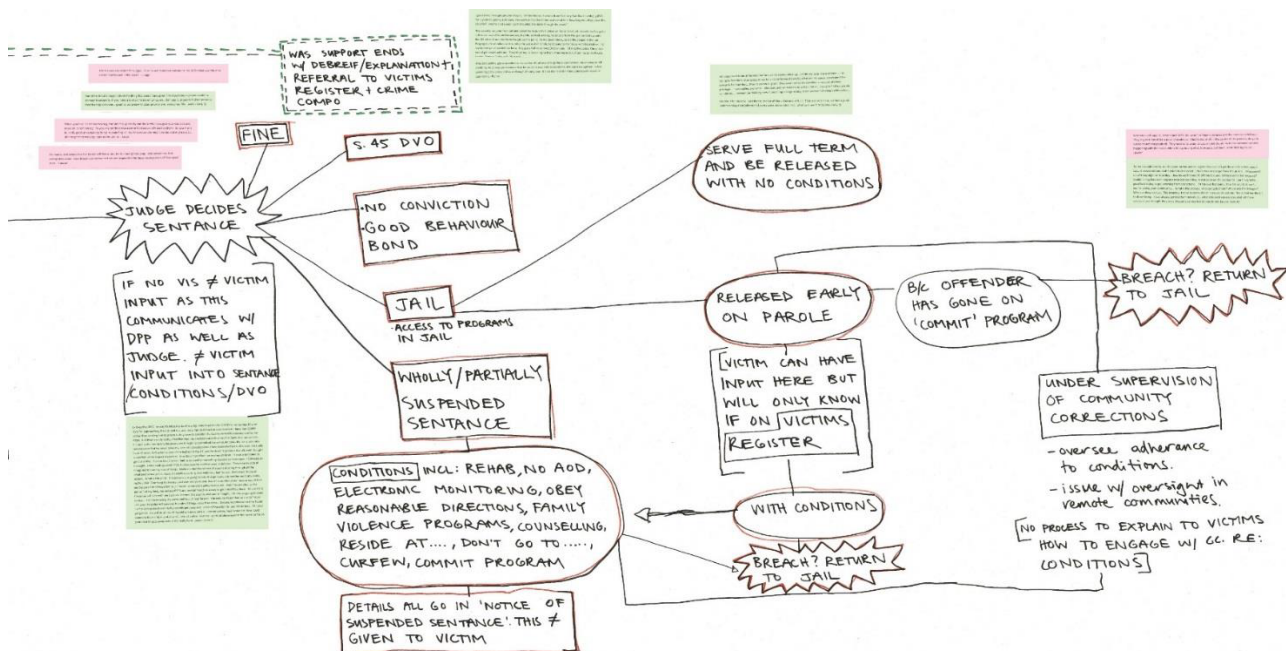
*The whole system is so stacked against these victims. Their trauma makes it so hard for them to recall details of their attacks and the sequence of events. – Lawyer*

*The idea the system holds people to account is a joke. There is so much inconsistency in how different Judges deal with matters. Some of them understand DV, they get coercive control and the risks, but others- the things you hear them say! It's clear they have no understanding of DV at all. They blame victims. They have no understanding of the impacts of trauma. They minimise offending. No wonder victims don't want to participate. It's such a lottery, depending on which Judge is hearing the matter. - Lawyer*

*A key area that needs addressing is judicial understanding of DV dynamics. This would impact the treatment of applications to adjourn because of victim's non-attendance. – Judge*

## **Sentencing**

Issues exist around what information a judge may have available at sentencing. Certainly, they may only be looking at discrete events, rather than patterns of behaviour, which would limit their insight into what may be the most effective (and risk sensitive) sentencing. But, where plea deals have been reached, they may well be looking at an amended statement of facts and the necessary removal or redaction of the Victim Impact Statement (VIS) [as the VIS may reflect the



The final third of the map shows the journey from sentencing of offender through the Corrections system.

impact of a violent assault which has been removed from a statement of facts, to reflect only the property damage around which a plea deal has been reached]. This has a major impact on judicial understanding of the victim's experience: *The VIS is very important for Judges. Prior to victim impact statement, the defendant was the only person humanised in the court.* – Judge

Victims often reported feeling invalidated by sentences.

*Out of the list of charges I think the thing that would have given him most time in prison would be damage to property. If you have a look at the maximum given... damage to property is a higher sentence than hurting someone... good to see property takes priority over someone's life.* – Carly

*[My] Ex breaches DVO, he was found guilty, but the judge only fined him \$1000 for breaching 10 year DVO for approaching the kids and me, and the judge said that the reason why he fined him \$1000 rather than sending him to prison, is they have to consider the fact he served his country and he has PTSD. And that is really, really hard. I feel like that day I walked out of that court at 5pm after sentencing. It's such a shallow victory because even though he committed the crime, he takes the Army side into consideration but he never takes my side into consideration. I have been married to this man. I actually have 10 years DVO which is one of the highest in the NT, and he doesn't consider it at all, even though I submitted victim impact statements. How does that affect me, and my children? It took a long time to get out of this. For the first two years I had to do weekly counselling sessions so I can cope. I still wake in the night. I have undiagnosed PTSD, but because he used to serve in Defence, they take his side of things more than my side of things. Make me feel like what is the point of going through all the emotional stress just to have..., it's really upsetting, also makes you feel like you don't trust the legal system. What is the point? The judge is just going to take that person's side and for me that's really, really unfair. One thing he always used over the years, was that if he murdered me, no one would find me because I don't have family or friends, so no-one's going to miss me. And if by any chance the Police find my body, he will use PTSD and*

*mental health as a way to get him off the hook. 'If I use PTSD, the judge will side with me because I served this country and you're nought. I'm always going to come on top'. He's been using the same stuff as a threat forever. It breaks my heart that on the 18<sup>th</sup> April this year the judge will consider his side of things more than mine... It makes me think, what if he found me? And murdered me? He'll probably get away with it. I don't have family, just three little kids... I'll never get justice. He will do all this thing and get away with it, I cannot get my head around it. How could someone have a history of physical, sexual, verbal, financial, spiritual abuse against their partner for 14 years and he gets away with it. It's really hard. – Irene*

Other issues that were raised during interviews were the lack of sentencing options around perpetrator behaviour change programs. At the time of interviews and the workshop, one small pilot program was operating in Alice Springs and there was no perpetrator behaviour change program operating in Darwin<sup>16</sup>. This was seen as a major issue.

*Our punishments are blunt instruments. They don't do anything about the underlying issues that lead to the violence. – Lawyer*

*We need perpetrator behaviour change programs for our clients. Our clients need them. Judges need the option when sentencing. – Lawyer*

*The DPP are not pro-active around what suspended sentence conditions are beneficial – victims could benefit from this – but they don't get much of a chance. – Lawyer*

*We need more options in terms of family violence programs. We need programs that have on-going engagement not just five days, twice a year, many of which end up being cancelled [The programs run by Corrections]. We'll suspend a sentence on the basis that they'll attend a program and sentences expire before programs are available. – Judge*

*The way people are selected in prison for undergoing the violent offender program or the intensive violent offender program or the RAGE program, you really have to have a sentence of a significant level. So that many people who commit low level assaults continuously, never get to do a course and that's a resourcing issue within the prisons. Because everything is being cut back as a result of the GST cutbacks, there needs to be some kind of triaging to determine who gets to do the course. But we need to be picking it up. If there is someone who has been a number of times, that ought to be recognised, and the next time that person comes in, that person does the course. Because I think some of these courses have considerable impact, they may not the first time but in the end, they do; so those programs need to be adequately resourced in the prison. – Judge*

Where Judges do consult with support workers who understand the lived reality of victims, this can have impacts on the way they sentence:

*When we're formulating parole conditions, especially in the NPY lands, the women's council can assist with information, so we ensure the victim and offender live in different places. – Judge*

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<sup>16</sup> A small pilot program has since been funded in Darwin but at the time of writing was not yet operational.



*One of the Judges had noticed all my support letters and was aware of the [Kungas stopping Violence] program. During sentencing, and this was very unusual, he called me up asked me what I thought about putting conditions around alcohol on one of our clients and I could explain to him that in my experience, those conditions often made these women very unsafe, because when people were drinking, was likely to be the time that violence was likely to happen. So, I explained this to him in the court. It was very unusual, but I think he valued it because it followed these years of support letters where we really try to outline what is happening in the lives of these women. These are complex lives and we can outline what's been happening for them and what they're doing. It's like we are constantly watching what is happening in the lives of these women and then articulating that back to the courts through the letters. But most women who go to court because of these charges don't have anything like that, because they don't have workers walking beside them over a long period of time and who can communicate that to a judge. It is sometimes hard to make sense of their behaviour if you look at one event, but if you put it in context of their lives, the assaults they've experienced, and the orders on them and how it all interrelates. We help them see the world from that woman's point of view. – Support worker*

## **Corrections and victim contact**

Real issues exist in the system to ensure compliance with sentencing conditions.

*Community Corrections oversee adherence to conditions but don't have capacity in remote communities Eg: electronic monitoring, drug testing. So, people are released with certain conditions that it is actually impossible for other people to monitor. - Lawyer*

For victims, the lack of communication with them can have terrifying consequences as they rely on friends and family to help them try and uncover where an offender might be and if they are at risk.

*He's supposed to be at Forward [rehab] but he's at the casino drinking... so I'm trying to ring everyone... I'm trying to find the button press to say he's not at Forward, what are his parole conditions? I'm trying to find out that... and they're protecting him, they won't tell us his conditions because of client privilege.... I was calling everyone... Minister's advisor told me to write a letter to find out parole conditions... I remember thinking how many things can go wrong in one person's dealings with Police... mistake after mistake. Add that to the list of the unfairness of it all. That was very clear, we had a good understanding that [offender's] rights were above [victim's]... all of us knew that. – Carly and Family*

While this victim and her family tried to find out what his conditions were and who they could tell that they were being breached, the offender tracked down and attacked the victim. She survived and describes being surrounded by Police guards in hospital and wondering where everyone was when she was seeking protection and information. In due course, he was charged and found guilty, and because she was receiving support from WAS she was advised of her right to be on the Victims' Register. It's worth noting that there is no process to advise victims of this right when they are not receiving WAS support. But for her- this wasn't useful; she articulates what many victims described which was a confusion about who did what, and a general feeling that no-one had much time for them and their needs for information about the offender, his sentence,



release date and parole conditions. Again, this reflects a fundamental issue in the system, where the system is responding to a discrete incident, while she is living in fear of ongoing coercive controlling violence.

*To me I couldn't really see the point of the Victims' Register because I'd get these letters that would say... it would tell you stuff I didn't find relevant... There was an escape from the prison... it happened on a Friday night or Saturday. How do we find out if [offender] is one of those ones who escaped? Couldn't ring the Victims' Register mob because they're not open on the weekends. Can't ring WAS; good luck trying to get anything from Corrections. If that ever happens, how are you to know? So, you're asking your community to find out if he's out.*

*What is the process, who contacts them? Where are the linkages? Who can they contact? This Monday- Friday business doesn't service DV victims. This is another thing I find confusing. I was always getting them mixed up... what role each service provided. All those services I just thought they were the same service but obviously not. – Carly and Family*

*He got released but has to report to parole officer- with condition no alcohol, no breaches. The Police told me the rough date he would be released. So, I thought Police would call me, but they didn't and when I called them, they informed me he was released a few days earlier. The Police don't explain details. Information they cannot disclose or something like that, so I have no idea. Legal aid [who were assisting with a family law matter] explained everything to me about the terms of his release and every other thing... I never heard of Victims' Register till you just explain it to me now. – Irene*

### **Victim's confusion in the system and need for 'linked up' support**

The need for 'linked up' support, information and advice was repeated again and again by victims interviewed who just wanted one place that they could get information. This would assist them navigate and effectively participate in a confusing system but it's also critical for their safety. These needs were also identified by others who work with victims and see the failings of the system to meet victims needs.

*Women need support, beyond just WAS; the system is hugely complex, and their needs are left out. They're just treated like a piece of evidence. They're not at all in the centre of the process, they are sidelined and marginalised. They need wrap-around support and the ability to ask someone what is happening with their case, where it's up to and what is expected of them, what their rights are. - Lawyer*

# The workshop

## Reflection on the map

After the presentation, workshop participants had an opportunity to reflect on the map and to identify key issues, themes and opportunities for change. It was acknowledged that Aboriginal Territorians are disproportionately impacted by DFV, and there is a need for Aboriginal people to be part of, or to lead the conversation in the NT. It was fairly observed that “There are not enough Aboriginal people in this room”.

For those people who were in the room, some insights emerged just by looking at the whole process for victims end to end. One interview subject, a newly recruited Aboriginal Community Police Officer suggested that it would be helpful to have a map like this in new recruit training, so officers can see how the whole system fits together. Understanding how the system fits together may be equally useful for others working in the system. Other insights emerged from hearing victims talk in their own words, about what had happened for them in the system.

During this reflection, workshop participants identified many issues that could be grouped together in themes. The key reflections identified a system:

- that is disjointed and disconnected.
- where victim/survivors have inadequate support.
- that is overloaded.
- where long time frames effect outcomes.
- where there is not a focus on victim safety.
- that is not breaking cycles of abuse, which is critical for making individuals and communities safer.

Finally, there was a question of whether the justice system alone, is the best place to respond to identified issues. These reflections were explored in more detail in the executive summary of this report.

## A vision for the ‘system’

Workshop participants were then invited to build a vision for what a more effective system might look like. Those thoughts are grouped under themes below. It was noted by one participant that: *A vision without resources is an illusion.*

Workshop participants also identified forces that may support or hold back needed change. These are attached as Appendix C.

### Victim safety

- Priority given for victim/survivor safety
- Children safety and wellbeing;

## **Victim/Survivors focus and support**

- Respect for and communication with victims.
- Victims properly informed from the beginning of the whole criminal process.
- Victim/survivors focus at all times.
- Victim empowerment and agency.
- Housing and financial support for victims as they go through process.

## **An integrated understandable system**

- Aboriginal people need a system that is more responsive and timely: by the time the white legal system engages with the event, everyone has moved on.
- Proper coordination of all stakeholders (not only prosecutors).
- A system which does not further traumatise victims.
- Happy clients and safety.
- A system that avoids unnecessary repetition and duplication.
- A system that is enforced by system players who understand the pathway the victim takes from pre-assault to end outcome.
- Players in system who understand other players' roles and limitations.
- Clear information pathways.
- Victim/survivors are heard, informed and understand the process.
- A relational model and approach.
- Long term funding for teams to support victims through process and appropriate resourcing of these teams.
- Multi-disciplinary service for victims (many services in one location, human centered locations).
- A single, continuous point of contact with systems (human interface).
- A single point of entry for victims.
- Two streams; punitive (existing) and therapy-based.
- A system that doesn't rely on victim's evidence.
- Improved Police investigation, collection of other evidence i.e. forensics.
- A system built on evidence-based practices from the NT.
- Accurate information; timely outcomes; shared understanding; communication with and to guide victims through a complex process; an awareness of services.
- Earlier and better-informed communication with victims about "the system".
- A system that acknowledges trauma; is accessible by victims; where victims are respected and empowered; victim involvement.
- A system that responds to the concern of victims; make perpetrators accountable and make the community safe.
- A system that provides for a prompt and fair disposition of cases, understanding and trauma awareness to the victims.
- Protective outcomes.

## Perpetrators accountability and behaviour change

- A system that stops him from hitting her [whether they want to stay in the relationship, leave the relationship or aren't sure].
- Perpetrator accountability and perpetrator change for the better.
- Reduce repeat offending.
- A system that stops him from hitting her.
- Give people an opportunity to change.

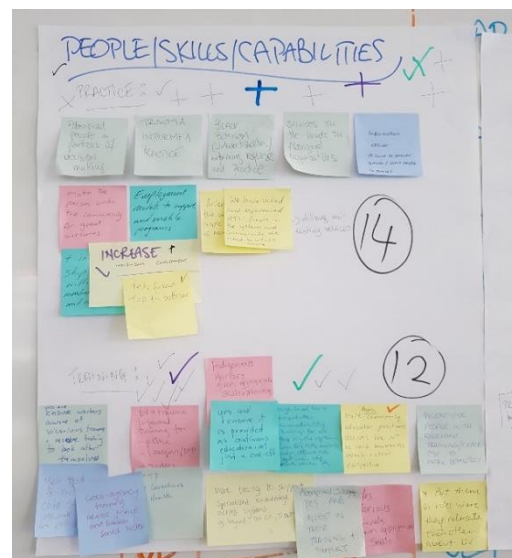
## Early intervention

- Effective early intervention.
- Violence is prevented.
- Ultimately it would be good not to need the system.
- Prevention would be ideal.
- We need more education to address the problem.

# Improving the System

Participants were asked ‘how might we improve the system for victims/ survivors of DFV?’ During the workshop we clarified that victims included any accompanying children. An enormous range of suggestions was generated during this brainstorming process under the headings:

- Policies + Legislation
- Technology
- People/ Skills/ Capabilities
- Processes and Services
- Facilities and Infrastructure
- Events and Programs
- Communication + Engagement
- Surprise/ Provocation (the ‘outside the box’ solutions)



The full list of these ideas can be found at Appendix D.

## Priority actions

Of the ideas generated, all participants were then invited to identify six improvements that they thought had potential to be high impact. There was a lot of agreement about what the priorities are. Some suggestions were raised and identified as ‘high impact’ under multiple headings, so for simplicity they are grouped here by theme and ranked from those that were identified as a priority for the greatest number of workshop participants.

## **Training**

The highest identified priority was training across a range of areas. Training generally was identified as a need across the system and through intersecting systems such as the human service sector. Specific training was prioritised for:

- Trauma-informed DFV awareness training for Police/ lawyers/DPP/Judges.
- Offender education and perpetrator behaviour change programs and case management.
- Child focused primary prevention addressing intergenerational trauma.

## **Ensure linked up support for victims**

- Design 'one stop shop' that allows multiple agencies Eg. Legal support, Police, child protection, health to provide collaborative human centered linked up support, information and updates to victims.
- Establish a DV hotline with specially trained Police officers.
- Collaborative case management.
- Adapt liaison roles as seen in the health system, so victims have an advocate and single point of contact as they navigate system and contact with various agencies.
- Better linkages between government agencies and NGOs working with victims.

## **Reform our practice**

The focus of these priorities was in ensuring trauma-informed practice and in ensuring that Aboriginal and Torres Strait Islander (ATSI) experiences and insights, including those around intersectionality, informed practice by better supporting and utilising skilled and experienced ATSI people in the system; ensuring Aboriginal people are in positions of decision making; increasing indigenous employment [and adequately resourcing and supporting people] from the top down and acknowledging the work many Aboriginal practitioners do outside of Monday to Friday.

## **Build a Trauma-informed system**

Recognise trauma and ensure a trauma-informed foundation for the system. Provide clear trauma-informed information for victims explaining every step of process and how the system works. Address the trauma victims are exposed to.

## **Build integrated technology and record keeping systems**

To allow people operating at any part of the system to be able to advise victim/survivors of the status of their matter, and any information relevant to them around sentencing, parole and release.

## **AVL / video conferencing in all remote communities**

To allow for victims/witnesses to give evidence from their own communities.

## **Focus on Community engagement and inclusion**

There was a recognition we need to build community confidence in the legal process. And, that engagement needed to be tailored, respectful, use cultural expertise and be in appropriate languages.

## **Have more ATSI men involved in the vision**

## **Law reform**

## **Ensure the court is a safe place for victims to come and be heard**

# **Agreed next steps**

At the conclusion of the workshop, participants each reflected on what they individually would take from the workshop<sup>17</sup>. The group also decided on next steps. The group recognised:

- That as individuals, we all had the power to change how we interacted with and conceptualised victim/survivors. We all had the power to go out of the room and do things differently.
- That changes needed to be progressed in individual organisations and agencies, and that some participants had the power to drive that reform in their organisations.
- That some of this work would need to be collaborative, cross agency work best progressed through existing groups and networks. Specifically, this would be the NTG Domestic, Family and Sexual Violence Cross Agency Working Group [CAWG] which is facilitated by the Office of Gender Equity and Family Domestic and Sexual Violence Reduction and the DV Justice Reform Network [DVJRN]<sup>18</sup>. It was agreed that the report documenting the research and the workshop would be given to both groups to allow issues to be progressed. In addition to this, it would be sent to all workshop participants.
- It was noted that it would be critical to maintain the momentum and the shared goals identified at the workshop and continue to work together. The group decided that in order to break down a siloed approach, participants could report back organisational progress to the DVJRN and that the DVJRN would feed that through to the CAWG. It was noted that there would need to be clear communication between the groups to ensure that work wasn't being doubled up.

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<sup>17</sup> Full list of de-identified personal commitments at Appendix F.

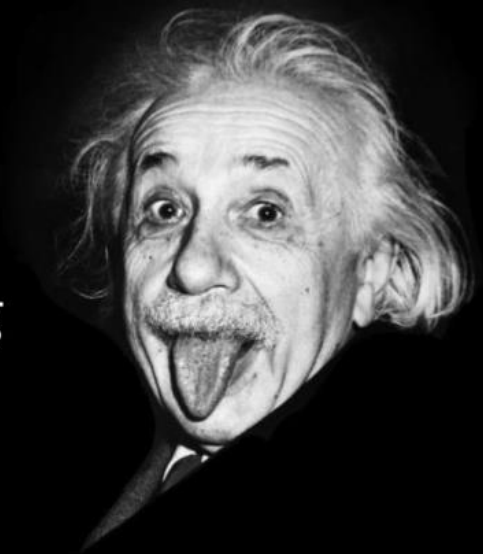
<sup>18</sup> Workshop participants who were not already members of the DVJRN were invited to join at this point.



- In addition to this, senior personnel from Police, Territory Families and Attorney-General and Justice Department committed to meeting in January 2019 to move things forward.
- A meeting of the DVJRN would be convened when the report was available. It was noted that the potential of this collaborative group was limited without an agency or organization resourcing administrative support to assist with the facilitation and management of DVJRN meetings and progressing the networks reform agenda.

"Insanity is doing the same thing over and over again and expecting different results"

*Albert Einstein*



## Author's Thanks

Thanks first and foremost to the brave women who trusted me with their stories - this work wouldn't exist without you.

Thanks also to everyone who works in the 'system' and who gave their time to be interviewed for this project. Those interviewed were open and generous with their insights and observations from many perspectives.

Thanks to Mark Madden for his generous and skillful mentoring and his enthusiasm and support for this project from the initial idea right through to the final report.

Thanks to Sam Bowden for her support, wisdom, heart and great insight, as I worked to pull together the map and the research. Thanks also to Sam for help in the design and running of the workshop, and for always being a straight talker.

Thanks to Sally Cotton for assisting on the day and documenting the workshop.

**Pictured left: In preparation for the workshop- Alex cuts the 11-meter map; it's too big for the room.**



Thanks to my Manager at Dawn House, Susan Crane, who believed in the value of this work when I first proposed it, and took a broad interpretation of 'Community Education' to allow me to do it.

Thanks to all the participants of the workshop who made time in busy schedules to come together. You listened deeply to the stories you heard and reflected deeply on the implications. You were open, reflective and engaged in identifying the need for reforms in the justice system, and organisational and individual practice.

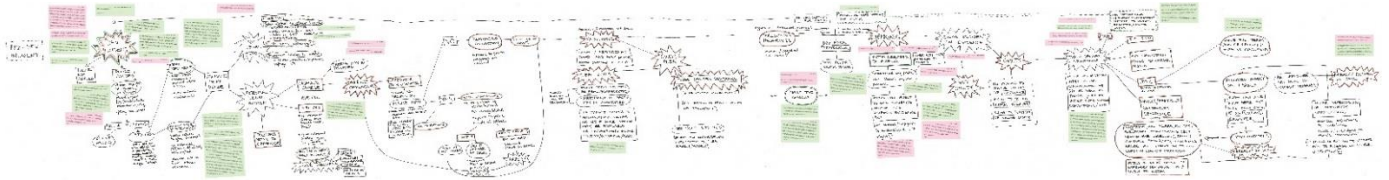
Finally, thanks to Mary Chalmers for her vision in pulling people together to work as a DV Justice Reform Network, and thanks to Network members for their commitment to doing better by victim/ survivors of Domestic and Family Violence in the NT.

# Appendix A- Workshop participants

- Annabel Pengilley, Managing Solicitor, Domestic Violence Legal Service
- Brett Prowse, A/Superintendent Youth and Families Division - Project Team, NT Police
- Christine Foran, Director, Office of Gender Equity and Violence Reduction, Territory Families
- Colleen Burns, Coordinator, Witness Assistance Service, Director of Public Prosecutions
- David Dalrymple, Crown Prosecutor, Director of Public Prosecutions
- Desmond Campbell, Project Officer, Domestic and Family Violence Prevention Strategy Anti-Discrimination Commission
- Elizabeth Morris, Deputy Chief Judge, Darwin Local Court
- Fiona Hussin, Deputy Director, Northern Territory Legal Aid Commission
- Jack Karczewski, Director, Director of Public Prosecutions
- Jane Lloyd, Principal Advisor, Territory Families
- Joy Simpson, Senior Practice Leader, Territory Families
- Kate Kelly, DV Litigator, Solicitor for the NT, Department of the Attorney-General and Justice
- Kris Evans APM, Commander, Domestic and Personal Violence Command, NT Police
- Laia Dominguez, Witness Assistance Service Officer, Director of Public Prosecutions
- Mary Chalmers, Barrister
- Matthew Nathan SC, Deputy Director, Director of Public Prosecutions
- Melissa Crawford, Safety and Wellbeing Coordinator, Domestic Violence Legal Service
- Meredith Day, Acting Chief Executive Officer, Department of the Attorney-General and Justice
- Penny Drysdale, Senior Policy Officer, Policy Coordination / Legal Policy, Department of the Attorney-General and Justice
- Reece P Kershaw APM, Commissioner of Police and CEO of Fire and Emergency Services
- Sandy Lau, Managing Summary Prosecutor, Director of Public Prosecutions
- Tamara Bryers, Regional Manager- Community Corrections Casuarina, Department of the Attorney-General and Justice
- Tamara Grealy, Crown Prosecutor, Director of Public Prosecutions

Alex Richmond – Facilitator, Mark Madden – Facilitator, Sam Bowden- Facilitator/ Support, Sally Cotton-Support

## Appendix B- Complete map



[Link to high resolution copy of the map](#)<sup>19</sup>

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<sup>19</sup> A link to the high resolution map can be accessed via a tab at the bottom of the Dawn House Community Educator web page <https://www.dawnhouse.org.au/domestic-violence-community-education>

# Appendix C – Forces for and against change

After building a vision for the system, Participants reflected on what are the forces that may support and hold back change, and these are summarized below:

## Forces for change

- There are many good, smart, committed people trying to make a difference.
- Respectful relationships.
- There is broad agreement that the system needs to change.
- Multi-agency hubs (however, mandatory reporting can be a barrier).
- Awareness and avoidance of bias.
- Systems with a shared understanding and awareness of DV.
- Understanding that victims need assistance dealing with domestic violence and that DFV is not OK.
- There are no limits to work collaboratively.
- Knowing that we can do things better; that we are at the workshop (understanding the perspective of victims).
- Desire to improve.
- The players in the system have undergone a paradigm shift in their approach.

## Forces holding back change

- Assumptions that:
  - The system is a 'system'.
  - The same approach/system will work for everyone.
  - That courts and law can change people's behavior.
  - That gaol changes people's behaviour or deters them.
  - We know best.
  - Victims will be conflicted themselves.
  - All victims want to 'escape'.
  - Police help victims (sometimes a false hope).
- Community biases and expectations.
- Different agencies, different agendas.
- A system that is reactive.
- Blame culture, shifting responsibility.
- Not a workable system, unhappy clients, no cohesion.

- Lack of cohesion between different agencies; siloed.
- Lack of co-ordination between organisations.
- Allocation of resources (double handling, overlap, confusion).
- Lack of money.
- Safety (individual or community) vs self-determination; lack of holistic integrated response.
- Not allowing community to be part of the change process.
- System that knows best for victims.
- Staff churn.
- Forces driven by budget constraints.
- Partnerships take work. Constrained by individualised agendas from a range of agencies, competing political agendas; different legislative and policy drivers.



# Appendix D- Complete list of ideas

## Policies + Legislation

### Law reform

- Need to speed up the process by allowing for early pleas, victims to give evidence early.
- Police code of conduct needed re- practices on the investigation and response to DV. Public accountability re- Polices approaches to DV also needed.
- Review maximum penalties for aggravated assault and property damage (currently five year max penalty for aggravated assault, 14 years for property damage).
- Track multiple DV offences by making all evidence of prior relationship history admissible automatically in DV matters.
- New practice direction requiring the Registry to put a copy of the defendant's criminal history on the court file. [19(2)(c) makes it mandatory for court to consider defendant's criminal record, but this is virtually impossible for private applicant to obtain unless matter is listed for a contested hearing and the applicant can then seek a summons to issue].
- Amendments needed to either DV Act or Care and Protection Act to ensure DV court knows if kids are in care [currently can only summons TF and Care and Protection docs once listed for contested hearing].
- There is a need for specific legislation about strangulation in a DV relationship.
- There is a need for specific legislation relating to the killing of an unborn child.
- Research/evidence base. What are the effects positive and negative of mandatory reporting and prosecution on women and on the criminal system informed response.
- Amend DFVA s.85 to empower to collect Protected Person [PP] property.
- DV Act Reform= clarity court power to vary s.44 by consent; clarity that court cannot change DVO with Protected Person having opportunity to be heard.
- Victims need input into s.45 DVOs.

### Policy Changes

- Victims rights enshrined in the process, so they are more empowered and have a more integrated approach and input into the process.
- A single point of contact needed for victims involved in the justice system.
- Process needed to advise victim of outcome, right to be on Victims' Register and right to Crimes compensation.
- Need to ensure victim input into sentencing when VIS removed or redacted because of plea deal.
- Offenders should be charged with multiple offences- not bundled together into one or two charges.
- Need power to send DV respondent to program (when no criminal charges).

- Victims should be able to get the notice of suspended sentence that details conditions.
- Long term funding.
- Changes to policies to be done more quickly.
- Correction KPI set for recidivism.
- Gender equity strategies in workplaces.
- Police need to issue s.41 DVOs and prioritise victim safety.
- Recognition of cultural law in conjunction with white fella law.

## Technology

- Use of technology to assist with Information sharing [may need to amend Information Sharing Laws].
- Build integrated systems that help us break down organizational silos. We need to be able to access information on database to assist with victim's understanding of process, but also for sentencing and policing. IT systems should be accessible by all agencies with key information such as court dates, names etc.
- Work with people in the language they are comfortable with. Need to work better and smarter. Indigenous language resources for victims, offenders and children [Corrections already using some of these].
- Use technology to design Aboriginal friendly and safe resources to educate young people about DV in their language.
- online tracking of where the victim is at, in the process like My Health.
- We have a highly mobile population: allow for victims to access relevant information about their case at any Police station Court.
- AVL / video conferencing in all remote communities for victims/witnesses to give evidence.

## People/ Skills/ Capabilities

### Practice

- Aboriginal people in positions of decision making.
- Trauma-informed practice.
- Black feminism (intersectionalities) informing response and practice.
- Services on Aboriginal organization.
- Information officer at court to answer queries/direct people to services.
- Match person with the community, for great outcomes.
- Employment models to support and enable programs.
- We have skilled and experienced ATSI people in the system and community: we need to utilise more and utilise existing services.

- Increase indigenous employment (from top down).
- Acknowledge the work Aboriginal people do outside of Monday to Friday.

## **Training**

- Advanced trauma-informed DFV training for Police /lawyers/ DPP/ Judges.
- Cross-agency training across justice and human service sector.
- Indigenous workers given skills and appropriate ongoing training and mentoring to succeed.
- Ursula Bensteid training for all.
- High level DV and perpetrator accountability training for all in the justice system.
- More training to support specialised knowledge across systems beyond DV 101.
- Trauma training needed.
- More Aboriginal interpreters needed, and we must invest in their training and support.
- Need incentives so people with relevant training/expertise can work remotely.
- Ensure workers are aware of vicarious trauma and receive training to look after themselves.

## **Processes and Services**

### **Need Perpetrator change and accountability**

- More behaviour change programs with proper accountability for perpetrators (in addition to, not instead of, a criminal justice response).
- Perpetrator programs designed in culturally appropriate manner by local people, to allow for greater ownership and support to improve outcomes.
- More correctional services have case management approach to prisoners.
- More accountability for perpetrators of emotional DV.

### **Centralised collaborative support for victims**

- Collaborative approach for victims-women and children.
- One stop shop multi-disciplinary centre, with range of services working together in one location e.g. trained legal, Police, child protection, health, human centered.
- Shared frameworks are evidence based.
- Cohesion between services.
- One point of contact where victims can get support and updates.
- Better support for children exposed to DFV when it occurs.
- Establish a DV hotline with specially trained Police officers.

## **Clearer communication with victims**

- Move the wasted resources at summons and hearing stage, to early information system.
- Drop the charges (clear pathway for victim).
- Corrections ensure victims with non-contact DVOs victims cannot be called/visit offenders.
- Making a victim know that the criminal process does not end by giving statement and making victim aware of a possible hearing.
- Complex system, misinformation and misunderstanding of justice system by victim and other witnesses not engaging.

## **Respecting victims' objections**

- Don't rely on victims' evidence; improve Police investigations and resources to bring other evidence.
- If it is an appropriate case for drop the charges: do it.

## **Facilities and Infrastructure**

- DV one stop shop for victims and services.
- Ensure the court is a safe place for victims to come and be heard.
- Make the court an important place in the community, engendering respect.
- At all courts, including bush courts, have a waiting room.
- Adequate housing for all families in the NT.
- Look at what we have now and assess its effectiveness; and get rid of what we don't need to make room for improvement.
- Ensure courts and Police are safer for victims to access.
- Need remote hubs- with Centrelink, Police, NGOs.
- Need to fund and support place-based solutions - example – Groote Island multi-purpose comfortable safe room, that is used by a range of services including TF because it is safe, accessible and appropriate.

## **Events and Programs**

- Need Offender education programs [and need these to happen early in process and be on-going].
- Need violence prevention programs at the community level, driven by community elders.
- Need programs appropriate for families in FV [ aimed at rehabilitation and behavioural change].

- At first mention offer therapy-based alternatives to the criminal justice system and put criminal process on hold until completed.
- Programs that address WHY that person is completing violence; community chats; alcohol.
- DV education on remand.
- Additional men's behaviour change programs.
- Programs designed to focus on client's safety.
- Reinstate the Dr (Nugget) Coombs version of CDP and properly resource it.
- Programs that support the woman to stay at home and the perpetrator to "move out".
- Single navigator supporting victim through the system.
- DV accessible conferences in NT aimed at all "players" in justice, community services, health, education to share and educate; DV conference every year.

## Communication + Engagement

### Need trauma-informed system

- Build trauma-informed foundation for system<sup>20</sup>. Have clear trauma-informed information for victims explaining every step of process and how the system works; and address the trauma they are exposed to.

### Work with young people

- Children-focused primary prevention. Education programs need to commence in primary school and continue throughout schooling.
- Need youth hubs with education, health, Police, housing, offering both flexible and structured support to address DFV intergenerational trauma to enable safe, strong and healthy families.

### Education needed

- Need timely and accessible program and engagement.
- Need more community education about DFV and its effects.
- Update NTG website- information for victims' access to services, criminal process, videos re: court involvement.
- Need bystander education.

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<sup>20</sup> For a report into what this may look like see: [Trauma and the law: Applying trauma-informed practice to legal and judicial contexts](https://www.blueknot.org.au/Portals/2/Reports%20and%20Docs/Legal%20and%20Justice%20Background%20Paper%20with%20Abstract%20FINAL.pdf)  
<https://www.blueknot.org.au/Portals/2/Reports%20and%20Docs/Legal%20and%20Justice%20Background%20Paper%20with%20Abstract%20FINAL.pdf>

## **Increase support for victims**

- Need independent engagement officer- first and continuous point of contact with system. A relational model to enable continuity of help through the system.
- Increase accessibility of WAS officers at court.
- The victim has a single point of contact until all legal matters end.
- Need communication from the first contact with DV.

## **Engaging communities**

- Need to build Community engagement and inclusion and confidence in the process. Need to use respectful language to help build confidence.
- Greater use of cultural expertise.
- Need to utilise language in NTG branding (localise to capture individual language groups).
- Tailored to best meet client/community needs and safety: “one size does not fit all”.

## **Surprise/ Provocation (the ‘outside the box’ solutions)**

- Remove offenders to safe houses rather than the victims.
- Have more Aboriginal men involved in the vision.
- Build a genuinely more integrated system (as simple and difficult as that will be).
- Smash the patriarchy.
- Keep the government out.
- Ask what do Aboriginal women want from the criminal system? Listen to the victims.
- Require victims to access counselling and support services.
- Community court to sentence perpetrators (bring the shame of their peers on them).
- Use ADR process where safe and victims want it.



# Appendix E- Quotes included on the map

## PRE-DFV INCIDENT

A lot of the people we worked with in our community, when people get angry and frustrated, they don't have great coping mechanisms-so the talking stops, they don't know what to do- instinct kicks in and that's when they just resort to violence. They just don't have processes like mediation or ways to talk about it, or processes to calm themselves down-they just don't have any of that. They get angry, they can't cope, then violence comes out. So, my partner developed this Stop. Walk. Talk. thing with them and he'd say "If you're getting frustrated, if that woman has annoyed you, just stop what you're doing. Go for a walk. And find somebody to talk to". And there were a few Kartia (white people) in the community who the men had respect for and they jumped on board, so some men would talk to them, some would talk to Police, some would find an elder for their family. And it really worked to diffuse situations and prevent violence. One Monday morning we got into work and [Police officer] had three men on the doorstep of the Police station wanting to come in because they'd done their stop and their walk, and they wanted to talk. He'd sit down with them on the couch, they all drink tea and talk and get some clarity. These are all domestics that were prevented just because we could work with the men. If we got jobs that were lower level domestics, we'd make it a priority to go to the job, they probably wouldn't meet the criteria of COMMS to be called out. It might not even make it to a Police screening if the person called 000, but because we had that rapport with the community, someone would ring, we'd make an effort to get to that stuff as fast as we could to prevent stuff from happening. – Police

It's like we need some internal spreadsheet where Police can share early intervention and prevention projects with each other so we can learn from each other. A lot of Police like the remote work because they get autonomy, they get to innovate and make a difference. Be good to share what's working. There's no model for feeding it up the chain, or evaluating what's working. - Police

That training that Moogie Patu [Corrections] does is fantastic. The young men who went really wanted to be there. Men are owning their bad behaviour. They are hungry for this kind of program. You've got to realise that they are not growing up with exposure to why violence is harmful. -Police

## DFV INCIDENT - POLICE RESPONSE

When I asked them about a DVO, they said that Police won't issue DVOs because they'd been directed not to. They told me to go to court and get one there. - Maria

She was being flogged on the ground. She got a butter knife and 'poked' him. He was the first to meet Police when they arrived. He told them the story. The Police were junior probationary constables- they took him at face value- went straight in and charged her. On the day of the hearing I consulted with Crown, but there was no public interest in prosecuting this lady, when we looked at the complainant's rap sheet it was a mile long with DV assaults against her. Your common sense comes in and you can see the pattern of perpetration. But the Police just came in- listened to his story, and even though he wouldn't provide a statement, they proceeded. Lawyer

When we call 000, they never understand. They don't know our streets and people's names. We give up. The local Police know places and people, but they won't just give their numbers, say we got to call 000. - Mary

The Police came to the door, the neighbours must have called them. The kids were there, my eye was already closing. It was a huge bruise from where he hit me. But I was real rattled cause he'd been choking me. They took him around the corner at the front and they all stood around his motorbike and had a talk. I heard them laughing. Then they left. They never even spoke to me. – Fran

Police responses are inconsistent. In town, people are over Policed. In public, in town is often where women who are victims of coercive controlling violence will use offshoot violence on their partners- because it feels safe. But back in their communities there are all kinds of violence being inflicted against them and no-one steps in. The Police desperately need primary perpetrator training. We're seeing so many women being charged and locked up for assaults on very, very violent partners. DVOs are being put on them. They may be released on a suspended sentence which includes no alcohol. These women live in a constant fear they're breaking laws, which makes for a very dangerous situation when the DV inevitably occurs and they are the victim. They are terrified to call Police because they may be drunk and on a suspended sentence. They're terrified to report because Territory Families might take their children. It is

creating a culture where women feel that he can do anything to me, and I can't get help. They're extremely unsafe and they don't trust the legal system. Police aren't safe people for the women we work with, because they're the people who lock them up. And these are the most vulnerable women we're talking about. Women whose ears are bitten off, whose partners carve their names on their bodies. A recent client had to have her spleen removed because a rock was thrown so hard at her stomach. And these women can be too scared to go to hospital because it may be recorded somewhere that they have alcohol in their system- so they'll get locked up. Or there'll be a mandatory report and they fear losing their kids. So nothing feels safe: they feel they can't get help anywhere. - Support worker

When I come home instead of saying sorry for what happened... He set me up to make me look like I'm a violent person, every time he put me down and choke me and I call 000... He's punch himself in face... I did not know that he very smart, if the Police turn up- that's me, I'm hitting him [he says]. My kids witness him hitting me and hitting himself, the neighbour approached because she heard my crying, I trying to escape the house... I can't go. He knew I'm really isolated. So, he just keeps doing it. I feel like they won't take it seriously. They say not enough evidence... why Police give him the DVO order when there's not enough evidence... we won't charge him... not enough evidence... you do not understand. Don't you dare tell me you understand... People ask for help and you ignore it. - Kelly

While he was assaulting me, he called them [Police]. They came and put a DVO on me. You can't trust them, they'll always believe him. - Jenna

With the legal system they don't care about the individual. Like in my case between 2007 and 2017, I had 10 DVOs on my ex-partner. Between 2007 and 2016, the Police never served him with any of the DVOs to protect me and my kids, but because it was never served on him personally, I had no grounds to get him charged, even if I put statements out- oh no, the DVO wasn't served, sorry but we can't do this.'

The Police need to do a domestic violence course ok. They actually have to sit down and talk to victims who have actually been through domestic violence. They have to learn the symptoms of the signs of domestic violence situation. Yes, a person may ring and complain, the person who is ringing is scared they want you to do your job instead of saying that's probably her partner and that's probably her ex-partner. You don't know the circumstances of what that person has gone through. Take it as a first-time thing, that's what you're supposed to do, every time you rock up to a situation-it's a first-time thing. You assess what happened, you take notes, you give out a phone number and you speak to the person - be a little bit sympathetic to their situation. Like with my ex-partner, I kicked him out in 2010. From 2010-2017, he was constantly in my house, harassing me. I did everything within a DV situation, when a perpetrator comes to your

house, and tries to do anything to you- you ring the Police, you get a DVO on them, you get a trespass notice on them. I done all that, I done it the legal way, but the system let me down- it failed me miserably. I cannot understand why the Police take the oath of serving and protecting the innocent when they can't even do it. Their serving and protecting is because you've rung, like 20,000 times- I'm sick of listening to you and your complaints, I'll turn up to your house to show I've turned up to your house, but nothing will actually happen. In May 2015, just after he'd broken into my sister's house and tied her up, my 13 years old son is standing next to me. Constables rocked up, told him that [offender's name] was there at my house and that he'd stole something, and the constables said- 'You know we're sick of coming to your house?' And this is in front of my child for shit's sake. What thought would my child be having? My mum rings for help and they say, 'You can get fucked mate', so why should I trust the Police to do anything or uphold the law, when my mother who is an adult, is told they are sick of coming to my house? When they stated to me that I should stop ringing them- I stated to their face, 'Well, maybe you should do your fucking job'. It frustrates the hell out of me. Maybe you're annoying because you're constantly ringing them about the same person that is turning up to your house and doing all this stuff. Alarm bells should go off in your head- oh shit- maybe we should actually do something about this person. Actually, get him off the street. Actually, charge him with all those things he's actually done to this person. Instead of going 'Oh well, it's fucking her again. We're sick of going out to her house'. So, in the end, because I've had so many DVOs I ended up losing my kids to Territory Families because of the NT Police and because of [offenders name]. - Pamela

[In Irene's case below, despite multiple calls to Police for help, they only sought to charge him and protect her with a DVO, after she had already left the relationship (with the support of a women's refuge). The reason Police were pursuing the case at a later date, was that they were charging him for the savage assault on his subsequent partner, and wished to strengthen that case, as described below.]

From the bottom of my heart, I don't think they believed me, even if they had any reservation, I don't think they'll do anything. I feel what is the point. You call the Police, after the Police left he said 'You stupid bitch. You do that and I'm going to lose my job in the army, and then where you think you're going to be. You're heavily pregnant, you've got one kid with autism. I don't see the point of calling them again. It's just going to make things worse.' He's just going to get mad. Every time they left, they're just going to come in and talk and then left, what is really the point in the first place. I thought they'd have him removed away from me.... I say to Police I reported that he punched me and chased me down and you did nothing. The only reason you come to me, is you want dirt on him. Eventually I end up helping them. 'If you come and help us, we'll help you get DVO cause what he did to you isn't acceptable'.... They needed me so they could convict him for the other breaches, because he doesn't have a criminal record before, and they want him to have a criminal record before the other one to go to the Supreme Court. - Irene

This was warning they gave it. If he going to touch me up again, I'm going to lock him up in jail. He asked me yesterday, 'Did you put me DVO not to stay with you', I don't want to tell him. He might want to take me back because I want to stay a little while, I want to get better, my body's still paining. This is from big rock. There was no power, I was standing in the cupboard. I don't know why he locked me in the dark. He came and touch me up. He knocked me out. My uncle locked him out.... He said, 'Open the door; I've got sweet kit", but I didn't listen. I'm going to rest here for maybe two or three weeks, cause the kids don't want to see him. If they see him coming, they run away everywhere, cause they scared now. They saw him hit me and they said, 'Mum, I don't feel like staying with dad'. The kids don't want to see him. But he wants to take the kids back and me. - Ladonna

Having to retell your story again, hoping there are some notes on the system that they can just quickly, you're giving [offenders] name, details, there's a warrant out for his address... this constant harassment is still happening. And they don't know the story. They're unable to find notes... we're explaining he's breaching conditions of DVO... Every contact, and I'm not exaggerating, every contact with Police, you're having to retell your story again and that was getting very frustrating in the end, because you're just exhausted from reliving everything again... Trying to keep a track of dates and things in your head and you think, I've already told you this. I told you this on the first attack or assault. I've been to hospital, we've had to move from where we're staying... dragging kids all over the place... Every contact we had with them you're having to educate them... After that dealing with Police, I was advised 'Why don't you just keep a copy of your DVO on you, carry it with you'... Whatever their system allows... they don't have it... There's "no contact" from the Police, but he's still harassing us, so we're reporting every time. It was like 'It's me again, I just called again, it's still happening.' and they're like 'You're still calling?' Like we were inconveniencing them by reporting too much. - Carly

Having to report stuff on the phone and wasting their time, to me - I don't like doing, so I don't ring 'em. I know they're not going to get him for any of it, so we're not physically catching him, I don't have pictures saying-look there he is.... So, I don't want to waste their time with call-outs, so I went in to make the report. Maybe this time something might happen. Maybe this time we can do something. I've lost a lot of faith. There's no point, one - I know they can't find him and two, what's the point when that's the crap I get? Unless he's there, physically trying to kill me, nothing can be done- that's the attitude I get. That's the attitude I get. Because it's all phone calls, drive-bys, stalking... I don't think it's considered serious enough. I think I've said to the Police, 'Are you going to take it serious when I'm dead and so is my daughter?' - Briana

50% of Police don't see threatening texts sent from the perpetrator's phone as evidence of carriage, so they won't do anything when victims report threats. - Lawyer

The Police said, 'If he's not hitting you- we can't do anything.'- Melanie

Can you just arrest him? He spit on my face, holding my hands so I couldn't make a call, that's not assault. At the time I had no idea. I was hoping the Police would know, that they would do something for me, something that is in the legislation that I have no idea about, something to get him away from me. Or give me a head start. I just want him to go. He will kill me one way or other, I just don't know which way. He threatened me so many times: 'I know how to kill you and make it like an accident'. I was frantic for him to stop. He would grab the pillow and put it on my face until I can't breathe. He enjoyed doing it to me. He said 'This is how easy it is to kill you. You don't have anything in you, that can push me off you.'- Irene

The first question they always ask when you call for someone, is if they are Aboriginal, sometimes now they say, 'What nationality?'. They say it's to identify them, but I bet white people don't have to wait two hours. - Casey

I've had women from [remote Central Australian Community] say 'What we do now is we call the Police to come to help get us safe'. When they ask for statement, we say, 'No'. Because they know the minute that they provide a statement, it's going to go through the court process and that makes them vulnerable. So, they're managing their safety in a pretty sophisticated way, knowing a statement leads to a prosecution. - Lawyer

She was being flogged on the ground. She got a butter knife and 'poked' him. He was the first to meet Police when they arrived. He told them the story. The Police were junior probationary constables - they took him at face value - went straight in and charged her. On the day of the hearing I consulted with Crown, but there was no public interest in prosecuting this lady, when we looked at the complainant's rap sheet it was a mile long with DV assaults against her. Your common sense comes in and you can see the pattern of perpetration. But the Police just came in- listened to his story, and even though he wouldn't provide a statement, they proceeded. - Lawyer



Options for referrals through support link are hopeless when you're remote- there is no one to refer to. - Police

We get inappropriate referrals through support link, but for a women's shelter, we get surprisingly few appropriate referrals, maybe four a month. Sometimes you get a referral that's got detail but sometimes there is no information in referrals – it's so inconsistent. Police definitely need training in how to make referrals and who to refer to. - Support Worker

It's such a complicated policing issue. It takes a heightened level of insight. We need to be better managing probationary constables. So many of them are unable to recognise red flags, they ignore the children in the home. We just don't have the skills we need. - Police

The DVU unit is a specialist unit but it's staffed by officers who just rotate through the positions, so they go back into stations with more knowledge about DV, but they're not necessarily specialists. It's very different from a model where you have highly trained, specialist officers doing this work and building up expertise over time. - Police

There's a completely different approach for indigenous and non-indigenous people. Certainly, the orders taken out by Police are very different. You'll have very serious assaults and they'll just put a non intox [DVO] on and not even charge him. If it's a white couple, sometimes there is a full "no contact" over threats. It puzzles me the approach Police take. It's as if it's not as bad to beat up an itinerant woman. Maybe it's because the prisons are already full and they're not wanting to set people up to fail because they've put orders on both in the past and they know they'll have contact. But sometimes I think they miss the coercive controlling thing. Some of these guys are psychos. They do come through. But again, it comes back to how much time and energy the Police and courts want to put into looking at all the evidence. – Lawyer

Because it feels like a waste of time that can affect how Police officers may deal with the next domestic violence assault, when they've just invested maybe months looking for witnesses, doing summonses, re-doing summons when matters get put off again, it's a lot of time and effort. Especially where witnesses and victims are itinerant and can be hard to reach. And without a victim and witnesses it's all a waste of time. It can feel like you've done all that work for nothing. And what can feel like a waste of time can affect how Police officers may deal with the next domestic violence incident. - Police

It's a problem for us getting statements when the witnesses and victims are intoxicated. We can't get the statements at the time, and it's really hard to get them later with itinerants. Sometimes even if they're not drunk, you can't get all the statements on the day. As time passes, interest gets lower and lower. Now you're trying to chase up Police in Wadeye to get witness statements and they've got other work to do. The victims themselves may have suffered more assaults, so they can't remember the details of the assault. We need better ways to get them all at the time. - Police

We're using a model where if any victim is from the NPY lands, Police call us as soon as there is incident, so we can follow up with victim. We've been doing it with SA and WA for a while, NT was the last jurisdiction to come on board because of issues with supportlink so it's newer here. It works really well elsewhere to ensure ongoing support of women throughout the process. – Support worker

After an incident we'll always follow up with the victim, but the offender too- it reduces rates of recidivism. We used to have an amazing ACPO. We'd just print out all the promis reports of DV and she'd follow people up once the dust had settled and see whether everyone was OK and what referrals they might need. - Police

## POTENTIAL LEGAL ACTION

The judicial operations section of Police will say 'drop the charges' to prosecutors. No one bothers to tell her, so she'll then rock up to court to find charges have been dropped while he keeps offending. - Lawyer

I've seen a striking increase in the number of women being charged, convicted and sentenced for assaults against partners who have abused them for lengthy periods. – Lawyer

I've done one family conference around DV. We were the first people who actually spoke to the victim about what she wanted. The Police and Prosecutions hadn't spoken to her and she didn't want to be involved with them. - Support worker

The DPP Prosecutors have huge caseloads and they're inexperienced. We used to have Senior Police officers doing court 1 work. If they were good senior experienced Police, they had a much better understanding and ability to talk to victims about what happened in court. Because

they had a foot in both camps, if they were experienced Police prosecutors- they knew about the court and knew if you had one person's word against another and that's all you've got- there's this test. So, it's not that the Judge didn't believe you, it's very hard for the judge because of 'beyond reasonable doubt'- They can explain. Those Police prosecutors were good at that. - Judge

## **'DROP THE CHARGES'**

So, my file was transferred from a female to a male... He wanted further information. The whole reason I came here was so I didn't have to go through it so many times. 'I'm sorry about that', I said at that point, 'I don't want to do this any more, I'm not well, I don't have the energy for it anymore. I'm over it'. 'Actually, you can't withdraw the statement'. I don't know if I would have made the statement if I knew that. He's saying I can't withdraw the statement and I just have no faith in the system anymore. I just don't care. Regardless of what you want there is enough evidence to charge him, so we're going to do that, so you can help us, or you can't. Or put it forward to be charged, maybe there's a step or two before then, I don't know. - Natalie

We get calls all the time from victims who are confused about how the system works and what their options are. There aren't clear places to send them, especially if they want to drop the charges. Defendants are also confused but we can refer them to REALS. – Support Worker

It's a tactic to keep victims in the dark when they want to drop or vary DVOs, once the Police are involved, they just get pushed aside, they're just a piece of evidence. - Support Worker

Women will say 'Drop the charges. Drop the charges,' and they just get pushed between Police and the DPP. No-one wants to help them. But when you stop to educate them, to explain different options for DVOs they often want to vary rather than drop, but no-one wants to talk to them. - Lawyer

I do worry that for many people in communities, the lines have been blurred between Police issued DVOs and the much smaller number that are got with the assistance of women's legal services. And so that very empowering process on the civil side, has played a role in creating a perception that victims are driving the process on the criminal side. Most people don't understand that even if a woman says 'drop the charges', prosecution will probably be proceeding, so it does fall on the victims, that blame. – Lawyer

It's a recurring issue in the Barkley, that victims would describe his family, and sometimes her own family, blaming her for locking him up. And sometimes that extrapolates even more broadly to women victims being responsible for mass incarceration [of Aboriginal men]. – Lawyer

I've seen community members put in jail, put out of jail, it doesn't do anything and I don't think that it would help [me]. The idea is that some sort of change occurs, so that [the violence] doesn't occur again, but I don't think the system serves that. From what I've witnessed people get locked up, they get out and the same cycle keeps going. I don't see how jail makes anyone change, especially if they're not going to acknowledge what they did in the first place- so what's the point? – Natalie

#### **s.41 DVO and DVOs GENERALLY**

She told me it would go to Court, if uncontested it would go for 10 years, but then I got here, and they were like it's 12 months and I was a bit surprised by that. It feels like actually crazy because the DVO got served, then it got breached four times, but they rolled the charges into two, so the first thing was meant to be heard on February 28<sup>th</sup> and I got told by the Police that I had to go to court, but then other people were like 'You don't need to be here' and it was really traumatising because I got there and he was sitting right out the front and then I had to walk past him. And then his lawyer wasn't there, so it just got adjourned and it happened a number of times, adjourned to Alice Springs and eventually set for hearing on 8<sup>th</sup> August. So in between that time, I'd made a statement with Police in Alice Springs and basically nothing happened till I got here and met with [support worker] about upcoming court stuff with the DVO and she asked about the charges, and I said I've actually given up because I tried to contact a Police woman a number of times. She explained that she had phoned my ex if he wanted to make a comment and I'd given all the evidence I had. And then I just gave up with it. Clearly no-one is doing anything. He's breached the DVO a couple of times which meant I had no sense of safety. I was scared because he's crazy jealous. The Police have the info. They haven't done anything. I think I need to... just give up. Obviously, nothing is going to happen. – Natalie

Sometimes a woman will have a gut feeling something is about to happen and I might feel that something may happen; but it doesn't meet the threshold to take out a reactive Police order, and if she's got that gut feeling now - something is probably happening in the next few days, not in months when court is on... Once there is an assault, we can take out an order. I'd argue that that is too late. - Police

I went off to court, I was initially told by Police, if you get a DVO, it's simple- you don't even need to show up to court and so I was as like if it's as simple as that I'll go ahead and do it... and unbeknownst to me, that's it's not how it goes... when it came time to go into court I didn't have any support people because I had no idea I was going into court. I had no idea I would be sitting in the same room as him. I had no idea I needed a lawyer. There was just no information given to me, so I'm standing there in the Court House thinking I was just going there for a 15 minutes thing and it was all going to be over with... Then I watch him walk in with his two brothers. One of his brothers says 'What are you doing this for? Haven't you done enough?' Makes me feel intimidated, so I'm shitting bricks, I was that traumatised, I couldn't even look at him and I'm sitting across... having to give details to magistrate. I can't tell you if someone represented me or whether I did it myself, because it was all so traumatic, but the one thing that stands out is the magistrate could actually see my distress.... Everything the Police told me was going to happen, didn't happen that way. How could they get it so wrong? How could they tell me this is how process worked when in fact it didn't? Was I talking to an amateur Police officer? Do they even know what is involved? I couldn't find any reason that they would say- this is how it happens, when in fact it wasn't how it happens... How unprepared I was, had I known I would have been in that situation, I would have got family there with me... Totally unprepared for the reality of it... No information at the court about this, when you do this process, this is what happens... No information about if you have someone who can support you, get them to come along on the day because it can be a very traumatic thing. None of that information was available, it was like I knew the system. So, don't need to explain anything to you. - Carly

[In Pamela's case, although multiple DVOs were issued, only one was served]

At the end of the day it's me being abused. But it's also my children, and I don't want them to go through what I went through.... It is your fault. You didn't do enough. I've rung the Police, I've taken out DVOs, constables have taken out DVOs. Where have I not been consistent in what I wanted, when the system does not stand up for what it states? *Alex: Do you think the one DVO has got him out of your life?* 'Oh yeah, after they actually gave him that DVO, he stopped ringing my phone, he stopped texting me and he stopped coming around to my house.... He said 'The DVOs don't mean nothing', and I said, 'Yes they do. You're not allowed, it's all stated on the DVO and how you have to abide by it'. He said, 'If they don't serve it, it don't mean shit to me'... But the reason why he left me alone is that two constables made a point of serving the DVO. Not only was I being abused by my ex, but I was being abused by Police. That's how I seen it, and to top it all off I was abused by Territory Families and had my children taken away. And all they had to do was to walk up to him and hand him a piece of paper and re-enforce it, it's all they had to do. - Pamela

In Victoria, everyone with the rank of sergeant or above can issue DVOs, but in the NT it's quite different. As an OIC of a remote station I could, but in Darwin and the big centers, you've got to go to a watch commander or senior sergeant. Problem is, they're too removed; it's usually the sergeant who is on the road and can come to the job, or directly supervises the members who were at the job. Because I was working remote and because of my Victorian experience, I was probably putting in place DVOs that a Watch Commander might not have put in place. - Police

We got no-one. NAAFLS don't come to Wadeye anymore. It's too dangerous for their workers, they say. – Ada

Out bush we've got a problem with lack of review time, so if I issued an order, say court was on the day before in [community name], that order would not be reviewed until the next [community name] bush court which was two months away, and sometimes it would be cancelled because of royalties or weather, so it could be four months until that Police-made order was reviewed. I think that lack of review is an area where things fall down. If I knew it would be reviewed by a court within a few weeks I would put in stricter conditions where I thought she was at heightened risk, even full "no contact" sometimes. But if, in the back of my mind, I'm making an order that will be two to four months before it is reviewed, that plays a part in my decision. In small communities, a full "no contact" for a week or two? They can manage it. But if that order is going to be in place for months? I believe it's unreasonable to put a full non-contact in the order. – Police

An order is a good wake up call to people: often they don't realise their behaviour amounts to DV until you give them an order, and often when I serve the order I say to them, 'You should not be doing any of this stuff anyway, but this order spells out this behaviour is domestic violence and you can't do it; and if you do, the consequences will be more serious next time, because you'll be breaching an order'. - Police

You can tell that Judges hate the DVRO list. Little effort is made by some to read applications or to explain anything to the defendant. - Lawyer

It's a complete lucky dip depending on what Judge you get, unlike the youth or welfare courts where you have a pool of Judges. The DV court is just anybody and it's pretty clear most Judges hate it and they don't want to do it. Some Judges, you just see them whipping through the list as quickly as possible. Today, the judge wouldn't even give anyone a chance to talk. Some will just adjourn everything when it's the start of the day and no one has had a chance to get



instructions. And then you'll get other Judges who are very thorough and look at the evidence, look at the order being sought, and decide whether it's appropriate. This is even when the defendant hasn't shown up. Most Judges would just say, 'Defendant not here, order made, or applicant or protected person hasn't turned up, just dismiss it'. – Lawyer

There are really mixed messages from the bench about orders and the way they are viewed, some Judges see any breach as serious- others don't. - Lawyer

It would be better to keep the DVOs and the Criminal charges separate. As criminal proceedings are delayed, the protected person needs to keep coming back to court. People don't understand how the two relate and it's really confusing. You'd think it would be more efficient just to make the DVO as soon as possible. – Lawyer

The criminal offence is dealt with by the DPP and the DVO matters, the Police instruct the solicitor for the NT. The trouble is that the SFNT lawyers are often left sitting around the Court waiting for the thing to be adjourned because often those two things will run together until the criminal charge is heard... I think in Alice they do it more frequently than here with consent without admission DVOs and it's just sorted, but up here they tend to go 'No, no, no, we don't want this' even where there is overwhelming evidence. A lot of the time you will say 'What are your instructions on the DVO?' 'Oh, haven't taken them'. They've had 25 mentions in court and they just haven't done it. The criminal lawyers, they're thinking - my issue is the criminal charge. That's the main problem he's facing and that's the main thing before the court. They see the DVO as a secondary thing, so they won't even think about it until the criminal charge is dealt with. - Judge

SFNT uses their most junior solicitors and clerks on DV matters. They really need to be people familiar with the systems and experienced in working with clients. – Lawyer

We keep seeing people where this is not what the Act is for. 15 family members all filing cross application or two female cousins with jealousy. Is there a better approach wherein some categories of DV CJC is an option? Lawyer

We have people coming to us as defence lawyers wanting help to remove Police issued DVOs and we can't help with that. - Lawyer

## ARREST OFFENDER

No-one communicates with victims re: bail, remand and criminal case. They really are just a piece of evidence that people need to perform on the day. I don't think many people understand the terror that victims of DV live in.- Lawyer

When the perpetrators get bailed with conditions – this could be better used to enhance victim safety. - Lawyer

## PLEA DEALS

When I was there, he said his lawyer has come back to us- he's going to plead guilty to the one we have the record on, but not the other one. It's up to you if you want to go through with this. I just want him to be accountable for what he did to me, that's just two out of the many, many in the last 14 years. You can not begin to imagine, like how many things he's done to me and most of the things he's done to me I never thought in a million years another human being would do to another person... and this is all he could come up with. He only acknowledged one. - Irene

If you abolished mandatory sentencing, you wouldn't get so many contested hearings. It distorts all of your decision making. Why would you ever say to your client- you should plead guilty if you know they're going to get 12 months for something they should have got a few weeks for. – Lawyer

The body worn is compelling when they do it right. Of course, you'll advise a client differently when that is there and admissible. - Lawyer

## MENTIONS - DIRECTIONS HEARING

The court just doesn't have all the tools they need, it's a criminal law approach but the problem is different, and the legislation hasn't caught up. Judges are using adjournments as a therapeutic approach to check defendants are attending courses etc. - Lawyer

The court can't refer to programs without consent but if your client doesn't attend- it's strict liability, so no lawyer is going to advise them to accept that. Undertakings are a better offer. - Lawyer

Justice delayed is justice denied. I'm not sure why there are so many adjournments, but they make it very difficult. - Police

## BETWEEN DIRECTIONS HEARING AND HEARING

I didn't want to use WAS because he always threatened, he would kill anyone who helped me. – Gayle

I was not happy because I wanted to talk to the prosecutor. My case worker had to intervene so I could contact him. Eventually he gave me a short, little time, such a short time. I didn't get a clear understanding of the process or explanation about the proceedings or the charges. I didn't know about the court day and what they would ask. I know it's my story, but they had no advice. I am so upset because of the prosecutor. She didn't help me. I went into the meeting hoping to explain or describe my story, and also to get an explanation from the prosecutor about what's going to happen about the court process. Neither happened to my satisfaction because she was in a hurry. She was rushing. She had some questions she wanted to ask me and all she said is at the hearing she wanted me to describe my experience that's all. She did not make me aware of the process, or what is going to happen the following day. I expect my lawyer to empower me so I can stand up in court and have my day with confidence. Because of lack of briefing, even the questions my lawyer herself was asking in the court, I wasn't sure if she was asking on my behalf or if she was on the other side, so I was hesitant in the beginning. - Neema

In DV and with indigenous clients, prosecutors are meant to always refer to WAS, but this doesn't always happen. I see a whole lot of people from out bush with no interpreters, which

WAS would organise. Some prosecutors think they can do it all without WAS. I've been to cases where WAS officer is not assigned and the client is very, very reluctant to work with prosecution. Once I explain to them what I do, I can 'win over client'. We should be building rapport before then though. When client is not cooperating that's when they'll ring me. - WAS Officer

WAS are brilliant. We need to make sure that they've got enough people in that unit for the demand because they make a huge difference when you've got them. - Police

## **HEARINGS - Bush court**

Victims have a really difficult time in court. In [remote community] we don't have video-link set up. We also have kadaji elders that sit in court. They're meant to assist in the sentencing, but they sit in court for the whole period. For example, in one domestic violence trial, when she came to court to give evidence, there were problems because of the way the court was set up and because in [remote community] the elders change depending on which defendant is before the court. So, the court wouldn't have known, but the defendant's family chose to be the elders for that afternoon session of court. So, this witness, not only is she having to give her account in court, in front of him, and in front of his whole family in court. She did an incredible job, but a lot of witnesses and victims would not put up with that process, they would not have done it. They would not give evidence. And then as far as the court is concerned, without that witness, there is no complaint. Even with her statement, in DV matters they'll just throw it out. - Police

Somehow, we have to guarantee that witnesses won't be interfered with. This is crucial. They need to be able to wait separately from defendants and his family. It's a huge problem in bush courts. – Police

Video-link resources are essential. Working in Alice Springs and doing bush Courts we have geographically the largest area from which we're drawing complainants into Court. The logistics involved in getting complainants to Alice Springs or even to particular bush courts are enormous and very expensive. Those video-link resources are then available for sergeants and other Police officers so they're not being transported back in either. It would save a lot of money. – Lawyer

It's outrageous that complainants in DV matters are having to give evidence in bush courts where they are not only having to walk past family, but they are literally sitting less than three metres away from your perpetrator in a room, and describing in detail what they did to you, is just completely setting a complainant up to fail. – Lawyer

There was a policy that they weren't going to hear contested DV assault matters in Mutajulu because the court is a donga, but I can say that has happened and I think it depends on the Judge. I've certainly seen them do contested hearings in Ti-tree, Ali Curung, Papunya as well. - Lawyer

## HEARINGS - SUPREME COURT

I've had a few matters recently, where it's going to the Supreme Court because of the seriousness of the injuries and that means we've got all of our witnesses 900 kms up to Darwin. Imagine if they could just come up to the Police station and give video evidence. It would give DPP a much better chance at prosecuting because you'll have your witnesses available. Lack of witnesses is often when Police matters fall down at court. Apparently, our work computer's already have the Skype program the courts use, it's just a matter of putting in a screen with a camera. It seems easy to do. I don't know why it's not in place. Imagine if Police and nurses and others could give evidence in the same way. It would save the government so much money in transporting and accommodating witnesses, as well as meaning there is a much greater chance of people out bush actually giving evidence. It also means Police are in community more and not just driving cars huge distances. – Police

The Police don't want to bring the witnesses in for court. It's much worse since May/ June this year. It's the Police budget cuts. - Lawyer

## HEARINGS

I don't know how we can effectively manage it when there is pressure at court for the victims to not tell the story, because the family have put all this pressure on her, because if anything happens to her while he's in jail, there's a notion it's all her fault. So, there is huge pressure on these women not to tell their story. How do we compete with this family pressure? - Lawyer

One client of mine was sent, by the perp, on a holiday to visit her family in Thailand. She was sent for two weeks over the hearing date to make sure she didn't attend. He was found not guilty. – Support worker

Witnesses are intimidated. I remember one victim credibly gave evidence in Police case then agreed with defence she'd hit herself in the head with a rock. - Judge

I know one lady in Palumpa, the [defence] lawyers told her not to come. In Wadeye, they get his family to try and stop her talking in court. - Support Worker

Did I ever have a statement taken with an interpreter? I don't know. I can't remember one. So that's saying a lot when you have hundreds of contested files handed to you. Virtually all of these people need interpreters. It's not just about the reliability of her evidence and fairness to the accused, but she's fundamentally set up to fail in giving evidence, because of course when you're in court, evidence is tested against your written statements. So, defence are handed on a silver platter these inconsistencies making for, what defence would call, an unreliable witness. But actually, it's because the statement was written by a male Police officer who was standing over her while she was in a vulnerable situation, speaking in her third or fourth language. Not even having it read back to her, just read through whatever he has written and sign away. And then maybe you get an ethical prosecutor in court, who gets you an interpreter and finally you're able to tell your story, in your language, of course it's totally different. – Lawyer

Taking someone's freedom is quite big, so the onus is on the victim to have all this evidence and be able to answer everything the same again, particularly when you're in that state... How do I stand there and say 100% this is what happened... particularly in DV where everything happens behind closed doors... Yeah, but how can you be a good victim if you're too traumatized?... It's actually crazy... You're asking a person whose experienced trauma to perform essentially... It doesn't make sense. -Natalie

[The Police officer] told me it would go to Court, if uncontested it would go for 10 years, but then I got here, and they were like it's 12 months and I was a bit surprised by that. It feels actually crazy because the DVO got served by them and it got breached four times, but they rolled the charges into two, so the first thing was meant to be heard on February 28<sup>th</sup> and I got told by the Police that I had to go to court, but then other people were like you don't need to be here and it was really traumatizing, because I got there and he was sitting right out the front



and then I had to walk past him. And then his lawyer wasn't there so it just got adjourned and it happened a number of times, adjourned to Alice Springs and eventually set for hearing on 8<sup>th</sup> August. So in between that time, I'd made a statement with Police in Alice Springs and basically nothing happened till I got here and met with [support worker] about upcoming court stuff with DVO, and she asked about the charges and I said I've actually given up because I tried to contact a Police woman a number of times. She explained that she had phoned my ex if he wanted to make a comment and I'd given all the evidence I had. And then I just gave up with it. Clearly no-one is doing anything. He's breached the DVO a couple of times which meant I had no sense of safety. I was scared because he's crazy jealous. The Police have the info. They haven't done anything. I think I need to just focus on my health and moving forward. I've given up. Obviously, nothing is going to happen. - Natalie

We used to be able to buy lunch for witnesses, things like that go a long way to building rapport with people while they wait around to give evidence. The budget cuts mean we can't do it any more and it makes a huge difference, sometimes I just use my own money to do it. People are hungry and everyone gets irritable when they're really hungry. I don't want to lose them. – WAS officer

Technology, if we can harness it, can have a huge impact in administering justice in the NT. We're already seeing the impacts of the body worn evidence. This is potentially a massive gain in ensuring victims stories are heard in court. Video conferencing also extends possibilities for justice with Police, witnesses, victims and others such as health staff, being able to give evidence from out bush. - Judge

It seems so simple and obvious- there needs to be a much bigger uptake of AVL. Since June the Police budget cuts are making prosecution even harder. In Yuendumu, the AVL means we can dial witnesses in for evidence. It's made a massive difference. - Lawyer

I don't know how we can effectively manage it when there is pressure at court for the victims to not tell the story because the family have put all this pressure on her, because if anything happens to her while he's in jail, there's a notion it's all her fault. So, there is huge pressure on these women not to tell their story. How do we compete with this family pressure? - Lawyer

There are cultural problems in the DPP and unacceptable caseloads that mean people aren't using WAS, and properly proofing witnesses. - Lawyer

Judges need a better understanding of the impacts of trauma on witnesses. I've seen convoluted cross-examination derail victims of domestic violence. We need training to ensure that cross-examination is done appropriately, and in a way that doesn't confuse witnesses. - Judge

A key area that needs addressing is judicial understanding of DV dynamics. This would impact the treatment of applications to adjourn because of victims' non-attendance. - Judge

Our responses need to be faster- when complaints are heard six months down the track, complainants have moved on. - Judge

The extended timeframes. That's where we're falling over. For the matters that do go to hearing, the credibility, memory, reliability of witnesses diminishes as time goes on. For a victim to have to speak about an incident that has happened five, six, 12 months later. A lot has happened in their life between when the incident happened and then. There are often more recent assaults. Memory is impaired by alcohol. And then we have to find them and summons them. And with those time frames it is really hard. Often, it's a game of chasey to try and find the victims, to try and get them to court. - Police

If I don't have victims and witnesses there, that case is not going anywhere. I feel a lot of defence lawyers rely on the fact that Police are not going to be able to get victims or witnesses to court. And if we can't get them to court-where is our case? - Police

The whole system is so stacked against these victims. Their trauma makes it so hard for them to recall details of their attacks and the sequence of events. – Lawyer

I don't see how the DV Court is going to help. All of the trauma around these issues is related to contested hearings. Women are giving evidence in these contested matters- this is where it matters, and the DV Court won't hear those. - Lawyer

It depends on the prosecutors, but some still seek warrants for her arrest if she hasn't shown at Court. Sometimes Police hadn't even followed up the witness, to check if they needed help

with travel or anything. The consequence of this is that people who are seriously at risk are not going to call the Police, and risk being locked up down the track. - Lawyer

The interests of victims are accommodated by the procedures under which vulnerable witnesses may give evidence (e.g. by remote audiovisual link), providing support persons through witness assistance services, the facility to receive victim impact statements, and the capacity for the courts to make “no contact” orders at various stages of proceedings. – Judge

I’ve seen magistrates completely besides themselves with frustration and anger that women aren’t cooperating in the system. We’re trying to stop this epidemic of appalling violence, but unless the women come along and tell us they’ve been hit, we can’t do anything. There’s no proof. And the Judges get really, really frustrated by that, to the point where there is evidence that a summons was served by a complainant to come to court for a hearing and she hasn’t complied. They’ll issue a warrant. We’ve had a number of occasions in the last few years where we’re trying to get her out of the watch house because she’s been arrested and detained, and it’s cyclical. It just re-victimises her. It’s such a ham-fisted and ineffective response. But I understand the frustration of Judges. – Lawyer

Defendants can be very cynical saying ‘She won’t come- I’ll get off’- Lawyer

Crime victims are often really confused at court. They don’t know where to go or what to do and they approach us as duty lawyers, and we can’t help. - Lawyer

Defence lawyers rely on the fact that Police can’t get “long grass” witnesses to court, without them it’s all a waste of time. It definitely effects how Police deal with next domestic. - Police

Old Bernie Devine, he’s retired now, but he used to do all our summons. It worked much better than individual Police trying to do the summons. He knew all the camps and knew who was where. He could get witnesses to court. - Police

We need to do the forward planning to organise the WAS officers at Court; the prosecutors don’t always do it and they help keep the victim calm and stop them leaving. - Police.

The tactic is to plead not guilty and hope she doesn't show and plead guilty when she does. They call it the Bourke defence, because you make sure she's out the back of Bourke. - Lawyer

One client of mine was sent, by the perp, on a holiday to visit her family in Thailand. She was sent for two weeks over the hearing date to make sure she didn't attend. He was found not guilty. – Support worker

Witnesses are intimidated. I remember one victim credibly gave evidence in Police case, then agreed with defence she'd hit herself in the head with a rock.- Judge

In Groote we've set up a Victims and witness safety lounge, separate to both the Police station and court, so they don't have to walk into court past the perpetrator and his family. The lounge is set up with comfortable furniture and a fridge and I might get in a TV, so people can be comfortable while they're waiting to give evidence. I've had another office turned into a room with a link to the Attorney General's Court system, so people can give evidence from there. It can also be used as a child forensic interviewing room. The purpose is that victims can be dealt with, without having to come into Police operational areas, which can be really intimidating, to give their statements etc; and it allows for audio recorded statements to be recorded and for kids to be somewhere safe while mum's busy doing that. It also allows for victims who are declared vulnerable witnesses, to give evidence via the AVL facility and not have to go into the court house at all, which often involves walking past the offender and their family. - Police

I've had clients say- Don't worry she won't show. It's chilling. - Lawyer

It's rare but very problematic that victims can be arrested for no-show. - Lawyer

I know one lady in Palumpa, the lawyers told her not to come. In Wadeye they get his family to try and stop her talking in court. - Support Worker

The introduction of body worn video has already made a big difference and has the potential to make a very big difference in the ways prosecution can present a case in domestic violence, so even where the victim doesn't turn up, if they've got the body worn from the night of the call out and it shows the victim with blood all over her face and screaming 'he hit me'. The prosecution can make an application under s.65 of the Evidence Act that the witness is not

available but her statement, the body worn, can be given as evidence. Now it won't be given the same weight as if she'd be available for cross examination... but never-the-less, what is said in those body worn statements is so vivid, and so immediate, and it's so authentic. In many cases that will be enough to secure a conviction. So that's a way around the Bourke Defence. - Lawyer

Body worn statements are probably only being used in approximately one in 10 incidents because of limitations like intoxication, injured, wishes to discuss more than one incident, able to be interviewed without children being exposed. We're not seeing the same convictions as they're getting elsewhere, but there are some benefits. - Police

Judges definitely need training on how trauma effects witnesses. - Lawyer

It's clear from the way some Judges talk to victims and witnesses, that they themselves are jaded and desensitised to the extreme levels of violence we see in the NT. Sometimes they'll determine a witness is not vulnerable which can be really perplexing. - Lawyer

## **s.18 ADVICE**

The bench really needs to be trained properly around domestic violence and how it manifests, because whenever a s. 18 objection has been raised, they don't get up. Partly because of the judge's language - they'll say, 'On what grounds do you object to giving evidence?' Victims won't understand a word in that sentence. They need to ask direct questions- 'Do you feel you'd be less safe if you told your story today?' Also, a lot of Judges have a very limited understanding of the nature of DV. So, a victim may say 'It's just going to be no good for me and him. His family are going to humbug me'. It's like they need the victim to say 'He's going to hit me again if I tell my story'. So, objection is denied. And then when it's coming to proof and I adduce evidence from them and the defence lawyer says 'You hit yourself in the head with a rock didn't you?' And she just says, 'Yeah I did.' That's their way of objecting at that point. I've then had Judges ask me to lay charges on this victim for contempt of Court. The judge knows they do not want to give evidence for the purposes of their safety and will do everything they can not to give evidence, they uphold the objection, she makes up a story, and then she's the person who should be prosecuted. - Lawyer

Victims want to 'drop the charges.' They are so unclear on the process. They get shifted between the DPP and the Police and no-one wants to help them because it is unsatisfying and

you often know they're under duress. They need information about the process of doing a statement of withdrawal, which is a notice under s.18, and giving this to the prosecution.  
Lawyer

No-one to give independent s.18 advice is a huge problem. - Judge

I've had to explain s.18 on numerous occasions to Judges. I don't know how it works in Darwin, but it's been quite problematic here. I've never seen one s.18 objection upheld. Most of the time when those objections were raised it was an incredibly disempowering and traumatic experience for the complainants. Essentially being interrogated by the Judge. – Lawyer

There are matters where someone is classed as a vulnerable witness and so will give evidence from the vulnerable witness room, but the judge insists that they need to come into the main court room to give evidence on their s.18 objection, with the defendant and all his family there.  
– Support worker

The bench really needs to be trained properly around domestic violence and how it manifests, because whenever a s. 18 objection has been raised, they don't get up. Partly because of the judge's language- they'll say, 'on what grounds do you object to giving evidence?' Victims won't understand a word in that sentence. They need to ask direct questions- 'Do you feel you'd be less safe if you told your story today?' Also, a lot of Judges have a very limited understanding of the nature of DV. So, a victim may say 'it's just going to be no good for me and him. His family are going to humbug me'. It is like they need the victim to say 'He's going to hit me again if I tell my story'. So, objection is denied. And then when it's coming to proof and I adduce evidence from them and the defence lawyer says, 'You hit yourself in the head with a rock didn't you?' And she just says, 'Yeah I did.' That's their way of objecting at that point. I've then had Judges ask me to lay charges on this victim for contempt of Court. The judge knows they do not want to give evidence for the purposes of their safety and will do everything they can not to give evidence, they uphold the objection, she makes up a story and then she's the person who should be prosecuted – Lawyer

The s.18 does apply to the assault, so a judge can rule that she doesn't have to give evidence against her partner for assaulting her, but he can't rule that she doesn't have to give evidence for breaching a DVO which is completely anomalous as far as I'm concerned. Because the assault is almost always a more serious charge than the breach DVO charge. - Lawyer

S.18s are only very occasionally granted. More often than not, they're refused, but more often than not, the applications aren't even made. A lot of women are very reluctant to give evidence, they may have very good reasons for being reluctant, but they never get the opportunity for independent advice about their right to ask the judge to be excused. - Lawyer

In one case I remember, a woman from a non-English speaking background didn't want to give evidence and s.18 was explained. The defendant sat in the court. And she was so frightened of him, she couldn't describe the fear for the purpose of s.18, so the application was refused, and she was compelled to give evidence. When asked questions in court she replied to every question with 'I can't remember anything'. - Lawyer

## JUDGE DECIDES ON EVIDENCE

I don't think coercive controlling violence is widely appreciated by all Judicial officers. I don't think it's picked up enough. Where you can see it is in the criminal records of those who engage in domestic violence. Many of them will have criminal records of between 8 and 24 pages in length. Within those records they'll be between 12-19 convictions for domestic violence. It will be low level domestic violence and so they'll continue to get short sentences. You'll see them get initially a wrap on the knuckles or a suspended sentence, then three months imprisonment perhaps going on to seven months imprisonment and so on. The consequence of that is the same victim in constantly in strife- there's no escape. Because as soon as he comes out, after a short period of time, the same thing starts again. Because of the approach of the law, namely your criminal history effects leniency, it doesn't aggravate the ongoing offending. If you were to look at it at the end of the line, in one case I sentenced someone to 11 or 12 years, but over a number of years he'd engaged in this level of violence. Utterly controlling his family, so at the end of the line you could see how serious his conduct had been over the entire period. Whereas in a snap shot, coming before a Judge in the local court who deals with low level assaults, you get these short sentences, which really doesn't assist at all. – Judge

The idea the system holds people to account is a joke. There is so much inconsistency in how different Judges deal with matters. Some of them understand DV, they get coercive control and the risks, but others- the things you hear them say! It's clear they have no understanding of DV at all. They blame victims. They have no understanding of the impacts of trauma. They minimise offending. No wonder victims don't want to participate. It's such a lottery, depending on which Judge is hearing the matter. – Lawyer



## SENTENCING

Out of the list of charges I think the thing that would have given him most time in prison would be damage to property. If you have a look at the maximum given... damage to property is a higher sentence than hurting someone... good to see property takes priority over someone's life. - Carly

Ex breaches DVO, he was found guilty, but the judge only fined him \$1000 for breaching 10 years DVO for approaching the kids and me, and the judge said that the reason why he fined him \$1000 rather than sending him to prison, is they have to consider the fact he served his country and he has PTSD. And that is really, really hard. I feel like that day I walked out of that court at 5pm after sentencing. It's such a shallow victory because even though he committed the crime, he takes the army side into consideration, but he never takes my side into consideration. I have been married to this man. I actually have 10 years DVO which is one of the highest in the NT, and he doesn't consider it at all, even though I submitted victim impact statement. How does that affect me, and my children? It took a long time to get out of this. For the first two years I had to do weekly counselling sessions so I can cope. I still wake in the night. I have undiagnosed PTSD, but because he used to serve in Defence, they take his side of things more than my side of things. Makes me feel like what is the point of going through all the emotional stress just to have, it's really upsetting, also make you feel like you don't trust the legal system. What is the point? The judge is just going to take that person's side and for me that's really, really unfair. One thing he always used over the years was that if he murdered me, no one would find me because I don't have family or friends, so no-one's going to miss me. And if by any chance the Police find my body, he will use PTSD and mental health as a way to get him off the hook. 'If I use PTSD, the judge will side with me because I served this country and you're nought. I'm always going to come on top'. He's been using the same stuff as a threat forever. It breaks my heart that on the 18<sup>th</sup> April this year the judge will consider his side of things more than mine... It makes me think "What if he found me? And murdered me?" He'll probably get away with it. I don't have family, just three little kids... I'll never get justice. He will do all this thing and get away with it, I cannot get my head around it. How could someone have a history of physical, sexual, verbal, financial, spiritual abuse against their partner for 14 years and he gets away with it. It's really hard. - Irene

The VIS very important for Judges. Prior to victim impact statement, the defendant was the only person humanised in the court. – Judge

We need perpetrator behaviour change programs for our clients. Our clients need them. Judges need the option when sentencing. - Lawyer

The DPP are not pro-active around what suspended sentence conditions are beneficial – victims could benefit from this, but they don't get much of a chance. – Lawyer

Our punishments are blunt instruments. They don't do anything about the underlying issues that lead to the violence. - Lawyer

We need more options in terms of family violence programs. We need programs that have on-going engagement not just five days, twice a year, many of which end up being cancelled [The programs run by Corrections]. We'll suspend a sentence on the basis that they'll attend a program and sentences expire before programs are available. - Judge

His family, and sometimes her family will blame her, for him being locked up. And sometimes that extrapolates even more broadly, to women victims are responsible for mass incarceration of Aboriginal men. – Lawyer

When you have a criminal hearing, the victim is generally not there when you give your decision and move on to sentencing. So, you rely on the prosecutor to feed accurately back to them. So, you might be really good at explaining things in plain English- but the prosecutor might not be and might not be able to get that message back to the victim. - Judge

One of the Judges had noticed all my support letters and was aware of the [Kungas stopping Violence] program. During sentencing, and this was very unusual, he called me up asked me what I thought about putting conditions around alcohol on one of our clients and I could explain to him that in my experience, those conditions often made these women very unsafe, because when people were drinking was likely to be the time that violence was likely to happen. So, I explained this to him in the court. It was very unusual, but I think he valued it because it followed these years of support letters where we really try to outline what is happening in the lives of these women. These are complex lives and we can outline what's been happening for them and what they're doing. It's like we are constantly watching what is happening in the lives of these women and then articulating that back to the courts through the letters. But most women who go to court because of these charges don't have anything like that, because they

don't have workers walking beside them over a long period of time and who can communicate that to a judge. It is sometimes hard to make sense of their behaviour if you look at one event, but if you put it in context of their lives, the assaults they've experienced, and the orders on them and how it all interrelates. We help them see the world from that woman's point of view.

– Support worker

## **SENTENCING - SUSPENDED**

They just said he got a suspended sentence, but it's all mucked up there somewhere, no one explained anything. And I was just relieved that for once he was held accountable, the court recognised he had committed the crime and even though it's only one. It's on the record he has committed the crime against me. - Penny

## **SENTENCING - SERVE TIME**

I got a DVO, through [private lawyer]. Under the court orders from Territory Families, I needed a DVO for 2 years to get my kids back, she went and spoke to him and asked him 'How long would you like this DVO for?' And he [offender] said a year, so that's what she done through the court.

The security rang me from jail and asked me to put my number on his call account. Excuse me, I've got a full "no contact" DVO on this person, then he started sending me letters from the jail, I ended up with like 30 letters from him from the jail, so the Police let me down there, so did the people in the jail... Ringing me from rehab centre, when he got out of rehab, he'd come to my house with his mother. I'd say to him you shouldn't be here. I've got a full "no contact" DVO on you. I'd ring the Police, the Police would get smart with me. They'd tell me to stop ringing them, they were sick of coming to my house. - Pamela

Many Aboriginals would rather just do their straight time and then be released with no conditions. - Lawyer

The way people are selected in prison for undergoing the violent offender program or the intensive violent offender program or the RAGE program, you really have to have a sentence of a significant level. So that many people who commit low level assaults continuously, never get to do a course and that's a resourcing issue within the prisons. Because everything is being cut back as a result of the GST cutbacks there needs to be some kind of triaging to determine who

gets to do the course. But we need to be picking it up. If there is someone who has been in a number of times, that ought to be recognised, and the next time that person comes in, that person does the course. Because I think some of these courses have considerable impact, they may not the first time, but in the end, they do, so those programs need to be adequately resourced in the prison. - Judge

## **SENTENCING - UNDER SUPERVISION OF COMMUNITY CORRECTIONS**

When we're formulating parole conditions, especially in the NPY lands, the women's council can assist with information, so we ensure the victim and offender live in different places. - Judge

Community Corrections oversee adherence to conditions, but don't have capacity in remote communities Eg electronic monitoring, drug testing. So, people are released with certain conditions that it is actually impossible for people to monitor. - Lawyer

He's supposed to be at Forward [rehab], but he's at the casino drinking... so I'm trying to ring everyone... I'm trying to find the button press to say he's not at Forward, what are his parole conditions? I'm trying to find out that... they're protecting him, they won't tell us his conditions because of client privilege.... I was calling everyone... Minister's advisor told me to write a letter... trying to find out parole conditions... I remember thinking how many things can go wrong in one person's dealing's with Police... mistake after mistake. Add that to the list of the unfairness of it all. That was very clear, we had a good understanding that [offender's] rights were above [victim's]... all of us knew that. - Carly

## **SYSTEM CONFUSION - NO LINKAGES**

To me I couldn't really see the point of the Victims' Register because I'd get these letters that would say... it would tell you stuff I didn't find relevant... There was an escape from the prison... it happened on a Friday night or Saturday. How do we find out if [offender] is one of those ones who escaped? Couldn't ring the victim register mob because they're not open on the weekends. Can't ring WAS, good luck trying to get anything from Corrections. If that ever happens, how are you to know? So, you're asking your community to find out if he's out.

What is the process, who contacts them? Where are the linkages? Who can they contact? This Monday- Friday business doesn't service DV victims. This is another thing I find confusing. I was

always getting them mixed up... what role each service provided. All those services, I just thought they were the same service but obviously not. - Carly

He got released but has to report to parole officer- with condition no alcohol, no breaches. The Police told me the rough date he would be released. So, I thought Police would call me, but they didn't and when I called them, they informed me he was released a few days earlier. The Police don't explain details. Information they cannot disclose or something like that, so I have no idea. Legal aid [who were assisting with a family law matter] explained everything to me about the terms of his release and every other thing... I never heard of Victims' Register till you just explain it to me now. – Irene

Women need support, beyond just WAS, the system is hugely complex, and their needs are left out. They're just treated like a piece of evidence. They're not at all in the centre of the process, they are sidelined and marginalised. They need wrap-around support and the ability to ask someone what is happening with their case, where it's up to and what is expected of them, what their rights are. - Lawyer

# Appendix F- Personal reflections and commitments

Abiding by the Chatham House Rule, these personal reflections and commitments are not attributed to individuals and are de-identified. They are reproduced here to remind workshop participants of commitments made.

- I'll be looking at own practice and changing how we do things in [organisation].
- [organisation] will be rolling out a new framework that is DV focused. We will be training our staff and key NGO partners. Want to link in with the work others are doing.
- [organisation] could improve how we regulate and record contact with victims.
- We need to look at our Internal database- [other people in our organisation] don't have access; this could be changed and include independent communication with Police. All our files should record contact and under what circumstances, so everyone is aware of contact and changes.
- Endeavour to ensure victims have access to WAS as much as possible.
- I'll spend time to explain process to victims.
- The KPMG- custodial operations group- looking at how [our organization] works end to end, we have information on offender and victim involvement to post- release. I'll bring findings to working group. There is a need to focus on the victim side of things.
- In my role - how I can empower staff to better consider victims more fully as our focus is offender related.
- If my staff are experiencing DV, I'll be thinking about what can I do- ask what they need?
- I'll keep advocating for more Aboriginal men to be part of the conversation and reminding people not all Aboriginal men are perpetrators.
- I'm reminded how important WAS is.
- I'll listen to victims!
- There is a need for cohesion between agencies and work on integral issues.

- There are opportunities for Police databases to work with new Courts database; the flow of information is critical.
- I felt reminded how a woman feels when moving through the justice system. I will take this back to the major projects I'm working on.
- There is a need for a review of the Act and its impact on victims. Much of what we talk about is not about legal reform, but about other reform. How do we move forward to create change for the whole system?
- I felt reminded that I need to keep victim/survivors at the center of what we do.
- I think the Victims' Register needs to consider the needs of victims.
- At the [organisation] we are trying to change our practice. Local courts and prosecutors can do much more than we do. Changing practices will help us achieve this goal.
- We need to hear the views of the victim – the criminal justice is only dealing with an incident not the relationship. We should redouble our efforts to use criminal cases to focus on the whole history.
- We need exposure to high quality training [in my organization]. I felt like I had an understanding of issues before this, but I am responsible for education of [colleagues]. How do I integrate my understanding with [colleagues]?
- I think it's important to acknowledge the complexity and to explore solutions together. Today we are getting all the players around the table and everyone is hearing the victim's perspective. It's getting people to think differently, and we need to keep getting together if we want to continue to have those moments.
- [Our organisation]- can work toward all victims being informed of outcomes- that is an achievable goal.
- There is a need to be victim-focused. We are getting better in this regard. It is extremely important work and we need to keep going.
- My focus beyond keeping the network alive, is to go back to basics and to do a better job when working with victims, than I did previously.
- I'm reminded of the need for early contact with the victim, and the ongoing processes of educating junior Police offices and the bench to the extent you can through the criminal justice process.



- “I have optimism” - Mary has done amazing work in the DPP and I see that in many parts of Territory Families too. NGOs have taken a heavy load on this. When I started doing legal work, things were different to what they are today. From legislation to policing, we are getting better. There is so much promise- i.e the DV court in Alice Springs, training practice and infrastructure.
- Change is happening for example - Project Zola. The project is putting facilities in for video conferencing in courts albeit slowly. Correction reform is a huge project, and there is a new approach that is developing in Corrections.
- We need to pursue ways of capturing the victim’s market in the local court. There are cohorts in the local court whom we don’t reach. We need to find ways to do that and to meet everyone’s need.
- 1100 DVOs are issued per year, 60% of all Police tasks are related to DV. I’m wondering where is the money we should spend on prevention?
- I’ll be keeping the victim central in my thinking. As we get busy changing the system, I’ll keep going back to the stories we heard today and take them with me.

# Changing the picture

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*A national resource to support the prevention  
of violence against Aboriginal and Torres  
Strait Islander women and their children*

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**Our  
WATCH**  
End violence against  
Women And Their Children

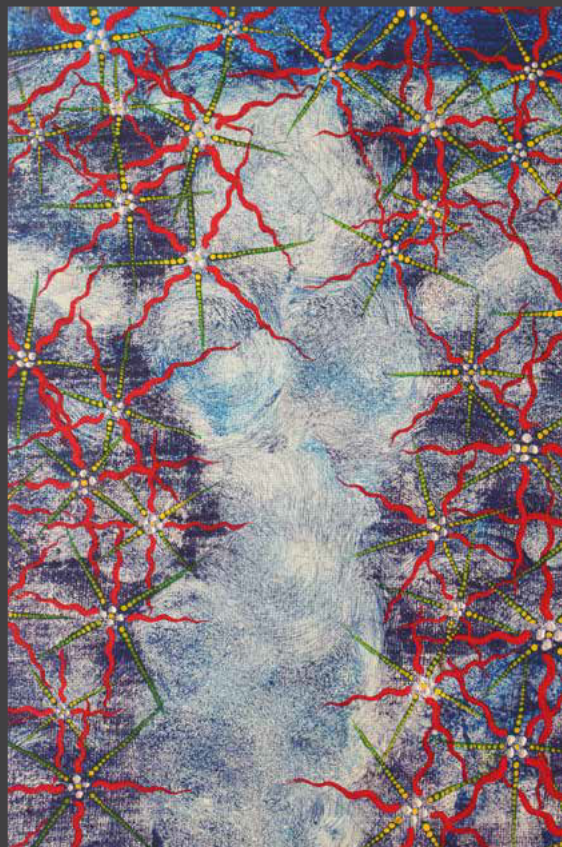


## Artist's statement

I am born of the Gammillaroy people of North East NSW. My artist name, Muliyan, is from my people and means 'wedge-tailed eagle and young and strong'.

This piece depicts Crows Nest Falls in Queensland which is a sacred women's site. (I was given permission to depict this place by the Traditional Owners, the Giabul and Jadowair People, who are the custodians of this sacred place).

This piece is dedicated to those experiencing and impacted by domestic and familial violence. The feminine figure beneath the surface of the water aims to express the struggles victims may feel as they seek healing. The waterlilies on the surface of the water represent hope. The red lines depict bloodlines: loved ones, families and generations impacted one way or another by domestic and familial violence. The green lines depict resilience and strength of the spirit as the leaves keep afloat and grow through adversity. The yellow dots depict the support available from the wider community to assist the victim in their journey to break free from the domestic and familial violence cycle. The white/silver dots have dual meanings: 1. the separation at the flowers' core expresses the difficulty victims may experience while seeking support to work through domestic or familial violence situations; and 2. the joining at the flowers' core shows the strengths in a holistic approach where combining family, self and community helps the spirit to rise above.



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The artwork used in this resource is *Rising from the depths* (2016) by Benjamin Moodie (Muliyan) and was commissioned by Our Watch.

© Our Watch (2018) *Changing the picture: A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children*, Our Watch, Melbourne.

## Acknowledgement of Country

Our Watch acknowledges and pays our respects to the traditional owners of the land on which our office is located, the Wurundjeri people of the Kulin Nation.

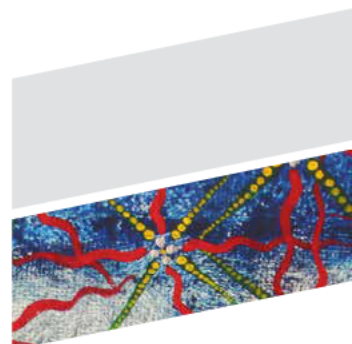
As a national organisation we also acknowledge the traditional owners and custodians of country across Australia and pay our respects to them, their cultures and their Elders past, present and future.

## Recognition of previous work in this field

Our Watch pays tribute to all those Aboriginal and Torres Strait Islander people who have been working for many decades to end violence and to improve the lives of Aboriginal and Torres Strait Islander women and their children. This is extremely challenging work that often goes unrecognised and unsupported, and we pay our deep respects to their ongoing determination and commitment and to the strengths and resilience of Aboriginal and Torres Strait Islander peoples and cultures.

This resource also seeks to respond to the voices of Aboriginal and Torres Strait Islander women who have been speaking and writing publicly about gendered and sexual violence and calling for action for decades,<sup>1</sup> as have numerous Aboriginal and Torres Strait Islander organisations and services.<sup>2</sup>

This resource would not have been possible without the work of these many individuals, groups and organisations. It aims to amplify these voices and honour and build on this critical work.



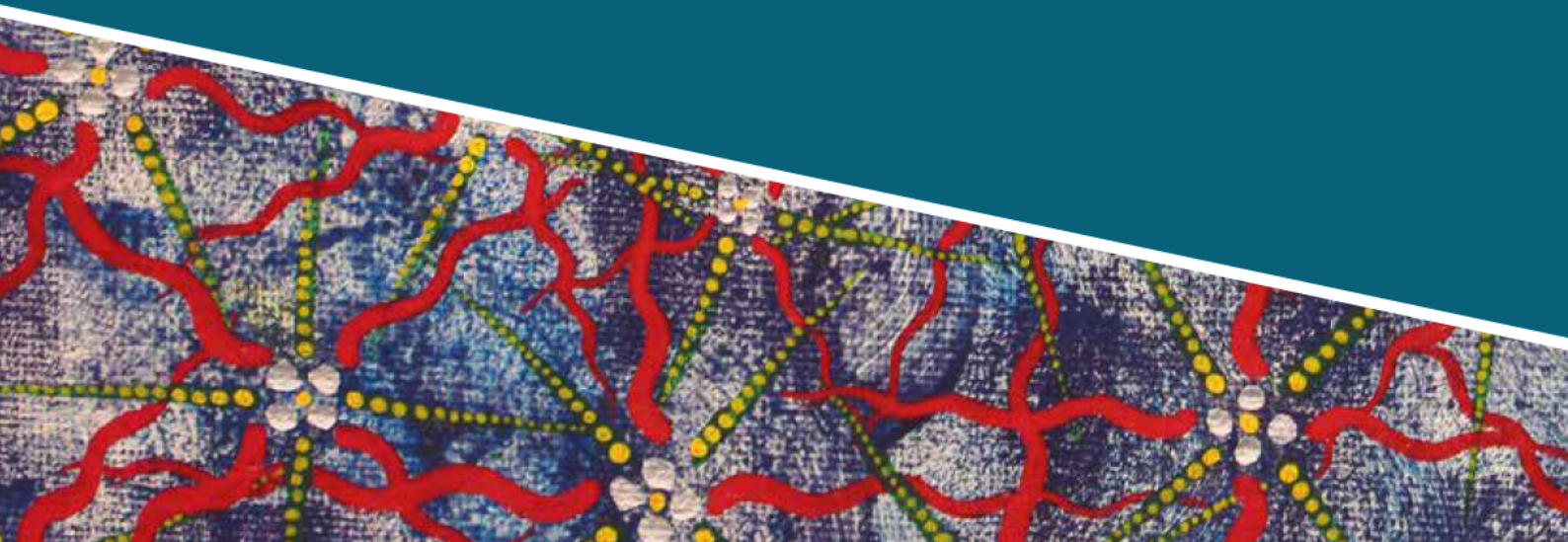


# Changing the picture

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*Executive Summary*

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**This is a summary of *Changing the picture*:  
A national resource to support the prevention  
of violence against Aboriginal and Torres Strait  
Islander women and their children. To download  
the full resource, please see the Our Watch  
website at <https://www.ourwatch.org.au/>**

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## Preventing violence against Aboriginal and Torres Strait Islander women: an urgent national priority

Violence against women and their children is serious, prevalent and persistent in all communities across Australia. On average, at least one woman a week is killed by a partner or former partner, and one in three Australian women has experienced physical violence since the age of 15.

At the same time Aboriginal and Torres Strait Islander women experience disproportionate rates of violence, and violence that is often more severe and more complex in its impacts. Preventing this violence must be a national priority. It requires dedicated attention and intensive effort and resourcing. It requires us to address the many complex drivers of this violence — not only gender inequality but also the ongoing impacts of colonisation and racism.

Violence against Aboriginal and Torres Strait Islander women is not an 'Aboriginal and Torres Strait Islander problem'. Nor should Aboriginal and Torres Strait Islander people bear sole responsibility for addressing it. This violence is an Australian problem, and it is perpetrated by men of all cultural backgrounds.

All of us, Aboriginal and Torres Strait Islander people, and non-Indigenous people, communities, organisations, and all levels of government have a responsibility to work together to prevent violence against Aboriginal and Torres Strait Islander women and their children.

## *Changing the picture*: a new solutions-focused resource to support prevention

Our Watch has produced a new national resource to support prevention of violence against Aboriginal and Torres Strait Islander women and their children. *Changing the picture* shows how as a society we can work together to change the underlying drivers of this violence.

Our Watch has worked closely with Aboriginal and Torres Strait Islander people to develop this resource. The voices, experiences, knowledge, ideas, decades-long activism and solutions of Aboriginal and Torres Strait Islander people are at its core.

We look forward to putting this resource into practice and to building partnerships that support others to do so. As a non-Indigenous organisation, Our Watch does not claim to have all the solutions. But we are committed to playing our part in addressing racism, power inequalities and other ongoing impacts of colonisation, and to working in solidarity with Aboriginal and Torres Strait Islander people to support culturally safe, community-owned and led solutions.

# Violence against Aboriginal and Torres Strait Islander women and their children: disproportionate and severe

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## 3.1 times the rate

A national survey found Aboriginal and Torres Strait Islander women report experiencing violence in the previous 12 months at 3.1 times the rate of non-Indigenous women.

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## 3 women in 5

3 in 5 Aboriginal and Torres Strait Islander women have experienced physical or sexual violence perpetrated by a male intimate partner.

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## 11 times more likely to die

Aboriginal and Torres Strait Islander women are nearly 11 times more likely to die due to assault than non-Indigenous women.

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## 32 times the rate of hospitalisation

The physical injuries resulting from violence are frequently more severe for Aboriginal and Torres Strait Islander women. Hospitalisation rates for Aboriginal and Torres Strait Islander women due to family violence-related assaults are 32 times the rate for non-Indigenous women and 3 times the rate for Aboriginal and Torres Strait Islander men.

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## Significant health impacts

Intimate partner violence contributes 10.9% of the burden of disease for Aboriginal and Torres Strait Islander women aged 18 to 44, more than any other health risk factor, including alcohol or tobacco use and being overweight or obese. The contribution of intimate partner violence to Aboriginal and Torres Strait Islander women's burden of disease is 6.3 times higher than for non-Indigenous women.

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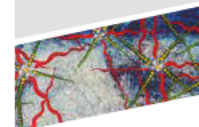
## Children are at greater risk

Aboriginal and Torres Strait Islander children are at greater risk of exposure to family violence than non-Indigenous children, with two thirds of Aboriginal and Torres Strait Islander adults who experience violence sharing the household with children. Family violence against women is the leading reason for the disproportionately high numbers of Aboriginal and Torres Strait Islander children removed from their families.

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# Challenging misconceptions about violence against Aboriginal and Torres Strait Islander women



Misconceptions about violence against Aboriginal and Torres Strait Islander women take the focus away from the deeper issues that need urgent attention. Challenging these can help direct attention, effort and resources to the actual underlying drivers of this violence.



## **Violence is not part of traditional Aboriginal or Torres Strait Islander cultures**

Violence against Aboriginal and Torres Strait Islander women is not a part of traditional culture. When violence occurred prior to colonisation, it was regulated and controlled, and bore no resemblance to the kinds of violence and abuse seen today. Many aspects of traditional culture and customary law were respectful and protective of women. As custodians of some of the longest surviving cultures in the world, Aboriginal and Torres Strait Islander people successfully managed interpersonal, family and community relationships for over 60,000 years prior to colonisation.



## **Violence against Aboriginal and Torres Strait Islander women is perpetrated by Indigenous and non-Indigenous men**

Public debate and media reporting frequently imply that this violence is always perpetrated by Aboriginal or Torres Strait Islander men, when this is not the case. Violence against Aboriginal and Torres Strait Islander women is perpetrated by men from many cultural backgrounds. Anecdotal evidence suggests that non-Indigenous men make up a significant proportion of perpetrators. For intimate partner violence, this reflects data showing the majority of partnered Indigenous women have non-Indigenous partners, especially in capital cities. Perpetration patterns vary geographically, with this data suggesting violence against women in remote areas more likely to be perpetrated by Indigenous men, and violence in urban areas more likely to be perpetrated by non-Indigenous men.



## **Alcohol is a contributing factor, and often a trigger for violence, but it is not the 'cause'**

Across Australia, for both Indigenous and non-Indigenous people, alcohol can increase the frequency or severity of violence. However, on its own, alcohol doesn't explain violence. It can't be simplistically seen as a 'cause' of violence against Aboriginal and Torres Strait Islander women, both because violence occurs where alcohol is not involved and because many people consume alcohol but are never violent.

Where there is a correlation between alcohol and violence in some Aboriginal and Torres Strait Islander communities, this needs to be understood in context. Colonisation introduced alcohol to disrupted, displaced and traumatised communities, resulting in high rates of harmful alcohol use in some contexts as a coping mechanism or a self-medicating behaviour. This means strategies need to address the underlying reasons for harmful alcohol use.

We also need to understand alcohol in relation to social norms and practices that condone violence against women generally, and violence against Aboriginal and Torres Strait Islander women in particular. Prevention strategies need to address drinking cultures among all groups of men that emphasise aggression and disrespect for women, as well as drinking cultures among non-Indigenous men that involve racism and disrespect towards Aboriginal and Torres Strait Islander women. Reducing harmful alcohol use is a useful supporting strategy, which delivers many positive outcomes, and which may also help reduce the severity or frequency of violence. However, this needs to occur not in isolation but in addition to addressing the deeper drivers of violence against Aboriginal and Torres Strait Islander women.

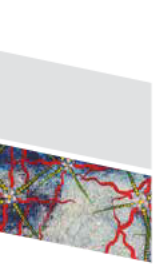
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*Violence against Aboriginal and Torres Strait Islander women is not an 'Aboriginal and Torres Strait Islander problem'. Nor should Aboriginal and Torres Strait Islander people bear sole responsibility for addressing it.*

*This violence is an Australian problem, and it is perpetrated by men of all cultural backgrounds. Preventing it is a national responsibility.*

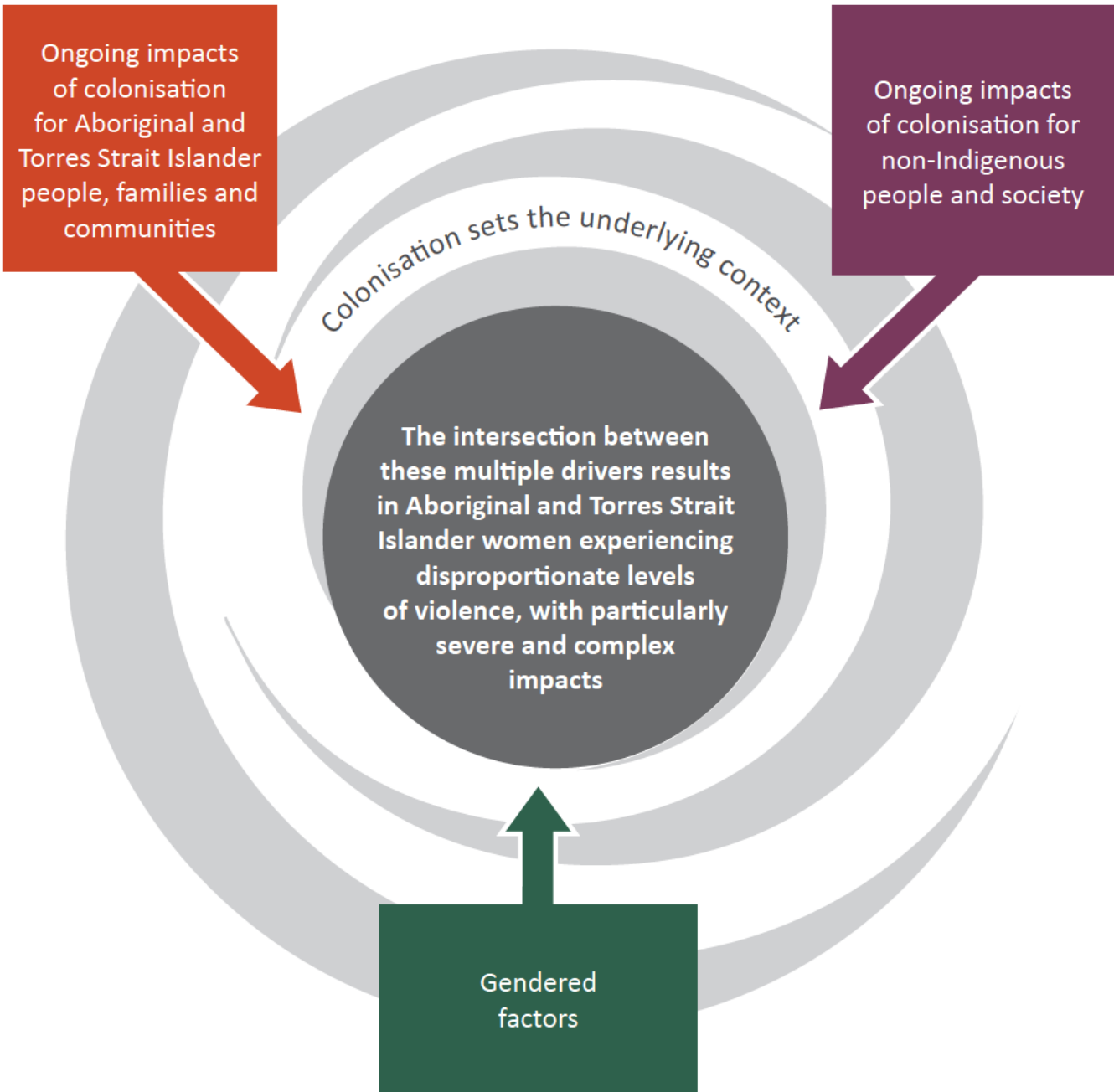
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# The drivers of violence against Aboriginal and Torres Strait Islander women

There is no single ‘cause’ of violence against Aboriginal and Torres Strait Islander women; however, research and consultation points to three main underlying drivers that intersect to produce such high levels of this violence. These are summarised in the diagram below. *Changing the picture* discusses the many complex factors that make up each driver and the interactions between them.





# Essential prevention actions

Responding to current extreme levels of violence against Aboriginal and Torres Strait Islander women is critical. But to prevent this violence from happening in the first place, we need actions that directly address its three underlying drivers.

## Action 1



### **Address the legacies and ongoing impacts of colonisation for Aboriginal and Torres Strait Islander people, families and communities**

- Heal the impacts of intergenerational trauma, strengthening culture and identity
  - Strengthen and support Aboriginal and Torres Strait Islander families
  - Implement specific initiatives for Aboriginal and Torres Strait Islander women and girls, boys and men, and children and young people
  - Challenge the condoning of violence in Aboriginal and Torres Strait Islander communities
  - Increase access to justice for Aboriginal and Torres Strait Islander people
- 

## Action 2



### **Address the legacies and ongoing impacts of colonisation for non-Indigenous people, and across Australian society**

- Challenge and prevent all forms of racism, indifference, ignorance and disrespect towards Aboriginal and Torres Strait Islander people and cultures
  - Address racialised power inequalities and amend discriminatory policies and practices
  - Challenge the condoning of violence against Aboriginal and Torres Strait Islander people
- 

## Action 3



### **Address the gendered drivers of violence against Aboriginal and Torres Strait Islander women**

- Implement intersectional approaches to preventing violence against women across the Australian population
- Challenge the condoning of violence against Aboriginal and Torres Strait Islander women by challenging both racist and sexist attitudes and social norms
- Support Aboriginal and Torres Strait Islander women's participation in leadership and decision making
- Challenge gender stereotypes, and the impacts of colonisation on men's and women's roles, relationships and identities
- Strengthen positive, equal and respectful relationships between women and men, girls and boys
- Engage both Indigenous and non-Indigenous men to challenge harmful and violence-supportive ideas about masculinity and relationships

This is a summary only. *Changing the picture* discusses the many different ways and contexts in which these actions need to be implemented. It also points to a number of supporting actions to address other factors that exacerbate violence.

# Principles for prevention in practice

For prevention to be effective, it's not only what we do that's important, it's how we do it. Prevention work should be guided by these principles:

- self-determination: community ownership, control and leadership
- cultural safety
- trauma-informed practice and practitioner self-care
- healing focused
- holistic
- prioritising and strengthening culture
- using strengths-based and community strengthening approaches
- adapting to different community, demographic and geographic contexts
- addressing intersectional discrimination
- non-Indigenous organisations working as allies in culturally safe ways

## Want to know more?

The comprehensive resource on which this summary is based, *Changing the picture: A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children*, is available on the Our Watch website.

A background paper detailing the research literature and consultation that informed the resource is also available.

## Our Watch

Our Watch aims to drive nation-wide change in the culture, behaviours, attitudes and social structures that drive violence against Aboriginal and Torres Strait Islander women and their children. We work at all levels of Australian society to address these deeply entrenched drivers of violence, and to promote gender equality. Our vision is an Australia where all women and their children live free from all forms of violence.



Our research and resources to prevent violence against women are continually evolving, so keep an eye out for new resources on our website or sign up to our e-newsletter.

[www.ourwatch.org.au](http://www.ourwatch.org.au)



# Acknowledgements

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- Dr Kyllie Cripps (NSW), Indigenous Law Centre, University of New South Wales
- Tracey Currie-Dillon (TAS), South East Tasmanian Aboriginal Corporation
- Michelle Deshong (QLD), Australian Indigenous Governance Institute
- Ashlee Donohue (NSW), independent consultant
- Ella Kris (QLD, Torres Strait Islands), Torres Strait Island Regional Council
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- Kimberley Wanganeen (SA), Women's Safety Services South Australia
- Kathy Wright (NT), Relationships Australia

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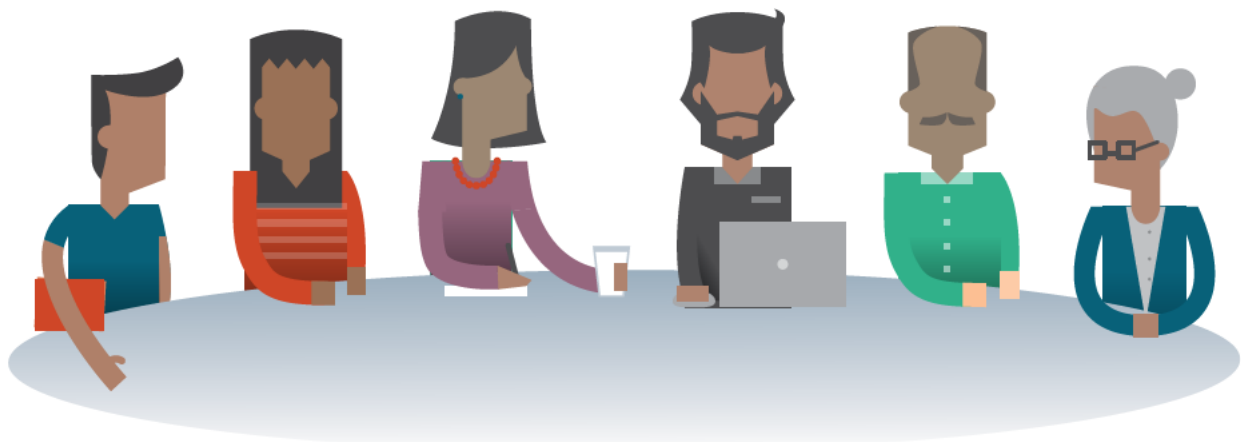
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Responsibility for any errors, omissions and limitations, rests with Our Watch.





## Advisory Group message



As members of the Aboriginal and Torres Strait Islander Women's Advisory Group for this project, we are proud to present this important resource that focuses on preventing violence. It draws attention to violence against Aboriginal and Torres Strait Islander women as a critical issue for our communities. It urges us all, as a nation, to take the time to look at the bigger picture and what is driving this violence.

As an Advisory Group, we provided guidance, advice and expertise throughout every phase of this project. A Women's Advisory Group was one way of respecting the experiences and knowledge of women on this issue, elevating women's voices and modelling Aboriginal and Torres Strait Islander women's leadership. At the same time, we also greatly value the perspectives of our men, and recognise the positive role they can and do play in preventing violence, and we have made sure that Aboriginal and Torres Strait Islander men have been engaged in the project in many ways, ensuring their voices are also part of this important conversation.

The message here is to everyone in Australia: individuals, communities and governments, to prevent violence against Aboriginal and Torres Strait Islander women and their children, we all have a role to play.

Non-Indigenous organisations and people — both men and women — need to examine the way colonisation has embedded racist and sexist assumptions, structures and practices into how they operate every day. Australian systems and institutions need to change. Individual men—both non-Indigenous men and Aboriginal and Torres Strait Islander men — need to take responsibility for their behaviour — for the way they treat women and children, for the way they interact with other men, and for the way they raise their children, especially their sons. And Aboriginal and Torres Strait Islander women, children and men all need healing: trauma-informed approaches that deal with the devastating legacies and ongoing impacts of colonisation.

We also need to talk about gender inequality and its impacts for our women, because we can't ignore the compounding effect that racism and gender inequality have in exacerbating the levels of violence against Aboriginal and Torres Strait Islander women.

We know this is not just an Aboriginal or Torres Strait Islander problem—violence against our women is perpetrated by men of all cultural backgrounds. But we also need to work on changing our own attitudes towards violence and make sure that in our own families and communities we are practising and promoting respect and equality for all.

This resource is a way forward, a way of understanding the roots of this issue and discussing solutions that can keep our women and children safe—holistic solutions that also work for our men and our children and young people. Solutions that break the cycle of violence and heal, support, strengthen and empower Aboriginal and Torres Strait Islander families and communities.





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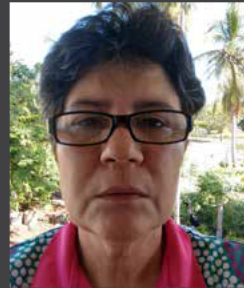
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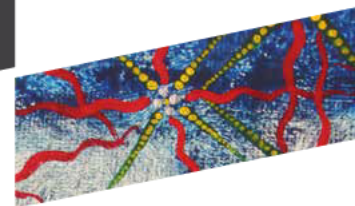
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## Chair foreword

This resource is dedicated to the critical issue of preventing violence against Aboriginal and Torres Strait Islander women and their children.

Violence against women is a national problem — one that is prevalent and persistent — in all communities, right across Australia.

This is why Our Watch is leading a whole-of-population approach to primary prevention. Guided by our ground-breaking national framework, *Change the story*, we are working at all levels of our society to address the deeply entrenched, underlying drivers of violence against women, especially those stemming from gender inequality.

At the same time, we know gender inequality cannot be separated from other forms of oppression and inequality. We recognise that the drivers, perpetration and experience of violence can vary significantly for different groups of women. So we continually refine our approach to encompass the many intersecting issues which, when addressed, will ensure that every woman in Australia can live free from violence.

This resource is a critical part of this work. We know Aboriginal and Torres Strait Islander women experience more severe violence and disproportionately high rates of violence. This resource helps us understand why this is, what needs to change, and how we can all work together as a society to prevent this violence.

Our Watch has worked closely with Aboriginal and Torres Strait Islander people — women and men — to develop this resource. We have strived to ensure it respects and is informed by their knowledge, and longstanding activism on this issue. The key tenet in our approach was to make central the voices, ideas and solutions of Aboriginal and Torres Strait Islander people themselves. The value of existing work already being done by both women and men on this issue was clear in the consultations that informed this resource, and some examples are featured within it. Our Watch looks forward to putting this new resource into practice and to building partnerships that help others to do so.

As a non-Indigenous organisation, we do not claim to have all the solutions. However, we are committed to taking responsibility for change and to playing our part in tackling the drivers of violence against Aboriginal and Torres Strait Islander women. We will do this in two ways. As part of our own work across Australia, we will address sexism and racism, power inequalities and all forms of discrimination, and we will challenge the condoning of violence against Aboriginal and Torres Strait Islander women. We will also work as allies to Aboriginal and Torres Strait Islander people and organisations to support culturally safe, locally relevant, community-owned and -led solutions in Aboriginal and Torres Strait Islander communities. This new resource will underpin and guide our own work, and I hope it helps guide and support the work of many other organisations and individuals, as part of a shared, nationwide effort to enable Aboriginal and Torres Strait Islander women and their children to live lives free from violence.

**Natasha Stott Despoja AM**  
Chair, Our Watch

# Note on terminology

## Aboriginal and Torres Strait Islander people/Indigenous people

As is appropriate for a national resource, this document uses the term 'Aboriginal and Torres Strait Islander people' to include Aboriginal peoples, Torres Strait Islander peoples and people with both Aboriginal and Torres Strait Islander heritage. On a few occasions it refers only to one group; for example, when quoting literature that does so, or referring to local organisations that use only 'Aboriginal' or 'Torres Strait Islander' to reflect the local population in that part of the country. On occasion, in keeping with international human rights language, the resource also uses the term 'Indigenous' to include both Aboriginal and Torres Strait Islander people and communities, or to differentiate between Indigenous and non-Indigenous people and organisations.

In using these collective terms, we nevertheless acknowledge the diversity of the many distinct nations and different language, tribal and clan groups that make up Australia's Aboriginal and Torres Strait Islander population.

## Community/communities

The terms 'community' and 'communities' are used in a broad sense to refer both to specific geographically based communities (such as a remote Indigenous communities) and to other forms of identity-based communities, networks and relationships (such as the many connections that exist between Aboriginal and Torres Strait Islander people across the country).

## Aboriginal and Torres Strait Islander families

This term refers to 'families' as defined by their own members. It also specifically includes both those families where all members are Aboriginal and/or Torres Strait Islander, and those that have a mix of both Indigenous and non-Indigenous members.





# Contents

<b>Acknowledgements .....</b>	<b>1</b>
<b>Advisory Group message .....</b>	<b>3</b>
<b>Chair foreword .....</b>	<b>5</b>
<b>Note on terminology .....</b>	<b>6</b>
<b>Introduction .....</b>	<b>9</b>
About this resource .....	9
Aim .....	10
Also available: background paper .....	10
About prevention .....	11
Why we need a primary prevention approach to violence against Aboriginal and Torres Strait Islander women .....	12
To prevent violence we first need to understand what drives it .....	12
<b>The intersecting drivers of violence against Aboriginal and Torres Strait Islander women</b>	<b>13</b>
<b>Actions to prevent violence against Aboriginal and Torres Strait Islander women .....</b>	<b>15</b>
<b>Essential actions: focusing prevention efforts on addressing the drivers of violence .....</b>	<b>15</b>
<b>Action 1: Address the legacies and ongoing impacts of colonisation for Aboriginal and Torres Strait Islander people, families and communities .....</b>	<b>16</b>
Address the impacts of intergenerational trauma, through healing strategies	17
Strengthen connections to culture, language, knowledge and cultural identity	18
Strengthen and support Aboriginal and Torres Strait Islander families	19
Implement specific initiatives for Aboriginal and Torres Strait Islander women and girls	20
Implement specific initiatives for Aboriginal and Torres Strait Islander men and boys	21
Implement specific initiatives for Aboriginal and Torres Strait Islander children and young people	23
Challenge the condoning of violence in Aboriginal and Torres Strait Islander communities	25
Increase access to justice and reduce rates of imprisonment of Aboriginal and Torres Strait Islander people	26

## **Action 2: Address the legacies and ongoing impacts of colonisation for non-Indigenous people, and across Australian society .....27**

Challenge and prevent all forms of racism	27
Challenge indifference, ignorance and disrespect towards Indigenous people and cultures	27
Address power inequalities, particularly in decision making positions	28
Identify and amend racist and discriminatory laws, policies and organisational and institutional practices	28
Challenge the condoning of violence against Aboriginal and Torres Strait Islander people	28

## **Action 3: Address the gendered drivers of violence against Aboriginal and Torres Strait Islander women .....29**

Implement intersectional approaches to prevent violence against women, across the Australian population	29
Challenge the condoning of violence against Aboriginal and Torres Strait Islander women, by challenging both racist and sexist attitudes and social norms	30
Support Aboriginal and Torres Strait Islander women's participation in leadership and decision making	31
Challenge gender stereotypes and the impacts of colonisation on men's and women's roles, relationships and identities	31
Strengthen positive equal and respectful relationships between women and men, and girls and boys	32
Engage both Indigenous and non-Indigenous men to challenge harmful and violence-supportive ideas about masculinity and relationships	32

## **Supporting actions .....33**

Intervene in and respond to existing violence	33
Address socio-economic inequality, disadvantage and exclusion	34
Improve Aboriginal and Torres Strait Islander people's physical and mental health	34
Address harmful alcohol and drug use and harmful drinking cultures	35
Challenge harmful drinking cultures	35
Address underlying causes of harmful substance use	35

## **Principles for prevention in practice .....37**

Intersectionality in practice	38
Self-determination: community ownership, control and leadership	39
Cultural safety	40
Trauma-informed practice and practitioner self-care	40
Healing focused	41
Holistic approaches	41
Prioritising and strengthening culture	42
Using strengths-based and community strengthening approaches	43
Adapting to different community, demographic and geographic contexts	43
Non-Indigenous organisations working as allies in culturally safe ways	44

## **Working together on prevention — roles for different stakeholders .....45**

## **Examples of existing prevention initiatives .....47**

## **Endnotes .....64**

# Introduction

## About this resource

This resource is a solutions-focused practice framework for the primary prevention of violence against Aboriginal and Torres Strait Islander women.

The resource outlines how violence against Aboriginal and Torres Strait Islander women can be prevented, describing the essential actions that are needed to change and shift the drivers of this violence. It considers not only what needs to be done but how this prevention work should be undertaken, and by whom. Envisaging a shared national effort, it points to actions that are most appropriately undertaken by Aboriginal and Torres Strait Islander people and organisations, and actions that should be the responsibility of non-Indigenous people and organisations, and of governments. It also presents a set of principles that should guide this prevention work.

The resource also includes examples of relevant work already being undertaken around the country. Much work in this area is unfortunately not evaluated, most often due to insufficient resources. While they are therefore not formally assessed examples of 'best practice', these examples are included as illustrations of existing and promising approaches, from which readers may be able to learn, or which could possibly be adapted and applied in a different context. Including them also acknowledges and highlights the work that many Aboriginal and Torres Strait Islander organisations and communities, and some non-Indigenous stakeholders, are already doing to address this issue — often with very limited resources.

Many different stakeholders need to play an active role in the prevention of violence against Aboriginal and Torres Strait Islander women. For this reason this resource is aimed at a diverse audience — government and non-government, Indigenous and non-Indigenous, and including both individuals and organisations. It is relevant both to practitioners who are working 'on the ground' (in numerous fields, and in both Indigenous-specific and 'mainstream' contexts), as well as those involved in policy development and program funding, design, planning or implementation.

This resource is a follow up to *Change the story: A shared framework for the primary prevention of violence against women and their children in Australia*. [Change the story](http://ourwatch.org.au) is available on the Our Watch website at <http://ourwatch.org.au>





## Aim

The aim of the practice framework is to improve Australia's approach to the prevention of violence against Aboriginal and Torres Strait Islander women and their children. Based on formal research and practitioner/community-based knowledge, the resource aims to inform and support an effective approach to prevention based on specific actions that will directly address the underlying drivers of violence against Aboriginal and Torres Strait Islander women.

## Also available: background paper

This resource is supported by: *Changing the picture, Background paper: Understanding violence against Aboriginal and Torres Strait Islander women and their children*. This paper draws on extensive research and consultation to examine the nature, dynamics and impacts of violence against Aboriginal and Torres Strait Islander women to develop a conceptual model for understanding the intersecting drivers of this violence. It provides the evidence, analysis and conceptual approach that underpins this practice framework.

The background paper also provides:

- a rationale for why the resource is needed
- detailed information about how the resource was developed, and the literature and stakeholder consultations on which it is based
- a discussion and clarification of the scope of the project, and definitions used
- a full reference list for all literature and other sources referenced
- a glossary of terms

The background paper will be of interest to anyone wishing to develop a deeper understanding of the research and practice evidence about violence against Aboriginal and Torres Strait Islander women. It will also help readers understand the conceptual model Our Watch has developed to explain the underlying and intersecting drivers of this violence, on which this document is based.



## About prevention

This resource presents a 'prevention' approach to violence against Aboriginal and Torres Strait Islander women. Sometimes also called 'primary prevention', this approach is one that seeks to address the primary, or underlying, drivers of the issue in order to stop it from happening in the first place. Another way of understanding prevention is that it aims to treat the underlying causes or determinants of the problem rather than just its symptoms. This is also sometimes referred to as an 'upstream' approach, as illustrated in Figure 1. Rather than waiting to treat the problem downstream when it has become a very damaging and costly crisis, prevention works to identify and change what is happening upstream, in order to prevent the problem from occurring in the first place.

Prevention seeks to change the underlying social conditions that create, drive and sustain violence against Aboriginal and Torres Strait Islander women. Because we know the underlying drivers of violence are complex, deeply entrenched and exist at all levels of our society, primary prevention also seeks to work at all levels of society. It is an ambitious, long-term approach, aiming for social transformation on a scale that will create a safe and equal society for every woman and her children. This approach makes preventing this violence everyone's responsibility and asserts that we all have a role to play in changing the culture, structures and attitudes that drive this violence.

Prevention is about social change. It seeks to change not only damaging beliefs and behaviours of individuals, but the social norms, structures and practices of communities, organisations and institutions.

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Read [Change the story](#) for more about the primary prevention approach to violence against women and their children.

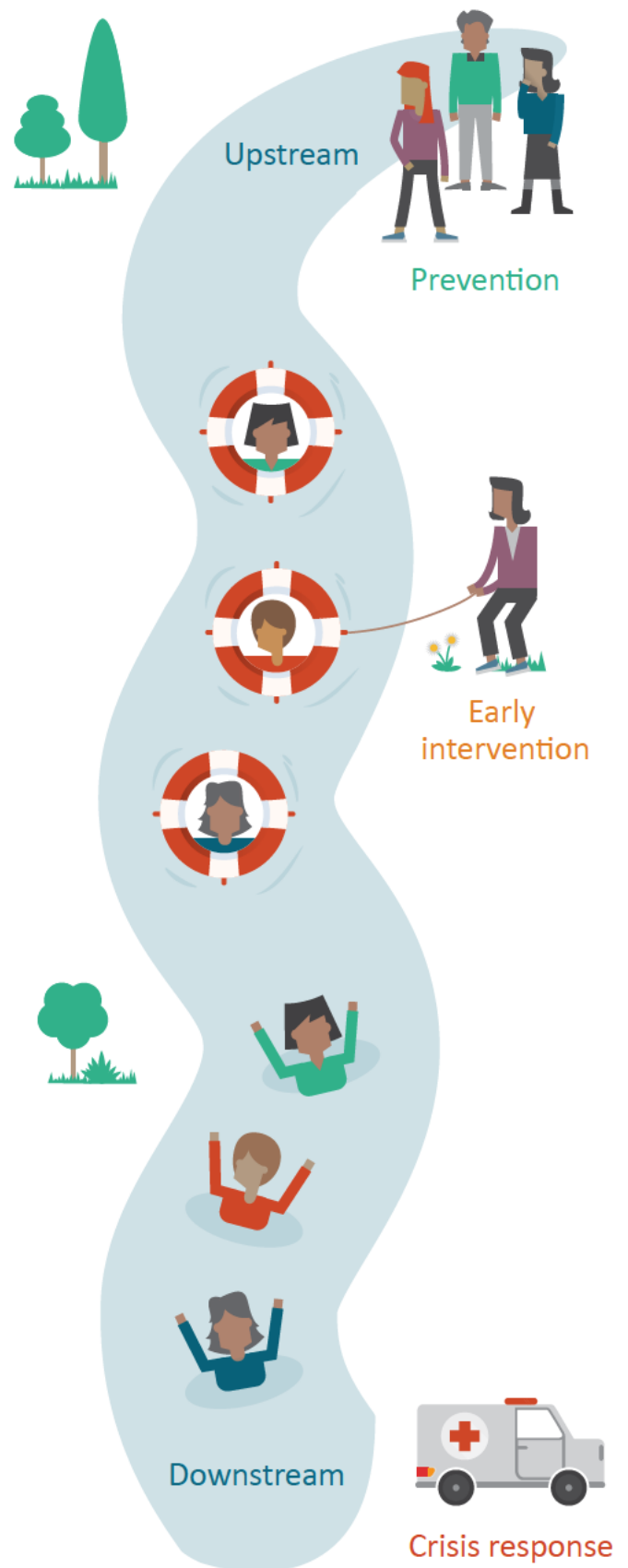


Figure 1. A prevention approach works 'upstream' to prevent the problem from occurring in the first place

## Why we need a primary prevention approach to violence against Aboriginal and Torres Strait Islander women

While there is increasing awareness of the scale and severity of the problem of violence against Aboriginal and Torres Strait Islander women, often the focus is on how to respond to its impacts. This rightly leads to calls for expansion of, and improvements to, crisis and response systems, services and processes. These systems must be able to support, assist and respond to the needs of victims/survivors and also respond more appropriately and effectively to those who perpetrate violence (whether through the criminal justice system or in other ways). Continued work to improve both these aspects of the response system is critical. The overwhelming need for effective responses to violence is clear from the scale and severity of the problem.

However, focusing only on responding to violence fails to address its underlying causes or drivers. Treating the symptoms of a problem can never be enough in the long term. As Aboriginal and Torres Strait Islander service providers and advocates point out, this approach also tends to rely heavily on simplistic 'law and order' solutions and, as such, not only fails to address the 'root causes of violence' and 'the underlying reasons why individuals come into contact with the justice system in the first place', but also 'only perpetuates cycles of trauma and disadvantage, and will not make our communities safer in the long term'.<sup>3</sup>

It is only by developing a prevention approach — one that identifies and addresses the deeper drivers of violence against Aboriginal and Torres Strait Islander women — that we can start to reduce and ultimately prevent this violence from occurring in the first place.

## To prevent violence we first need to understand what drives it

In order to effectively prevent violence against Aboriginal and Torres Strait Islander women, we need to properly understand and explain what causes or drives this violence. We can then ensure that we are 'treating the cause, not the symptom' by designing prevention strategies that directly address these deeper underlying issues. This fundamental principle — aligning strategies and actions with the specific underlying drivers of violence — is the essence of a prevention approach.

Too often, however, there is a lack of attention to the determinants of violence against Aboriginal and Torres Strait Islander women. This is reflected in media reporting and public debate, which rarely discusses the potential underlying causes or drivers of this violence, beyond pointing to alcohol or drug addiction,<sup>4</sup> factors that are themselves frequently symptoms of a deeper issue. This extremely limited kind of analysis is a significant barrier to prevention efforts.

The background paper to this resource, *Understanding violence against Aboriginal and Torres Strait Islander women and their children*, offers an analysis that avoids this over-simplification. It provides an extensive discussion of the prevalence, nature, impacts and dynamics of violence against Aboriginal and Torres Strait Islander women, and a detailed exploration of the complex, intersecting, underlying drivers of this violence. Drawing on extensive research and consultation, it places this violence in a social, political and historical context, and encourages a deeper, intersectional and contextualised understanding of this issue.

The background paper shows that understanding what drives violence against Aboriginal and Torres Strait Islander women requires both an emphasis on the many historical and ongoing impacts of colonisation and a gendered analysis. This 'intersectional' understanding of the issues is illustrated in the diagram in the next section.

# The intersecting drivers of violence against Aboriginal and Torres Strait Islander women

This conceptual model (Figure 2) shows that while there is no one 'cause' of violence against Aboriginal and Torres Strait Islander women, its three key underlying drivers can be understood as:

- the ongoing impacts of colonisation for Aboriginal and Torres Strait Islander people
- the ongoing impacts of colonisation for non-Indigenous people and in Australian society
- gendered factors — both gender and inequality in a general sense, and specific gendered drivers of violence that are a consequence of colonisation

These drivers each have multiple aspects (some of which are shown by the dot points in Figure 2) and they also overlap and intersect with each other in complex ways in different contexts.

.....  
This conceptual model is necessarily a simplification, or high-level analysis, of a very complex issue. For a full explanation of the model, please see the *Changing the picture* background paper. This provides detailed explorations of each of the drivers, and discussion of how different drivers influence the perpetration of violence by non-Indigenous men and by Aboriginal and Torres Strait Islander men.

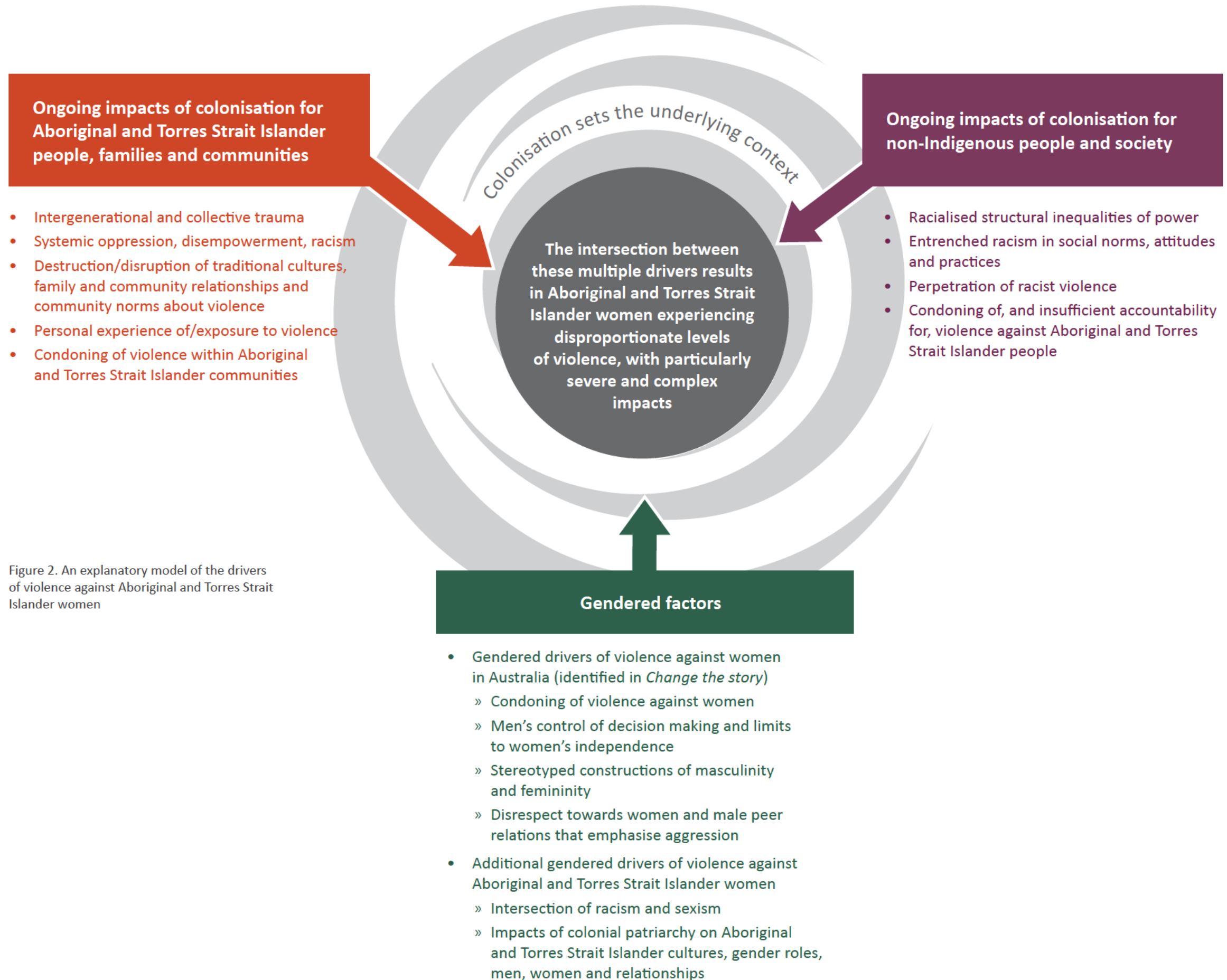


Figure 2. An explanatory model of the drivers of violence against Aboriginal and Torres Strait Islander women



# Actions to prevent violence against Aboriginal and Torres Strait Islander women

## Essential actions: focusing prevention efforts on addressing the drivers of violence

This section applies the learnings from research evidence (including numerous previous recommendations made by Aboriginal and Torres Strait Islander organisations and our consultations with Aboriginal and Torres Strait Islander stakeholders. It combines these with established primary prevention principles to distil a set of actions that are needed to shift the specific underlying drivers of violence against Aboriginal and Torres Strait Islander women.

The following three essential actions together address the three underlying drivers of violence against Aboriginal and Torres Strait Islander women, which are summarised in the diagram at Figure 2 (and described in detail in the *Changing the picture* background paper)

These actions are deemed essential because without them violence against Aboriginal and Torres Strait Islander women will not be sustainably reduced or prevented.

The actions are broad and high level. Each overarching action will have many different elements and applications. Because the drivers of violence lie at many different levels of society, prevention activities that address norms, structures and practices at all levels and in multiple settings and contexts need to be considered for each action. For example, work addressing racist attitudes, or people's attitudes towards violence, at the community or organisational level needs to be accompanied by legislative, institutional and policy supports that protect Indigenous people's human rights, promote racial and gender equality, and ensure accountability for violence and discrimination.





# Action 1

Address the legacies and ongoing impacts of colonisation for Aboriginal and Torres Strait Islander people, families and communities

The legacies of colonisation for Aboriginal and Torres Strait Islander people are significant and complex. No single action will be adequate to address these impacts — a comprehensive range of actions is necessary. Activities under each action will need to be designed and implemented to take into account the diversity of Aboriginal and Torres Strait Islander people's identities, experiences and circumstances across the country.

Actions listed here are not exhaustive — they are simply those of most immediate relevance to the issue of violence against women and their children. They will need to be complemented by wide-ranging actions at social, economic, cultural and political levels, to address the many broader issues that are critical for Aboriginal and Torres Strait Islander people, including land rights, self-determination at all levels, and the reclamation of culture and identity.<sup>5</sup>



**'We are the First Peoples of this country. We need a new way — our way for addressing family violence in our communities; a way that recognises the impact of intergenerational trauma on our people, our families and our communities.'**  
**Warawarni-gu Guma Statement<sup>6</sup>**





## Address the impacts of intergenerational trauma, through healing strategies

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- Significantly increase the number, scale, availability and long-term sustainability of healing programs, services and initiatives to address the intergenerational trauma experienced by Aboriginal and Torres Strait Islander people.
- Implement healing services, programs and initiatives that are understood to be most effective, namely those that are developed by and for Aboriginal and Torres Strait Islander people. These should be holistic, culturally sensitive and appropriate for participants, culturally driven, developed and implemented,<sup>7</sup> and should:
  - » work with collective and individual trauma, using collective practices grounded in holistic recovery<sup>8</sup>
  - » respect the autonomy and strength of survivors, and offer them a clear path forward<sup>9</sup>
  - » support and empower communities to take control of their own healing
  - » use both cultural and evidence-based knowledge
  - » build cultural awareness and a sense of identity
  - » incorporate evaluation strategies and contribute shared knowledge for replication<sup>10</sup>
- Implement specific healing strategies for women, men, children and young people as well as holistic strategies to enable community healing.
- Develop a trauma-informed workforce. Implement trauma and healing training, professional development and community education strategies to support and build the capacity of relevant service providers, workers and community members to understand the impacts of intergenerational trauma.
- Effectively recognise and respond to trauma, loss and grief, and support healing in Aboriginal and Torres Strait Islander communities.
- Ensure all services provided for Aboriginal and Torres Strait Islander people are trauma informed, including, as a minimum:
  - » the capacity to recognise the symptoms of trauma in order to prevent the risk of misdiagnosis
  - » an understanding of how trauma can impact men and women in different ways
  - » an awareness of how trauma can undermine the potential impacts of therapeutic interventions<sup>11</sup>

**‘Both men and women need healing programs [as well as] trauma-informed counselling and other specialist trauma and healing services — these need to be for both men and women and for young people, and for the family unit.’ Consultation participant, Cairns**



**‘Healing is not an outcome or a cure but a process; a process that is unique to each individual. It enables individuals, families and communities to gain control over the direction of their lives and reach their full potential. Healing continues throughout a person’s lifetime and across generations. It can take many forms and is underpinned by a strong cultural and spiritual base.’ Healing Foundation<sup>12</sup>**





## Strengthen connections to culture, language, knowledge and cultural identity

- Recognise the cultural determinants of health, wellbeing and safety, the protective properties of cultural connection for Aboriginal and Torres Strait Islander people<sup>13</sup> and the need for cultural strengthening to provide the foundation to prevent violence.<sup>14</sup>
- Improve policy and practice to better support and strengthen Aboriginal and Torres Strait Islander cultures, knowledge, languages and perspectives, in diverse contexts and settings, including in both Indigenous and non-Indigenous organisations.
- Recognise the need for programs to balance a focus on cognitive behaviour change with spiritual and cultural wellbeing.<sup>15</sup>

‘We need ways to keep our young people connected, or connect them to their culture, their land, language, family, to their roots, [to help] them build a strong sense of identity.’ **Consultation participant, Cairns**



‘Lots of our young people don’t know enough about their own culture and they don’t learn about the true history of this country at school. We need to give them that knowledge and that connection, because that helps them know who they are as a person, so they have that sense of where they belong — without that too many of them are lost.’ **Consultation participant, Darwin**

‘Our cultural knowledge base is valid. Our kinship and skin group relationships are important. What we have to say is legitimate.’ **Warawarni-gu Guma statement<sup>16</sup>**





## Strengthen and support Aboriginal and Torres Strait Islander families

- Provide national coverage commensurate to the need for holistic, culturally strong and intensive family support services (including child support, legal and counselling services) to strengthen families before, and in coming into contact with, the child protection system.<sup>17</sup>
- Support the development of holistic, integrated, community-controlled early years child and family services for Aboriginal and Torres Strait Islander children and families.<sup>18</sup>
- Develop prevention and early intervention strategies aimed at reducing the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care through the four 'building blocks' outlined in the [Family Matters Roadmap](#).<sup>19</sup>
- Reduce the negative impacts of some child protection practices on Aboriginal and Torres Strait Islander children and young people. This would include improving the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle in child protection systems, and addressing identified barriers and increasing proven supports to implementation.<sup>20</sup> Embed Aboriginal and Torres Strait Islander decision making into child protection systems.<sup>21</sup>
- Support family re-unification for members of the Stolen Generations, prisoners, children removed from their families into out-of-home care and young people in juvenile detention. This action is echoed in the *National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional Wellbeing 2017–2023*.<sup>22</sup>

**'We need culturally safe family counselling.'** Consultation participant, Cairns



**'We need to stop the fear that children will be taken away from family. These [government child protection] services need to understand that families need opportunities to create better environments for their children.'**  
Consultation participant, Cairns





## Implement specific initiatives for Aboriginal and Torres Strait Islander women and girls

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- Respect, support and promote the rights of Aboriginal and Torres Strait Islander women to individual self-determination, choice and to make decisions about their own lives and relationships. Support and enable them to access effective services and supports.
- Expand the availability of, and increase funding and access to, a range of formal and informal initiatives, services and programs for Aboriginal and Torres Strait Islander women and girls that:
  - » enable Aboriginal women and girls to share their experiences in a safe, respectful and empowering environment
  - » increase understanding and awareness of what constitutes violence and abuse, particularly within intimate relationships
  - » challenge the 'inevitability' of violence in women's lives, and emphasise women's right to safety, respect and equality
  - » challenge restrictive gender stereotypes and relationship models — particularly those that involve ideas of masculinity as aggressive, entitled and controlling, and femininity as subordinate or sexualised
  - » support women and girls to develop healthy, respectful relationships
  - » reinforce Aboriginal women's strengths, culture and resilience to violence, building self-esteem, identity and a sense of independence
  - » support women and girls to prioritise self-care and wellbeing
  - » support women and girls to develop positive support networks within their own peer groups and in the wider community
  - » enable the 're-empowerment' of Aboriginal and Torres Strait Islander women, where women themselves define what this empowerment means<sup>23</sup>
  - » resource, support and empower Aboriginal and Torres Strait Islander women and girls to thrive in decision making and leadership positions (which will be defined in extremely diverse ways) both within their communities, and in every setting of society

**'Our women need better access to all kinds of programs — support programs, education programs, healing programs, counselling, empowerment programs.'**

**'We need to empower women who are victims, give them practical tools, and we need to encourage women to have a voice, through education and support to build their self-worth.' Consultation participants, Cairns**

**'We need women understanding that they and their children have the right to be safe.'**

**'We need education to teach what disrespectful sex is [and] to let women know that sexual assault is not their fault.'**

**'Women need support and information on our rights to report, and on the justice system.' Consultation participants, Alice Springs**



## Implement specific initiatives for Aboriginal and Torres Strait Islander men and boys

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- Recognise, promote and support the voices of Aboriginal and Torres Strait Islander men in violence prevention policy, literature and programs. Acknowledge the positive role of Aboriginal and Torres Strait Islander men as a part of the solution in their communities, particularly in leading their own healing and working with men and boys to create change.<sup>24</sup>
- Expand the availability of, and increase funding for and access to, a range of formal and informal initiatives, services and programs for all Aboriginal and Torres Strait Islander men and boys that:
  - » provide space and opportunity for Aboriginal and Torres Strait Islander men and boys to share their experiences in a culturally safe, respectful and empowering environment that does not excuse or condone any form of violence
  - » increase understanding and awareness of what constitutes violence and abuse
  - » emphasise women's right to safety, respect and equality
  - » challenge restrictive gender stereotypes and relationship models — particularly those that involve ideas of masculinity as aggressive, entitled and controlling, and femininity as subordinate or sexualised
  - » challenge attitudes that normalise or condone violence against women, including belief among some Indigenous men that contemporary violence against women can be excused or justified by reference to traditional culture
  - » hold men accountable for their actions — to themselves, to each other, to their lore and custom, and to their families and communities
  - » support Aboriginal and Torres Strait Islander men's groups and networks that allow men to 'develop skills and use their own experience to take control of their responsibilities and behaviours'.<sup>25</sup>
  - » acknowledge the damaging and traumatic impacts of colonisation on Indigenous men while also maintaining that these are never an excuse for violence
  - » support boys and men to recognise and manage the impacts of trauma and access support for healing
  - » provide opportunities for transformation or change through a range of cultural and therapeutic healing practices, and through both group activities and individual counselling
  - » support boys and men to explore and develop positive feelings about their roles, responsibilities and identities, and healthy forms of masculinity based on self-respect and respect for women
  - » support men and boys to develop healthy, respectful relationships in all aspects of their lives
  - » reinforce Aboriginal and Torres Strait Islander men's strengths and connections to culture, building self-esteem and identity
  - » support men and boys to develop positive support networks within their own peer groups and in the wider community
  - » enable Aboriginal and Torres Strait Islander men across the country to network, share knowledge and support each other in their violence prevention work with men and boys
- Facilitate both Aboriginal and Torres Strait Islander men and women to be involved in the development of prevention and behaviour change programs and initiatives.<sup>26</sup>

- Involve Aboriginal and Torres Strait Islander women in the evaluation of the effectiveness of prevention and behaviour change work undertaken by Aboriginal and Torres Strait Islander men, to ensure that program design meets the communities' expectations of change.<sup>27</sup>

'Men need to be included in the solution.'

'Men need to speak up and talk about what they think needs to happen to address this.'  
Consultation participants, Cairns

'I want them to see a strong, black man who is on the same page as me against violence, has the same heart. They are there in the community, it's just about letting them have an avenue to have a voice.' Consultation participant, Brisbane

'There needs to be more Aboriginal men's groups which are led by Aboriginal men, which allow men to discuss and understand why they committed violence, enable them to seek support, because often men don't have the confidence to seek support. Men need to be seen as part of the solution, not as the problem.'  
Consultation participant, Launceston, Tasmania



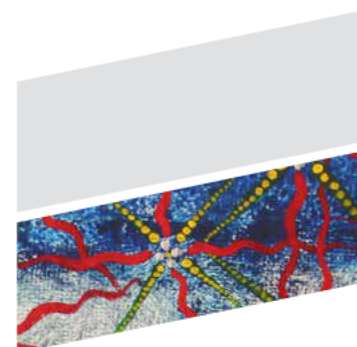
'We [have] to be honest with ourselves. We know that us blokes are the highest percentage of domestic violence perpetrators, so having a conversation is not easy. And for victims it's also hard to dredge up some of those feelings. [But] if we can influence each other about our behaviour, what's safety and what's respect, we can change all sorts of things.' Shane Phillips<sup>28</sup>

'Family, community, respect and looking out for each other — these are the values that make me who I am. How I conduct myself on the field is important, but it's what I do off the field that defines me... Together we can break down unhelpful stereotypes by respectfully calling out offensive remarks and jokes. When we ignore or justify racism or sexism, we prolong a culture in which Indigenous people, and particularly Indigenous women, are marginalised. One of the greatest things I have learned, which features heavily in my Aboriginal culture, is that to have respect, you must give respect, including to yourself.' Neville Jetta, Melbourne Football Club, member of the AFL Players Indigenous Advisory Board and supporter of the Our Watch youth campaign<sup>29</sup>

'Men need programs that help them see that learned behaviours need to change, and that they can change. They need to learn conflict resolution skills and alternatives to violence.' Consultation participant, Cairns

'It's important that men aren't just labelled as perpetrators without any capacity for change — we need to recognise that lots of men do want to change.'  
Consultation participant, Launceston

'Our women and girls and our men and boys must have a strong voice, a seat at the table, to be the architects of our own lives, our own destinies. This is our fundamental human right.' Warawarni-gu Guma statement<sup>30</sup>







## Implement specific initiatives for Aboriginal and Torres Strait Islander children and young people

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- Expand the availability of, and increase funding for and access to, a range of formal and informal initiatives, services and programs for all Aboriginal and Torres Strait Islander young people, including:
  - » respectful relationships education in all formal education settings across Australia, from early childhood to primary and secondary schools and tertiary institutions. Where such activities are implemented in schools with high proportions of Aboriginal and/or Torres Strait Islander students, they should be developed and implemented either by, or with the engagement of Aboriginal and/or Torres Strait Islander parents, Elders and community members. This will help ensure that from the outset they are designed to be culturally safe, locally relevant and able to effectively engage Aboriginal or Torres Strait Islander students
  - » education programs for Aboriginal and Torres Strait Islander children and young people in out-of-home care, focusing on respectful relationships.<sup>31</sup> The programs should be specifically developed and delivered to meet the unique needs of this cohort of young people, and respond to their existing experiences of damaging relationships and trauma
  - » services and supports to help young people heal from their exposure to family violence, including programs that promote the social, emotional and spiritual wellbeing of Aboriginal and Torres Strait Islander young people in out-of-home care
  - » mentoring and leadership programs for Aboriginal and Torres Strait Islander young people that draw on evidence of what works<sup>32</sup> to support and help provide a positive transition to adulthood. These programs should encourage and empower young people, nurture leadership potential and build and strengthen relationships between young people and Elders. They should also guide by example, promote help-seeking behaviour, and build protective factors. They should provide connections back to culture, build belonging and self-worth, tackle educational inequality and support educational success<sup>33</sup>
  - » strategies that help Aboriginal and Torres Strait Islander children develop resilience early in life. Early life resilience is linked to the long-term prevention of violence as well as numerous other positive health and wellbeing outcomes<sup>34</sup>
  - » strategies that respond to Indigenous young people's high rates of social media usage. There are significant opportunities not only to address the negative impacts of social media (when used to bully, harass or perpetrate online abuse) but also to harness the positive power of social media to provide a sense of support, community and cultural connection for Aboriginal and Torres Strait Islander young people.<sup>35</sup> Social media also provides an opportunity to engage Indigenous young people in direct primary prevention strategies, through the provision of content on respectful relationships, gender equality and respect<sup>36</sup>



‘Our young people want things to change. They’re looking to adults in the community as being those role models for them, and I think we owe it to our young people to do that.’ **Consultation participant, Brisbane**

‘We need to use phones, technology and social media to engage kids.’  
**Consultation participant, Sydney**



‘Look at how women are undermined, their importance is undermined, and the role they are given in pleasuring men on Facebook, in music videos, on Twitter, Instagram, AirG, Snap Chat. We need to have conversations with young people about this.’  
**Consultation participant, Cairns**

‘Some primary and high schools have Aboriginal support workers — if children aren’t learning about culture and language at home, they can learn this at school. This can have really important impacts to help children understand history and cultural knowledge and is a really important part of addressing intergenerational trauma.’  
**Consultation participant, Launceston**

‘Our children are important and so is our obligation to make sure we are giving them the best start in life that we can, growing them up strong and healthy in body, mind, spirit and culture; to know and show the respect that is central to our culture, throughout all of their actions.’ **Warawarni-gu Guma statement<sup>37</sup>**





## Challenge the condoning of violence in Aboriginal and Torres Strait Islander communities

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- Support community-based initiatives that build people's understanding of what behaviour constitutes violence. Strengthen community messaging about respect and equality (including, for example, communication strategies in settings such as sports events, festivals, family days and other community events).<sup>38</sup>

While the effects of 'awareness raising' initiatives on their own are usually somewhat limited, they can, when implemented as part of a broader range of strategies, help provide an environment in which social norms can be challenged and changed.

- Provide funding for evidence-based campaigns to promote respectful relationships across Aboriginal and Torres Strait Islander communities, with a specific focus on children and young people.<sup>39</sup>
- Support initiatives developed and led by Aboriginal and Torres Strait Islander people to challenge community norms, attitudes and practices that condone or excuse violence (including stigma, victim blaming, excusing, and intimidating women seeking to report) and to promote the values of respect and gender equality.

'We need to get more Elder involvement in educating Aboriginal men and women that violence is not a part of culture.' **Consultation participant, Cairns**

'The drivers [of change] have to come from within the Aboriginal community — we need men and women saying that violence is not acceptable and it's not our culture, and that we need to have solutions in place.' **Consultation participant, Launceston**



'Having strong messages in community about what behaviour constitutes violence can help to shift attitudes and reduce tolerance of violence. The more people are aware, the better chance there is of reducing the occurrence of violence in community.'

**Indigenous Family Violence Regional Action Groups<sup>40</sup>**

'[What we need is] really straight-up talks, courageous talks, where you say to your own brother and sisters, cousins, whatever, that this is not acceptable. And you know it doesn't mean that you love that relative any less, but you're telling them, you're being direct with them: we need to be able to be looking after each other and violence within our homes is not acceptable.' **Dixie Link-Gordon<sup>41</sup>**

'You need conversation starters to address all of these issues. An example of this is the "Star weaving" program, which uses art as a way to connect community and get people talking about violence against women in a non-threatening way. These types of community-led actions can open up conversations that weren't happening before, address stigma and unpack myths about violence — they help make community discussions about sensitive issues easier.' **Consultation participant, Launceston**



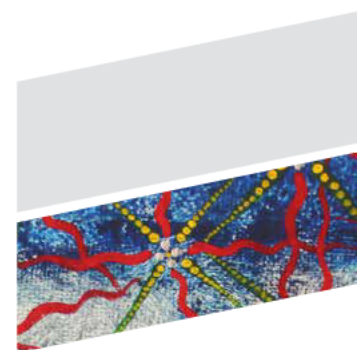
## Increase access to justice and reduce rates of imprisonment of Aboriginal and Torres Strait Islander people

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- Improve access to justice for Aboriginal and Torres Strait Islander people, with a particular focus on supporting women and children experiencing and at risk of further violence to:
  - » access an appropriate response to the violence<sup>42</sup>
  - » secure their short and long-term safety and that of their children
  - » break the cycles of imprisonment, child removal and trauma for Aboriginal and Torres Strait Islander women that often stem from their own experiences of violence
- Implement the recommendations from the Royal Commission into Aboriginal Deaths in Custody report<sup>43</sup> and the Human Rights Law Centre and Change the Record report into Aboriginal and Torres Strait Islander women's over-imprisonment.<sup>44</sup>
- Address the underlying drivers of the disproportionate rates of imprisonment of Aboriginal and Torres Strait Islander people (men, women and young people) through a justice reinvestment approach.<sup>45</sup> This implements the 12 policy principles and specific solutions recommended by Aboriginal and Torres Strait Islander, human rights, legal and community organisations in the [\*Blueprint for change\*](#) policy framework produced by the Change the Record Coalition.<sup>46</sup>

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**Note: Aiming to reduce the incarceration of Aboriginal and Torres Strait Islander men does not mean they should not be held accountable for violence against women. Nor does it imply that prison is not sometimes an appropriate punishment for such crimes, and an effective means of keeping women victims safe. Rather a primary prevention approach means addressing the underlying causes of Aboriginal and Torres Strait Islander men's imprisonment, in ways that reduce violent offending and reoffending, and divert those charged with non-violent offences to non-custodial options, as a means of breaking the cycle of violence that imprisonment often perpetuates.**





## Action 2

Address the legacies and ongoing impacts of colonisation for non-Indigenous people, and across Australian society



### Challenge and prevent all forms of racism

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- Implement a range of strategies using multiple mechanisms, and in multiple settings<sup>47</sup> to challenge and prevent racism and discrimination, both interpersonal and institutional, and promote equality and the specific human rights of Aboriginal and Torres Strait Islander peoples.
- Challenge racist, discriminatory and disrespectful social norms, attitudes and practices that reproduce and perpetuate a culture of racism and drive racist violence.



### Challenge indifference, ignorance and disrespect towards Indigenous people and cultures

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- Increase non-Indigenous people's understanding of Aboriginal and Torres Strait Islander history, cultures, knowledge and perspectives, and the significance and value these are afforded in Australia. This can be achieved through formal and informal education, and public communication practices.
- Increase the meaningful, public recognition and acknowledgement of Aboriginal and Torres Strait Islander peoples and cultures, by incorporating in public, organisational and institutional policies, protocols, and practices and by marking significant dates and key events.<sup>48</sup>



'There needs to be better education of the mainstream about Aboriginal and Torres Strait Islander history and its impacts.' **Consultation participant, Cairns**



## **Address power inequalities, particularly in decision making positions**

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- Develop and implement strategies to increase the representation of Aboriginal and Torres Strait Islander people (including both women and men) in positions of power and decision making — particularly those responsible for decisions that directly affect the lives of Aboriginal and Torres Strait Islander people, as specified in international human rights frameworks.



## **Identify and amend racist and discriminatory laws, policies and organisational and institutional practices**

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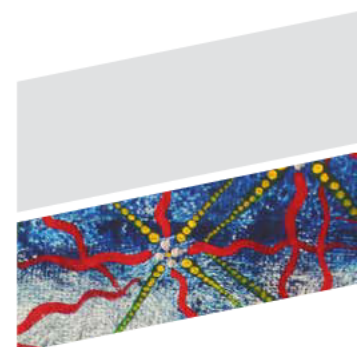
- Prioritise the protection of Indigenous people's human rights and the needs of Aboriginal and Torres Strait Islander people in legislation and policy.<sup>49</sup>
- Identify and address any racist or discriminatory aspects of government policy, practices, programs and services,<sup>50</sup> and those of other agencies and organisations.



## **Challenge the condoning of violence against Aboriginal and Torres Strait Islander people**

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- Challenge social norms, practices and structures that excuse, trivialise or downplay violence against Aboriginal and Torres Strait Islander people, shift blame onto the victim or reduce accountability.
- Improve media reporting<sup>51</sup> to increase the visibility of all forms of violence against Aboriginal and Torres Strait Islander people, eliminate the use of stereotypes, frame stories in an ethical way, convey the seriousness and prevalence of racialised violence, and highlight the voices of Indigenous people in commentary and analysis.
- Increase the profile of violence against Indigenous people on the national agenda, in public and political debate, with a view to building support for prevention initiatives that address the underlying drivers of this violence.





## Action 3

Address the gendered drivers of violence against Aboriginal and Torres Strait Islander women



### Implement intersectional approaches to prevent violence against women, across the Australian population

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*Change the story* (page 33), outlines five actions needed to address the gendered drivers of violence against women across the Australian population.

These actions are part of the work necessary to prevent violence against Aboriginal and Torres Strait Islander women, which is perpetrated by men of all cultural backgrounds.

However, to ensure that they are as effective as possible in preventing violence against Aboriginal and Torres Strait Islander women in particular, action to address the gendered drivers of violence must be implemented in an intersectional way.

An intersectional approach to preventing violence against Aboriginal and Torres Strait Islander women must:

- support and enable separate and specific prevention initiatives for, and developed and led by, Aboriginal and Torres Strait Islander communities
- include Aboriginal and Torres Strait Islander people as audiences/participants in ‘mainstream’ prevention work in all settings
- address the ways the gendered drivers of violence specifically play out for Aboriginal and Torres Strait Islander men and women, and for non-Indigenous men in relationships with Aboriginal and Torres Strait Islander women
- address the intersections between sexism and racism, and between the impacts of gender inequality and the legacies and ongoing impacts of colonisation, as they play out for both Aboriginal and Torres Strait Islander people and non-Indigenous people

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**For more on what it means to do prevention work in an intersectional way, see page 38 of this document.**





## Challenge the condoning of violence against Aboriginal and Torres Strait Islander women, by challenging both racist and sexist attitudes and social norms

Multiple actions are needed to challenge the condoning of violence against Aboriginal and Torres Strait Islander women, both by non-Indigenous people or Australian society and culture generally, and when it occurs in Aboriginal and Torres Strait Islander communities. Actions need to:

- challenge racist and sexist attitudes towards Aboriginal and Torres Strait Islander women across Australian society
- enable Aboriginal and Torres Strait Islander people to explore the ways in which the condoning or minimising of violence against women might be happening in their own communities, and develop effective ways to challenge this
- promote respect, self-esteem and equality for both women and men
- strengthen norms and expectations about acceptable behaviour to support healthy, respectful, non-violent relationships



'Solutions to family violence impacting Aboriginal people lie within Aboriginal communities and Aboriginal people must lead strategies to prevent and eradicate family violence in our communities. Community ownership and community-driven solutions are fundamentally important. However, it is crucial that community approaches do not result in the voices and perspectives of Aboriginal women being lost. Without reference to women or to gender, reliance on a 'community voice' can serve to reinforce pre-existing gendered power dynamics and silence Aboriginal women.' Family Violence Prevention Legal Service<sup>52</sup>





## Support Aboriginal and Torres Strait Islander women's participation in leadership and decision making

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Australia-wide gender equality strategies and actions to promote women's independence and decision making must be inclusive of and respond to the specific issues that are relevant to Aboriginal and Torres Strait Islander women. Actions should enable and support the development of specific Aboriginal and Torres Strait Islander women's leadership strategies — and diverse models of leadership — with the aim of 'amplifying Aboriginal and Torres Strait Islander women's voices'.<sup>53</sup> Strategies should promote their right to participate equally in leadership, decision making and governance processes — at all levels, and both in their own communities and in non-Indigenous organisations.



## Challenge gender stereotypes and the impacts of colonisation on men's and women's roles, relationships and identities

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Prevention work needs to challenge gender stereotypes and patriarchal gender roles with women and men right across Australian society. This includes creating specific, culturally safe opportunities for Aboriginal and Torres Strait Islander women and men to discuss:

- the particular impacts of gender stereotypes on their own lives and experiences
- the impacts of colonisation on their identities, and views and understandings about gender roles and responsibilities
- the implications for contemporary norms and expectations about relationships between men and women

These conversations need to be led by Aboriginal and Torres Strait Islander people themselves, and occur among women and girls, men and boys, as well as in whole-of-community conversations between women, men, girls and boys, based on holistic community-healing approaches. This will enable the development of community-owned strategies that build on cultural and community strengths to engage and empower both women and men, promote and support relationships that are based on equality and respect, and prevent violence.



'The focus needs to be on children from birth — to challenge gender stereotypes.' Consultation participant, Launceston



### **Strengthen positive equal and respectful relationships between women and men, and girls and boys**

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Work to strengthen positive equal and respectful relationships between women and men, and girls and boys must be designed for relevance to Aboriginal and Torres Strait Islander people. This means mainstream/universal respectful relationships initiatives (such as programs for new parents or respectful relationships education in schools) may need to be adapted or re-designed, or it may be necessary to develop new approaches.

Culturally safe respectful relationships programs have been identified by Aboriginal organisations as 'a key component of preventing family violence in future generations and stopping the intergenerational transmission of trauma'.<sup>54</sup> Such programs need to be developed by Aboriginal and Torres Strait Islander people themselves to ensure they are culturally safe, appropriate and relevant in a given cultural or community context (such as for Aboriginal and Torres Strait Islander parents, or in schools with a high proportion of Aboriginal and/or Torres Strait Islander students).

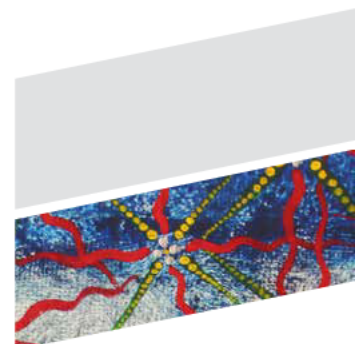


### **Engage both Indigenous and non-Indigenous men to challenge harmful and violence-supportive ideas about masculinity and relationships**

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Because violence against women in Australia is overwhelmingly perpetrated by men, prevention strategies must engage men in challenging harmful notions of masculinity, male control in relationships, and men's peer group cultures that disrespect women.

To prevent violence against Aboriginal and Torres Strait Islander women, prevention strategies must engage both Indigenous and non-Indigenous men. In particular, attempts to prevent intimate partner violence experienced by Aboriginal and Torres Strait Islander women need to recognise that many (and especially in cities, the large majority) of the partners of Aboriginal and Torres Strait Islander women are non-Indigenous men.<sup>55</sup> While Aboriginal and Torres Strait Islander men have important roles to play in this work in their own peer groups and communities, there is also a clear role and responsibility for 'mainstream' organisations, particularly to engage non-Indigenous men to challenge both racist and sexist ideas about masculinity, women and relationships.



## Supporting actions

The actions described in the previous section are called ‘essential actions’ because they are those that most directly address the specific drivers of violence against Aboriginal and Torres Strait Islander women identified in the explanatory model in Figure 2 on page 13. As noted previously, prioritising actions that directly align with the specific underlying drivers of a given problem is key to a primary prevention approach.

However, this does not imply that these are the only actions needed, for two reasons.

Firstly, in addition to the key drivers of violence identified in Figure 2 on page 13, there are a number of other relevant factors that can be considered contributing, or reinforcing, factors for violence against Aboriginal and Torres Strait Islander women. As discussed in the *Changing the picture, Background paper*, these include socio-economic stressors, health and psychological factors, and alcohol and other drugs. It follows that actions to address these contributing or reinforcing factors can make a significant contribution to overall prevention efforts — provided they are undertaken in parallel with the essential actions, rather than in isolation.

Secondly, actions that address such factors can help create a more supportive or enabling environment for primary prevention work. By generally improving individual life circumstances and wellbeing, or by changing particular behaviours, such supporting actions can help create the social conditions in which it is possible to address the deeper, underlying issues, helping make the essential actions more effective.



### Intervene in and respond to existing violence

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As this resource explains, it is specifically a primary prevention approach that will reduce the rates of future violence against Aboriginal and Torres Strait Islander women in the long term. This approach deliberately targets the underlying causes, or drivers, of this violence and focuses on whole-of-population change. However, prevention efforts must also be complemented by, and integrated with, early intervention and response activities that address existing violence.

Extending and improving early intervention and response strategies can have positive secondary and tertiary prevention effects. Working with people where violence has already occurred, for example, can help prevent further violence involving those specific people or groups.

To help provide a more positive foundation for the ultimate prevention of violence against Aboriginal and Torres Strait Islander women, early intervention and response strategies should:

- provide holistic wrap-around support to Aboriginal and Torres Strait Islander people (women and men, adults and children) who are victims/survivors of violence — in order to increase safety, and provide legal, physical, financial, social and emotional supports that will help survivors heal from their experiences and break the cycle of violence in their lives
- ensure men’s behaviour change programs target both Indigenous and non-Indigenous men who have used violence against Aboriginal and Torres Strait Islander women, and address the gendered drivers of violence with both groups

- ensure programs for non-Indigenous men who have used violence incorporate anti-racism strategies, and educate non-Indigenous men on the significance of culture, identity and kinship for their current or future Aboriginal and/or Torres Strait Islander partners and their children and the additional harmful impacts that violence can have as a result
- invest in evidence-based,<sup>56</sup> culturally safe men's healing and behaviour change programs for Aboriginal and Torres Strait Islander men who have used violence. These should respond to the specific needs of Aboriginal and Torres Strait Islander men, particularly by including healing strategies to address trauma, and should be developed and delivered by Aboriginal and Torres Strait Islander organisations. They should always prioritise the safety of women and children, and be funded in addition to services for victims/survivors<sup>57</sup>
- improve access to justice for Aboriginal and Torres Strait Islander women who are victims/survivors of violence

Taking these approaches to early intervention and response activities will both help prevent the recurrence of violence against Aboriginal and Torres Strait Islander women and help increase accountability for this violence.



## **Address socio-economic inequality, disadvantage and exclusion**

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The current levels of socio-economic inequality and disadvantage experienced by Aboriginal and Torres Strait Islander people — including poor living conditions, poor health, inadequate housing, poverty, limited access to economic resources and opportunities, unemployment and underemployment — must be urgently addressed. Current approaches to 'closing the gap' have comprehensively failed to deliver results, something that has been acknowledged by governments themselves,<sup>58</sup> and is the cause of substantial international criticism.<sup>59</sup> Effectively addressing these issues requires not only more significant effort but more meaningful and substantial actions than have previously been trialled.

While this issue is too substantial to cover here in any detail, a particularly relevant point needs to be made: this inequality, disadvantage and exclusion creates significant stressors in Aboriginal and Torres Strait Islander people's lives.<sup>60</sup> Reducing these stressors, policies and strategies that improve the material and economic circumstances of Aboriginal and Torres Strait Islander people's lives will not only greatly improve people's general wellbeing, they will also help create more supportive conditions for violence prevention work. For both these reasons it is critical that governments give urgent priority to fully implementing the recommendations of Aboriginal and Torres Strait Islander people and organisations on these issues, as provided to numerous inquiries.



## **Improve Aboriginal and Torres Strait Islander people's physical and mental health**

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Improving people's physical and mental health and wellbeing also greatly reduces the stressors in their lives, and can therefore remove or reduce some of the potential triggers for violence or barriers to behaviour change, and some of the potential barriers to reporting or escaping violence.

All governments should take urgent and comprehensive action to improve Aboriginal and Torres Strait Islander people's physical and mental health. In particular, they should prioritise, fund and support urgent implementation of the actions in the National Aboriginal and Torres Strait Islander Health Plan 2013–2023 and the National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional Wellbeing 2017–2023.<sup>61</sup>





## Address harmful alcohol and drug use and harmful drinking cultures

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Prevention strategies can be supported by strategies implemented across Australian society to reduce the harmful use of alcohol and other drugs. These reduce or remove what is often a ‘trigger’ for violence, or a factor that exacerbates or increases the severity of violence for individuals in many different communities. In addition, in some specific communities where harmful alcohol use is a significant and widespread problem, initial actions may be necessary to address this issue before other more specific violence prevention strategies can realistically be implemented.

Previously successful strategies to reduce harmful alcohol use have included community-driven initiatives to reduce the supply of alcohol in (geographically based) Aboriginal communities; this includes targeting the many non-Indigenous people and businesses who profit from the supply of these substances. Such strategies have been pursued by many communities for decades, often with little support or outright resistance from licensees and the broader community.<sup>62</sup> Also needed are policies to increase the funding and availability of treatment and rehabilitation services (for both Aboriginal and Torres Strait Islander and non-Indigenous people) as well as specific initiatives to improve Aboriginal and Torres Strait Islander people’s access to these services.

However, such strategies are not sufficient on their own, and if implemented in isolation they risk being only a ‘band-aid solution’. From a primary prevention perspective, strategies to address substance abuse must be expanded in two ways:

- **Challenge harmful drinking cultures**

Firstly, rather than focusing only on the substance itself, strategies must address the social context of its use, one that cannot be understood in isolation from the dynamics of racism and sexism. Specifically, as *Change the story* and other frameworks<sup>63</sup> show, there is a need to challenge and shift the kind of ‘drinking cultures’ found in many social settings across Australia that involve expressions of masculinity that celebrate aggression and disrespect towards women. This approach must be applied to drinking cultures in both Aboriginal and Torres Strait Islander and non-Indigenous communities. In the latter, it must include addressing drinking cultures that involve expressions of racism, sexism and disrespect towards Aboriginal and Torres Strait Islander women in particular.

- **Address underlying causes of harmful substance use**

Secondly, consistent with a prevention approach, the long-term priority must be to address the underlying causes of harmful alcohol and substance use. For Aboriginal and Torres Strait Islander people, such behaviours are widely understood (in both research and consultations) as a destructive coping mechanism or self-medicating behaviour. This behaviour has similar underlying drivers as violence itself, namely the traumatic impacts of colonisation and the ongoing experience of oppression already discussed. This supports the assertion that whether the goal is preventing violence or preventing harmful substance use, addressing these deeper underlying drivers should be the long-term priority.





'[Many Aboriginal men have] suffered disempowerment, trauma, lack of education ... they've seen family and domestic violence cycles in their families. And if they're not getting support ... alcohol and other drug use becomes like a medication, it becomes how they deal with it all. So we need to give them the right kinds of supports that they need, and we need to tackle all those bigger underlying issues.' **Aboriginal male participant at consultation workshop, Darwin**

*Change the story* points to the need to challenge and shift the kind of 'drinking cultures' that involve expressions of masculinity that celebrate aggression and disrespect towards women. This applies to drinking cultures in both Aboriginal and Torres Strait Islander and non-Indigenous communities.



# Principles for prevention in practice

The previous section outlines what actions are needed. This section focuses on how they should be implemented. This is critical to ensure prevention efforts are safe, appropriate, effective and informed by evidence about good practice.

Our Watch's existing publications<sup>64</sup> that are designed to guide primary prevention in diverse settings across Australia include the following general principles for prevention practice:

- working at multiple levels to transform social norms, structures and practices for a more equal society
- designing initiatives to suit each setting and audience, rather than a one-size-fits-all model
- using 'intersectional' approaches; that is, addressing the intersections between multiple forms of social inequality, rather than focusing on gender inequality in isolation
- putting in specific and intensive effort with communities affected by multiple forms of disadvantage and discrimination, with additional resourcing in these contexts
- ensuring initiatives are inclusive and respond to the demographic and geographical diversity of the whole Australian population
- building partnerships for prevention, between diverse organisations and communities
- challenging harmful ideas of masculinity, and positively engaging men and boys, while empowering women and girls
- working across the life cycle, and particularly with children and young people, new parents, and adults at critical relationship stages, such as separation and divorce
- developing reflective practice (where practitioners reflect on their own social position, their values and assumptions, and those of the organisation in which they work)

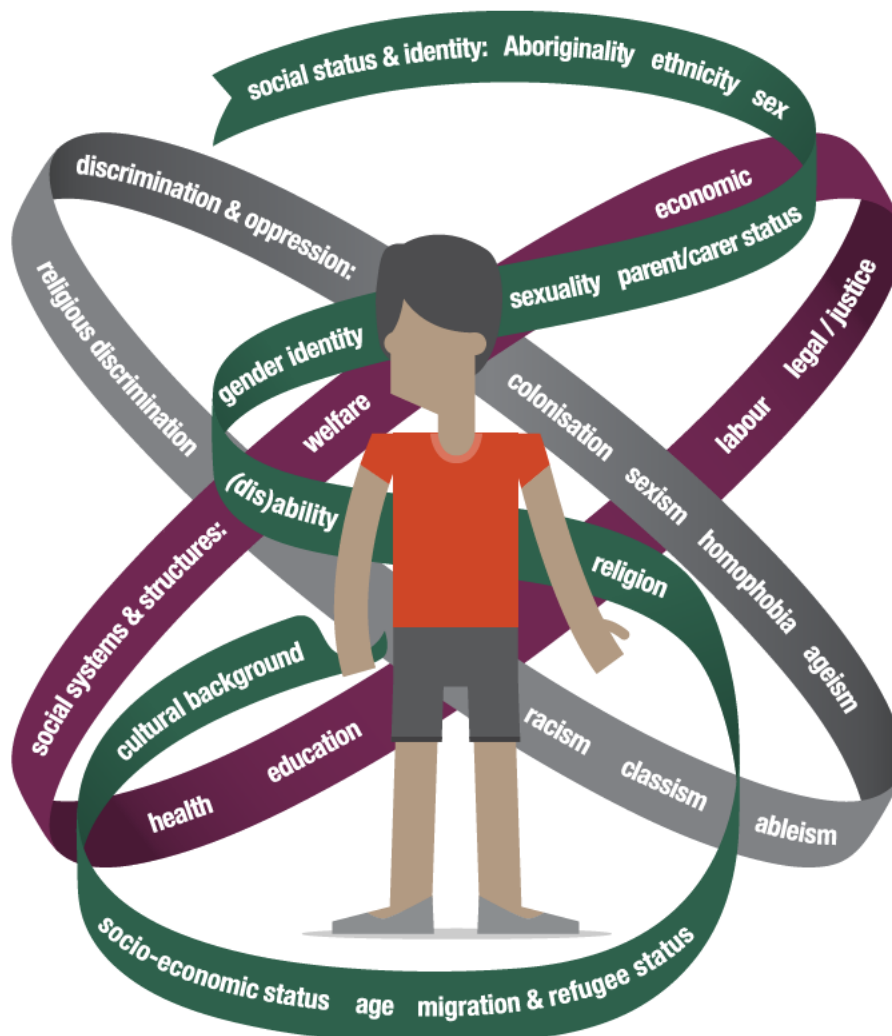
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See *Change the story*, pages 36–37, and *How to Change the story*, pages 44–71, for more on these principles.

While these general principles are also relevant for initiatives specifically aiming to prevent violence against Aboriginal and Torres Strait Islander women, there are a number of additional principles that are critical in this context. Outlined below, these are drawn from the literature specific to issues relevant to Aboriginal and Torres Strait Islander people,<sup>65</sup> and from the expertise and experience of practitioners and other stakeholders consulted for this resource.



## Intersectionality in practice

- Working in intersectional ways is particularly important if strategies are to be effective in preventing violence against Aboriginal and Torres Strait Islander women. As this diagram shows, systems and structures of oppression and discrimination affect different people, and different groups of people in different ways.
- This often results in simultaneous and compounding experiences of discrimination for particular groups and communities, including Aboriginal and Torres Strait Islander people. Not one of these processes or structures can be considered or addressed in isolation.
- Furthermore, because of these intersecting experiences, no one group of people is homogenous, and prevention strategies need to take account of a diversity of experiences for different individuals, both within and across different settings and contexts.



- Aboriginal and Torres Strait Islander people, as a group, face unique issues by virtue of their social, political and economic status as Indigenous people. Yet there are also a number of cross-cutting or intersecting forms of discrimination, oppression and inequality that impact on some Aboriginal and Torres Strait Islander people. These include those based on classism, sexism, disability discrimination, homophobia and transphobia, for example.
- Prevention strategies should be developed with a view to addressing these intersecting impacts, including, for example, specific actions to prevent violence against and perpetrated by people with a disability, and people who are lesbian, gay, bisexual, transgender, queer or intersex.



## Self-determination: community ownership, control and leadership

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Community ownership, community control and self-determination are repeatedly identified as key principles for many kinds of initiatives in Aboriginal and Torres Strait Islander communities,<sup>66</sup> and a key indicator of success.<sup>67</sup> Community ownership of prevention initiatives means that such initiatives should grow from and be driven by the community, address community-identified needs and priorities, use community-developed solutions and be implemented via strong community relationships.



**‘It’s important that actions are being led and driven by community champions — not an intervention from the government.’ Consultation participant, Launceston, Tasmania**

While prevention work needs to occur in all sectors of the Australian community, where programs and services are specifically aimed at or provided for Aboriginal and Torres Strait Islander people, these should, wherever possible, be delivered by Aboriginal and Torres Strait Islander people — and preferably by Aboriginal and Torres Strait Islander community-controlled organisations. These organisations have the unique capacity to provide culturally safe services and are able to develop localised, specifically designed solutions that have community support.<sup>68</sup>



**‘Aboriginal and Torres Strait Islander people and organisations are best placed to provide services to Aboriginal and Torres Strait Islander people.’ Consultation participant, Brisbane**

Where there is no such organisation in place, the priority approach should be training and capacity building of existing community-controlled organisations to extend their reach or activities.<sup>69</sup> Where this approach is not possible, non-Indigenous providers should partner with existing community-controlled organisations.<sup>70</sup>



**‘Where a service is being delivered by Aboriginal people who actually know the community, then engagement is a big thing — being able to talk to them, engage with them — that’s the key issue. I’ve seen non-Indigenous psychologists trying to work with Aboriginal families but they just can’t get that dialogue and engagement happening, and of course the families disengage and don’t want to work anymore. So it’s about building up that capacity in our own community to be able to work with our families.’ Consultation participant, Brisbane**

In addition to prevention practice being community driven, there is a need for far greater and more meaningful involvement of Aboriginal and Torres Strait Islander people and organisations in the development of policy in this area. This may require measures such as:

- increased resourcing of peak bodies, and supporting and expanding specialist Aboriginal and Torres Strait Islander organisations and initiatives to prevent violence
- increasing the representation of Aboriginal and Torres Strait Islander people, particularly women, in relevant decision making forums and bodies
- developing reliable place-based and aggregated data to inform communities designing responses and building an evidence base to support the success of best-practice approaches
- establishing a formal mechanism to support the participation of Aboriginal and Torres Strait Islander leadership in the implementation of the *National Plan to reduce violence against women and their children*<sup>71</sup>





## Cultural safety

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Cultural safety is: ‘an environment that is safe for people, where there is no assault, challenge or denial of their identity, of who they are and what they need. It is about shared respect, shared meaning, shared knowledge and experience, of learning, living and working together with dignity, and truly listening’.<sup>72</sup>

The design, planning and implementation of any prevention activity should include steps to create a culturally safe environment for Aboriginal and Torres Strait Islander people. Those who the strategy or action seeks to reach or engage should feel that their sense of self and identity is respected and valued.

Non-Indigenous organisations involved in the implementation of prevention strategies, running services or programs that Aboriginal and Torres Strait Islander people should have access to, or those seeking to work with Aboriginal and Torres Strait Islander people and communities on this issue, need to carefully develop their own cultural competencies. This is to ensure they have the capacity to provide or contribute to a culturally safe environment for Aboriginal and Torres Strait Islander people. Such organisations need to ensure that their provision of cultural safety is comprehensive, consistent and embedded across the organisation, including at a policy level, rather than reliant on specific individual workers.

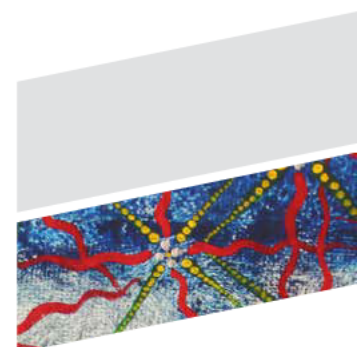


## Trauma-informed practice and practitioner self-care

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Prevention work that seeks to engage Aboriginal and Torres Strait Islander people should be undertaken by practitioners who understand the impacts of intergenerational trauma. They should have the knowledge, training and skills to recognise and effectively respond to the impacts of this collective and individual trauma in ways that support Aboriginal and Torres Strait Islander people to manage its impacts constructively. Given the complexity and significant difficulties associated with this work, Indigenous practitioners in particular also need to be supported to focus on their own healing and wellbeing, and on ongoing self-care, which in turn improves their capacity to maintain employment and provide services to their community.<sup>73</sup>

Again, where prevention work is undertaken by mainstream services or agencies (such as schools) these organisations need to build their cultural awareness and competencies to ensure they provide a culturally safe environment for Aboriginal and Torres Strait Islander people. In particular, this should involve appropriate training to better understand the transgenerational trauma that Aboriginal and Torres Strait Islander people and communities experience, and its implications.<sup>74</sup>





## Healing focused

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As described above, one of the essential actions is to increase the availability of specific, community-driven, holistic healing programs, services and initiatives to address the intergenerational trauma experienced by Aboriginal and Torres Strait Islander people. Culturally sensitive, culturally driven, culturally developed and culturally implemented healing programs and models are known to provide positive pathways forward for individuals and communities.<sup>75</sup>

In addition, wherever possible, a healing focus should be an overarching principle of all prevention work undertaken with Aboriginal and Torres Strait Islander people. Again, where prevention initiatives are culturally strong, developed and driven at the local level, and led by Aboriginal and Torres Strait Islander people, the incorporation of healing is more likely to be possible, as these principles underpin effective community healing approaches.<sup>76</sup>



## Holistic approaches

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Strategies to prevent violence against Aboriginal and Torres Strait Islander women should be holistic in two senses.

Firstly, they should be based on a holistic understanding of Aboriginal and Torres Strait Islander women's lives; the interconnectedness both of the drivers of violence and the many other issues they face in their lives, and of their physical, social and emotional, cultural and spiritual health and wellbeing. Rather than being focused narrowly only on the issue of violence, prevention strategies should be designed to make a contribution to addressing the underlying and overlapping drivers and determinants of all these outcomes.

Secondly, prevention strategies should be holistic in a 'whole-of-community' sense. While the specific goal or desired outcome may be safety, respect and equality for Aboriginal and Torres Strait Islander women, strategies should recognise that given the interconnectedness of Aboriginal and Torres Strait Islander families, kinship networks and communities, this outcome cannot be achieved in isolation. The centrality of family and kinship must be recognised, as well as the broader concepts of family and the bonds of reciprocal affection, responsibility and sharing.<sup>77</sup>

In this context, prevention strategies must work with and for whole communities, engaging women and men, children, young people and adults. They must work not only across Aboriginal and/or Torres Strait Islander communities, but across the whole Australian community, with a particular focus on engaging non-Indigenous men who have Aboriginal and/or Torres Strait Islander partners.

Holistic programs that bring families together to foster their relationships and build strategies to prevent future violence within the family can also be appropriate in some circumstances<sup>78</sup> (where women choose this and where it is a safe option for women and children).

The goal of preventing violence against women should be achieved in partnership with many other initiatives, as part of 'the mutual goal of healing [Aboriginal and Torres Strait Islander] individuals, families and communities, breaking the cycle of violence and creating safer, healthier, nurturing environments for all'.<sup>79</sup>





## Prioritising and strengthening culture

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Prevention efforts aimed at engaging Aboriginal and Torres Strait Islander people should use a cultural determinants approach, recognising:

- the unique protective factors contained within Indigenous cultures and communities<sup>80</sup>
- the cultural strengths Aboriginal and Torres Strait Islander communities have developed — particularly with regard to their deep understandings of the need for healing that brings all aspects of wellbeing into balance<sup>81</sup>
- the positive impacts of culture on the lives of Aboriginal and Torres Strait Islander people, including identity, language, spirituality, and connection to country, family and community<sup>82</sup>



‘Cultural determinants originate from, and promote, a strengths-based perspective, acknowledging that stronger connections to culture and country build stronger individual and collective identities, a sense of self-esteem, resilience and improved outcomes across the other determinants of health, including ... community safety.’<sup>83</sup>

Strategies should be culturally based — with the meaning and application of this principle in a given area or context determined by local Aboriginal and Torres Strait Islander people themselves. While the primary aim of prevention activities is to prevent violence, they have the simultaneous aim of strengthening Aboriginal and Torres Strait Islander cultures and of Aboriginal and Torres Strait Islander people’s connections to culture.

As part of their basis in culture, prevention strategies should be grounded in the principle that ‘family violence is not part of our culture’, establishing that violence is a crime, is unacceptable within the community and that people’s safety and security is the ‘number one priority’.<sup>84</sup>





## Using strengths-based and community strengthening approaches

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Prevention efforts should draw on and seek to enhance the existing strengths and resilience of Aboriginal and Torres Strait Islander communities, and enhance the connection of Aboriginal and Torres Strait Islander people to their communities. They should be based on the principle that the healthy functioning of Aboriginal and Torres Strait Islander communities, families and cultures is the foundation for social and emotional wellbeing and resilience.<sup>85</sup>

Supporting and strengthening families should be a priority — to provide the foundation for building strong and resilient communities.<sup>86</sup> In turn, community resilience is incredibly protective for individuals — it provides people with a sense of control over their lives, helps them feel safe and protected, and supports them to be independent, confident and responsible, individually resilient and self-regulating.<sup>87</sup>

Similarly, prevention work undertaken with individuals should aim to build self-esteem and resilience, and strengthen people's ability to make positive choices about their lives, as this in turn will help build the capacity of the whole community to prevent violence.<sup>88</sup>



## Adapting to different community, demographic and geographic contexts

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While prevention strategies should share many similarities — particularly in their focus on addressing the specific factors identified as underlying drivers of violence against Aboriginal and Torres Strait Islander women — they also need to be diverse in their design and implementation.

To be relevant to and effective in different community contexts, prevention efforts need to recognise community diversity and be developed in or adapted for each specific context. They should also involve community members in defining problems and their contexts, and facilitate community choice in response to those problems.<sup>89</sup> Both these points again highlight the importance of community ownership, control and leadership described above.

Finally, prevention efforts need to respond to diverse geographic settings. Aboriginal and Torres Strait Islander people live in urban, rural and remote settings, in urbanised, traditional and other lifestyles, and many frequently move between these ways of living.<sup>90</sup> There are significant differences between remote and non-remote areas, particularly with regard to their socio-economic and demographic profile, the kinds of social, cultural and community relationships and dynamics that are typical of each, and the often very different levels of infrastructure and services available.



**‘There’s a big difference between an island and a city. You can’t use a formula for mainstream on our island; it just won’t suit us. There’s a big difference. We want to live the way we live, according to our laws and practices; that’s why [prevention work] has got to be culturally appropriate ... We really need to make sure there’s a balance between Lore and Law.’** **Torres Strait Islander consultation participant**

Prevention strategies designed for implementation in different geographical contexts need to be based on an understanding of these differences and the variance in the dynamics, meanings, experiences and contextual issues relating to violence in different areas. Such place-based factors must also be factored into design and implementation of strategies implemented in different locations across the country.



## Non-Indigenous organisations working as allies in culturally safe ways

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Where non-Indigenous organisations or services, or non-Indigenous workers, undertake prevention work that seeks to actively involve or engage Aboriginal and Torres Strait Islander participants, or reach Aboriginal and Torres Strait Islander audiences, they should do so in culturally safe and respectful ways.

This requires non-Indigenous organisations to break down the silos they often work in, and instead prioritise the interests of Aboriginal and Torres Strait Islander people,<sup>91</sup> develop their cultural competencies,<sup>92</sup> ensure cultural safety, and work in ways that are based on genuine and meaningful engagement and partnership. The aim should be to work with, not for, Aboriginal and Torres Strait Islander people, and to be effective allies — recognising Aboriginal and Torres Strait Islander people's expertise and leadership, and supporting their goals and aspirations, including both their definitions of the problem and their development of their own solutions.

Non-Indigenous people involved in such initiatives need to respect Aboriginal and Torres Strait Islander world views, and cultural and community values and priorities, and work with these in genuine ways. They need to balance and incorporate Aboriginal and Torres Strait Islander people's knowledge and values together with other relevant influences, frameworks and approaches in the contemporary context. This is complex work that requires practitioners with significant cross-cultural skills, expertise in two-way working, and the development of approaches that build strong relationships, alliances and levels of trust between Indigenous and non-Indigenous people and organisations.<sup>93</sup>



'Nothing about our mob, without our mob'. This is not a slogan. This is critical, not only for our healing but for yours as our fellow Australians; this is the starting point for our relationship... You enjoy a positive legacy as a result of our dispossession. You have a responsibility to ensure we have a strong voice about our realities and to support our solutions, solutions that come from our cultural knowledge bases.'

**Warawarni-gu Guma statement<sup>94</sup>**



# Working together on prevention — roles for different stakeholders

The prevention of violence against Aboriginal and Torres Strait Islander women requires action by many stakeholders, including:

- governments and government agencies at all levels
- non-government organisations and services
- Aboriginal and Torres Strait Islander people, communities and organisations
- non-Indigenous people, communities and organisations

Action is needed in both Aboriginal and Torres Strait Islander-specific and 'mainstream' or non-Indigenous contexts.

To address the many damaging impacts of colonisation on Aboriginal and Torres Strait Islander people, particularly those associated with intergenerational trauma, prevention strategies must be implemented in Aboriginal and Torres Strait Islander communities and social settings. This work should be developed and led by Aboriginal and Torres Strait Islander people, implemented by community controlled organisations and guided by the principles of self-determination and community ownership described in the previous section.

But prevention efforts must not be limited to these settings, nor must Aboriginal and Torres Strait Islander people and organisations bear sole responsibility for preventing violence against Aboriginal and Torres Strait Islander women.





There is significant work to be undertaken by non-Indigenous people and organisations to address the drivers of violence associated with systemic racism and discrimination — in both its interpersonal and institutional or structural forms. This means working as effective allies to Aboriginal and Torres Strait Islander people. Further, because the perpetrators of violence against Aboriginal and Torres Strait Islander women can be from any cultural background, ‘mainstream’ organisations have a particular responsibility to implement prevention strategies that reach and engage non-Indigenous men.

In addition, efforts must be made to ensure that organisations undertaking general prevention work to address the gendered drivers of violence against women anywhere across Australian society consider the specific issues that might be relevant to Aboriginal and Torres Strait Islander people who participate in their programs or make up part of their audiences. Such work should actively aim to include and engage Aboriginal and Torres Strait Islander people in genuine and meaningful ways.

As violence against Aboriginal and Torres Strait Islander women occurs across Australia, in many different contexts, prevention actions must also occur in diverse geographic and cultural contexts across the country, from remote communities to urban neighbourhoods. They need to be implemented in all the diverse settings where people — men and women, adults and children — live, work, learn and play.

Actions to address the drivers of violence against Aboriginal and Torres Strait Islander women require both specialised policy support and broad ‘on-the-ground’ implementation. No single organisation can undertake all the actions outlined here. Rather, we need all stakeholders to contribute — in appropriate and context-specific ways, separately and in partnership — as part of a comprehensive, holistic and shared national approach.



# Examples of existing prevention initiatives

This section provides a range of examples of existing prevention initiatives being undertaken around the country. It has a focus on initiatives addressing driver 1 (the ongoing impacts of colonisation for Aboriginal and Torres Strait Islander people—red section) and driver 2 (the ongoing impacts of colonisation for non-Indigenous people and in Australian society—purple section).

For examples of initiatives addressing the gendered drivers of violence against women, see the case studies featured in the Our Watch practitioner handbook: *Putting the prevention of violence against women into practice: How to Change the story* (available on the Our Watch website at <https://www.ourwatch.org.au/What-We-Do/Our-Watch-Handbook>)



## Aboriginal Family Law Services (AFLS): Men's Lifestyle Changes (Western Australia, demographic: men)

AFLS is an organisation that provides legal and community education for Aboriginal men, women and children who have experienced family violence or sexual assault. Men's Lifestyle Changes is a program that focuses on regional groups and provides information to men about family violence and its impacts.

For more information, visit the AFLS website at <https://www.afls.org.au/>



The Picnic in the Park program, operated by AFLS Port Hedland, is run in the Pilbara Service Area for Pilbara communities. The program aims to bring families and the community at large together for a fun day in the park, while also providing legal education to the community and allowing staff to engage with potential clients. Other stakeholders are also invited to attend and promote their services to the community.

For more information, visit the AFLS website at <https://www.afls.org.au/>





### Marumali Journey of Healing Workshop (Gold Coast, Queensland, demographic: service providers)

The Marumali ('To put back together') Journey of Healing has been developed and delivered by a survivor of removal policies. Workshops are delivered in a variety of formats; each designed to meet the needs of different groups of participants. In addition to the standard program formats, the program can be tailored to meet the specific needs of a particular client group.

Workshops support service providers to: realise the widespread impact of forcible removal and understand the potential paths for recovery; recognise the signs and symptoms of trauma associated with forcible removal in clients, families and others involved with the service; and avoid re-traumatising members of the Stolen Generations. Participants and organisations are encouraged to integrate this knowledge into their policies, procedures and practices.



### We Al-li trauma-informed training (National)

We Al-li is an Australian Aboriginal family-owned business providing programs of healing, sharing and regeneration. We Al-li offers trauma-informed training to community and organisations, assisting participants to develop a strong theory to practice professional skills.

We Al-li training programs are informed by the stories of Aboriginal and Torres Strait Islander people and utilise traditional Indigenous healing work combined with a western trauma-informed and trauma-specific approach to individual, family and community recovery.

The program intends to provide:

- a culturally relevant, trauma-informed and trauma-specific, safe teaching-learning experience
- community-based training
- the ability to work in diverse and difficult situations
- the ability to strengthen relationships between individuals, families, communities and workforce skills

For more information, visit the We Al-li website at <http://www.wealli.com.au/>



### Mudgin-gal women's group (Sydney NSW)

Supported by the Redfern Foundation in inner city Sydney, Mudgin-gal is a volunteer run peer to peer service, run by and for Aboriginal women. Meaning 'Women's Place', Mudgin-gal offers support for women, girls and their young families.

Mudgin-gal's previous initiatives include the 'Healthy Family Circle' program, developed in partnership with Relationships Australia, which aimed to empower women and young girls with self esteem, confidence and life skills, and the 'Black Out Violence' campaign, which was acknowledged by the Human Rights and Equal Opportunity Commission as a best-practice model for addressing violence in urban Aboriginal communities.

For more information, see <http://www.redfernfoundation.org.au/mudgingal.html>



### **Danila Dilba: Emotional and Social Wellbeing Centre (Darwin, Northern Territory)**

The Emotional and Social Wellbeing Centre at Malak aims to improve the psychological health of Aboriginal and/or Torres Strait Islander people in the Yilli Rreung region. The two main programs at the centre are Bringing them Home and Dare to Dream.

Bringing them Home provides counselling and therapeutic services for members of the Stolen Generations and their families. The program helps to address the long-term impact of government policies that saw the removal, displacement and dispossession of Indigenous people.

Dare to Dream is an early intervention mental health program for young Indigenous people up to the age of 18, their families and carers. The program is designed to build resilience, coping skills and improved emotional health and wellbeing among clients, as well as support for families and carers.

See: <https://www.daniladilbaexperience.org.au/services/community-services.html>



### **Aboriginal Family Law Services (AFLS): Strong Women, Strong Mothers (Western Australia, demographic: women)**

Strong Women, Strong Mothers is a voluntary program targeted at women who have been in a violent or unhealthy relationship or have low self-esteem. The program is delivered in the Roebourne Regional Prison by AFLS in conjunction with the Re-Entry Team. Participants are encouraged to share their experiences of violence in a safe, comfortable and friendly group environment, with the aim of creating an enhanced awareness of violence and fostering relationships among peers. Education about what violence is and what its signs are is also provided to participants.

For more information, visit the AFLS website at <https://www.afls.org.au/>



### **Aboriginal Family Law Services (AFLS): Sparkle and Grow (Western Australia, demographic: women)**

The Sparkle and Grow program provides information and guidance on goal setting, healthy relationships and the law. It is for female participants and has the goal of preventing violence in regional Aboriginal communities. The program was developed with community consultation and uses a trauma-informed approach to understanding violence by:

- emphasising cultural connection
- exploring the way norms and attitudes influence violence
- discussing content relating to healthy and respectful relationships

For more information, visit the AFLS website at <https://www.afls.org.au/>



### Elizabeth Morgan House: Economic Abuse Training (Victoria, demographic: women)

Elizabeth Morgan House Aboriginal Women's Service (EMHAWs) is the first Aboriginal women's refuge in Australia. The Economic Abuse Training program aims to educate women about economic abuse so they can identify it early in a relationship. It also explores how to manage debts that have been created because of economic abuse in order to enable women to leave a relationship.

The training aims to minimise financial and other related stress factors for vulnerable women and children. The program is tailored to meet the needs of Aboriginal women within the community and incorporates traditional thinking/healing components.

For more information, visit the EMHAWs website at <http://www.emhaws.org.au/>



### Djirra (formerly Family Violence Prevention Legal Service): Sisters Day Out (Victoria, demographic: women)

The Sisters Day Out program is a one-day workshop that engages Koori women, especially young women, to prevent family violence by:

- facilitating community networks to reduce social isolation
- raising awareness of family violence and its underlying cause and impacts
- providing information and tools to promote community safety

The workshop provides a culturally welcoming and safe space for Koori women to come together and participate in a range of activities, including beauty therapies, relaxation therapies and exercise activities. These activities attract community participants and place an emphasis on self-care and wellbeing. Included in the workshop is an information session about family violence prevention presented by FVPLS Victoria staff.

For more information, visit the Djirra website at <https://djirra.org.au/>



### Djirra (formerly Family Violence Prevention Legal Service): Dilly Bag Workshop (Victoria, demographic: women)

The Dilly Bag Workshop is a two-day intensive personal development workshop to assist Koori women to make life choices that will reduce vulnerability to family violence and enhance their capacity to take on a leadership role in their community regarding family violence prevention.

Based on cultural principles, Dilly Bag incorporates aspects of healing and provides a foundation for learning to identify each woman's strengths, unlock potential, reaffirm identity, strengthen self-esteem and overcome personal barriers. This involves exercising life choices at a personal, family or community level.

For more information, visit the Djirra website at <https://djirra.org.au/>



**Marigurim Mubi Yangu Aboriginal Corporation: Strong Women Talking**  
(Brisbane, Queensland, demographic: women)

The aim of the Strong Women Talking program is to educate, equip and empower First Nation women, children and families in communities by delivering culturally appropriate domestic and family violence prevention workshops and programs. It is led and facilitated by grass roots Indigenous women who are passionate about reducing the over representation of Indigenous women and children impacted by domestic violence and breaking the multi-generational cycle of violence in communities.

The program educates participants about the types, prevalence and impacts of trauma and how it affects women's health, wellbeing, daily interactions and functioning. Facilitators use strengths-based approaches, assisting participants to grow and develop from their own strengths and abilities. The program aims to equip women to build healthy strategies that they can implement in their relationships to rebuild and empower their lives and support survivors to become independent and not return to violence.

For more information, visit the Strong Women Talking Facebook page at <https://www.facebook.com/Strong-Women-Talking-429166944149398/>



**Djirra (formerly Family Violence Prevention Legal Service): Sisters Serenity Retreat**  
(Victoria, demographic: women)

The Sisters Serenity Retreat provides a three-day respite for up to 25 Koori women within a drug and alcohol-free environment. It offers activities to strengthen resolve so they can continue to make positive choices in their lives and continue to lead the community in family violence prevention.

The retreat is a series of workshops with physical and social activities, such as self-defence, Koori art, horse riding, personal care, yarning circles, cultural sessions, general informal conversations and relaxation. The retreat is culturally appropriate, safe, relaxing and run by staff with specific training to support women to address related health, social and mental health issues.

For more information, visit the Djirra website at <https://djirra.org.au/>



**Tangentyere Council: Tangentyere Women's Family Safety Group (Alice Springs, Northern Territory, demographic: women)**

The Tangentyere Women's Family Safety Group was developed out of a need identified by Town Camp women residents for a voice and action on family and domestic violence. The program's direction and development has been very organic, working from a strengths-based approach that acknowledges and celebrates the skills, knowledge, history, assets, connections and relationships that Town Camp residents have.

As well as the women's group, a number of resources have been developed to assist workers, clients and community members to identify different forms of violence. These include Family Violence Prevention Cards (<https://www.tangfamilyviolenceprevention.com.au/shop>) and an animated short film about family violence set in the context of Central Australia called *ATNETYEKE! (STAND UP!)*





### Hey Sis, We've Got Your Back program (New South Wales, demographic: women)

The Hey Sis, We've Got Your Back program builds networks of Aboriginal and Torres Strait Islander women to support them to use local knowledge and skills and link them in with specialist services to reduce family violence and sexual assault in their communities.

The program is tailored to the local community's needs. It facilitates prevention activities by holding community forums that train female community leaders to:

- recognise vicarious trauma
- provide practical support to victims of violence and sexual assault
- support Aboriginal women's health

The program aims to enable the sharing of stories and knowledge of effective strategies, and provide culturally appropriate training, with participants working together to develop and implement initiatives to prevent sexual assault and violence at the community level.

For more information, visit the Hey Sis, We've Got Your Back website at <http://www.heysis.com.au/>



### Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPYWC): Family violence service (NPY Lands, South Australia, Western Australia, Northern Territory, demographic: women)

Atyunpa Wiru Minyma Uwankaraku: Good Protection for all Women is a program providing crisis intervention, follow-up and post-care case management, and prevention programs for family violence. The prevention aspect of the service is built on developing relationships and responding to community needs and often involves an education approach.

The prevention initiatives are built on community consultation so the community's needs, wants and readiness can be assessed. Continued work with key community women helps assess the programs' strengths and weaknesses, while ensuring they are culturally appropriate and tailored to the individual or community.

For more information, visit the NPWYC website at <https://www.npywc.org.au/>



### Aboriginal Family Law Services (AFLS): Strong Men, Strong Families (Western Australia, demographic: men)

The Strong Men, Strong Families program is run by AFLS and is delivered in the Roebourne Regional Prison in conjunction with the Re-Entry Team. The program is voluntary and is designed for men who have been in a violent or unhealthy relationship or have self-esteem issues.

Participants are encouraged to share their stories and experiences with each other in a group environment to create awareness and support among peers. Education about what violence is and what its signs are is also provided to the participants.

For more information, visit the AFLS website at <https://www.afls.org.au/>



### Aboriginal Family Law Services (AFLS): Tackling Violence Out of Our Communities (Port Hedland, Western Australia, demographic: men/families)

The Tackling Violence Out of Our Communities program, delivered by AFLS Port Hedland, is aimed at men and families within the wider Pilbara community who are involved in football clubs, as well as community members at large. The program delivers a strong anti-violence message and focuses on providing education and raising awareness within the community about domestic violence, with the goal of engaging more people in the campaign to end violence and abuse.

For more information, visit the AFLS website at <https://www.afls.org.au/>



### Dardi Munwurrow: Dardi Healing and Family Violence Program (Victoria, demographic: men)

Dardi Munwurrow ('Strong Spirit') is the only program in Victoria that addresses the underlying issues that affect men's behaviour (including violence). It provides leadership training programs and personalised workshops for Indigenous men, with a focus on professional development, Aboriginal cultural awareness, healing circles and a journey program for youth.

While the program has educational components, it is a holistic model that explores the complexity of pain within the community, including loss and anger. It helps Indigenous men understand their identity, their role in the community and how to deal with their emotions. This is achieved by:

- creating a sense of community
- building protective mechanisms
- empowering Aboriginal and Torres Strait Islander men
- promoting help-seeking behaviour

For more information, visit the Dardi Munwurrow website at <http://dardimunwurro.com.au/>



### The Healing Foundation: Our Men Our Healing (Northern Territory, demographic: men)

Our Men Our Healing was a holistic, men's support program run by the Healing Foundation in the remote Northern Territory communities of Maningrida, Ngukurr and Wurrumiyanga. It addressed interrelated issues, including:

- family violence
- alcohol and drug use
- self-harm
- incarceration
- social and emotional wellbeing

The program aimed to strengthen and empower Aboriginal men through cultural, therapeutic and educational activities. These activities were similarly broad in their focus and approach and included family support and advocacy, group programs and community events. The delivery of the program placed a heavy emphasis on community ownership and a commitment to local cultures and needs.

For more information, visit the Healing Foundation website at <http://healingfoundation.org.au/>





**Aboriginal Family Law Services (AFLS): The Yarning Up Group**  
(South Hedland, Western Australia, demographic: women)

The Yarning Up Group is a program delivered in the South Hedland AFLS office, Wirraka Maya Health and Wellbeing Centre, and Yorgum South Hedland office. The program focuses on mothers and grandmothers of the South Hedland region. It provides information on family violence and offers legal advice from a solicitor. The program is voluntary and aims to educate the women involved about what violence is, what its signs are and where to get support.

For more information, visit the AFLS website at <https://www.afls.org.au/>



**Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPYWC): Ngangkari program** (NPY Lands, South Australia, Western Australia, Northern Territory, demographic: men)

The Ngangkari program engages Aboriginal healers to work with men in their community through intertwining western notions of trauma and Aboriginal understandings of language. The program is unique as it targets men and is run by a women's organisation. It successfully frames male participants as brothers, fathers and family members and treats family violence as a potentially sensitive topic.

The program explains how domestic violence impacts communities in the region and encourages men to reflect on the positive role models within their communities.

For more information, visit the NPWYC website at <https://www.npywc.org.au/>

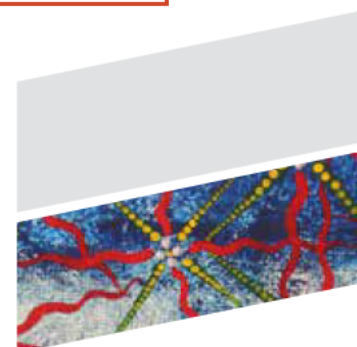


**Aboriginal Focus Schools Program** (South Australia, demographic: young people)

The Aboriginal Focus Schools Program was developed as part of the Yarning On program, specifically for use in Anangu and high-population Aboriginal schools. The program ensures Anangu and Aboriginal students have the same opportunity to access culturally appropriate comprehensive relationships and sexual health education as students in other metropolitan and rural schools.

The program aims to improve the relationships, sexual health, safety and wellbeing of young Aboriginal South Australians by supporting schools to develop a whole-school approach to relationships and sexual health education. Anangu and Aboriginal worker involvement (and the community more broadly) is crucial in the delivery of the program to ensure cultural respect, appropriateness and learning.

For more information, visit the SHINE SA website at <https://www.shinesa.org.au/community-information/working-with-aboriginal-communities/>





### **Tangentyere Council: Marra'ka Mbarintja Men's Family Violence Prevention Program (Alice Springs, Northern Territory, demographic: men)**

The Marra'ka Mbarintja Men's Family Violence Prevention Program aims to work towards the safety, wellbeing, human rights and dignity of women, children and others affected by men's use of violence. It is based in the belief that women and children have the right to enjoy safe and respectful relationships.

The program offers a psycho-educational model and space for men who use violence and abuse in their intimate and family relationships. Each session is tailored to address the men's use of violence, to accept responsibility for their use of violence and to learn ways to reduce their use of violence.

For more information, visit the Tangentyere Family Violence Prevention Program website at <https://www.tangfamilyviolenceprevention.com.au/program/mens-behaviour-change-program>



### **Red Dust Healing program (Australia-wide, based in New South Wales, demographic: men and families)**

Red Dust Healing is written from an Indigenous perspective for Indigenous men and their families. Participants examine their own personal hurt, so they can heal from within by addressing family and personal relationships and what may have been lifelong patterns of violence, abuse and neglect.

Through considering the emotions associated with being both the perpetrator and victim of violence, participants question whether they are repeating the same actions that may have hurt them. The program also examines the intergenerational effects of colonisation on the mental, physical and spiritual wellbeing of Indigenous families. It encourages individuals to confront and deal with the problems, hurt and anger in their lives.

For more information, visit the Red Dust Healing website at <https://www.thereddust.com/>



### **Marumali Youth Program (Gold Coast, Queensland, demographic: young people)**

The Marumali ('To put back together') Youth Program is designed specifically for Aboriginal and Torres Strait Islander young people. It offers an overview of a healing journey and how a healing journey may unfold.

While creating an environment that is comfortable, friendly and supportive, the program encourages participation. Its aim is to empower participants by facilitating the restoration of social and emotional wellbeing through art and activities, while providing a safe and supportive environment to discuss sensitive issues such as identity, grief and loss, and transgenerational trauma. The workshop aims to strengthen participants' identity, sense of belonging, and connections to family, community, country, culture, Spirit and Aboriginal spirituality. The topics are delivered in an age-appropriate manner including art activities, role plays, simulations, demonstrations, group and individual activities and daily debriefing.

This workshop has been successfully delivered for children in out-of-home care and young people at risk.

For more information, visit the Marumali website at <https://marumali.com.au/>



### Education Centre Against Violence: *Who's the loser?* (New South Wales)

*Who's the loser?* is a DVD program depicting a group of friends playing cards and supporting a member of the group who has just disclosed they are in a violent relationship. The DVD is intended for Aboriginal adults living in regional areas. It aims to provide trauma-informed information about domestic violence while maintaining a connection to culture and highlighting issues such as gender roles and community norms and the way they relate to unhealthy relationships.

For more information, visit the Education Centre Against Violence website at <http://www.ecav.health.nsw.gov.au/online-shop/dvds-cd-roms-videos/who-s-the-loser-dvd/>



### Bubup Wilam for Early Learning (Melbourne, Victoria, demographic: children)

Bubup Wilam for Early Learning (Bubup Wilam meaning 'Children's Place' in Woi Wurrung language) is an Aboriginal-owned organisation specialising in early learning for Aboriginal and Torres Strait Islander children in Victoria. The centre provides early intervention and prevention programs, early learning, and health and wellbeing services with an emphasis on Aboriginal identity and personal self-esteem.

The preventative aspects focus on being respectful, self-determining and self-regulating. The centre aims to provide a culturally safe space and environment that supports a culturally strong, integrated and enhanced model of care. This comprises a health and wellbeing program that aims to develop positive decision-making skills so that parents can better support their children.

For more information, visit the Bubup Wilam website at <http://www.bubupwilam.org.au/>



### Djirra (formerly Family Violence Prevention Legal Service): Young Luv (Victoria, demographic: young people)

The Young Luv program is part FVPLS Victoria's Early Intervention and Prevention program and is focused on promoting healthy relationships for Aboriginal young women between 13 and 18 years old. It is developed by and for young Aboriginal women.

The program engages young women in a culturally safe space where they can talk about, reflect on and better understand important issues such as:

- the dynamics of healthy relationships
- safety while dating
- how to recognise inappropriate or unsafe behaviour
- safety online and appropriate use of social media

For more information, visit the Djirra website at <https://djirra.org.au/>



**Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPYWC): youth programs (NPY Lands, South Australia, Western Australia, Northern Territory, demographic: young people)**

NPYWC runs the Kulintja Palyaringkuntjaku ('to get better thinking') project which focuses on substance misuse and mental health disorders in young people. It aims to help young people develop healthy relationships and to facilitate family violence prevention through the creation of dialogue.

Workshops are run separately in the bush for boys and girls who are chosen by community members. Before working in a community, the project team assesses local needs, identifies key community members and agrees on the topics that will be discussed. The project is based on the following principles:

- grounding in culture
- challenging ideas and perceptions of violence
- creating safe spaces for discussion

For more information, visit the NPYWC website at <https://www.npywc.org.au/>



**Wirrpanda Foundation: Deadly Sista Girlz (Western Australia, Victoria, New South Wales, demographic: young women)**

The Deadly Sista Girlz program creates a safe space for discussion among young Aboriginal and Torres Strait Islander girls. Aboriginal and Torres Strait Islander female role models are used to empower and enable participants to make informed decisions about their personal health and wellbeing, to help them lead positive and healthy lives.

The program focuses on:

- building self-esteem and confidence
- building pride in Aboriginal and Torres Strait Islander identity
- practical cultural contribution in the community
- positive social interactions
- building relationships based on mutual respect
- encouraging active self-development

The program aims to provide young women with positive social interactions with their fellow sista girls in a fun and caring environment. Each girl can also be mentored throughout the program.

For more information, visit the Wirrpanda Foundation website at <https://www.wf.org.au/programs/programs-education/33-deadly-sista-girlz>





**Wirrpanda Foundation: Deadly Brotha Boyz**  
(Great Southern region of Western Australia, demographic: young men)

Deadly Brotha Boyz is a two-hour, weekly health and education aspirational program for disengaged Aboriginal boys aged 8 to 18 years residing in the Great Southern region of Western Australia. The program is run at the Kojonup Sporting Complex by positive male Aboriginal mentors with the assistance of volunteer police officers.

Each session involves a healthy meal, a variety of sporting activities such as AFL, athletics, basketball and boxing, as well as a mentor-led yarning circle in which mentors discuss with participants any personal issues they may be having.

The program focuses on:

- drug, tobacco and alcohol education
- safe relationships and behaviour
- cultural identity
- mental health
- conflict resolution

For more information, visit the Wirrpanda Foundation website at <https://www.wf.org.au/programs/programs-education#deadlybrothaboyz>



**Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPYWC) South Australia: Strengthening Community Capacity to End Violence (NPY Lands, South Australia, Western Australia, Northern Territory)**

*Strengthening community capacity to end violence* is a practice framework that guides the work of the Family and Domestic Violence team at NPYWC. It supports the team to work alongside communities to support sensitively an emerging consciousness about the causes and effects of violence and extend the influence of acts and experiences which oppose it.

The framework seeks to strengthen community capacity to end violence through respectful and patient engagement of those living and working in those communities, in dialogue that seeks to understand the tactics of violence, names its effects in the lives of individuals who live in the community and validates the acts of resistance already being enacted in a community.

The framework consists of 11 stages of actions and strategies, that build towards community transformation. Each is presented and discussed in sequence, although the framework notes that in reality these stages are non-linear.

To view the framework, go to <https://www.npywc.org.au/wp-content/uploads/2012/04/ACF-Violence-Prevention-Practice-Framework.pdf>



### Babana men's group (Sydney NSW)

Supported by the Redfern Foundation in inner city Sydney, Babana men's group runs activities and programs for Aboriginal men. Meaning 'brother' in the Dharuk language, Babana addresses a range of issues from men's health through to family relationships, anti-violence, anti-drug and alcohol campaigns, and post-release programs. Babana programs aim to affirm the positive values of traditional Aboriginal culture, and focus on healing together to create a safe and hopeful community.

For more information, see: <http://www.redfernfoundation.org.au/babana.html>



### 'No More' campaign (Northern Territory-based, includes initiatives in other jurisdictions)

No More is an anti-family-violence campaign. Auspiced by Catholic Care NT, it was begun by and focuses on engaging Aboriginal and Torres Strait Islander men. Initially based in the Northern Territory, the campaign now has participants in other parts of the country. The key theme of the campaign is placing the responsibility of reducing family violence on men, the most common perpetrators. It is based on the principle that family violence needs men to stand up, as individuals and a group, and take ownership for finding a solution.

To engage with large numbers of men, the program focuses on sporting settings, and has developed links with five sporting codes and almost a hundred teams. As part of the program, participating teams develop domestic violence action plans that detail what they will do to respond to and prevent family violence in their communities.

For more information, visit the No More website at: <http://www.nomore.org.au/about-cause>



### Ochre Ribbon campaign (Western Australia)

The Ochre Ribbon campaign draws attention to the issue of violence against men, women and children within Aboriginal communities. It highlights the need to stop this violence, using a community driven initiative of an ochre-coloured ribbon, which people are encouraged to wear to symbolise the cause. The campaign aims to strengthen other advances in the prevention of family and domestic violence by other agencies and campaigns, and to deliver a message that is succinct to Aboriginal people. The message is culturally focused on values, and contributes to the message that Aboriginal people will not tolerate violence against our men, women and children. The campaign commemorates Ochre Ribbon Day on 12 February each year.

For more information, see the Aboriginal Family Law Services website at: [https://www.afls.org.au/?post\\_type=events&p=1118](https://www.afls.org.au/?post_type=events&p=1118)





### Commonwealth Government, Respect starts with us (National)

'Respect starts with us' is part of the Commonwealth Government's 'Violence against women: let's stop it at the start' campaign. It provides tools and resources for Aboriginal and Torres Strait Islander people, including a comic-style story book, posters, postcards, factsheets and a series of conversation guides. The resources aim to challenge attitudes that ignore or condone disrespect and inequality, and help guide conversations about the importance of respect and respectful relationships.

For more information, see: <https://www.respect.gov.au/campaign/atsi-materials/>

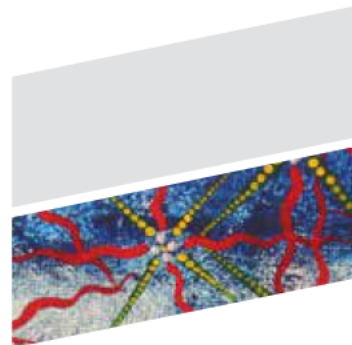


### Geraldton Family and Domestic Violence Project (Geraldton, Western Australia, demographic: community)

The Geraldton Family and Domestic Violence Project works with the local court to reduce the number of Aboriginal and Torres Strait Islander people imprisoned due to family and domestic violence-related convictions.

By providing a supervised court process and a culturally specific program, it assists participants to address the underlying issues that led to their offence and builds community confidence to report domestic violence. Local Aboriginal community members are involved by providing cultural information to the Magistrate, sitting with the Magistrate as Community Court Members and forming part of the Case Management Team.

For more information, read the Geraldton Family and Domestic Violence Project flyer at [http://www.courts.dotag.wa.gov.au/files/Geraldton\\_FDV\\_flyer.pdf](http://www.courts.dotag.wa.gov.au/files/Geraldton_FDV_flyer.pdf)





### Democracy in Colour (National)

Democracy in Colour is Australia's first national racial justice advocacy organisation led by and for people of colour. The organisation runs campaigns to tackle structural racism; hold political, cultural and corporate leaders to account on the things they say and do on race; and strengthen the political voice of people of colour through training and capacity building work. The organisation has a national team, as well as local groups around the country. Membership and volunteer opportunities are open to people of colour, with others invited to become allies, support and promote the organisation's work, donate and participate in campaigns.

For more information, see the Democracy in Colour website at <https://www.democracyincolour.org/>



### Australians Together (National)

Australians Together is a community-based organisation that works to address the 'lack of relationship between Indigenous and non-Indigenous Australians'. It aims to increase awareness and understanding of the impacts of colonisation, particularly of how past policies and practices have created disadvantage and intergenerational trauma in the lives of Indigenous people today.

Australians Together proposes an alternative approach to 'reconciliation', based on the belief that 'a healthy relationship between Indigenous and non-Indigenous people was never established in the first place'. It includes online learning materials on topics, such as the relevance of history, the importance of culture and understanding intergenerational trauma. It also provides small-group resources and leaders' guides to support teachers, workplaces and church groups to facilitate learning. See: <https://www.australianstogether.org.au/>



### Our Watch: Guide to reporting on family violence in Aboriginal and Torres Strait Islander communities (National)

Our Watch seeks to engage with the media to build understanding of prevention, and improve journalists' ability to report on the issue of violence against women in a factual, ethical and sensitive way. It provides a range of tools and resources for journalists, including a specific media guide to reporting on family violence in Aboriginal and Torres Strait Islander communities. The guide provides information for journalists on how to conduct safe interviews and frame stories in an ethical way.

This and other media resources are available on the Our Watch website at <https://www.ourwatch.org.au/news-media/reporting-guidelines>



### ANTaR (national)

ANTaR is an independent, national network of organisations and individuals working in support of Justice, Rights and Respect for Aboriginal and Torres Strait Islander peoples in Australia. The organisation represents a grassroots movement of Australians in support of justice, rights and respect for Australia's First Peoples.

ANTaR has been working with Aboriginal and Torres Strait Islander organisations and leaders on rights and reconciliation issues since 1997. ANTaR works in solidarity with, and aims to amplify the voices of, Aboriginal and Torres Strait Islander people and organisations. It seeks to educate the broader community about justice, rights and respect for Aboriginal and Torres Strait Islander people, hold governments to account and advocate for alternative policy solutions based on evidence. See: <https://antar.org.au/>



### All Together Now (National)

All Together Now is Australia's only national charity dedicated to preventing all forms of racism in Australia. All Together Now aims to prevent racism by promoting racial equality through education, with a focus on social marketing strategies that appeal to 'mainstream audiences'. Specific projects also target racism in schools, racism in sporting settings and workplace racism.

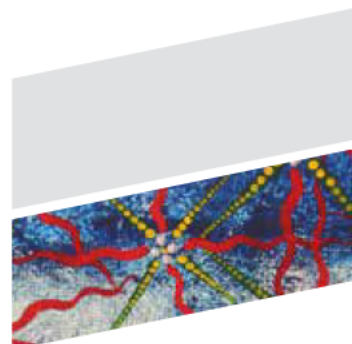
For more information, visit the All Together Now website at <http://alltogethernow.org.au/>



### VicHealth: Choosing to act: Bystander action to prevent race-based discrimination (Victoria)

'Choosing to act', is a program of research and resources to encourage individuals to take 'bystander' action to prevent racism.

For more information, see: <https://www.vichealth.vic.gov.au/bystander-discrimination>





### Australian Human Rights Commission: National Anti-Racism Strategy and 'Racism. It Stops With Me' campaign (National)

Launched in 2011, the National Anti-Racism Strategy aims to promote a clear understanding in the Australian community of what racism is and how it can be prevented and reduced.

The strategy has three objectives:

1. Create awareness of racism and how it affects individuals and the broader community.
2. Identify, promote and build on good practice initiatives to prevent and reduce racism.
3. Empower communities and individuals to take action to prevent and reduce racism and to seek redress when it occurs.

The primary awareness raising and engagement activity within the strategy is the 'Racism. It Stops With Me' campaign. The campaign aims to:

- ensure more Australians recognise that racism is unacceptable in our community
- give more Australians the tools and resources to take practical action against racism
- empower individuals and organisations to prevent and respond effectively to racism

See: <http://www.humanrights.gov.au/our-work/race-discrimination/projects/national-anti-racism-strategy-and-racism-it-stops-me-campaign>



### Centre for Cultural Competence Australia (National)

The Centre for Cultural Competence Australia (CCCA) is a national organisation dedicated to training and development in the field of Aboriginal and Torres Strait Islander Cultural Competence. Founded by experts within the fields of Indigenous Research and Development; technology; and communications, its vision is to create a culturally competent Australia. By addressing the Knowledge Gap and empowering all Australians with knowledge about, and pride in, Aboriginal and Torres Strait Islander peoples, their history and culture, it aims to drive shifts in behaviour and capabilities at both an individual and organisational level. CCCA provides Australia's only online accredited and competence-based Aboriginal and Torres Strait Islander Cultural Competence Course. See: <https://www.ccca.com.au/advocate>

# Endnotes

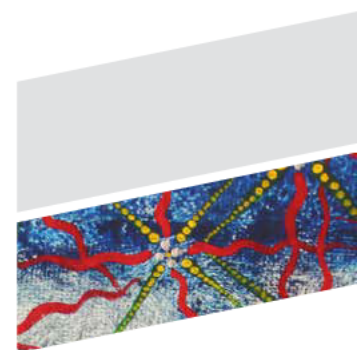
For the full reference list to which these endnotes refer, please see *Changing the picture, Background paper: Understanding violence against Aboriginal and Torres Strait Islander women*.

- 1 For key examples from the decades of work and numerous publications on this issue by Aboriginal and Torres Strait Islander women, see Bolger (1991), Aboriginal and Torres Strait Islander Women's Taskforce (2000), Atkinson (2002), and the many sources cited by Moreton-Robinson (2009): 71 and Howe (2009): 59 note 83. For a recent example, see the activism of the Tangentyere Women's Family Safety Group, in Schubert (2017).
- 2 For example, see Aboriginal and Torres Strait Islander Social Justice Commissioner (2006); the various publications and resources produced by the NPY Women's Council on this issue (<https://www.npywc.org.au/resources/publications/>); the set of 2010 policy papers and numerous submissions by the Aboriginal Family Violence Prevention and Legal Service Victoria (available at <http://fvpls.org>), and the report of its 2012 national conference, Aboriginal Family Violence Prevention and Legal Service Victoria (2013); and the recent Redfern Statement released by 18 Aboriginal and Torres Strait Islander peak organisations, which highlights the prevention of violence against Aboriginal and Torres Strait Islander women as one of six priority areas requiring urgent government action, National Congress of Australia's First Peoples (and other organisations) (2016), pp. 14–15.
- 3 *Change the record* (2017), Braybrook and Duffy (2017).
- 4 Brown (2016).
- 5 Dudgeon et al (2014), p. xxvii.
- 6 Aboriginal and Torres Strait Islander participants at ANROWS national conference (2018).
- 7 Dudgeon et al (2016), p. 75.
- 8 Dudgeon et al (2016), p. 77.
- 9 For more on the elements of quality healing approaches, see Healing Foundation (2013).
- 10 Dudgeon et al (2016), p. 75.
- 11 Healing Foundation and White Ribbon (2017), p. 43.
- 12 Healing Foundation (2015), *Glossary of healing terms*, available at: <http://healingfoundation.org.au/publication/glossary-of-healing-terms/>
- 13 Brown (nd) in State of Victoria (2017).
- 14 Indigenous Family Violence Regional Action Groups (2012), p. 23.
- 15 Healing Foundation and White Ribbon (2017), p. 43.
- 16 Aboriginal and Torres Strait Islander participants at ANROWS national conference (2018).
- 17 Change the Record Coalition 2015, solution 3.2, p. 7.
- 18 Change the Record Coalition 2015, solution 3.3, p. 7.
- 19 Available at: <http://www.familymatters.org.au/wp-content/uploads/2016/11/TheFamilyMattersRoadmap.pdf>
- 20 Arney et al (2015).
- 21 For specific recommendations, see Change the Record Coalition Steering Committee (2015), 3.1–3.2.
- 22 Australian Government (2017), p. 21.
- 23 Fredericks (2010).

- 24 As recommended by Healing Foundation and White Ribbon (2017), pp. 40–41 and p. 49.
- 25 Adams (2006), p. 8.
- 26 Healing Foundation and White Ribbon (2017), p. 40, p. 41.
- 27 As recommended by Healing Foundation and White Ribbon (2017), p. 49.
- 28 CEO, Tribal Warrior Association, Quoted in Jacobs (2017).
- 29 Jetta, Neville (2017).
- 30 Aboriginal and Torres Strait Islander participants at ANROWS national conference (2018).
- 31 Recommendation 3.2 in Commission for Children and Young people (2016).
- 32 For a review that identifies the characteristics of effective mentoring programs for Aboriginal and Torres Strait Islander young people, see Ware (2013).
- 33 Aims and principles drawn from those developed by Dardi Mumwurro (<http://dardimunwurro.com.au/#dardi-healing-circles>), AIME (<https://aimementoring.com/>) and Tribal Warrior (<http://tribalwarrior.org/tribal-warrior-mentoring-program/>) mentoring programs.
- 34 Australian Government (2017), p. 13.
- 35 Carlson (2014).
- 36 See, for example, *The Line—Respect Each Other*, an online resource that provides young Aboriginal and Torres Strait Islander people with ways to learn about healthy and respectful relationships. It also provides resources for teachers, parents, relatives and other community members.
- 37 Aboriginal and Torres Strait Islander participants at ANROWS national conference (2018).
- 38 Indigenous Family Violence Regional Action Groups (2012) p. 23.
- 39 Recommendation 3.2 in Commission for Children and Young People (2016). Adapted to include Torres Strait Islander communities.
- 40 Indigenous Family Violence Regional Action Groups (2012), p. 23.
- 41 Quoted in Wahlquist (2016).
- 42 Including legal services and supports provided by the Family Violence Prevention Legal Services, which are recognised by the Productivity Commission to be best placed to support Aboriginal and Torres Strait Islander women experiencing violence. National Congress of Australia’s First Peoples (2016), pp. 14–15.
- 43 Royal Commission into Aboriginal Deaths in Custody (1991).
- 44 Human Rights Law Centre and Change the Record (2017).
- 45 On this approach, see Just Reinvest NSW (<http://www.justreinvest.org.au/>) and the Australian Justice Reinvestment Project (<http://justicereinvestment.unsw.edu.au/>), Gooda (2012).
- 46 Available at <https://changetherecord.org.au/policy-framework-blueprint-for-change>
- 47 For a review of literature on effective anti-racism mechanisms, tools and techniques, which proposes a wide range of specific strategies, see Western Sydney University at <https://www.westernsydney.edu.au/>
- 48 Such as observance of the anniversary of the Commonwealth Government’s Apology for the forced removal of Aboriginal and Torres Strait Islander children (Sorry Day) and NAIDOC Week, which celebrates Aboriginal and Torres Strait Islander cultures.
- 49 This should include the development of a framework to implement the United Nations Declaration of the Rights of Indigenous peoples in the Australian context.



- 50 For an emerging example of this approach within a single government agency, see that developed by the Victorian Department of Health and Human Services, which proposes the use of culturally appropriate audit tools to review departmental policies and Aboriginal-led initiatives to tackle institutional racism in departmental practices (State of Victoria, 2017). Whole-of-government anti-racism directorates (or similar) are another way of implementing this. For an example, see that established by the Government of Ontario at <https://www.ontario.ca/page/anti-racism-directorate>
- 51 On the role the Australian media can play in primary prevention of violence against women, see Sutherland et al (2017). For tools and resources to support journalists to undertake ethical and culturally aware reporting on family violence in Aboriginal and Torres Strait Islander communities, see Our Watch (2014) and Victorian Government (2017).
- 52 FVPLS (2015), p. 22.
- 53 FVPLS (2016b), p. 5.
- 54 FVPLS (2016b), p. 6.
- 55 Biddle (2013), p. 12, citing 2011 Census data showing the majority (59%) of Aboriginal and Torres Strait Islander women with partners have a non-Indigenous partner (up from 55.5% in the 2006 Census).
- 56 For a discussion of the factors that appear to influence the effectiveness of such programs, see Mals et al (2008).
- 57 This is recommendation 4.5 in Change the Record Coalition (2015).
- 58 See Thorpe (2017).
- 59 See Brennan (2017) on UN criticism of the Closing the Gap approach.
- 60 Australian Bureau of Statistics (2013b).
- 61 Australian Government (2017).
- 62 For accounts of such community-led campaigns in Tennant Creek (NT) see Wright (2009) and in Fitzroy Crossing (WA) see Laurie (2014) and Power (2014).
- 63 Our Watch et al (2015) & VicHealth (2016).
- 64 This includes not only literature specific to the issue of violence prevention but also publications produced by Indigenous people and organisations in relation to a wide range of issues impacting on Indigenous people and communities. This is because much of this literature outlines similar overarching principles for working in and with Indigenous communities, and for improving policy and practice on these issues.
- 65 Our Watch et al (2015), Our Watch (2017).
- 66 For example, Dudgeon et al (2014), p. xxiv, Change the Record Coalition (2015), p. 4.
- 67 Hunt (2016).
- 68 Change the Record Coalition (2015), p. 6.
- 69 National Congress of Australia's First Peoples et al (2016), p. 9 and p. 14.
- 70 National Congress of Australia's First Peoples et al (2016), p. 9 and p. 14.
- 71 Drawn from recommendations in SNAICC et al (2017), p. 4.
- 72 Williams (2008). For guidance on practical steps to create cultural safety, see Commission for Children and Young People at <https://ccyp.vic.gov.au/assets/resources/tipsheet-cultural-safety-aboriginal-children.pdf>
- 73 See Healing Foundation on trauma education and 'healing the healers' at <https://healingfoundation.org.au/training-and-education/>
- 74 FVPLS (2016b), p. 10.



- 75 Dudgeon et al (2014), p. xxvii. For a range of such programs, see Dudgeon et al (2014), Part 6.
- 76 See Healing Foundation website ('community healing') at <https://healingfoundation.org.au/community-healing/>
- 77 Dudgeon et al (2014), p. xxiv.
- 78 Cripps (2014), p. 410.
- 79 Cripps (2014), p. 413.
- 80 Dudgeon et al (2014), p. xxv.
- 81 Dudgeon et al (2016), p. 75.
- 82 Brown in State of Victoria (2017), p. 36.
- 83 State of Victoria (2017), p. 10.
- 84 Indigenous Family Violence Regional Action Groups (2012).
- 85 Calma (2014), p. viii.
- 86 Indigenous Family Violence Regional Action Groups (2012), p. 23.
- 87 Dudgeon et al (2016), p. 76.
- 88 Indigenous Family Violence Regional Action Groups (2012), p. 24.
- 89 Cripps (2014), p. 413 and p. 410.
- 90 Dudgeon et al (2014), p. xxiv.
- 91 Cripps (2014), p. 410.
- 92 Cripps (2014), p. 410. This should include the use of accredited specialised training and the employment of Aboriginal workers, particularly counsellors; and mandatory cultural awareness training for all non-Aboriginal workers.
- 93 Hunt (2016), pp. 6–7.
- 94 Aboriginal and Torres Strait Islander participants at ANROWS national conference (2018).

# Appendix 1: Alternative text for figures

Pages 13–14, Figure 2: An explanatory model of the drivers of violence against Aboriginal and Torres Strait Islander women

This figure shows three main drivers, which intersect and result in violence against Aboriginal and Torres Strait Islander women

The figure represents violence as the outcome of the interactions between these three main drivers

The first main driver on the left says: Ongoing impacts of colonisation for Aboriginal and Torres Strait Islander people, families and communities. Under this main driver, there are further dot points which say:

- Intergenerational and collective trauma
- Systemic oppression, disempowerment, racism
- Destruction/disruption of traditional cultures, family and community relationships and community norms about violence
- Personal experience of/exposure to violence
- Condoning of violence within Aboriginal and Torres Strait Islander communities

The second main driver on the right says: Ongoing impacts of colonisation for non-Indigenous people and society. Under this main driver, there are further dot points which say:

- Racialised structural inequalities of power
- Entrenched racism in social norms, attitudes and practices
- Perpetration of racist violence
- Condoning of, and insufficient accountability for, violence against Aboriginal and Torres Strait Islander people

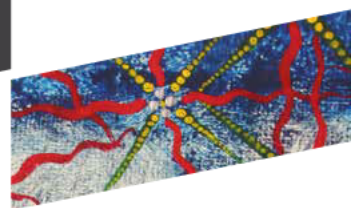
The third main driver sits at the base and says: Gendered factors. Under this main driver, there are further dot points which say:

- Gendered drivers of violence against women in Australia (identified in *Change the story*)
  - » Condoning of violence against women
  - » Men's control of decision making and limits to women's independence
  - » Stereotyped constructions of masculinity and femininity
  - » Disrespect towards women and male peer relations that emphasise aggression
- Additional gendered drivers of violence against Aboriginal and Torres Strait Islander women
  - » Intersection of racism and sexism
  - » Impacts of colonial patriarchy on Aboriginal and Torres Strait Islander cultures, gender roles, men, women and relationships

These three drivers all point towards a circle in the middle that says: The intersection between these multiple drivers results in Aboriginal and Torres Strait Islander women experiencing disproportionate levels of violence, with particularly severe and complex impacts. A line above the circle says: Colonisation sets the underlying context

Page 38: Infographic

This image shows a person with three different coloured ribbons intertwined around their body. The person is holding a green ribbon which says: social status and identity—Aboriginality, ethnicity, sex, parent/carer status, gender identity, (dis)ability, religion, migration and refugee status, age, socio-economic status, cultural background. There is a purple ribbon which says: social systems and structures—welfare, economic, legal/justice, labour, education, health. There is a grey ribbon which says: discrimination and oppression—colonisation, sexism, homophobia, ageism, ableism, classism, racism, religious discrimination.



# Our WATCH

End violence against  
Women And Their Children



## 8. Mandatory Sentencing

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### Contents

Summary	273
Impact of mandatory sentencing	273
Repeal mandatory or presumptive sentencing provisions	277
Specific offence provisions	278
Western Australia	278
Northern Territory	281
New South Wales	282

### Summary

8.1 Evidence suggests that mandatory sentencing increases incarceration, is costly and is not effective as a crime deterrent. Mandatory sentencing may also disproportionately affect particular groups within society, including Aboriginal and Torres Strait Islander peoples—especially those found guilty of property crime.

8.2 The ALRC recommends that Commonwealth, state and territory governments should repeal sentencing provisions which impose mandatory or presumptive terms of imprisonment upon conviction of an offender, and that have a disproportionate impact on Aboriginal and Torres Strait Islander peoples. This chapter does not provide an exhaustive list of such provisions because complete data is not available. Instead, this chapter highlights those mandatory sentences attached to offences that have been identified by stakeholders as having a disproportionate impact on Aboriginal and Torres Strait Islander peoples and suggests that states and territories do further work to identify and repeal mandatory sentence provisions that in practice have a disproportionate impact on Aboriginal and Torres Strait Islander peoples.

### Impact of mandatory sentencing

8.3 Mandatory sentencing laws require that judicial officers deliver a minimum or fixed penalty (for the purposes of this Report, a term of imprisonment) upon conviction of certain offences on an offender.<sup>1</sup> While, mandatory sentencing laws are found in most Australian jurisdictions in various forms,<sup>2</sup> they are a departure from the standard

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<sup>1</sup> This chapter does not consider strict liability offences.

<sup>2</sup> See, eg, *Migration Act 1958* (Cth) s 236B; *Crimes Act 1900* (NSW) 1900 s 19B(4); *Criminal Law Consolidation Act 1935* (SA) s 11; *Misuse of Drugs Act* (NT) s 37(2); *Sentencing Act* (NT) s 78F; *Domestic and Family Violence Act* (NT) s 121(2); *Crimes Act 1958* (Vic) ss 15A, 15B; *Road Traffic Act 1974* (WA) ss 60, 60B(3); *Criminal Code Act Compilation Act 1913* (WA) ss 297, 318.



approach to legislating the sentence for criminal offences in Australia. The standard approach is to provide a maximum penalty that may be imposed upon conviction, based on the parliament's assessment of the relative severity of the offence. This approach leaves sentencing courts to assess and determine the appropriate sentence in each individual case up to, and including, the maximum.<sup>3</sup>

8.4 The removal of the usual discretion of the court to consider mitigating factors or to utilise alternative sentencing options to deal with an offender are defining features of such provisions. Mandatory sentencing laws may apply to certain offences, or to particular types of offenders—for example, repeat offenders.

8.5 Presumptive minimum sentences can have a similar effect to mandatory minimum sentence, so much so, that stakeholders to this Inquiry generally grouped issues relating to mandatory and presumptive sentencing together.<sup>4</sup> While mandatory sentencing provisions tend to entirely limit judicial discretion in relation to sentencing, offences with presumptive penalties allow for judicial discretion in sentencing, but only if 'there is a demonstrable reason—which may be broadly or narrowly defined'.<sup>5</sup> Aboriginal Legal Service of WA (ALSWA) raised the presumptive penalty in relation to s 61A of the *Restraining Orders Act 1997* (WA), which related to repeated breach of violence restraining orders (VROs).

8.6 ALSWA noted that:

The sentencing court can deviate from the presumptive penalty if imprisonment or detention would be 'clearly unjust' given the circumstances of the offence and the person, and the person is unlikely to be a threat to the safety of a person protected by the order or the community generally.<sup>6</sup>

8.7 Parliaments have tended to regard fixed or minimum penalty provisions as a means of addressing community concerns that sentences handed down by the courts are too lenient when sentencing offenders.<sup>7</sup> The arguments put in favour of mandatory or presumptive sentencing provisions include that they:

- promote consistency in sentencing;
- deter individuals from offending;
- denounce the proscribed conduct;
- ensure appropriate punishment of the offender; and

<sup>3</sup> See ch 6.

<sup>4</sup> Sisters Inside, *Submission 119*; Northern Territory Government, *Submission 118*; North Australian Aboriginal Justice Agency, *Submission 113*; Law Society of Western Australia, *Submission 111*; National Aboriginal and Torres Strait Islander Legal Services, *Submission 109*; Law Council of Australia, *Submission 108*; NSW Bar Association, *Submission 88*; Change the Record Coalition, *Submission 84*; Aboriginal Legal Service of Western Australia, *Submission 74*; Aboriginal Legal Service (NSW/ACT), *Submission 63*; Caxton Legal Centre, *Submission 47*; Victorian Aboriginal Legal Service, *Submission 39*; Legal Aid WA, *Submission 33*.

<sup>5</sup> NSW Parliamentary Research Service, *Mandatory Sentencing Laws* (2014) 2.

<sup>6</sup> Aboriginal Legal Service of Western Australia, *Submission 74*.

<sup>7</sup> Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014, NSW Parliamentary Debates, Legislative Assembly, 30 January 2014, 26621-5 (Barry O'Farrell, Premier).

- protect the community through incapacitation of the offender.<sup>8</sup>

8.8 There is evidence that mandatory sentencing increases the incarceration rate. For example, the Senate Legal and Constitutional Affairs Reference Committee noted that:

The Chief Magistrate of the Northern Territory provided the committee with evidence of incarceration rates as a result of the imposition of mandatory sentencing in the Northern Territory during the period 1997 to 2001. The Chief Magistrate noted that the imprisonment rate was 50 per cent higher during this period than following repeal of the laws. Non-custodial orders such as home-detention and community work were almost unused for property offences during the mandatory sentencing era.<sup>9</sup>

8.9 Stakeholders also noted that mandatory or presumptive penalty provisions:

- are ineffective—there is little evidence that mandatory sentences act as deterrents;
- constrain the exercise of judicial discretion;
- heighten the impact of charging decisions that are within the discretion of police and prosecutors;
- contradict the principles of proportionality<sup>10</sup> and ‘imprisonment as a last resort’;<sup>11</sup> and
- reduce incentives to enter a plea of guilty, resulting in increased workloads for the courts.<sup>12</sup>

8.10 The North Australian Aboriginal Justice Agency (NAAJA) submitted that, mandatory sentencing law focus ‘on punitive and retributive aspects of sentencing and the fallacy of crime prevention through deterrence.’<sup>13</sup> The National Association of Community Legal Centres (NACLC) submitted that mandatory sentencing laws ‘are arbitrary and undermine basic rule of law principles by preventing courts from exercising discretion and imposing penalties tailored appropriately to the circumstances of the case and the offender.’<sup>14</sup>

8 For a detailed discussion on these points, and the Law Council’s response to them, see Law Council of Australia, *Policy Discussion Paper on Mandatory Sentencing* (2014).

9 Senate Standing Committees on Legal and Constitutional Affairs, Parliament of Australia, *Value of a Justice Reinvestment Approach to Criminal Justice in Australia* (2013) [2.37].

10 *Chester v The Queen* (1988) 165 CLR 611.

11 See for example *Crimes (Sentencing) Act 2005* (ACT) s 10; *Crimes Act 1914* (Cth) s 17A; *Crimes (Sentencing Procedure) Act 1999* (NSW) s 5; *Penalties and Sentences Act 1992* (Qld) s 9(2)(a)(i); *Criminal Law (Sentencing) Act 1988* (SA) s 11; *Sentencing Act 1991* (Vic) ss 5(4)-5(4C); *Sentencing Act 1995* (WA) ss 6(4), 86. See ch 6.

12 See, eg, Victorian Aboriginal Legal Service, *Submission 39*; The Light Bulb Exchange, *Submission 44*; Caxton Legal Centre, *Submission 47*; International Commission of Jurists Victoria, *Submission 54*; Australian Lawyers for Human Rights, *Submission 59*; Aboriginal Legal Service (NSW/ACT), *Submission 63*; Human Rights Law Centre, *Submission 68*; Criminal Lawyers Association of the Northern Territory, *Submission 75*; National Association of Community Legal Centres, *Submission 94*.

13 North Australian Aboriginal Justice Agency, *Submission 113*.

14 National Association of Community Legal Centres, *Submission 94*.

8.11 Similarly, Kingsford Legal Centre noted that:

Mandatory sentencing undermines the fundamentals of the Australian legal system such as the Rule of Law and is inconsistent with the separation of powers, by allowing the executive branch of government to direct the exercise of judicial power and to limit judicial discretion. Mandatory sentences also contradict a number of sentencing principles, such as that Courts must have regard to the gravity of the offence, the impact on the victim, and the circumstances of the offending and the accused when imposing a sentence. In particular, mandatory sentences which impose a sentence of imprisonment go against the presumption that imprisonment should be a measure of last resort and only where no other sentencing option is sufficient.<sup>15</sup>

8.12 The Criminal Lawyers Association of NT (CLANT) and NT Legal Aid, referred to Mildren J's description of prescribed mandatory minimum sentences as the 'very antithesis of just sentences' in the NT Supreme Court matter of *Trennery v Bradley*.<sup>16</sup> Mildren J went on to say that

if a court thinks that a proper just sentence is the prescribed minimum or more, the minimum prescribed penalty is unnecessary. It therefore follows that the sole purpose of a prescribed minimum mandatory sentencing regime is to require sentencers to impose heavier sentences than would be proper according to the justice of the case.<sup>17</sup>

8.13 While increasing incarceration, there is no evidence that mandatory sentencing acts as a deterrent and reduces crime.<sup>18</sup> In fact, Victorian Aboriginal Legal Service (VALS) suggested that:

As opposed to providing a deterrent, the impact of mandatory minimum sentences and terms of incarceration for youth means a rise criminogenic behaviour learned within the prison system.<sup>19</sup>

8.14 The National Aboriginal and Torres Strait Islander Legal Services (NATSILS) submitted that such regimes can result in 'serious miscarriages of justice':

Mandatory sentencing regimes are not effective as a deterrent and instead contribute to higher rates of reoffending. In particular, [they] fail to deter persons with mental impairment, alcohol or drug dependency or persons who are economically or socially disadvantaged. They also have no rehabilitative value, disrupt employment and family connections ... and diminish the prospects of people re-establishing social and employment links post release. Significantly, mandatory sentencing prevents the court from taking into account the individual circumstance of the person, leading to unjust outcomes. This is an arbitrary contravention of the principles of proportionality and necessity, and mandatory detention of this kind violate a number of provisions of the International Convention on Civil and Political Rights.<sup>20</sup>

8.15 Stakeholders noted that many mandatory and presumptive sentencing provisions disproportionately impact upon vulnerable groups, including Aboriginal and Torres

15 Kingsford Legal Centre, *Submission 19*.

16 Criminal Lawyers Association of the Northern Territory, *Submission 75*; Northern Territory Legal Aid Commission, *Submission 46*; North Australian Aboriginal Justice Agency, *Submission 113*.

17 *Trennery v Bradley* (1997) 6 NTLR 175.

18 See, eg, Michael Tonry, 'The Mostly Unintended Effects of Mandatory Penalties: Two Centuries of Consistent Findings' (2009) 38(1) *Crime and Justice* 65.

19 Victorian Aboriginal Legal Service, *Submission 39*.

20 National Aboriginal and Torres Strait Islander Legal Services, *Submission 109*.

Strait Islander peoples.<sup>21</sup> In 2008 and 2014, the UN Committee Against Torture, in its regular reviews of Australia's compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, recommended that Australia abolish mandatory sentencing due to its 'disproportionate and discriminatory impact on the [I]ndigenous population.'<sup>22</sup> Kingsford Legal Centre explained that:

a number of the crimes in Australian jurisdictions to which a mandatory sentence is attached are 'crimes of poverty' relating to property offences and theft. As a result, mandatory sentences have a discriminatory impact on people of a low socio-economic status and particular racial groups, including Aboriginal and Torres Strait Islander people.<sup>23</sup>

8.16 The NT Anti-Discrimination Commissioner urged the 'repeal of mandatory sentencing provisions as they do not make our communities safer and have disproportionate impact on Aboriginal and Torres Strait Islander people.'<sup>24</sup> The NACLC submitted that:

Of particular concern is the disproportionate impact on Aboriginal and Torres Strait Islander peoples in light of the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system.<sup>25</sup>

## Repeal mandatory or presumptive sentencing provisions

**Recommendation 8–1** Commonwealth, state and territory governments should repeal legislation imposing mandatory or presumptive terms of imprisonment upon conviction of an offender that has a disproportionate impact on Aboriginal and Torres Strait Islander peoples.

8.17 There are principled reasons for opposing mandatory sentencing, including those set out above. In fact, the ALRC has previously recommended against the imposition of mandatory sentences in relation to federal offenders.<sup>26</sup> Nevertheless, the Terms of Reference for this Inquiry are focused on those aspects of the criminal justice system that are contributing to the over incarceration of Aboriginal and Torres Strait Islander people. Accordingly, this recommendation requires a focus on those particular offence provisions with a mandatory or presumptive term of imprisonment which have a disproportionate impact on Aboriginal and Torres Strait Islander peoples. Identifying individual offence provisions with a disproportionate impact is not a simple exercise

21 See, eg, Criminal Lawyers Association of the Northern Territory, *Submission 75*; Aboriginal Legal Service of Western Australia, *Submission 74*; Human Rights Law Centre, *Submission 68*; Northern Territory Legal Aid Commission, *Submission 46*; Community Legal Centres NSW and the Community Legal Centres NSW Aboriginal Advisory Group, *Submission 95*.

22 UN Committee against Torture, *Concluding Observations of the Committee against Torture: Australia*, UN Doc CAT/C/AUS/CO/3 (2008).

23 Kingsford Legal Centre, *Submission 19*.

24 Northern Territory Anti-Discrimination Commission, *Submission 67*.

25 National Association of Community Legal Centres, *Submission 94*.

26 Australian Law Reform Commission, *Same Crime, Same Time: Sentencing of Federal Offenders* Report No 103 (2006) recs 21–3.

given the way data are collected.<sup>27</sup> With a view to abolition, Commonwealth, state and territory governments should review provisions that impose mandatory or presumptive penalties to determine whether they have a disproportionate impact on Aboriginal and Torres Strait Islander peoples.<sup>28</sup>

8.18 The next section highlights those provisions identified by stakeholders as having a disproportionate impact on Aboriginal and Torres Strait Islander peoples. Most of those identified by stakeholders related to Western Australia (WA) and the Northern Territory (NT) where mandatory sentencing is most common.

## Specific offence provisions

### Western Australia

8.19 WA legislation imposes mandatory penalties upon conviction in relation to certain types of offenders, and to a number of offences.

#### *Repeat home burglary*

8.20 During initial consultations, sentencing for repeat home burglary (known as the ‘three strikes’ rule ) was commonly raised as being of particular concern, and as having a disproportionate impact on Aboriginal and Torres Strait Islander people. The ‘three strikes’ rule provides that an adult offender with two prior convictions for burglary must, upon the third conviction, be sentenced to at least two years imprisonment.<sup>29</sup>

8.21 Previous reviews concluded that this mandatory penalty ‘had little effect on the criminal justice system’, but did not make any recommendations regarding its retention or otherwise.<sup>30</sup> The offence of burglary can capture a broad range of conduct and the mandatory minimum sentences may be problematic, given the variance in the nature and gravity of conduct for which individuals are charged. For example, Legal Aid WA submitted that ‘a person who steals a wallet from a table inside a motel unit by reaching through the window, commits a burglary’.<sup>31</sup>

8.22 Legal Aid WA’s submission offers some insight into the reasons why Aboriginal and Torres Strait Islander offenders may be disproportionately impacted by the repeat burglary provisions:

Most young Aboriginal clients commit offences together. It may be that they are out at night because home is not safe, they are hungry, they are curious or they are simply

<sup>27</sup> See ch 3.

<sup>28</sup> See, eg, Legal Aid NSW, *Submission 101*; Commissioner for Children and Young People Western Australia, *Submission 16*; Legal Aid WA, *Submission 33*; Victorian Aboriginal Legal Service, *Submission 39*; National Aboriginal and Torres Strait Islander Legal Services, *Submission 109*; Caxton Legal Centre, *Submission 47*; Australian Lawyers for Human Rights, *Submission 59*.

<sup>29</sup> *Criminal Code Act Compilation Act 1913* (WA) s 401(4)(b). For an example involving a young Aboriginal man, see *Western Australia v Ryan* (Unreported, District Court of Western Australia, 24 October 2016).

<sup>30</sup> Rowena Johns, ‘Sentencing Law: A Review of Developments 1998–2001’ (Briefing Paper No 2/202, Parliamentary Library, Parliament of NSW, 2002) 75, citing Department of Justice (WA), *Review of Section 401 of the Criminal Code* (2001).

<sup>31</sup> Legal Aid WA, *Submission 33*.

with the wrong people at the wrong time. Many of them are considered by police as parties to the offences committed by others simply by virtue of agreeing with police that they were 'a lookout', without any plan to commit the actual offence.<sup>32</sup>

8.23 The Aboriginal Legal Service WA (ALSWA) confirmed that this provision impacted a number of their clients and provided the following example:

ALSWA acted for B who was a 20-year-old Aboriginal female from a regional location who came to live in Perth. She commenced a relationship and started using drugs for the first time. B acted as a lookout while her boyfriend committed various burglaries. She was a repeat offender under the legislation despite having no prior convictions other than an offence of providing false details as a juvenile. The client was sentenced to the minimum mandatory term of 2 years' imprisonment; the prosecutor stated at sentencing that this case was not the type of case that the amendments to the 'three strikes home burglary laws' were aimed at and that the conduct did not warrant imprisonment.<sup>33</sup>

8.24 In another example, ALSWA described how, but for receiving timely legal advice, a young Aboriginal male may have been mandatorily imprisoned for repeat home burglary after a 'third strike', in which the offender entered a home he believed to have been a friend's house to eat cereal and listen to music.<sup>34</sup>

### ***Breach of violence restraining orders***

8.25 The *Restraining Orders Act 1997* (WA) provides the legal framework for the issuing of orders designed to 'restrain people from committing family violence or personal violence by imposing restraints on their behaviour and activities, and for related purposes.'<sup>35</sup> The Act provides for a presumptive penalty for repeat breach offenders. Section 61A(5) of the Act provides that an offender convicted of three or more breaches of a violence restraining order (VRO) will be subject to a presumptive term of imprisonment. The legislation allows a court to divert from the presumptive penalty in limited circumstances.<sup>36</sup>

8.26 ALSWA reported 'serious concerns' that 'consent is not a defence'<sup>37</sup> to breaching a VRO, and that breaches of this type remain subject to the presumptive sentencing regime.<sup>38</sup> While most VRO are issued by a judicial officer, the WA legislation also provides for the issuing of a family violence restraining order by police officers.<sup>39</sup> A breach of a police issued order can result in a relevant conviction for the purposes of the mandatory presumptive penalty. ALSWA noted that police issued orders

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32 Ibid.

33 Aboriginal Legal Service of Western Australia, *Submission 74*.

34 Ibid. The 12 month mandatory term of imprisonment applies where the offence was committed prior to the commencement date of the 2015 amendments. Offences committed after that date are subject to a 2 year mandatory term.

35 *Restraining Orders Act 1997* (WA).

36 Ibid s 61A(6).

37 Nor is it a mitigating factor for the purposes of sentencing: Ibid s 61B(2).

38 Aboriginal Legal Service of Western Australia, *Submission 74*.

39 *Restraining Orders Act 1997* (WA) Div 3A.



do not require the provision of sworn evidence, are not subject to judicial oversight, do not necessarily take into account the views of the victim and are often made by police as a matter of convenience, for example, sometimes police orders are issued against the female victim because the residence belongs to the male and the female is able to access alternative accommodation.<sup>40</sup>

8.27 The Law Reform Commission of WA examined section 61A in the context of family and domestic violence. It reported that stakeholders in the Kimberly region had raised concerns that police orders were frequently not understood by the person bound by the order; or the person did not recall its existence because it was served on them at the scene, often when they were intoxicated.<sup>41</sup> Nevertheless, the Commission was of the view that the limited discretion in s 61A should be retained.<sup>42</sup>

### ***Other offences***

8.28 Stakeholders identified the following additional penalties to the offences for consideration:

- assault public officer (*Criminal Code Act Compilation Act 1913* (WA) s 318(4))
- breach violence restraining order (*Restraining Orders Act 1997* (WA) s 61A )
- reckless driving committed during police pursuit (*Road Traffic Act 1978* (WA) s 60B(5))
- dangerous driving causing death or grievous bodily harm committed during police pursuit (*Road Traffic Act 1978* (WA) s 59 (4A)); and
- dangerous driving causing bodily harm committed during police pursuit (*Road Traffic Act 1978* (WA) s 59A(4A)).

8.29 In relation to driving offences, NATSILS and ALSWA referred to the same case study:

‘John’ was charged with one count of reckless driving, one charge of driving without a licence and one charge of failing to stop. John made a rash and unfortunate decision to drive a motor cycle to work because his employer, who normally picked him up for work, was unable to do so.

When he saw the police he panicked, sped off, drove through a red light and veered onto the wrong side of the road. He had a relatively minor record—his only prior offences were failing to stop, excess 0.02% and driving without a licence. These offences were dealt with in 2010 by the imposition of fines and John had not offended since that time.

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40 Aboriginal Legal Service of Western Australia, *Submission 74*.

41 Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws - Discussion Paper* (2013) 94. See also, Legal Aid WA, *Submission 33*.

42 Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws - Final Report* (2014) 116.

... The magistrate indicated that, if it was not for the mandatory sentencing regime, the sentence would have been less or possibly not one of imprisonment at all.<sup>43</sup>

## Northern Territory

8.30 The ALRC understands that the NT Government is in the process of reviewing provisions that impose mandatory penalties. The ALRC welcomes the review. During this Inquiry, stakeholders in the NT identified a number of mandatory sentencing provisions to be particularly problematic in terms of their application to Aboriginal and Torres Strait Islander offenders. NAAJA submitted that:

The following provisions should be prioritised for immediate repeal, as they disproportionately affect Aboriginal people:

- Part 3 Division 6 of the Sentencing Act – Aggravated property offences;
- Part 3 Division 6A of the Sentencing Act – Mandatory Imprisonment for violent offences;
- Sections 120 & 121 of the Domestic and Family Violence Act;
- Part 3 Division 6B of the Sentencing Act – Imprisonment for sexual offences;
- Section 53A of the Sentencing Act – Mandatory non parole periods for offences of murder;
- Section 37(3) of the Misuse of Drugs Act.

The Northern Territory governments should also abolish:

- Provisions which remove the availability of suspended sentences (or other sentencing alternatives) for certain classes of offences or at all.
- Provisions which remove the availability of home detention orders for offences that are not suspended wholly.
- Mandatory minimum fines for traffic offences such as drive unregistered section 33 and drive uninsured section 34 of the Traffic Act.<sup>44</sup>

8.31 CLANT provided a similar list of offences for repeal.<sup>45</sup>

8.32 The *Sentencing Act* (NT) does not simply apply mandatory sentencing provisions based on the offence committed, but on whether or not the offence is a second or subsequent offence by the offender.<sup>46</sup> This means that there are mandatory terms of imprisonment attached to some offence levels, and mandatory minimums for others.<sup>47</sup>

43 National Aboriginal and Torres Strait Islander Legal Services, *Submission 109*; Aboriginal Legal Service of Western Australia, *Submission 74*.

44 North Australian Aboriginal Justice Agency, *Submission 113*.

45 Criminal Lawyers Association of the Northern Territory, *Submission 75*.

46 *Sentencing Act* (NT) div 6A.

47 There is an 'exceptional circumstances' provision, which allows a court to deviate from the mandatory minimum term of imprisonment where it is satisfied that the 'circumstances of the case are exceptional', but it must still impose a term of actual imprisonment. See *Sentencing Act* (NT) s 78DI.

8.33 The *Sentencing Act* (NT) classifies individual offences into one of five offence levels. Kingsford Legal Centre submitted that the mandatory sentences in levels 1, 2 and 4 are of ‘particular concern with respect to Aboriginal and Torres Strait Islander people’,<sup>48</sup> and called for immediate reform. Level 2 mandates a term of actual imprisonment, for ‘any person who unlawfully causes harm to another.’ The provision does not require a consideration of the gravity of the harm caused.<sup>49</sup>

### New South Wales

8.34 Legal Aid NSW submitted that the mandatory minimum sentence attaching to the offence of assault causing death (while intoxicated) (so called ‘one punch’ laws) was particularly ‘inappropriate.’<sup>50</sup> In a 2017 review of those laws, the Aboriginal Legal Service NSW/ACT submitted that such laws should be repealed, because of the potential for the offence to have a disproportionate impact upon Aboriginal and Torres Strait Islander communities.<sup>51</sup>

8.35 One punch laws were reviewed by the NSW Department of Justice in 2017 which found the law to be largely untested having been introduced in 2014.<sup>52</sup> Nevertheless, the Department stated that it ‘supports the retention of the offences and supports the principle of a lengthy sentence of imprisonment for the aggravated offence’.<sup>53</sup> The Department recommended that the offence provisions be reviewed again in 2020. The ALRC suggests that such a review should also examine specifically the impact of these laws on Aboriginal and Torres Strait Islander people.

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48 Kingsford Legal Centre, *Submission 19*.

49 Ibid.

50 Legal Aid NSW, *Submission 101*.

51 Aboriginal Legal Service (NSW/ACT), Submission to NSW Department of Justice, *Statutory Review of Sections 25A and 25B of the Crimes Act 1900* (6 December 2016).

52 NSW Department of Justice, *Statutory Review of Sections 25A and 25B of the Crimes Act 1900* (2017) 4.

53 Ibid.