

PATHWAYS TO SAFETY

The case for a dedicated First Nations
Women's National Safety Plan -
written *by* Aboriginal and Torres Strait
Islander women, *for* Aboriginal and
Torres Strait Islander women.



**CHANGE
THE RECORD**

Smarter Justice. Safer Communities.

About Us

Change the Record is Australia's only national Aboriginal led justice coalition of Aboriginal peak bodies and non-Indigenous allies. We work to end the incarceration of, and family violence against, Aboriginal and Torres Strait Islander people. Everything we do is strength-based, culturally focused and grounded in Aboriginal and Torres Strait Islander self-determination and rights.

The National Family Violence Prevention and Legal Services Forum is the peak body for fourteen Family Violence Prevention Legal Service (FVPLS) member organisations across Australia that provide holistic, specialist, culturally safe legal and non-legal supports to Aboriginal and Torres Strait Islander people experiencing or at risk of family violence – predominantly women and their children.

This report is heavily informed by the work and submissions of Family Violence Prevention Legal Services, and we thank and celebrate them.

We draw substantially on the landmark whole-of-life Wiyi Yani U Thangani (Women's Voices): Securing our Rights, Securing our Future Report led by Social Justice Commissioner June Oscar AO, and research from Australia's National Research Organisation for Women's Safety, ANROWS.



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Executive Summary

A self-determined National Women's Safety Plan

For 233 years, Aboriginal and Torres Strait Islander women have endured and resisted colonisation, dispossession, exploitation and systemic cultural, spiritual, physical, sexual and emotional violence. The effects of historic and ongoing colonisation, racism, displacement from Country, intergenerational trauma, criminalisation, economic exploitation and fracturing of families through child removal reverberate through communities.

Successive governments' failures to address and redress these injustices sees us experience violence at starkly disproportionate rates. Nationally, Aboriginal and Torres Strait Islander women are 32 times more likely to be hospitalised due to family violence than non-First Nations women, 10 times more likely to die due to assault, and 45 times more likely to experience violence. [1] This is a national crisis which demands a self-determined, community-led response by and for Aboriginal and Torres Strait Islander women.

In September 2021 the Australian government hosted the Women's Safety Summit, with a goal of establishing a new National Plan to End Violence Against Women and their Children. Previous National Plans have not centred our voices and needs and the needs of our children. They have failed to reduce family violence against Aboriginal and Torres Strait Islander women. It's long been clear that top-down, government responses to family violence make things worse, not better, for First Nations women, children and communities.

Aboriginal and Torres Strait Islander women know the causes of and solutions to the challenges we and our sisters, brothers, children and communities face. After dedicated advocacy by Aboriginal and Torres Strait Islander women and Family Violence Prevention Legal Services (FVPLS), the Australian government agreed to a key demand – a dedicated National Plan for Aboriginal and Torres Strait Islander women and children. [2]

In this report Change the Record and the National Family Violence Prevention Legal Services Forum (the Forum) expand on our call [3] for a genuinely self-determined National Plan to implement community-led responses to violence against Aboriginal and Torres Strait Islander women and children. We call on the Australian government to respect and follow the expertise and leadership of First Nations women and communities and guarantee the resources and decision-making power required to end violence against Aboriginal and Torres Strait Islander women and children.

Aboriginal and Torres Strait Islander women's experiences of violence and the barriers we face in accessing support are the products of intersecting systemic government failures. In this report we discuss how the responses of colonial, mainstream institutions to violence and disadvantage in our communities are failing, endangering and retraumatising First Nations women and children.

We consider the inappropriateness of police as the first point of contact for Aboriginal and Torres Strait Islander women experiencing violence, and examine barriers to reporting such as distrust of the state, lack of cultural competence and safety in mainstream services, fear of child removal, and fear of social and cultural isolation and economic precarity. We look at links between family violence and the disproportionate incarceration of Aboriginal and Torres Strait Islander women, and call for investment in support and services for incarcerated women.

We call for greater investment in community-based solutions that have been shown to work time and time again, and we call for secure and adequate resourcing for community-controlled services that have expertise, knowledge, cultural legitimacy and the trust of communities. We explore the work of FVPLS, which include safety interventions that do not rely on police, and culturally-safe prevention, early intervention and men's behaviour change programs.

We also call for systemic, whole-of-community reforms to keep women safe. Financial insecurity and inadequate housing create cycles of disadvantage, trapping women and children in unsafe situations. The highly conditional and discriminatory social security system drives our families into poverty. Governments have failed to live up to their responsibilities to deliver our people access to a liveable social security safety net, safe and appropriate housing, access to healthcare and culturally appropriate services, and supports for people with disability to live safely and with dignity. The National Safety Plan must include commitments to genuinely nurturing and just social policy aimed at ensuring everyone's social and economic rights are upheld.

Progressing a dedicated, self-determined National Safety Plan for Aboriginal and Torres Strait Islander women is an opportunity for governments to make good on their declarations of support for ending the disproportionate impact of family violence on First Nations communities. With Aboriginal and Torres Strait Islander women in the driver's seat, we will make sure First Nations families, children and communities are strong in our culture and Country, safe and thriving.

Recommendations

1. At all stages in developing the National Safety Plan and policy responses that affect First Nations women and children, prioritise the leadership, expertise and solutions of Aboriginal and Torres Strait Islander women and community-controlled services and organisations.
2. Increase investment in early intervention and prevention and ensure First Nations women have equal access to support whether they live in the city, towns or bush.
3. Increase investment into Family Violence Prevention and Legal Services to match demand and geographical spread, and fund our peak body the National Family Violence Prevention and Legal Services Forum.
4. Expand victim-survivor choice and control through expanded pathways for support and accountability beyond police and criminal courts, including referral to FVPLSs.
5. End the criminalisation of and over-incarceration of Aboriginal and Torres Strait Islander women, including by implementing the recommendations of Change the Record and the Human Rights Law Centre's 'Over-represented and Overlooked' report.
6. End the threat of child removals and establish a nationally consistent, mandatory Aboriginal and Torres Strait Islander child protection notification and referral system to keep families together.
7. Ensure better support for people with disability, including support to live on Country in safety and dignity.
8. Invest in culturally appropriate and community-controlled mental health and alcohol and drug treatment services.
9. Invest in evidence-based, culturally-tailored men's behaviour change programs that promote and enhance safety.
10. Resource Aboriginal community-controlled organisations to collect, own and analyse their own data to inform solutions to violence and disadvantage, and to evaluate what strategies and programs work for us.
11. Increase social security payments to ensure no one lives in poverty and remove barriers to access to payments, including partner and parental income and asset tests.
12. End welfare conditionality, including mutual obligations, compulsory income management and ParentsNext.
13. Implement economic development and poverty reduction strategies designed by Aboriginal and Torres Strait Islander people, and supported by governments, to increase employment opportunities in communities.
14. Increase funding and resourcing for community-controlled specialist homelessness services for Aboriginal and Torres Strait Islander women and children.
15. Invest in culturally appropriate, community-controlled, safe, long-term affordable housing options for women and families in cities, towns and the bush.

Introduction

Nothing about our mob, without our mob.

Recommendation: At all stages in developing the National Safety Plan and policy responses that affect First Nations women and children, prioritise the leadership, expertise and solutions of Aboriginal and Torres Strait Islander women and community-controlled services and organisations.

The drivers of violence against Aboriginal and Torres Strait Islander women require specific responses. Violence against Aboriginal and Torres Strait Islander women is perpetrated by both First Nations and non-First Nations men. Often, it “cannot be addressed as an isolated issue but needs to be understood in the whole context of all the other issues that community members are facing...such as intergenerational trauma and its many manifestations, and alcohol use.” [4] Additionally, the experience of family violence for Aboriginal and Torres Strait Islander women is also shaped by our experiences of “multiple, rather than singular, forms of domination, coercion, and conflict” [5] including the ongoing impacts of colonisation and dispossession. In this way both the drivers of violence and the impacts of family violence on Aboriginal and Torres Strait Islander women require specific solutions.

Aboriginal and Torres Strait Islander women and services know what these solutions are. In some communities we are already deploying them. In others, we lack the funding or resourcing to implement the strategies that we know work. ANROWS has documented some of the innovative strategies that First Nations women are using to tackle violence and keep us safe.[6] For example, the Kullarri Patrol in Broome is often used as an alternative to police and intervenes, deescalates and prevents family violence. In Fitzroy Crossing, our FVPLS is located within the Marninwarntikura Fitzroy Women’s Resource Centre. This is a multi-agency hub that brings together crisis support and accommodation with legal assistance, counselling and provides long term stability and casework for women. It also engages with men who want to address problems with alcohol.[7] The desire for the engagement of men in strategies for prevention, early intervention and responding to family violence is “a noticeable departure from the Western mainstream response [and] was the consistent call from women that our men need healing.” [8]

Case Study: *"The Uti Kulintjaku Watiku (UKW) Men's project is an Anangu-led initiative. It brings together a team of respected senior and younger Anangu men and non-Indigenous health professionals to focus on family violence prevention. The UKW project uses a trauma-informed approach to deliver and create innovative, place-based workshops and resources.*

The UKW project is grounded in a strong belief of Anangu culture and knowledge, and an ability to listen, understand and think clearly to find ways forward. It creates opportunity for a shared bi-cultural understanding of trauma, harmful behaviours, and healing from trauma...The UKW project sits alongside an increasing number of innovative community-led, holistic and trauma- informed programs within Aboriginal and Torres Strait Islander communities. Many such programs struggle to obtain sustainable funding, despite being aligned with current national strategies related to Indigenous family violence prevention.” [9]

Social Justice Commissioner June Oscar’s groundbreaking whole-of-life report Wiyi Yani U Thangani (Women’s Voices): Securing our Rights, Securing our Future documents the extensive calls from women and girls to be part of designing the solutions to violence in their communities. They call for safe houses, more affordable housing, men’s healing programs, activities and programs for children and young people, services to treat addictions and investment in FVPLS.

As it is in the broader community, family violence in Aboriginal and Torres Strait Islander communities is gendered. Our focus in this paper is on women’s experiences of family violence as the vast majority of victim-survivors within First Nations communities. While it’s outside the scope of this report, we are conscious of the need for better, tailored support for LGBTQIA+ peoples experiencing family violence and support calls for much better data collection on intersectional queer experiences of violence and disadvantage. We also recognise that men can be victim-survivors of family violence and their needs must not be overlooked. Our focus on Aboriginal and Torres Strait Islander women who experience violence at the hands of men is not intended to erase the experiences of other victim-survivors, but rather reflects our concern that the overwhelmingly gendered nature and impacts of family violence must be a central consideration in strategies and frameworks designed to address family violence in First Nations communities.

For a National Safety Plan to work for Aboriginal and Torres Strait Islander women, it must be self-determined, First Nations-led and driven by on-the-ground expertise and lived experience. Tragically, as rates of domestic violence escalate around the continent, the last 12-year National Action Plan has been a failure for all women, but particularly Aboriginal and Torres Strait Islander women. We need new strategies, adequate funding and an end to the policies that are harming First Nations women.

As the Wiyi Yani U Thangani report makes clear: [10]

“Women and girls have asserted that combating inequalities is fundamentally about self-determination in designing the policies and programs that respond and prevent these harms— harms which have their root causes in exclusion from the spaces of decision-making in the first instance.”

Data Sovereignty

Recommendation: Resource Aboriginal community-controlled organisations to collect, own and analyse their own data to inform solutions to violence and disadvantage, and evaluate what strategies and programs work for us.

Aboriginal and Torres Strait Islander data sovereignty is key to self-determination. We have the right to exercise authority over and govern the creation, collection, ownership and use of our data. We are best placed to define what success looks like for our communities and analyse and interpret data collected about our lived experience. It’s critical that the next National Plan recognises data sovereignty and shifts ownership of data from the Commonwealth to our community-controlled services and communities, and ensures we have the resources to do so.

Removing barriers to escaping violence

Expanding survivor choice beyond police and prison

Recommendation: Expand victim-survivor choice and control through expanded pathways for support and accountability beyond police and criminal courts, including referral to FVPLSs.

It is not safe for our women to call the police when they are in danger. Too often our cries for help are met with police hostility or dismissal. Worse, we're misidentified as the perpetrators of family violence and criminalised. We are terrorised with the threat of having our children removed. According to Co-Chair of Change the Record and the Forum Antoinette Braybrook, "We have seen a great investment from previous [government] plans go into putting more police into communities, and that's not the solution that's needed, because of the fear and the lack of trust of white authorities, the police." We need expanded pathways for support and accountability that extend beyond police and criminal courts, and are community-owned and community-driven.

The 2017 Change the Record and HRLC report 'Overlooked and Overrepresented' examines the increasing rate that Aboriginal and Torres Strait Islander women are policed and criminalised, instead of supported in the community. It notes, "while Aboriginal and Torres Strait Islander women are over-policed as perpetrators of crime, they are also under-policed and under-served by the justice system as victim-survivors of crime, including by police responses that minimise their experiences of violence." This is certainly the experience of frontline family violence prevention and legal services, who reported the following case study:

Case study: *"Ms X, sought support from one of our member organisations after she was kicked in the face by her ex-partner resulting in the loss of two teeth. Immediately following the incident, she flagged down a passing police car and reported the assault. The police officer quickly scanned the area. After failing to locate the offender, the police officer accused Ms X of being drunk, of falling over and knocking her own teeth out and of lying to police. He refused to take her statement.*

When Ms X attended the FVPLS service the following morning, they assisted her to attend the police station to make her statement. In front of general public in the reception, the same police officer from the night before stated that he remembered Ms X, called her a liar and refused to take her statement. The FVPLS service then complained to the Head of the Domestic Violence Unit who agreed to take Ms X's statement. When police finally questioned the offender about the assault, he made a full confession."

Police in/action is not only frequently ineffective, it can also be fatal. Devastatingly, a 2017 review of domestic and family violence related deaths in Queensland found that almost half of the women killed subject to the review had been identified as a respondent to a DFV protection order on at least one occasion. In the case of Aboriginal and Torres Strait Islander women, that number rose to almost 100% of deceased women recorded as “both respondent and aggrieved prior to their death.” These statistics highlight the dual failure of the criminal legal system’s response to Aboriginal and Torres Strait Islander women: it criminalises women who seek its safety, and it fails to protect even those it recognises as at risk of harm.

Victim-survivors of family violence need more, and better, options than the narrow reliance on the criminal legal system which has resoundingly failed us. These pathways must exist along the whole continuum of intervention-need - from education, early intervention and prevention through to Aboriginal-owned safe houses and homelessness crisis accommodation and services, through to kinship placements for children at risk and community-driven men’s accountability and behaviour-change programs. ANROWS research into the solutions put forward by Aboriginal and Torres Strait Islander women found their innovations to be diverse and holistic, including services which “alongside offering refuge and legal services, some family violence services in remote areas have developed a range of programs depending on local need. Innovations such as women’s night patrols, local law and justice groups, station programs for petrol sniffers, and healing camps show the ingenuity of Indigenous women.”

Solutions that are already being deployed in the community range from crisis intervention and prevention services right through to health, counselling and healing programs. On the crisis end, services such as night patrols often operate in lieu of, or in conjunction with, police, but instead of arresting and detaining they deescalate, diffuse and can take women to safe houses or alternative accommodation. However they are not given the resourcing they need to provide the services the police currently - and in our view, inadequately - provide. As one officer in Broome reportedly said, “They often sort things out without us having to intervene and arrest people or give out notices... Patrols need to be bolted on to the criminal justice system and funded like we are, not surviving on scraps.”

However, while the focus of political interventions and discourse is often focused on the crisis-intervention end of the spectrum; front line family violence and legal services have been clear that what is required to stem the tide of violence is holistic support and healing - for both men and women - that address colonial violence and its ongoing ramifications as well as requiring individual accountability and change. We will see further examples of these healing responses to systemic injustices in the later section on community solutions to family violence.

Stop criminalising First Nations women

We belong in our communities, with our children, on Country

Recommendation: End the criminalisation of and over-incarceration of Aboriginal and Torres Strait Islander women, including by implementing the recommendations of Change the Record and the Human Rights Law Centre's 'Over-represented and Overlooked' report.

Rates of family violence experienced by Aboriginal and Torres Strait Islander women have been persistently and disproportionately high - but relatively stable - since the 1990s.[18] What has increased dramatically, however, is the number of Aboriginal and Torres Strait Islander women who are being incarcerated - the majority of whom have experienced family violence themselves. This is due to a range of factors including harsher bail laws which disproportionately affect Aboriginal and Torres Strait Islander women who are incarcerated for minor offences, misidentification and increased police presence in remote and regional communities. The effect of these interventions is less safety for women, not more. Women, particularly Aboriginal and Torres Strait Islander women, are separated from their children, denied basic health care and subject to routine violence in police and prison cells. As Braybrook points out, "the over-representation of First Nations women in prison is both a cause and a consequence of family violence." [19]

In a number of jurisdictions there are government laws and policies which disproportionately criminalise Aboriginal and Torres Strait Islander women, despite their purported intention to reduce family violence. Bail laws in Victoria are a key example. In 2018, the Andrews Government introduced harsh bail laws with the intention of targeting violent men released on bail. Instead, they have disproportionately impacted Aboriginal and Torres Strait Islander women - resulting in First Nations women committing minor offences being incarcerated and held on remand.[20] Victorian Corrections data shows that since these bail laws were introduced, over half of all women in Victorian prisons are unsentenced.[21]

We have seen similar trends in other states such as Western Australia where there has been an "especially sharp and alarming" 150% growth in Aboriginal and Torres Strait Islander women being held on remand from 2009 to 2016. [22] As well as failing in their purported purpose to protect women, punitive bail laws such as these are part of the suite of law and order reforms that have resulted in somewhere between "70-90 per cent of Aboriginal and Torres Strait Islander women in prison [being women who] have experienced family violence, sexual abuse and trauma." [23]

It is well documented that Aboriginal and Torres Strait Islander women face discrimination at every stage of the criminal legal system. As the Human Rights Law Centre state in their submission to Wiyi Yani U Thangani, "Aboriginal and Torres Strait Islander women are generally forced into the legal system at an earlier age, are less likely to be granted bail, are more likely to be remanded in custody, are more likely to serve shorter sentences and are almost twice as likely to return to prison after release when compared to non-Indigenous women." [24]

Aboriginal and Torres Strait Islander women frequently live in communities which are overpoliced, therefore increasing police contact, charges and convictions for behaviour which would largely go unpoliced in other communities. Over-policing also leads to more contact with police which, on a backdrop of ongoing and historical colonial discrimination, can lead to escalating interactions with police, use of force, and more charges being laid. [25]

This high level of overrepresentation is also driven by discriminatory over-policing within urban, rural and regional communities; and specifically the increased presence in rural and remote areas driven by government policies to address family violence. As Blagg and Anthony report, "the increased police presence on remote Indigenous communities, particularly in the Northern Territory, has had the unintended consequence of widening the carceral net through the criminalisation of Indigenous "on-Country" driving once considered to be outside the scope of mainstream law...More intensive policing of driving-related offending, for example, has contributed to the increased incarceration of Indigenous women in the Northern Territory." [26]

The criminalisation of women for minor offending is, in effect, frequently the criminalisation of their status as victim-survivors of family violence. Family violence drives and entrenches poverty, homelessness, addiction and trauma - all of which lead to behaviours which are targeted criminalised by police and the criminal legal system. One stark and tragic example of the consequences of this system response is the case of 22 year old Yamatji woman Ms Dhu.

Case study: *"Ms Dhu was taken into police custody for non-payment of fines amounting to \$3,662.34. She had no realistic means of paying the fines. Despite repeatedly asking for medical help while in police custody, she was treated in an inhuman way and ultimately died of an infection flowing from a fractured rib — a family violence injury."* [27]

While imprisonment as a result of the non-payment of fines has since been abolished in Western Australia, the criminalisation of other minor offending has not.

Finally, racial stereotypes, discriminatory policing and a lack of cultural safety within mainstream institutions frequently results in the misidentification of Aboriginal and Torres Strait Islander women as the perpetrators of family violence, when they are in fact victim-survivors. Alarming but perhaps unsurprisingly, this not only contributes to the imprisonment of First Nations women, but also our preventable deaths.

The Queensland Domestic Violence Death Review and Advisory Board reported that in nearly all domestic and family violence related deaths of Aboriginal people, the deceased was recorded as both a respondent and as the victim prior to the death. [28] In almost half of all cases of women who died, the woman was identified as a respondent to a domestic and family violence on at least one occasion. FVPLSs report that the problem of misidentification is prevalent across state and territory jurisdictions, and poses a substantial barrier to Aboriginal and Torres Strait Islander women seeking safety.

ANROWS conducted research into the misidentification of Aboriginal and Torres Strait Islander women as perpetrators following the Queensland Domestic Violence Death Review findings were published. It identified both “practical and systemic barriers” that lead to police misidentifying, and therefore failing to provide a pathway to safety to, the victim of family violence. [29] ANROWS found that Aboriginal and Torres Strait Islander women were particularly at risk of encountering these barriers as we “very often do not fit the ideal victim stereotype,” were more likely than other women to engage in self-defence and often did not cooperate with police due to colonial, and ongoing, fraught relationships between First Nations peoples and police. These factors mean we are “named on DVOs, charged with contraventions of DVOs and significantly more likely than non-Indigenous people to receive a sentence of imprisonment for a contravention of a DVO, compared to non-Indigenous people ... [Aboriginal and Torres Strait Islander] women are particularly over-represented in this system.” [30]

The consequences of misidentification are far reaching. They can result in the separation of mothers from their children, homelessness, criminalisation and - most critically - the unabated danger posed to the woman experiencing family violence.

Change the Record and the Human Rights Law Centre’s 2017 ‘Over-represented and Overlooked’ report discusses these and other issues relating to criminalisation and over-incarceration of Aboriginal and Torres Strait Islander women in detail, and contains 18 recommendations aimed at reducing incarceration of First Nations women.

These recommendations should be implemented as a matter of priority.

End the threat of child removal

Don't make us choose between our safety and our children

Recommendation: End the threat of child removals and establish a nationally consistent, mandatory Aboriginal and Torres Strait Islander child protection notification and referral system to keep families together.

"Family violence is the single biggest driver of Aboriginal child removal, with 88% of Aboriginal children in care having experienced family violence. We need to see a transformation in how the system supports Aboriginal mothers experiencing family violence as a fundamental starting point in intervening earlier to keep our children safe in their family's care ... We need a system that understands both mum and children are victims of family violence—kids aren't collateral damage to violence against mum; and mums aren't to blame for the violence they endure. " [31]

Antoinette Braybrook
CEO Djirra, Co-Chair of the Forum and Change the Record

On paper, the federal government, and all states and territories, have committed to fully implementing the Aboriginal and Torres Strait Islander Child Placement Principle, and ensuring its five domains (prevention, partnership, placement, participation and connection) are integrated into child protection systems. However, the appalling and worsening rates at which Aboriginal and Torres Strait Islander children are being removed from their families, communities, culture and Country show jurisdictions aren't living up to their commitment.

Source: 2020 Family Matters Report

- 37% of children in out-of-home care are First Nations children, while making up just 6% of children in the population
- First Nations children are 9.7 times more likely to be in OOHC than non-First Nations children
- Just 43% of First Nations children in OOHC are living with First Nations carers. This is down from 53% in 2013
- 95% of First Nations children adopted from OOHC were adopted by non-First Nations carers. [32]

The over-representation of Aboriginal and Torres Strait Islander children in out-of-home care and in contact with Australian child protection systems can't be separated from the history of forced removal of First Nations children by governments on this continent.

Speaking through the Wiyi Yani U Thangani report, a grandmother tells us: [33]

"For the last 4 years I've been fighting for my 11 grandchildren and I just want to tell you about the way child safety came in and took our little kids. It just opened up old wounds of past. They just came in one day without any warning. They took them all in one fell swoop, those kids. They handcuffed my family. And they were sitting there on the ground screaming and crying for their families, handcuffed. And this young woman just threw a piece of paper at them and said 'here's your papers'. That was it. No more explanation, no care about how much trauma they were causing. This is another Stolen Generation. It is."

Statutory child protection authorities classify exposure to domestic & family violence as a notifiable factor of risk of significant harm, with mandatory reporting requirements on people working in child-related roles. Fear of child removal as a result of reporting family violence is a key contributor to Aboriginal and Torres Strait Islander women not approaching services for support. [34]

Child protection departments are a source of fear, insecurity, trauma and family breakdown in our communities. Young people leaving care experience higher rates of homelessness, family violence, incarceration and unemployment. The legacy and continuance of the Stolen Generations and over-representation of First Nations children and young people in the child protection system demands greater First Nations community oversight and accountability of statutory child protection systems. We know what's best for our children.

According to the Family Violence Prevention and Legal Services Forum: [35]

"In our frontline work we have found that one of the biggest deterrents preventing Aboriginal and Torres Strait Islander women from reporting family violence is the fear of child protection intervention and losing one's children. Family violence is a primary driver of the disproportionate and escalating rates of Aboriginal and Torres Strait Islander child removal. However, FVPLS clients frequently report being discouraged by child protection workers (either implicitly or overtly) from seeking legal advice. Additionally, FVPLS clients frequently experience inappropriately punitive responses from child protection workers which punish or blame Aboriginal and Torres Strait Islander women for the actions of those who perpetrate violence against them, instead of supporting women to safely maintain the care of their children in a home free from violence."

Case study: National FVPLS Forum submission to WYUT report [36]

The Aboriginal women we work with have a well-founded fear of Child Protection services. One of our member services was working with a mother of four children under the age of ten. She had recently left a violent relationship. Two of her children had significant disabilities. The mother reached out to the Department for assistance with either childcare or respite. The Department responded by removing her children and stating that she was 'failing to cope.'

A holistic approach to addressing key drivers of violence and removal of barriers to reporting is needed to end violence against First Nations women and children. Services must be properly resourced and empowered to provide culturally appropriate case planning support to children and families, provide carers with critical information and legal advice and assistance with referrals to support services, and ensure child protection systems meet their duty of care and act according to the Aboriginal and Torres Strait Islander Child Placement Principle through individual and systemic advocacy.

Governments need to make a genuine commitment to holistic prevention and early intervention and ensuring culturally competent and safe practices in services and statutory authorities. Families need to be able to access support before a crisis happens, and to ensure that children don't become lost in the out of home care system and removed from their culture, communities, families and networks of support. Crisis responses need to be tailored and culturally appropriate, with communities in charge of what happens to our children.

A nationally consistent, mandatory Aboriginal and Torres Strait Islander child protection notification and referral system to keep families together.

In addition to a genuine commitment to the Child Placement Principle and ending the disproportionate removal of Aboriginal and Torres Strait Islander children, Change the Record and the Forum call for governments to develop a nationally consistent system requiring child protection authorities in each jurisdiction to notify appropriate local First Nations community-controlled organisations about an Aboriginal and/or Torres Strait Islander child being removed from their carer.

This would include a similar system of notification and referral to Custody Notification Services, where police must make a notification to Aboriginal and Torres Strait Islander Legal Services that an Aboriginal and/or Torres Strait Islander person has been taken into custody. Statutory child protection authorities would be required to ensure children and families can access immediate specialist advice and support from First Nations services such as FVPLS and ATSILS.

Dismantle economic barriers to safety

so women are not forced to choose between violence, or poverty and homelessness.

Other significant barriers to victim-survivors of family violence accessing support are a lack of safe, appropriate and affordable housing, and systemic economic inequalities. Our social security system is characterised by inadequate payments, restrictive means testing, punitive conditionality and racist policies targeted at Aboriginal and Torres Strait Islander communities, creating barriers to financial security and safety. Disempowering 'economic development' policies have diminished self-determination and hindered community flourishing and economic participation.

The significant effect of these failures of governments and policy-makers are explored later in this report, where we also propose clear and needed policy reforms in housing, social security, and economic development policy to keep women and their children safe.

Our communities and our solutions

Recommendation: Increase investment into Family Violence Prevention Legal Services to match demand and geographical spread, and fund our peak body the National Family Violence Prevention and Legal Services Forum.

Family Violence Prevention Legal Services provide holistic, culturally safe specialist frontline legal assistance services, early intervention/prevention and community legal education to Aboriginal and Torres Strait Islander victim-survivors of family violence. Support is trauma-informed and designed to address the complex socio-economic issues underlying clients' legal issues and experiences of family violence.

FVPLSs also deliver essential Community Legal Education (CLE) and early intervention and prevention (EIP) programs. While the FVPLSs are not all gender exclusive, more than 95% of Aboriginal and Torres Strait Islander people accessing their services nationally are women and children. FVPLSs have been working with Aboriginal and Torres Strait Islander victim-survivors of family violence around the country for over twenty years. In May 2012 all 14 FVPLSs came together to establish the National FVPLS Forum. The Forum works in collaboration across its member services to increase access to justice for Aboriginal and Torres Strait Islander people experiencing or at risk of family violence, especially women and children.

In a submission to this paper, Aboriginal Family Legal Services WA details the culturally- and trauma-informed service delivery approach taken by FVPLSs.

Case study: Aboriginal Family Legal Service WA service delivery framework

'The AFLS model of providing culturally- and trauma-informed legal and non-legal services benefits clients by ensuring the demands of their culture are considered and can be addressed in their safety planning, in addition to addressing their legal and other needs.

AFLS' operational and service delivery frameworks... [are] informed by an understanding of the specific drivers of violence against Aboriginal women and children, and the broader social, cultural and political context in which violence occurs in Aboriginal communities. AFLS seeks to understand the ongoing impacts of colonisation, intergenerational trauma, socio-economic disadvantage and discrimination, and recognises that the experiences, culture and traditions of Aboriginal people vary across communities and language groups.' - AFLS, internal submission.

FVPLSs are expert organisations embedded in our communities. Cultural awareness and strength-based practices are at the heart of FVPLS service planning and delivery, and high priority is placed on collaboration with victim-survivors of family violence and communities in program design. In the words of one Forum member, “Aboriginal organisations like ours do a lot of work in community to build trust and confidence. Often the women who most need our services won’t walk straight through our door. We have to go out to our communities.” [37]

According to Djirra, an FVPLS based in Victoria, “... Without access to a trusted, culturally safe and specialist service such as Djirra, many Aboriginal women will not feel safe to disclose violence and access support.” [38]

Further, FVPLSs are models of self determination. Community controlled, they employ significant numbers of Aboriginal and Torres Strait Islander women, with specific expertise in family violence, and often with their own lived experience. They represent First Nations women empowering each other. However, despite the expertise, best practice holistic methods and community legitimacy enjoyed by FVPLSs, our services are under-resourced and undervalued by government decision-makers. FVPLSs aren’t resourced to provide national coverage and as a collective are only able to service an area covering half the Aboriginal and Torres Strait Islander population. [39] Much of the service coverage in the bush is limited, often consisting of only one or two days a month in remote areas.

In its submission to the Wiyi Yani U Thangani report, the Forum tells us “our FVPLS services are consistently working beyond their capacity. Existing resources are stretched, and there is considerable unmet need among Aboriginal and Torres Strait Islander communities, particularly for areas that are currently not serviced by FVPLSs. In 2016, some National FVPLS Forum members reported being forced to turn away approximately 30-40% of people seeking assistance due to under-resourcing.” [40]

Compounding the issue of under-resourcing, Commonwealth funding commitments at both service and program level are short-term, making long-term service planning difficult and creating an environment where programs are at perpetual risk of defunding regardless of how well their success is demonstrated or recognised in communities. When funding is uncertain, this doesn’t only mean important services are impacted, but potentially the employment of Aboriginal and Torres Strait Islander women themselves, which of course has ongoing impact for their livelihoods and families.

The Wiyi Yani U Thangani report calls explicitly for the Australian Government to increase funding and access to FVPLSs and Aboriginal Legal Services to keep women and children safe and families together. [41] Any National Safety Plan must include a commitment to increased and ongoing funding to FVPLSs, and restored funding for the National FVPLS Forum, to support our women and children to secure safety and perform systemic advocacy to ensure First Nations women's voices are heard.

Community-led early intervention and support

Recommendation: Increase investment in early intervention and prevention and ensure First Nations women have equal access to support whether they live in the city, towns or bush.

Recommendation: Invest in culturally appropriate and community-controlled mental health and alcohol and drug treatment services

Recommendation: Invest in evidence-based, culturally-tailored men's behaviour change programs that promote and enhance safety.

Despite what seems like universal agreement across communities, government and academia that early intervention and prevention services are essential in ending violence, government investment in services remains overwhelmingly focused on crisis responses. The effect of this crisis myopia is explored in the Wiyi Yani U Thangani Report. In Commissioner Oscar's words: [42]

"The women and girls I met during the Wiyi Yani U Thangani engagements talked frankly about the impact of living in a state of constant reaction to crisis, where each wave of trauma further impedes their communities' capacity to initiate and engage in proactive efforts to address the causes of crises before they develop. This creates a generalised state of vulnerability that can only be addressed at the community level through programs, activities and services which support women and their families before harm takes place."

A consistent call from participants in the Wiyi Yani U Thangani report, from FVPLSs and other First Nations community controlled organisations, and communities is for a refocusing from crisis responses to prevention, with a focus on self-determined, place-based, trauma-informed, holistic and restorative support and healing services.

Roebourne women said in consultations: [43] *"We don't necessarily need to be dependent on services to raise our kids, we just need services to support the process rather than, 'you have a problem, we need to fix you'. We don't need fixing, we need support, and we need services to not be discriminatory, not racist but to acknowledge that you just need support and stop writing about what is wrong with us."*

This deficit discourse means that Aboriginal and Torres Strait Islander people are constantly seen as a problem, without understanding the contexts and history that creates the issues, nor the fact that First Nations communities have the solutions.

The diversity of early intervention and prevention services and strategies employed by Family Violence Prevention Legal Services and other community-controlled services reflect the complexity of drivers of family violence and diversity of experiences of Aboriginal and Torres Strait Islander women and young people. With sufficient resources, this intersectional and targeted approach to early intervention and prevention can provide effective holistic, healing support to women and girls in community at all stages in their journeys toward safety and liberation, and build on individual and community resilience and strength.

The FVPLS model of service delivery: a continuum of care

The FVPLS model recognises that a combination of preventative early intervention strategies are all crucial parts of the continuum of services required to address and reduce family violence against Aboriginal and Torres Strait Islander women and children. These strategies include innovative and engaging community programs and cultural and wellbeing workshops. These programs also address and shift the particular social norms that lead to family violence in Aboriginal and Torres Strait Islander communities.

In addition to legal assistance and casework, Aboriginal and Torres Strait Islander legal services such as FVPLSs undertake important early intervention and prevention, such as women's support groups and community safety services, counselling services, support for children in family violence situations; and programs that invest in services at the front-end to build stronger and resilient families and promote healthy relationships. These vital supports and services build the strength of Aboriginal and Torres Strait Islander women and reduce their vulnerability to violence and contact with the criminal justice system. - National Family Violence Prevention Legal Services Forum submission to the Australian Human Rights Commission [44]

Across Australia, FVPLSs have demonstrated that early intervention and prevention programs achieve successful outcomes for Aboriginal and Torres Strait Islander women. FVPLSs provide a variety of programs and projects designed to prevent violence, and address early risk factors, through community education, yarning and community-building. Examples [45] include:

Northern Territory: 'Super Law' developed by Central Australian Aboriginal Family Unit. The Super Law DVD and workbook are educational tools to inform Aboriginal and Torres Strait Islander communities about laws, specifically those related to domestic and family violence.

Queensland: 'Love Bites' developed by the Queensland Indigenous Family Violence Legal Service. A prevention program delivered to high school students on healthy and unhealthy relationships, identifying domestic and family violence behaviours and their impacts.

South Australia: 'Sista 2 Sista', 'Love Colours' and 'Healthy Relationships' developed by the Family Violence Legal Service Aboriginal Corporation SA. Sista 2 Sista is a day of fun and community education for Aboriginal and Torres Strait Islander women covering domestic violence, health, mental, social, welfare and financial issues. Love Colours is a healthy relationships workshop that incorporates art activities and thoughtful discussion in a yarning circle style of delivery. Healthy Relationships is a program delivered to high school students with a focus on relationships; values and beliefs, respectful relationships and law and legal issues in relationships.

Victoria: 'Dilly Bag', 'Sister's Day Out' and 'Young Luv' developed by Djirra. Sisters Day Out is a wellbeing workshop where Aboriginal and Torres Strait Islander women enjoy a day of pampering and relaxation, with activities designed to raise awareness of family violence issues, rights and options. Dilly Bag programs are more intensive and encourage personal development through activities designed by, and for, Aboriginal and Torres Strait Islander women. Young Luv is designed for Aboriginal and Torres Strait Islander young women aged 13 to 18 and focuses on promoting healthy relationships.

Western Australia: 'Sparkle and Grow', 'Strong Girls Stronger Women' and 'Healing Hands' developed by Aboriginal Family Legal Services WA. Sparkle and Grow is a CLE and personal development program for Aboriginal and Torres Strait Islander women targeted at educating and raising awareness on family and sexual violence issues, respectful relationships, legal assistance and building participants' self-esteem. Strong Girls Stronger Women is delivered to Aboriginal and Torres Strait Islander female students identified as emotionally, physically or socially vulnerable. It provides education on safe and healthy relationships. Healing Hands is a self-care session primarily aimed at Aboriginal and Torres Strait Islander women and girls who have experienced trauma through family violence. Healing Hands raises awareness about violence and sexual abuse issues in a safe, comfortable environment.

A key finding and recommendation of Professor Marcia Langton's 2020 ANROWS research reports into practical and legal supports for Aboriginal and Torres Strait Islander women experiencing family violence, and male perpetrators of violence, is that there is a conspicuous lack of culturally specific programs for Aboriginal and Torres Strait Islander perpetrators of violence.

Professor Langton finds that mainstream men's behavioural change programs may not be appropriate for Aboriginal and Torres Strait Islander perpetrators of violence. Further, service gaps even in the mainstream support sector means many men are not able to access any behaviour change support which have any level of cultural safety.

Professor Langton's research recommends expanding local perpetrator accountability support services 'to address underlying complexities contributing to the perpetration of violence:

- therapeutic counselling and related services (both individual and group)
- Aboriginal-specific and other culturally appropriate men's behaviour change programs
- alcohol and other drugs rehabilitation and counselling
- mental health services.' [46]

There is a lack of holistic, culturally appropriate support services for both victim-survivors and perpetrators of family violence who are experiencing mental health and/or substance abuse issues. Both ANROWS research [47] and the Wiyi Yani U Thangani report [48] identify widespread unmet need for appropriate mental health and AOD support that leaves people without culturally safe tools to manage and recover from underlying issues that can contribute to family violence.

Support First Nations women with disability

Recommendation: Ensure better support for people with disabilities, including support to live on Country in safety and dignity.

First Nations women and girls with disability experience intersectional inequality and discrimination on the basis of race, gender and disability. Many Aboriginal and Torres Strait Islander women and girls are carers, and are more likely to be unpaid than non-First Nations carers. In the words of Commissioner Oscar, 'this is reflective of traditional and cultural care responsibilities, as many women regard the strength of caring to be fundamental to our identity as Aboriginal and Torres Strait Islander women.' [49]

"Aboriginal and Torres Strait Islander communities have been, and continue to be, inclusive and supportive of Aboriginal and Torres Strait Islander people with disability. Whilst many Indigenous languages do not even have a word for disability, Western perspectives of disability have marginalised Aboriginal and Torres Strait Islander people with disability, and this is reflected in their increased risk of experiencing poorer health, wellbeing and socio-economic outcomes." [50]

We know that women, Aboriginal and Torres Strait Islander peoples, and people with disability as distinct cohorts are more likely to experience violence, but we are not aware of coordinated data collection on the incidence and prevalence of violence against Aboriginal and Torres Strait Islander women and girls with disability. Materials about First Nations peoples with disability produced in 2020 for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability also note that data also does not exist on the number of First Nations people with multiple disabilities, the number of people with foetal alcohol spectrum disorders (FASDs), deaths in custody of young First Nations people with disability, and First Nations people with disability in segregated environments. [51]

Efforts must be made to capture the intersectional experiences of Aboriginal and Torres Strait Islander peoples with disability in data to help us support our people to live in safety and dignity in our communities. Indigenous research methodologies, multidisciplinary First Nations-led research and data collated appropriately from truth-telling and yarning should be elevated and well-resourced, cultural competence in mainstream research and data collection should be improved, and data sovereignty should be ensured to enable us to better analyse, represent, address and redress the impacts of intersectional inequality.

Wiyi Yani U Thangani sees Aboriginal and Torres Strait Islander women and girls speak of difficulties in accessing education and employment and essential services as people with disability and as carers, [52] and the report highlights the criminalisation of Aboriginal and Torres Strait Islander women with cognitive impairment and lack of support available to incarcerated people with disability. [53] This lack of support is across-the-board, and has implications for both victim-survivors and perpetrators with disabilities. Women and girls consistently reported underdiagnosis of FASD and speech and hearing issues, compounding the difficulties and hardships faced by children and adults who need additional, culturally safe support.[54] The inadequacy of disability support services and the NDIS are also highlighted. [55]

According to the Wiyi Yani U Thangani report, the lack of self-determination in service design and barriers to access to the NDIS mean people's needs aren't being met, particularly in the bush:

Case study: NDIS and lack of community controlled services in the bush

"A significant gap in the NDIS model is having adequate services available for people living in remote and very remote parts of Australia. Disability support services must be available, accessible and culturally appropriate, regardless of location. Aboriginal and Torres Strait Islander community-controlled organisations are best positioned to provide locally tailored and culturally safe services that are grounded in Aboriginal and Torres Strait Islander perspectives and values.

"And I think about why do we have these white fella organisations coming in when we got our own organisations here. We have our own disability organisation, you know? So why should they get the funding instead of us? And we have Indigenous people in our community who can do these jobs that they're bringing in white fellas for. We get non-Indigenous people in our community making decisions and it's disrespectful. We need to move forward, we know that. We should be moving forward to 100% Aboriginal community-control. These people are in positions where they're making decisions for our community and that's not right." Yarrabah women [56]

Research by the First Peoples Disability Network into the experiences of Aboriginal and Torres Strait Islander peoples with disability has found that, though First Peoples with disability face serious and acute intersectional inequality and discrimination, 'the sole category that is an exception to the inequalities experienced by Aboriginal and Torres Strait Islander people with disability is their social participation within their own communities.

Rates of participation by Aboriginal and Torres Strait Islander people in cultural and community activities are on par with other Aboriginal and Torres Strait Islander people.' It finds that 'a culture of inclusion is a moderating force on the social health and wellbeing [of Aboriginal and Torres Strait Islander peoples with disability] and has a mitigating impact on intersectional inequality'. [57]

Our people and communities know how to care for each other. What is needed is a commitment from government to make sure we have the control and resources to ensure our people have access to self-determined, holistic and culturally safe services and support.

Whole-of-community supports

Ensure access to safe, affordable & appropriate housing

Recommendation: Increase funding and resourcing for community-controlled specialist homelessness services for Aboriginal and Torres Strait Islander women and children.

Recommendation: Invest in culturally appropriate, community-controlled, safe, long-term affordable housing options for women and families in cities, towns and the bush.

“In our frontline work, Djirra has found that housing unavailability and the prospect of homelessness acts as a dangerous deterrent to victim-survivors leaving violent relationships and accessing safety.” [58]

Case study: Djirra and homelessness

Safe, secure housing is a human right, a crucial determinant of health and wellbeing, and a strong protective factor against family violence. The importance of housing access is most acute for Aboriginal and Torres Strait Islander women experiencing and escaping family violence. A case study from FVPLS Djirra illustrates how a lack of suitable housing puts Aboriginal and Torres Strait Islander women at serious risk of harm. [59]

Aboriginal and Torres Strait Islander peoples experience homelessness and lack of access to affordable, appropriate housing at disproportionately high rates. Without significant investment in community-controlled housing, homelessness services and genuine reform of the property and rental markets, the major barrier to safety posed by a lack of secure, appropriate and affordable housing will remain.

Homelessness

Family violence is the leading cause of homelessness for women, and fear of homelessness is a major barrier to women leaving violent relationships. Research from Equity Economics in July 2021 [60] found the chronic and severe lack of social housing in Australia led to 7,690 women returning to violent homes, and 9,120 women escaping family violence becoming homeless. Further, according to the AIHW Specialist Homelessness Service (SHS) collection [61] 56% of people approaching an SHS because they were experiencing family violence had sought family violence support on a previous occasion within the last 10 years. These data sets undercount Aboriginal and Torres Strait Islander women, but discussion of this is outside the scope of this paper.

In 2019 nearly 120,000 people approaching an SHS for support were experiencing family violence. 31% of people experiencing family violence who requested crisis accommodation were turned away. One in three people experiencing domestic and family violence who approached an SHS for support needed long term housing, but only 3% of that group received it. More than two thirds of that group didn't even receive a referral for long-term housing. [62]

This clearly shows that all women in Australia are not receiving the housing support they need, when they need it. There are a number of reasons why, but immediately identifiable and easily resolved factors include that the specialist homelessness service sector is underfunded (especially First Nations-controlled services), funding cycles are dysfunctional and competition settings disempower communities.

Aboriginal and Torres Strait Islander peoples experience much higher rates of homelessness than non-First Nations people. The last census found that 1 in 28 Aboriginal and Torres Strait Islander peoples were experiencing homelessness on Census night, representing 22% of all people experiencing homelessness in Australia. More than half of Aboriginal and Torres Strait Islander peoples experiencing homelessness lived in the bush. [63] The ABS acknowledges figures about First Nations peoples' experience of homelessness are underestimations, given the undercounting of Aboriginal and/or Torres Strait Islander peoples in the census.[64]

Homelessness in First Nations communities must be understood in the context of historic and ongoing colonisation, dislocation from and dispossession of Country, intergenerational trauma and disadvantage and mass incarceration. Despite the hugely disproportionate rate of homelessness experienced by First Nations peoples, there isn't a corresponding supply of community-controlled and -delivered specialist homelessness services for First Nations peoples. In addition to the chronic inadequacy of support services overall, the lack of cultural competence and lived experience expertise in mainstream services greatly reduces the chances of Aboriginal and Torres Strait Islander people receiving the support needed to secure safe, stable and appropriate housing.

Social housing

A major concern raised by women and girls in the Wiyi Yani U Thangani consultations was inadequate maintenance and repair of social housing, particularly in the bush. [65] The report cites research findings that in 2016, 31.4% of social housing for Aboriginal and Torres Strait Islander families did not meet agreed minimum acceptable standards compared to 19.3% of all households. [66]

Commissioner Oscar finds “Inadequate housing conditions and poor maintenance leaves Aboriginal and Torres Strait Islander women and their families vulnerable to living in dangerous environments,” and that “The chronic shortage of social housing stock across Australia has left Aboriginal and Torres Strait Islander women and their families struggling in overcrowded and inadequate living conditions, unable to keep themselves and their families safe and secure, and with the constant threat of homelessness if they cannot find a way to make ends meet.” [67]

Government awareness of shortfalls in Aboriginal housing and chronic overcrowding has not translated to adequate investment in housing. In a press release following the 2020-21 NSW budget, the NSW Aboriginal Land Council noted that the shortfall in housing supply for Aboriginal households in NSW is at least 11,000, yet the budget provided for just 200 new Aboriginal homes.[68] Overcrowding in the Northern Territory remains at crisis levels and, according to the North Australian Aboriginal Family Legal Service in a submission to this paper, remains a major barrier to safety.

Case study: North Australian Aboriginal Family Legal Service

“We find that housing is a major factor in preventing women from finding safety. Chronic overcrowding means tensions are running high and there are not safe places to go to for victim-survivors or perpetrators. Courts and Police are reluctant to make or enforce orders in Domestic Violence Orders to remove perpetrators from homes because they are likely to become homeless”. - North Australian Aboriginal Family Legal Service, October 2021

Despite the Little Children Are Sacred Report highlighting the need for immediate construction of 4000 houses and an additional 400 each year over 20 years [69] in Aboriginal communities in the Northern Territory, in the first 10 years of the catastrophic Northern Territory Intervention just over 1000 homes were built. [70] This complete failure to address recognised unmet need was complemented by the Commonwealth expropriating hundreds of millions of dollars worth of housing stock and land from Aboriginal communities. [71] The sluggishness of the federal and Territory governments has not improved in recent years, with the roll-out of 2000 desperately needed dwellings in the Northern Territory facing years of delay [72] as the federal government claims no responsibility for housing provision beyond an initial funding commitment. [73]

Our community is growing but the community is not growing to accommodate all these people. We are told there will be houses come, will it be this year or will it be next year, we don't know ... and we still need more housing, you know.” [74]

- Borroloola women

Tenure

Aboriginal and Torres Strait Islander people are disproportionately renters, with home ownership rates at 38% compared with 66% of non-First Nations peoples at the last Census. First Nations households are consistently more likely than other households to live in private rental, at 32% compared with 25%. [75]

Despite the increased likelihood of needing to find accommodation in the private rental market, Aboriginal and Torres Strait Islander peoples experience significant discrimination in being able to secure tenancies. Compounding the difficulty and stress of finding secure housing in the private market is Australia's uniformly inadequate rental protections, which are some of the worst in the OECD. The proliferation of no-grounds eviction clauses across Australian jurisdictions leaves tenants insecure and vulnerable.

Case study: discrimination and renting [76]

"In some locations, women felt that real estate agents were discriminating against Aboriginal and Torres Strait Islander applicants without directly saying so, but through the constant awarding of successful applications to non-Aboriginal applicants. Some women told me they felt that the only way to secure a lease was not to identify as Aboriginal or Torres Strait Islander."

Racism is an issue in our community, definitely with real estate and housing. There is judgement. I think they lie to you, they say, 'yeah, yeah, yeah, it's going through'. And then another family comes in, and they give them the house." Kempsey women

Renting is also really hard. When people know you are Aboriginal, they won't want to rent to you. Me and my friend used to rent, and we never told the real estate that we were Aboriginal ... because we had trouble with that in the past." Nowra women and girls

Anglicare's 2021 rental affordability snapshot found that just 3 properties across Australia were affordable for a person living on the single rate of Jobseeker. [77] For a single person working full time at the minimum wage, just 1% of rental properties were affordable. [78] With the median national house price reaching \$955,927 and median national unit price reaching \$601,482 in the June 2021 quarter, [79] the chance of people on low incomes with no assets having any prospect of saving for a housing deposit is remote.

Solutions

While the disadvantage caused by Australia's highly inequitable housing system is profound, the tools needed to address its harms are known and readily available to governments if only they had the political will to implement them.

Federal, state and territory governments must immediately increase funding and resources to Aboriginal community-controlled organisations to provide crisis and transitional accommodation for Aboriginal and Torres Strait Islander women and children experiencing family violence. Funding for early intervention homelessness services and holistic wraparound services is essential in helping people experiencing or at risk of homelessness receive the support and stability needed to secure long-term appropriate housing. Where ACCOs don't currently exist, funding should be provided to bridge service gaps in consultation with communities and people accessing services and provide sector support to establish new community-controlled services.

The Wiyi Yani U Thangani report highlights that Aboriginal and Torres Strait Islander women and girls 'need more control over policy and decision-making to ensure that the Indigenous housing sector is better designed to suit us', and critiques the defunding and termination of Indigenous Community Housing Organisations following the abolition of ATSIC. [80] The report finds that 'a current lack of investment in community-controlled organisations continues to undermine Indigenous capacity to be in control of our own housing circumstances', and calls for investment in community-controlled housing. [81]

Investment in social housing stock to improve dwelling quality and accessibility is essential, as is ensuring that mainstream community housing providers and states and territories managing the tenancies of Aboriginal and Torres Strait Islander households significantly improve their cultural competence. Further, without reform of rental protections in social and private tenancies and significant government intervention in the property market to improve housing affordability and guarantee security of tenure for renters, rates of rental stress and housing poverty and insecurity experienced by Aboriginal and Torres Strait Islander peoples will continue to increase.

Systemic reform is needed to ensure housing is treated as a right, not a commodity. Policy levers for improving housing affordability and access are available to governments at all levels, but especially the federal government. At the same time as we are facing a housing affordability crisis, the conditions for government borrowing for investment in critical infrastructure like housing have never been more favourable. If the federal government chose to, it could make high quality, universally accessible, affordable, safe housing available to everyone, wherever we need it.

Unconditional, livable social security

Recommendation: Increase social security payments to ensure no one lives in poverty and remove barriers to access to payments, including partner and parental income and asset tests.

Recommendation: End welfare conditionality, including mutual obligations, compulsory income management and ParentsNext.

No one should live in poverty in a country as wealthy as Australia, yet the current social security system is a poverty trap. The federal government's introduction of the Coronavirus supplement to unemployment payments in response to the Covid pandemic in 2020 demonstrated that it has the fiscal capacity to eradicate poverty and ensure everyone in society has a liveable income. The persistence and distribution of poverty on this continent is the result of social and economic policy choices of successive governments, choices which have had a particularly devastating effect on Aboriginal and Torres Strait Islander peoples.

Australia's social security system consists of highly conditional, means-tested payments hundreds of dollars a week below the poverty line. The majority of people receiving working age payments are forced to participate in often punitive and humiliating 'mutual obligations', under threat of losing their payments. Social security recipients are surveilled by government departments and private job agencies and heavily stigmatised in mainstream media and political discourse.

In the Wiyi Yani U Thangani report Aboriginal and Torres Strait Islander women speak about the negative effects of paternalistic welfare policies on our lives and communities. Women raised concerns about unlivable rates of payment, [82] about systems not taking into account cultural considerations, [83] the punitive, discriminatory and onerous nature of 'mutual obligations' and compliance frameworks, the high proportion of Aboriginal and Torres Strait Islander social security recipients being breached and losing their payments, [84] and the racial discrimination at the heart of the Community Development Program. [85]

Understanding the historical deployment of 'welfare' in Australia as a means of controlling and assimilating Aboriginal and Torres Strait Islander peoples since invasion [86] is fundamental to creating a just social security system. Without comprehensive reform of the social security system in Australia, women from all backgrounds will continue to face enormous financial barriers to escaping violence. The National Safety Plan must include a commitment to achieving such reform as a matter of priority, and our people must be at the forefront of co-designing the systems that affect our lives and communities.

Poverty Payments

Aboriginal and Torres Strait Islander peoples are over-represented among recipients of income support payments [87] and among those living in poverty.

Markham and Biddle's 2017 analysis of Census data [88] found 31% of Aboriginal and Torres Strait Islander people were living in poverty before housing costs in 2016, based on a poverty rate of 50% of median income. The research shows that poverty is more than twice as high among First Nations peoples living in the bush (53.4%) as those living in major cities (24.4%). While poverty among First Nations peoples living in the city declined from 2006-2016 by 3.4%, they rose in remote and very remote areas over the same period (by 1.2% and 7.6% respectively). Meanwhile, the most recent ACOSS report into poverty in Australia, studying the same data, found that across the whole Australian population, the poverty rate after housing costs was 13.6%. [89] It should be noted that the disproportionate distribution of poverty is likely to be even more profound than these percentages suggest, because before-housing poverty rates are generally lower than after-housing rates. [90]

The role of financial insecurity and economic inequality in contributing to family violence, as well as preventing women from escaping it, is well-established - as are the profound and ongoing negative impacts of poverty on children. A report released by the University of Queensland's Life Course Centre in advance of the Women's Safety Summit laid bare the elevated risk of violence faced by young women experiencing financial hardship. [91] Young women in financial hardship in Australia are twice as likely to have been victims of violence perpetrated by their partners as those not in hardship, and three times as likely to have experienced severe abuse. Experiencing physical and sexual violence was also shown to significantly increase the likelihood of young women falling into financial hardship.

Without access to a reliable, adequate income, escaping violence can seem impossible. The Delegates' Statement from the National Women's Safety Summit is unequivocal that financial security for women is fundamental to keeping us safe from violence. [92]

The Coronavirus supplement

2020 saw the most profound poverty-alleviating policy intervention in memory in the form of the Coronavirus supplement to Jobseeker and related payments, which effectively doubled those income support payments.

People receiving the supplement reported being able to afford rent, bills, fresh food, medicines, essential medical, dental and mental healthcare and treats and presents for their children, which had previously been out of their reach. [93]

One parent said: "I feel like before Coronavirus we were living in poverty. Always wondering when I wasn't going to be able to scrape enough together to feed the kids again. At the moment, I can breathe and sleep a little easier knowing everything that needs to be paid is, and the kids are fed. I don't have anything left over to save but my children are eating better." [94]

According to research by the Australian National University, prior to Covid the poverty rate in single parent households was 20.2%. If the Coronavirus supplement had not been introduced, it was projected to have risen to 27.9%. In June 2020, as a result of Covid payments, the rate of poverty in single parent households was just 7.6%. [95]

A further ACOSS survey conducted in August 2020 found that 58.8% of Coronavirus supplement recipients found it easier to pay rent or be able to move into better or safer accommodation, and 51.7% were better able to save up for emergencies - key considerations for people experiencing family violence. [96]

Research has shown the positive social and economic impacts of increased and unconditional social security payments in the bush, particularly in food security and choice and in enabling greater access to Country. [97] The positive mental health impacts of increased payments and lack of mutual obligation requirements have been documented throughout the Covid-19 pandemic. Respondents to the ACOSS survey reported decreased anxiety and distress as a result of the increased payment, however they experienced significant anxiety about the impending withdrawal of the supplement. [98] This anxiety was also reflected in hundreds of responses to a March 2021 Senate inquiry into the withdrawal of Covid financial support.[99] [100]

The lesson of 2020 is that even in the midst of a public health crisis where global and domestic production plummeted, direct government financial support for people on low incomes improved wellbeing and bolstered the economy. And yet in March 2021, the government chose to withdraw the Coronavirus supplement entirely and in doing so plunged half a million people, including hundreds of thousands of children, back into poverty.

Australia's unemployment payment is currently the second-lowest in the OECD, and its mean inadequacy has been recognised for years [101] by the community, civil society, and academia, and more recently by former political leaders, the Business Council and the Governor of the Reserve Bank. [102] The federal government could choose, as it did in 2020, to lift hundreds of thousands of people out of poverty by increasing income support payments to a liveable amount above the poverty line. Freeing our people from the poverty trap created by Australia's inadequate, highly conditional social security system will go a long way towards ensuring safety for our women, children and communities.

End conditionality

A key feature of Australia's social security policy landscape is its system of 'mutual obligations' for people receiving working age payments. Rather than social security being an unconditional entitlement for people needing income support, the Australian system forces recipients to jump through hoops to receive and maintain their payments. Compulsory job searches and meetings with private job agencies, stringent reporting requirements with regular administrative failures, forced labour programs like Work for the Dole and the Community Development Program, and programs targeted at specific groups of people with punitive financial penalties for noncompliance characterise Australia's income support system. This is wrong.

In the Wiyi Yani U Thangani report, 'Women expressed serious concerns about mandatory programs, onerous mutual obligation requirements, and the punitive measures built into the social security system. They provided accounts of how suspended or cancelled payments created acute financial stress, caused severe harm to health and social wellbeing, and further perpetuated cycles of poverty.' [103]

Reflecting on consultations, Commissioner Oscar said 'I heard firsthand how social welfare frameworks like CDP and ParentsNext are not just incapable of meeting our needs in their current form, they punish us by removing basic rights that should always be guaranteed, further entrenching our people into poverty.' [104]

Particular concerns were raised in the report about the Community Development Program, a supercharged version of Work for the Dole targeted at Aboriginal communities:

"Women expressed serious concerns about the punitive compliance frameworks that have been incorporated into CDP since its inception. This is unsurprising given the disproportionate rate at which penalties have been applied to CDP participants, the majority of whom are Aboriginal and Torres Strait Islander peoples, compared with participants in other welfare schemes." [105]

"The CDP Program is not working, it's doing nothing for our people. It's a money-making business for providers" - Ceduna mums and bubs. [106]

The federal government's decision to end the CDP is an admission that paternalistic and punitive welfare policy causes harm. What replaces the CDP must be genuinely co-designed, with the design and implementation of programs led by our people. Rather than individualising unemployment and poverty and making support more difficult to access, government should be responsive to systemic issues affecting rural and remote economies and empower communities to be in control of their economic development.

"The way the government has structured CDP it's not around looking at communities as a whole — it is looking at you as the individual. It is about making sure that you go and you're keeping your appointment with Centrelink and go looking for training and all that. It is no longer as a community so government has really broken communities to the point where there is nothing going on. All the money that used to be a part of the old CDEP where community runs its own business, well that was pulled-out" - Fitzroy Crossing women. [107]

Women and girls also had strong criticisms of compulsory income management, the most recent iteration of Australian governments' practice of restricting Aboriginal and Torres Strait Islander peoples' access to our own money:

"All this stuff disempowers us so people think it is okay to include things like the cashless card, because they see us as 'the poor Aboriginal person that can't sort their own shit out so let's introduce the cashless card'. South Hedland women

Different rules for White people. They think Aboriginal people are the only people who watch porn and drink alcohol. You live in the suburbs, you don't have a Basics Card, but if you live in a Blackfulla camp, you have a Basics Card, a card where you can't even draw money out. Is that racist? Discrimination? Impacting on our human rights." Borroloola women

The government is engaged in coercion—promising funding for wraparound services in the community only if the trial for the Cashless Card is accepted". [108]

Women perceived cashless welfare as a blunt instrument that was impractical and ineffective in addressing the underlying causes of harmful behaviours, [109] and that it increased crime. [110]

Research from the University of Queensland found the vast majority of people on income management had no issue with alcohol (87%), drugs (95%) or gambling (91%) prior to being put on the cashless welfare cards. 87% of respondents saw no benefits in compulsory income management, while 13% thought there were some advantages. [111] The research found that having to live on the cards caused a serious decline in mental health and wellbeing across trial sites, [112] and that overall cashless welfare is disabling, compounds the problems caused by Australia's low rate of income support payments, hinders people's management of their financial affairs, 'reduced their sense of autonomy, wellbeing and overall locus of control', and 'may undermine rather than support the stated policy objectives of creating more autonomous, independent individuals who will be more likely to transition into employment.' [113]

The predictable failure of cashless welfare trials shows participation in income management schemes should be a choice, not forced on people and communities.

Finally, we call for the abolition of the flawed, punitive ParentsNext program, and its replacement with voluntary, evidence-based programs that support parents, value caring labour, and break down structural barriers Aboriginal and Torres Strait Islander parents face in the labour market.

ParentsNext is directly and indirectly discriminatory against single mothers of young children and Aboriginal and Torres Strait Islander mothers, with the program's targeting of these cohorts being acknowledged in governments' own policy documents. [114] The scheme does not acknowledge that parents are already engaged in the most important and undervalued work in the economy - that of unpaid care and social reproduction. [115]

Unfair breaches, nonsensical compliance requirements and a lack of cultural appropriateness characterise the scheme. Research by Klein finds ParentsNext also risks retraumatising victim-survivors of family violence:

“Telling is how women recovering from the trauma of domestic violence, but still put on ParentsNext, felt that ParentsNext was like entering another abusive relationship, “The conditionality is like a new violent relationship – financial and psychologically abusive”, one interviewee said. It did not provide the nurturing or caring space needed to support them from recovering from their trauma, even producing further trauma and stress.” [116]

It’s beyond the scope of this report to fully canvas the harms and injustices caused by conditionality in Australian social security policy. We have not touched on the dangers posed by means testing and eligibility criteria, for example partner income tests which prevent people from accessing income support and can pose a serious barrier to escaping violence, [117] and the policy of stripping incarcerated people of their Disability Support Pensions. [118] [119] Social security is a right, and access to it should be unconditional.

Community-led economic participation and development

Recommendation: Implement economic development and poverty reduction strategies designed by Aboriginal and Torres Strait Islander people, and supported by governments, to increase employment opportunities in communities.

Colonisation of this continent brought with it the destruction of egalitarian and sustainable First Nations economies and theft of sovereign Aboriginal and Torres Strait Islander peoples' land, labour and money. As touched on in our earlier discussions of socio-economic disadvantage in this paper, the experience and persistence of poverty, unemployment and economic inequality in our communities have to be understood and redressed in the context of invasion, expropriation, dispossession, displacement from Country and racist discrimination. Aboriginal and Torres Strait Islander women face intersecting gendered inequalities embedded in Australian society and the economy, including expropriation of our unpaid caring labour. All of these factors impact our ability to participate freely and equally in the labour market and economy, limiting our access to financial security.

Through the Wiyi Yani U Thangani report, Aboriginal and Torres Strait Islander women and girls made clear the need for an end to externally-imposed economic development initiatives and investment in community-driven and controlled development approaches. [120]

"Our economic security cannot be achieved through better social security systems and mainstream employment opportunities alone. There is a critical need for Aboriginal and Torres Strait Islander-led economic development through the establishment and growth of Aboriginal and Torres Strait Islander organisations, whether they be not-for-profit or profit-driven, to manage and leverage community-owned land and infrastructure, deliver government-funded programs and services and social enterprise initiatives, and earn profits through the market-based economy." - Commissioner June Oscar AO.

Women and girls spoke of the immense value and importance of the caring labour they perform, and their desire for 'a holistic approach that recognises and values the work they do for society.' Commissioner Oscar tells us 'this approach includes working with women to combat poverty, heal from trauma, enable their education and training, facilitate entry into employment, and invest in our businesses.' [121]

In addition to reform of the social security system to achieve economic security and safety for First Nation women and girls, the report calls for co-design of 'a new community development approach to build the skills of Aboriginal and Torres Strait Islander women and to address community-based needs on projects as decided by the community, including programs particularly around financial literacy, superannuation and navigating financial institutions.' [122] Women called for job creation in local community-controlled services and investment in growing culture- and country-based enterprise across industries, owned and operated by Aboriginal and Torres Strait Islander people.

"Women and girls are motivated for change and I am inspired by the growth of Aboriginal and Torres Strait Islander business. Through Aboriginal and Torres Strait Islander-led economic development, our people are more likely to be hired and our cultures and identities represented. Women and girls are calling for the promotion of Aboriginal and Torres Strait Islander business and dedicated strategies of support to further increase Aboriginal and Torres Strait Islander participation in the economy that generates positive outcomes for communities." - June Oscar AO [123]

For its National Safety Plan to work for us and our communities, the government needs to ensure self-determined economic and community development is supported and resourced.

We have laid out a blueprint for what's needed to reduce the disproportionate rates of violence against Aboriginal and Torres Strait Islander women. Prioritising place-based, community-controlled services designed and delivered by Aboriginal and Torres Strait Islander people can be seen as part of a holistic self-determined strategy to reduce violence and achieve healing, greater community strength and community-led economic development. A National Safety Plan for Aboriginal and Torres Strait Islander women must be one that is self-determined and community-led, appreciates and values our knowledge, strength and care, and holds our connection to culture and Country at its heart.

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