



**NATSILS**

National Aboriginal and  
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

# Submission to the Inquiry into family, domestic and sexual violence.

August 2020



TRUE JUSTICE FOR OUR PEOPLE



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## Introduction

Aboriginal and Torres Strait Islander people have the right to live their lives in safety, with full human dignity and free from all forms of violence, including family violence. While most of our families have strong and healthy relationships, our people are significantly more likely to experience family violence than non-Indigenous people.<sup>1</sup>

The National Aboriginal and Torres Strait Islander Legal Services (**NATSILS**) and our Aboriginal and Torres Strait Islander Legal Services (**ATSILS**) members acknowledge and recognise the expertise of the Family Violence Prevention Legal Services (**FVPLS**) and their thirteen member organisations around the country who provide legal assistance and support, counselling, community legal education, and holistic care to our women, trans women, and sistergirls fleeing family violence. We affirm and endorse their recommendations to this inquiry as the critical role these organisations play in providing care to our people cannot be understated; all family violence responses for our people and our communities must recognise that FVPLS' are experts in the culturally safe and effective delivery of services to our people fleeing family violence.

The social, cultural, spiritual, physical, and economic impact that family violence has on our communities is devastating, described widely as a national crisis.<sup>2</sup> The greatest and most direct impact of family violence is on our women, trans women, and sistergirls<sup>3</sup> which leads our children to also be especially vulnerable to the direct and indirect impacts of family violence – causing deep and lasting harm and contributing significantly to Aboriginal and Torres Strait Islander children's over-representation in Australia's child protection systems.<sup>4</sup>

At the heart of family violence lies both individual and communal grief, loss, disempowerment, and trauma. We believe that the central way to effectively break the cycle of violence is through community-driven, trauma-informed approaches to family violence that prioritise cultural healing and restore the inherent strength, dignity and self-determination of our families and communities – especially our women and children

Implementing strong responses to eliminate and prevent family violence is particularly important during the COVID-19 pandemic. A recent study by the Australian Institute of Criminology found that for many women<sup>5</sup>, the pandemic and subsequent lockdowns and stay-at-home orders coincided with the onset or escalation of family violence and abuse.<sup>6</sup> The Australian Institute of Criminology conducted an online survey of 15,000

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<sup>1</sup> Australian Institute of Health and Welfare, *'Family, domestic and sexual violence in Australia: continuing the national story 2019'* (Report, 2019)

<sup>2</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, *'Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families'*, (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>

<sup>3</sup> Sistergirls is a term used by some Aboriginal and/or Torres Strait Islander trans women, it is important to note that the term has a much wider use than this as not all sistergirls identify as women or as being non-binary, that is neither as male or female. It is also common for sistergirls' gender identity to be quite fluid over time. For more, see: Australian National Research Organisation for Women's Safety, *'Innovative models in addressing violence against Indigenous women: Final report'*, (Report, January 2018) <[https://apo.org.au/sites/default/files/resource-files/2018-01/apo-nid130566\\_1.pdf](https://apo.org.au/sites/default/files/resource-files/2018-01/apo-nid130566_1.pdf)>

<sup>4</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, *'Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families'*, (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>

<sup>5</sup> The AIC methodology did not specify if trans women and/or sistergirls were part of this study.

<sup>6</sup> Hayley Boxall, Anthony Morgan and Rick Brown, *'The prevalence of domestic violence among women during the COVID-19 pandemic'*, (Statistical Bulletin 28, July 2020)



Australian women<sup>7</sup> with 4.6 per cent of respondents experiencing physical or sexual violence.<sup>8</sup> Of those respondents, two-thirds reported that the family violence, physical and/or sexual violence started or escalated during the pandemic. Many of those women reported safety concerns as a barrier to seeking help.<sup>9</sup>

**Case study: Aboriginal Legal Service of NSW and ACT (ALS)<sup>10</sup>**

The ALS assisted a young Aboriginal mother with a newborn child who had no support in Sydney other than her partner (the father). Due to a serious assault perpetrated by the father on our client, a very strict provisional apprehended domestic violence order (**ADVO**) was taken out by police against her wishes. She believed that the assault was an isolated incident caused by COVID-related financial pressures.

The ADVO did not allow for any contact by the father unless through a lawyer or for mediation. Because of COVID-19, the first return date for this ADVO was not listed in the Local Court until almost 3 months later.

The young mother contacted the ALS for assistance with varying the ADVO. In her view, the ADVO had not achieved its purpose of protecting her and her child, but instead left her more vulnerable and isolated, as the COVID-19 lockdown meant that she could not have any visitors for support.

The ALS gave her advice and referred her to the Family Advocacy and Support Service of NSW to get assistance with the criminal law element of her matter. At the same time, the ALS Family Law Practice assisted her in drafting a parenting plan to allow for the child to have contact with the father, as well as allowing the father to assist her with day-to-day needs such as meeting her with groceries.

Additionally, even though she engaged with services through ALS as an entry point, ALS also provided advice to her about getting in touch with other organisations, such as a local women's health centre to assist with childcare, housing, social support and play groups.

We note that on 5 March 2019, the Commonwealth Government announced a \$328 million contribution to the Fourth Action Plan 2019-2022, the final plan under the *National Plan to Reduce Violence against Women and their Children 2010-2022*, with \$35 million in dedicated support and prevention strategies for our people and communities.<sup>11</sup> We are also heartened that the Fourth Action Plan clearly states the need to value and engage the expertise of our people, communities and organisations to lead the creation and implementation of community led solutions, and to address the immediate impacts, including the deep underlying drivers of family violence in our communities due to the intergenerational trauma caused by the ongoing effects of

<sup>7</sup> 3.8% of all women surveyed reported being Aboriginal and/or Torres Strait Islander

<sup>8</sup> Hayley Boxall, Anthony Morgan and Rick Brown, *The prevalence of domestic violence among women during the COVID-19 pandemic*, (Statistical Bulletin 28, July 2020)

<sup>9</sup> Hayley Boxall, Anthony Morgan and Rick Brown, *The prevalence of domestic violence among women during the COVID-19 pandemic*, (Statistical Bulletin 28, July 2020)

<sup>10</sup> ALS NSW/ACT, Family Violence inquiry Submission, (Submission, 2020)

<sup>11</sup> Australian Government Department of Social Services, 'Announcement of Commonwealth Contribution to the fourth Action Plan', (Press release, 9 August 2019) <<https://www.dss.gov.au/women-programs-services-reducing-violence/announcement-of-commonwealth-contribution-to-the-fourth-action-plan>>



colonisation.<sup>12</sup> We also note that the experiences of people with diverse sexualities and genders are recognised in the Fourth Action Plan, particularly as a significant proportion of transgender, sister girls, gender diverse and intersex people report experiencing various forms of family violence and abuse but are less likely to find support services that meet their specific needs.<sup>13</sup>

For the Fourth Action Plan to achieve its ambitious agenda it must be supplemented with sufficient, ongoing, and secure public funding from all governments at all levels. Furthermore, a separate National Action Plan for Aboriginal and Torres Strait Islander people must be initiated that is led, and has final accountability to, our people, communities, and organisations. Only by ensuring the empowerment of our communities, in line with our rights to self-determination, will we see lasting solutions that address the loss of cultural cohesion, authority and control which, as the Fourth Action Plan outlines, is underpinning the scourge of violence our communities are experiencing daily.

We make this submission with regards to the following terms of reference of this inquiry:

- Immediate and long-term measures to prevent violence against women and their children and improve gender equality.
- 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.
- The way that health, housing, access to services, including legal services, and women's economic independence impact the ability of women to escape domestic violence.
- All forms of violence against women, including, but not limited to, coercive control and technology-facilitated abuse.
- The efficacy of perpetrator intervention programs and support services for men to help them change their behaviour.
- The experiences of all women, including Aboriginal and Torres Strait Islander women, rural women, culturally and linguistically diverse women, LGBTQI women, women with a disability, and women on temporary visas.
- The impact of natural disasters and other significant events such as COVID-19, including health requirements such as staying at home, on the prevalence of domestic violence and provision of support services.
- The views and experiences of frontline services, advocacy groups and others throughout this unprecedented time.

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<sup>12</sup> Australian Government Department of Social Services, 'Fourth Action Plan, National Plan to Reduce Violence against Women and their Children 2010–2022' (Report, 2019)

<[https://www.dss.gov.au/sites/default/files/documents/08\\_2019/fourth\\_action-plan.pdf](https://www.dss.gov.au/sites/default/files/documents/08_2019/fourth_action-plan.pdf)>

<sup>13</sup> Australian Government Department of Social Services, 'Fourth Action Plan, National Plan to Reduce Violence against Women and their Children 2010–2022' (Report, 2019)

<[https://www.dss.gov.au/sites/default/files/documents/08\\_2019/fourth\\_action-plan.pdf](https://www.dss.gov.au/sites/default/files/documents/08_2019/fourth_action-plan.pdf)>



## Summary of recommendations

1. All Australian Governments commit to adequately funding the ATSILS and the broader legal assistance sector with a significant injection of funding as recommended by the Productivity Commission (\$200 million for civil law) and Law Council of Australia (\$310 million per annum).
2. The Commonwealth Government significantly increases funding and resourcing for Family Violence Prevention Legal Services including funding certainty provided for their peak body, the National Family Violence Prevention Legal Services Forum.
3. All Australian governments commit to a substantial increase in sustained, long term public funding and resourcing to FVPLSs and ATSILSs to:
  - a. Deliver early intervention and prevention programs to our people.
  - b. Properly engage in providing high level policy advice, advocacy, and law reform campaigns to improve the legal system for our people, particularly survivors of family violence.
  - c. Deliver joined-up, holistic, wrap-around assistance to our people including, but not limited to, counselling, housing support, disability support and advocacy, and health assistance, including mental health.
4. Measures are advanced to enable ACCOs, our women, men, families, and children to be empowered as active participants in driving policy and practice change in family violence responses and prevention.
5. All Australian Governments significantly expand their funding commitments to ensure national coverage of ACCO provided, holistic, tailored, and culturally safe service responses in areas including, but not limited to:
  - a. family support services.
  - b. early intervention and prevention programs.
  - c. community-based healing programs, with tailored supports for both victims/survivors and perpetrators of family violence.
  - d. Legal assistance.
  - e. Programs working with perpetrators.
6. All Aboriginal and Torres Strait Islander people have access to well-funded and resourced, culturally safe and specialist family violence support from ACCOs across Australia, particularly people living in rural and remote communities.
7. Whole of government reform to ensure that cultural healing, driven by ACCOs and built on trauma-informed practice as required by the Fourth Action Plan, be embedded in all elements of family violence response and prevention for our people.
8. All levels of government commit to decarceration strategies and to significantly reducing the high number of our people, particularly our women, trans women and/or sistergirls being imprisoned, including by implementing the recommendations of the Australian Law Reform Commission's Pathways to Justice inquiry.



9. All police services develop and implement police protocols and guidelines for appropriately responding to family violence, without criminalising our people, particularly our women, trans women and/or sisters.
10. State and territory criminal laws and policies are amended to require police to consider all alternatives to charges for our people for low level offending, including cautions, warnings, concession penalty notices and diversion programs that allow for pre-charge referrals particularly for our women, trans women and/or sisters. Where charges must be laid, police, prosecutors and judicial officers must prioritise diversion programs for our people at all stages of the legal process.
11. All Australian Governments advance the implementation of *the United Nations Declaration on Indigenous Peoples* into domestic law in Australia.
12. All Australian Governments advance the implementation of the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *Convention on the Elimination of all Forms of Discrimination Against Women*, the *Convention on the Rights of Persons with Disabilities*, and the *Convention on the Rights of the Child* into domestic law in Australia.
13. All Australian governments immediately increase funding and resourcing for ACCOS to provide crisis accommodation for Aboriginal and Torres Strait Islander primary carers and children experiencing family violence. Where ACCOs do not exist to bridge service gaps they must be established with extensive consultation of our people and the existing ACCO sector.
14. Measures are advanced to enable our people to be empowered as active participants in driving policy and practice change in family violence response and prevention, including through:
  - a. Resourcing peak representation of community-controlled service sectors.
  - b. Ensuring equitable representation of our people in decision making forums and bodies relevant to family violence.
15. State and territory governments implement improved laws, policies and procedures that support comprehensive implementation of the Aboriginal and Torres Strait Islander Child Placement Principle.
16. Federal and/or state and territory governments fully resource Aboriginal and Torres Strait Islander-led reunification programs and include them as a policy priority.
17. State, territory and federal governments implement in full the recommendations from SNAICC- The Voice Of Our Children contained in the *Family Matters Road Map 2016*
18. Establishment of a nationally consistent Aboriginal and Torres Strait Islander Child Protection Notification and Referral System in each Australian State and Territory to refer Aboriginal families in contact with the child protection system to culturally appropriate supports and services, including independent legal advice, at the earliest possible opportunity.



## The critical role that ACCOs play must be recognised and resourced

Dedicated improvements are required to initiate the necessary shift in practice and response, with an emphasis on directing adequate funding towards Aboriginal Community Controlled Organisations (**ACCOs**) structures. This is especially important for those specialist services with expertise in family violence, like ATSILS and Family Violence Prevention Legal Services (**FVPLS**). Government's commitment of public funding and resourcing must be increased and coupled with long-term funding commitments to have real and meaningful impact.

Governments must prioritise national, adequately resourced, coverage of ATSILS and FVPLSs, greater improvements and expansion of culturally safe and specialist family violence services and support for our women, men and children, including early intervention and prevention programs.<sup>14</sup> The ACCO sector holds extensive expertise and professional knowledge that can drive innovative and effective responses to family violence. Further resourcing these organisations to design, develop and implement policy, interventions and services is central to enabling culturally safe and respectful responses to family violence for our people.<sup>15</sup>

*"The critical aspect of culturally competent service delivery that sets ATSILS and FVPLS apart from other legal assistance services is their focus on, and ability to provide, culturally competent legal services to Aboriginal and Torres Strait Islander peoples. Staff are highly skilled in working with Aboriginal and Torres Strait Islander people, with particular attention paid to cross-cultural communication, use of interpreters, and ensuring clients are able to understand and meaningfully participate in court processes."*<sup>16</sup>

ATSILS and FVPLSs have unique approaches to engaging with Aboriginal and Torres Strait Islander peoples in family violence response and prevention because these services are directly accountable to, and responsive to the needs of, their communities. The stand-alone Indigenous Legal Assistance Program which funded ATSILS to provide services to their own communities was terminated by the Commonwealth and rolled in to funding for all legal assistance providers despite an independent evaluation recommending it be retained, in part, because of ATSILS' unique relationship to their communities.<sup>17</sup>

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<sup>14</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, 'Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families', (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>

<sup>15</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, 'Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families', (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>

<sup>16</sup> NATSILS, 'Submission to the Senate Finance and Public Administration References Committee Inquiry into the prevalence and impact of domestic violence in Australia' (Submission to Senate Inquiry, 2014)

<sup>17</sup> Cox Inall Ridgeway, Review of the Indigenous Legal Assistance Program (ILAP) 2015-2020 (Final Report, February 2019)



### Case Study: Tasmanian Aboriginal legal Service's Community Legal Education

The Tasmanian Aboriginal Legal Service has delivered community legal education workshops in the Ron Barwick Minimum Security wing of Risdon Prison organised with the Aboriginal Liaison Officer at the Risdon Prison Complex.

The sessions covered Family Violence (as chosen by the participants) and commenced with a general chat with the attendees about the different forms of Family Violence Orders and more information about how you can be in breach, and what is a breach, among others. Questions came up from participants about contacting children while they are imprisoned, or when there is a Family Violence order preventing them from contacting the other party, who usually has the children.

Most participants had a lot of questions about how to initiate those first contacts and what would be in the best interests of the children. As a result, our young people are encouraged to learn about their rights and obligations and the impacts of family violence on individuals, families, and the broader community and to take active steps in their healing and recovery.

Without adequate legal assistance funding to ATSILS and FVPLS' and their peak bodies, it is not possible to meet the legal and support needs of our people escaping from family violence. The Law Council of Australia estimates that assistance services, like ATSILS and FVPLS' receive a funding boost of at least \$310 million per year for civil legal needs alone.<sup>18</sup> Where any funding is available for programs and services for our people it is absolutely critical that ACCOs be prioritised to receive it, as ACCOs are much more likely to be used by our people than non ACCOs because of their deep connection to their communities.<sup>19</sup>

ACCOs develop and use mechanisms for information sharing and coordination that are built on the inherent strengths of our cultures, our cultural knowledge, and a trust based on a deep respect of the community we serve.<sup>20</sup> Service responses by ACCOS are also built on local knowledge of family and community networks and of other effective community services and partnerships. International evidence has shown that better outcomes are achieved where Indigenous peoples exercise control over the responses to issues facing their communities.<sup>21</sup>

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<sup>18</sup> Law Council of Australia, \$20m funding increase, single national legal assistance mechanism do little to address huge 'justice deficit', 2 April 2019 <<https://www.lawcouncil.asn.au/media/media-releases/20m-funding-increase-single-national-legal-assistance-mechanism-do-little-to-address-huge-justice-deficit>>

<sup>19</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, 'Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families', (Police Paper, September 2017) <[http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>

<sup>20</sup> S Flaxman et.al., 'Indigenous families and children: coordination and provision of services' (Occasional Paper No. 19, 2009)

<sup>21</sup> S Cornell, 'Sovereignty, Devolution, and the Future of Tribal-State Relations,' Cambridge: Harvard University, pp6-7 (2000); and J Lavoie "Have investments in on-reserve health services and initiatives promoting community control improved First Nations' health in Manitoba?", Social Science and Medicine, 71(4), August, 717 (2010)



### Case study: Throughcare, North Australian Aboriginal Justice Agency (NAAJA)

NAAJA's Indigenous Throughcare Project commenced in February 2010 and aims to reduce repeat offending for our people.

NAAJA provides intensive pre-and post-release rehabilitation and reintegration services for Aboriginal prisoners from the Darwin Correctional Centre and Don Dale Juvenile Detention Centre. The program provides strength-based case management and referral services for individual prisoners to assist them in accessing opportunities when they are released from prison or juvenile detention. This addresses an individual's diverse transitional needs including rehabilitation, accommodation, employment, education, training, health, life skills, reconnection to family and community and social connectedness.

NAAJA engages with Aboriginal imprisoned people and juvenile detainees in the 6 months prior to their release and continues to work with them for the 6 months after their release from custody. To be placed in the program, they must meet our eligibility criteria. First, imprisoned people are assessed on their voluntary willingness to engage with the service, showing signs of obvious desire and readiness to make positive changes in their lives. Second, they must also be in a situation of 'high need'. This includes:

- Homelessness or marginal accommodation
- No income, disengagement from Centrelink, or unstable income
- Literacy and numeracy issues, and/or English as second, third or fourth language
- Problematic family relationships
- Involvement with welfare agencies, history of family violence, cultural/payback issues
- Lack of community support
- Substance misuse issues
- and-Health, including mental health issues, and/or physical disabilities.

NAAJA has case workers, each having a capacity of 15 people, except for the Indigenous Throughcare Project Coordinator who has a maximum caseload of 10.

Referrals are accepted from imprisoned people themselves, NAAJA's Prison Support Officers, Darwin Correctional Centre's Sentence Management team, Don Dale Juvenile Detention Centre, NT Community Corrections, lawyers, other service providers and families of imprisoned people. Since commencement in February 2010, the Throughcare Team has case managed over 912 people. Only 117 (approx. 13%) people have returned to prison whilst under the case management and provision of service of NAAJA's Throughcare case managers.

This continues to compare favourably with the NT recidivism rate of 60%, notwithstanding that the measures are not directly comparable. During a recent reporting period 5 people recorded conditional breach and 5 reoffended whilst engaged with our program with only 5 returning to prison.

Another critical mechanism for the effective role that ACCOs play in preventing family violence is the resourcing of policy functions within ACCOs and peak bodies that deliver frontline services and programs to our women. These policy functions are critical for amplifying our people's voices and ensuring that laws and policies are informed by the diverse needs, stories and lived experiences of our people. We note that the



Family Violence Prevention Legal Services Forum, the peak body for FVPLS' responsible for driving family violence legislative and policy reform was defunded in 2019 and is still without secure, ongoing funding.<sup>22</sup>

## Recommendations

1. All Australian Governments commit to adequately funding the ATSILS and the broader legal assistance sector with a significant injection of funding as recommended by the Productivity Commission (\$200 million for civil law) and Law Council of Australia (\$310 million per annum).
2. The Commonwealth Government significantly increases funding and resourcing for Family Violence Prevention Legal Services including funding certainty provided for their peak body, the National Family Violence Prevention Legal Services Forum.
3. All Australian governments commit to a substantial increase in sustained, long term public funding and resourcing to FVPLSs and ATSILSs to:
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  - b. Properly engage in providing high level policy advice, advocacy, and law reform campaigns to improve the legal system for our people, particularly survivors of family violence.
  - c. Deliver joined-up, holistic, wrap-around assistance to our people including, but not limited to, counselling, housing support, disability support and advocacy, and health assistance, including mental health.
4. Measures are advanced to enable ACCOs, our women, men, families, and children to be empowered as active participants in driving policy and practice change in family violence responses and prevention.
5. All Australian Governments significantly expand their funding commitments to ensure national coverage of ACCO provided, holistic, tailored, and culturally safe service responses in areas including, but not limited to:
  - a. family support services.
  - b. early intervention and prevention programs.
  - c. community-based healing programs, with tailored supports for both victims/survivors and perpetrators of family violence.
  - d. Legal assistance.
  - e. Programs working with perpetrators.

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<sup>22</sup> Australian Broadcasting Corporation, 'Free phones can be crucial to escaping family violence but a key service is facing a funding cut', (11 December 2019 at 6.21am) < <https://www.abc.net.au/news/2019-12-11/wesnet-domestic-violence-support-service-funding-cut/11779728>> last accessed 5 August 2020 and National Family Violence Prevention Legal Services Forum, #SaveFVPLS campaign update 29 January, (2020) < [https://mailchi.mp/810dc27a17e5/savefvpls-campaign-update-29-january?e=\[UNIQID\]](https://mailchi.mp/810dc27a17e5/savefvpls-campaign-update-29-january?e=[UNIQID])> Last accessed 5 August 2020



## Towards stronger families, safer kids, and stronger communities

The ongoing effects of colonisation, land dispossession and the attempted destruction of our cultures have meant that family violence has proliferated in Aboriginal communities.<sup>23</sup> The trauma of colonisation and oppression is directly linked to the complexity and prevalence of family violence that exists today. The impact of colonisation on Aboriginal and Torres Strait Islander peoples' cultural practices, laws, customs, and ways of life has been devastating, generating multiple layers of trauma spanning generations.<sup>24</sup>

Preventing, reducing, and eliminating family violence can only be achieved with a genuine commitment to an evidence based and integrated government approach, undertaken in genuine partnership with our people, communities, and organisations.<sup>25</sup> As identified by former Aboriginal and Torres Strait Islander Social Justice Commissioner, Professor Tom Calma AO<sup>26</sup>:

*"Violence relates to almost every aspect of policy making and service delivery to Indigenous communities. The solutions to family violence and abuse in Indigenous communities are complex, multi-faceted and require long term focus and commitment to address. They require bi-partisan political will and leadership at the highest levels of government."*

Despite decades of family violence responses, misconceptions of effective practice in Aboriginal and Torres Strait Islander contexts continue to be widespread. Mainstream approaches to family violence do not engage with the issues surrounding cultural trauma that are at the core of family violence, and in some instances can in fact worsen the experiences of family violence for our people or further marginalise them, their families, and their communities.<sup>27</sup>

Mainstream approaches to domestic violence that are centred solely – or rigidly – on removing primary carers and their children from situations of violence, and possibly their traditional country, may not be appropriate for our communities as it can compound cultural trauma and increase vulnerability.<sup>28</sup> Instead, our people must be supported to make choices that will protect and promote their long-term physical, emotional and cultural safety – particularly of those most impacted or affected. The family violence service system, including courts, police, health, housing, and case management, needs to recognise that relationships of trust, community, connection and cultural safety are key to the accessibility of family violence services for our people.<sup>29</sup>

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<sup>23</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, 'Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families', (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>

<sup>24</sup> Government of Western Australia, S Gordon et.al 'Putting the Picture Together: Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities' (Report, 2002) and J Atkinson, 'Trauma trails, recreating song lines: the transgenerational effects of trauma in Indigenous Australia' (Report, 2002)

<sup>25</sup> National Family Violence Prevention Legal Services Forum, 'Violence against Aboriginal and Torres Strait Islander women: A National Crisis Demanding a National Response' (Report, 2015)

<sup>26</sup> Tom Calma 'An overview paper of research and findings by the Australian Human Rights Commission (previously known as Human Rights and Equal Opportunity Commission), 2001 – 2006, (Report, 2006)

<sup>27</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, 'Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families', (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>

<sup>28</sup> Australian Institute of Criminology K Cripps et.al. 'Communities working to reduce Indigenous family violence', *Indigenous Justice Clearinghouse, Research Brief No. 12*, (Report, 2012)

<sup>29</sup> Djirra, 'Djirra's Submission to the Parliamentary Inquiry into Family, Domestic and Sexual Violence' (Submission to the Parliamentary Inquiry Into Family, Domestic and Sexual Violence, July 2020)



Our people have a genuine fear and sometimes resistance to accessing mainstream services due to previous and current discriminatory government policies and practices that foment distrust. As Djirra has submitted to this inquiry: too often, mainstream service providers do not have experience providing holistic and intensive assistance to our people who are in crisis and dealing with multiple, sensitive and challenging situations.<sup>30</sup> Mainstream services often do not recognise that when working with our people they need to first build trust with our communities by providing culturally safe support through culturally safe and appropriate communication and practice.<sup>31</sup> Many mainstream services are not equipped to deal with the complexity of the matters our people may present with, including multiple, interlocking legal and non-legal issues. Finally, many do not properly comprehend that for our people, family violence must be understood in the context of our history of colonisation, land dispossession, racial discrimination, criminalisation, and inter-generational trauma.<sup>32</sup>

ACCOs, particularly FVPLS' and ATSILS provide unique, culturally safe and specialist pathways to safety that promote healing for our people, ACCOs play a fundamental role in overcoming the barriers to accessing the family violence service system for our people. We affirm the call from Djirra and FVPLS' that our people experiencing violence have the right to culturally safe and specialist family violence support and services that recognise their unique cultural and social context as the First Peoples of this country and that recognise that culture and cultural connection can be a very powerful, protective factor that promotes healing and recovery.<sup>33</sup>

Despite playing a fundamental role in family violence responses and recovery, FVPLS', ATSILS and their peak bodies are drastically underfunded for the great need that exists from our communities. ACCOs need increased, sustained, long term public funding and resourcing from all governments to meet the demand for their specialist, culturally safe, frontline legal services as well as to expand highly successful, albeit under resourced, early intervention and prevention programs; and to continue to provide high level policy advice, advocacy, and law reform to improve the legal system for our people, particularly survivors of family violence.

## Recommendations

6. All Aboriginal and Torres Strait Islander people have access to well-funded and resourced, culturally safe and specialist family violence support from ACCOs across Australia, particularly people living in rural and remote communities.
7. Whole of government reform to ensure that cultural healing, driven by ACCOs and built on trauma-informed practice as required by the Fourth Action Plan, be embedded in all elements of family violence response and prevention for our people.

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<sup>30</sup> Djirra, 'Djirra's Submission to the Parliamentary Inquiry into Family, Domestic and Sexual Violence' (Submission to the Parliamentary Inquiry Into Family, Domestic and Sexual Violence, July 2020)

<sup>31</sup> Djirra, 'Djirra's Submission to the Parliamentary Inquiry into Family, Domestic and Sexual Violence' (Submission to the Parliamentary Inquiry Into Family, Domestic and Sexual Violence, July 2020)

<sup>32</sup> Djirra, 'Djirra's Submission to the Parliamentary Inquiry into Family, Domestic and Sexual Violence' (Submission to the Parliamentary Inquiry Into Family, Domestic and Sexual Violence, July 2020)

<sup>33</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, '*Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families*', (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>



## Cultural Healing is necessary

Cultural healing centred on the strength and resilience of our people and cultures and driven by our ACCOs must be at the heart of any family violence prevention measures. Commitments are required from all levels of governments to fund the sustainable and long-term, community-driven, cultural healing that is necessary to ensure any immediate and long-term measures to prevent family violence are effective.

All governments must recognise and commit to supporting ACCOs in achieving the healing required by individuals and communities that will ensure cultural and community safety for our people. Governments need to enable our communities to develop and deliver their own healing approaches and ensure quality trauma-informed practices are entrenched nationally across all family support, child protection, education, and related services.<sup>34</sup> Building strong families and communities that are free of violence offers our children the best chance to thrive. Our families and communities have successfully provided love and care to our children, growing them up strong and safe in their culture and traditions for thousands of years. The cultural strengths of Aboriginal and Torres Strait Islander child rearing practices contribute to, and create, safe and nurturing environments for our children.<sup>35</sup>

Cultural healing programs enable our people to develop a safe exit from the cycle of violence and provide a grounding for changing behaviour through re-identifying with cultural values around family, including extended kin, and the critical need to support and nurture our children.<sup>36</sup> For our people, cultural healing is necessary to manage the trauma and experiences of family violence and provide a pathway towards improved mental health and wellbeing. Supporting our people to engage in trauma-informed and therapeutic responses to family violence through cultural healing enables them to gain confidence, employment, and be in stronger positions to care for family members – particularly children.<sup>37</sup>

A failure to build on programs that promote cultural healing and recovery has devastating effects on our people, particularly our women, including trans women, and/or sisters as they are the fastest growing imprisoned population with large numbers of them being survivors of family violence and/or sexual violence.<sup>38</sup> A study in Western Australia found that up to 90 per cent of our imprisoned women had been subjected to violence.<sup>39</sup> Family and sexual violence is both a driver to, and a cause for, imprisonment.

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<sup>34</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, *'Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families'*, (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>

<sup>35</sup> SNAICC, *'Pathways to Safety and Wellbeing for Aboriginal and Torres Strait Islander Children'*, (Report, 2015)

<sup>36</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, *'Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families'*, (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>

<sup>37</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, *'Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families'*, (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>

<sup>38</sup> Human Rights Law Centre and Change the Record, *'Over-represented and overlooked: the crisis of Aboriginal and Torres Strait Islander women's growing over-imprisonment'* (Report, 2017)  
<[https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59378aa91e5b6cbaaa281d22/1496812234196/OverRepresented\\_online.pdf](https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59378aa91e5b6cbaaa281d22/1496812234196/OverRepresented_online.pdf)>

<sup>39</sup> Human Rights Law Centre and Change the Record, *'Over-represented and overlooked: the crisis of Aboriginal and Torres Strait Islander women's growing over-imprisonment'* (Report, 2017)  
<[https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59378aa91e5b6cbaaa281d22/1496812234196/OverRepresented\\_online.pdf](https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59378aa91e5b6cbaaa281d22/1496812234196/OverRepresented_online.pdf)>



The experience and effects of violence, particularly sexual violence, have been described as central features of the criminalisation of our women, trans women, and/or sistersgirls.<sup>40</sup>

Prisons are not places of safety, they are not equipped to help our people, particularly our women, trans women and/or sistersgirls to build lives free from violence as many replicate the dynamics of power and control in violent relationships and therefore perpetuate trauma.<sup>41</sup>

*“Well how many domestic violence relationships does the man actually strip you before he starts smashing you around? It’s happened to me. Because it makes you more vulnerable, it makes you more exposed, it makes their control over you ultimate. And the state uses it in a similar way.”<sup>42</sup>*

Family violence also contributes significantly to our people’s experiences of homelessness, poverty, poor physical and mental health and substance abuse which in turn places our people on pathways into the criminal legal system.<sup>43</sup> This coupled with the discriminatory over-policing of our communities, a lack of diversionary options away from the criminal legal system, systemic barriers to our people participating in diversion programs -where they exist- like a history of prior convictions or living in rural and remote locations, and the criminalisation of minor offending like public drunkenness, offensive language and minor driving offences resulting in fines, has led to the over imprisonment of our women.<sup>44</sup>

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<sup>40</sup> Human Rights Law Centre and Change the Record, ‘Over-represented and overlooked:the crisis of Aboriginal and Torres Strait Islander women’s growing over-imprisonment’ (Report, 2017)  
<[https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59378aa91e5b6cbaaa281d22/1496812234196/OverRepresented\\_online.pdf](https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59378aa91e5b6cbaaa281d22/1496812234196/OverRepresented_online.pdf)>

<sup>41</sup> Human Rights Law Centre and Change the Record, ‘Over-represented and overlooked:the crisis of Aboriginal and Torres Strait Islander women’s growing over-imprisonment’ (Report, 2017)  
<[https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59378aa91e5b6cbaaa281d22/1496812234196/OverRepresented\\_online.pdf](https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59378aa91e5b6cbaaa281d22/1496812234196/OverRepresented_online.pdf)>

<sup>42</sup> Human Rights Law Centre and Change the Record, ‘Over-represented and overlooked:the crisis of Aboriginal and Torres Strait Islander women’s growing over-imprisonment’ (Report, 2017)  
<[https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59378aa91e5b6cbaaa281d22/1496812234196/OverRepresented\\_online.pdf](https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59378aa91e5b6cbaaa281d22/1496812234196/OverRepresented_online.pdf)>

<sup>43</sup> Human Rights Law Centre and Change the Record, ‘Over-represented and overlooked:the crisis of Aboriginal and Torres Strait Islander women’s growing over-imprisonment’ (Report, 2017)  
<[https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59378aa91e5b6cbaaa281d22/1496812234196/OverRepresented\\_online.pdf](https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59378aa91e5b6cbaaa281d22/1496812234196/OverRepresented_online.pdf)>

<sup>44</sup> Human Rights Law Centre, ‘Submission: Wiyi Yani U Thangani (Women’s Voices) Project’, (Submission, 17 December 2018)  
<[https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/5c32c2edf950b7a8981287f5/1546830580264/Submission\\_WiyiYaniUThangani\\_WomensVoiceProject.pdf](https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/5c32c2edf950b7a8981287f5/1546830580264/Submission_WiyiYaniUThangani_WomensVoiceProject.pdf)>



#### Case study: Kunga Program, North Australian Aboriginal Justice Agency (NAAJA)

The Kunga program delivers pre and post release through care services to female imprisoned people in custody at the Alice Springs Correctional Centre, in order to reduce recidivism rates, support them to transition back into the community, and increase their safety and of their children.

From 1 January 2018 to 30 June 2018 the Kunga program worked with 50 women over the reporting period providing pre and post release through-care case management. In February 2018, the Kunga staff delivered a four-week (20 day) trauma specific program in Alice Springs Correctional Centre for 11 women who have been incarcerated for violent offending.

These women have continued to receive pre and post release case management. The Kunga program maintains the office space in the Centre of Alice Springs as an easy family friendly drop in space for them. This has continued to be a successful way of providing trauma informed engagement and is a safe and accessible point of contact that people and their family members use daily. The Kunga staff also conduct client visits both in Alice Springs and in remote areas; 5 visits were conducted to Tennant Creek due to high needs being experienced there.

The Kunga program staff have continued to work collaboratively with many government and non-government partners to help provide holistic support to our people and their families.

#### Recommendations

8. All levels of government commit to decarceration strategies and to significantly reducing the high number of our people, particularly our women, trans women and/or sistergirls being imprisoned, including by implementing the recommendations of the Australian Law Reform Commission's Pathways to Justice inquiry.
9. All police services develop and implement police protocols and guidelines for appropriately responding to family violence, without criminalising our people, particularly our women, trans women and/or sistergirls.
10. State and territory criminal laws and policies are amended to require police to consider all alternatives to charges for our people for low level offending, including cautions, warnings, concession penalty notices and diversion programs that allow for pre-charge referrals particularly for our women, trans women and/or sistergirls. Where charges must be laid, police, prosecutors and judicial officers must prioritise diversion programs for our people at all stages of the legal process.



## The self-determination of our people is key

Family violence policy responses will continue to fail our communities without the active participation of our people in all levels of family violence prevention responses, including policy design and decision making, program design, service delivery and evaluation of program effectiveness.<sup>45</sup> Any strategy or responses to tackle family violence, or any other issue impacting our people, must be based on a strong human rights framework grounded in our right to self-determination.

As a signatory to the United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**), Australia has a legal and moral obligation to advance the UNDRIP in domestic laws. Particularly relevant clauses include our rights to our individual and collective self-determination<sup>46</sup>, our economic development<sup>47</sup>, our right to, and the advancement of, our optimal health<sup>48</sup> and the protection of our people, particularly our children<sup>49</sup>. Australia is also a signatory to numerous other international instruments that require our governments to advance human rights approaches to tackling family and domestic violence, namely: the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *Convention on the Elimination of all Forms of Discrimination Against Women*, the *Convention on the Rights of Persons with Disabilities*, and the *Convention on the Rights of the Child*.

An effective way to advance the systemic change that is required in family violence responses and prevention for our communities is through establishing formal mechanisms, like the Closing the Gap Agreement, for Aboriginal and Torres Strait Islander leadership to play key decision-making roles in policy frameworks to end and reduce family violence.<sup>50</sup> By enabling our people and our ACCOs to provide leadership and guidance on reducing and eliminating family violence from our communities would initiate the required shift of moving policy responses and debates from *deficits* to strength-based thinking and approaches.

*“We require a change in mindset of government from an approach which manages dysfunction to one that supports functional communities. Current approaches pay for the consequences of disadvantage and discrimination. It is a passive reactive system of feeding dysfunction, rather than taking positive steps to overcome it. We need a proactive system of service delivery to Indigenous communities focused on building functional, healthy communities.”<sup>51</sup>*

Beyond the necessary involvement of our people at a national policy level, it is also critical for equivalent mechanisms to be supported or established at jurisdictional levels. This process would necessitate reviewing and assessing the role of various government agencies and non-government organisations’ role in responding to family violence, assessing the alignment of these service responses with the needs of our

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<sup>45</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, ‘*Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families*’, (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>

<sup>46</sup> Articles 1-8; 33-34

<sup>47</sup> Articles 17-21, 35-37

<sup>48</sup> Articles 23-24

<sup>49</sup> Article 22

<sup>50</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, ‘*Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families*’, (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>

<sup>51</sup> Tom Calma, ‘*An overview paper of research and findings by the Australian Human Rights Commission* (previously known as Human Rights and Equal Opportunity Commission), 2001 – 2006’, (Report, 2006)



communities, and engaging in ongoing partnerships between governments and Aboriginal and Torres Strait Islander leadership to ensure that there is ongoing monitoring and compliance.<sup>52</sup>

Empowering our people and communities can only occur if adequate funding and resourcing is provided to support and expand existing ACCOs, including their peak bodies, and their initiatives. Where significant service gaps exist, the ACCO sector must be supported to bridge these gaps. One of the service provision and policy gaps that currently exists that entrench our people into vulnerability, impoverishment and criminalisation is the lack of properly resourced and funded ACCO housing and homelessness support services, particularly from women and children escaping family violence.

In many family violence cases, our women face difficult situations to protect themselves and their children when choosing to escape. If they remain at home, they risk being notified to child protection services for emotional abuse, however if they leave, they struggle finding suitable and affordable housing.<sup>53</sup> Some of our women, trans women, and/or sisters girls fleeing domestic violence are sometimes double punished as the racial discrimination they experience coupled with their low incomes means that finding private rental accommodation is often not an option. More often than not crisis services and accommodation are often full, and waiting lists for public and social housing are very long.<sup>54</sup> As noted above, our women, trans women and/or sisters girls are further criminalised by police services and/or first responders when seeking help to escape violence.

The lack of accessible public homes and available and inclusive crisis accommodation can trap our people in a revolving door between crisis accommodation and/or homelessness which in turn forces them to return to unsafe homes. Furthermore, any delays in securing stable, long-term accommodation sees primary carers being separated from their children.<sup>55</sup> Generally, child protection timelines allow only 12 months before a child removal becomes permanent. As of 30 June 2018, 40% of our children had spent over five years in out-of-home care with only a minority (fewer than 12%) spending 12 months in out-of-home care.<sup>56</sup> Providing homes and crisis accommodation and supported accommodation for our people fleeing family violence, particularly during the COVID-19 pandemic, is critical not only to their health and safety and that of their children but also in making sure that all of our children can grow up strong and connected to their families and culture.

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<sup>52</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, *'Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families'*, (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643) >

<sup>53</sup> Kyllie Cripps and Daphne Habibis, *'Another stolen generation looms unless Indigenous women fleeing violence can find safe housing'* (Website, 20 September 2019) < <https://theconversation.com/another-stolen-generation-looms-unless-indigenous-women-fleeing-violence-can-find-safe-housing-123526> >

<sup>54</sup> Kyllie Cripps and Daphne Habibis, *'Another stolen generation looms unless Indigenous women fleeing violence can find safe housing'* (Website, 20 September 2019) < <https://theconversation.com/another-stolen-generation-looms-unless-indigenous-women-fleeing-violence-can-find-safe-housing-123526> >

<sup>55</sup> Kyllie Cripps and Daphne Habibis, *'Another stolen generation looms unless Indigenous women fleeing violence can find safe housing'* (Website, 20 September 2019) < <https://theconversation.com/another-stolen-generation-looms-unless-indigenous-women-fleeing-violence-can-find-safe-housing-123526> >

<sup>56</sup> Kyllie Cripps and Daphne Habibis, *'Another stolen generation looms unless Indigenous women fleeing violence can find safe housing'* (Website, 20 September 2019) < <https://theconversation.com/another-stolen-generation-looms-unless-indigenous-women-fleeing-violence-can-find-safe-housing-123526> >



## Recommendations

11. All Australian Governments advance the implementation of *the United Nations Declaration on Indigenous Peoples* into domestic law in Australia.
12. All Australian Governments advance the implementation of the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *Convention on the Elimination of all Forms of Discrimination Against Women*, the *Convention on the Rights of Persons with Disabilities*, and the *Convention on the Rights of the Child* into domestic law in Australia.
13. All Australian governments immediately increase funding and resourcing for ACCOS to provide crisis accommodation for Aboriginal and Torres Strait Islander primary carers and children experiencing family violence. Where ACCOs do not exist to bridge service gaps they must be established with extensive consultation of our people and the existing ACCO sector.
14. Measures are advanced to enable our people to be empowered as active participants in driving policy and practice change in family violence response and prevention, including through:
  - a. Resourcing peak representation of community-controlled service sectors.
  - b. Ensuring equitable representation of our people in decision making forums and bodies relevant to family violence.



## Family violence responses must be tailored to the specific needs of our people

Effectively preventing and responding to family violence requires specialised and tailored responses for our people.

Children who have been victims/survivors of family violence require appropriate, culturally safe, therapeutic supports, but also require support if they are removed from their families under child protection orders, to ensure that they are safely cared for with kin and that cultural and family connections are maintained.<sup>57</sup> As per SNAICC's *Family Matters Roadmap*, It is always in the best interests of our children in out-of-home care for the *Aboriginal and Torres Strait Islander Child Placement Principle* to be adhered to<sup>58</sup>. It is particularly important, for all efforts to be made to reunify children with their families, and place children with kin where this is not possible.<sup>59</sup> A tailored family violence response would act to provide culturally safe and appropriate support for families at risk of, or in contact with, the child protection system so that families receive the culturally appropriate support and services they need, including independent legal advice and assistance at the earliest opportunity.

For our people who have been victims/survivors of family violence, being supported and safe requires trauma-informed therapeutic supports, as well as protecting them from perpetrators. It is also critical for our people experiencing or at risk of violence to have access to proactive, trusted, culturally safe and specialist legal advice in relation to child protection at the earliest possible opportunity. This needs to come along with wrap-around supports, to give women the best chance to maintain the safe care of children and avoid family violence-driven child protection intervention and removal.<sup>60</sup>

A tailored family violence response would distinguish between women's and men's business, as this will be central to how some of our communities will build responses in addressing violence.<sup>61</sup> While victims and survivors must always be at the centre of any family violence response, responses should also focus on perpetrators and extended families. This involves working closely with families and communities to facilitate the empowerment of the nurturers and carers of children to be the key support for child growth and development. Supporting women, trans women, and/or sistergirls alone may not resolve ongoing threats to women's safety that exist within their own home and community environments.<sup>62</sup>

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<sup>57</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, '*Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families*', (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643) >

<sup>58</sup> SNAICC, 'the Family Matters Roadmap', (Report, 2016) <<https://www.familymatters.org.au/wp-content/uploads/2016/11/TheFamilyMattersRoadmap.pdf>>

<sup>59</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, '*Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families*', (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643) >

<sup>60</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, '*Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families*', (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643) >

<sup>61</sup> Australian Centre for the Study of Sexual Assault, '*Family violence and sexual assault in Indigenous communities: Walking the talk*', Briefing No 4., (Report, 2004) pp. 1-31

<sup>62</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, '*Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families*', (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643) >



This is not about excusing perpetrators or minimising their acts of violence. Silencing women's, trans women's, and/or sistergirls' voices to enable support for perpetrators will only further perpetuate family violence.

Women's, trans women's, and/or sistergirls' voices and leadership are critical in any community response, but these responses require further improvements and expansion of programs and services that enable separate and safe spaces for cultural healing for everyone.<sup>63</sup> Additionally, strategies for enabling entire communities to participate in cultural healing offers opportunities to restore the broader community support required to ensure our children are safe and cared for in their family.

### Recommendations:

15. State and territory governments implement improved laws, policies and procedures that support comprehensive implementation of the Aboriginal and Torres Strait Islander Child Placement Principle.
16. Federal and/or state and territory governments fully resource Aboriginal and Torres Strait Islander-led reunification programs and include them as a policy priority.
17. State, territory and federal governments implement in full the recommendations from SNAICC- The Voice Of Our Children contained in the *Family Matters Road Map 2016*
18. Establishment of a nationally consistent Aboriginal and Torres Strait Islander Child Protection Notification and Referral System in each Australian State and Territory to refer Aboriginal families in contact with the child protection system to culturally appropriate supports and services, including independent legal advice, at the earliest possible opportunity.

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<sup>63</sup> SNAICC, National Family Violence Prevention Legal Services, NATSILS, 'Strong Families, Safe Kids: Family Violence Response and Prevention for Aboriginal and Torres Strait Islander Children and Families', (Police Paper, September 2017) < [http://natsils.org.au/portals/natsils/Strong\\_Families\\_Safe\\_Kids-Sep\\_2017.pdf?ver=2017-10-18-111427-643](http://natsils.org.au/portals/natsils/Strong_Families_Safe_Kids-Sep_2017.pdf?ver=2017-10-18-111427-643)>



## Conclusion

To be effective, family violence approaches must be both culturally safe and holistic across the continuum from early intervention and prevention, to response, recovery, and healing. Family violence responses must take a holistic approach that addresses not only work on the immediate/crisis or justice response, but also the range of underlying socio-economic factors contributing to the experience or use of violence, and the need for prevention of future violence.

Despite decades of family violence responses, misconceptions of effective practice in Aboriginal and Torres Strait Islander contexts continue to be widespread. Mainstream approaches to family violence do not engage with the issues surrounding cultural trauma that are at the core of family violence for our people, and in some instances can in fact worsen the experiences of family violence. Governments must prioritise national, adequately resourced, coverage of ATSILS, FVPLSs and ACCOs more broadly in all family violence services and responses and support the active participation of our people in the design and execution of responses.

Finally, all family violence responses must take a human rights approach, centred on our rights to self-determination, and facilitate the necessary cultural healing needed to be successful. Cultural healing that is based on the strength and resilience of our people and cultures and driven by our ACCOs must be at the heart of any family violence prevention measures. Commitments are required from all levels of governments to fund the sustainable and long-term, community-driven, cultural healing that is necessary to ensure any immediate and long-term measures to prevent family violence are effective.