



NATIONAL FAMILY VIOLENCE PREVENTION AND LEGAL SERVICES FORUM

The National Family Violence Prevention Legal Services
Forum submission to the Australian Law Reform
Commission's inquiry into justice responses to sexual
violence



Executive summary

The National Family Violence Prevention and Legal Services Forum (the National Forum) welcomes the opportunity to respond to the Australian Law Reform Commission's (ALRC) inquiry ('the Inquiry') into justice responses to sexual violence.

This submission responds broadly to the Inquiry's Terms of Reference, providing broad consideration to the factors the Inquiry should take into account when examining justice response to sexual violence, as it related to Aboriginal and Torres Strait Islander people.



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About the National Family Violence Prevention Legal Services Forum

The National Forum was established in May 2012 and is the National Peak Body for Family Violence Prevention Services (FVPLS) around Australia that provides culturally safe and holistic services to First Nations people affected by family violence – predominantly women and their children. The National Forum provides expert national advice in areas of policy, planning and law reform, and advocates for safety and justice for First Nations people affected by family violence.

The National Forum represents 13-member Family Violence Prevention Legal Services (FVPLS) across Australia that provide culturally safe and specialist legal and non-legal assistance and support to Aboriginal and Torres Strait Islander victim-survivors of family violence – predominately women and children. The national forum members are:

- Aboriginal Family Law Service Western Australia (Perth Head Office, Broome, Carnarvon, Kununnura, Geraldton, Kalgoorlie, Port Hedland)
- Aboriginal Family Legal Service Southern Queensland (Roma)
- Binaal Billa Family Violence Prevention Legal Service (Forbes)
- Central Australian Aboriginal Family Legal Unit Aboriginal Corporation (Alice Springs Head Office, Tennant Creek)
- Djirra – formerly Aboriginal Family Violence Prevention and Legal Service Victoria (Melbourne Head Office, Mildura, Gippsland, Barwon South-West, Bendigo and shortly also Echuca-Shepparton, La Trobe Valley and Ballarat)



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- Family Violence Legal Service Aboriginal Corporation (Port Augusta Head Office, Ceduna, Pt Lincoln)
- Many Rivers Family Violence Prevention Legal Service (Kempsey)
- Marninwarnitkura Family Violence Prevention Unit WA (Fitzroy Crossing)
- Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council Domestic and Family Violence Service (Alice Springs, NPY Tri-state Region)
- Queensland Indigenous Family Violence Legal Service (Cairns Head Office, Townsville, Rockhampton, Mount Isa, Brisbane)
- Thiyama-li Family Violence Service Inc. NSW (Moree Head Office, Bourke, Walgett)
- Warra-Warra Family Violence Prevention Legal Service (Broken Hill)
- North Australian Aboriginal Family Legal Service (Darwin Head Office, Katherine)

The National Forum works with its members, communities, governments, and other partners to raise awareness about family violence affecting First Nations people, and it also advocates for culturally safe legal and holistic responses to this issue. The National Forum provides a unified voice for its FVPLS members in areas of national policy, planning and law reform, and being a member of the national Coalition of Peaks. The National Forum is committed to the national Closing the Gap targets.



Our work is informed by evidence, and we aim to influence government policy, to advocate for First Nations people affected by family violence, and to advance the goals of the FVPLS sector.

The National Family Violence Prevention Legal Services Forum submission

The National Forum thanks the ALRC for the opportunity to provide this submission in response to the Terms of Reference of the inquiry into justice responses to sexual violence.

The prevalence of sexual violence within Aboriginal and Torres Strait Islander communities in Australia is significantly high, reflecting deep-rooted societal and systemic issues. According to the ABS, Indigenous women are over-represented as victims and survivors of sexual violence in both criminal justice populations and community populations:

- Most Aboriginal and Torres Strait Islander victims of sexual assault were female (75-88%).
- For Aboriginal and Torres Strait Islander victims of sexual assault around two-fifths were family and domestic violence related incidents (38-43%).
- The victimisation rate for Indigenous females was 1.42 per 100,000. Victimisation rates for non-Indigenous females was lower at 0.56 per 100,000.

The impact of sexual assault on Aboriginal and Torres Strait Islander individuals, their families, and communities can be profoundly detrimental, with effects that accumulate and persist over time.



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We note that the Inquiry seeks to enhance safeguards for individuals, having regard to:

- Legislation and guidelines regarding evidence, court procedures, and jury instructions.
- Regulations on consent.
- Rules and frameworks governing the actions, decision-making, and accountability of police and prosecutors.
- Training and professional development programs for judges, police, and legal professionals to foster trauma-informed and culturally sensitive justice responses.
- Support and services for individuals who have experienced sexual violence, covering all stages from before reporting through the conclusion of formal justice system proceedings, including consideration of:
 - Existing resources such as legal aid, qualified interpreters, witness assistance, intermediaries, and the accessibility of these services.
 - Innovative support measures including independent legal representation.
 - Information and resources available to victims and survivors regarding available support and the justice process.
 - Alternatives to, or transformative approaches to, criminal prosecution, such as restorative justice, civil litigation, compensation schemes, and specialized court methods.



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We note that this Inquiry forms part of the Government's commitment to strengthen and harmonise responses to sexual violence, and to improve outcomes and experiences for victim-survivors in the justice system. Whilst this is a commendable direction and principled approach to ensuring a just and equitable criminal law system that supports the safety of women, children who experience sexual violence, we note that the Inquiry must consider the circumstances and experience of sexual violence encountered by Aboriginal and Torres Strait Islander communities is unique, and justice-system reform must reflect this. This submission focuses specifically on support and services for individuals who have experienced sexual violence, covering all stages from before reporting through the conclusion of formal justice system proceedings.



Key Issues relating to support and services for individuals who have experienced sexual violence (FVPLSs)

Aboriginal and Torres Strait Islander women face challenges in disclosing sexual violence, especially when it involves an intimate partner. Research and discussions have shown that numerous obstacles hinder the reporting of sexual assault, particularly in rural and remote Aboriginal and Torres Strait Islander communities.

In the context of the significant under-reporting of sexual violence and the limited prosecution of reported cases, we consider that justice safeguards should take a trauma-informed, holistic, whole-of-systems and transformative approach.

Specifically:

- First Nations experiences and culture must be at the centre of justice-system safeguards to keep First Nations women and children safe from violence. Specifically, any justice-system reform should embed self-determined and First Nations women-led responses to achieve systemic change.
- Ensuring justice-system safeguards also necessitates community-led, trauma-aware strategies that emphasise cultural healing, family reintegration, and the resilience of First Nations families.
- We consider that effective justice-system solutions should bolster both frontline and preventive services and tackle the underlying structural and systemic causes of violence against Indigenous women.



Family Violence Prevention and Legal Services

FVPLS' are the only services in Australia that deliver a combination of specialised legal and non-legal family and domestic violence programs and services targeted to meet the cultural needs of First Nations people. The FVPLS' culturally safe and holistic model delivers a suite of family violence Prevention, Early Intervention, Crisis Response and Recovery and Healing services and programs delivered by predominately First Nations people.

FVPLS's are embedded in communities and work closely with them to determine the most effective solutions for the prevention of family and domestic violence in First Nations communities.

FVPLS agencies have been acutely affected by the workforce and inflationary pressures in the Australian economy. Competition for legal and non-legal staff is a particular challenge, especially given the rural and remote operation of most FVPLS services. Many FVPLS services also cannot be delivered on electronic platforms because of the complex needs of clients and the requirement to deliver services in a trauma-informed and culturally-safe way.

A broader implication of these issues is the need for FVPLS agencies to comprehensively improve salaries, conditions and role classifications to establish better parity with key labour competitors, including Government and Legal Service Commissions. The historical lack of indexation for the FVPLS Program funding has also compounded these pressures and caused significant funding reductions in real terms.



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Justice responses relating to support and services through the FVPLS for individuals who have experienced sexual violence should:

1. Invest in legal and non-legal service capacity to develop and implement localised solutions that will meet the needs of rural, remote, and very remote communities. Additional funding can be utilised to increase staff and provide additional services such as counselling supports, education programs and to pay additional solicitors to represent our people.
2. Invest resources directly into communities to enable them to mobilise through self-determination practices that can include education, Elder support and community gatherings.
3. Invest in sector strengthening through workforce training and skills uplift.
4. Reform workforce settings to ensure salary parity, and other benefits for work in rural and remote areas to attract and retain workforce.
5. Invest in the National Family Violence Prevention Legal Services Forum as the Peak Body to accelerate self-determined solutions for the prevention of domestic and family violence in first nations communities and to expand our reach as a PEAK.
6. Financial and policy investment into the development and implementation of a national Aboriginal and Torres Strait Islander child protection notification and referral system to refer Aboriginal and Torres Strait Islander families in contact with the child protection system to culturally appropriate supports and services (particularly preventative legal advice) at the earliest opportunity, especially where family violence is a factor in potential child removal.



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7. Investment in data infrastructure and skills uplift for FVPLS's to ensure the accurate and robust capture of data and measurement of outcomes.

End notes

The national forum thanks the ALRC for the opportunity to provide this submission. Please contact Priya Devendran, **Senior Policy Officer, National Family Violence Prevention and Legal Service Forum** on [REDACTED].