



**Aboriginal Family
Legal Service**

SOUTHERN QUEENSLAND

24 July 2020

Committee Secretary
House of Representatives Standing Committee on Social Policy and Legal Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

On behalf of the Aboriginal Family Legal Service Southern Queensland, please find enclosed our submission to the Committee's inquiry into family, domestic and sexual violence.

We thank you for the opportunity to use our knowledge and lived experiences to make submissions on such an important issue in our community.

We look forward to the outcome of the inquiry and its impact both on the next National Plan to Reduce Violence against Women and their Children and broader policies moving forward.

Warm regards


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**Aboriginal Family
Legal Service**
SOUTHERN QUEENSLAND

1 **About the Aboriginal Family Legal Service Southern Queensland**

The Aboriginal Family Legal Service Southern Queensland (**AFLSSQ**) is the only Aboriginal-led legal service in Southern Queensland dedicated to working with Aboriginal and Torres Strait Islander victims of family and domestic violence.

AFLSSQ was originally auspiced under the Roma Town Council in 2005 as Maruma Li Mari Outreach Service and later under the Maranoa Regional Council. In 2014, AFLSSQ became a stand-alone, independent Community Legal Centre incorporated with the Office of the Registrar of Indigenous Corporations. AFLSSQ is one of 14 services funded by the National Indigenous Australians Agency to service a region of 405,671.3kms of which comprises 12 local councils. AFLSSQ works in an area spanning the Southern border of Queensland, from Toowoomba Shire to Bulloo Shire and all areas in between.

AFLSSQ's vision is to understand, respond and prevent violence to enable Aboriginal and Torres Strait Islander families in Southern Queensland to live safely in their own homes and communities. AFLSSQ's mission is to develop and deliver culturally-appropriate, high-quality services, to make and maintain inclusive relationships and collaborative partnerships, and to advance and affect practices that empower women, men and children to make informed decisions about families, communities and lives in ways that are respectful, responsible and right for them and their communities.

AFLSSQ provides legal, counselling, education and advocacy services to Aboriginal and Torres Strait Islander families in Southern Queensland. A dominant portion of the work done is in family and domestic violence, child protection, family law, victims' compensation and witness assistance.

2 **Family violence and Aboriginal and Torres Strait Islander communities**

AFLSSQ welcomes the opportunity to make this submission to the Inquiry into family, domestic and sexual violence. All Aboriginal and Torres Strait Islander families have the right to feel safe and to live free from family violence. The empowerment of our communities and our community-led organisations is at the centre of a self-determined and sustainable response, and we welcome this opportunity to speak to our experience and insights in our region.

As an Aboriginal-controlled organisation, we are acutely aware of the dire statistics of the prevalence of family violence in Aboriginal and Torres Strait Islander communities. We have included a high-level snapshot of key data on family violence in our communities to re-emphasise the need for immediate action and commitment to working differently with our communities. What this data does not speak to is the individual, family and community strengths that exist and offer the basis for providing long-term solutions. This has been the subject of numerous inquiry submissions, reports and recommendations and we refer to these in our submission.

Family violence in our communities must be understood in the context of intergenerational trauma and the ongoing experiences and impacts of colonisation. For many, this has led to large-scale dispossession of land, fracturing of community and kinship systems, removal of children from families and Country, economic and political exclusion and racism. Yet our culture and communities provide the basis for solutions and are our source of strength.

Family and domestic violence disproportionately impacts Aboriginal and Torres Strait Islander families and has a significant negative impact on our communities. In 2016-2017,

Aboriginal and Torres Strait Islander women aged 15 and over were 34 times more likely to be hospitalised as a result of family and domestic violence, compared with non-Indigenous females.¹ The rate of hospitalisations of women assaulted by a spouse or partner has risen at an average of 2.8% per year since 2002-2003.² Further, Aboriginal and Torres Strait Islander women in Australia are 11 times more likely to die following an assault compared to non-Indigenous women.³ It is also clear that family violence occurs at higher rates in Aboriginal and Torres Strait Islander communities than the general population. In 2014-2015, 2 in 3 (63%) of Indigenous women who had experienced physical violence reported that the offender of the most recent incident was a family member.⁴ It is also commonly understood that there is a significant underreporting of family and domestic violence, meaning that the true extent of family violence is likely to be far higher.⁵

The prevalence of family and domestic violence is particularly acute in remote communities. In 2016-2017, 26.6 of 1000 Aboriginal and Torres Strait Islander women living in remote areas were hospitalised as a result of family violence, compared to 2.8 of 1000 of Aboriginal and Torres Strait Islander women living in major Australian cities.⁶

The regions in which AFLSSQ operates experience family, domestic and sexual violence issues with increasing frequency. In 2017-2018 there were 523 breaches of a Domestic Violence Protection order in the Darling Downs-Maranoa region – a 109% increase over nine years.⁷ The region also contains higher populations of Aboriginal and Torres Strait Islander peoples – 6% of overall population compared to the national average of 3.3%,⁸ with approximately 16% of Domestic Violence Order Applications being made to protect an Aboriginal and Torres Strait Islander person in 2019-2020.⁹

Family, domestic and sexual violence have been recognised as key drivers of incarceration of Aboriginal and Torres Strait Islander women.¹⁰ As at 30 June 2018, 34% of female prisoners were Aboriginal and Torres Strait Islander, despite only making up 2% of the female population.¹¹ It is also estimated that 87% of women in custody have been a victim of abuse either as a child or adult.¹² Research has shown that being a victim of family violence presents a pathway to offending. For instance, women regularly become homeless following leaving a violent situation or relationship. Studies have shown that more than half of incarcerated women were sleeping rough or had been in temporary accommodation in the month leading up to imprisonment.¹³

¹ Australian Institute of Health and Welfare, *Family, domestic and sexual violence in Australia: continuing the national story* (2019) <<https://www.aihw.gov.au/getmedia/b0037b2d-a651-4abf-9f7b-00a85e3de528/aihw-fdv3-FDSV-in-Australia-2019.pdf.aspx?inline=true>>.

² Australian Institute of Health and Welfare, *Family, domestic and sexual violence in Australia: continuing the national story* (2019) <<https://www.aihw.gov.au/getmedia/b0037b2d-a651-4abf-9f7b-00a85e3de528/aihw-fdv3-FDSV-in-Australia-2019.pdf.aspx?inline=true>>.

³ Our Watch, *Changing the picture – A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children* (2018) <<https://www.ourwatch.org.au/resource/changing-the-picture/>>.

⁴ Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Social Survey* (2014-2015).

⁵ Willis, M. (2011) Non-disclosure of violence in Australian Indigenous communities, Canberra, Australian Institute of Criminology, p.1.

⁶ Australian Institute of Health and Welfare, *Family, domestic and sexual violence in Australia: continuing the national story* (2019) <<https://www.aihw.gov.au/getmedia/b0037b2d-a651-4abf-9f7b-00a85e3de528/aihw-fdv3-FDSV-in-Australia-2019.pdf.aspx?inline=true>>.

⁷ Queensland Treasury, *Crime Report, Queensland 2017-18*, (2019) 31.

⁸ Australian Institute of Health and Welfare, *Profile of Indigenous Australians* (2019) AIHW <<https://www.aihw.gov.au/reports/australias-welfare/profile-of-indigenous-australians>>.

⁹ Queensland Courts, *Domestic and family violence (DFV) statistics* (Web Page) <<https://www.courts.qld.gov.au/court-users/researchers-and-public/stats>>.

¹⁰ PwC's Indigenous Consulting, *Indigenous Incarceration: Unlock the Facts* (2017) 23.

¹¹ Australian Bureau of Statistics, *Prisoners in Australia* (2018).

¹² Price Waterhouse Coopers, *Indigenous incarceration: Unlock the facts* (2017).

¹³ Australian Institute of Health and Welfare, *The health of Australia's prisoners* (2012).

Family and domestic violence has been described as cyclical and intergenerational.¹⁴ Our children and young people are particularly vulnerable to the direct and indirect impact of family violence, which contributes to the significant over-representation of Aboriginal and Torres Strait Islander young people in the child protection systems.¹⁵ In 2017-2018, the rate of Indigenous children receiving child protection services was 164 per 1,000 compared with 20 per 1,000 non-Indigenous children.¹⁶

The experience of family and domestic violence is linked to a range of negative health impacts for women and their children and this is particularly pronounced for Aboriginal and Torres Strait Islander peoples. This includes higher rates of birth complications, pre-term birth and low birthweight.¹⁷ The burden of disease from family and domestic violence is also reported to be higher in Indigenous women than non-Indigenous women due to increased burden from anxiety, depression, alcohol, early pregnancy loss, self-harm, suicide and particularly, homicide.¹⁸

3 Summary of Recommendations

3.1 Terms of reference (c)

- (a) Whole of government engagement in addressing the service delivery gaps in RRR communities, with a focus on place-based, community-driven, integrated service initiatives which are culturally responsive and trauma-informed.
- (b) Appropriate and sustained financial and practical resourcing of Aboriginal and Torres Strait Islander community-controlled organisations, peoples, families and children to be engaged as active participants in designing and implementing policy and practice change in family violence response and prevention.
- (c) Specialist training provided by Aboriginal and Torres Strait Islander frontline workers to police, service providers, and other agencies to deepen the understanding and knowledge of the complex causes of family violence and manifestations of trauma and allow for greater collaboration.
- (d) Implementation of systems and processes which allow coordination, communication and accountability across all government departments relating to police, child protection, housing and access so that Aboriginal and Torres Strait Islander victims of family and domestic violence have access to consistent and culturally appropriate advice. These systems and processes should be driven supported and coordinated by the appropriate Aboriginal Community Controlled organisations. The Aboriginal Community Controlled organisations across all regions must receive appropriate resources and funding to undertake this critical role.

3.2 Terms of reference (d)

- (a) Increased investment in culturally appropriate crisis accommodation, housing and homelessness services for Aboriginal and Torres Strait Islander victims of family violence, with an emphasis of RRR communities.

¹⁴ See, eg, Aboriginal Peak Organisations (NT), Submission No 134 to the Senate Standing Committees on Finance and Public Administration, *Domestic Violence in Australia* (August 2014) 4;

¹⁵ Commission for Children and Young People (2016) *Always Was Always Will Be Koori Children: a systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria*, Melbourne: Victorian Government, p.3.

¹⁶ Australian Institute of Health and Welfare, *Family, domestic and sexual violence in Australia: continuing the national story* (2019) <<https://www.aihw.gov.au/getmedia/b0037b2d-a651-4abf-9f7b-00a85e3de528/aihw-fdv3-FDSV-in-Australia-2019.pdf.aspx?inline=true>>.

¹⁷ State of Queensland, *The health of Queenslanders* (2018) <https://www.health.qld.gov.au/__data/assets/pdf_file/0032/732794/cho-report-2018-full.pdf>.

¹⁸ Ayre J, Lum On M, Webster K, Gourley M & Moon L, *Examination of the burden of disease of intimate partner violence against women* (2016).

- (b) Funding for community education around safe decision making in relation to housing and engagement with child protective services.
- (c) Increased (long-term) funding and investment from State and Federal Governments to enable AFLSSQ to meet demand for specialist, frontline legal assistance across Southern Queensland. Funding is particularly required to allow for AFLSSQ to expand its footprint into regional areas. Implementation of systematic training for police officers to improve cultural awareness and family violence sensitivity. Training should be informed through consultation with Aboriginal and Torres Strait Islander organisations with frontline expertise of assisting with Aboriginal and Torres Strait Islander family violence issues.

3.3 Terms of reference (h)

- (a) Frontline services, such as social workers and emergency accommodation centres, must prioritise both cultural safety and the inclusion of Aboriginal and Torres Strait Islander workers as first points of contact. This is aimed at reducing the further trauma that Aboriginal and Torres Strait Islander victims of family violence experience when there is a lack of cultural safety.
- (b) Reduce 'mainstreaming' of services and instead allocate and prioritise funding for culturally safe and community-led and controlled specialist services for Aboriginal and Torres Strait Islander families.
- (c) Measures to address and reduce family violence must be place-based, and engage the Aboriginal and Torres Strait Islander women and families on the ground in the design, to better account for the diverse experiences across metropolitan, regional, rural and remote areas.

3.4 Terms of reference (j)

- (a) Increased funding from State and Federal Governments to enable AFLSSQ to meet COVID-19 related demand, including funding for additional resources and online delivery.
- (b) Concerted effort to collect (standardised and disaggregated) data relating to the effects of the COVID-19 pandemic on the incidents and effects of domestic violence on Aboriginal and Torres Strait Islander women and children.
- (c) Improvement in the number and accessibility of refuges, shelters and safehouses in regional communities to cater for post-COVID-19 influxes and offer longer-term resources for RRR communities.

4 The level and impact of coordination, accountability for, and access to services and policy responses across the Commonwealth, state and territory governments, local governments, non-government and community organisations, and business – ToR (c)

Greater coordination and accountability across all levels of government and service sector is required to address the crisis rates of family violence in Aboriginal and Torres Strait Islander communities. The current lack of cohesion between these entities creates an additional barrier for Aboriginal and Torres Strait Islander women accessing services.

4.1 Integrated service responses

Service integration with a high level of coordination, accountability across all levels of government and service sector must be prioritised to address the crisis rates of family violence in

Aboriginal and Torres Strait Islander communities. This must prioritise service integration in a way that recognises the importance of Aboriginal and Torres Strait Islander community-led responses and Aboriginal Community Controlled Organisations. A siloed approach to reactive support services, particularly the involvement of non-Aboriginal-led services, further disempowers Aboriginal and Torres Strait Islander women and distances cultural and community connections.

In our work, we see this manifest through a number of circumstances, including in police-initiated domestic violence applications, where the police rarely refer or engage culturally safe and specialist support services to provide ongoing support and advice to Aboriginal and Torres Strait Islander women. This leaves our women particularly vulnerable to ongoing abuse, potential homicide, and the potential for children to be removed by DOCS. As a specialist Aboriginal and Torres Strait Islander service, AFLSSQ, together with the national network of Family Violence Prevention Legal Services, should be resourced to meaningfully engage and lead service integration for our communities.

An absence of coordination and information sharing between services, levels of government and the police continues to leave families vulnerable to an escalation of risk and impairs the informed and empowered decision making of women experiencing family violence. Coordination between services and government departments is critical in addressing the multiple factors which contribute to family and domestic violence. Early, coordinated and informed collaborative responses to quickly identify families in need of urgent support needs to be available in all regions. We refer to the Queensland trial of integrated responses to family and domestic violence through the High Risk Teams, which bring to the table police, health, corrections, housing and family and domestic violence services to provide integrated, culturally appropriate safety responses to victims and their children who are at high risk of serious harm or lethality. This was noted by the independent evaluation of the integrated response trial undertaken by the Griffith Criminology Institute, Griffith University, as the first time that Queensland had implemented a common approach to integrated service delivery for domestic and family violence across government and non-government agencies and community groups. The High Risk Teams under the response coordinate immediate actions to be taken by government and non-government agencies to improve the safety of victims and their children and hold perpetrators to account. The independent evaluation noted in particular that *“The integrated service response and high risk team model is in a state of ‘emerging practice’.* Initial indicators of progress are promising but more needs to be done to consolidate and embed these reforms.”¹⁹ The need for more culturally appropriate processes and services for Aboriginal and Torres Strait Islander participants was raised as one of the key challenges across the trial locations.

Where Aboriginal and Torres Strait Islander women and children are involved, integrated responses should be driven, supported and coordinated by the appropriate Aboriginal Community Controlled organisations. These organisations are best placed to work with Aboriginal and Torres Strait Islander women in their communities and provide some safeguards to centre a culturally safe and informed response that addresses inter-generational trauma and the complex causes of violence in each community. The Aboriginal Community Controlled organisations across all regions must receive appropriate resources and funding to undertake this critical role.

It is critical that AFLSSQ and other Aboriginal community-controlled organisations are resources to continue to engage in regular stakeholder meetings to evaluate and discuss instances of Domestic Violence in their region and ensure relationships with key stakeholders are maintained. Through sustained and engaged collaborative relationships, we can better ensure that there is a culturally informed, co-ordinated response for the Aboriginal and Torres Strait Islander community.

4.2 Participation of Regional, Rural and Remote (‘RRR’) services in advocacy and policy responses

Community-led, place-based responses, informed by the experiences of families and the organisations working with communities on the ground is essential to effective service design and policy development. AFLSSQ has experienced a number of challenges in engaging as a RRR

¹⁹ Evaluation of the integrated service response and high risk teams trial (2019) Summary of key findings
<<https://www.csyw.qld.gov.au/resources/campaign/end-violence/dfv-isr-evaluation-summary.pdf>>

legal service provider in advocacy on the distinct needs of our clients and communities. RRR services often do not have a seat at the table to include the voices of RRR communities in key discussions. RRR communities and services must have the opportunity and resourcing to ensure the complex and intersecting challenges are heard and engaged in the response to the escalating family violence crisis.

4.3 Complexities around access to services where mutual Domestic Violence Orders (DVOs) are in place

Women experience additional barriers to accessing culturally safe and informed legal services where police seek mutual DVOs without regard for the nature and manifestation of family and domestic violence on victim's behaviour.

In our experience, police may lodge a DVO against both parties where there is a lack of education and knowledge regarding the impact and actions of a victim of family violence. For example, a victim of family violence may choose to drink with a preparator where this may reduce the level of violence or may use drinking as a coping mechanism for continued family violence and this can manifest in expressions of trauma.

There are serious implications of lodging a DVO against the aggrieved person including:

- Aboriginal and Torres Strait Islander women do not have access to the resources to have a DVO removed or varied and may not have sufficient knowledge of their options; and
- if an Aboriginal and Torres Strait Islander woman has a DVO lodged against her, many organisations are precluded from acting for a preparator of family and domestic violence and will therefore not be able to assist her in any capacity including the removal or variation of the DVO. AFLSSQ's funding requirements mean that we are not able to assist a woman where there is a DVO against her, regardless of circumstances. AFLSSQ's funding requirements mean that we are not able to assist a woman where there is a DVO against her, regardless of circumstances.

AFLSSQ has to assess carefully if the victim turns perpetrator as to our support for her. It's a tricky situation without clear guidelines and there is a risk that women may not be able to access essential legal services due to the terms of our funding.

There is significant further work to be done in advancing the understanding of police, lawyers and the judiciary in the behaviours of victims of family violence. The ability to make a rapid, informed decision as to the nature of the actions of victims of family violence has the capacity to ensure that women are not precluded from legal and practical assistance and support services.

4.4 Recommendations

- (a) Whole of government engagement in addressing the service delivery gaps in RRR communities, with a focus on place-based, community-driven initiatives which are culturally responsive and trauma-informed.
- (b) Appropriate and sustained financial and practical resourcing of Aboriginal and Torres Strait Islander community-controlled organisations, peoples, families and children to be engaged as active participants in designing and implementing policy and practice change in family violence response and prevention.
- (c) Specialist training provided by Aboriginal and Torres Strait Islander frontline workers to police, service providers, and other agencies to deepen the understanding and knowledge of the complex causes of family violence and manifestations of trauma and allow for greater collaboration.
- (d) Implementation of systems and processes which allow coordination, communication and accountability across all government departments relating to police, child protection, housing and access so that Aboriginal and Torres Strait Islander victims of family and domestic violence have access to consistent and culturally appropriate advice. These

systems and processes should be driven supported and coordinated by the appropriate Aboriginal Community Controlled organisations. The Aboriginal Community Controlled organisations across all regions must receive appropriate resources and funding to undertake this critical role.

5 How health, housing and access to services impact on ability of women to escape domestic violence – ToR (d)

Health, housing, access to services including legal services, and women's economic independence significantly impact on the ability of Aboriginal and Torres Strait Islander women to escape family violence. Further complexity is added where a victim is located in a RRR community.

5.1 Homelessness and unstable housing

The nexus between family violence and homelessness is known from research over many years and continues to be more pronounced for Aboriginal and Torres Strait Islander peoples. For women living in RRR areas, and Aboriginal and Torres Strait Islander women in particular, the limited housing and refuge accommodation creates an additional and tangible barrier to leaving family violence. Aboriginal and Torres Strait Islander people make up 26% of clients seeking specialist homelessness services across Australia, despite only making up 3.2% of the Australian population.²⁰ Family violence is the main reason Aboriginal and Torres Strait Islander clients seek homelessness services.

In this case study, the distance to 'safe' accommodation is compounded by what we see often as a lack of culturally appropriate crisis housing and the experience of our women of a lack of cultural safety in those services. Such actions without careful considerations further traumatised the mother and her young children by disconnecting her from kin and support network to an unknown town and community.

It has also been our experience that Aboriginal and Torres Strait Islander women fear the triggering of a response from child protective services in response to unstable housing or homelessness. This belief acts as a barrier to escaping family violence, and can in some cases, be itself a trigger to the involvement of child protective services through the failure to remove the children from the exposure to violence in the home. AFLSSQ believe through community education around safe decision making this will empower women to make those safe decisions to ensure children are kept safe until safety can be sought. AFLSSQ recommends that families work with a local FVPLS during these times to ensure they are making the safe decisions and being supported when engaging with DOCS during this time of seeking safety if they are unsure.

5.2 Barriers to accessing legal services

Aboriginal and Torres Strait Islander women experience a range of complex barriers to accessing support and legal services. Australia's history of colonisation and oppressive policies, which have been facilitated by legal and governmental systems has led to significant mistrust in the legal system. As a result, Aboriginal and Torres Strait Islander women are less likely to seek legal assistance and report incidents of family violence. This can include an actual or perceived threat of broadening the family violence to involve the extended family of the perpetrator, escalating the experience of family violence.

From our experience, Aboriginal and Torres Strait Islander women may not report family violence or access available services for reasons, including:

- fear of retaliation or of having their children taken away;
- lack of understanding of legal rights and how to access advice and support;
- experiences of direct and indirect discrimination from police and other agencies;

²⁰ Australian Institute of Health and Welfare, *Specialist Homelessness Services Annual Report* (2019).

- language barriers, including lack of access to interpreters or others to assist understanding (such as literacy support);
- lack of cultural awareness and competency of police and other agencies; and
- poverty and social isolation (compounded in these unprecedented times).²¹

Indigenous organisations which also have expertise in family violence (such as AFLSSQ), are in the best position to break through access barriers and provide appropriate support and advice to victims of family violence. The utility of Indigenous legal services is seen not only in providing advice to individuals, but also in advancing community education and playing an active role in assisting government inquires and reports into Indigenous issues.

Our reach in our region and ability to advocate for and support Aboriginal and Torres Strait Islander women is limited by ongoing funding challenges which exacerbate the unmet legal need throughout the broad geographical catchment for our service. For AFLSSQ, we require an increase in funding and longer periods of funding to support a broader footprint in community, opening up more outreach into RRR areas, which is integrated with existing Aboriginal community-controlled services on the ground. We cannot have significant geographical areas and communities anywhere in this country without access to culturally safe and adapted specialist legal services.

Improved funding and investment in the AFLSSQ the Aboriginal and Torres Strait Islander family violence prevention legal services more broadly, would also enable us to engage at a deeper level in designing and supporting broader policy and service responses at a systems level, utilising our expertise and unique perspectives.

5.3 Police response to requests for assistance

Policing can play a role in a layered response to family violence. The role of police and the community perceptions of police can present a real access to justice and safety issue for Aboriginal and Torres Strait Islander women given common experiences of distrust and fear of police and the criminal justice system. This may result in a strong reluctance to engage the police in response to family violence, and may itself lead to the entanglement within the justice system for victims.

The Victorian Aboriginal Legal Service noted in its submission to the 2015 Royal Commission into Family Violence that: "*The continuing impact of the Stolen Generation means the reporting of family violence is particularly difficult for many victims, or those witnessing family violence. Given the relationship between Aboriginal people and authority organisations such as the police or government welfare departments, it is understandable that Aboriginal people are wary of making reports that, whilst may have the immediate impact of safety, have the longer term of impact of breaking up a family, putting children into out of home care, sending someone into custody, becoming homeless or other impacts.*"²²

As well as barrier to accessing services, poor community-police relationships and the geographical challenges can result in serious difficulty in getting police to respond in time in RRR communities. Women and children are being put at risk where urgent assistance cannot be obtained in these communities.

Issues involving mistrust and poor policing should be addressed through implementation of cultural awareness and family violence training throughout the police service. This training should be informed and led by the relevant local Aboriginal and Torres Strait Islander organisations.

5.4 Access to services in RRR communities

Within our service region, we see the additional complexities for women accessing services in RRR areas. Aboriginal and Torres Strait Islander women in such communities are already

²¹ https://www.alrc.gov.au/wp-content/uploads/2019/08/77._national_family_violence_prevention_legal_services_victoria_nfvpls.pdf

²² Victorian Aboriginal Legal Service (2015) Royal Commission into Family Violence: Submission paper from the Victorian Aboriginal Legal Service, Melbourne: Author, p.3.

disadvantaged, with limited access to appropriate skilled services within the region. This is further complicated by the significant distance they must travel to the next town to seek assistance, and the difficulties of then accessing a culturally safe service. Ongoing barrier for victims of confidentiality due to kin being employed in support services roles is an additional barrier to accessing support.

The financial cost in RRR communities of travel to family violence services, often involving travel to another community, presents a further barrier to accessing support, particularly at an early intervention stage. Economic exclusion must not be a barrier to women and children seeking safety and support.

5.5 Recommendations

- (a) Increased investment in culturally appropriate crisis accommodation, housing and homelessness services for Aboriginal and Torres Strait Islander victims of family violence, with an emphasis of RRR communities.
- (b) Funding for community education around safe decision making in relation to housing and engagement with child protective services.
- (c) Increased (long-term) funding and investment from State and Federal Governments to enable AFLSSQ to meet demand for specialist, frontline legal assistance across Southern Queensland. Funding is particularly required to allow for AFLSSQ to expand its footprint into regional areas. Implementation of systematic training for police officers to improve cultural awareness and family violence sensitivity. Training should be informed through consultation with Aboriginal and Torres Strait Islander organisations with frontline expertise of assisting with Aboriginal and Torres Strait Islander family violence issues.

6 Experiences of Aboriginal and Torres Strait Islander women and those in rural communities – ToR (h)

As the only Aboriginal-led legal service in Southern Queensland dedicated to working with Aboriginal and Torres Strait Islander victims of family and domestic violence, AFLSSQ is well placed to comment on experiences of Aboriginal and Torres Strait Islander women (including those in RRR communities).

We need to better recognise community assets, strengths and capabilities and empower our communities to lead sustainable change on family violence. Current programs, services and policy responses to family violence that do not centre Aboriginal and Torres Strait Islander community-controlled organisations and do not engage fully with our communities cannot address the needs of community and reduce family violence. Our communities have the answers and capability to lead meaningful change. We need to prioritise responses and service delivery that is designed and driven by community, is place based, adaptive to changing needs and addresses the underlying causes of family violence, not the symptoms. Our Social Justice Framework at AFLSSQ centres a client-led and client focus approach based on strengths-based principles.

At a local and regional level, AFLSSQ work in collaboration with stakeholders to ensure a culturally safe practise is always being carried out and the family's voices are front and centre to decision-making about them. Our women are resilient, and their voices must determine the solutions. At AFLSSQ, empowering families to take the lead in their lives and feel supported when needed by AFLSSQ staff has led to a trusting client and staff relationship.

In Aboriginal and Torres Strait Islander communities, the relationship and trust with the local community is essential. Establishing a relationship prior to entering the communities has assisted AFLSSQ to gain trust and provide a service. Relying on local service providers in the communities to support AFLSSQ staff to service clients. Local Service Providers are viewed as the experts of their communities and assist when clarification is needed.

Case study

A mother and four children were moved by authorities from Northern Queensland to a Women's refuge in South Western Queensland away from their country/land due to domestic violence. The mother and children were placed in a small rural town 6 hours from the closest capital city.

The mother and children were placed in the small rural town with no support networks (except the women's refuge), such as family, friends or any required medical support for the children, which was highly necessary due to the children's ongoing health/mental health issues. They only support that was supplied to the mother and her children at the time were two of Women's Refuge support workers. This family had little to no clothing, identification, personal belongings or toys for the children. The mother also had no income due to the ex-partner having full payment and control of financial matters.

The mother and children felt as though they had been placed in a strange place with restrictions, barriers and no cultural awareness or understanding of the fact that they had been removed from their country and homeland.

The mother was referred to the AFLSSQ for counselling and legal support in April 2020, and after four months of being in the refuge it was brought to the attention of AFLSSQ staff that mother still required a birth certificate for herself and she also needed to register one of her children that was four years old.

The mother also needed support for other identification. When asked by the AFLSSQ staff why this had not been done earlier (like four months ago when she arrived to the rural town) by the refuge staff the client stated that she was advised by the refuge staff that "they needed to find out who the midwife was that delivered the child and getting Identification takes time". After making two telephone calls, AFLSSQ registered the four-year-old child and the mother's birth certificate was being processed and posted immediately. The birth certificate arrived 1 week after making these two calls.

It was also at this time, that the mother was forced to apply for housing in Western Queensland, when she wanted to return to country in North Queensland. The mother was advised by the refuge that it would be unsafe for her to return home back to country even though the father (perpetrator) was in prison. If the refuge had appropriately co-ordinated this case with a culturally appropriate specialist service a more co-ordinated approach would have been taken with the family to ensure their needs were being met. Once the mother is placed in her own home the refuge is then limited in the services that can be provided to her and her children and the refuge service is only allowed to work with the family for a short period after the family leaves the service. Also, it was brought to our attention that the refuge service does not have the funding to help these families to set up a "new" home and these families are being told to get on Facebook to find clothes, toys and furniture.

What these services are not realising is that the mother and children had already been under medical supervision/specialist in her home town, but now since being relocated and being made to stay in this small remote town they are required to explain all of their medical conditions to a new doctor who is only there on a semi part time basis and this doctor has to now write to the Queensland Health Service who then put the children on a waiting list to see the visiting specialist that comes out once a month. There is also a procedure for the family to see the specialist as every case is triaged and if the treating doctor does not put enough information in their letter this family could be waiting up to a year to see a specialist. Once again if the family had been referred to a culturally appropriate specialist service a more co-ordinated approach would have been taken with the family to ensure their needs were being met.

Since being sent to the remote community without any support and being forced to live there, the mother is now facing more trauma, due to the children not wanting to go to school, and the children trying to make and adapt to new school life. Missing all their family and old school friends, having to adapt to new surroundings, having to explain all their past issues to new people and being referred to so many services that offer the "same" kind of service but not get ahead with her life or be able to recover due to the new traumas being placed upon her by these services that are not culturally aware.

Mainstreamed approaches to family violence in Aboriginal and Torres Strait Islander communities which rigidly focus on removing women and their children from situations of family violence, without regard to broader cultural considerations, can cause further trauma to our families and communities. Removing Aboriginal and Torres Strait Islander women and children from their community and Country can compound cultural trauma and increase vulnerability.²³ Culture as a protective factor must be recognised, and our women empowered to make choices which are set within the broader context of community and culture.

6.1 Frontline services must be culturally safe

Aboriginal and Torres Strait Islander women and families who access frontline services need culturally safe and appropriate assistance. Aboriginal and Torres Strait Islander community controlled service that is have the skilled staff to ensure women and families feel supported to self-determine their lives. AFLSSQ work early to ensure women understand their situation and the risk that could potentially occur if DOCS become involved. Often Aboriginal and Torres Strait Islander women have contact with DOCS when it is too late.

There is trauma that results from culturally inappropriate service delivery. For example, women being unable or unwilling to ask for options of returning to community and country after social workers arrange other, less appropriate, accommodation. These incidents re-victimise families, repeat cycles of trauma and add to the forms of violence experienced by Aboriginal and Torres Strait Islander people, including non-physical psychological, emotional, cultural and structural violence.²⁴

It is on this basis that we recommended the prioritisation by frontline services of cultural safety and the inclusion of Aboriginal and Torres Strait Islander workers as first points of contact. This is aimed at reducing the further trauma that victims of family violence experience when there is a lack of cultural safety. This prioritisation needs to be borne out of consultation with local Aboriginal and Torres Strait Islander communities that regularly access these services and should involve:

- Programs to support and promote Indigenous workers employed or volunteering with frontline services;
- Cultural awareness procedures for community housing, including ensuring culturally appropriate locations are taken into account when housing Aboriginal and Torres Strait Islander victims of family violence;
- Allowing for safe and open communication channels between frontline services and Indigenous families accessing the services, so that unsafe situations can be addressed promptly and appropriately; and
- Recognising the priority of Aboriginal and Torres Strait Islander experiences and voices (including those external to the service, e.g. an Aboriginal and Torres Strait Islander person's lawyer or social worker) when making decisions for or about victims of family violence.

6.2 Reduce 'mainstreaming' of services and increase the resourcing of the Aboriginal community controlled sector

As discussed above, there is trauma that results from culturally inappropriate service delivery. The 'mainstreaming' of services has created culturally inappropriate services that cannot address the multi-faceted aspects of assisting Aboriginal and Torres Strait Islander women and families who are victims of family violence. This has created services which fail to properly assist victims and address the underlying root causes of family violence across the many diverse Aboriginal and Torres Strait Islander communities. By mainstreaming, we mean taking Aboriginal and Torres

²³ Cripps, K. and Davis, M. (2012) Communities working to reduce Indigenous family violence, Indigenous Justice Clearinghouse, Research Brief No. 12, Canberra: Australian Institute of Criminology

²⁴ Professor Boni Robertson, *Aboriginal and Torres Strait Islander Women's Task Force on Violence Report - Digest* (2000) 5(2) Australian Indigenous Law Reporter 91.

Strait Islander services outside of the control of Indigenous communities and incorporating them within broader government programs.²⁵

Governments must reduce mainstreaming and instead commit to increased, long-term, secure investment at all levels in specialist organisations. Such specialist organisation need to be community led and controlled and culturally safe. These services must be led by and/or developed in ongoing consultation with Aboriginal and Torres Strait Islander families, communities and Aboriginal and Torres Strait Islander controlled organisations with appropriate expertise. Such services may include:

- Delivery of culturally safe early intervention and prevention programs targeting Aboriginal and Torres Strait Islander women and children as those most at risk of family violence;
- Community housing services and initiatives that prioritise allowing Aboriginal and Torres Strait Islander women to move to culturally appropriate, safer accommodation and allowing children to remain in their care;
- Increased emphasis on dedicated law and justice policy development for Aboriginal and Torres Strait Islander women and children;
- Indigenous-run programs and counselling;
- Evidence-based, long-term community initiatives; and
- Aboriginal and Torres Strait Islander women in leadership roles (training, mentoring, specific affirmative action).

6.3 Increasing incarceration rates of Aboriginal and Torres Strait Islander women are linked to family violence

There is an intrinsic link between family violence and the over-incarceration of Aboriginal and Torres Strait Islander men, women and young people. An overwhelming majority of women in prison are victims of domestic violence²⁶, with research suggesting as high as 90 per cent²⁷ of incarcerated women have been physically, sexually or emotionally abused as children or adults. These traumatic experiences have been identified as leading to their offending and criminalisation and must be addressed to combat the increasing rates of our women in custody.

In our work, we see a need for further education of the police, legal system and the community itself in the complex causes and manifestations of trauma associated with family violence. This includes an understanding of the use of drugs and alcohol by women who have been victims of family violence. Through education, we can further empower women to take control of their lives. AFLSSQ has sought an initial partnership pilot with the Roma police, with a referral line as first point of call after a report of a family violence incident. In Cherbourg, AFLSSQ undertakes community education in collaboration with the men's shed, to educate their men on family violence in community. These place-based initiatives, which offer the opportunity for mutual learning and understanding need to be resourced and supported in conjunction with other community-led initiatives.

6.4 Ongoing trauma of the stolen generations, continuing child removal practices and the negative impact on Aboriginal and Torres Strait Islander women

AFLSSQ has a focus on educating our women about the interrelationship between family violence and the child protection system, and empowers women to make information and proactive choices. In our work, we see the fear of some Aboriginal and Torres Strait Islander women to report instances of family violence due to not being believed or the threat of their

²⁵ See discussion in Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators* (2016).

²⁶ See Australian Institute of Family Studies, *Addressing women's victimisation histories in custodial settings* (2015) Canberra, Australian Government, available at <http://www.aifs.gov.au/acssa/pubs/issue/i13/i13b.html>; WIPAN (2014) *Women in Prison - Primary Document for a Public Forum surrounding Women in Prison* being hosted by WIPAN, Community Justice Coalition (CJC) and the International Commission of Jurists (ICJ) at NSW Parliament House on 13 August 2014, 16.

²⁷ Mandy Wilson et al, 'Violence in the Lives of Incarcerated Aboriginal Mothers in Western Australia' (2017) 7(1) SAGE Open 6.

children being removed by the Department of Child Safety (**DOCS**). There have been many instances where our service has only been engaged at the point of where the mother must appear in court following the removal of their children. Through early intervention and greater education in the community, AFLSSQ is able to engage with women early and ensure that women have an understanding of the triggers for a child protection notification and safe steps to proactively take.

AFLSSQ also plays an advocacy role with women involved with DOCS, ensuring culturally safe and trauma-informed services can be wrapped around that mother and act as a protective factor with DOCS, often reducing the length of child protection involvement in the family. We need increased resourcing and funding to properly deliver these early intervention services in all areas of the region.

6.5 Recommendations

- (a) Frontline services, such as social workers and emergency accommodation centres, must prioritise both cultural safety and the inclusion of Aboriginal and Torres Strait Islander workers as first points of contact. This is aimed at reducing the further trauma that Aboriginal and Torres Strait Islander victims of family violence experience when there is a lack of cultural safety.
- (b) Reduce 'mainstreaming' of services and instead allocate and prioritise funding for culturally safe and community led and controlled specialist services for Aboriginal and Torres Strait Islander families.
- (c) Measures to address and reduce family violence must be place-based, and engage the Aboriginal and Torres Strait Islander women and families on the ground in the design, to better account for the diverse experiences across metropolitan, regional, rural and remote areas.

7 The views and experiences of frontline services, advocacy groups and others throughout this unprecedented time - ToR (j)

The COVID-19 pandemic has had a significant impact on women and children living with family and domestic violence. Australian organisations have observed increases in both the frequency and severity of incidents of family and domestic violence. The United Nations has coined the term "shadow pandemic" to refer to the impacts that the COVID-19 pandemic has, and will continue to have, on victims of family and domestic violence.²⁸ Those living in remote communities have been particularly vulnerable during this unprecedented time. For so many of our clients, home is not a safe place.

There have been a number of surveys of support workers conducted over this period. One unpublished survey conducted by the Queensland Domestic Violence Services Network (based on the survey that was conducted by the Women's Safety NSW) showed an increase in the complexity of matters that were presenting along the eastern seaboard. The survey also showed that 36% of workers have identified an escalation or worsening of violence.

The measures that have taken to prevent the spread of COVID-19 have had significant impacts on victims of domestic violence. By way of (non-exhaustive) example:

- Self-isolation or stay at home directives have meant that daily contact between victims and perpetrators has increased. It is difficult to place limits on contact within the confines of a single dwelling. Perpetrators can more easily observe and monitor the activities of those under the same roof.
- Access to external support (including professional support) is difficult where perpetrators can easily monitor phone and computer use and victims have limited ability to leave the house.

²⁸ Statement by Phumzile Mlambo-Ngucka, Executive Director of UN Women, *Violence against women and girls: the shadow pandemic* (2020) <www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic>.

Victims are separated from their support network and other people and organisations that can help them.

- Victims that were preparing to leave a domestic violence situation have found it difficult to do so.
- In many cases there have also been compounding factors, such as unemployment, financial stress, children at home (and home schooling pressures) and increased alcohol consumption.
- Difficulties with shared parenting arrangements (whether informal or court-ordered), including difficulties obtaining legal advice.

There are well-founded concerns that heightened safety risks will continue as lockdown measures begin to lift, and perpetrators lose some of the control they had during lockdown. AMAVA and Fair Agenda have stated that governments must now plan for escalation in violence and surveillance and increased numbers of women requiring crisis accommodation and other support as restrictions ease.²⁹ Job loss or financial insecurity due to COVID-19 will create greater barriers to escape for women.³⁰

The COVID-19 pandemic has further highlighted existing (and known) weaknesses in dealing with family and domestic violence, including:

- **Underfunding of frontline services.** AFLSSQ will need to look at triaging and likely turning clients away due to funding limitations.
- **Extensive travel away from family and Country.** Lack of access to safe accommodation within home regions during COVID-19 has meant that women have had to travel long distances to refuge accommodation, away from family and Country.
- **Technological limitations.** The requirements of self-isolation and physical distancing due to COVID-19 have meant that frontline services have had to adapt and develop new ways to deliver services for women and children, without commensurate resourcing and funding to do so.
- **Crisis accommodation services at capacity.**
- **Support for the support workers.**
- **Lack of data.** As always, the data around the impacts of COVID-19 is limited, particularly data in relation to the incidents and effects of domestic violence on Aboriginal and Torres Strait Islander women and children.

7.1 Recommendations

- (a) Increased funding from State and Federal Governments to enable AFLSSQ to meet COVID-19 related demand, including funding for additional resources and online delivery.
- (b) Concerted effort to collect (standardised and disaggregated) data relating to the effects of the COVID-19 pandemic on the incidents and effects of domestic violence on Aboriginal and Torres Strait Islander women and children.
- (c) Improvement in the number and accessibility of refuges, shelters and safehouses in regional communities to cater for post-COVID-19 influxes and offer longer-term resources for RRR communities.

²⁹ AWAVA and Fair Agenda, *Experts warn COVID-19 impacts on women's safety just beginning* (2020) <<https://awava.org.au/2020/05/08/media-release/2020-media-release/experts-warn-covid-19-impacts-on-womens-safety-just-beginning>>.

³⁰ AWAVA and Fair Agenda, *Experts warn COVID-19 impacts on women's safety just beginning* (2020) <<https://awava.org.au/2020/05/08/media-release/2020-media-release/experts-warn-covid-19-impacts-on-womens-safety-just-beginning>>.