

Senate Inquiry – Questions on Notice

CHAIR: Ms Marshall, I want to pursue the theme of extracting information out of you. I was really impressed with the evidence you gave with respect to the drop-in centre, including the fact that for various resourcing reasons you were thinking on Monday that maybe you couldn't open, but you did open and five high-risk women took advantage of the services. Are there any statistics or information you can give us with respect to that?

Central Australian Women's Legal Service - Statistics

Year	Total number of clients	Total number of drop-in clients	Total % of Aboriginal clients	Total % Aboriginal drop-in clients
2020/21	875	777	74%	79%
2021/22	892	654	74%	80%
2022/23	1000	803	76%	81%
Year to date (Jul – Dec 23)	601	391	78%	80%

Senator GHOSH: And there was a reference to case studies that can be provided. I think that would be helpful as well.

Case Study 1

Jenny is an Aboriginal woman in her 60's who lives in remote Central Australia. She presented to CAWLS drop-in service for assistance after having been issued with a domestic violence order by police naming her as the respondent and her (ex)-partner as the protected person. Jenny's instructions were that she was frequently physically abused by her ex-partner, a non-Aboriginal man in his 60's, and that on this occasion he had used a weapon to cause significant physical injury to her. Police had responded to the incident, and her ex-partner reported that she had inflicted the injury upon herself in an attempted suicide due to mental health issues and that she was abusive and a danger to him. On that basis, the police issued a domestic violence order naming Jenny's ex-partner as the protected person.

CAWLS assisted Jenny to contest the DVO, over the course of several months. The DVO was eventually withdrawn however there was significant harm caused to Jenny as the result of being misidentified as a perpetrator of domestic violence, and Jenny is unlikely to feel comfortable calling for police assistance in the future. As a result, Jenny has subsequently attended CAWLS drop-in service on multiple occasions for assistance in managing her safety. CAWLS has variously assisted with access to crisis accommodation, facilitating police statements, communication with health services and access to escaping violence payments, as well as legal advice and support.

Jenny experiences untreated health conditions, including undiagnosed mental health conditions and substance abuse conditions. English is her second language and Jenny experiences challenges engaging with multiple services. Attending the drop-in service for immediate support, particularly at times when risks to safety are escalating is an important element of Jenny's ongoing safety plan. CAWLS has supported several referrals to the Family Safety Framework, and worked with Jenny and other agencies to moderate and manage risk over a prolonged period of time.

Case study 2

Naomi is an Aboriginal woman in her 30's who regularly attends CAWLS drop-in service. She is a client that is frequently exposed to high risk of serious injury or homicide, and has previously been misidentified as a perpetrator of domestic and family violence by NT police. Naomi's level of risk increases when her ex-partner is not incarcerated. On one occasion, Naomi called police to attend for protection from her ex-partner. Police did not attend immediately, and Naomi's ex-partner continued to threaten, follow and harass her, behaviours which have historically preceded serious physical assaults against her. While waiting for police to attend, Naomi had to remove herself from her own accommodation, and make plans to protect herself if her ex-partner found her. Police located Naomi the following day. Naomi was carrying a make-shift weapon intending to protect herself. On that basis, the police issued a domestic violence order identifying her as the respondent and her ex-partner as the protected person. CAWLS represented Naomi and were successful in having the DVO withdrawn.

Naomi is in a significantly vulnerable position. CAWLS has assisted Naomi with Child Protection matters, housing matters, crimes victim compensation, motor vehicle compensation, financial counselling, general client support and complaints against the police. She has had regular engagement with the service over 6 or so years, and been supported to access escaping violence payments and multiple mobile phones to support implementation of safety plans. Attending the drop-in service as risk escalates is a key component of Naomi's identified safety plan.

Case study 3

Gina attended CAWLS drop-in service for a child protection related matter. CAWLS represented Gina in negotiations with Territory Families, and throughout court proceedings. Gina has a severely disabled child who requires significant medical support. Gina was also supported to obtain a full no-contact domestic violence order identifying her as the protected person, and her ex-partner and child's father as the respondent. This was on the basis of a significant history of violent offending against Gina.

Gina's safety has been adversely impacted by the management of the care of her child by authorities. For example, an agent of the Department of Territory Families Housing and Communities ("DTFHC") instructed Gina to attend to visit her child at the same time as the father. Gina subsequently disengaged from contact and avoided engaging with her child at the nominated premises due to fear of being in the presence of her ex-partner. Gina also became homeless as a result of the engagement with child protection authorities, as funding for NDIS supporting housing was withdrawn when DTFHC removed Gina's child from her care.

CAWLS continues to work with Gina to manage ongoing risk, and to connect Gina with housing supports and pursue reunification with her child. Gina regularly attends the drop-in clinic to stay engaged with the service.

Case study 4

Jamie has a history of engagement CAWLS service. CAWLS has previously assisted with advice and representation in relation to domestic violence orders, rights of victims of crime, escaping family violence payments and safety planning. Jamie regularly accesses the drop-in service. She has an

undiagnosed but significant cognitive impairment and has experience significant and repeated sexual assault. She experiences chronic homelessness and substance abuse issues. Her instructions are often impacted by her cognitive impairment and she struggles to remain engaged with services. When Jamie presents to CAWLS, she often presents in genuine fear and due to her extreme vulnerability CAWLS spends significant time supporting Jamie, including by assisting her to re-engage with other services including health services where appropriate. Jamie is an extremely high risk client and supported and receptive engagement with the drop-in clinic allows CAWLS to work with her to mitigate risk in a way that would not be possible if Jamie was required to attend pre-planned appointments in order to receive a system response.

Question 3:

Senator Ghosh: *I'll put some questions on notice, because that will give others an opportunity to ask questions as well. Thank you to the witnesses for being here today and appearing before the hearing. Your written submission referred to developing programs that address the needs of women in prison and promote alternatives to detention, with a chapeau that referred to concrete and effective actions. If there are programs or initiatives that you have seen that are effective in relation to those two things, it would be very good to have information about that.*

CAWLS has conducted fortnightly community legal education and outreach sessions at the Alternative to Custody Facility in Alice Springs since 2020.

Most people who are incarcerated will have multiple outstanding civil law issues that intersect with their criminal offending. When people are imprisoned, unresolved civil law issues can be compounded and/or escalate creating a further barrier to effective rehabilitation and return to community following release from custody.

CAWLS CLE & Outreach Program at the Alternative to Custody Facility focuses on enhancing the capacity of participants to identify civil law issues that may cause challenges to their ability to meet their goals following release from custody, and to encourage proactive measures to gain support to address these issues whilst in custody.

CAWLS has assisted clients at the ATC facility with a broad range of civil law matters including domestic, family and sexual violence, family law, child protection, housing disputes, discrimination claims, preparation for employment and obtaining identification documentation, preparations for social security access, victims of crime compensation claims and advice in relation to estate claims and accessing superannuation.

CAWLS receives no specific funding for this program, and has had to pause delivery on multiple occasions due to staffing shortages caused by increased demands on the drop-in clinic and certain points in time. CAWLS has repeatedly sought dedicated funding to administer and further develop the model of support for legal education and outreach at the Alternative to Custody Facility. Whilst there are number of programs that we understand receive some funding to provide through-care to this cohort of women, there are still multiple gaps with some participants re-presenting at CAWLS following release from custody seeking support with socio-legal matters including access to housing.

Question 4:

Senator Ghosh: *There was a reference in the oral testimony to some of the complexities around mandatory reporting obligations. One of the other submissions—I can't recall the submitter at this point—was in relation to the relationship between the mandatory reporting obligation and the documented underreporting of domestic violence in the NT. In your experience, do you have any insight or information in relation to the relationship for your clients or women that present to your legal services?*

To our knowledge, the introduction of mandatory reporting obligations for all adults in the NT in relation to domestic and family violence has not been reviewed or evaluated to any significant degree. We understand there was an initial review commissioned in 2013, however the results do not appear to be publically available.

In our experience, the majority of our clients are aware of the existence of general mandatory reporting obligations for serious domestic and family violence. For some women, this provides the option of authorising another (a mandatory reporter) to bring the behaviour of concern to the attention of authorities, whilst being able to maintain the position that they did not report the person using the behaviour. However, for many other women, the knowledge of mandatory reporting obligations creates an additional barrier to disclosure, particularly as many women have already attempted to engage with the formal service sector for supports to manage safety but have been repeatedly 'let down'. There is an awareness that mandatory reporting may heighten risk without necessarily being accompanied by increased safety supports and resourcing.

Further, there is particular concern around mandatory reporting for DFSV and the intersection with child protection reporting. Finally, there is some concern that following recent changes to the NT DFV Act 2007, the content of the obligation to report has become even more unclear due to changes to the definition of domestic and family violence within the Act, without directed consideration as to how the revised definition intersects with the content of mandatory reporting obligations within the same Act (s 124). CAWLS strongly advocates for a review into the effectiveness of mandatory reporting for DFSV in the NT which should include consultation with people who have experienced DFSV and service providers, as well as a thorough quantitative evaluation examining the number of reports, the triage process, responses and referrals that are actioned as a result of police response.

Question 5:

Senator Ghosh: *And any additional information in relation to barriers to reporting domestic violence that victims of that violence may face when presenting to you for other reasons or to utilise your legal services in other ways.*

Women experiencing or at risk of experiencing domestic, family and sexual violence in Central Australia and the Barkly region experience a broad range of intersecting barriers to reporting domestic, family or sexual violence or presenting to our service for assistance in relation to access to justice more generally.

The barriers to engaging with services might be categorised as both a result of 'social entrapment' and 'intersectionality'. For example, barriers include:

- The behaviour of the person using violence, which can be reinforced by other actors including family and the service sector (for example, women who are criminalised as a result of resistive or retaliatory violence or other behaviours associated with their experience of

DFSV including offences associated with substance abuse used to manage the impact of violence are less able to attract a supportive system response)

- Fears and concerns about the impact reporting will have on personal safety, family unity and safety and the person using violence;
- Geographic barriers to accessing the service face-to-face;
- Technological limitations to accessing the service remotely;
- Socio-economic factors that limit time and resources available to clients;
- Experiences of homelessness and housing insecurity;
- Language barriers (impacting both First Nations clients and clients from culturally and linguistically diverse backgrounds);
- Impacts of disability, including the impacts of disability acquired as a result of experiences of DFSV (eg, Acquired Brain Injury);
- Mental health, including adverse mental health conditions related to experiences of DFSV (incl. depression, anxiety and PTSD).
- Service availability, noting that the drop-in service significantly enhances the accessibility of CAWLS service however we are not funded to operate outside standard business hours.

Further material on the impacts of social entrapment can be found here: [ANROWS Transforming understandings of intimate partner violence](#) and [Social Entrapment: A realistic understanding of the criminal offending of primary victims of intimate partner violence](#).

Question 6:

Senator SHOEBRIDGE: *The question I was going to ask you to take on notice was, there were identical submissions both from the police and the department, which is unusual, but both of them say this, and I just ask you to take it on notice: in the Northern Territory there is no distinction made in police operational responses to First Nations or non-First Nations women and children. They put it forward as a virtue on a policy basis. Can I ask you to consider if it is a virtue on a policy basis? Also, in practice is that your understanding of police practice?*

Operational responses should be grounded in an understanding that anyone can experience domestic, family and sexual violence no matter their age, gender, background etc. However, the practical implementation of operational responses should reflect clear understandings of the nature and prevalence of domestic, family and sexual violence occurring within a particular operational context. Aboriginal women and children experience higher rates of domestic, family and sexual violence than other cohorts and also experience unique barriers to reporting and accessing resources and services to support safety planning. This should all be recognised in the NT Police operational response of DFSV, just as the unique fear of deportation should be recognised when responding to DFSV experiences reported by women or about women on temporary visas.