

# Submission to the Australian Law Reform Commission Inquiry on Justice Responses to Sexual Violence

Wiyi Yani U Thangani Institute for First Nations Gender Justice

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[Submissions Terms of Reference](#)

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## Introduction

We welcome the opportunity to provide a submission to the Australian Law Reform Commission on the Inquiry into Justice Responses to Sexual Violence and acknowledge the importance of this work to reform processes and procedures to make responses to sexual violence safer, accessible, and considerate.

We recognise this work is timely as it comes at a moment when recognising the epidemic of violence against women across Australia has captured the national consciousness.<sup>i</sup> This media and reporting has illustrated that not only are experiences of violence against women significant, but that the systems and structures to support victims of violence are failing.

Experiences of violence are far more commonly experienced by First Nations women, as well as by individuals with other intersectional marginalisations. Research shows that First Nations women are 5 times more likely to experience violence than their non-Indigenous counterparts, 10 times more likely to die from assault and 32 times more likely to be hospitalised for injury associated with violence than non-Indigenous women.<sup>ii</sup> Experiences of sexual violence are also on the rise. ABS data shows that experiences of sexual violence against First Nations people in New South Wales and Queensland have almost doubled since 2010 and the majority of this violence is perpetrated against women under 18 years of age.<sup>iii</sup>

This violence does not occur in a vacuum. Rather, it is the result of systems and structures that enable violence to exist and be perpetuated in forms of inequality, racism, discrimination, intergenerational trauma,<sup>1</sup> poverty, and insecurity. Resolving violence and creating safe and responsive communities requires a holistic, systems reform and First Nations gender justice-informed approach. This approach must intimately inform processes and procedures to respond to violence to create adequate and meaningful support for victims, as well as to shift systems – including policing and courts – to mitigate violence in all forms. This is the messaging that has emerged over 7 years of engagements with First Nations women and girls through the Wiyi Yani U Thangani Project.

Throughout this submission we respond to violence in all forms, as well as sexual violence (which will be described explicitly). Sexual violence is often not experienced in isolation from other forms of violence and therefore should not be responded to in isolation. As such, we hope that these recommendations and the Inquiry more broadly consider the intersectional nature of violence.

In responding to this Inquiry, the Wiyi Yani U Thangani First Nations Gender Justice Institute will address sections D and E of the Scope of the Reference provided in the Terms of Reference, drawing on existing evidence provided within Wiyi Yani U Thangani resources. We will also respond to section F, threaded throughout this submission, discussing a holistic, systems reform and First Nations gender justice informed lens as a transformative approach to responding to violence within criminal and court procedures and settings. We draw directly from the [Wiyi Yani U Thangani: Securing our Rights, Securing our Future Report](#) (2020) Chapter

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<sup>1</sup> Trauma can be many things at the same time. Family violence, sexual abuse and assault, problematic substance use and addictions are behaviours that can be considered traumas in themselves; they can also arise from trauma and cause further trauma.

5: Community Safety, the [Implementation Framework](#) (2021), and the [First Nations Women's Safety Policy Forum Outcomes Report](#) (2022). Quotes throughout this submission are sourced from the 2020 Report. While we recognise that these documents are supporting material listed in the Terms of Reference, we would like to draw special attention to key messaging, recommendations and lived experiences.

We also recommend further engagement with the [Wiyi Yani U Thangani Change Agenda for First Nations Gender Justice](#) (2024) which builds on the suite of Wiyi Yani U Thangani resources, reiterates the First Nations gender justice systems reform approach, and explores our measurement, evaluation and learning framework grounded in this lens. These resources draw attention to the unique and diverse experiences of First Nations women and girls, their needs and aspirations for change, and their ways of responding to system challenges centring their knowledge.

We believe it is critical that this Inquiry recognises and responds to these experiences and recommendations for change. When First Nations women are invested in, and their lives, roles and knowledges are recognised and reflected in surrounding systems, children thrive, economies grow, communities are cohesive, and harms and violence are minimised. Additionally, when First Nations voices are listened and responded to in designing and responding to systems of harm, we work towards creating a more equal and just reality for everyone. This message, echoed throughout Wiyi Yani U Thangani, is vital to transforming systems to end violence and revitalise cycles of intergenerational wellbeing.

## Recommendations

The following recommendations are gathered from the Wiyi Yani U Thangani suite of resources.

### **Wiyi Yani U Thangani First Nations Women's Safety Policy Forum**

The Policy Forum was a First Nations women-led event which brought over 150 First Nations community members, practitioners, researchers, specialist experts and government participants together to consider how to address the root causes and drivers of violence as the government prepared to develop the standalone National Plan to End Violence against First Nations Women and Children in 2022. The recommendations developed from the Forum are systems-focused, grounded in women's voices and lived experience and call on government and make meaningful and sustainable changes to mitigate violence across Australia. While the recommendations were intended to refer to the National Plan, we believe they also apply to sectors responding to violence in developing their plans and procedures – including policing, courts and supports and services. 'Plans' in this context may also refer to processes and procedures developed as an outcome of this inquiry. Please note that not all Policy Forum recommendations are included below.

*We, the delegates, call on all Australian governments to take urgent and ongoing action to invest in the solutions of First Nations women to end violence, and ensure commitment to our human rights. It is the responsibility of all levels of government to ensure our rights are protected by listening and acting on the solutions put forward by First Nations women, victim-survivors*

*and specialist community-controlled organisations. - **Delegate Statement,***  
**Wiyi Yani U Thangani Women's Safety Policy Forum**

*Systems actors, including government, police, courts and supports and services should:*

- 1. Establish transparent, interdepartmental governance to oversee plans, with clearly articulated lines of accountability to government departments and Ministers for achieving the objectives and targets:** The drivers of violence against First Nations women and children are complex and multi-faceted. Forum participants spoke to the intersection of issues that must be addressed to adequately respond to violence in First Nations communities, including but not limited to, housing, criminal justice, responses to children, health, and gendered drivers. Operating within traditional portfolio boundaries and a siloed response system will not be sufficient to end violence.
- 2. Underpin plans with a commitment to long-term, sustained investment, that emphasises holistic and community-led preventative measures and models:** Services on the ground need to receive both long-term and flexibility of funding to be responsive to need and address issues.
- 3. Ensure plans consider the interrelationship between state, territory and Commonwealth governments to promote policy and legislative reforms where there are shared responsibilities:** Of critical importance for attention is the criminal justice system, implementation of recommendations to harmonise family and domestic violence definitions and laws, child removal and Child Protection practices, and incarceration of First Nations women.

In the Wiyi Yani U Thangani First Nations Women's Safety Policy Forum, women also noted that many of the same recommendations are repeated across reports and research over decades but lack a consistent approach for taking action and tracking progress. Achieving the goals of responding to and ending violence against First Nations women and children requires a commitment to transformational change, not only to the systems and structures that impact women and children's lives, but in the approach that the government, and other institutional actors, including policing and courts, take. Some of these key recommendations include:

- Developing an integrated, whole-of-system response to family, domestic and sexual violence within government and across all jurisdictions.
- Recognising and responding to the systemic intersectional drivers of violence for First Nations people, which include the consequences of colonisation, intergenerational trauma, multiple racialised and gendered inequalities and discrimination.
- Improving data collection on the causes, consequences and responses to violence against First Nations women and children, and rigorous evaluations of policies, programs and legislations to be designed and led by First Nations people.
- Recognising that systems and approaches, from policy design to service delivery, can cause and perpetuate violence, and systems need significant reform at all levels to continuously respond to, and incorporate, community-controlled approaches and best practice.

- Investing into national coverage of holistic family-oriented healing approaches and services that can ensure the safety of women and children while responding to the whole family, including men.
- Developing a national approach to embed trauma and healing-informed practices across all services responding to family and sexual violence including child protection, justice, health and housing.
- Developing programs and reforming existing services and responses to be culturally grounded, informed, and secure.
- Developing and reforming existing mechanisms to guarantee First Nations women and children co-design policies, legislation and programs that impact their lives.

Although there are some efforts to respond to these findings and recommendations, Forum participants emphasised that these efforts remain piecemeal, ad-hoc and short-term. There is a serious need for a comprehensive, long-term nationally consistent approach committed to genuine transformational and structural change.

### **Wiyi Yani U Thangani Implementation Framework**

The Implementation Framework is a systems change framework grounded in First Nations women's knowledges, needs and aspiration. It was developed on the back of the Wiyi Yani U Thangani Report (2020) and further engagements with First Nations women and girls to explore what they recognised as solutions and needed changes for creating safe, thriving and empowered communities now and into the future. The Framework includes four thematic areas with several priorities areas below, touching on all areas of life. Within these areas, are actions that can be employed by all systems actors – from legislative changes, development of technologies, changing workplace practices, and changing attitudes and behaviours. Everything within the Framework is interrelated, as creating change in one area will have direct or indirect consequences somewhere else. As such, we recommend reading the Framework in its entirety. The recommendations provided below are drawn from several areas across the Framework and are both direct call to mitigate violence, as well as changing the systems that enable violence to exist. This list, however, is not exhaustive of the myriad actions and discussion of changing systems to create safe communities and institutions.

*Systems actors, including government, police, courts and supports and services should:*

- Embed the principle of 'do no harm' across all policymaking frameworks.
- Include a mandatory application of an intersectional gender and trauma-informed lens across all policy areas to account for facts such as family violence, disabilities, remoteness and access to services.
- Develop investment criteria designed by First Nations women and girls for a range of women and girls initiatives including family violence response work.
- All Australians to take accountability and responsibility for addressing intersectional discrimination—sexism, racism, classism and ableism—that perpetuates violence and harm against women, girls and gender and sexually diverse persons, and creates barriers to our social, economic and political participation.
- Guarantee communities resources, to design and deliver a continuum of care from intervention to recovery, alongside prevention and diversion initiatives. Including

gender-sensitive rehabilitation, mental health supports, family violence prevention and supports, and youth and adult diversion.

- Governments commit to strategies such as decarceration, raising the age of criminal responsibility, reducing recidivism and the removal of children. Additionally, governments should expand Circle sentencing<sup>iv</sup> and culturally secure family violence courts.
- Ensure all First Nations women have access to culturally appropriate supports including women and children's refuges, respites, rehabilitations, family violence healing and counselling supports, and integrated therapeutic and clinical supports.
- Design and rollout housing models to keep women and children together, end homelessness-related family violence, and women's homelessness-related deaths.
- Increase rental assistance for women and family violence payments, and introduce prison-release housing payments.
- Implement a national network of culturally-safe family violence and homelessness healing hubs and core-and-cluster housing, connected to specialist supports and permanent housing.
- Map First Nations crisis and transitional accommodation needs across Australia and fill the gaps, with the express aim to end the revolving door between specialist family violence services and the return to unsafe relationships and housing.
- Support partnerships between community, hospital and healthcare services to design homelessness health hubs within areas of high homelessness—guaranteeing a gender-sensitive and holistic response to their needs.
- Recognise and respond to the full spectrum of care work women provide for our children, our old people, people with disability, people experiencing family violence and trauma, and for Country and culture.
- Re-design an economic and financial system that centres First Nations women in all our diversity to ensure our economic security and financial wellbeing.
- Establish community-controlled and trauma-informed financial hubs for women and girls to access information, advisory services, education and for greater coordination of supports—such as parental, unemployment and study supports, and family violence crisis payments.
- Strengthen health care resources and supports to recognise and respond to the full spectrum of health care including, but not limited to: healing from trauma; supporting First Nations peoples in and post-incarceration; drug and alcohol support; and recovery from violence.

## Understanding violence against First Nations women and girls

First Nations women and girls have raised that their security and safety are constantly threatened by harms occurring at structural, institutional, and interpersonal levels. In every state and territory, women and girls discussed how alcohol and drug abuse, addictions such as gambling, family violence, sexual assault and abuse are major causes of personal harm and drivers of family and community breakdown and social fragmentation. The FaCtS study further details the raft of compounding factors that contribute to violence such as racism, poor housing, financial stress, alcohol and other drug use, a loss of physical, social and emotional wellbeing, and contact with the justice system amongst many other things.<sup>v</sup> These harms



should be considered as interrelated —cause and consequence of one another—together working to trap families and communities in cycles of crisis.

First Nations literature and voices have continuously pointed to the context of colonisation and trauma as critical to understanding violence perpetrated against First Nations women, children, LGBTQIA+SB people, and those with disabilities. Research highlights the impacts of colonisation and trauma in a historical sense, as an ongoing intergenerational process, and as perpetuating and causing contemporary issues and cycles of harm. Dispossession of land, separation of families and communities, ongoing marginalisation from racism and discrimination, and in particular the forcible removal of children, are both historic traumas and continue through current structures. Throughout Wiyi Yani U Thangani, women and girls stressed how the imposition of Western patriarchy at colonisation forced gendered hierarchies, restructuring and diminishing the role of women in society, contributing to the violence they experience today; and disempowerment and societal stereotyping of First Nations men, women and gender diverse people. These experiences are deeply linked with family, domestic and sexual violence, serving both as a cause and effect of intergenerational trauma and violent behaviours, as mentioned above,<sup>vi</sup> intersecting with gendered factors, and racialised gender inequalities and power dynamics.<sup>vii</sup>

In responding to this violence, as First Nations women and girls have reiterated, mainstream systems continue to create harm and make women reluctant to access supports and services available or contact police and courts when violence occurs. Victims of violence are therefore likely to hide the experiences, leading to underreporting, and remain in environments where they may experience violence again, rather than disclose and risk (re)traumatisation, judgement, and harm. Thus, our current systems and institutes are compromising the safety of victims. As one woman expressed in the Wiyi Yani U Thangani Report:

*Unless there is a healing pathway, no one will say anything. Everything is about punishment—a learned behaviour from colonisation. Not a way of repair. These were hard conversation to have. Then working with male prisoners—talking about being raped by the mothers. They felt like they can't tell these stories. The denial and suppression of the continued atrocities that happen. Every man I have worked with in jail that has enacted child sex abuse, everyone was violently sexually assaulted as a child. It is so complex. It is not saying it is ok, but there needs to be understanding and that they deserve help.*

It is imperative that the context of colonisation and the discrimination it has caused, be taken into consideration by courts, police, and service and legal practitioners. Recognising subconscious or embedded bias that is entrenched in systems and institutions as a result of colonisation, for example viewing First Nations peoples in a deficit lens, or not fully appreciating the experiences felt by women, is critical to reform spaces where violence takes place and is addressed. The following two sections explore what this looks like in courts and policing, and services and supports for victim-survivors of violence. These sections also detail the reforms, as voiced by First Nations women, that must take place in these spaces for meaningful change to occur.

When we view the context of violence in this way, we can understand the systems and structures – constructed of policies and laws, attitudes and behaviours and power dynamics that enable it to exist and grow. To adequately respond to violence and create response systems that can be meaningfully navigated by victims will require reforms and actions that are long-term, intersectional, holistic and that include and are accountable to those with lived experience of harm. More so, shifting attention to how systems and structures enable violence to exist responds to the root cause of this issue, and is therefore critical to addressing alongside improving violence reporting and response mechanisms.

The Wiyi Yani U Thangani Implementation Framework provides detail on how to understand and unpack this systems lens, broadly reflecting that to make meaningful and sustainable change, systems and structures must change, in addition to addressing the issue itself. The actions provided throughout the Framework are all interconnected acknowledging that shifts towards more enabling, responsive, and caring systems create positive change across individuals' lives. The Change Agenda also further articulates this providing a transformative approach to measuring, evaluating, and learning from systemic change action.

## Training and professional development for judges, police, and legal practitioners to enable trauma-informed and culturally safe justice responses

Policing and the criminal justice system are often part of the problem in First Nations family violence matters. Specifically, violence can be perpetuated by poor and discriminatory system responses to First Nations people experiencing violence, for example by police, child protection agencies and mainstream services.<sup>viii</sup>

This was evidenced clearly in the Victorian Royal Commission into Family Violence which heard about the complex and compounding barriers to reporting violence and accessing support, including, 'the poor police responses and discriminatory practices within police and child protection services, ...mistrust of mainstream legal and support services to understand and respect the needs, autonomy and wishes of Aboriginal victims/survivors, ...lack of cultural competency and indirect discrimination across the support sector, including for example discriminatory practices within police and child protection agencies, lack of culturally appropriate housing options, alienating and deterrent communication and client/patient approaches by medical, legal, community services and other professionals.'<sup>ix</sup> Many First Nations women and girls have also told us throughout engagements experiences of discriminatory treatment from police, including targeting, harassment and even neglect, that ultimately increases their contact with the justice system.

As rightly pointed out in the Wiyi Yani U Thangani Report, 'a system that evokes fear in us can never be one to protect us.' The following section dives into these experiences and shares First Nations women and girls' solutions for making the policing, courts and legal services more appropriate, safe and enabling.



## Policing

Police have had a significant role in the lives of First Nations peoples since colonisation and the settlement of Australia. The initial role of police was implementing government policies to control and manage First Nations people including the forcible removal of children during the Stolen Generation, displacement and segregation, and mission and reserve management. This history is within living memory: with removal policies not fully dismantled until the early 1970s in some locations, and civil restrictions applying to First Nations peoples in Queensland into the late 1970s. Given this historical relationship, it is unsurprising that many First Nations people have grown up with a mistrust of the police and others in the criminal justice system.

With distrust, women and girls, are less likely to disclose experiences of violence, in fear that they will be judged or open themselves up to further harmful or violent behaviour through mainstream policing and legal systems, fear of child removal, incarceration, victim blaming, and shame. This prevents them from reporting the harms that are happening to them and forcing them to be hidden and silenced.

Throughout engagements in the Wiyi Yani U Thangani project, women discussed how these attitudes result in police normalising violence against women and children, disbelieving or disregarding issues reported, or lacking urgency and failing to intervene in violent incidents.

*The relationship between the police and the community [is] based on the police themselves as individuals. One guy who was very rigid and wouldn't budge on anything. The young fella who wanted to work with young fellas and women and changed the statistics ... So, the older police officers who left and younger ones came in who were connecting with the community crime went down because of those relationships with positive interactions.*

*- Newman women*

We argue that such behaviours are a manifestation of the failures of the criminal justice system and the police force to effectively address and overcome a historically ingrained culture of racism and sexism. While intersectional discrimination is a systemic issue across Australian society, when it plays out in the behaviours of those wielding the power and authority of law enforcement, it is dangerous. For First Nations women and children, the discriminatory attitudes of those in authority are particularly harmful as it replicates the control and abuse of violence.

Recognising this context, women and girls shared genuine fear of engaging with the police. This is often a fear that any appeal will be met with a disproportionately aggressive or heavy-handed response. Neither is unfounded, the use of excessive force is both well-documented and a relatively common complaint from First Nations people. In some cases, women and girls also told us of feeling unsafe that police would coerce them into sexual encounters, as one woman told us:

*They are taking young girls out bush. Give them \$10. Take advantage of us. The young ones when they get drunk. They don't take them home. They take them out bush and give them \$10. They then point out the policeman that*

*gives you money ... not local girls, they are vulnerable girls from [remote location]. - De-identified engagement*

A critical step towards rebuilding trust between First Nations communities and the police is in the development of equal partnerships, stronger accountability and increased human rights, trauma-informed, cultural and gender-responsive training for police to better respond to violence against women. This must take place alongside creativity and collaboration in developing effective diversionary programs, alternative sentencing options, and justice reinvestment. Many examples of these programs are found in the Wiyi Yani U Thangani Report and Implementation Framework.

Strong structures for police accountability to protect against the abuse of increasing police discretionary power, which has a direct impact on the over-representation of First Nations women in justice processes, are critical to reforming the relationship between police and communities. Otherwise there is potential for more extreme outcomes and ongoing trauma for First Nations people. Through these processes, communities must be involved in decision-making and given opportunities to build productive and respectful relationships with police. Equally, police must commit to meaningful engagement with communities based on cultural understanding and positive interactions.

Greater cultural competence must also be displayed by police so that a space where equal partnerships between community and police can be developed to create community-led solutions. Given the significant role that police play in communities it is critical that they have an adequate understanding of the culture, strengths, and challenges of the communities they work in.

Police Liaison Officers (PLOs) were identified as critical in embedding cultural competence within police services and in fostering positive relationships between First Nations communities and non-First Nations police officers. The appointment of PLOs, especially in remote communities, can have a significant impact on the relationship between police and the community in which they operate, the crime rate and criminal justice outcomes for Aboriginal and Torres Strait Islander peoples. However, these roles need to be acknowledged for the value they add to community policing, through adequate recognition and respect within the police services. In remote Australia, it was frequently raised that training for PLO positions should be made available to the local community to ensure genuine relationships and local cultural and community knowledge.

Women also called for the need to urgently improve crisis responses when their lives are threatened by violence and harmful behaviours which may escalate into violent situations; and more specific training for police in identifying and appropriately responding to First Nations people with learning and cognitive disabilities and mental illness.

## Courts and legal services

First Nations women describe their interactions with the justice system as one that exacerbates the impacts of violence and compounds the trauma they experience. Fundamentally, the justice system should protect women and children, but instead, it re-traumatises women, removes their children and too often criminalises them for the violence

they have endured.<sup>x</sup> Reforms are needed at all stages of contact, from police, courts, corrections, community corrections (parole and probation), both in relation to reporting violence but also to prevent First Nations women from becoming perpetrators due to a lack of protection – for example, women who are under-protected or not protected at all by the system may cause harm to the person who is being violent towards them as their only means of escape.<sup>xi</sup>

The current system, including mandatory reporting legislation, preferences escalating intervention over preventative, diversionary, and supportive measures. Women describe experiencing discriminatory decision-making from authorities who punish and blame First Nations women for the harm and violence they experience instead of supporting women to safely care for their children in homes free from violence.<sup>xii</sup> As such, there is significant underreporting by Aboriginal and Torres Strait Islander women of incidents of violence because of the fear that their children will be removed if they do seek help.

We see there is a critical need for alternative approaches that can divert victims of violence from this system and be responsive and sensitive to the needs of women and children when they are at their most vulnerable.

Similar to experiences described with policing, lack of cultural awareness, racism and discrimination compounded within the legal system, women have told us they can be judged by lawyers and courts as being overly emotional and reactive. They face the very real possibility of former partners' accounts being believed over their own and losing custody of their children to an abusive ex-partner. In a family law system not specifically designed to respond to the impacts of family violence, abuse and trauma, women's and children's voices can too easily be disregarded. As Jess Hill noted in her research, abusive former partners can use this system as another weapon in controlling women and children.<sup>xiii</sup>

Without culturally safe, trauma-informed and specialist supports, women and children face multiple barriers to reporting harms and can struggle to navigate and access a complex legal system. Appropriate services are under-resourced and difficult to access. Instead of immediate protection, women and children can become embroiled in a complex family law system without culturally appropriate, trauma-informed representation. As such, the court system is often a confronting and difficult experience for many First Nations people.

Aboriginal and Torres Strait Islander sentencing courts can provide one pathway forward and offer a more meaningful conciliation process for First Nations families. The Barndimalgu Court and the Geraldton Family Violence Project, a specialised domestic and family violence, culturally safe and therapeutic court is an example of this in practice. The Wiyi Yanu U Thangani Report also provides examples of other alternative approaches to the courts such as diversionary programs, justice reinvestment programs, Aboriginal-led courts and alternative sentencing options in Chapter 6: Law and Justice.

## Support and services available to people who have experienced sexual violence, from prior to reporting, to after the conclusion of formal justice system processes.

First Nations women emphasised the importance of addressing the contexts and environments from which harmful and violent behaviours come in order to prevent them. The system must be looked at holistically—from health to housing and infrastructure, education and employment—to revitalise and embed First Nations knowledges and practices, from the start of life. This also includes increasing and investing in education around respectful relationships, grounded in First Nations culture and knowledges that have sustained healthy ways of being since time immemorial.

The right intervention at the right point can prevent harm and change the course of a person's life for the better. Creating a service and support systems that can help women and girls navigate these different areas and engage them holistically will ensure that receiving help when needed responds to their whole-of-life experiences, and can engage communities of support, rather than one that is siloed and piecemeal. It is a continuum of services, interventions and mechanisms that women have described as the holistic wrap-around supports needed before, during and beyond crisis. No matter what our women and children are experiencing, our system should be striving to guarantee their safety, prevent further harm and aid in recovery through the provision of ongoing supports.

*Eradicate family and domestic violence cycle— better education, awareness, preventive policies and measures rather [than] reactive ... System is a barrier ... We want culturally appropriate service, non-restrictive service profession. Looking at whole aspects of that women's voices. It needs to be prioritised in a holistic sense. Governance and oversight from leaders, Aboriginal elected body. Solution driven by community with government to drive ...*  
- Canberra women

The failure of the current system to provide preventative and holistic supports has become a major deterrent to women and children reporting harms or seeking any form of support. They know that, without alternative options to the situation they are in, such as safe housing, the all-too-likely outcome is intervention. Therefore, women and girls are left with an impossible ultimatum: remain in unsafe situations and continue to suffer harms, violence and abuse, which we know can result in serious injury and even death, or face homelessness.

*If they ring the police, they still get in trouble with the Department [of Family and Community Services] when they did the right thing. If you say anything about the DV they get flagged too. So, they have to be silent about it. You hide it ... Then we are running around in circles—so you do shut up—then it builds to problem with kids being in danger ... There is not enough support for the mother and family before it gets too bad - Sisters Inside women*

A major barrier to developing a fluid holistic system is the current system's lack of integration across services, responding to issues according to sector-based requirements. Women have

described being trapped in the revolving door of constant referral processes to services that are not equipped or contractually obliged to respond to their multiple and diverse needs, such as family violence, mental health, drug addictions and housing.

*... it is always out of their area or under another area. Everyone needs it! Like for example you go to the hospitals they are there, you know, you can't even get your own staff in, yeah so rehabilitation is really important. - Kempsey women*

Prevention, as described in the following discussions, is about 'digging deep' to identify and address the underlying systemic causes of harm, while providing the holistic supports to respond to harm and keep families safe in the immediate.

*Supporting families involves early prevention, accessing program supports. Support includes around child removal/child safety, addiction support, healing trauma, cultural capacity building, family building, parenting young people, mental health ... education .... - Logan women*

*... we have the women's service for domestic violence but no holistic service for women. The things that are fuelling alcohol and drug driven jealousy, social issues, overcrowding etc. children are being abused .... - Yarrabah women*

The overarching way in which women discuss prevention is not just about stopping harms from occurring, it is also about considering how strategies can change detrimental behaviours by addressing the context and environments in which they form. They stress how program supports addressing collective harms need to be able to respond to families and communities. Healing processes are key to overcoming traumas and changing behaviours through the restoration of individual and collective identity and social and cultural strengths.

While research into family violence shows that primary prevention and early intervention is critical to breaking the cycle of violence, this is one of the least resourced areas in the service system. In remote areas, 'drive in and drive out' services are reliant on women's services on the ground, increasing the burden of responsibility on under-resourced and overworked services to facilitate connection and enable primary prevention services to build rapport and achieve positive outcomes for communities. There is also a chronic lack of recognition, value and support of the unpaid care work that First Nations women do in communities, including supporting victims of violence and filling the gaps that inadequate services and policy induced poverty (particularly through the welfare system) create. Much greater support and value needs to be placed on this care work, which is often informally given, but critical to addressing family violence.

Acknowledging that many of these preventions and early interventions, and response supports and services do exist, it is important that they are adequately resourced, and supported at the community level. A holistic response also requires flexible funding that acknowledges the holistic nature of services and inter-connectedness of family violence prevention work. Where there are gaps in communities that require new services, communities should be engaged to lead this work, recognising that any solutions on the ground must be responsive to the unique needs of those communities. Some response and prevention-based, holistic, and healing-

based supports addressing violence raised throughout Wiyi Yani U Thangani engagements were:

- **Counselling and therapeutic supports:** ranging from one-on-one counselling to group yarning circles and family therapy. Counselling is seen as a critical support, recovery and healing process. It can provide benefits for victims and survivors, as well as perpetrators, of harms such as violence, sexual assault, abuse and rape, as well as for extended family who may have witnessed and supported victims/survivors through traumatic circumstances.
- **Education, awareness raising and training:** this includes education in schools about healthy relationships and positive behaviours, and public campaigns such as Ochre Ribbon Week. Training is seen as essential for community organisations and service providers across sectors to address harmful behaviours, respond to traumas and assist in identifying, intervening and mediating conflict situations.
- **Night Patrols:** these provide transportation to safe places for young people and those at risk of harm, mediate conflict situations and prevent violence within communities. They provide a culturally appropriate response and are most successful when conducted in a strong and positive relationship with other service providers, and the local police force.
- **Youth activities and entertainment:** this includes access to sports, arts and on-Country activities, youth centres, and youth supports delivered by essential services such as the police. They are considered necessary alternatives to engaging in risky and harmful behaviours, such as taking drugs and being involved in crime.
- **Family Violence and Prevention Legal Services (FVPLS):** these are critical in providing culturally safe, holistic wraparound legal supports for victims/survivors and children experiencing family violence. They provide legal assistance in critical areas of family violence law and child protection, assist in other matters such as securing housing, and provide place-based community legal education and early intervention and prevention activities.
- Prioritisation of a whole of family approach with **programs designed with and for First Nations men**, including safe and alternative accommodation and treatment programs: Women are clear that when it comes to ending violence, we must also include and invest in the healing needs of men. Alongside investment into men's programs, there must be ongoing evaluation to ensure that the program's design and logic are effective, and that the engagement of men in these programs are producing the desired outcomes in the short, medium and long-term. Men's programs, however, must exist alongside efforts to address all forms of inequality and poverty. It is also vital to note that not all perpetrators of violence against First Nations women are First Nations men and we must address the behaviours and conditions for violence against First Nations women by non-Indigenous men and broader society.



- **Drug and alcohol addiction supports:** For years, First Nations women have emphasised the connection between violence and drug and alcohol misuse. Women want to see a significant and urgent investment in culturally-safe and trauma-informed drug and alcohol rehabilitation centres and hubs for all genders, that centres connection to culture and Country. Particularly for women as primary carers, rehabilitation models must be child and family-focused and provide maternal wrap-around supports to improve the mental health of women and children and prevent poor pregnancy outcomes such as FASD.<sup>xiv</sup> Women stressed that for rehabilitation and recovery approaches to be effective for First Nations peoples, they must be culturally safe.
- **Safe housing supports and emergency housing:** First Nations women describe overcrowding, housing insecurity and homelessness as major contributors to violence and exacerbators of the impacts of trauma, and further increasing punitive interventions from the legal and child protection system. There are long waiting lists for crisis, medium and long-term accommodation options in states and territories, as well as a lack of affordable and culturally appropriate public housing. The severe lack of all forms of secure housing leaves First Nations women and their children without a safe place to live and thrive, heightening their vulnerability to homelessness, which further increases the likelihood of violence. First Nations women are also reporting being turned away from refuges and safe houses that are already at capacity when they are needing a safe place to stay. They then rely on family and friends to provide safe harbour or have no other alternative but to return to an unsafe home.<sup>xv</sup> The impact of eligibility criteria on seeking support is also a factor, with reports that some refuges are unwilling to accept male children over the age of 10, inhibiting First Nations women from seeking help and being able to escape violence.<sup>xvi</sup>
- **Financial supports and services:** Poverty and the lack of economic security for many Aboriginal and Torres Strait Islander people, particularly women, compounds the conditions for family violence, intensifies the impacts of harm and makes unresolved trauma extremely difficult to recover from.<sup>xvii</sup> This is further exacerbated for women who carry out most of the unpaid care work for families, children, people with disabilities and those experiencing trauma. Moreover, the inadequacy and punitive nature of Australia's social security system deepens Aboriginal and Torres Strait Islander poverty and economic insecurity which makes it hard for victim-survivors to leave violent situations.<sup>xviii</sup>
- **Increased coverage of holistic integrated and comprehensive healing models and recovery services focused on First Nations culture that include mental health services for all genders:** There must be widespread coverage of these supports, including in regional, remote and very remote areas including the Torres Strait.

## Importance of healing spaces

Women described healing processes as key to overcoming traumas and changing behaviours through the restoration of individual and collective identity and social and cultural strengths. Women want to see a continuum of culturally safe, healing and recovery-based and responsive

services, from interventions and wrap-around supports, before, during and beyond crisis. This includes investing in women's health services, respite and vicarious trauma supports and counselling for women and other community members leading trauma recovery and healing work.

*Because domestic violence is a part of a cycle that needs a lot of healing, and there is a lot of trauma that comes from that ... I would love to see something, just a healing space for them to go to reconnect with themselves, and reconnect with country, and reconnect with their children in order to have change to happen in the child protection space. - Rockhampton women*

*Access a healing place which is culturally appropriate, aims to stop the cycle of intergenerational trauma, building a safe space, the workers are Indigenous. - Sydney women*

Women have also expressed value in revitalisation of Law supports for communities to address issues of social harms. For years, our community-controlled organisations have been integrating these methods within culturally-based therapeutic programs across a range of service areas, including social enterprise and children and family supports. Ensuring that these organisations are sustainably funded and accessible to survivors of violence is critical to healing processes, as well as navigating the justice system in a safe and culturally responsive way.

The acknowledgement of culture and healing processes unique to First Nations peoples is largely unrecognised within mainstream spaces. This makes mainstream services ineffective for First Nations peoples, and at worst, may (re)traumatise women as they seek help.

## First Nations-led and designed services and supports

Ideally, initiatives should be delivered as integrated programs through community-controlled resource centres and organisations that are meaningfully and sustainably funded to ensure these services and supports can exist. First Nations communities, especially women, have an extensive history of driving community-led interventions and solutions. Sustainable investments must be made into resourcing and supporting communities to lead, design, implement and evaluate the solutions they know work instead of investments into additional punitive measures such as policing and prison systems. Communities must be resourced with funding that corresponds to needs on the ground, and with flexibility to be directed across immediate responses and long-term, preventative and holistic approaches.

As argued by Kylie Cripps and Hannah McGlade, "There is now quite an extensive body of literature that clearly illustrates what has long been known at an Indigenous community level: that typical 'Western' responses to family violence like women's refuges, criminal justice responses and programs of a therapeutic nature have mostly been culturally inappropriate and ineffective. These approaches are largely based on Western models of intervention that have focused on the separate needs of victims and perpetrators, with a particular focus on a criminal justice response. The latter is an approach to violence that largely criminalises violence and relies on the institutionalisation of the offender to protect the victim. Indigenous community members have consistently criticised this approach as being irrelevant, discriminatory and a

repeat of the kinds of violence inherent in policies and practises of colonisation.<sup>xxix</sup> Thus, the policies, procedures, services and supports to address violence must be different between Indigenous and non-Indigenous peoples to account for these unique experiences.

When victims of violence feel safe and supported, and can meaningfully engage in healing and culturally appropriate services and supports, they are also more likely to feel comfortable to disclose experiences of violence. To do this effectively requires investing in, and learning from, community-controlled organisations that are developing culturally based healing methods that have been proven to work over millennia. These are the practices that need to be integrated into policy frameworks and receive substantial program funding.

## Conclusion

Urgent changes are needed to reform how First Nations women and girls are supported when experiencing violence, as well as investing in holistic and prevention services and supports to mitigate violence for happening. In making this a reality, the overarching message throughout our engagement with First Nations women and girls is that involving women and communities in these reforms, processes and procedures are critical to making meaningful and sustainable change. They know, through firsthand experience, what is required for their children and families to have healthier and safer existences.

A First Nations gender and systems reform lens can be applied to recognise the drivers and enablers of violence and respond accordingly to address the root causes of harm alongside issues and challenges – such as inadequate responses to violence. This is important to not only respond to the lives of First Nations women and girls but to create a safer environment for everyone.

We would also like to direct your attention to other reports, recommendations and policy papers to assist in the Inquiry. We hope these resources provide further useful insight into responding to sexual violence through a First Nations lens. These include, but are not limited to:

- [National Plan Consultation Reports](#) released in July 2022 — outlining stakeholder and victim-survivor advocate responses.
- [Commonwealth Inquiry into family, domestic and sexual violence 2021](#) — putting forward 88 recommendations for the development of the next National Plan. The Inquiry also includes previous recommendations from Commonwealth inquiries.
- The Australian National University First Nations-led [Family and Community Safety for Aboriginal and Torres Strait Islander Peoples Study \(FaCtS\)](#) — commissioned in 2017 by the Department of Social Services to examine what is needed to address family and community violence in Aboriginal and Torres Strait Islander communities.
- [Changing the Picture: a national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children](#), developed by Our Watch in 2018 — a practice framework focusing on the essential actions necessary to shift and change the drivers of violence.
- [Strong Families, Safe Kids: Family violence response and prevention for Aboriginal and Torres Strait Islander Children and Families](#) — a 2017 policy paper developed in collaboration between SNAICC – National Voice for our Children, the National Family

Violence Prevention Legal Services Forum (NFVPLS) and the National Aboriginal and Torres Strait Islander Legal Services (NATSILS).

Thank you again for the opportunity to provide a submission to this Inquiry. We hope that the information provided will be useful and work towards shifting responses to violence so that Aboriginal and Torres Strait Islander women and girls are safe and supported.

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<sup>i</sup> Kate Lyons, 'Horror and fury in Australia as epidemic of violence against women sweeps across the country' *The Guardian* (5 May 2024, news article) <<https://www.theguardian.com/australia-news/article/2024/may/05/horror-and-fury-in-australia-as-epidemic-of-violence-against-women-sweeps-across-the-country#:~:text=In%202022%2D23%2C%20while%20the,in%20Australia%20and%2035%20in>>.

<sup>ii</sup> Kyllie Cripps, 'Indigenous women and intimate partner homicide in Australia: confronting the impunity of policing failures' (2023) *Current Issues in Criminal Justice* 35(3), 293-311.

<sup>iii</sup> Australian Institute of Health and Wellbeing, *Family, domestic and sexual violence* (12 April 2024, Web page) <<https://www.aihw.gov.au/family-domestic-and-sexual-violence/population-groups/aboriginal-and-torres-strait-islander-people#know>>.

<sup>iv</sup> Steve Yeong and Elizabeth Moore, Circle Sentencing, incarceration and recidivism (Crime and Justice Bulletin No. 226, 2020).

<sup>v</sup> Jill Guthrie, Katherine Thurber, Raymond Lovett, Matthew Gray, Emily Banks, Anna Olsen, Bianca Calabria, Naomi Priest, Phyll Dance, Joanne Thandrayen, Emily Colonna, Rubijayne Cohen, Makayla-May Brinckley, Shavaun Wells, Minette Salmon, Kate Doery, Naveena Movva, Terry Dunbar, Victoria Hovane: *'The answers were there before white man come in': stories of strength and resilience for responding to violence in Aboriginal and Torres Strait Islander communities – Family and Community Safety for Aboriginal and Torres Strait Islander Peoples Study* (Report, 2020).

<sup>vi</sup> Carlson, B., Day, M., & Farrelly, T 'What works? Exploring the literature on Aboriginal and Torres Strait Islander healing programs that respond to family violence' (Research report, ANROWS, 2021).

<sup>vii</sup> Our Watch, *Changing the picture, Background paper: Understanding violence against Aboriginal and Torres Strait Islander women*, (Report, 2015).

<sup>viii</sup> National Family Violence Prevention Legal Services, *Developing the next National Plan to reduce violence against Women and their Children*, (Submission to the Department of Social Services, July 2021).

<sup>ix</sup> Aboriginal Family Violence Prevention and Legal Service Victoria, *Submission to the Victorian Royal Commission into Family Violence*, (Submission, 2015)

<sup>x</sup> Hannah McGlade and Stella Tarrant, "Say her name" – Naming Aboriginal women in the justice system' in Suvendrini Perera, Joseph Pugliese (ed), *Mapping Deathscapes* (Routledge, 2021) chapter 5, 106.

<sup>xi</sup> Marlene Longbottom, 'Commission of inquiry into Queensland Police Service responses to domestic and family violence', (Submission, 2022).

<sup>xii</sup> National Family Violence Prevention Legal Services, 'National Family Violence Prevention Legal Services Forum submission to the Australian Human Rights Commission Wiyi Yani U Thangani (Women's Voices)', (Submission, December 7, 2018).

<sup>xiii</sup> Jess Hill, *See What You Made Me Do: Power, Control and Domestic Abuse* (Black Inc., 2019) 264-265

<sup>xiv</sup> Australian Human Rights Commission, *Wiyi Yani U Thangani (Women's Voices): Securing our Rights, Securing our Future*, (2020), Part Two, Chapter 5, p. 225.

<sup>xv</sup> Kyllie Cripps, and Daphne Habibis, *Improving housing and service responses to domestic and family violence for Indigenous individuals and families*' (AHURI, Final Report, NO 320, August 2019).

<sup>xvi</sup> State of Victoria, Royal Commission into Family Violence: Summary and recommendations, Parl Paper No 132 (2014–16), p. 458.

<sup>xvii</sup> Australian Human Rights Commission, *Wiyi Yani U Thangani (Women's Voices): Securing our Rights, Securing our Future*, (2020) Part Two, Chapter 5, p. 2017.

<sup>xviii</sup> Elise Klein, 'Unpaid care, welfare conditionality and expropriation', (2021), 28(4) *Gender Work Organ*, p 1475-1489.

<sup>xix</sup> Kyllie Cripps, Hannah McGlade, 'Indigenous family violence and sexual abuse: Considering pathways forward', (2008) *Journal of Family Studies*, 14(2-3), p. 243.