



Response to the
Northern Territory Domestic, Family and Sexual Violence
Framework Action Plan 2 Discussion Paper

Prepared by the North Australian Aboriginal Family Legal Service (NAAFLS)

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About the North Australian Aboriginal Family Legal Service

The North Australian Aboriginal Family Legal Services (NAAFLS) is an independent Family Violence Prevention Legal Service. We have an office in Darwin and an office in Katherine and service 46 remote communities spanning from the Tiwi Islands down to Borroloola and over to Lajamanu.

Our legal team provides culturally competent, and trauma informed legal representation and advice to Aboriginal and Torres Strait Islander people in remote Top End communities who have experienced domestic, family and sexual violence. Our practise areas include child protection, family law and Domestic Violence Orders. Our client support officers provide holistic and culturally appropriate non-legal supports to our clients.

Acknowledgment of Country

NAAFLS acknowledges the Traditional Custodians of the land on which we work and live. We recognise their continuing connection to land, water and community. We pay respects to Elders past, present and emerging. NAAFLS recognises that sovereignty has never ceded.

Experience of our clients

NAAFLS assists some of the most marginalised groups in Australia. As detailed in the Domestic, Family and Sexual Violence Reduction Framework 2018-2028, the Northern Territory has the highest rates of domestic and family violence in the country. Further, Aboriginal women are 40 times more likely to be hospitalised for family-violence related assaults than non-Indigenous women in the Northern Territory. Accordingly, for a reduction strategy to be effective, they must meaningfully address the experiences of remote Aboriginal and Torres Strait Islander women and girls.

Domestic and family violence in Aboriginal communities must be understood in the context of the continuing effects of colonisation. Settler interference into Aboriginal and Torres Strait Islander

culture and communities since colonisation continues to result in dispossession from land and culture, entrenched poverty, racism, disempowerment and intergenerational trauma. This context must be addressed to affect meaningful change.

Through our work assisting victim-survivors of domestic and family violence in remote Top End communities, NAAFLS has identified key systemic barriers to victim survivors seeking safety. We would like to paint a picture for you of the shared experiences of many of our clients.

Members of remote Top End communities generally rely on public housing for accommodation. There is insufficient housing across the communities leading to overcrowding. Overcrowding, along with significant poverty, means tensions can run high in homes.

When victim-survivors suffer violence in remote communities, often their only option for immediate assistance is to call Police or to seek safety at the local women's safe house. Many communities still do not have a safe house and many do not have a local Police station. Victim-survivors can be left to wait for hours for Police response. Many do not have a safe space to go to while waiting for help.

There are high rates of Police mistrust amongst Aboriginal communities for a variety of reasons. In our experience, there is a tendency for Police in remote communities to expect and accept a higher level of violence than an average person might do. We have had clients report threats to kill only to be brushed off with "he's only letting off steam". So even where there are local Police stations, some victim-survivors do not feel comfortable in seeking their assistance.

When victim-survivors do seek help, they may be successful in obtaining a Domestic Violence Order (DVO). This requires them to tell their story of trauma to a Court, to a Judge, to their lawyer and to the perpetrator of the violence. This can be a scary and overwhelming process. Once this is done, they often have to return home, where the perpetrator lives. Due to the lack of housing, Police and the Court are reluctant to grant or enforce premise access orders in DVOs for perpetrators to leave the family home. There are generally no alternative housing options – no crisis accommodation in remote communities and insufficient accommodation in urban areas.

Remote communities, by and large, do not have local mental health or personal healing services or even fly in-fly out services. The only option for many remote community members is to travel into Darwin or Katherine. Some communities have very limited public transport options, most have none at all. Once in town, people must find temporary accommodation. This is limited and expensive. Ultimately, victim-survivors and perpetrators are unable to seek mental health support and are left to deal with these issues on their own.

Finally, these systemic barriers to seeking safety can then result in children being removed from family, culture and community and being placed in foster care, with non-Indigenous carers. Intergenerational trauma continues.

Acknowledgment of limitations of Framework

NAAFLS recognises that the team charged with developing and driving implementation of these action plans is small and their funding is limited. The task of reducing domestic, family and sexual violence in the NT is onerous but vital. In the absence of meaningful support and funding from the NT Government, this framework is unlikely to effect the drastic change needed. NAAFLS urges the NT Government to adequately fund this framework and deliver what is promised – to reduce domestic, family and sexual violence.

Response to Action Plan 2 Discussion Paper

Practical actions to make a positive difference in each focus area? / Other focus areas and actions?

Taking Stock

Identifying strengths, gaps and opportunities across the service system

Remote women's safe houses

The progress update of Action Plan 1 states that the Department of Territory Families, Housing and Communities (the Department) operate 13 women's safe houses in remote Aboriginal communities. For reference, NAAFLS services 46 remote communities across the Top End. This does not include the very remote communities and outstations not attended by NAAFLS in the Top End and the communities in the Barkly Tablelands, Central Desert and MacDonnell regions. This gap leaves countless women experiencing domestic, family and sexual violence without safe emergency accommodation.

Support services in remote Aboriginal communities

Remote Aboriginal communities in the Top End are severely lacking in support services in general. As outlined above, most do not have women's safe houses. Many communities do not have a local Police Station. Very few communities have local mental health or personal healing services. There are no domestic violence rehabilitation programs in remote communities. Ensuring adequate access to support services in remote communities would provide victim-survivors access to safety when needed and assist in preventing domestic, family and sexual violence.

Remote housing crisis

NAAFLS notes that the remote housing crisis is not mentioned in Action Plan 2 or in the progress update for Action Plan 1. Remote community members wait for years for new housing. As outlined above, the lack of housing means that Courts and Police are reluctant to remove perpetrators of violence from households as they may end up homeless. Overcrowding also contributes to the risk of violence as people do not have room to separate themselves from difficult situations or find a safe place within their dwelling. Addressing chronic overcrowding and the lack of housing options of victim-survivors will reduce the rates of domestic and family violence.

Aboriginal Interpreting Service

Action 3.2b of the Action Plan 1 is 'support victims of DFSV whose first language is not English, to access support services through the provision of interpreting and translating services'. The progress update classifies this action as 'completed' through the use of the Aboriginal Interpreting Service (AIS).

AIS, when able to be used, is immensely helpful. For many First Nations persons, English might be their second, third or fourth language. Communicating in English about the sensitive and complex topic of domestic, family and sexual violence risks misunderstandings. This is particularly dangerous in the context of risk assessments and safety planning. Using an interpreter means that linguistically diverse people are able to express their story and their needs in a way that is most comfortable to them.

Unfortunately, in the remote community setting we often struggle to access interpreters. NAAFLS attends remote communities with the Circuit Court. Oftentimes, there are not enough interpreters

to assist both the Court and us. The engagement of more interpreters would assist in appropriate service delivery.

We would also like to note that the progress update states that the NT Government agencies utilise interpreting services as required. In our child protection practise, it is rare that our remote First Nations clients have been offered interpreting services when interacting with the Department. This sets parents up to fail and risks further trauma to parents and children when the time is not taken to make sure safety plans are understood and actually workable and the consequences of not following the minimum requirements are not adequately communicated.

These issues are a real gap in the service system. There is an opportunity to improve this system and practise and make practical improvements in service delivery for linguistically diverse victim-survivors of domestic and family violence. An expansion of the AIS telephone interpreting service, to provide access to full-time telephone interpreters, in a wide range of languages, would help overcome the lack of interpreter availability in many remote communities.

Domestic and family violence rehabilitation programs

The discussion paper references the legislative changes to the *Domestic and Family Violence Act NT 2006* which gives the Court the power to order a Defendant to attend domestic and family violence rehabilitation programs. NAAFLS was pleased to see this change. Behaviour change programs are vital to the reduction of domestic and family violence. In practise, we have not been able to utilise this change. The legislation requires the Defendant's consent to make such an order. This is rarely forthcoming as Defendants to our applications are often unrepresented or do not attend Court at all. This issue is addressed in more depth below. Further, the Court can only order a Defendant to attend a gazetted program. At present, there is only one gazetted program which is based in Alice Springs. Accordingly, this change is effectively meaningless in the Top End. NAAFLS looks forward to the expansion and further consideration of this reform and suggests this could be addressed in Action Plan 2.

Funding for legal representation for Defendants to Domestic Violence Order applications

At present, there is only one free legal service for Defendants of Domestic Violence Order (DVO) applications in Darwin – the Respondents Early Assistance Legal Service (REALS) funded through the NT Legal Aid Commission. This is a duty lawyer service and is only funded to provide Defendant's representation and advice at Court. It does not provide Defendants with representation for a final hearing nor assist with drafting legal documents.

In remote Top End communities, there is no legal service funded to provide representation for Defendants. The North Australian Aboriginal Justice Agency (NAAJA) attends remote communities with the Circuit Court. They will sometimes offer one-off legal representation when a Defendant has a concurrent criminal matter. However they are not funded to do this and will generally not represent a Defendant through to a final hearing.

When Defendants to DVO applications are unrepresented, they are often not truly engaged with the legal process. Sometimes they do not attend Court and an order is made in their absence. When they do attend, the application is explained to them by the Court, but we query whether Defendants truly understand the reason for and impact of the order without having their own legal representation. Ensuring that all Defendants are given proper legal advice and representation would make more Defendants engaged and grounded in the legal process. Defendants would also be able to be referred to other supports, such as behaviour change programs by their legal representation. We suggest it may result in fewer breaches of DVOs.

Culturally appropriate and trauma informed Court support

Action Plan 1 calls for better ‘supports for victims of DFSV, including the provision of culturally appropriate and trauma informed support when appearing in Court proceedings’. The Progress Report states that supports are increasing at the Alice Springs Local Court. There is also room for improvement in the Top End. Currently, Witness Assistance can assist vulnerable victim-survivors give evidence in Darwin Local Court, however they are often at capacity with Supreme Court matters. Witness Assistance travels to some remote communities with the Circuit Court but not all. The expansion of Witness Assistance and ensuring it is providing culturally appropriate assistance is an opportunity to improve supports for victim-survivors during the Court process.

Further, the facilities in many of the Circuit Court locations are not adequate to protect victim-survivors from further trauma or intimidation while giving evidence in relation to domestic, family and sexual violence. There are vulnerable witness rooms at the Police Stations in Nhulunbuy, Groote Eylandt and Wadeye. Wurrumiyanga, on the other hand, does not have AVL capabilities. This means victim-survivors are required to give evidence in the same room as the Defendant while the Defendant sits behind a small partition. In our experience, this has not been sufficient to prevent the Defendant from attempting to intimidate the victim-survivor while giving evidence.

First Nations children in out-of-home-care

Action 3.5 of Action Plan 1 is to ‘ensure when children are exposed to DFSV the response does not further harm the child’. Unfortunately, the plan does not address the rates of First Nations children in non-Indigenous care through the Child Protection system.

In the NT in 2018, 35.6 per 1000 First Nations children were in out of home care. Of these, 66.7% were placed with a non-Indigenous care giver.¹ The Aboriginal Placement Principle dictates Aboriginal children should be placed with non-Indigenous carers only as a last resort. We know, from looking at the impacts of the Stolen Generation and the continued removal of Aboriginal and Torres Strait Islander children from their families, that for First Nations children, separation from their community, culture and Indigenous identity is devastating and the impacts are longstanding. Accordingly, it must be acknowledged that cultural identity and safety are not alternate or competing considerations but necessarily entwined.

By severing the cultural connection for these First Nations children, the Department is causing them further harm. Work must be done to improve child protection responses to protect children from further intergenerational trauma through the loss of their cultural links and identity. NAAFLS suggests the Department should improve their current system for locating kinship carers. By meaningfully engaging with and supporting local Aboriginal organisations and community leaders who can identify and assist potential kinship carers, the Department is likely to decrease the number of First Nations children in non-Indigenous care. Further, the kinship application process must be simplified. The application document that kinship carers must complete was recently described to NAAFLS by a Department worker as ‘a book’. For members of remote communities with limited access to services, where English is usually not a first language, this is a significant barrier to kinship placements. Even when people manage to complete the paperwork, it often takes weeks or months, during which the child is normally placed with a non-Indigenous carer. Any time in culturally inappropriate care is harmful to First Nations children and all efforts should be taken to avoid this.

¹ Australian Institute of Family Studies, ‘Child protection and Aboriginal and Torres Strait Islander children’ (January 2020), < https://aifs.gov.au/cfca/sites/default/files/publication-documents/2001_child_protection_and_atsi_children.pdf>.

As discussed throughout this paper, the support services offered to victim-survivors of domestic and family violence in remote communities is inadequate. If this issue is addressed, more victim-survivors will be able to seek immediate and ongoing safety. It follows that the number of children removed through child protection should then decrease. Improving the entire support system will ultimately mean less children are exposed to and harmed by domestic and family violence.

Evaluating and Reviewing

Monitoring our progress

Measurement and tracking of impact of training for Police and frontline child protection workers

NAAFLS recognises that throughout Action Plan 1, further training to frontline workers is addressed and we welcome this. The Department has offered the Safe and Together training to child protection workers in 2020 and 2021. We hope that over time this makes a significant difference to the interactions between child protection workers and parents.

Unfortunately, at present we are still seeing child protection social workers and other practitioners demonstrate their lack of understanding of trauma and domestic and family violence. Rather than identifying a clear victim-survivor and perpetrator in abusive intimate relationships and ensuring victim-survivors are provided wrap around supports, we regularly see child protection practitioners blame victim-survivors for remaining in abusive relationships. Victim-survivors, usually mothers in these circumstances, are cast as unfit parents and themselves abusive to their children by failing to separate from abusive partners. The phrase repeatedly used in Court applications to remove children from family is “the parents engage in domestic violence”. This is unacceptable. The research is clear, there are a myriad of reasons why a victim-survivor may remain in an abusive relationship, including a lack of alternative housing (as detailed above). The violence perpetrated on them is not their fault and to leave an abusive relationship is often the most dangerous time for a victim-survivor. In the remote context where support services are lacking, the risk is even higher.

Ensuring front line child protections workers have an adequate understanding of the nature and context of domestic and family violence, particularly in a remote setting, is likely to improve the delivery of support services to victim-survivors and may reduce the rates of removal of children from remote Top End Aboriginal communities.

Similarly, we understand domestic violence training is being offered to NT Police. Further, the NT Police have committed to key priorities of effective prevention, reduction and response. In reality, our clients are frequently dismissed when reporting serious domestic, family and sexual violence. *“He’s just letting off steam.” “They’re just going to get back together.” “She’s called us so many times before, it is not going to change.”* There is clearly more work to be done in addressing racism and a lack of understanding of the nature of domestic and family violence within the NT Police.

The impact and overall success of this training to front line workers should be measured. NAAFLS suggests attitudes of front line workers should be tracked over time. This can be done by conducting surveys. Trends in interactions between front line workers and victim-survivors of domestic and family violence could also be tracked. Are more victim-survivors being offered trauma informed and culturally appropriate supports? Are more victim-survivors accessing support services? Do victim-survivors feel satisfied with the response they receive from Police when seeking help? This information is needed to ensure frontline services are improving their support for victim-survivors of domestic, family and sexual violence.

Feedback from remote Aboriginal communities

Domestic and family violence is perpetrated on First Nations women at a much higher rate than non-Indigenous women. Accordingly, feedback from First Nations groups is vital to evaluating the success of the Framework. Personal Safety Surveys (PSS) must include First Nations women and remote communities. Given they have a different experience of domestic and family violence than non-Indigenous women, their survey responses should be collated separately to ensure significant data is coming from where it is needed most. We propose this should be its own focus area given its importance.

Building on what works

Listening to and prioritising the voices of victim survivors

NAAFLS is heartened to see this as a focus area of Action Plan 2. Particularly in relation to First Nations victim-survivors, decisions cannot be made without extensive and meaningful consultation with the people who will be directly affected. Policy makers should consult with First Nations elders and women in leadership. Community leaders should have the opportunity to inform decisions made by the Government for their community. They are best placed to offer solutions. Further, policies informed by the community are more likely to be welcomed, utilised and to ultimately succeed.