



Northern Territory Legal Aid Commission

Domestic Violence Legal Service and Northern Territory Legal Aid Commission submission to the Inquiry into missing and murdered First Nations women and children

The Northern Territory has the highest rates of domestic, family and sexual violence in Australia.¹ As documented in the NT Government's Domestic, Family and Sexual Violence Reduction Framework 2018-2028, there are 1,730 victims of domestic and family violence related offences per 100,000 people in the Northern Territory.² This victimisation rate is about three times higher than any other jurisdiction.³ The victimisation rate of Aboriginal people is 18 times higher when compared with non-Aboriginal people.⁴ In the Northern Territory, Aboriginal women are hospitalised for domestic and family violence related assaults at 40 times the rate of non-Aboriginal women.⁵

This is a joint submission from the Domestic Violence Legal Service and the Northern Territory Legal Aid Commission which seeks to highlight the impact of domestic, family and sexual violence in the Top End with a focus on the Darwin and greater Darwin region. We also support and endorse the submission of the North Australian Aboriginal Family Legal Service (NAAFLS) who assist First Nations people across the Top End of the Northern Territory.

¹ The Northern Territory Government. (2018). The Northern Territory's Domestic, Family, and Sexual Violence Reduction Framework 2018-2028: Safe, respected and free from violence. Darwin: The Northern Territory Government – page 12

² The Northern Territory Government. (2018). The Northern Territory's Domestic, Family, and Sexual Violence Reduction Framework 2018-2028: Safe, respected and free from violence. Darwin: The Northern Territory Government – page 13

³ The Northern Territory Government. (2018). The Northern Territory's Domestic, Family, and Sexual Violence Reduction Framework 2018-2028: Safe, respected and free from violence. Darwin: The Northern Territory Government – page 13

⁴ The Northern Territory Government. (2018). The Northern Territory's Domestic, Family, and Sexual Violence Reduction Framework 2018-2028: Safe, respected and free from violence. Darwin: The Northern Territory Government - page 13

⁵ The Northern Territory Government. (2018). The Northern Territory's Domestic, Family, and Sexual Violence Reduction Framework 2018-2028: Safe, respected and free from violence. Darwin: The Northern Territory Government – page 19

Recommendation: Accessible legal services for respondents

A legal service to assist respondents to applications for domestic violence orders (DVOs) is funded and established across the NT. The current Respondent Early Assistance Legal Service (REALS) is the ideal model however only operates in the Darwin Local Court. The North Australian Aboriginal Family Law Service (NAAFLS) has identified that a service similar to REALS does not exist outside of Darwin, which may limit respondents from regional and remote parts of the Northern Territory from being able to meaningfully engage with the Court process. It helps them to better understand the Court process and ultimately if a DVO is made, the conditions of the DVO and the penalties for the contravention of a DVO.

Recommendation: Appropriate men's behaviour change programs

There is a need for men's behaviour change programs that are safe, effective and context appropriate; and to which the court can order attendance. The *Tangentyere Men's Family Violence Prevention Program* or "*Marra'ka Mbarintja*" (*Talking straight to make change*) is the only men's behaviour program with specific standards. The Central Australian Minimum Standards (CAMS) articulate the expectations for Men's Behaviour Change Programs (MBCP) operating in the Central Australian context. It is clear that there is a need for similar programs across the Northern Territory.

Recommendation: Ongoing specialist training for police

An ongoing package of trauma-informed domestic and family violence awareness training and vicarious trauma training undertaken by police.

Recommendation: Police to the review Domestic and Family Violence General Order in consultation with the domestic violence sector

Northern Territory police to work with the domestic and family violence sector to develop a public edition of the Domestic and Family Violence General Order and update it to convey a contemporary understanding of DFV including coercive control.

Recommendation: Ensure victim-survivors are informed and can prepare when DFV offenders are released

While information sharing legislation has been enacted, parties need to be held accountable with clear lines of responsibility for undertaking to inform victim-survivors in a timely manner to prevent or manage risk. This fulfils the object of the Act as well as recommendations from victim-survivors across the NT.

Recommendation: Media to follow guidelines emphasising the inclusion of more experts and survivors

When interacting with Aboriginal people, families, and communities, it is important that media professionals are respectful and mindful of cultural practices and obligations. Reporting would be improved by including more experts and survivors, rather than police and justice system sources.

Domestic Violence Legal Service

The Domestic Violence Legal Service (DVLS) is a free service for victims and survivors of domestic and family violence in the Darwin and greater Darwin region. It is operated under the auspices of the Northern Territory Legal Aid Commission (NTLAC) and funded from a range of government sources. DVLS provides legal advice and information and representation in addition to a duty service for the domestic violence lists at the Darwin Local Court on Tuesdays and Fridays. DVLS also provides non-legal support for the safety and wellbeing of women and children experiencing or at risk of domestic and family violence through safety planning, emergency relief, referrals to counselling and social support, and other services. The majority of DVLS clients are women.

Domestic Violence Orders (DVOs)

In the Northern Territory, both the Courts and the Police have the power to make Domestic Violence Orders (DVOs). DVOs are made to prevent the perpetrator from committing domestic violence against the victim/survivor.

Domestic violence includes:

- physical or sexual abuse
- damaging property or hurting a pet
- intimidation, harassment or verbal abuse
- stalking
- economic abuse
- coercive control.

Domestic violence also includes threats to do any of the above behaviours, or getting someone else to do those things.

Domestic and family violence occurs in the context of domestic relationships, including:

- a current or ex-partner, married or not married, regardless of sex or gender identity
- family members, like brothers, sisters, aunties, uncles, cousins, parents, children, in-laws, or a relative according to Aboriginal culture
- people who are living together or have lived together
- people in a care relationship, like foster carers or guardians.

DVOs are also distinguishable from Personal Violence Restraining Orders (PVROs) where there is no domestic relationship between the parties applying for the PVRO and protected by the PVRO.

Journey Mapping Workshop Report 2019

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 of domestic and family violence (DFV) in the justice system. 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.

Interviews were conducted across the NT with about 45 people, a mix of victim/survivors and people who operate in the system from across the NT including police officers, prosecutors, 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.

From this came the "Journey Mapping Workshop Report - Exploring the voices and experiences of victim/survivors of Domestic and Family Violence in the NT Justice System".

c. the institutional legislation, policies and practices implemented in response to all forms of violence experienced by First Nations women and children

Recommendation: Accessible legal services for respondents

A legal service to assist respondents to applications for domestic violence orders (DVOs) is funded and established across the NT. The current Respondent Early Assistance Legal Service ('REALS') is the ideal model however only operates in the Darwin Local Court. The North Australian Aboriginal Family Law Service (NAAFLS) has identified that a service similar to REALS does not exist outside of Darwin, which may limit respondents from regional and remote parts of the Northern Territory from being able to meaningfully engage with the Court process. It helps them to better understand the Court process and ultimately if a DVO is made, the conditions of the DVO and the penalties for the contravention of a DVO.

In March 2017, NTLAC began providing a duty lawyer service at the Darwin Local Court to assist self-represented respondents in domestic violence matters. It is funded by the Australian Government through Family Advocacy and Support Services (FASS). The

Respondent Early Assistance Legal Service (REALS) sought to address the gap where self-represented respondents in domestic violence matters had previously been left without free initial legal advice and information.

In Darwin, the NTLAC Crime section provides criminal law assistance at the Darwin Local Court. The North Australian Aboriginal Justice Agency (NAAJA) Crime section provides criminal law assistance at the Darwin Local Court and in remote communities following the circuit court. However, both services only deal with clients who have been charged by Northern Territory police with a criminal offence.

In respect of NTLAC, if a defendant has a grant of aid for a criminal matter and there is an associated DVO matter, the criminal lawyer may assist with negotiations while the criminal law matter is on foot. In the event that the Court lists both the criminal matter and the DVO matter to both be heard at the same hearing, the criminal lawyer may make submissions regarding the DVO matter at that hearing. In the event that the criminal matter is resolved and an associated DVO matter remains on foot, the criminal law section will refer the client to REALS. In addition to this cohort, REALS provides a duty lawyer service to any clients who respond to a DVO matter in the Darwin Local Court.

Subject to discretion, priority and availability, REALS provides:

- legal advice and information
- assistance to complete simple documentation, drafting consent orders and undertakings
- representation in seeking adjournments, in procedural mentions and in limited simple negotiations with the other parties.

Assistance also includes the provision of information and referrals on a range of legal issues that are often experienced by respondents, such as family law, care and protection, immigration, police complaints, housing, credit/debt and criminal law issues.

REALS provides respondents with an opportunity to be an active participant in proceedings. It helps them to better understand the Court process and ultimately if a DVO is made, the conditions of the DVO and the penalties for the contravention of a DVO. This improves the likelihood that the order is able to be practically complied with and reduces the likelihood of inadvertent breach. Furthermore, if respondents are able to participate in the Court process, then this goes some way to addressing the objects of the Act.

Section 3 of the *Domestic and Family Violence Act 2007* (NT) outlines the objects of the act as follows:

3 Objects of Act and their achievement

(1) The objects of this Act are:

- (a) to ensure the safety and protection of all persons, including children, who experience or are exposed to domestic violence; and*
- (b) to ensure people who commit domestic violence accept responsibility for their conduct; and*
- (c) to reduce and prevent domestic violence.*

Recommendation: Appropriate men's behaviour change programs

There is a need for men's behaviour change programs that are safe, effective and context appropriate; and to which the court can order attendance. The *Tangentyere Men's Family Violence Prevention Program* or "*Marra'ka Mbarintja*" (*Talking straight to make change*) is the only men's behaviour program with specific standards. The Central Australian Minimum Standards (CAMS) articulate the expectations for Men's Behaviour Change Programs (MBCP) operating in the Central Australian context. It is clear that there is a need for similar programs across the Northern Territory.

If respondents are not attending Court and a DVO is made in their absence or they are not represented in proceedings then they are not in a position where the Court could make an order for them to attend a rehabilitation program.

Section 24 of the *Domestic and Family Violence Act 2007* (NT) provides that the Court may make an order for a person to attend a rehabilitation program.

24 Order for rehabilitation program

(1) The Court may include in a DVO an order requiring the defendant to take part in a rehabilitation program when making or varying the DVO.

(1A) In deciding whether to include an order under subsection (1), the safety and protection of the protected person must be the paramount consideration.

(1B) If the Court includes an order under subsection (1) in a DVO, the Court may also include an order requiring the defendant to take part in any other program the Court considers appropriate.

Example for subsection (1B)

An alcohol rehabilitation program.

(2) The order may be made only if:

(a) the Court is satisfied:

(i) the defendant is a suitable person to take part in the program; and

(ii) there is a place available in the program for the defendant; and

(b) the defendant consents to the order.

(3) The order may be made subject to the conditions the Court considers appropriate.

The Journey Mapping Workshop Report (the Report) stated that “prevention programs and programs in prison are urgently needed”.⁶ Also that “[o]ffenders need help to change and break cycles of intergenerational trauma. This needs to be done in a way that holds perpetrators to account”.⁷

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.⁸

f. the identification of concrete and effective actions that can be taken to remove systemic causes of violence and to increase the safety of First Nations women and children

Recommendation: Ongoing specialist training for police

An ongoing package of trauma-informed domestic and family violence awareness training and vicarious trauma training undertaken by police.

The Report depicted the journey that a victim-survivor may have from before a domestic and family violence incident occurs through to after the arrest and bail (if applicable) of the perpetrator. The start of the map focuses on Northern Territory police responses to the domestic and family violence incident. The Report states “...some Police Officers have an excellent understanding of Domestic and Family Violence [DFV] and associated trauma and are skilled and sensitive at working with victims.”⁹

However, the Report also states “... [b]ut these are not the experiences reported often in 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.”¹⁰ The Report states “Police themselves recognise that many lack the skills to work effectively in the area.” Throughout the interviewing process, one Northern Territory police officer noted “It’s such a complicated policing issue. It takes a

⁶ Journey Mapping Workshop Report - Exploring the voices and experiences of victim/survivors of Domestic and Family Violence in the NT Justice System – page 9

⁷ Journey Mapping Workshop Report - Exploring the voices and experiences of victim/survivors of Domestic and Family Violence in the NT Justice System – page 9

⁸ Journey Mapping Workshop Report - Exploring the voices and experiences of victim/survivors of Domestic and Family Violence in the NT Justice System – page 9

⁹ Journey Mapping Workshop Report - Exploring the voices and experiences of victim/survivors of Domestic and Family Violence in the NT Justice System – page 16

¹⁰ Journey Mapping Workshop Report - Exploring the voices and experiences of victim/survivors of Domestic and Family Violence in the NT Justice System – page 16

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.”¹¹

The Report clearly demonstrates that both victim-survivors and Northern Territory police are aware of the potential for deficiencies in their responses to domestic and family violence. A recurring theme throughout the Report is that a possible way to improve Northern Territory police responses to domestic and family violence is that police undertake trauma-informed domestic and family violence awareness training and vicarious trauma training.

Recommendation: Police to review Domestic and Family Violence General Order with the domestic violence sector

Northern Territory police to work with the domestic and family violence sector to develop a public edition of the Domestic and Family Violence General Order and update it to convey a contemporary understanding of DFV including coercive control.

The Darwin Domestic and Family Violence Network (“the Network”) is comprised of government and non-government agencies involved in providing services relating to domestic and family violence in the Greater Darwin area. The Network keeps the focus of its work on subjects directly related to DFV. The Network is committed to the prevention of DFV in the Darwin community and has zero tolerance towards DFV. The key objectives of the Network are information sharing, encouraging a more effective service system and strategic advocacy. It is convened by Dawn House Women’s Shelter.

On 11 October 2021, Sujay Kentlyn on behalf of the Network, wrote to the Honourable Nicole Manison the Northern Territory Minister for Police, Fire and Emergency Services in relation to the Northern Territory Police – Domestic and Family Violence General Order. The Network understood that the General Order was under review by the Northern Territory Police and the Network sought to provide insights and assistance in the review process. The Network highlighted the need for the General Orders to be made public in order to facilitate that process.

The Network received a response from Minister Manison on 3 November 2021, which stated that she was “aware that review of the GO [General Order] is nearing completion, and has incorporated engagement and consultation with NT stakeholders that are involved with DFV”. She went on to state that “[t]he NTPF advise that the reviewed GO will remain an internal document ... It is not for public disclosure.”

¹¹ Journey Mapping Workshop Report - Exploring the voices and experiences of victim/survivors of Domestic and Family Violence in the NT Justice System – page 20

Given that the General Order is an internal document, not for public disclosure, it is unclear how the Northern Territory Police could have completed a review of it with input from stakeholders. DVLS, NTLAC and NAAFLS have not been approached by the Northern Territory Police to assist in the review of the Domestic and Family Violence General Order.

The Queensland Police Service publish online their Operational Procedures Manual pursuant to the provisions of section 4.9 of the *Police Service Administration Act 1990* (Qld). Chapter 9 “outlines policy and procedures for managing domestic violence incidents and providing assistance to members of the community who may be affected by domestic violence.”¹² The introduction states that “[t]he contents of this Manual will be continually reviewed and updated to ensure currency and consistency with the law and community expectations. Members are to make themselves familiar with the contents of this Manual in order to carry out the Service's functions and deliver an effective level of policing to the community.”¹³

Furthermore, in the matter of the *Inquest into the death of HD (name suppressed)*¹⁴ a matter that concerned the death of a former Northern Territory Police officer, Coroner Greg Cavenagh LCJ recommended “that the Commissioner of Police ensure that the General Order is updated so as to convey a contemporary understanding of domestic and family violence (including coercive control) and that all police officers have training in the identification of ‘red flags’ for coercive control”.¹⁵

The current review along with the recommendations from the Northern Territory Coroner provide an opportunity for the Northern Territory police to work with the domestic and family violence sector to develop a public edition of the Domestic and Family Violence General Order. This new General Order should be shared with those working in the sector, not only in Darwin but across the Northern Territory.

Recommendation: Ensure victim-survivors are informed and can prepare when DFV offenders are released

While information sharing legislation has been enacted, parties need to be held accountable with clear lines of responsibility for undertaking to inform victim-survivors in a timely manner to prevent or manage risk. This fulfils the object of the Act as well as recommendations from victim-survivors across the NT.

¹² ‘Chapter 9 – Domestic Violence’, OPM Issue 84 Public Edition (2021) https://www.police.qld.gov.au/sites/default/files/2021-09/OPM%20-%20Chapter%209%20-%20Domestic%20Violence_0.pdf

¹³ ‘Introduction’, OPM Issue 84 Public Edition (2021) https://www.police.qld.gov.au/sites/default/files/2022-01/OPM%20-%20Introduction_3.pdf

¹⁴ [2021] NTLC 029

¹⁵ *Inquest into the death of HD (name suppressed)* [2021] NTLC 029 at 97

The Report stated “[v]ictims reported feeling the system was not focussed 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”.¹⁶ The ‘journey map’ itself which led the Report “highlighted “... points in the system where victims are not consulted or or advised of outcomes, including bail conditions, sentence (including terms of suspended sentences), or rights to be on the Victims’ Register or access Victims of Crime compensation”.¹⁷ Time and resourcing constraints mean that not every woman that needs help can access a specialist legal service, a women’s refuge or the Witness Assistance Service (WAS) (a part of the Director of Public Prosecutions). There need to be wrap-around support for all victims which provides independent information, advice and support.

g. the ways in which missing and murdered First Nations women and children and their families can be honoured and commemorated

Recommendation: Media to follow guidelines emphasising the inclusion of more experts and survivors

When interacting with Aboriginal people, families, and communities, it is important that media professionals are respectful and mindful of cultural practices and obligations. Reporting would be improved by including more experts and survivors, rather than police and justice system sources.

In 2021, the Tangentyere Women’s Safety Group, Tangentyere Council and Galiwin’ku Women’s Space produced media guidelines that were developed in collaboration with Aboriginal organisations, Aboriginal women’s groups, specialist domestic, family and sexual violence services, and media professionals in the Northern Territory. “The purpose of these guidelines is to support media professionals and act as a reference when reporting domestic and family violence in the Northern Territory.”¹⁸ Furthermore, “[t]hese guidelines aim to provide advice for news stations, media organisations and media professionals on how to report safely and ethically about domestic, family and sexual violence in the Northern Territory.”¹⁹

¹⁶ Journey Mapping Workshop Report - Exploring the voices and experiences of victim/survivors of Domestic and Family Violence in the NT Justice System – page 7

¹⁷ Journey Mapping Workshop Report - Exploring the voices and experiences of victim/survivors of Domestic and Family Violence in the NT Justice System – page 24

¹⁸ Media Changing the Story – Media Guidelines for the Reporting of Domestic, Family and Sexual Violence in the Northern Territory 2021 - page 5

¹⁹ Media Changing the Story – Media Guidelines for the Reporting of Domestic, Family and Sexual Violence in the Northern Territory 2021 - page 5

"How media reports incidents and issues of violence against women can reinforce drivers of violence," co-author Dr Chay Brown said. "When this intersects with stereotyping of Indigenous people and other minority groups, it can increase potential harm."²⁰

There were 4 homicides relating to domestic and family violence per 100,000 people in the Northern Territory in 2015, the highest of any Australian jurisdiction.²¹ In 2021, all 3 of the deaths relating to domestic and family violence in the Northern Territory were Aboriginal women.

Ms R Rubuntja, 46 years old, a founding member of the Tangentyere Women's Family Safety Group, was killed outside the Alice Spring Hospital on 6 January 2021. Her partner is charged with her murder. The Alice Springs ABC posted an article online on 10 December 2021 titled "NT anti-domestic violence group calls on media to do better, saying assaults are 'everybody's business'". "It's important that we get our stories out — good and bad — because in every newspaper article, our stories are just a little corner," Connie Shaw, from the Tangentyere Women's Family Safety Group in Alice Springs, said. Prominent activist and 2020 NT Australian of the Year Shirleen Campbell said there was a noticeable discrepancy in the way violence against non-Indigenous women was reported compared with assaults inflicted upon Indigenous women. "When something happens to a non-Aboriginal person, there's always a good and positive outcome and stories coming out of that," Ms Campbell said. "When it comes to an Aboriginal woman who's experienced and lost their life from family and domestic violence, there's not much coming out of it. When it comes to family and domestic violence, it's everybody's business. It's not just our own."²²

An unnamed woman, 34 years old, died from significant burns at the Hidden Valley Town Camp on the fringes of Alice Springs on 7 November 2021 following a fire on 5 November 2021. Her partner who is alleged to have been involved in the incident died a week later from serious burns.

ABC Alice Springs posted an article online on 5 December 2021 titled "Heartbreaking family violence text message leaves NT police chief feeling a 'sense of failure'". The article goes on to state, "NT Police Commissioner Jamie Chalker said the woman was seeking shelter in a separate room when her partner 'poured accelerant over the door and under the door and set it alight'. He said in the hours before she died, the victim texted her young daughter to say goodbye. "She sent a text message that said, 'Today your dad is going to kill me. I love

²⁰ <https://www.abc.net.au/news/2021-12-10/media-changing-the-story-guidelines-nt-domestic-family-violence/100683834>

²¹ The Northern Territory Government. (2018). The Northern Territory's Domestic, Family, and Sexual Violence Reduction Framework 2018-2028: Safe, respected and free from violence. Darwin: The Northern Territory Government - page 13

²² <https://www.abc.net.au/news/2021-12-10/media-changing-the-story-guidelines-nt-domestic-family-violence/100683834>

you, please don't cry for me,'" he said. "The woman's 36-year-old partner – who also died of burn injuries – was arrested three days before the fire for breaching a domestic violence order. He was granted bail by police before he killed the 34-year-old woman at an Alice Springs town camp last month."²³

While the use of these quotes from NT Police Commissioner Jamie Chalker appear to show safe and ethical reporting, what is missing is the voices of the victim's family and / or friends, or any specialist domestic, family, and sexual violence services.

The media play an important role in the reporting of domestic, family and sexual violence. The media guidelines state that "[R]eporting would be improved by including more experts and survivors, yet half of all sources were drawn from police and the criminal justice system; only 9.9% of sources were domestic violence advocates; only 8.7% were survivors".²⁴ Furthermore, "When interacting with Aboriginal people, families, and communities, it is important that media professionals are respectful and mindful of cultural practices and obligations.

However, this does not mean that Aboriginal communities do not want these stories published. In fact, the silence of media can also be hurtful and harmful. The key to writing these stories in a safe and ethical way is respect, relationships and asking permission."²⁵ As one Aboriginal woman is quoted as saying as part of the media guidelines, "It feels like [media] don't take all lives equally and as seriously".²⁶

²³ <https://www.abc.net.au/news/2021-12-05/nt-domestic-violence-police-chief-failure/100621684>

²⁴ Media Changing the Story – Media Guidelines for the Reporting of Domestic, Family and Sexual Violence in the Northern Territory 2021 - page 9

²⁵ Media Changing the Story – Media Guidelines for the Reporting of Domestic, Family and Sexual Violence in the Northern Territory 2021 - page 13

²⁶ Media Changing the Story – Media Guidelines for the Reporting of Domestic, Family and Sexual Violence in the Northern Territory 2021 - page 14