

# Djirra's Submission to the Parliamentary Inquiry into Family, Domestic and Sexual Violence

July 2020



## Acknowledgment

Djirra would like to acknowledge that this document was developed by its staff working on the lands of the Wurundjeri people of the Kulin Nations. Djirra pays respect to all Elders past, present and emerging and recognises that sovereignty was never ceded on this land.

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# Introduction

This submission has been prepared by Djirra, which is the only Aboriginal community controlled specialist family violence service in Victoria exclusively dedicated to assisting Aboriginal and Torres Strait Islander victims/survivors of family violence.

Family violence impacts on Aboriginal people at vastly disproportionate rates and has devastating impacts on Victorian Aboriginal communities. Aboriginal women are at the highest risk of family violence in this country. In comparison with other women, Aboriginal women are 34 times more likely to be hospitalised as a result of family violence and almost 11 times more likely to be killed because of violent assault.<sup>1</sup> This is despite evidence that the vast majority of family violence incidents go unreported<sup>2</sup> and the reality that Aboriginal women are markedly less likely to disclose family violence due to a multitude of complex barriers, including:<sup>3</sup>

- Lack of trust by Aboriginal women in mainstream services and organisations
- Lack of culturally safe services delivered by mainstream organisations
- Reluctance to report due to fear of children being removed

It is important to note that family violence is not part of Aboriginal culture and is not an “Aboriginal and Torres Strait Islander problem”. Violence against Aboriginal women is predominantly perpetrated by men from many different cultures. Census data shows that 85% of Aboriginal women in Melbourne have a non-Aboriginal partner.<sup>4</sup>

Family violence has significant, far-reaching and multiple impacts for Aboriginal people – especially women and children. It contributes to Aboriginal women’s homelessness, poverty, criminalization, incarceration, mental and physical ill health, and drug and alcohol abuse. Through our casework with Aboriginal victims/survivors, Djirra sees the multi-generational impacts of family violence on a daily basis, especially the harm that results from a problematic Child Protection system that has historically taken a discriminatory and punitive approach towards Aboriginal women experiencing family violence, and continues to do so. In Victoria, family violence is the single biggest cause of Aboriginal child protection involvement. The ‘Always Was, Always Will Be Koori Children’ Inquiry<sup>5</sup> found that of the 980 children reviewed,

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<sup>1</sup> Australian Institute of Health and Welfare, Family, Domestic and Sexual Violence in Australia (Report, 28 Feb 2018) 83 (‘Family, Domestic and Sexual Violence in Australia’). See generally Australian Bureau of Statistics, The Health and Wellbeing of Aboriginal and Torres Strait Islander Women: A Snapshot, 2004–05 (Catalogue No 4722.0.55.001, 14 May 2007) (‘Health and Wellbeing Snapshot’).

<sup>2</sup> Matthew Willis, *Non-Disclosure of Violence in Australian Indigenous Communities* (Trends & Issue Report, Australian Institute of Criminology, No 405, January 2011) 1.

<sup>3</sup> Royal Commission Into Family Violence: Summary and Recommendations (Victoria, 2016), Chapter 26, 28-29.

[http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/RCFV\\_Full\\_Report\\_Interactive.pdf](http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf)

<sup>4</sup> Biddle, N. (2013). CAEPR Indigenous Population Project 2011 Census Papers: Indigenous and Non-Indigenous Marriage Partnerships. Canberra, Australia: Australian National University

<sup>5</sup> Commission for Children and Young People, Always Was, Always Will Be Koori Children: Systemic Inquiry into Services Provided to Aboriginal Children and Young People in Out-of-Home Care in Victoria (Report, 2016), 47.

868 were known to have been exposed to violence within the family home, most often perpetrated by a male family member. The report recommends access to culturally appropriate and timely counselling and wraparound services for children and families who have been victims of family violence. Early access to legal representation for mothers will prevent child removal. We echo this recommendation. Aboriginal women have the right to choose to access support from a culturally safe service that is Aboriginal community controlled.

The earlier that mum is linked in with a specialist Aboriginal and Torres Strait Islander community controlled organisation with family violence expertise, the better the outcomes are for her and her children. Early referral to specialist, culturally safe and preventative legal and non-legal support from an Aboriginal and Torres Strait Islander community controlled organisation with family violence expertise, such as Djirra, is an essential step to support Aboriginal mothers to take proactive action and engage early with culturally safe and specialist supports to address interrelated mental health, family violence and child protection concerns.

Reducing and eliminating family violence can only be achieved with genuine commitment to an informed, shared and united government approach. This approach must necessarily recognise the over-representation of Aboriginal women and children among victims/survivors of family violence, and prioritise culturally safe and targeted approaches which address Aboriginal women and children's unique needs, perspectives and barriers to getting assistance. Any response must also include increased, long-term investment in early intervention, prevention and community education approaches, specialist and culturally safe frontline legal services for Aboriginal victims/survivors, and strategies to improve responses by police, courts, child protection and corrections. In order to sustain this response, it is critical that governments invest in increased housing, advocacy and targeted support for Aboriginal victims/survivors, especially women and children.

# Summary of Recommendations

In response to the terms of reference for this Inquiry, Djirra is pleased to provide the following recommendations:

## **TOR a) Immediate and long-term measures to prevent violence against women and their children, and improve gender equality**

### **Djirra's early intervention and prevention programs**

#### **Recommendations:**

1. Ongoing (recurrent) funding for Djirra's Koori Women's Place in Abbotsford beyond 2023
2. Funding for expansion of Djirra's successful Koori Women's Place model into Victorian Regions.
3. Funding for Djirra to develop new programs and expanding our reach to young Aboriginal women aged 13-18 under the prevention initiatives of our Young Luv programming

## **TOR c) 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**

### **Djirra's Aboriginal Family Violence Legal Service (AFVLS) and early intervention and prevention programs**

#### **Recommendations:**

Djirra calls for Increased funding and resourcing of Aboriginal Family Violence Prevention Legal Services and Strategies:

4. **Longer-term (five yearly), increased funding from both State and Federal Governments** to enable Djirra to: (a) meet demand for our specialist, culturally safe, frontline legal assistance services, including through expansion to state-wide coverage; (b) continue and expand our highly successful, culturally targeted early intervention prevention programs and community legal education programs; and (c) continue to provide high level policy advice and undertake advocacy and law reform activities to strengthen law and justice outcomes for Aboriginal victims/survivors of family violence.

5. **Increased State Government responsibility for ensuring Aboriginal victims/survivors of family violence have access to culturally safe and specialist family violence legal services across Victoria, including metropolitan, regional and rural areas.** Funding for specialist family violence legal services such as Djirra would require funding for both lawyers and paralegal support workers to ensure that the holistic legal services model is accessible to victim survivors of family violence across the state.
6. **Funding policies and priorities of both State and Federal Governments acknowledge that disadvantage experienced by Aboriginal victims/survivors of family violence is not limited to rural and remote Australia,** and strategies and resources must be dedicated to culturally safe and specialist urban service delivery for Aboriginal victims/survivors across metropolitan Melbourne.
7. **Ongoing (recurrent) long-term funding for Djirra's effective and in demand Koori Women's Place**
8. **Increased and secure funding for culturally safe and trauma-informed counselling through Djirra**
  - a. Provide dedicated, long-term funding to enable Djirra to establish a well-resourced counselling and wellbeing program for Aboriginal women. This must include: culturally appropriate individual counselling support at Koori Women's Place; individual counselling support at all early intervention and prevention workshops, including dedicated funding to enable trusted and qualified counsellors to be on-site for the entire duration of Dilly Bag; culturally appropriate group counselling options at Dilly Bag and Koori Women's Place; and follow up counselling sessions over the phone or face to face.
  - b. Provide dedicated, long-term funding to enable Djirra to support Aboriginal women and their children to access specialist and culturally appropriate external counselling, to complement the counselling and wellbeing support provided through Djirra.

### **A national voice for Aboriginal and Torres Strait Islander women experiencing family violence**

#### **Recommendation:**

9. We call for an adequately funded and self-determined National body for Aboriginal and Torres Strait Islander people at risk or experiencing family violence.

## **TOR d) The way that health, housing, access to services, including legal services, and women's economic independence impact on the ability of women to escape domestic violence**

### **Barriers faced by Aboriginal and Torres Strait Islander Women accessing family violence services, including legal services**

#### **Recommendation:**

10. Aboriginal and Torres Strait Islander Women across Victoria have access to culturally safe and specialist family violence supports, including multiple access points.

### **Family Violence and Homelessness**

#### **Recommendations:**

11. The Victorian government must ensure a sustained increase in investment in holistic and culturally safe crisis housing, and access to safe, stable and culturally appropriate long-term housing options for Aboriginal women and their children experiencing family violence, with coverage across the state.
12. Djirra would like to see a long-term funding commitment to ensure vital "Family Violence Crisis Brokerage" support packages continue to be available after COVID-19, with the maximum amount of support increased from \$5,000 to \$10,000 to reflect the high needs of women and children facing extreme crisis, in particular, the need to access safe housing.

## **TOR f) The adequacy of the qualitative and quantitative evidence base around the prevalence of domestic and family violence and how to overcome limitations in the collection of nationally consistent and timely qualitative and quantitative data including, but not limited to, court, police, hospitalisation and housing.**

### **Aboriginal led evaluation**

#### **Recommendations:**

13. **Move to genuine Aboriginal led evaluation.** ACCOs like Djirra must be brought into decision-making on whether to conduct an evaluation, how the evaluation should be conducted, designing the evaluation plan and methodology and selection of evaluators. Only then will evaluations support the agendas of Aboriginal and Torres Strait Islander organisations delivering services or programs.



14. **Dedicated long-term funding for evaluation capacity building.** This funding should not be tacked on to individual projects, but should be resourced as a discrete initiative which leads to sustainable and culturally safe evaluation practice driven by ACCOs and embedded into ACCO service delivery. To support self-determination, evaluation capacity building must involve both building a pool of Aboriginal and Torres Strait Islander evaluators and building the capacity of organisations already delivering programs.

**TOR h) 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.**

**Family Violence and Child Removal: Call for a Child Protection Notification and Referral Scheme**

**Recommendations:**

15. That a national Aboriginal and Torres Strait Islander child protection notification and referral system be established. The system would provide a nationally consistent mandatory notification and referral system (akin to the Custody Notification System) to refer Aboriginal and Torres Strait Islander families in contact with the child protection system to culturally appropriate supports and services, including independent legal advice, at the earliest possible opportunity. Note: An effective referral system relies on the availability of resourced, quality and culturally appropriate services to refer families to, and cannot be successful independent of other recommendations, particularly our recommendations under TOR c (above).
16. Establish directives that require the Department of Health and Human Services to refer all Aboriginal women in contact with child protection to Dilly Bag and to provide relevant support to enable Aboriginal mothers to attend Dilly Bag.
17. Recommend that the Department of Health and Human Services pays for ongoing therapy for all family members, not just the children, who are involved in the Child Protection system, especially Aboriginal and Torres Strait Islander mothers experiencing family violence.

**Family Violence and Imprisonment of Aboriginal and Torres Strait Islander Women**

**Recommendation:**

18. Djirra needs ongoing, secure, long-term, increased funding to continue the early intervention and prevention programs we deliver in the prison.

## **Sexual Assault**

### **Recommendations:**

19. There should be specialist, culturally safe Aboriginal sexual assault legal service.
20. Continued funding for ACCOs to provide culturally safe and trauma informed support to Aboriginal and Torres Strait Islander people seeking redress through the National Redress Scheme for people who have experienced institutional child sexual abuse.

## **Preventing Misidentification and Criminalisation of Aboriginal and Torres Strait Islander Women**

### **Recommendations:**

21. Police need to have a better understanding of the dynamics of family violence. Where women are using violence, the context of the violence needs to be unpacked with caution and consideration and not taken at face value.
22. Police must receive training to refer Aboriginal and Torres Strait Islander people to appropriate ACCOs (including Djirra) for early legal advice, when they are identified as either the victim or perpetrator.

## **Call to establish a national taskforce to investigate the deaths of Aboriginal and Torres Strait Islander women in contact with the justice system**

### **Recommendation:**

23. Establish a national taskforce to investigate the deaths of Aboriginal and Torres Strait Islander women in contact with the justice system.

## **Self determination: We have the solutions**

### **Recommendation:**

24. Establish an Annual National Aboriginal and Torres Strait Islander Women's Gathering, funded by the Prime Minister and Minister for Indigenous Affairs.

**TOR i) 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.**

**How has Djirra responded to COVID-19?**

**Recommendation:**

- 25. Brokerage funding to enable us to provide access to phones and data for Aboriginal women, so that they can connect with vital supports including family violence supports and counselling offered through Djirra.

**Changing client needs during COVID-19**

**Recommendations:**

- 26. Court Appearance by Videolink is appropriate for Intervention Orders at all stages, and is essential for Aboriginal applicants during COVID-19.
- 27. Provide funding for access to appropriate technology for Aboriginal women needing to utilise video conferencing for court purposes.
- 28. Provide brokerage funding to enable us to provide access to phones and data for Aboriginal women, so that they can connect with vital supports including family violence supports and counselling offered through Djirra.
- 29. Establish non-place based intervention order applications to ensure safety of women in experiencing high-risk family violence.

# About Djirra

Established in 2002, Djirra is an Aboriginal Community Controlled Organisation that provides services across the state of Victoria. Djirra provides culturally safe and holistic assistance to Aboriginal people, primarily women, who are experiencing, or have experienced, family violence and/or sexual assault. 95% of our clients are Aboriginal women and all of our community engagement programs are designed for Aboriginal women by Aboriginal women. As such, this submission focuses on the experiences and needs of Aboriginal and Torres Strait Islander women.

In March 2018, we changed our name from Aboriginal Family Violence Prevention and Legal Service Victoria to Djirra. This change of name symbolically represented Djirra taking control of its own name and the cultural framing of it after the many years of work with and for Aboriginal women across Victoria. The name Djirra enabled us to expand our positive and holistic messaging of support to Aboriginal women on their journey to wellbeing. Djirra is the Woiwurrung word for the reed used by Wurundjeri women for basket weaving. Traditionally, when women gathered to weave, important talks took place and problems were solved. Djirra symbolises Aboriginal women today, coming together to share stories, support each other and find solutions.

Djirra provides a range of services and programs, including: frontline legal assistance — focusing predominantly on family violence, child protection, family law and victims of crime assistance; holistic, wrap-around support; intensive case management via our new Family Violence Case Management Team; outreach to women in prison; early intervention/prevention programs — including our signature programs Sisters Day Out, Dilly Bag and Young Luv; Koori Women's Place — a unique cultural initiative which provides a suite of cultural and wellbeing workshops, and individualised support; community education and cultural awareness training; and policy, advocacy and law reform work to identify systemic issues in need of reform and advocate for change to improve Aboriginal and Torres Strait Islander women's access to safety, justice and equality.

As an Aboriginal Community Controlled Organisation, Djirra is directed by an Aboriginal Board and has a range of systems and policies in place to ensure we provide culturally safe services in direct response to community need.

# TOR a) Immediate and long-term measures to prevent violence against women and their children, and improve gender equality.

## Djirra's Early Intervention and Prevention Programs

Djirra's has developed a number of successful primary prevention programs: Sisters Day Out, Dilly Bag, YoungLuv and the Koori Women's Place.

### **Sisters Day Out**

Sisters Day Out is Djirra's long standing wellbeing workshop, where Aboriginal women can support each other, enjoy a pampering session, get information about rights and options, and engage with support services in attendance. The workshop focuses on community awareness raising around family violence prevention and accessing services in a culturally safe space. Sisters Day Out workshops are held regularly in community. "Sisters Day In" is a specialized version of Sisters Day Out, hosted inside Dame Phyllis Frost Centre.

### **Dilly Bag**

Dilly Bag is a small group residential workshop which draws on cultural principles and the strength of our Aboriginal heritage in order to promote healing, to motivate and to unlock the potential within each participant according to their expectations and circumstances. The programs address deeply personal matters. Therefore, the number of participants is restricted to ensure that women feel comfortable to talk freely and openly about their experiences, worries and concerns. Over four days, program activities seek to begin the healing process by focussing on the positive traits of participants and the richness of, and traditional values found within, Aboriginal society and culture. The strengths and roles of Aboriginal women are reaffirmed and celebrated as positive and strong. Dilly Bag has also been tailored specifically for delivery to women on corrections orders.

### **YoungLuv**

YoungLuv is designed for Aboriginal young women aged 13 to 18. It is a half day activity facilitated by Aboriginal women to engage Aboriginal teenagers in a culturally safe space where they can talk about, reflect on and better understand important issues affecting their lives. The YoungLuv workshops are focussed on promoting healthy and respectful relationships and aim to equip young Aboriginal women with information and skills to challenge unhealthy relationships, and to practise positive and safe behaviours. Strengthening cultural knowledge and connection is central to building and affirming identity. Hence, the workshop utilises content, messaging and resources that promote the valuing of culture and cultural identity. YoungLuv workshops are delivered across Victoria in collaboration with local Aboriginal Community

Controlled Organisations (i.e. youth hubs, health services, co-operatives), not for profit organisations and schools.

### **Djirra's Koori Women's Place**

Djirra's Koori Women's Place (KWP) is a culturally framed specialist family violence support service which supports Aboriginal women to lead strong, independent and positive lives as they confront the ongoing trauma of family violence.

The KWP evolved from a need for a physical location which is a culturally safe place and where Aboriginal women know that their identity will not be questioned, where their culture will be respected and where their history will be understood and shared by Aboriginal women. It provides a culturally safe service, offering the right support in the right way, at the right time to Aboriginal women experiencing or healing from family violence.

KWP has become a cultural haven for Aboriginal women; a space to feel safe, connect and share stories with other women in the community, have direct access to Djirra's suite of legal services and non-legal supports, receive practical support and if needed, be personally referred on to a trusted mainstream service.

In KWP, Aboriginal team members understand and work sensitively with Aboriginal women, and are available to respond to immediate or ongoing issues. Non-Aboriginal team members have regular cultural awareness training and are mentored and monitored to enable them to provide sensitive and appropriate service, which includes knowing when to refer issues to Aboriginal staff in a timely manner to ensure cultural safety for clients. The focus is on developing trusted relationships with Aboriginal women and providing support which responds to individual needs. KWP blends cultural, social and emotional wellbeing activities alongside a range of other support services.

There is extensive evidence which affirms that culture is a central and key protective factor in effective family violence programming and that it can restore strength, dignity and self-determination for Aboriginal communities.<sup>6</sup> KWP has built a strong program of workshops which are facilitated by Aboriginal women for Aboriginal women and which focus on connection to culture and strengthening and validating cultural identity. Examples of past workshops include Indigenous healing, bush medicine, jewelry making, basket weaving, self-care, pre-employment, goal setting & vision planning.

From January 2018 when KWP opened its doors to clients through to January 2020, a total of 419 Aboriginal women have walked through the door. There was a total of 971 visits to KWP as a large proportion of women come back multiple times for different reasons.

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<sup>6</sup> Healing Foundation, *Our Healing Our Solutions - Sharing Our Evidence*, 2013, p.18  
<https://healingfoundation.org.au/app/uploads/2017/01/HF-OHOS-ALT-July2015-SCREEN-singles.pdf>

## Recommendations:

- Ongoing (recurrent) funding for Djirra's Koori Women's Place in Abbotsford beyond 2023
- Funding for expansion of Djirra's successful Koori Women's Place model into Victorian Regions.
- Funding for Djirra to develop new programs and expanding our reach to young Aboriginal women aged 13-18 under the prevention initiatives of our Young Luv programming

TOR c) 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.

Reducing and eliminating family violence can only be achieved with genuine commitment to an informed, shared and united government approach. This approach must necessarily recognise the over-representation of Aboriginal women and children among victims/survivors of family violence, and prioritise culturally safe and targeted approaches which address Aboriginal women and children's unique needs, perspectives and barriers to getting assistance. Any response must also include increased, long-term investment in early intervention, prevention and community education approaches, specialist and culturally safe frontline legal services for Aboriginal victims/survivors, and strategies to improve responses by police, courts, child protection and corrections. In order to sustain this response, it is critical that governments invest in increased housing, advocacy and support for Aboriginal victims/survivors, especially women and children.

## Djirra's Aboriginal Family Violence Legal Service (AFVLS)

Access to specialist, culturally safe legal services like Djirra, is critical to ensuring accessibility of the legal system for Aboriginal women seeking supports in the areas of intervention orders, child protection, family law and victims of crime assistance (VOCAT). Djirra has seen some positive investment in culturally appropriate legal services, however funding gaps also remain in some rural and regional areas of Victoria, which are generally viewed as the responsibility of the Federal Government. Djirra has not received a real increase in Federal funding in the past 6

years to properly meet increased costs of vital frontline services for women and children's safety in many rural areas in Victoria.

Djirra's Aboriginal Family Violence Legal Service (AFVLS) has a holistic, intensive client service model where each client is assisted by both a lawyer and paralegal support worker, who work together to address the multitude of interrelated legal and non-legal issues our clients face. Djirra's paralegal support workers, 90% of whom are Aboriginal women, provide wrap-around support including additional emotional support, court support and referral to ensure the client is linked into culturally safe counselling and support services to address the underlying social issues giving rise to the client's legal problem and experience of family violence. This may include, for example, assistance with housing, drug and alcohol misuse, mental health, parenting, financial and other supports. As at 31st May 2020 we were actively supporting 251 legal clients across Victoria.

A lack of adequate funding limits our ability to assist all Aboriginal women in need our help. If women are not able to access mainstream services, or are not comfortable to do so, they are effectively denied access to justice. Legal issues can escalate and lead to more significant issues, including homelessness, trauma, child removal, alcohol and drug problems, criminal behaviour and imprisonment. Further, if an Aboriginal woman is able to access mainstream services, those services commonly do not provide the holistic, culturally safe, support which addresses underlying interrelated legal and non-legal issues.

## Djirra's Early Intervention and Prevention Programs

Djirra's State Government funded early intervention and prevention programs, Sisters Day Out, Dilly Bag, YoungLuv and the Koori Women's Place (described in detail above - see TOR a) are facilitated by Aboriginal women who build rapport with prospective clients and encourage women to take further steps towards connecting with Djirra and dealing with their family violence issues.

Djirra's lawyers and paralegal support workers see clients at KWP and internal processes have been developed to provide referrals for KWP clients to the legal service. This shared interface between our early intervention and prevention programs and Djirra's culturally safe frontline legal assistance — focusing predominantly on family violence, child protection, family law and victims of crime assistance (VOCAT), is the key to overcoming barriers for Aboriginal women accessing legal services, and highlights the importance of long-term investment in Djirra's successful early intervention and prevention programs. The ability for women to access Djirra's Legal and Early Intervention and Prevention Programs within one organisation increases the safety and trust that Aboriginal women have in sharing their story. Many Aboriginal women advise us that they do not like working with many different organisations, particularly with regard to sensitive matters such as family violence and parenting.



## Recommendations:

- **Longer-term (five yearly), increased funding from both State and Federal Governments** to enable Djirra to: (a) meet demand for our specialist, culturally safe, frontline legal assistance services, including through expansion to state-wide coverage; (b) continue and expand our highly successful, culturally targeted early intervention prevention programs and community legal education programs; and (c) continue to provide high level policy advice and undertake advocacy and law reform activities to strengthen law and justice outcomes for Aboriginal victims/survivors of family violence.
- **Increased State Government responsibility for ensuring Aboriginal victims/survivors of family violence have access to culturally safe and specialist family violence legal services across Victoria, including metropolitan, regional and rural areas.** Funding for specialist family violence legal services such as Djirra would require funding for both lawyers and paralegal support workers to ensure that the holistic legal services model is accessible to victim survivors of family violence across the state.
- **Funding policies and priorities of both State and Federal Governments acknowledge that disadvantage experienced by Aboriginal victims/survivors of family violence is not limited to rural and remote Australia,** and strategies and resources must be dedicated to culturally safe and specialist urban service delivery for Aboriginal victims/survivors across metropolitan Melbourne.
- **Ongoing (recurrent) long-term funding for Djirra's effective and in demand Koori Women's Place**
- **Increased and secure funding for culturally safe and trauma-informed counselling through Djirra**
  - Provide dedicated, long-term funding to enable Djirra to establish a well-resourced counselling and wellbeing program for Aboriginal women. This must include: culturally appropriate individual counselling support at Koori Women's Place; individual counselling support at all early intervention and prevention workshops, including dedicated funding to enable trusted and qualified counsellors to be on-site for the entire duration of Dilly Bag; culturally appropriate group counselling options at Dilly Bag and Koori Women's Place; and follow up counselling sessions over the phone or face to face.
  - Provide dedicated, long-term funding to enable Djirra to support Aboriginal women and their children to access specialist and culturally appropriate external counselling, to complement the counselling and wellbeing support provided through Djirra.

## A national voice for Aboriginal and Torres Strait Islander women experiencing family violence

The National Family Violence Prevention and Legal Services Forum (National FVPLS Forum) was formally established in May 2012. It is comprised of thirteen Family Violence Prevention Legal Service (FVPLS) member organisations across Australia, including Djirra, that provide holistic, specialist, culturally safe legal and non-legal support to Aboriginal and Torres Strait Islander people experiencing or at risk of family violence – predominantly women and their children.

In November 2019, the National Indigenous Australians Agency (NIAA) told us that funding for our National FVPLS Forum Secretariat would not continue as of 30 June 2020, a decision which would effectively take Aboriginal and Torres Strait Islander victim/survivors voices out of national conversations and compromise self-determination. In December 2019, we were told our annual funding of \$244,000 would be returned to FVPLSs, not as a direct allocation to our National Secretariat but instead redistributed across the member FVPLSs individually. This amounts to less than \$17,500 for each individual FVPLS. We feel this is a divisive approach that doesn't provide support for a united national voice for our sector and for Aboriginal and Torres Strait Islander women impacted by family violence - women who face multiple layers of disadvantage and who rely on our National FVPLS Forum to make their voices heard and advocate for their safety. Due to the COVID-19 crisis, the NIAA has approved an extension of Secretariat funding but only until 31 December 2020.

The continuity of the National FVPLS Forum beyond 31 December 2020 is vital to eradicating our country's shameful rates of family violence against Aboriginal and Torres Strait Islander women. As the only national peak body for Aboriginal and Torres Strait Islander victim/survivors of family violence and sexual assault it is a crucial organisation, giving services who every day provide vital support to women all over the country a voice in critical national conversations around family violence.

We call for an adequately funded and self-determined National body for Aboriginal and Torres Strait Islander people at risk or experiencing family violence. Sustained and long term funding will enable the National FVPLS Forum to continue capacity building and giving voice to Aboriginal and Torres Strait Islander victims and survivors on a national platform.

### **Recommendation:**

- **We call for an adequately funded and self-determined National body for Aboriginal and Torres Strait Islander people at risk or experiencing family violence.**

**TOR d) The way that health, housing, access to services, including legal services, and women's economic independence impact on the ability of women to escape domestic violence.**

### **Barriers faced by Aboriginal and Torres Strait Islander Women accessing family violence services, including legal services**

Despite experiencing higher rates of family violence, Aboriginal and Torres Strait Islander women commonly experience many substantial barriers to accessing culturally safe and effective family violence services. 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 supports for Aboriginal and Torres Strait Islander people. Djirra is a key pathway service — linking our women up with other supports in a culturally safe way.

In Victoria, the Family Violence Safety Hubs (known as “Orange Doors”) are an initiative arising from the 2016 Royal Commission into Family Violence. Djirra cautions against this family violence ‘Hub’ model as this is likely to create further barriers for Aboriginal and Torres Strait Islander women. A mainstream ‘one stop shop’ model that aims to centralise and streamline family violence support and referrals does not work for Aboriginal and Torres Strait Islander women. Aboriginal and Torres Strait Islander women advise us that through the hub model they are referred to many different services at the same time without their control. This process is confusing and increases the risks of sensitive personal information being shared to services that a woman may not want to work with. Further, Aboriginal and Torres Strait Islander women that we work with advise that they lose their own ability to determine the supports they need. For more information in relation to the Family Violence Safety Hubs, please see Djirra’s submission to the Family Violence Reform Implementation Monitor (July 2020).

Over the past seventeen years we have built strong relationships with external service providers, courts and the legal sector. We work to ensure court processes are accessible for Aboriginal people and through holding the legal system to account we are continually striving to educate and inform services, lawyers, court personnel, police, referring agencies and the judiciary about the unique barriers, needs, perspectives and strengths of Aboriginal people experiencing family violence. However Djirra continues to have contact with many mainstream services where racism is still apparent when they will not receive the referral of an Aboriginal woman experiencing family violence. In particular, women with co-occurring mental health and substance misuse issues are put in the ‘too hard basket’.

Many Aboriginal and Torres Strait Islander people have a genuine fear and resistance to accessing mainstream services due to discriminatory government policies and practices. Too

often, mainstream service providers do not have experience providing holistic and intensive assistance to complex clients who are in crisis and dealing with multiple, sensitive and challenging situations; They do not recognise that they need to invest more time in their services because of the need to build trust and support culturally safe communication and 'story telling'; They are not equipped to deal with the complexity of client matters which frequently include multiple, interlocking legal and non-legal issues for each client; They do not understand that for Aboriginal people, family violence must be understood in the context of a history of colonisation, racial discrimination, criminalisation and inter-generational trauma. All of Djirra's programs and service models are developed with an understanding of this framework.

All Aboriginal and Torres Strait Islander women have the right to culturally safe and specialist family violence support, including multiple access points. Djirra is a unique, culturally safe and specialist pathway to safety and healing for Aboriginal and Torres Strait Islander women and plays a key role in overcoming the barriers to accessing the system. Our services and programs are designed by Aboriginal women, for Aboriginal women. This emphasis on self-determination carries throughout the organisation.

#### **Recommendation:**

- Aboriginal and Torres Strait Islander Women across Victoria have access to culturally safe and specialist family violence supports, including multiple access points.

## **Family Violence and Homelessness**

Family violence is a key driver of Aboriginal and Torres Strait Islander women's homelessness. The composition of support provided to Aboriginal homeless clients in Victoria in 2017-18 was dominated by family violence services, which accounted for 33.6% of service types provided to people seeking homeless assistance.<sup>7</sup>

The latest DHHS Quarterly Rental Report confirms that Victoria's housing crisis continues to worsen. Over the previous quarter the median weekly rent increased by \$10 in both metropolitan and regional Victoria.<sup>8</sup> Aboriginal and Torres Strait Islander women are disproportionately impacted by barriers to accessing affordable housing, including increased levels of poverty and commonly experienced discrimination by service providers. Within the housing sector, as with other mainstream support services, systemic racism intersects with stigma around family violence. Strict eligibility criteria for Aboriginal and Torres Strait Islander housing or family violence crisis housing often leave Aboriginal and Torres Strait Islander victims/survivors of family violence without an option.

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<sup>7</sup> Aboriginal Housing Victoria, Housing and Homelessness Summit Report (April 2019), pp.27-28. Available here [https://ahvic.org.au/cms/uploads/docs/final-summit-report-in-full-pdf\\_13\\_06.pdf](https://ahvic.org.au/cms/uploads/docs/final-summit-report-in-full-pdf_13_06.pdf)

<sup>8</sup> Department of Health and Human Services, Rental Report for the March Quarter 2020, available here <https://www.dhhs.vic.gov.au/publications/rental-report>

22% of Aboriginal people seeking homeless assistance nationally have children under 10 with them.<sup>9</sup> Child protection services should be focused on protecting the family from homelessness by helping to find housing options - not removing children. However we continue to see Aboriginal women having children removed because they are homeless victims of family violence. Fear of losing children deters Aboriginal women from leaving violent relationships and seeking help from family violence services. Safety risks are amplified in regional areas, in part because opportunities to safely leave an abusive relationship are more limited.

At the end of the day, people are empowered when they have safe and secure housing and they are connected into healthy communities. Appropriate and affordable housing is a precondition for safety. Regardless of family violence intervention orders and an effective, accessible legal system, if a victim/survivor of family violence doesn't have somewhere safe to live then all these reforms will come to nothing. The impossible choice between being trapped living with the perpetrators of violence or being homeless/transient is often the root cause of the issues faced by our women.

A recent DHHS allocation of funding will provide "Family Violence Crisis Brokerage" support packages. These new support packages have been designed to deliver an individualised approach to respond to victims/survivors' experiences of crisis and COVID-19 impacts. Support of up to \$5,000 is available. These funding packages are a model which can effectively enable safe relocation from dangerous relationships. Djirra would like to see a long-term funding commitment to ensure vital flexible support packages continue to be available after COVID-19, with the maximum amount of support increased to \$10,000 to reflect the high needs of women and children facing extreme crisis, in particular, the need to access safe housing.

### **Recommendations:**

- The Victorian government must ensure a sustained increase in investment in holistic and culturally safe crisis housing, and access to safe, stable and culturally appropriate long-term housing options for Aboriginal women and their children experiencing family violence, with coverage across the state.
- Djirra would like to see a long-term funding commitment to ensure vital "Family Violence Crisis Brokerage" support packages continue to be available after COVID-19, with the maximum amount of support increased from \$5,000 to \$10,000 to reflect the high needs of women and children facing extreme crisis, in particular, the need to access safe housing.

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<sup>9</sup> Aboriginal Housing Victoria, Housing and Homelessness Summit Report (April 2019), pp.27-28. Available here [https://ahvic.org.au/cms\\_uploads/docs/final-summit-report-in-full-pdf\\_13\\_06.pdf](https://ahvic.org.au/cms_uploads/docs/final-summit-report-in-full-pdf_13_06.pdf)

TOR f) The adequacy of the qualitative and quantitative evidence base around the prevalence of domestic and family violence and how to overcome limitations in the collection of nationally consistent and timely qualitative and quantitative data including, but not limited to, court, police, hospitalisation and housing.

### Aboriginal led evaluation

There remains considerable inadequacies in relation to the collection and sharing of data across ACCOs, agencies and departments hindering a full and reliable understanding of the prevalence and nature of family violence experienced by Aboriginal women. ACCOs, like Djirra are often unable to access the different data sets which are held by government agencies and are often not sufficiently consulted in the design of national surveys or data collection instruments. There also continues to be a fragmented and top down approach for building a credible evidence base related to what is considered culturally safe and effective family violence programs and interventions.

While Djirra welcomes the federal commitment to a whole-of-government Indigenous Evaluation Strategy, there remain considerable concerns that the Strategy and its implementation will not be underpinned by principles of self-determination. Specialist Family Violence Aboriginal Community Controlled Organisations need to be at the centre of building an evidence base about the extent and nature of family violence experienced by Aboriginal women and about what works.

Aboriginal and Torres Strait Islander self-determination must sit at the heart of all future evaluation activities for them to be considered culturally safe and for evaluations to be of benefit for Aboriginal communities and organisations. This principle must be incorporated in the earliest stages of an evaluation process. This includes Aboriginal Community Controlled Organisations (ACCOs), like Djirra being brought into decision-making on whether to conduct an evaluation, how the evaluation should be conducted, designing the evaluation plan and methodology and selection of evaluators. Currently, this decision making continues to sit with funding agencies and ACCOs are brought in to support the logistics of an evaluation or to passively provide information. Djirra continues to see evaluations designed and conducted for accountability purposes only and to service government requirements rather than to support the agendas of Aboriginal and Torres Strait Islander organisations delivering services or programs. More needs to be done to move to genuine Aboriginal led evaluation.

To support self-determination, there needs to be a strong focus on building the internal evaluation capacity of Aboriginal and Torres Strait Islander Community Controlled Organisations and communities to build and maintain their own data collection systems and to not just have a role in *supporting* evaluations, but in *leading* them. This requires a long-term and broad approach to evaluation capacity building, involving both building a pool of Aboriginal and Torres Strait Islander evaluators and building the capacity of organisations already delivering programs. Evaluation capacity building should not be tacked on to individual projects, but should be resourced as a discrete initiative which leads to sustainable and culturally safe evaluation practice driven by ACCOs and embedded into ACCO service delivery.

It must also be recognised that many Aboriginal and Torres Strait Islander communities have the capacity, agency and experience to lead research and evaluations in their community. Where capacity exists, enabling funding environments and accountability levers must be drivers to achieving culturally safe evaluations. Importantly, the internal resourcing of design, monitoring and evaluation needs to be separate to and not squeezed from service delivery funding.

#### **Recommendations:**

- **Move to genuine Aboriginal led evaluation.** ACCOs like Djirra must be brought into decision-making on whether to conduct an evaluation, how the evaluation should be conducted, designing the evaluation plan and methodology and selection of evaluators. Only then will evaluations support the agendas of Aboriginal and Torres Strait Islander organisations delivering services or programs.
- **Dedicated long-term funding for evaluation capacity building.** This funding should not be tacked on to individual projects, but should be resourced as a discrete initiative which leads to sustainable and culturally safe evaluation practice driven by ACCOs and embedded into ACCO service delivery. To support self-determination, evaluation capacity building must involve both building a pool of Aboriginal and Torres Strait Islander evaluators and building the capacity of organisations already delivering programs.

TOR h) 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.

## Aboriginal and Torres Strait Islander Women and Family Violence

### Key statistics

Aboriginal and Torres Strait Islander women are 32 times more likely to be HOSPITALISED DUE TO FAMILY VIOLENCE in comparison to other women.<sup>10</sup>

Up to 90% of violence against Aboriginal and Torres Strait Islander women is likely to go UNREPORTED.<sup>11</sup>

Nearly 70% of Aboriginal and Torres Strait Islander women who have EXPERIENCED PHYSICAL VIOLENCE in the last 12 months reported high levels of psychological distress.<sup>12</sup>

At least 90% of Aboriginal and Torres Strait Islander women IN PRISON have experienced family violence or sexual abuse.<sup>13</sup>

Over half of Aboriginal and Torres Strait Islander women who have experienced physical violence in the last 12 months had been HOMELESS compared to 25% who had not experienced family violence.<sup>14</sup>

Transgenerational trauma continues to affect Aboriginal and Torres Strait Islander people in Victoria: over 47% have a RELATIVE WHO WAS FORCIBLY REMOVED from their family due to STOLEN GENERATIONS POLICIES.<sup>15</sup>

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<sup>10</sup> *Family, Domestic and Sexual Violence in Australia* (n 1).

<sup>11</sup> Matthew Willis, *Non-Disclosure of Violence in Australian Indigenous Communities* (Trends & Issue Report, Australian Institute of Criminology, No 405, January 2011) 1.

<sup>12</sup> Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Social Survey, 2014–15* (Catalogue No 4714.0, 28 April 2016) Table 31.3 ('Social Survey 2014–15').

<sup>13</sup> Human Rights Law Centre and Change the Record Coalition, *Over-Represented and Overlooked: The Crisis of Aboriginal and Torres Strait Islander Women's Growing Over-Imprisonment* (Report, May 2017) 10 ('Over Represented and Overlooked')13.

<sup>14</sup> Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Social Survey, 2014–15* (Catalogue No 4714.0, 28 April 2016) Table 31.3 ('Social Survey 2014–15'). Table 31.3.

<sup>15</sup> Department of Health and Human Services (Vic), *Balit Murrup: Aboriginal Social and Emotional Wellbeing Framework, 2017–2027* (Report, October 2017) 16 (citations omitted) ('Balit Murrup').



MEN'S VIOLENCE AGAINST WOMEN, as well as parental MENTAL ILLNESS, are key drivers of the forced removal of Aboriginal and Torres Strait Islander children into OUT-OF-HOME CARE at 12 times the rate of non-Aboriginal and Torres Strait Islander children.<sup>16</sup>

Family violence is NOT an 'Aboriginal and Torres Strait Islander problem'. Family violence against Aboriginal and Torres Strait Islander women is not perpetrated solely or even largely by Aboriginal and Torres Strait Islander men. This is especially true in metropolitan areas. Census data shows that 85% of Aboriginal women in Melbourne, 67.9% in Shepparton and 82.4% in Bendigo have a non-Aboriginal partner.<sup>17</sup> Across Australia, most Aboriginal and Torres Strait Islander couples consist of one Aboriginal and Torres Strait Islander person and one non-Aboriginal and Torres Strait Islander person.<sup>18</sup> However, Aboriginal and Torres Strait Islander women are impacted by family violence at vastly disproportionate rates.

## Family Violence and Child Removal

In Victoria, Aboriginal and Torres Strait Islander children are now 20 times more likely to be forcibly removed from their families into out-of-home care compared to other children.<sup>19</sup> Research also shows that 88% of Aboriginal and Torres Strait Islander children in out-of-home care in Victoria have experienced family violence.<sup>20</sup> Men's violence against Aboriginal and Torres Strait Islander women is the number one driver, along with alcohol and drug abuse, of the disproportionate and escalating rates of Aboriginal and Torres Strait Islander child removal in Victoria.<sup>21</sup>

To reduce the disproportionate and escalating rates of family-violence driven child removal, there is a desperate need for greater front-end support for Aboriginal and Torres Strait Islander mothers. The earlier that mothers are linked in with a specialist Aboriginal and Torres Strait Islander community controlled organisation with family violence expertise, the better the outcomes are for her and her children. Early referral to specialist, culturally safe and preventative legal and non-legal support from an Aboriginal and Torres Strait Islander community controlled organisation with family violence expertise, such as Djirra, is an essential step to support Aboriginal mothers to take proactive action and engage early with culturally safe

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<sup>16</sup> Commission for Children and Young People, Annual Report: 2016–17 (Report, 2017) 5; Australian Government Productivity Commission, Report on Government Services 2017 (Final Report, 2017) vol F, table 16A. 17.

<sup>17</sup> Biddle, N. (2013). CAEPR Indigenous Population Project 2011 Census Papers: Indigenous and Non-Indigenous Marriage Partnerships. Canberra, Australia: Australian National University

<sup>18</sup> 78% nationally and 92% in major cities: Australian Bureau of Statistics, Census of Population and Housing: Understanding the Increase in Aboriginal and Torres Strait Islander Counts, 2016 (Catalogue No 2077.0, 17 October 2018).

<sup>19</sup> Australian Institute of Health and Welfare, Child Protection Australia: 2017–18 (Report, 2019) 53.

<sup>20</sup> Ibid.

<sup>21</sup> Commission for Children and Young People, Always Was, Always Will Be Koori Children: Systemic Inquiry into Services Provided to Aboriginal Children and Young People in Out-of- Home Care in Victoria (Report, 2016) 47.

and specialist supports to address interrelated mental health, family violence and child protection concerns.

Djirra's frontline experience indicates that many Aboriginal families, particularly mothers experiencing or at risk of family violence, do not recognise child protection intervention as a legal issue until it is 'too late'. Indeed, Djirra routinely hears of clients being implicitly or explicitly discouraged from seeking legal advice by child protection workers.

## A Child Protection Notification and Referral Scheme

To avoid or minimise the escalation of child protection matters and keep Aboriginal and Torres Strait Islander children in Victoria safe and strong in their families, communities and culture, an Aboriginal and Torres Strait Islander and Child Protection Notification and Referral Scheme (similar to the existing Custody Notification Service) should be established.

This would require child protection workers to provide warm referrals to Djirra or another Aboriginal and Torres Strait Islander community controlled organisation with relevant expertise for all Aboriginal and Torres Strait Islander parents and carers in contact with the child protection system to independent, culturally safe, specialist and preventative legal advice and ongoing culturally safe wraparound support at the earliest possible opportunity, especially where family violence is a factor in potential child removal. The referrals should be made at the earliest possible stage, as soon as the family comes to the attention of the child protection system.

Many Aboriginal and Torres Strait Islander mothers have a realistic fear that disclosing and seeking help for family violence will lead to their children being forcibly taken from their care. Through Djirra's on the ground work with Aboriginal and Torres Strait Islander women and their children, we see the way family violence is treated in the child protection system every day. The following story illustrates some of the key issues:

"A woman comes to us for support because child protection has become involved. She has experienced horrific violence from her partner, which greatly affected her mental health. She forgets to come to appointments, she started drinking around the kids. A report made to child protection about her behaviour. They take her kids away because of family violence and mental health concerns, essentially blaming her for the trauma she has experienced. She goes on a downward spiral, making it even less likely she'll be able to get her kids back. Did anyone ask along the way what happened to her beforehand to get to the point where she was so mentally unwell? Is it transgenerational trauma? Is it the family violence she has experienced? If we treat the mental health side of things, if we understand trauma, things could get better. Along the way she's had five, six, maybe even seven workers that she has to try to manage and keep hold of. No leading worker. She is the one who has to remember appointments, get to things on time. She's supposed to keep up with this while dealing with mental illness, trauma, family violence. And they're wondering why she's missing appointments or turning up late! And then they're blaming her for that as well."

~ Aboriginal staff member, Legal Team, Djirra, 17 June 2019

**Recommendations:**

- That a national Aboriginal and Torres Strait Islander child protection notification and referral system be established. The system would provide a nationally consistent mandatory notification and referral system (akin to the Custody Notification System) to refer Aboriginal and Torres Strait Islander families in contact with the child protection system to culturally appropriate supports and services, including independent legal advice, at the earliest possible opportunity. Note: An effective referral system relies on the availability of resourced, quality and culturally appropriate services to refer families to, and cannot be successful independent of other recommendations, particularly our recommendations under TOR c (above).
- Establish directives that require the Department of Health and Human Services to refer all Aboriginal women in contact with child protection to Dilly Bag and to provide relevant support to enable Aboriginal mothers to attend Dilly Bag.
- Recommend that the Department of Health and Human Services pays for ongoing therapy for all family members, not just the children, who are involved in the Child Protection system, especially Aboriginal and Torres Strait Islander mothers experiencing family violence.

## Family Violence and Imprisonment of Aboriginal and Torres Strait Islander Women

While advocating for the end of imprisonment for all Aboriginal and Torres Strait Islander women, the early intervention and prevention work Djirra currently does in the prison makes a vital difference to the lives of Aboriginal women behind bars struggling with mental health. Djirra provides wraparound culturally safe legal and non-legal support for Aboriginal women in Dame Phyllis Frost Centre and Tarrengower prisons as well as providing access to trauma informed and culturally safe counselling for Aboriginal women in the prison. Every year, for the past three years, Djirra has provided: two Dilly Bag workshops at Dame Phyllis Frost Centre; two Dilly Bag workshops for women on Community Corrections Orders; and three Sisters Day In workshops at Dame Phyllis Frost Centre per year. In 2019 Djirra provided a “Sisters Day In” workshop at Tarrengower Prison. Djirra’s funding for this critical work has been renewed for the next three years however, the impact of COVID 19 restrictions may well place this program at risk. Djirra’s work in the prison supports Aboriginal women to walk away from violence and attend to their mental, physical and spiritual wellbeing, as well as their relationships and cultural responsibilities as Aboriginal women in the community.

**Recommendation:**

Djirra needs ongoing, secure, long-term, increased funding to continue the early intervention and prevention programs we deliver in the prison.

## Sexual Assault

Anecdotal evidence from Djirra lawyers suggests that the family violence many clients have experienced has included sexual assault. However, sexual assault is rarely talked about and often isn't disclosed until after we have worked with the client for some time and have gained trust.

Further, through Djirra's Early Intervention and Prevention Programs Djirra support workers receive disclosures of sexual violence from Aboriginal and Torres Strait Islander Women who attend. Disclosures may be of recent or historic harm, and sometimes it is the first time a woman has disclosed. We believe that these disclosures are a result of our creating a culturally safe and supported space for women to be.

There is a need for a specialist, culturally safe Aboriginal Sexual Assault Legal Service. It is envisaged such a service would provide discrete culturally safe assistance to Aboriginal and Torres Strait Islander women who have been harmed by their intimate partners. The service should be holistic, culturally safe, discrete and non-judgmental in order to properly address the needs of women.

### **Recommendations:**

- There should be specialist, culturally safe Aboriginal sexual assault legal service.
- Continued funding for ACCOs to provide culturally safe and trauma informed support to Aboriginal and Torres Strait Islander people seeking redress through the National Redress Scheme for people who have experienced institutional child sexual abuse.

## Preventing Misidentification and Criminalisation of Aboriginal and Torres Strait Islander Women

Women are predominantly victims of family violence, however, Aboriginal women experience high rates of misidentification by police as the primary aggressor/perpetrator in family violence. On such example was a situation where an Aboriginal woman threw a cup at her abuser was identified by police as 'reciprocal' violence and she was described 'just as bad' as the alleged perpetrator who had subjected her to ongoing physical violence.

Police misidentification of victims as the primary aggressor/perpetrator in family violence incidents can heavily influence outcomes in other legal proceedings, such as Child Protection, Family Law and VOCAT. Intervention Order cross-applications can also lead to the misidentification of Aboriginal women as perpetrators, and can be an extension of abuse.

Our lawyers and paralegals observe that misidentification is common, but by its nature it is very difficult to accurately assess just how common it is and research on this is limited. Data analysis by Women's Legal Service Victoria found that 1 in 8 of police applications for IVOs misidentified

the primary aggressor.<sup>22</sup> The rate of misidentification for Aboriginal and Torres Strait Islander women is likely to be higher given the disproportionate impact of racist and/or victim blaming attitudes and poor police practices.

Djirra currently receives very few referrals from police despite disproportionate rates of family violence experienced by Aboriginal and Torres Strait Islander women. Early referral to specialist, culturally safe legal support is vital to ensure access to justice. If legal problems are not quickly identified and resolved they can escalate and multiply, ballooning into more significant issues, including homelessness, trauma, child removal, alcohol and drug problems, criminal behaviour and imprisonment. Police must be educated to always refer Aboriginal and Torres Strait Islander people to ACCOs for timely legal advice, in circumstances when they have been identified by police as either victim or perpetrator.

### **Recommendations:**

- Police need to have a better understanding of the dynamics of family violence. Where women are using violence, the context of the violence needs to be unpacked with caution and consideration and not taken at face value. This includes taking into account:
  - Men who use violence can 'game the system' e.g. by contacting police first.
  - Victims of family violence may be traumatised and fearful and therefore unable to communicate clearly what has happened.
  - Victims may have used violence in self-defence or to protect children.
  - Victims may use violence as an act of dignity (e.g. to assert her agency after long periods of being subjected to violence).
  - Impact of police officers' personal biases.
  - The type and severity of violence used by predominant aggressors compared to predominant victims (i.e. men's violence is more likely to occur as a pattern of power and control, intended to cause fear, more likely to cause injury).
  - Look beyond individual incidents at context/pattern/history of family violence.
- Police must receive training to refer Aboriginal and Torres Strait Islander people to appropriate ACCOs (including Djirra) for early legal advice, when they are identified as either the victim or perpetrator.

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<sup>22</sup> Women's Legal Service Victoria – July 2018, Available at:  
<https://www.womenslegal.org.au/files/file/WLSV%20Policy%20Brief%201%20MisID%20July%202018.pdf>

## Call to establish a national taskforce to investigate the deaths of Aboriginal and Torres Strait Islander women in contact with the justice system

In Australia, Aboriginal and Torres Strait Islander people's lives are still being threatened and taken by police and in prison, while Australia continues to turn a blind eye to the loss of Black Lives. Aboriginal women experience disproportionate levels of criminalisation and are the fastest growing prison population, imprisoned at 21 times the rate of other women in Australia. 80% of Aboriginal women in prison are mothers. 70-90% are victims/survivors of family violence. Djirra is calling for a national taskforce to be established to investigate and report on the causes of death of Aboriginal and Torres Strait Islander women and girls in contact with the justice system, including the role played by experiences of family violence. The taskforce should include Aboriginal and Torres Strait Islander women and should be tasked with making comprehensive recommendations for systemic change. This call was made by the National FVPLS Forum via the Redfern Statement 3 years ago and we are still waiting to be heard.

### **Recommendation:**

1. Establish a national taskforce to investigate the deaths of Aboriginal and Torres Strait Islander women in contact with the justice system.

## Self determination: We have the solutions

Aboriginal and Torres Strait Islander women often bear the disproportionate impacts of socio-economic disadvantage, family violence and the removal of children, and remain the most legally disadvantaged group in Australia. Aboriginal women have the solutions and must be resourced to come together to identify priority issues for change.

Three years ago the National FVPLS Forum via the Redfern Statement called for the establishment of an Annual National Aboriginal and Torres Strait Islander Women's Gathering, funded by the Prime Minister and Minister for Indigenous Affairs. We are tired of recommendations from reports and royal commissions not being implemented. They are sitting on shelves gathering dust – this is about our lives.

### **Recommendation:**

1. Establish an Annual National Aboriginal and Torres Strait Islander Women's Gathering, funded by the Prime Minister and Minister for Indigenous Affairs.

TOR i) 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.

## How has Djirra responded to COVID-19?

In Victoria, there are rapid changes around the restrictions within which we can operate, and we are reviewing our continuity and recovery plans accordingly. During these challenging times, we are proud to say that Djirra's staff across the state have risen to this challenge and have continued to provide the necessary services for our women to ensure their safety during this difficult time. Despite the many challenges that the past six months have presented, Djirra's priority has remained unchanged – the safety of our women and children.

During this tough time, our teams have been responsive and innovative in creating diverse ways to keep us connected and visible to Aboriginal women. Along with requests for emergency food and accommodation relief, seeking cultural connection remains one of the main issues why our women are contacting us. Cultural connection has been identified as a protective factor against family violence and supports mental health. It was therefore crucial to find ways to continue to build resilience and connection through Djirra's cultural programs – even in the face of a pandemic. **We are myth busting the idea that Aboriginal women cannot or will not connect via technology.**

### Online programs:

A number of Djirra's programs have moved online in response to COVID-19 restrictions, including our Koori Women's Place Programs. Whilst our programs are being delivered in a different way, they remain rich in culture, trauma informed and they continue to promote the important work of Djirra, its services and programs.

The Koori Women's Place is offering a comprehensive and ever changing program of online workshops from damper making to basket weaving and everything in between. We utilise digital technology to reach out to women needing practical support, always with safety uppermost in our design and delivery. Daily our Aboriginal staff pick up the phone just to check in with our sisters. Our counselling service has been changed to telephone counselling and is now heavily booked.

*"It is a very different way of working for us, normally we help women while they are in front of us, on the spot need, what we can get done while they are in KWP"*

**Recommendation:**

- Brokerage funding to enable us to provide access to phones and data for Aboriginal women, so that they can connect with vital supports including family violence supports and counselling offered through Djirra.

## Changing Client Needs During COVID-19

Our delivery of face to face services in most respects ceased to operate from mid-March 2020 and since then staff and hence services are operating from home using technology. This has had a dramatic impact for those women who have relied on the Koori Women's Place for material aid and cultural connections while they are attempting to manage family violence in their lives.

When the COVID-19 restrictions came into operation, we modified our data recording, monitoring and analysis to keep a close eye on the impact of COVID-19 and related restrictions on the lives of our women and their access to our services. We changed the way we work to adapt to the changes in our women's lives.

- **Increase in Family Violence**

We have seen that 1 in 5 clients who have opened a new legal matter at Djirra are experiencing family violence that has been triggered or made worse by COVID-19. The triggering and worsening of the violence reported by our women takes many shapes: perpetrators who have lost their jobs due to COVID-19 have intensified the violence, with isolation our women are stuck at home with their abuser and there is a lack of access to family and friend support, and so on.

After seeing a drop in the number of calls to our Legal services in March and April, levels have resumed to pre-COVID-19 demand. It is expected that we will see an even greater increase in the number of our women requiring Djirra's assistance as restrictions ease.

- **Increase in need for material support**

Many of our women are struggling financially. This hardship is exacerbated by the fact that many other support services that could previously assist with food security are now not available. We sought funding to provide electronic Coles vouchers to families in need but it should be noted that this is in designated Local Government Areas and the inequities of this is challenging for our workers.

- **Increase in need for counselling**

Mental health support was an issue that was identified very early during the COVID-19 pandemic. In the very first stage of our withdrawal of face-to-face services, we made 136 phone calls to Aboriginal women who we identified as potentially vulnerable. Following this contact we made 35 referrals to our psychotherapist for counselling. In June we ramped up our culturally safe phone counselling service with additional days; by July we have reached capacity and are operating a waiting list, such is the demand. Our teams



are proactively contacting our women on a daily basis to have a yarn, assess how they are going and to offer support.

## Barriers to Aboriginal and Torres Strait Islander women attending court during COVID-19

In Victoria, in spite of COVID-19 stage 3 restrictions, the courts are not making interim intervention orders unless the applicant and their lawyer appear in person. For other types of hearings there is inconsistency between the courts as to whether a person and their legal representative will be allowed to appear by video. Aboriginal and Torres Strait Islander women face unique barriers to attending court during COVID-19, and are therefore often unable to seek family violence protection orders essential for their safety. Aboriginal and Torres Strait Islander women are unable to attend court in person during COVID-19 due to particular health vulnerabilities, intergenerational living, single parenting responsibilities, and a fear of punitive action by Child Protection services as a result of exposure or potential exposure to the virus.

Going forward, court appearance by Videolink is appropriate for Intervention Orders, and should be continued. Video conferencing is successfully being used in family law and Magistrates Court matters during COVID-19, and is now a proven method of allowing people to participate fully in court proceedings.

Video conferencing should be extended to provide an additional safety measure for applicants, being the introduction of non-place based applications. Where an applicant may have fled violence to a different part of the state, currently they are required to apply for an intervention order in their new location. This immediately notifies the perpetrator as the courts details are on the served documents. Further, the perpetrator is required to *attend* court in that location, giving explicit approval for a perpetrator to travel to the location of the victim survivor. In situations of ongoing risk, and where the Applicant's location should not be disclosed, it is proposed that applicants should be entitled to make a general non placed-based application which does not list a specific court. Then, upon hearing the matter applicants should be permitted to attend court via video link. In this scenario a Magistrate can be linked in via video conferencing from anywhere in the state. The Family Court now provides a safe option, allowing the applicant to appear by video from anywhere in the country before a family court judge. This solution helps to ensure ongoing safety.

### Recommendations:

- Court Appearance by Videolink is appropriate for Intervention Orders at all stages, and is essential for Aboriginal applicants during COVID-19.
- Provide funding for access to appropriate technology for Aboriginal women needing to utilise video conferencing for court purposes.

- Provide brokerage funding to enable us to provide access to phones and data for Aboriginal women, so that they can connect with vital supports including family violence supports and counselling offered through Djirra.
- Establish non-place based intervention order applications to ensure safety of women in experiencing high risk family violence.