



**Australian Government**  
**Department of Social Services**

# Submission to the Standing Committee on Social Policy and Legal Affairs inquiry into family violence orders

Department of Social Services

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## Introduction

The Department of Social Services (the department) welcomes the opportunity to provide a submission to the Standing Committee on Social Policy and Legal Affairs (the committee).

### National Plan to End Violence against Women and Children 2022-2032

Ending violence against women and children is a national priority. The Australian Government is providing the focus and national leadership needed to prevent violence and ensure appropriate support is available to people who need it, when they need it.

The *National Plan to End Violence against Women and Children 2022-2032* (the National Plan) is a joint Australian, state and territory (state) government document that sets the national policy agenda for addressing violence against women and children in Australia for the next 10 years. It highlights how all parts of society, including governments, businesses and workplaces, media, schools and educational institutions, the family, domestic and sexual violence sector, communities and all individuals, must work together to achieve the shared vision of ending gender-based violence in one generation.

Under our federal system of government, each jurisdiction is responsible for administering its own criminal justice system, including criminal laws, policing, courts and corrections. This includes the determination of family, domestic and sexual violence crimes and the provision of police and court ordered intervention orders. Child protection services in Australia, including the decision to remove children from their home, is a state responsibility. The Australian Government supports families and children who experience disadvantage or vulnerability, including children in the child protection system, through *Safe and Supported: the National Framework for Protecting Australia's Children 2021-2031*. While state governments are primarily responsible for criminal justice responses to family, domestic and sexual violence, the scale and prevalence of this violence, and the associated barriers to justice, make it an issue requiring national collaboration.

## Systems abuse

The existing system has largely prioritised crisis, legal responses and mainstream responses to violence. However, systems, legislation and services can unintentionally promote women's dependency on men and perpetuate discrimination. For example, perpetrators can abuse legal systems to exert power and control over victim-survivors.

Systems abuse affects victim-survivors' health and well-being as well as having social and economic impacts. It undermines confidence in the legal system, denies victim-survivors support and may inadvertently help the primary perpetrator further control the victim-survivor. These factors may prevent the victim-survivor from reporting abuse, while poor or inadequate legal penalties for the perpetrator and reduced accountability can present additional barriers to reporting. The services on offer may lack a specialised approach, and may not be culturally safe or appropriate, which can further undermine victim-survivors' confidence in the system.

The inappropriate use of legal penalties against victim-survivors who have used violence in response to violence perpetrated against them has been of concern for decades. This often stems from a systems failure, which responds to violence as single incidents. For example, a person using violence in a single incident may be considered the perpetrator, but when viewed more broadly, it is clear they are the victim of a pattern of coercive control and are using retaliatory or pre-emptive violence.

Research released by Australia's National Research Organisation for Women's Safety (ANROWS) in 2020 found<sup>1</sup>:

- Women are being misidentified as perpetrators of domestic and family violence and named as respondents on protection orders.
- The impacts of being misidentified are far-reaching and can increase vulnerability to violence and risk of associated harms.
- Policing focuses on isolated incidents of violence.

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<sup>1</sup> Nancarrow, H., Thomas, K., Ringland, V., & Modini, T. (2020). Accurately identifying the "person most in need of protection" in domestic and family violence law (Research report, 23/2020). Sydney: ANROWS

- Assumptions about behaviours of victims affect policing practice.
- Systems abuse contributes to misidentification.

Failure to correctly identify the perpetrator disproportionately affects Aboriginal and Torres Strait Islander women, who are more likely to encounter structural racism in their interactions with the criminal legal system. Aboriginal and Torres Strait Islander women are less likely to seek help or report violence due to racism, including past government practices, and a mistrust of policy and mainstream services often arising from previous experiences of reporting violence, misidentification of victims as perpetrators, lack of services availability, and experiences of incarceration and child removal<sup>2</sup>.

Aboriginal and Torres Strait Islander adults are 15 times more likely to be imprisoned than non-Indigenous adults, and Aboriginal and Torres Strait Islander young people are 28 times more likely to be in youth detention than non-Indigenous young people<sup>3</sup>. In 2022, First Nations females were imprisoned at a rate of 412 per 100,000 females in the First Nations adult population, 23 times the rate of non-Indigenous females in the Australian adult population<sup>4</sup>.

## National Plan to End Violence Against Women and Children - Australian Government initiatives and investment

As part of the whole of society effort, the Australian Government committed to make improvements to the justice system, including family law, to improve legal responses to better protect victim-survivors and prevent re-traumatisation, and support family violence legal services.

There is a shared responsibility, and commitment, across the Australian Government and the states.

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<sup>2</sup> *Aboriginal and Torres Strait Islander Action Plan 2023-25*, 2023, Commonwealth of Australia (Department of Social Services), 2023

<sup>3</sup> Australian Bureau of Statistics (ABS), 2024, *Prisoners in Australia 2023*, Canberra: ABS, Australian Government

<sup>4</sup> *Ibid.*

State governments have primary responsibility for funding and delivering state-based services to respond to gender-based violence including justice, policing, housing, health and mental health services, and child protection services. Mainstream services, i.e. those services that are not specialist family, domestic or sexual violence services, also provide entry pathways to more direct specialist services for victim-survivors experiencing gender-based violence.

The National Plan to End Violence against Women and Children 2022-2032 (the National Plan) was established to coordinate efforts across all levels of governments to address violence against women.

The National Plan envisages a future where our comprehensive and coordinated crisis response system facilitates safe and quick resolutions of family law matters through an accessible and easy to navigate family law system and family law services (see early intervention section starting on page 84). These ensure victim-survivors can obtain fair outcomes and maintain their safety and economic security following family separation.

It is critical that the system protects those at risk of violence – including children and young people – who are victims and survivors of family violence in their own right. Children’s best interests are always the main consideration in resolving parenting disputes, and a range of services are available to meet the diverse needs of families to help them achieve this outcome.

These systems also need to provide assurances of safety during those processes, particularly where children are involved. While much has been done, work will continue to help more separating families resolve disputes in a timely and safe manner, so that litigation is a last resort.

## Current investments

There has been a series of initiatives within the family law system to help families separate in a safe, child-centred, supportive, accessible and timely way. The aim of these initiatives has been to provide better coordination and awareness of family safety issues in Australia’s family law system and increase the protections and support available to victim-survivors as they move through the court system. Pilot programs within the courts such as the Lighthouse Project and the co-location of child protection and policing officials within family law court registries across

Australia have improved the family court system's capacity to recognise and respond to violence against women and children in a timely manner.

In the 2024-25 budget, the Government has invested a further \$1.1 billion towards ending gender-based violence, bringing the Government's total investment to \$3.4 billion under the National Plan over the past three budgets.

Of relevance to this committee is funding provided to the Attorney-General's Department and Federal Court for:

- Extending and expanding the Federal Circuit and Family Court of Australia's Lighthouse Project pilot and culturally responsive support for First Nations Australians.
- Increasing the capability and capacity of the service system by training frontline workers, law enforcement and legal practitioners to better recognise and respond to victims of sexual violence in a way that supports their safety, autonomy and rights.
- Piloting a new service model providing victim-survivors of sexual assault with greater access to specialised legal support and guidance.
- Strengthening and Harmonising Sexual Assault and Consent Laws.
- Maintaining protection against cross-examination by family violence perpetrators by providing more money to legal aid.
- Strengthen criminal justice frameworks and responses to domestic, family and sexual violence including scoping a witness intermediary scheme to support vulnerable witnesses to give evidence, a scoping study on alternative reporting mechanisms for sexual assault.

## Response to the Elements of the Terms of Reference

The department has an overarching stewardship of the National Plan, working collectively to harness experience, diversity, and resources for the ongoing and sustainable delivery of policies and programs. The department is providing this submission against specific terms of reference to provide the committee with information about its relevant programs and initiatives.

## 1. The risk of an escalation in the aggressive and violent behaviour of the perpetrator and heightened risk to the partner and children during family court proceedings.

The risk of people using violence is not consistent across the life course, but dynamically changes over time due to internal and external exacerbating factors.

At the National Cabinet meeting on 1 May 2024, First Ministers agreed that system responses need to be strengthened, with a focus on high-risk perpetrators and serial offenders to prevent homicides. This will involve work across governments and jurisdictions. First Ministers have agreed to undertake a range of work that will report back to National Cabinet later this year.

- Police Ministers Council and the Standing Council of Attorneys-General will be tasked to develop options for improving police responses to high risk and serial perpetrators, including considering use of focused deterrence and fixated threat strategies.
- First Ministers agreed to improve information sharing about perpetrators across systems and jurisdictions, led by the Commonwealth Minister for Women.
- First Ministers agreed that states will explore opportunities to strengthen national consistency and drive best practice approaches across jurisdictions, including relating to risk assessment and responses to sexual assault, led by Victoria and South Australia.

### 1. ***Departmental Initiatives - perpetrators or people who choose to use violence***

Working with men who engage in violent and abusive behaviours is an integral part of a holistic approach to preventing and responding to violence against women. It provides perpetrators with opportunities and support to take responsibility for their violence and change their behaviour.

The department is funding a variety of existing initiatives focused on understanding the drivers of violence, improving the identification and assessment of risk and intervening to effectively reduce risks to understand perpetrator risk. These initiatives reflect the Commonwealth government's role, noting that states and territories are responsible from front line services.



### *Expanding the evidence base and research on perpetrators*

Through the October 2022-2023 Budget, ANROWS received \$23.3 million to establish a National Priority Program of Research (NPRF) to build the evidence base required to support the National Plan and its subsequent Action Plans.

One priority of the NPRF is to build knowledge and understanding of factors correlated with men perpetrating violence, including the role of their own lived experience of trauma and violence. On 13 June 2024, ANROWS announced funding for 8 successful research projects on “people who use violence” focused on understanding family and domestic violence perpetration to inform policy and practice design for prevention and early intervention.

Additionally, through the 2024-25 Budget, ANROWS are receiving \$4.3 million to expand the evidence base on pathways into and out of perpetration of family, domestic and sexual violence (FDSV). ANROWS is undertaking a rapid review of research, evidence and data on FDSV perpetration to identify gaps and inform government on priority areas for investment. ANROWS is working with the Australian Institute of Health and Welfare and the Australian Institute of Family Studies to undertake the rapid review of research, evidence and data. This initiative will also fund additional research to address the identified priority areas of knowledge gaps.

### *National Perpetrator Risk Assessment Framework (NPRAF)*

The 2023-24 Budget provided \$8.5 million from 2023–24 to 2026–27 for initiatives to support people who have used violence, or are at risk of using violence, to change their behaviours. This package includes the development of a national perpetrator risk assessment framework (NPRAF) for service providers to support consistent identification and management of risks posed by perpetrators, along with extending the MensLine Changing for Good Service and developing a national perpetrator referral database of services to improve uptake of intervention services.

### *Working with States and Territories - Innovative Perpetrator Responses*

The department has a national partnership agreement in place with states and territories. As part of this \$27 million from 2022-23 to 2026-27 has been allocated

to partner with states to trial innovative approaches to the behaviour of people who use family, domestic and sexual violence. The programs trialled are determined in partnership with states to meet their needs and aims to build the evidence base for what works.

These innovative approaches may be provided to users of violence with a FVO, with a recorded domestic violence offence, or going through court proceedings, which may help to reduce the risk of an escalation in the violent behaviour of a perpetrator during family court proceedings.

#### *National Perpetrator Intervention and Referral Service*

The Government has committed \$10.8 million over 2022-23 to 2025-26 to continue funding No to Violence (NTV) to deliver the National Perpetrator Intervention and Referral Service (NPIRS), which consists of 3 components:

- The Men's Referral Service provides national direct telephone and online support for men who are using violent and controlling behaviour.
- The Brief Intervention Service offers multi-session telephone based counselling for men who use violence and may be waiting to access a Men's Behaviour Change Program.
- The Five Essential Discussion Tools offers online training to frontline workers, responding to men who use violence.

The NPIRS offers critical support to men who use family violence, their friends and family and the sector that supports them to change their abusive and violent behaviour. It supports early identification of perpetrator risk and behaviour change responses, increasing accessibility for victim-survivors.

#### *MensLine Australia and MensLine Changing for Good*

MensLine Australia is a free professional telephone and online counselling service offering support for men with concerns about mental health, anger management, family violence (using and experiencing), addiction, relationships, stress and wellbeing.

Services include specialist telephone and online counselling, tools and resources to raise awareness of the impacts of domestic and family violence, and referral to and from other organisations.

MensLine Changing for Good is a free multi-session phone counselling service for men who want to develop healthy and respectful relationships with the people in their life. MensLine Changing for Good will help men to continue to have violence-free relationships and has two programs available:

- Post Men’s Behaviour Change Program: a six-month telephone counselling program that helps men continue the work they started in a Men’s Behaviour Change Program.
- Violence Prevention Program: a two-month telephone counselling program for men who are worried that their thoughts and behaviours may escalate to physical violence.

## 2. The current barriers for litigants in the family law system to obtain and enforce FVOs, including but not limited to: *c. the availability of wrap-around support services and security for victims of violence.*

When families separate, they are encouraged to settle matters out of court, where it is safe to do so.

The Australian Government funds family relationship services that provide free and low cost assistance to help families manage their family separation and relationship issues. Most notably, as separation is a risk factor for family violence, services help women make decisions about post-separation arrangements, including where financial abuse is present. Children’s best interests are always the main consideration in resolving parenting disputes, and a range of services are available to meet the diverse needs of families to help them achieve this outcome. The vast majority of family law matters are settled outside the court system.

Of the small minority of matters that end up in court, the majority involve allegations of family violence. In 2022-23, data from the Notices of Child Abuse, Family Violence or Risk, which are filed with applications for final orders in the Federal Circuit and Family Court of Australia<sup>5</sup>, indicates:

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<sup>5</sup> Federal Circuit and Family Court of Australia 2023. Annual Report of the Federal Circuit and Family Court of Australia. [FCFCOA Annual Report 2022-23](#) Commonwealth of Australia

- in 72% of matters, one or more parties alleged that a child had been abused or was at risk of child abuse
- in 83% of matters, one or more parties alleged that they had experienced family violence
- in 77% of matters, one or more parties alleged that a child had experienced family violence
- in 55% of matters, one or more parties alleged that drug, alcohol or substance misuse by a party had caused harm to a child or posed a risk of harm to a child
- in 60% of matters, one or more parties alleged that mental health issues of a party had caused harm to a child or posed a risk of harm to a child
- in 69% of matters there were four or more risk factors alleged by either party.

## **2. *Departmental wrap-around support services and security for victims-survivors***

The department is responsible for a number of Commonwealth level programs that provide wrap-around supports services for victim-survivors, from payments to assist with financial support and security through to safety programs.

### *Financial Support Services, Payments and Programs*

- Crisis Payment - is a one-off payment available through Services Australia to eligible income support recipients who have experienced family and domestic violence. The payment also helps reduce barriers when accessing the family law system and FVO's by providing increased financial security.
- No Interest Loans Scheme (NILS) – (\$72.7 million from 2018 to 2025).

NILS provides access to fair and safe loans for eligible people, with no interest, fees or charges. Loans are available for women experiencing family or domestic to help women with the financial costs of establishing a new household, such as relocation expenses, rental bonds and rental payments. Women must have experienced family or domestic violence in last 10 years and have capacity to repay the loan, no income limits apply. This can

help reduce barriers when accessing the family law system and FVO's by providing increased financial security.

- Financial assistance packages - Escaping Violence Program (EVP) trial and Temporary Visa Holders Experiencing Violence Pilot (TVP):
  - Escaping Violence Program (EVP) trial – provides victim-survivors of intimate partner violence with individualised financial assistance packages of up to \$5,000, including up to \$1,500 in cash or cash equivalents and the remaining funds provided in goods, services and supports. The trial also supports victim-survivors with risk assessments and safety planning<sup>6</sup>.
  - The Temporary Visa Holders Experiencing Violence Pilot (TVP) provides eligible temporary visa holders experiencing family and domestic violence with financial assistance packages of up to \$5,000 for goods and services, as well as access to legal support for migration and family law through nine Women's and Community Legal Centres<sup>7</sup>.

Note: On 1 May 2024, the Government announced a \$925.2 million investment to establish the Leaving Violence Program as an ongoing financial support program for victim-survivors of intimate partner violence. The Leaving Violence Program will build on the successes and learnings from the EVP trial and the TVP. The Leaving Violence Program is anticipated to commence mid-2025.

### *Housing, accommodation and safety programs*

Ensuring victim-survivors have safe and secure housing is fundamental to preventing them from returning to violent situations and/or homes. Safe and stable housing options foster independence and can reduce barriers to accessing help and support, including navigating the family law system and FVO's. The department is responsible for a number of Commonwealth level programs designed to increase housing security and safety in the home:

- Keeping Women Safe in their Homes (KWSITH) program – (\$76.53 million from 2015-16 to 2026-27) provides wrap-around services and security upgrades to victim-survivors of family and domestic violence. This program

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<sup>6</sup> The EVP will cease in mid-2025 upon commencement of the Leaving Violence Program.

<sup>7</sup> The TVP will cease in mid-2025 upon commencement of the Leaving Violence Program.

supports women and their children who have experienced family and domestic violence to stay in their own home, or a home of their choice, where it is safe and appropriate to do so. These services may be available to victim-survivors going through higher-risk periods of family court proceedings and FVO's, which can help to reduce barriers for litigants in the family law system to obtain and enforce FVOs.

- \$172.6 million from 2020-21 to 2026-27 to deliver emergency accommodation through the Safe Places Emergency Accommodation Program (Safe Places) which provides capital works grants to support the renovation, building or purchase of new crisis or emergency accommodation places for women and children experiencing family and domestic violence. The Safe Places Inclusion Round focuses on improving access to appropriate emergency accommodation for First Nations women, women and children from culturally and linguistically diverse backgrounds and women and children with disability.
- As part of the Housing Australia Future Fund, \$100 million over 5 years has been committed for crisis and transitional housing options for women and children experiencing family and domestic violence and older women at risk of homelessness. This commitment will be delivered via the Crisis and Transitional Accommodation Program (CTAP), which will provide capital works grants to fund the building, remodelling or purchase of new or expanded crisis and transitional accommodation. CTAP is anticipated to open in mid-2024.
- As part of the 2024-25 Budget, the Government will target the \$1.0 billion increase to the National Housing Infrastructure Facility towards crisis and transitional accommodation for women and children experiencing FDV, and youth.

### **3. *Aboriginal and Torres Strait Islander Women and Children***

On 16 August 2023 the Aboriginal and Torres Strait Islander Action Plan 2023-2025 was released. This plan was developed in partnership with the Aboriginal and Torres Strait Islander Advisory Council (Advisory Council) to ensure that culturally appropriate responses are implemented across all levels of government.

The Australian Government, together with the Advisory Council and state and territory counterparts, released the Action Plan to drive delivery of the shared

commitment under the National Plan to end gender-based violence in a generation. The Aboriginal and Torres Strait Islander Action Plan 2023-2025, is specifically for Aboriginal and Torres Strait Islander women and children and acknowledges that additional cultural inclusive and tailored supports are needed.

By listening to community and victim-survivors, the Action Plan includes actions that were created to address current safety needs and set the foundation for longer-term structural change. This 3-year Action Plan is fundamental to addressing Target 13 of the National Agreement on Closing the Gap – that by 2031, the rate of all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children is reduced by at least 50%, as progress towards zero.

Recognising that Aboriginal and Torres Strait Islander women and children experience disproportionately high rates of violence, \$262.6 million was committed in the 2023-2024 Federal Budget for the safety of Aboriginal and Torres Strait Islander families, to implement the Action Plan and to provide early investment into a stand-alone First Nations National Plan.

More than \$96 million of this funding will go to new grant opportunities for eligible Aboriginal and Torres Strait Islander Community-Controlled Organisations and Aboriginal and Torres Strait Islander organisations. The grants will support organisations across four immediate activities including *Increasing Capacity of Crisis Accommodation Services for Aboriginal and Torres Strait Islander peoples* which will support and increase capacity of Aboriginal and Torres Strait Islander shelters to provide crisis accommodation for Aboriginal and Torres Strait Islander women and children escaping violence.

### 3. How FVOs could be more accessible for victims of violence going through the family law system, including but not limited to:

*c. the legal and non-legal support services required to promote early identification of and response to family violence.*

#### 1. **Non-legal support services**

There are a range of Commonwealth level programs that provide non-legal support services to promote early identification and response to family violence. For example:

- the EVP trial supports victim-survivors in the early response phase. It is not a crisis payment but can support victim-survivors with financial assistance to begin setting up a life free from violence. Part of this package includes undertaking risk assessments and safety planning with victim-survivors.
- KWSITH – supports easier accessibility through risk assessment, wrap-around support and security upgrades.
- 1800RESPECT is the national domestic, family and sexual violence counselling, information and support service. When a person contacts 1800RESPECT they will be connected with a counsellor who will provide support based on their needs and circumstances. If a service user needs more in-depth support, they can either be transferred to a senior counsellor (who is internal to the service) or to other state based services for specialist support.
- Specialised Family Violence Service (SFVS) – uses a whole of family approach to strengthen family and community functioning and improve personal and family safety by providing support to individuals, couples, children and families who are experiencing or at risk of family or domestic violence.
  - There are currently 38 SFVS providers who offer a range of services, including specialised counselling for children, family capacity building, and education sessions. Some providers also offer behaviour change programs to support those who use violence to address and change their behaviour.
- Family Safety Pack – promotes early identification and increases accessibility. The FDSV Information pack has been translated into 46 languages and is available on the department’s website detailing Australian laws around FDSV and services available. This information is being updated and expanded and will be available in animation, spoken and written form on the MyAus web application in 20 languages from mid 2024.

## **2. Legal support services**

In relation to legal assistance at the Commonwealth level for current support service programs that the department leads on, the TVP provides assistance to temporary



visa holders through the legal support available through nine Women's Community Legal Centres across Australia. The legal advice can be for migration, family legal or other legal issues. Victim-survivors are also supported with case management services. The other component of the Pilot is the financial support as described above.

### ***3. National Partnership on Family, Domestic and Sexual Violence Responses 2021-27***

The Australian Government is investing \$159.0 million over 2 years from 2023-24 for the FDSV National Partnership with state and territory governments (states) to support frontline family, domestic and sexual violence services.

This investment builds on the \$270.7 million provided over 2 years from 2021-22 under the FDSV National Partnership, the \$27.0 million over 5 years from 2022-23 for innovative responses to address perpetrator behaviour, and the \$169.4 million committed in the October 2022-23 Budget for the 500 Workers initiative.

Under the FDSV National Partnership, states are responsible for distributing the funding to services based on needs in their jurisdiction, and with the intent of promoting early identification and coordinating responses to family, domestic and sexual violence. Services include, but are not limited to, accommodation, helplines, perpetrator interventions, sexual violence services, and legal support services for victim-survivors and perpetrators of violence.

## **Conclusion**

While state governments are primarily responsible for criminal justice responses to family, domestic and sexual violence, it is an issue requiring national collaboration.

The National Plan acknowledges that law enforcement and legal processes can create environments where victim-survivors can be subjected to victim-blaming, re-traumatisation and unfair treatment. It also notes that some aspects of the criminal justice system, including the use of legal terminology, complex processes, the adversarial system and long trials, can act as barriers to victim-survivors accessing justice, particularly for people whose ability to participate in the criminal justice system may be impaired due to trauma or mental, physical or emotional factors.

To protect victim-survivors, family law systems should provide assurances of safety during legal processes, and while much has been done, it should continue to help more separating families resolve disputes in a timely and safe manner.

The Government's investment of \$3.4 billion under the National Plan over the past three budgets includes a variety of initiatives focused on understanding the drivers of violence, improving the identification and assessment of risk, intervening to effectively reduce risks, supporting victim-survivors to increase their safety, security, recovery and healing, and initiatives within the family law system to increase the protections and support available to victim-survivors as they move through the court system.

In addition to the information provided in this submission, the department welcomes the opportunity to provide additional assistance or information required by the Committee to support this inquiry.