



Innovative models in addressing violence against Indigenous women: *Final report*

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ANROWS

AUSTRALIA'S NATIONAL RESEARCH
ORGANISATION FOR WOMEN'S SAFETY

to Reduce Violence against Women & their Children

HORIZONS : ISSUE 01 | 2018
RESEARCH REPORT | JANUARY 2018

ANROWS acknowledgement

This material was produced with funding from the Australian Government and the Australian state and territory governments. Australia's National Research Organisation for Women's Safety (ANROWS) gratefully acknowledges the financial and other support it has received from these governments, without which this work would not have been possible. The findings and views reported in this paper are those of the authors and cannot be attributed to the Australian Government, or any Australian state or territory government.

Acknowledgement of Country

ANROWS acknowledges the traditional owners of the land across Australia on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander elders past, present, and future, and we value Aboriginal and Torres Strait Islander history, culture, and knowledge.

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Published by

Australia's National Research Organisation for Women's Safety Limited (ANROWS)
PO Box Q389, Queen Victoria Building, NSW, 1230 | www.anrows.org.au | Phone +61 2 8374 4000
ABN 67 162 349 171

Innovative models in addressing violence against Indigenous women: Final report / Harry Blagg et al.

Sydney: ANROWS, c2018.

Pages ; 30 cm. (ANROWS Horizons, Issue 01/2018)

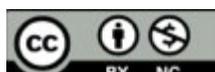
I. Family violence - Aboriginal communities - Australia. II. Family violence - Prevention - Australia. III. Family violence - Intervention. IV. Family violence - Services for.

I. Blagg, Harry. II. Williams, Emma. III. Cummings, Eileen. IV. Hovane, Vickie. V. Torres, Michael. VI. Woodley, Karen Nangala.

ISBN: 978-1-925372-70-0 (print) | 978-1-925372-68-7 (online)

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Innovative models in addressing violence against Indigenous women: Final report

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Author acknowledgment:

The authors wish to acknowledge the generous hospitality they received from Aboriginal people and organisations across Australia. They also acknowledge the contribution of non-Indigenous organisations working in the family violence area that gave generously of their time and shared their experiences.

Dorinda Cox, Robyn Williams, Nicole Bluett-Boyd, Micky Adams, Emily Carter, Maureen Carter, June Oscar, Jane Pedersen, Justice Bennell, Ava Hill-De Monchaux, Zoe Bush, Regina Bennett, Vanessa Elliot, Maxine Chi, Donna Nelson, Fred Cobbo, Aunty Sandra Malone, Aunty Grace Bond, Uncle Les Stewart, Stacey Taylor CTC, Lynette Brown, Clowry Kennell, Arthur Murray, Elvie Sandow, Aunty Ada Simpson, Jeffrey Dynevor, Matthew Malone, Peter Mitchell, Thomas "Dooley" King, Andrew Amore, Magistrates Steve Sharratt and Col Roberts, Vickie Williams, John Watson, Joe Brown, Inspector Omar Chahal, Superintendent Mick Sutherland, Assistant Commissioner Gary Dreiberger, Thalia Anthony, Patrick Sheperdson, Steven Torres Carne.

This work is part of the ANROWS Horizons series. ANROWS Horizons (research reports) are in-depth reports on empirical research produced under ANROWS's research program.

This report addresses work covered in the ANROWS research project "Evaluation of innovative models of interagency partnerships, collaboration, coordination and/or integrated responses to family and/or sexual violence against women in Australian Indigenous communities". Please consult the ANROWS website for more information on this project. In addition to this report, ANROWS Landscapes and ANROWS Compass papers are available as part of this project.

Suggested citation:

Blagg, H., Williams, E., Cummings, E., Hovane, V., Torres, M., & Woodley, K. N. (2018). *Innovative models in addressing violence against Indigenous women: Final report* (ANROWS Horizons, 01/2018). Sydney: ANROWS.

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Contents

Executive summary	6
A paradigm shift	
Methodology	
A place-based and “Country-centred” response	
Good practice examples	
Working with men	
Aboriginal organisations and interagency work	
Intersectionality	
Social and emotional wellbeing	
Courts	
New Family Violence Plan	
Policing	
Introduction	9
An emerging critique	
A paradigm shift	
State of knowledge paper	11
The problem of “silos”	
The possibility of justice	
Remoteness	
Lack of support services	
Closing the gap	14
Life expectancy	
Reducing violence	
Employment	
National domestic and family violence policy	
Other national bodies working for Indigenous rights	
State and territory policy on domestic and family violence	
Services available	

Research methods and Indigenous knowledge	19
A grounded approach	
Yarning and storytelling	
Indigenous knowledges	
Telling space from place	
Grounding the research in place	
Mixed methods	
Climbing out of the box	
Free prior and informed consent	
Honouring Indigenous women	
The problem with law	24
Royal Commission into Family Violence (Victoria) and Indigenous People	
Aboriginal community-controlled organisations	
Coercive control, fights, and gatekeeping	26
Police gatekeeping	
Critical response teams and reflexive practice	
Western Australia	27
Police orders	
Fresh dispossessions, new contestations	
Marninwarntikura Fitzroy Women’s Resource Centre	
Cuts to Indigenous services	
A new plan for the Kimberley	
Men’s Outreach Service, Broome	
Jealous fighting	
Peacemakers on patrol	
Cultural health models	
Talking to women	

A holistic approach is central	
Trauma-informed responses are critical	
Sly grogging and pressure on families	
Alcohol is a major factor in family violence	
Modelling of healthy relationships and parenting practices	
Experiences of violence	
Severity of violence and help-seeking	
Who gets involved in violence?	
What made you come to Marnin?	
Taking out restraining orders	
Family violence legal services	
Why do women return to partners?	
Are things getting better or worse for violence?	
Northern Territory	39
Northern Territory overview	
Northern Territory legal and justice context	
Domestic and family violence services in the Northern Territory for Indigenous people	
Darwin Aboriginal and Islander Women’s Shelter (DAIWS)	
Outreach client views	
Children and child removal	
Men and abuse	
Views from stakeholders in the support network surrounding DAIWS	
Other themes that emerged from stakeholder consultations	
Children and two laws	
Safety planning	
Sistergirls: fluid gender violence	

Cherbourg	48
Female participant responses	
Male participant responses	
Moving forward: a new family violence approach	51
A decolonising dynamic	
“All pain, no shame”	
Optimism and pessimism	
Women’s agency	
Leaving relationships	
Centring Indigenous experiences	53
The importance of intersectionality	
Liminal space	
Local context	
Killing Ms Dhu	
Nothing but “bare life”	
Coordination, integration, and Indigenous women	56
Innovative models	
Gender mainstreaming	
Invisible women	
Indigenous women as cultural beings	
A long way from Duluth	
Shoehorning Indigenous conflict	
Multi-causal versus mono-causal explanations	
Young people, jealousing-up, and social media	
A paradigm shift	60
Decolonising practice	
Social and emotional wellbeing and cultural health	

Police orders	
Court innovations	
The importance of triage	
A mobile version for the bush	
Gladue reports	
Local coordinating structures	
An expanded role for Indigenous-owned and place-based processes and services	
Elders and respected persons	
Concluding comments	64
References	65
Appendix A	
Family and domestic violence legislation	70

Executive summary

This Horizons report focuses on innovative models intended to reduce family violence on remote communities. It foregrounds the perspective of Aboriginal people who work within the family violence space or have had experience of family violence. The report is based on qualitative research in three sites in Australia: Fitzroy Crossing (Western Australia), Darwin (Northern Territory), and Cherbourg (Queensland). It supports the creation of a network of place-based Indigenous family violence strategies owned and managed by Indigenous people and linked to initiatives around alcohol reduction, inter-generational trauma, social and emotional wellbeing, and alternatives to custody. These initiatives may be constructed differently depending on context, but would ensure that responses to family violence reflect the needs of local women.

A paradigm shift

The research calls for a paradigm shift that moves attention away from a simple criminal justice model towards collective processes of community healing grounded in Indigenous knowledge. Further, it argues that the current focus on “coercive control” and male power as the explanation for violence against women in Indigenous communities misses out forms of interpersonal violence, such as “couple fighting”, which are a reflection of chaotic lifestyles, alcohol abuse, and trauma.

Methodology

We employed a qualitative methodology to underpin the research, loosely based on an “appreciative” approach, which simply means looking for positive elements in cultures, organisations, and communities with which the research interacts. Our approach was intended to reflect local strengths (or potential sources of strength) rather than just focusing on weaknesses. We established partnerships with three Indigenous organisations in our research sites: Marninwarntikura Fitzroy Women’s Resource Centre in Fitzroy Crossing, Western Australia; Darwin Aboriginal and Islander Women’s Shelter, Darwin Northern Territory; and Barambah Child Care Agency, Cherbourg, Queensland. These agencies provided the hub for local, place-based research with organisations working in the family violence space.

A place-based and “Country-centred” response

Our research uncovered strong support among Indigenous and non-Indigenous stakeholders for a “country-centred” approach to family violence practice. Mainstream systems should increasingly defer to Indigenous organisations and Indigenous practices, placing them at the centre of intervention.

Good practice examples

Two of our partner organisations (Marninwarntikura Fitzroy Women’s Resource Centre and Darwin Aboriginal and Islander Women’s Shelter) provide examples of good practice in that they work collaboratively with a diversity of agencies, provide a mix of support services (from crisis accommodation through to child care and legal services), build long term “open door”

relationships with clients, and acknowledge the unique cultural obligations of Indigenous women.

Working with men

The report breaks with domestic violence orthodoxy by claiming a space for men in discussions about family violence. As one senior Kimberley woman told researchers, “we need to find a way to honour our men”—arguing that the criminalisation approach has only succeeded in alienating men further and marginalising them from the change process. We identified the Men’s Outreach Service in Broome and the DAIWS Men’s Outreach Service in Darwin as performing a valuable service in relation to behaviour change and dealing with underlying issues.

Aboriginal organisations and interagency work

Aboriginal organisations can play a decisive role as the focal point for interagency collaborations; they can “bridge the gap” between Indigenous and mainstream worlds. As Sherwood et al. observe:

Aboriginal community organisations provide safety, respect, and cultural ways of knowing with the flexibility of working across interdepartmental boundaries that is not available elsewhere. Where there are inherent systemic limitations within dominant systems Aboriginal community organisations are well positioned (though currently underfunded) to bridge the gap (Sherwood et al., 2015, p. 79).

Intersectionality

Violence against women in Indigenous communities is best understood in intersectional terms, as it exists at the junction of multiple, rather than singular, forms of domination, coercion, and conflict. Indigenous women’s identities have been forged within a cauldron of colonial oppression. They may not simply view reform in terms of gender equality alone; this must be complemented by place-based strategies designed to empower Aboriginal people.

Social and emotional wellbeing

While not sacrificing women’s safety at the point of crisis, intervention and prevention in the family violence arena should be underpinned by a greater focus on social and emotional wellbeing (SEWB). SEWB traverses a range of issues facing Indigenous people, from unresolved grief and loss, trauma and abuse, domestic violence, removal from family, substance misuse, family breakdown, cultural dislocation, racism and discrimination, and social disadvantage.

Women and male Elders and respected persons need to be at the centre of intervention wherever possible. This includes sitting in courts, devising diversionary programs, and leading on-Country healing camps. These leaders are over-extended. Paying Elders and building the capacity of their organisations to provide day-to-day support for them is essential.

Indigenous participants maintained that Indigenous knowledge needed to be taken seriously and granted the same status as “Western” epistemologies, which means privileging the views of Indigenous men and women as the principle bearers of knowledge on family violence rather than simply helpless victims or incorrigible offenders, bereft of agency

Courts

Innovations in court practices have relevance to family violence. Aboriginal participants wanted to see Elders sitting in courts (as in the Koori court model) with judges and magistrates on the basis that mainstream courts cannot “shame” Aboriginal offenders. Other court innovations, such as full “triage” assessments when Aboriginal people attend court (to see if there are cognitive impairments, or alcohol, mental health, homelessness, or child care issues) and fully inform the court, should be considered.

On a local level it is important to have ongoing discussion between magistrates, court user groups and Indigenous community leaders. Aboriginal Family Violence committees would convene meetings of these, along with specialist services, safe-houses, and refuges. An important aspect of these would be to develop coordinated approaches to assisting victims of family violence and to ensure there are community options for offenders and families.

New Family Violence Plan

The new Kimberley Family Violence Plan offers a fresh approach through tighter interagency cooperation and accountability and commitment to working in partnership with Indigenous community structures.

Policing

The Western Australia system of police orders—similar to Violence Restraining Orders but issued by the police instead of the courts—are used when there is insufficient evidence to arrest and charge a person for any act of family and domestic violence, but police hold concerns for the safety and welfare of any person. Police may issue a police order for a period of up to 72 hours without consent. The orders have generally been welcomed by Aboriginal groups, but there are concerns about lack of follow-up services and places for those made subject of the order (usually men) to go. This innovation, correctly resourced, could be a move forward.

There needs to be greater recognition of the important role Aboriginal-owned forms of interventions play in preventing family violence. Night Patrols, often established by Aboriginal women, should be resourced and supported as an integral element in any local family violence prevention strategy. These need to work in partnership with culturally secure men's and women's safe places. Many participants in the research saw "on-Country" healing as a necessary element in any local family violence strategy.

Introduction

This research report undertakes a critical inquiry into responses to family violence in a number of remote communities from the perspective of Aboriginal people who either work within the family violence space or have had experience of family violence. It explicitly foregrounds Indigenous knowledge of family violence, arguing that Indigenous knowledge departs from what we call in this report “mainstream knowledge”¹ in a number of critical respects. The report is based on qualitative research in three sites in Australia: Fitzroy Crossing (Western Australia), Darwin (Northern Territory), and Cherbourg (Queensland). It supports the creation of a network of regionally based Indigenous family violence strategies owned and managed by Indigenous people and linked to initiatives around alcohol reduction, intergenerational trauma, social and emotional wellbeing, and alternatives to custody. The key theme running through our consultations was that innovative practice must be embedded in Aboriginal law and culture. This recommendation runs counter to accepted wisdom regarding intervention in family and domestic violence, which tends to assume that gender trumps other differences, and that violence against women results from similar forms of oppression, linked to gender inequalities and patriarchal forms of power. While not disputing the role of gender and coercion in underpinning much violence against Indigenous women, we, nonetheless, claim that a distinctively Indigenous approach to family violence necessitates exploring causal factors that reflect specifically Indigenous experiences of colonisation and its aftermath.

An emerging critique

Theory, policy, and practice around violence against Indigenous women in Australia have become increasingly contested. Beneath surface adherence to uniform laws and policies, intended to criminalise domestic violence against women, runs an Indigenous counter-narrative that challenges both theory and practice supporting the mainstream domestic violence model.

This counter-narrative frames solutions to family and domestic violence in terms of the greater empowerment of Indigenous women and a place-based, holistic response to violence, grounded in Indigenous cultural practices. It moves Indigenous organisations and culture to the centre of the anti-violence

movement, and relegates non-Indigenous agencies to the periphery (inverting the current configuration) as encapsulated in Figure 1 (page 60). Rather than zeroing in on weakness and dysfunction, the deficit model, this new approach privileges a strengths-based stance, requiring intervention strategies that build upon, and build up, structures of resilience in Indigenous communities.

Indigenous women in remote communities live in “two worlds”, and only one of these worlds (the mainstream world) is currently empowered to frame policy and practice around family violence. This report calls for the creation of a fresh approach that works in the liminal spaces at the juncture of the Indigenous and mainstream worlds. It supports processes of “creative hybridity” (Blagg, 2016), based on a dialogue between Indigenous and non-Indigenous cultures and worldviews, creating what Martin Nakata (2002) calls “cultural interface”.

A paradigm shift

Non-Indigenous crisis intervention agencies, while important in ensuring immediate safety, are not set up to undertake the long-term work required to prevent family violence or heal its consequences; indeed, they are often viewed as part of the problem by Indigenous women (Blagg, Bluett-Boyd, & Williams, 2015). Our report calls for a paradigm shift in the way we structure family violence policy and practice, and the need for a suite of regional Indigenous family violence strategies, designed and overseen by Indigenous women and men in these regions, connected horizontally in place with other Indigenous law and justice and health and wellbeing initiatives.

Our research unearths some issues not often discussed in relation to Indigenous community violence. While there is a burgeoning literature on the nature and prevalence of violence against LGBTIQ people, particularly in their intimate relationships, less has been written on the issues affecting LGBTIQ Aboriginal and Torres Strait Islander people. We make brief reference to this in our section on the Northern Territory.

The report also breaks with orthodoxy by claiming a space for men in discussions about family violence. As one senior Kimberley woman told researchers, “we need to find a way to honour our men”, arguing that the criminalisation approach has only succeeded in alienating men further and marginalising them from the change process. Focusing only on one gender

¹ By “mainstream” knowledge we mean knowledge reflecting the collective experiences of groups with no connection to the Australian continent prior to its occupation by white settlers. Indigenous knowledge is connected to Aboriginal law and culture, but it is also informed by the consequences of colonisation. These are influences not shared by the white mainstream.

goes against the principles of Indigenous cultural practice, and undermines its spiritual base. Despite the significant efforts directed towards women's safety in Australia, mainstream feminist models are fundamentally inadequate because they are directed at only one source of the problem, and ignore the influences of factors such as colonisation, structural racism, and class inequality in framing Indigenous women's lived experiences of violence. Further, they are "mainstream" insofar as they believe "equality" can be achieved through existing political structures and processes, provided they are made more open, accountable, and accessible to women. As we discuss further, these models tend to gloss over the distinct historical experience of Indigenous women as victims of colonial violence, and shoehorn their multi-layered experiences of conflict and violence into a mono-causal explanatory framework. They also downgrade the relevance of other change processes to the reduction of family violence, such as those focused on community healing, self-determination, treaties, and land rights, and overstate the capacity of the white legal system to deter, punish, and reform Indigenous men. An Indigenous family violence approach takes into account historically relevant factors such as dispossession, loss of land, inter-generational trauma, stolen children, and mass incarceration as causal factors (Blagg, 2016).

Before setting out our critique of existing mainstream models of family violence intervention and mapping out alternatives, it is worth rehearsing the major themes from our state of knowledge paper (Blagg, Bluett-Boyd, & Williams, 2015). This paper engaged with the existing literature on intervention in family violence and provided examples of projects in Australia led and managed by Aboriginal women.

State of knowledge paper

Our background state of knowledge paper (Blagg, Bluett-Boyd, & Williams, 2015) mapped the terrain in relation to innovative programs designed to respond to violence against Indigenous women, particularly in rural and remote Australia, focusing particularly on innovations driven by Indigenous communities themselves. It surveyed the academic, practice, and grey literature then available, noting that Indigenous women living in rural and remote areas were up to 45 times more likely to experience family violence than other Australian women living in rural and remote areas (VicHealth, 2012). This estimate has remained relatively stable since the 1990s (Ferrante et al., 1996), so claims that family violence has escalated in recent years have to be treated with some caution; it has been a significant problem within Indigenous communities for some time. What have clearly increased significantly, however, are rates of Indigenous over-representation in jail, either as sentenced prisoners or on remand, with soaring rates of women's incarceration a particular cause for concern (Baldry & Cunneen, 2014; Baldry & Russell, 2017).

While still a small percentage of the overall population, rates of Indigenous women's imprisonment continue to grow alarmingly. Baldry and Russell note:

The number of female prisoners increased by 8 percent (218 prisoners) from 2876 prisoners at June 30 2015, to 3094 prisoners at 30 June 2016 (ABS 2016b). By contrast, there were 35,745 male prisoners in Australian prisons, an increase of 7 percent (2489 prisoners) from 33,256 prisoners at 30 June 2015 (ABS 2016b). This growth in women prisoners appears to be made up largely of Indigenous women and women on remand (2017, p. 7).

The increased police presence on remote Indigenous communities, particularly in the Northern Territory, has had the unintended consequence of widening the carceral net through the criminalisation of Indigenous "on-Country" driving once considered to be outside the scope of mainstream law, and criminalising minor acts of anti-social behaviour (Anthony & Blagg, 2012). More intensive policing of driving-related offending, for example, has contributed to the increased incarceration of Indigenous women in the Northern Territory (Anthony & Blagg, 2012).

The problem of "silos"

A meta-analysis of the extant literature intimated that successful

innovations tend to be cross-disciplinary, and step outside the "silos" created when agencies work in isolation from one another and from the community. The landmark Gordon Inquiry in Western Australia (see Gordon, Hallahan, & Henry, 2002) was sparked by the suicide of a young Nyoongar woman in Western Australia, due, in large measure, to a failure of interagency communication. The inquiry reported the deep sense of alienation felt by many women in remote Aboriginal communities from mainstream systems of security, care, and support. The Gordon Inquiry criticised the "siloed" mentality of mainstream agencies.

As Frances Morphy notes, silos occur when government departments "create arbitrary boundaries that cut across the continuities of everyday life", and Aboriginal people tend not to fit within these arbitrary boundaries (Morphy, 2009, p. 144). The Gordon Inquiry called for the creation of multi-agency facilities in remote communities to ensure a coordinated and integrated response to child abuse and family violence. In response, the Western Australian government committed to establishing multipurpose police posts in 11 remote communities; each would act as a hub connecting a number of government agencies, such as children's protection and correctional services. These have yet to be subjected to rigorous critique.

The state of knowledge paper suggested that "good", or at least "better", practice leans towards combining the skills of community leaders and place-based community groups, as well as the relevant agencies, police, and courts. The Gordon Inquiry failed to adequately advocate for the inclusion of place-based organisations in decision-making or practice, which was not surprising given its brief was to investigate failures in inter-agency coordination. Indigenous women often remain "invisible" to mainstream agencies until they become a client, a detainee, or a victim. It is crucial that government organisations resource the creation of "relationship building" initiatives on remote communities that ensure that Indigenous women are given a regular voice and become visible as people. This can be achieved by holding regular meetings with them. Locally based Aboriginal family violence groups could fill this vacuum, with a specific mandate to include women Elders. The cultural knowledge they bring to the table can make a significant difference in terms of women's safety.

For example, a discussion circle convened in Perth was told by a children's protection specialist recently returned from a visit to the East Kimberley that the Aboriginal women's shelters in

Kununurra and Warmun have been placed on women's law ground. They have strengthened the authority of culture by ensuring that sacred women's objects (that men cannot look upon) are kept in the premises.² We were told similar stories during discussions with a group of senior Warlpiri women (from Yuendumu and Lajamanu) during a meeting in Alice Springs in 2016—that this had been the practice in a number of communities in central Australia. The consensus was that these measures did deter men from breaking in to safe houses to get at women.

Integrating the cultural ingenuity of women would help us build fresh engagement spaces where Indigenous and non-Indigenous energies could combine to create sites of physical and cultural safety for Indigenous women, new forms of healing for victims and families, and strategies aimed at reducing repeat offending. Empowerment of Indigenous women and men, rather than extension of the powers of mainstream structures, was a particular feature of the Indigenous-focused literature included in the state of knowledge paper. Indigenous sources maintained that Indigenous knowledge needed to be taken seriously and granted the same status as “Western” epistemologies, which means privileging the views of Indigenous men and women as the principle bearers of knowledge on family violence rather than simply helpless victims or incorrigible offenders, bereft of agency.

Critics (e.g. Nancarrow, 2006, 2010; Lucashenko, 1994, 1997) also drew attention to the limitation of mainstream justice processes and agencies in bringing justice to Indigenous victims, and their marked tendency to revictimise them. They drew attention to the fact that “white law” has historically oppressed Indigenous women. Nancarrow (2006), for example, stresses that this history colours the way Indigenous women relate to government policies on domestic violence, making them suspicious of strategies run by organisations like the police and correctional services, and more inclined to favour alternative justice strategies based on restorative justice principles. There was also some disagreement as to whether offender “accountability” should be the cornerstone of family violence intervention, rather than community healing. Even the notion of accountability itself is essentially contested, raising the question, “accountable to whom”? Where should the balance lie between responsibility to mainstream law and Indigenous communities' laws and values?

2 Under Aboriginal law, men and women have separate places of ritual significance, from where the other gender is excluded. Transgression of these laws is a serious offence under Aboriginal law (for a discussion, see Law Reform Commission of Western Australia, 2006).

Indigenous scholars Aileen Moreton-Robinson (2009) and Irene Watson (2009), for example, dispute the claim that settler law enjoys undisputed sovereign status in respect to the governance of Indigenous communities. Moreton-Robinson (2009) claims that beneath the veneer of “patriarchal white sovereignty” imposed by settlers there exists a reservoir of Indigenous sovereignty. Similarly, Indigenous cultural leaders in Western Australia told researchers during an inquiry into Aboriginal customary laws that white law was simply a “table cloth” and Aboriginal law was a sturdy “table” beneath it. White law might obscure the existence of Aboriginal law, but it nonetheless continues to inform and govern relationships in daily life, whether white society likes it or not (Blagg & Morgan, 2004; Law Reform Commission of Western Australia, 2006). As we discuss later, mainstream law is hampered because it lacks legitimacy for Indigenous people particularly, and cannot shame, deter, or rehabilitate offenders.

The possibility of justice

Is it possible to create systems of justice that balance accountability to both Indigenous and non-Indigenous notions of justice, based, for example, on restorative justice principles? Is it feasible to give communities a greater say in terms of priorities for intervention? One obstacle to this lies in the way “knowledge” about Indigenous people's desires and demands is filtered through a range of structures and processes that frequently disassembles the original message and then reframes it within structures of meaning that fit with mainstream worldviews and priorities. The current processes of decision-making around priority issues is heavily dominated by mainstream agencies who “consult” with Indigenous people but retain the power to frame the final documents and records. To adapt a phrase of Comaroff and Comaroff (2012), Indigenous communities only provide some of the “raw material” from which mainstream structures manufacture the finished product. The manufacturing phase occurs at a significant distance (geographically and culturally) from where the data is mined.

Comaroff and Comaroff (2012) were referring to the situation in Africa; however, they identify the ways the “West”, or “global north”, draws “under-developed” groups into an unequal relationship with it. While Indigenous Australia has a radically different history to Africa, there are continuities in the ways colonial power has retained dominance through imposition of the Euro-American world as the final arbiter of what “knowledge” is. In Australia, this is caustically reflected in the descriptions

of visiting government workers and researchers as “seagulls” who fly in and out of remote communities, leaving only mess in their wake.

In summary, the state of knowledge paper found that Indigenous-led family violence initiatives share a number of common features:

- a commitment to Indigenous leadership;
- the necessity of working alongside men;
- a holistic, place-based approach;
- a focus on prevention and capacity building;
- linking of family violence work with other issues, such as alcohol reduction strategies, housing overcrowding, and mental health services;
- building of structures that are culturally as well as physically secure for women escaping violence and for those working within the family violence organisation;
- recognition that there is no clear boundary between Indigenous women as family violence workers and family violence victims (working practices and work with victims needs to be based on a healing approach);
- development of policies and protocols intended to prevent lateral violence³ in the workplace;
- taking into account forms of violence that are not just “domestic” in nature;
- decentralisation of the male power model,⁴ and a greater emphasis on collective, intergenerational trauma awareness in interventions;
- a re-centring of Indigenous structures and processes; and
- factoring in of issues such as cognitive disabilities, acquired brain injuries, and fetal alcohol spectrum disorders in violent behaviours, rather than a need to coercively control.

Remoteness

The state of knowledge paper suggested that remote communities confront some unique problems when trying to tell their story. Remoteness from mainstream media networks and lack of capacity to lobby within the mainstream political system are

significant barriers. Many Indigenous-led initiatives struggle to maintain services due to funding shortfalls. June Oscar, CEO of Marninwarntikura Women’s Resource Centre, told us that urban-based agencies fail to understand the realities of life in the bush and the need for Indigenous-led solutions to meet the diverse needs of women. Having narrow key performance indicators and rules that restrict engagement only to narrowly determined tasks (for example, providing short-term accommodation, legal advice, and post-crisis support) fails to recognise that an agency’s successful “cultural contract” with a community may rest on its willingness to be open to helping women with a range of crises (e.g. Centrelink issues, safety, child support, driving licenses, justice—many women are subject to warrants, travel, housing, or medical issues). Successful workers in remote areas are those willing to work across agency boundaries. They may lose credibility and authority within the community if they fail to respond to the broader needs of clients.

Lack of support services

As discussed in the state of knowledge paper (Blagg, Bluett-Boyd, & Williams, 2015, p. 34):

Community initiatives...struggle because of the lack of other services in the area, particularly in relation to mental health, transport, children’s services, child care, accommodation, and so on; preventing them from being able to provide a holistic service and shift some of the cost burden onto other services. Aside from offering short-term support through a refuge, some family violence services in remote areas have also acted as a catalyst for policy changes that directly impact on the safety of women and children in the medium and longer term.

Marninwarntikura Fitzroy Women’s Resource Centre in Fitzroy Crossing was identified in the state of knowledge paper as a community-owned organisation that had played a leading role in reducing the sale and consumption of alcohol in the town, and coordinating an interagency practice regime focused on screening children for FASD and supporting young mothers, as well as providing safety for victims at the point of crisis and legal support. At this point in the discussion, it is worthwhile assessing the relevance of the key Australian government-led initiative intended to reduce the sizable “gap” between mainstream and Indigenous health and wellbeing, particularly in relation to the needs of Indigenous women.

³ Lateral violence is a form of displaced violence directed towards friends, family, and peers rather than at the true sources of oppression. It feeds off a lack of understanding regarding the historical background of racism and dispossession.

⁴ The male power model in the context of domestic violence refers to the ways men use violence, coercion, and threats within intimate relationships to exercise power and control.

Closing the gap

It is clear that strategies developed in response to concerns about levels of family violence in remote communities voiced in advance of the 2007 Northern Territory Emergency Response (NTER) have failed to make inroads into levels of disadvantage. The latest Closing the Gap report (Commonwealth of Australia, Department of the Prime Minister and Cabinet, 2017) shows differences between Indigenous and non-Indigenous women in terms of key health and wellbeing indicators. The latest report briefly covers these differences in terms of life expectancy, domestic violence, education, employment, and labour force participation. The report outlines statistics that evidence the inequality that continues to exist between Indigenous and non-Indigenous women's health and wellbeing. It shows that while there has been some improvement in Indigenous women's employment rates, the gap has not decreased in other areas of health and wellbeing.

Life expectancy

According to the most recent figures regarding life expectancy at birth, published late 2013, there is a gap of 9.5 years between Indigenous and non-Indigenous females (DPMC, p. 81). In the period 2010-12 the estimated life expectancy at birth for Indigenous females was 73.7, while the life expectancy at birth for non-Indigenous females was 83 years (DPMC, 2017). In order to meet the target of closing the gap between Indigenous and non-Indigenous life expectancy in a generation, over the period of 2016-2031, Indigenous women's life expectancy needs to increase by 16 years (DPMC, 2017, p. 81).

Reducing violence

The Closing the Gap (DPMC, 2017) report highlights some key statistics that demonstrate the fact that Indigenous women have an increased likelihood of being victims of abuse. It states that from June 2013-15, Indigenous women were 30 times more likely than non-Indigenous women to be hospitalised for assault (DPMC, 2017, p. 95). Furthermore, this figure increased in remote areas, where Indigenous women were 53 times more likely than their non-Indigenous counterpart to be hospitalised for assault (DPMC, 2017, p. 95). In terms of family violence during the period 2014-15, Indigenous women were 32 times more likely than other women to be hospitalised due to such assaults (Steering Committee for the Review of Government Service Provision (SCRGSP), cited in DPMC, 2017, p. 95). In addition to this, one-third of Aboriginal women have

experienced physical violence from a partner, which is twice the level recorded among non-Indigenous women (Department of Social Services, cited in DPMC, 2017, p. 96). While the report does not detail specific solutions to the reduction of violence against Indigenous women, it states that addressing violence against Aboriginal and Torres Strait Islander women and their children is a national priority (DPMC, 2017, p. 96). It also states that of the \$100 million Women's Safety Package, announced by Prime Minister Malcolm Turnbull in the first half of 2016, \$21 million is going towards Indigenous women's safety over 4 years (DPMC, 2017, p. 96).

Employment

In the mid-1990s, employment rates of Indigenous women were as low as 28.9 percent, whereas the latest statistics from 2014-15 show that this rate has risen to 43.3 percent (DPMC, 2017, p. 55). Furthermore, while Indigenous women's employment rates continue to be considerably lower than Indigenous male employment rates, this gap has narrowed significantly since 1994 (DPMC, 2017, p. 54). Unemployment rates for both male and female Indigenous people are similar (DPMC, 2017, p. 56).

In terms of labour force participation, the gap between Indigenous and non-Indigenous women was slightly higher than the gap between Indigenous and non-Indigenous men, being 17 percent and 14.3 percent respectively (DPMC, p. 58). Although the report does not outline specific strategies for getting on track to meeting the established targets, it mentions an increase in funding and the prioritisation of Indigenous women's health as a national focus.

The gap between Indigenous and non-Indigenous people in terms of imprisonment rates has increased rather than diminished. Indigenous Australians represented 27 percent of the prison population in 2016 (ABS 2016b), up from 24 percent in 2006 and 14 percent in 1992 (Australian Institute of Criminology, 2009).

Baldry and Russell (2017) note that women's prisons are particularly likely to be over-crowded and unhealthy places. Western Australia's women's prison, Bandyup, which has around 50 percent Indigenous women, has been a constant source of concern to the state's prison inspectorate (Office of the Inspector for Custodial Services, 2014).

There has been a flurry of policy initiatives over the last decade intended to enhance women's safety. We briefly describe some of them as a prelude to our discussion of Indigenous safety strategies.

National domestic and family violence policy

The national policy document relating to domestic and family violence in Australia is the *National plan to reduce violence against women and their children 2010-2022* (the National Plan). This is a 12-year plan that was developed by the Commonwealth, state, and territory governments in collaboration with the community (Council of Australian Governments, 2011). The National Plan is comprised of four 3-year action plans, that aim to significantly reduce the amount of violence against women and their children in a sustainable manner (Australian Government, Department of Social Services, 2016). The Third Action Plan for 2016-2019 outlines 36 practical actions under six national priority areas to be undertaken over 3 years (Australia, Department of Social Services, 2016). These are:

1. prevention and early intervention,
2. Aboriginal and Torres Strait Islander women and their children,
3. greater support and choice,
4. sexual violence,
5. responding to children living with violence, and
6. keeping perpetrators accountable across all systems.

The Third Action Plan was informed by a number of groups throughout Australia, including the Coalition of Australian Governments (COAG) Advisory Panel on Reducing Violence against Women and their Children (2015-2016); various state and territory inquiries, including the Special Taskforce on Domestic and Family Violence in Queensland (2014-2015) and the Victorian Royal Commission into Family Violence (2015-2016); and over 400 key stakeholders and experts (Australia, Department of Social Services, 2016).

Other national bodies working for Indigenous rights

There are a wide range of organisations working nationally in Indigenous rights fields. The Secretariat of National Aboriginal and Islander Childcare (SNAICC) is one of these organisations, and has been at the forefront of advocacy work with Aboriginal and Torres Strait Islander families and children. SNAICC is the national, non-government peak body representing the interests of Aboriginal children and families. This organisation works towards fulfilling the rights of Indigenous children, focusing on their safety, development, and wellbeing.

The National Aboriginal and Torres Strait Islander Women's Alliance (NATSIWA) was incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), and seeks to "advocate and empower the voices of Aboriginal and Torres Strait Islander women in Australia" (NATSIWA, 2014). NATSIWA's core objectives are to advocate for Aboriginal and Torres Strait Islander women both nationally and internationally; foster strong relationships between government, industry, and among Aboriginal and Torres Strait Islander women; educate government service providers on how to resolve various issues; and secure the economic, political, social, educational, cultural, and environmental futures for Aboriginal and Torres Strait Islander women (NATSIWA, 2014).

In addition to these national bodies, the Australian Human Rights Commission (AHRC) reinstated its commitment to a human rights-based approach to family violence in Indigenous communities in the *Social Justice and Native Title Report 2016* (Australian Human Rights Commission, 2016). It outlines that such an approach should take account of the entitlement of all Indigenous people:

...to live their lives with safety and dignity, free from fear of violence and abuse...the complexity of Indigenous women's experience of discrimination and violence; the intersection of inequality based on race and gender; the right of Indigenous peoples to full and effective participation in decisions which directly or indirectly affect their lives...[and] the broader social and economic factors which impact on the enjoyment of rights by Indigenous people. (AHRC, 2016, p. 29)

The report also outlines the priorities detailed in the Redfern Statement⁵ that the Australian Government should address

⁵ The Redfern Statement, led by the National Congress of Australia's

in order to prevent violence against Aboriginal and Torres Strait Islander women and children (AHRC, 2016). These priorities are to work to address intersectional discrimination; equitable access to the NDIS by Aboriginal and Torres Strait Islander people; establish disability access targets as part of the Closing the Gap framework and NDIS Quality Assurance and Outcomes framework; invest in research and development to build an evidence-base of data; address the imprisonment rates of Aboriginal and Torres Strait Islander people with cognitive or psychosocial disability; and fund training and community leadership initiatives (AHRC, 2016).

Our Watch is a national, independent, not-for-profit organisation that has four key areas of work. These are:

1. Designing and delivering public campaigns that engage and educate individuals and the community.
2. Promoting sustained and constructive public conversation.
3. Enabling organisations, networks, and communities to effect change.
4. Influencing public policy, systems, and institutions.

Our Watch was created by the Victorian and Commonwealth governments almost 4 years ago and currently has a membership of seven jurisdictions (the Commonwealth and six of eight states and territories) (Our Watch, 2016, p. 1). In terms of policy relating to Aboriginal and Torres Strait Islander women and domestic violence, the organisation is currently in the process of putting together a guide to the prevention of violence against Aboriginal and Torres Strait Islander women. This is being guided by a project advisory group comprising 11 Aboriginal and Torres Strait Islander women from across Australia, who were appointed following a public expression of interest process (Our Watch, 2017). It focuses primarily on understanding the underlying drivers to violence against Aboriginal and Torres Strait Islander women and developing a long-term framework for prevention (Our Watch, 2017). The project takes into account the broader context of the intergenerational impacts of dispossession and interruption of cultural practices, as well as

First Peoples and supported by more than 30 organisations (including, for example, the Australian Medical Association, the Law Council of Australia, and the First Peoples Disability Network), was launched on 16 June 2016 during the Australian federal election campaign. The Redfern Statement sets out Aboriginal and Torres Strait Islander people's expectations and priorities for engagement and progress by Australian governments, and contains sections on meaningful

engagement, health, justice, preventing violence, early childhood, and disability (National Congress of Australia's First Peoples, 2017).

the ongoing cumulative economic disadvantage and exclusion that Aboriginal and Torres Strait Islander people experience (Our Watch, 2017).

Furthermore, the project has taken a deliberately gendered approach, focusing specifically on the ways in which these factors interact to drive the extremely high levels of violence against Aboriginal and Torres Strait Islander women (Our Watch, 2016). It aims to highlight the need for community-led, local, strengths-based, trauma-informed, and healing-focused solutions, with the structure and content of the resource anticipated to emerge throughout the research (Our Watch, 2016). The guide is expected to be completed and launched in the second half of 2017, making it the first comprehensive framework of principles in Australia that focuses specifically on Indigenous women and domestic and family violence (Our Watch, 2016).

In addition to its national commitments, Australia is signatory to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The UNDRIP “affirms the minimum standards for the survival, dignity, security, and wellbeing of Indigenous peoples worldwide and enshrines Indigenous peoples’ right to be different” (United Nations, 2007). The four key principles of the declaration are self-determination, participation in decision-making, respect for and protection of culture, and equality and non-discrimination (United Nations, 2007). While the declaration does not create law in Australia, it can be used to lobby for the reform of programs, policies, and laws to ensure they are consistent with standards of the declaration (United Nations, 2007).

State and territory policy on domestic and family violence

Every state and territory government has produced a set of policies based on the core principles of the National Plan. These are:

- Western Australia’s Family and Domestic Violence Prevention Strategy to 2022;
- A Right to Safety: South Australia’s Women’s Safety Strategy 2011-2022;
- It Stops Here: Standing Together to End Domestic and Family Violence in New South Wales;
- Safe Homes, Safe Families: Tasmania’s Family Violence Action Plan 2015-2020;
- Ending Family Violence: Victoria’s Plan for Change;

- Domestic and Family Violence Prevention Strategy 2016-2026 (Qld);
- Domestic and Family Violence Reduction Strategy 2014-17: Safety is Everyone's Right (NT); and
- The ACT Prevention of Violence against Women and Children Strategy 2011-2017.

Each state and territory appears to adopt a similar strategy towards significantly reducing and eventually eliminating domestic and family violence. Some of the common themes and values within the Commonwealth, state, and territory government policy on family and domestic violence include a focus on prevention and early intervention, recognition of the need for interagency collaboration, and a need for policy and program responses developed by and alongside communities. All states and territories have recognised that Aboriginal and Torres Strait Islander women are at a far greater risk of being victims of family and domestic violence than non-Indigenous women. Furthermore, government policy acknowledges the need to pay attention to the impacts of colonial dispossession, racism, and social and economic disadvantage. In order to do so, states and territories have pledged to improve the links between Aboriginal organisations and community sector agencies working with domestic and family violence, so as to provide culturally appropriate programs. Commonwealth, state, and territory government policy also recognises that the term *family violence* is considered to be more reflective of an Aboriginal worldview of community and family healing than the term *domestic violence*.

Services available

There are a variety of domestic and family violence services available throughout Australia. Some organisations, such as the Central Australian Aboriginal Congress Corporation (CAAC) cater exclusively to Indigenous people. The CAAC is the largest community-controlled health organisation in the Northern Territory (CAAC, 2017). It runs a social and emotional wellbeing service, which provides Aboriginal people and their families with “holistic and culturally appropriate primary health care for social and cultural wellbeing, mental health, and community connectedness” (CAAC, 2017). Similarly, in Western Australia, the Yorgum Aboriginal Corporation provides counselling services for the Aboriginal people of Australia, supporting their “spiritual, physical, intellectual, and emotional wellbeing” (Yorgum Aboriginal Corporation, 2017).

In addition to Indigenous-specific services, gender-specific Indigenous family violence services exist across all Australian states and territories. For example, the Marninwarntikura Fitzroy Women's Resource Centre was formed in the mid-1980s and extends over three facilities: the Centre; the Early Childhood Learning Unit and Family Centre; and the Family Violence Prevention Legal Unit (Marninwarntikura Fitzroy Women's Resource Centre, n.d.). Additionally, Meminar Ngangg Gimba provides a range of services for Aboriginal women, including 24/7 crisis accommodation for women and children fleeing family violence (Loddon Mallee Housing Services, 2014). Furthermore, the Warringa Baiya Aboriginal Women's Legal Service provides Aboriginal and Torres Strait Islander women, children, and youth in New South Wales with access to legal representation, advice, and referral that is both gender-specific and culturally sensitive (Warringa Baiya, 2017).

As well as women-only services, there are some Indigenous male-only services, such as the Victorian Aboriginal and Torres Strait Islander Centre for Males (Victorian Aboriginal Community Services Association Ltd, 2017) and Ingkintja: Wurra apa artwuka pmarra, which operates under the CAAC, and provides multiple services for Indigenous men, including anger management and family violence intervention support (CAAC, 2017).

Some organisations offer Indigenous and non-Indigenous family violence services, as well as referral where necessary. For example, the Patricia Giles Centre is a feminist-based, not-for-profit organisation in Perth that provides services to women, children, and men who have experienced or witnessed domestic violence (Patricia Giles Centre, 2017). The Centre also offers culturally appropriate Aboriginal services such as Coorrt Coolong and Kurlangas Aboriginal Playgroups (Patricia Giles Centre, 2017). Additionally, the Canberra Rape Crisis Centre (CRCC) is a non-government, feminist organisation that seeks to eliminate sexual violence against women, young people, children, and men (CRCC, 2017). The organisation also includes an Indigenous-specific program, called the Nguru Program, which provides culturally appropriate counselling for members of the Aboriginal and Torres Strait Islander community (CRCC, 2017).

The National Plan, while including Aboriginal and Torres Strait Islander women as a priority group, is not embedded in an intersectional policy analysis in the way the Our Watch framework for preventing violence against Aboriginal and

Torres Strait Islander women seeks to be. That is, family violence services are not conceptualised from intersectional or cultural perspectives, but based on mainstream feminist analysis and, perhaps, adapted to be “culturally appropriate”. Programs and organisations that cater specifically to Indigenous people, Indigenous women or Indigenous men, tend to be run by Indigenous people who adopt a community-based approach, meaning that they focus on accommodating the needs of local Indigenous people through the development of community-based initiatives. Once completed, the Our Watch guide will be a resource used “to improve Australia’s approach to the prevention of violence against Aboriginal and Torres Strait Islander women” (Our Watch, 2017).

Several Indigenous-based services promote a holistic approach to healing, encouraging women and children to come together, share stories, listen, learn, and show support for one another. The focus within such services is on recognising not only the incidence of family violence, but also the broader context of colonial dispossession, racial prejudice, disruption of culture, socio-economic disadvantage, and the effects of the forced removal of Indigenous children, otherwise known as the “stolen generations”.⁶ Indigenous family violence services embrace the diversity of culture, beliefs, knowledge, values, and skills throughout Indigenous communities. They aim to heal the physical, emotional, social, spiritual, cultural, and mental health of Indigenous victims from traditional, rural, and urban backgrounds.

As well as Indigenous-specific services, there are several whole-of-community and feminist-based programs that include some form of Aboriginal representation or specific service that caters to Indigenous victims of family violence. It is difficult to determine whether there is or could be any tension between Indigenous-based policy and non-Indigenous policy relating to domestic and family violence, without any comprehensive policy for Indigenous people or Indigenous women as yet. Within the existing services, both Indigenous and non-Indigenous approaches offer crisis accommodation, legal advice, counselling, advocacy, support, and referral.

Differences may well exist when it comes to the form that counselling services take for Indigenous and non-Indigenous people. Indigenous counselling programs that currently exist tend to advocate for a holistic, whole-of-family approach to healing. In contrast, feminist-based services such as the Patricia Giles Centre do not specify the need for a holistic focus. However, this does not mean that Indigenous and non-Indigenous counselling services could not co-exist. By acknowledging that Indigenous people respond to specific incidences of family violence within the broader context of socio-economic disadvantage, we highlight the need for a comprehensive strategy that focuses specifically on the needs of Indigenous women, Indigenous men, or Indigenous people. Given that current state, territory, and Commonwealth government policy already recognises the need for a culturally appropriate approach for Indigenous women, which must come from Indigenous people themselves, there is reason to be hopeful that Indigenous and non-Indigenous policy relating to domestic violence could coexist harmoniously.

In the next section we detail the structure and rationale for our place-based methodology.

⁶ See *Bringing them Home* (National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (Australia), Wilson, R. D., & Australia Human Rights and Equal Opportunity Commission, 1997). Under the assimilation policy of the early 20th century, white Australians believed that Aboriginal people would die out. It was widely held that they could “breed out” Indigenous genes in three generations, and targeted children of mixed descent, as it was thought they could be more easily assimilated into white society.

Research methods and Indigenous knowledge

The research was informed by a mix of methodologies, which generally fall under the heading of an “appreciative” methodology. An appreciative stance simply means looking for positive elements in cultures, organisations, and communities with which the research interacts (Liebling, Price, and Elliot, 1999). Our approach was intended to reflect local strengths (or potential sources of strength) rather than just focusing on weaknesses. This was in order to balance the tendency of mainstream research to set out from the premise that the Indigenous domain is dysfunctional (Smith, 1999). Smith argues that mainstream research methods need to be “decolonised” by fostering the active engagement of Aboriginal people in the research process. Therefore, we “nested” the research in a number of Aboriginal community-owned organisations in our research sites.⁷

Indigenous research methods set out from Indigenous people’s lived experiences, rather than from those frames of knowledge *about* Indigenous people gleaned from non-Indigenous research. This necessitates acknowledging the heterogeneity of Aboriginal worldviews, “informed by the specific country that they are from as well as their individual and collective experiences” (Kwaymullina, Kwaymullina, & Butterly, 2013). For this reason we adopted a “country-centred” approach to the research process, embedded in Indigenous agencies in three sites: Darwin Aboriginal and Islander Women’s Shelter, Darwin (DAIWS, NT); Marninwarntikura Fitzroy Women’s Resource Centre, Fitzroy Crossing (WA); and Barambah Child Care Agency, Cherbourg (Qld). This entailed allowing the lived experience of workers and clients in these organisations and linked Indigenous organisations (such as Aboriginal medical services and legal services) to set the parameters of the research. This was achieved through a mix of individual interviews and group discussions or “yarning circles”. Only after these had developed sufficient depth did interviews with representatives from mainstream organisations take place.

Information from other localities was included, but these three sites remained the major foci of the study. The experiences of Indigenous women in the three research sites have numerous overlapping congruities. Yet, they also demonstrate contingent differences, shaped by the particular pattern of colonisation, and the ways the settler state had sought to manage the social consequences of dispossession in these areas. Cherbourg people

still retain elements of culture related to reciprocal obligations and kinship structures, however; much has been lost.

On the other hand traditional law is still strong in the Kimberley and Top End, with a plurality of languages still spoken. Two structures undergird Indigenous knowledge systems in these two sites: the interconnected footings of law and place. Aboriginal laws are a fact of life in Indigenous societies in Northern Australia. An inquiry into Aboriginal law in the Northern Territory (Northern Territory Law Reform Commission, 2005) also found that many Aboriginal people felt bound by law in their daily lives:

Aboriginal customary law is a fact of life for most Aboriginal people in the Northern Territory, not just those in Aboriginal communities...because it defines people’s rights and responsibilities, who a person is, and it defines a person’s relationships to everybody else in the world. (Northern Territory Law Reform Commission, 2005: 16)

A major study on Aboriginal law by the Law Reform Commission of Western Australia (2006) found similar sentiments. Aboriginal law still governs many aspects of daily life for many Aboriginal people, particularly in areas like the Kimberley region. Law provides an overarching framework of rules and obligations. It informs people about with whom they can associate and under what conditions, it informs them about their obligations and their relationship to those around them. Further, the Commission found that the foundations of law survived colonisation (Law Reform Commission of Western Australia, 2006).

Rather than simply “parachuting” in to communities on the basis of externally generated data profiles, we chose localities where there are already well embedded relationships of trust between members of the research team and Indigenous communities. The importance of working in this way cannot be overstated. We mentioned earlier that Indigenous communities have become cynical about “fly in, fly out” research or “seagull” research, largely conducted by strangers with whom they have no connection. A signal feature of a decolonised style of research is that it places greater stress on shared understanding than on scientific objectivity and neutrality.

A grounded approach

We adopted a grounded approach that allowed Indigenous participants to define the issues as they experienced them. For

⁷ We use the terms “nested” and “embedded” to mean deliberately breaking away from mainstream structures (such as government agencies) as the point of departure for understanding the locality and, instead, permitting alternative voices, spaces, and places to be the starting point for research.

this reason, the research does not follow a neat, linear pattern: rather, it presents a series of overlapping narrative circles, each with its own local integrity but also interwoven in places due to common experiences of racism and dispossession. Our aim of foregrounding Indigenous knowledges could not be achieved in an historical vacuum. As Pakula woman Ambelin Kwaymullina argues:

Respectful research, in relation to Indigenous peoples, requires engaging with and through new modes of interaction that begin with the recognition of that which the colonial project has long denied: the inherent sovereignty and humanity of Indigenous peoples. (Kwaymullina, 2016, p. 36)

Yarning and storytelling

The project has favoured the stories and narratives of Indigenous women. It breaks from mainstream research methodologies based on the experiences and expertise of non-Indigenous researchers and on the postulated “universality” of research techniques. As Sherwood et al. (2015) observe, mainstream approaches are:

...contingent on a worldview that subordinates Indigenous knowledges and objectifies Indigenous peoples. It reinforces an epistemology in which non-Indigenous knowledge is superior and Indigenous people are to be studied rather than assigned the role of the researcher. (Sherwood et al., 2015, p. 78)

In relation to family violence, Western approaches have been allowed to define the field and Indigenous knowledge has been neglected and subordinated. Indigenous women have been the objects of inquiry rather than a source of knowledge about family violence. A powerful narrative originating in the United States and Western Europe has been superimposed on to the Australian landscape. Indigenous women’s knowledge of family violence, covering a range of aggressive and *culturally* destructive behaviours arising from a number of sources but over-determined by colonisation, is constantly subordinated to explanatory systems reflecting the views and experiences of generally white women in mainstream Australia.

It was critical then, that Indigenous women were central to this research process: they took the lead in defining the field of inquiry and interviewed other Indigenous women with experience of family violence services. Lester Rigney argues that Indigenous people “want research and its designs to contribute to the self-determination and liberation struggles as defined and controlled by their communities” (Rigney, 1997, p. 632). Hence,

we favoured a “yarning” style of research. “Collaborative” yarning involves sharing information, exploring ideas, and creating new understandings (Bessarab & Ng’andu, 2010). It validates those Indigenous knowledge systems that have been marginalised and subjugated by mainstream positivist methodologies and their claims to neutrality and objectivity. Sherwood et al. (2015) advocate for a “yarning” style as part of their “storytelling” methodology.

The role of storytelling, including through yarning circles (a process used by Aboriginal people for thousands of years to discuss issues in an inclusive and collaborative manner), is an important means of hearing Indigenous voices in research. The presence of Indigenous researchers and experts facilitates the free flow of information about Indigenous experiences. (Sherwood et al., 2015, p. 79)

Indigenous knowledges

Our qualitative study is based on fieldwork in the three designated sites and embedded in ethnography and grounded research process (Denzin & Lincoln, 2000). A grounded research approach, as defined by Strauss and Corbin (1998), seeks to ground theory in observation, based on generative questions to guide, but not bind, the research. This study sought to foreground Aboriginal perspectives on family violence, and how it should be responded to. We were particularly interested in how Aboriginal knowledge holders make sense of family violence and how such knowledge can frame pathways to reductions in family violence. The knowledge and views of Indigenous workers in the family violence space and linked community programs were of critical importance to the research.

Telling space from place

As we demonstrate, particularly in relation to Cherbourg in Queensland, Indigenous communities and their aspirations do not always figure in how policy on the ground is enacted. There is often a significant disconnect between the family and domestic violence policy “space” and Indigenous “place”; the two do not always overlap. Our methodology, therefore, was developed not with the intention of evaluating how mainstream policies work, or not, on the ground in order to fine-tune them, but by questioning the extent to which the very notion of “the ground” itself is contested between mainstream and Indigenous agency.

From a mainstream domestic violence perspective, “the ground” is understood largely as a dysfunctional space, a space of risk assessment and danger, and the locus for various targeted “interventions” against a discrete problem defined as “domestic violence”. Indigenous people may not recognise this “space” at all, or may hold a more nuanced and variegated appreciation of it as a habitus of belonging, strength, and resilience as well as risk, chaos, and conflict. This is a critical issue for Indigenous women working to combat family violence who conceive of family violence intervention in holistic ways and may view its reduction in generational terms (“the problem is intergenerational, so the solutions have to be intergenerational”—June Oscar, CEO, Marninwarntikura Fitzroy Women’s Resource Centre). As we see later, in the Fitzroy Crossing example, community initiatives designed to prevent more violence may lay stress on early childhood care, but this may not fit in with priority funding for domestic violence, and will be at the back of the queue for funding. As Sherwood et al. (2015, p. 79) observe: “when our services do not fit preconceived bureaucratic categories, the result is the inability to obtain funding”.

Grounding the research in place

The research team was assembled because of their attachments to place, and their emotional and cultural investments in people and place. Each had what Robinson and Walters call an “embodied experience of cultural knowledge” and a “feeling of belonging” (Moreton-Robinson and Walter, 2009, p. 21). Our grounded methodology attempted to follow the recommendations of Linda Tuhawi Smith that “cultural protocols, values, and behaviours” remain an “integral part of methodology” (Smith, 1999, p. 116). To this end, we held preliminary discussions with our partner agencies and engaged Indigenous researchers with solid cultural links in each locality. They ensured that the research process was aligned with community values and histories, and Indigenous forms of knowledge were given respect and status in terms of identifying issues for discussion. Hence, Indigenous people, rather than mainstream agencies, mainstream research, and mainstream law, defined the research agenda and established the pathways for reform. This was particularly important given the tendency for researchers in the domestic violence space to work from scripts about violence written in the non-Indigenous domain.

Ethnographic research aims to tease out the locally grounded and finely granulated experiences of people, and how they develop meaning in their daily lives. This requires a degree of

flexibility in terms of the theoretical framework used to inform the research, and sensitivity to the contexts in which social relations develop and change. Setting out from an explicitly Euro-feminist stance can hinder researchers from seeing the big picture of Indigenous violence. Our reading of critical Indigenous scholarship confirmed the need for “place-based” research that reflected the fact that, for Indigenous people, place remains central to their ontologies and epistemologies. Indigenous culture “sits in place” (Escobar, 2001).

It also recognises that the centrality of place, or “Country”, represents in Indigenous cosmologies a significant marker of difference from what Moreton-Robinson calls the “white diaspora”:

Our ontological relationship to land, the ways that country is constitutive of us, and therefore the inalienable nature of our relationship to land, marks a radical, indeed incommensurable, difference between us and the non-Indigenous. (Moreton-Robinson, 2003, p. 36).

In relation to land, or “Country”, Indigenous Australians’ sensibilities of belonging are, as Moreton-Robinson explains, incommensurate with Western notions of occupation and ownership. Indigenous people both possess and are, in turn, possessed by country (Blagg, 2015). Deborah Bird Rose describes this eloquently:

Country in Aboriginal English is not only a common noun but also a proper noun. People talk about country in the same way that they would talk about a person: they speak to country, sing to country, visit country, worry about country, feel sorry for country, and long for country. (Bird Rose, 1996, p. 9).

The project methodology was also influenced by Professor Patricia Dudgeon’s work on the National Empowerment Project (2014), which gives us a set of principles for engaging with Indigenous communities. Dudgeon et al., (2014, p. 3) argues that:

- Aboriginal people are best placed to identify the challenges they face, and the solutions.
- Aboriginal people see cultural strength and identity as the key to social and emotional wellbeing, and community-led programs are essential to reducing suicide, substance abuse, and other health and wellbeing challenges.
- Any program should be community owned, culturally and locally appropriate, based on Aboriginal people’s strengths, flexible, and respectful of gender issues (male and female modules).

Australian research argues that policy frameworks should support Indigenous-led knowledge and solutions, and community-based services (Baldry, McCausland, McEntyre, & Dowse, 2015).

Mixed methods

The research teams used a mix of semi-structured interview schedules to guide interviews and conversations, small group discussions, round tables, one-on-one interviews, participation in conferences and seminars, “sitting in” in family violence agencies, observations of night patrols and police patrols, and “on-Country” visits to walk with Elders.

Analysis involved closely listening to the narratives of participants, identifying common themes, and asking clarifying questions to ensure the meanings attached to the themes were correct through the process of two-way interaction and exchange, common in action research approaches. Qualitative research of this kind is often labelled as “messy”, and always operates beyond the boundaries of acceptable positivist inquiry, with its claims to neutrality and objectivity. As one Indigenous person working in the restorative justice space said, “if you’re neutral, then we don’t want you here”. Research in the Indigenous domain demands commitment to fundamental beliefs and values.

Climbing out of the box

We did not research exactly the same things in exactly the same way in the different research sites, or filter out issues that did not neatly fit into the domestic violence “box”⁸; indeed, we encouraged responses from Indigenous communities that foregrounded local concerns. Localities often have their own inner mechanisms of time. These inner-workings are moulded through the distinctive histories of place and people and continue to produce specific concerns and mentalities.

Domestic violence orders, and how to make them stick, remain the key battleground for mainstream agencies, jurists, and academics, but this does not reflect priorities on the ground for

Indigenous agencies, or the ways Indigenous women, in situations of extreme scarcity, construct their own sites of safety, often by relying on “relational”, rather than physical, walls (as we discuss in the Northern Territory section). Furthermore, much of the mainstream literature on family violence interventions has been produced on the basis of research in urban contexts (principally urban America). The “bush” is different. Initiatives in remote and rural communities function well when there is leadership and commitment by a cluster of individuals from within the Indigenous community and a broad range of government and non-government agencies (police, justice, health, welfare).

Free prior and informed consent

Freedom from violence (whether sexual, mental, emotional, financial, or physical) is a fundamental human right. The Australian Human Rights Commission has vigorously advocated a human rights framework to shape social responses to violence against women (Australian Human Rights Commission, n.d.). These form an important basis for challenging outdated laws and policies. Indigenous women, however, may not see all their rights and interests represented in instrumentalities designed to safeguard individual human rights alone. It is worth speculating on how the United Nations Universal Declaration of the Rights of Indigenous People, in particular its cornerstone notion of “free, prior, and informed consent” (FPIC), could be deployed in debates about Indigenous responses to family violence in Australia. This would institute a significant shift in the way we imagine policy and practice on a local level in relation to family violence towards greater respect for Indigenous decision-making processes. It would invalidate purely top-down processes in favour of locally negotiated protocols and practices. FPIC defends the cultural rights of Indigenous people. Expressed simply, it asserts that the Indigenous community retains the right to give or withhold its consent to proposed projects that may affect it. FPIC also defends the integrity of Indigenous knowledges.

Terri Janke maintains that, “Indigenous Knowledge is collectively owned, socially based, and evolving continuously”. *In Our Culture: Our Future*, Janke says that “Indigenous Cultural and Intellectual Property Rights” refers to:

Indigenous Australians’ rights to their heritage, and that heritage consists of: The intangible and tangible aspects of the whole body of cultural practices, resources and knowledge systems developed, nurtured, and refined by Indigenous

⁸ The “box” is similar to the “silo”, or “square” in the United States: people become stuck in them because they are familiar and comfortable. “Thinking outside the box” means breaking with tradition, being daring and creative, and dealing with the unfamiliar and uncomfortable.

people and passed on by them as part of expressing their cultural identity (Janke, 1998, p. 21).

Indigenous knowledge, then, refers to systems of understanding rooted in Indigenous people's identities as first people, with unique systems of law and cultures. Western knowledge has, since colonisation, remained either openly antagonistic towards Indigenous knowledge systems, or has marginalised and downplayed their significance as a vital force in Indigenous people's lives.

Honouring Indigenous women

The dynamism of individuals rather than the robustness of interagency liaison protocols make the difference in terms of generating and sustaining innovation in local settings. There are legendary figures who on their own volition have taken groups of kids "on-Country"; agitated for a safe place for women, men, or both; and set up women's night patrols. Senior Nyikina woman Lucy Marshall AM of Derby, West Kimberley, who raised awareness of family violence in Derby, was a mentor to women in her community, and has fostered more than 50 children rescued from abusive homes, is one such figure. Rembarranga/Ngalakan woman, Eileen Cummings, the senior member of this project, is another who has stoically battled against family violence for several decades across the Top End. In Fitzroy Crossing, West Kimberley, the courageous leadership of Bunuba women June Oscar and Emily and Maureen Carter has transformed the landscape of the town due to their refusal to accept that the detritus created by ungoverned alcohol sales and consumption is acceptable and normal for Kimberley towns. All of this comes at a cost. It is well known that burnout and exhaustion is often the reward for such work. Additionally, Indigenous women in Fitzroy who supported the alcohol restrictions reported being the subject of hostility and blame, including threats of violence. A crucial aim of any family violence model must be to safeguard the health and wellbeing of Indigenous (and non-Indigenous) people engaged in frontline work in remote communities, be it in a formal or informal capacity.

The problem with law

We argue that the “mainstream” feminist model⁹ has driven law and policy into a legal cul-de-sac where Indigenous victims are concerned. This is because it has focused exclusively on coercive control as the fundamental cause of violence against women. Law reformers have, however, become more alert to the fact that violence in families can be perpetrated by a range of actors. The Victorian Law Reform Commission’s 2006 report argues that family violence covers:

[A]ll family relationships that exist in the Victorian community, including those in marginalised communities. In particular, a new definition of “family member” should include a relative according to Indigenous tradition or contemporary social practice, a relative according to any other traditional or contemporary social practice, and a person who has provided paid or unpaid care to someone who is dependent or partially dependent on that person, such as a carer of a person with a disability. (Victorian Law Reform Commission, 2006, p. xxiii)

To this extent it reflects a broadly feminist agenda of criminalising a miscellany of domineering behaviours linked to male power: an agenda pursued by the Victorian Royal Commission into Family Violence, which captured national attention and, thus, warrants a brief discussion here.

Royal Commission into Family Violence (Victoria) and Indigenous People

The 2015 Royal Commission into Family Violence Report covered a diversity of topics. Here we will restrict ourselves to those areas concerning Indigenous people and remote communities. The Commission’s task was to identify the most effective ways to:

- prevent family violence;
- improve early intervention so as to identify and protect those at risk;
- support victims—particularly women and children—and address the impacts of violence on them;
- make perpetrators accountable;

⁹ There is no single form of feminism; by “mainstream” we are referring to forms of feminism that assume that domestic and family violence are a product of gender inequality. Other forms of feminism stress the interplay of gender with race and class differences. Socialist and Marxist feminism, intersectional feminism (discussed later), and liberal feminism may share some common characteristics (all may see women as suffering discrimination) but view causes and solutions in radically different ways.

- develop and refine systemic responses to family violence—including in the legal system and by police and corrections, child protection, legal, and family violence support services;
- better coordinate community and government responses to family violence; and
- evaluate and measure the success of strategies, frameworks, policies, programs, and services introduced to put a stop to family violence (State of Victoria, 2016, 1, 1).

The Commission used the definition of “family violence” in s. 5 of the *Family Violence Prevention Act 2008* (Vic) for the purposes of the report. This defines family violence as:

- (a) behaviour by a person towards a family member of that person if that behaviour—
 - (ii) is physically or sexually abusive; or
 - (iii) is emotionally or psychologically abusive; or
 - (iv) is economically abusive; or
 - (v) is threatening; or
 - (vi) is coercive; or
 - (vii) in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person; or
- (b) behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in paragraph (a). (s 5)

The broadening of the definition of family violence is not without its critics. In evidence to the Commission, Professor Arie Freiberg, Chair of the Sentencing Advisory Council of Victoria, reported that research since the introduction of the Tasmanian offence of economic and emotional abuse in 2004 suggested there had been no prosecutions or convictions for economic abuse and only seven prosecutions for emotional abuse. Helen Fatouros, Director of Criminal Law Services at Victoria Legal Aid, was similarly cautious about new offences. She noted that “we have such a broad suite of criminal offences”, both at state and Commonwealth level, covering “everything from verbal and electronic threats all the way through to murder”, and to introduce new offences without a “proper evidence base ... and very careful policy process” would risk fragmenting and limiting the criminal law’s capacity to hold perpetrators to account (State of Victoria, 2016, 3, 212).

The Commission identified a number of gaps in Victoria limiting

effective implementation of laws, policies, and programs. The Commission recognised that:

...family violence policy and services must also take account of the particular experiences of people from Aboriginal and Torres Strait Islander communities, which are compounded by discrimination and trauma associated with historical and ongoing injustices. (State of Victoria, 2016, 1, 1, 33)

It also recognises:

...the effects of trauma associated with dispossession, child removal, and other practices also inform Aboriginal peoples' distrust of agencies such as police and Child Protection. (State of Victoria, 2016, 1, 1, 33)

Aboriginal community-controlled organisations

One theme that came through strongly in the Commission's consultations was the importance of involving Aboriginal community-controlled organisations and tailoring justice system responses that recognise the history and culture of Aboriginal peoples. The Commission recommended "significant increased investment in these Aboriginal community controlled services" as an "urgent priority" (State of Victoria, 2016, 1, 1, 33).

The Commission additionally recommended:

- an immediate funding boost to services that support victims and families, additional resources for Aboriginal community initiatives, and a dedicated funding stream for preventing family violence;
- a "blitz" to rehouse women and children forced to leave their homes, supported by expanded individual funding packages;
- an expanded investigative capacity for police and mobile technology for front-line police, including a trial of body-worn cameras;
- more specialist family violence courts that can deal with criminal, civil, and family law matters at the same time (after the model employed at the Collingwood Neighbourhood Justice Centre in Collingwood, Vic.);
- stronger perpetrator programs and increased monitoring and oversight by agencies;
- family violence training for all key workforces—including in hospitals and schools;
- investment in future generations through expanded respectful

relationships education in schools; and

- an independent family violence agency to hold government to account.

The Commission noted that victims of family violence often do not seek support from police or family violence services, and health services and universal services need to be able to recognise family violence and assist victims. The Commission recommended that the *Family Violence Protection Act 2008* (Victoria) be amended so that agencies such as the police, Child Protection, community and health services, and Integrated Family Services are required to align their risk assessment policies and practices. The Commission recommended the introduction of a specific family violence information-sharing regime under the Family Violence Protection Act, which would in part be based on a successful model in New South Wales.

It recommended implementing a means to ensure that offences committed in the context of family violence are appropriately "flagged" to inform interventions for perpetrators as well as policy and research, and developing a suite of perpetrator programs. The Commission identified three pillars of recovery: housing, financial security, and health and wellbeing. It also recommended restorative justice programs as an additional option when considering court proceedings (State of Victoria, 2016, 1, 1, 15-29).

Coercive control, fights, and gatekeeping

Despite the substantial investment in new laws and guidelines, family violence remains significantly under-reported nationally, as the Victorian Commission itself notes. For Indigenous victims, mainstream systems remain alien and estranging. Reform has generally failed to achieve its objectives, not due to the absence of law or police indifference, but because the law fails to recognise the distinction between coercive and other forms of aggression, particularly fights, and because, “the police and courts adopt a formulaic approach” (Nancarrow, 2016, p. 155). As Nancarrow (2016, p. 158) demonstrates, one outcome of this is that women themselves are being dragged into the justice system because the system is unable to distinguish between interpersonal violence designed to coercively control and other forms of violence. Broadening the definition of what constitutes family violence is insufficient if it is still wedded to one-dimensional assumptions about the causes of violence and the contexts within which violence emerges.

Police gatekeeping

Police are the “gatekeepers” of the family violence legal response. Senior police officers interviewed in Western Australia, the Northern Territory, and Queensland reported that they view intimate partner violence as a serious offence and encourage their officers to intervene, either (where evidence exists) through the arrest and prosecution of perpetrators, by encouraging victims to take out restraining orders, or by taking out orders themselves. In relation to Indigenous women in particular, police are the most likely party to take out a domestic violence order of some kind, although the form of order varies between jurisdictions (see Appendix A). As Nancarrow (2016) and Cunneen (2009) have found in research in Queensland, the majority of DVOs involving Indigenous women were applied for by the police, which was not the case with non-Indigenous women. Furthermore, research suggests that magistrates tended to “rubberstamp” police decisions, rather than interrogate the facts due to the volume of matters before the court and time available to consider them (Nancarrow, 2016, p. 158).

Our interviews with Aboriginal place-based services in Darwin and the West Kimberley suggest that we need a more holistic response to incidents of family violence that ensures that magistrates have better information at hand when dealing with cases involving Indigenous women. This can only occur when agencies such as the police, courts, and other services work directly with Aboriginal women’s and men’s groups to gain an understanding of the issues within a family, and frame long-

term solutions. In this regard we can learn from good practice in related areas, such as suicide and self-harm.

Critical response teams and reflexive practice

The concept of “critical response” is taking a more nuanced shape, with greater attention being paid to post-crisis planning and support and engaging the energies of communities. In the area of suicide and self-harm, for example (which Indigenous definitions of family violence often view as forms of family violence; see Blagg, 2008), the National Indigenous Critical Response Services, which are being rolled out in the Northern Territory, Western Australia, and South Australia, have a number of interconnected “theatres” of engagement, including direct work with communities and agencies to sharpen up the local response to suicides and capacity building to strengthen community structures of resilience to prevent future tragedies (see Healthcare Management Advisors, n.d.).

Work in these theatres of engagement requires a “solution-focused approach”, whereby agencies are willing to listen to criticism from Indigenous people (Kimberley justice worker: “you can’t be solution-focused if you are being defensive”). A community worker engaged in this arena noted the need for more “reflexive” practice that challenges institutional mentalities and encourages workers to look critically at the boundaries of their own discipline, a move from “defending your corner to cooperative practice that takes into account alternative perspectives” (youth justice worker, Fitzroy Crossing). A key aspect of a solution-focused model is the need to “ditch the blame game” and work together for a common cause (Kimberley magistrate).

In the following sections, beginning with Western Australia, we look in more depth at issues in our three sites. We discuss how local Aboriginal women’s organisations, in particular, view the current situation in regards to family violence and the kinds of changes they wish to see in their localities. Each locality has a different history and varies in terms of the density and strength of Aboriginal organisations, and the influence of Aboriginal law, as discussed earlier. Yet all three sites have a core of strong women—and men—who are very active in the maintenance of their community.

Western Australia

Family violence is a major policy issue for the West Australian police. In 2013-14, Western Australia Police responded to over 40,000 calls for assistance for family and domestic violence: a 40 percent increase in persons seeking assistance in the past 5 years. It has been estimated that less than 20 percent of women across Western Australia who experience violence from an intimate partner report it to police (Western Australia, Department for Child Protection and Family Support, 2015b). A Western Australian study found that 75 percent of victims for all reported incidents were female and 83 percent of perpetrators were male. Some 55 percent of victims were non-Aboriginal, 26 percent were Aboriginal, and 19 percent unknown; and 48 percent of perpetrators were non-Aboriginal, 37 percent were Aboriginal, and 15 percent unknown (Leggett, 2007). Aboriginal women are nine times more likely to be a victim of a domestic homicide, and 40 percent of Aboriginal children grow up witnessing family and domestic violence (Law Reform Commission of Western Australia, 2013). *The Restraining Orders Act 1997* (WA) provides for violence restraining orders (VROs) and misconduct restraining orders (see Appendix A). A person bound by the order is prohibited from undertaking certain activities, some lawful (e.g. contacting the person protected, attending particular locations) and some unlawful (assaulting or threatening the person protected). The breach of a VRO amounts to a criminal offence.

Police orders

An important innovation in Western Australia under the legislation has been police orders, which are similar to VROs but issued by the police instead of the court under Division 3a Part 2 of *The Restraining Orders Act 1997* (WA). Where there is insufficient evidence to arrest and charge a person for any act of family or domestic violence, but police hold concerns for the safety and welfare of any person, police may issue a police order for a period of up to 72 hours without the requirement to obtain consent from any person.

A police order provides temporary but instant protection for a person who is being threatened, harassed, or intimidated. It also provides temporary relief to allow the opportunity for a person to attend court to obtain a restraining order, if the victim chooses. As with a VRO, it is a criminal offence to breach a police order, and if a breach occurs, the accused person will be arrested and charged, and will face a similar penalty to that of breaching a restraining order. This “cooling-off” provision was recommended by Indigenous women participating in the

Chief Justice’s Taskforce on Gender Bias (1994) who wanted an alternative to prosecution, on the basis that women did not always want their men jailed, and were happy for him to go “sleep it off” somewhere else and return when he had settled down (Blagg, 2002).

Discussions with the police, Aboriginal legal services, judicial officers, NGOs, and community organisations in the West Kimberley and Perth for this research project found support for the idea, if not always the execution, of police orders. One area of concern was what one lawyer called the “scattergun” approach of the police to executing the orders. However, there was also sympathy for the police’s dilemma when they had to make an immediate judgement call. As a worker in an NGO specialising in support for family violence victims in the Broome area of the Kimberley said:

[When] they [police] attend an incident in an Indigenous community after midnight, they just want to manage the situation...to cool it out...if she is the one acting out...if it looks like fifty-fifty... then the police will slap the order on her, or sometimes both of them.

Also, as one police officer in the West Kimberley said:

When the police arrive the victim may be angry, while he [the offender] is as gentle as a lamb by then. Other times they just see her hitting him, but that’s just her protecting herself. Police just go on what they see, which is her being the troublemaker, so they make her the subject of the police order. Sometimes they place the order on her because she has somewhere to go, and he doesn’t. Sometimes they place them on both when there are no children in the house and when it’s unclear who the victim is. It depends as well if there is someone injured.

Police in the West Kimberley find police orders to be a flexible tool for cooling out situations, including couple fighting. The development and guarded popularity of police orders shows what can occur when law and policy-makers actually listen to Indigenous women.

The general criticism was about the lack of safe places where those who are the subject of the order can go and begin the process of behaviour change. A key complaint was the lack of access to alcohol recovery services, viewed as essential for reducing family violence in the Kimberley, a point backed up by the St Johns Ambulance Service in Broome. There are only

two residential rehabilitation facilities in the Kimberley: Milliya Rumurra Alcohol and Other Drug Rehabilitation Centre located in Broome and Ngnowar Aerwah Aboriginal Corporation in Wyndham. Both have an excellent reputation but struggled to meet the demand and were situated a long way from many remote communities. Milliya Rumurra reported also that more needed to be done at the level of family and community. They were able to get people to a “healthy place” but they returned to communities that immediately threw a party or gave them grog.

There was widespread agreement by a range of participants (police, Broome magistrate, representatives from Aboriginal community organisations) regarding the urgency of building rehab facilities in remote communities, and using outstations and homelands as rehab facilities. This happens already on an informal basis, but communities need more resources to develop these further.

Discussions with service providers in Broome also found some frustration with the mainstream domestic violence model in the context of Aboriginal violence because of its inability to distinguish between different forms of violence, particularly between “couple fighting” and domestic violence. The argument was made that Aboriginal women are fighters and couples often resolve things through fighting. The problem is that trauma, disability, alcohol, and the loss of status of Elders has made this fighting more destructive and ungoverned. Rather than simply trying, unsuccessfully, to resolve this through the white criminal justice system, there needed to be a strategy of strengthening Indigenous mechanisms of social control. However, debates about the importance of law and culture have to be set against ongoing uncertainty about the future of Aboriginal communities.

Fresh dispossessions, new contestations

Colonisation, Patrick Wolfe (2008) argues, is a process, not an event. Indigenous organisations across the West Kimberley told us that Aboriginal people suffer continuous dispossession as the result of decisions made by a government situated several thousand kilometres away in Perth. A representative from the Kimberley Futures Forum told researchers that government attitudes to remote communities:

...contribute to a sense of unease and uncertainty about the future. People are continuously being dispossessed of their land and its resources, despite native title, and forced to fit

in with the mainstream view of how life should be lived in an urban society. They are told that they, and their way of life, are unsustainable. That’s not a nice message.

In September 2014, the federal government announced it was reneging on its responsibility for funding about 180 remote Aboriginal communities in Western Australia, offering \$90 million for a 2-year transitional period. The Government of Western Australia refused to commit to making up any shortfall and, instead, began considering the closure of 200 remote communities in Western Australia, most in the far north Kimberley region (Emerson, 2014). This decision set in train a series of crises for Indigenous communities and their leadership.

The state government had recently bulldozed the Oombulgurri community in the east Kimberley. The community was closed in 2011 after a coronial inquest concluded that it was in a state of crisis. A report by Amnesty International (Solonec, 2014) disagreed with claims that residents left voluntarily because the community was “unviable” and found many Balanggarra people (residents of Oombulgurri) living homeless and destitute in the town of Kununurra who wanted to return to their homeland. Furthermore, other work by Amnesty International had clearly demonstrated that Indigenous people thrive on traditional homelands and have better health outcomes than those living in towns:

The evidence is particularly strong and growing in relation to health outcomes. Homeland residents have participated in various health research projects over the last 20 years or so. These studies point very strongly to significant improvements in health outcomes for Aboriginal Peoples in remote areas if they live in homeland communities, compared with Aboriginal Peoples who live in major towns. Homelands are seen as places of respite. Many play a role in rehabilitation of addicts and offenders. (Amnesty International Australia, 2011, p. 13)

Despite these and similar findings, a view has taken hold within government that remote communities are unviable, reinforced by a weighty concentration in mainstream media and opinion leaders’ views that remote communities are “failed states”, “a lifestyle choice”, and havens for child abusers and wife-beaters. One outcome of this approach to remote communities is the steady trickle of people moving to towns to obtain services being stripped from remote communities. This has created more over-crowding and stress in towns like Broome and Darwin. One community that has taken the lead in the Kimberley in

terms of developing a place-based response to family violence and related issues is Marninwarntikura Women's Resource Centre in Fitzroy Crossing.

Marninwarntikura Fitzroy Women's Resource Centre

"Marninwarntikura" means women who belong to these countries, and each other, have come together. It was conceived and developed in the 1980s by Aboriginal women with experience of family violence and who had felt the destructive effects of excessive alcohol consumption. The Marninwarntikura Fitzroy Women's Resource Centre, or Marnin, takes a holistic approach in supporting entire families and encourages women to come together, share stories, listen, and learn, and, in turn, show support and care for one another. It is the hub for family violence work in Fitzroy: the peak community women's organisation responding to family violence.

Marninwarntikura is an agency integral to the maintenance and development of the rich cultural, social, and political fabric of the Fitzroy Valley. Today it is an environment which is actively responsive to women's concerns. The organisation functions on multiple levels. It provides services and facilities for listening to the fears and worries of women, while offering support through counselling and legal advice, to engage women in a process of healing, and protect them from harm. On another level, Marninwarntikura is committed to developing programs that empower women economically, culturally, and politically.

Marnin hosts a refuge for women and their children and a Family Violence Prevention and Legal Service (FVPLS) primarily dealing with family violence legislation and restraining orders. It also offers counselling services and therapeutic programs. Marnin recently began receiving referrals to follow up on cases where the police had visited an incident and taken out a police order to offer counselling and other services. Marnin also has a project dedicated to reducing the incidence of foetal alcohol spectrum disorders (FASDs) in the area, having successfully lobbied for a reduction in the sale of full strength alcohol in the town. FASD is a significant problem affecting close to one in five children (Blagg, Tulich, & Bush, 2015) in the Fitzroy Valley. Women leaders in Fitzroy told the research team in 2016 that the massive over-availability and consumption of alcohol was a key cause of domestic and family violence. This was echoed by

senior police in Fitzroy and Broome, who suggested that alcohol was at the heart of the problem across the Kimberley region.

Cuts to Indigenous services

On 9 February 2016, the Western Australian government announced significant investment in a new crisis intervention system designed to improve coordination between the police and crisis response agencies in the West Kimberley. The following week, researchers visited Marnin, the peak community women's organisation responding to family violence in Fitzroy Crossing. Interviews with staff had to be cancelled because they had gone into a 2-day crisis meeting, having just learned that some of the funding for their services to women and children had been withdrawn. On the door of the service was posted, "now only open 4 days due to funding cuts". Marnin staff expressed dismay that government prioritised policies that, in their words, gave more money to mainstream agencies while simultaneously withdrawing resources from "frontline" Aboriginal services.

Marnin's women's shelter takes in a mix of women who attend following episodes of violence, and others who visit on a preventive basis. In 2016, it accommodated around 600 people, 40 percent of whom were children. The use of the refuge fluctuates significantly over the Kimberley seasons, with low demand in the wet season when Fitzroy Valley communities are inaccessible by road due to flooding. The highest demand is in the dry season—roughly from March to November—when people leave their communities and head into Fitzroy town, where alcohol is available. This is a pattern across the Kimberley regions, including towns like Halls Creek, Derby, and Broome.

Workers in the women's shelter and Aboriginal Family Violence Legal Service (co-located on the Marnin premises) said that refuges and legal services in remote communities had to accept that the majority of women they have contact with will not leave their partners.

Rather than seeing this as the "problem", workers attempt to develop safety plans for women returning to partners who may need support. This involves having ongoing contact with the women when they leave the refuge, or after a court order has expired. This "open-door" approach ensures women feel they still have a place of safety on hand. The shelter outreach workers also work with men and other kin if they are willing to become engaged in alcohol-related programs. The women's

shelter accepts that it only sees a “tiny proportion” of women who are the victims of violence, perhaps as low as 2 percent, and there is not enough counselling support available for those who do come through the system. Anglicare’s counselling service—based in Broome—only visits Fitzroy every 3 weeks and covers the whole of the Fitzroy Valley. There is also a counsellor employed by BOAB Health Services Mental Health Program, but they only visit on a weekly basis.

Discussions held with both male and female workers in Marnin’s sister agency in Fitzroy, Nindilingarri Cultural Health Services, found considerable support for the Strong Families program in Broome, run by the Broome Community Information, Resource Centre, and Learning Exchange, which provides an Indigenous-friendly approach. Strong Families brings family members and agency workers together to share information, identify goals, and develop a plan to help meet the family’s needs. The program’s advantage over mainstream services is that it takes a holistic approach and works on a range of issues simultaneously.

A new plan for the Kimberley

The Safer Families, Safer Communities Kimberley Family Violence Regional Plan 2015-2020 was developed against a background of concerns about high rates of family violence, and concerns that Indigenous women were not accessing existing services. Even though reporting rates are low, as suggested earlier, there has, nonetheless, been a steady rise in reports to the police. Police data, cited in the plan, find that rates of reported family violence in the Kimberley are between 2.3 and 8.8 times higher than any other regional or metropolitan location in Western Australia (Western Australia. Department for Child Protection and Family Support, 2015a). The police suggested that their more interventionist approach to family violence, and instructing attending officers to treat family violence as a serious crime, has been partially responsible for this increase.

The plan places emphasis on the need for improved collaboration and coordination between services.

Coordination and collaboration between services is another area requiring improvement. Given the complexities of family violence and the multiple contributing or co-occurring issues, it is critical that services work together seamlessly to provide holistic, relevant, and timely services that meet client needs. To do this, services must be able to identify family violence

when it is occurring (even if it is not the presenting issue) and identify, assess, and manage risk through information sharing, active referrals, coordinated client responses, and collaboration, e.g. joint case management. (Western Australia. Department for Child Protection and Family Support, 2015a, p. 8)

The plan highlights a need to “move beyond crisis response” and implement policies that “work across all areas, including supporting safe communities, safe and coordinated services, and engaging and responding to perpetrators of family violence”. The plan acknowledges the salience of Indigenous law and culture and calls for a healing approach to family violence.

The plan is underpinned by four themes:

1. shared responsibility for the safety and wellbeing of children, individuals, and families;
2. developing culture and community-based responses to family violence;
3. building strong and safe communities; and
4. developing services and a service system that is integrated, culturally appropriate, client centred, accessible, and effective.

The Plan emerged in response to Action 7 of *Freedom from Fear: Working towards the elimination of family and domestic violence in Western Australia 2015 (The Action Plan)*. Action 7 notes the need to “Develop and implement a plan for the Kimberley region”, on the basis that:

In comparison to other regional and metropolitan locations in Western Australia the Kimberley region has the highest rates, per head of population, of reported family and domestic violence and hospitalisations for domestic assault. The findings of case reviews, stakeholder consultation and data analysis undertaken in 2014, will be used to develop and implement a regional plan for responding to family and domestic violence. (Western Australia. Department for Child Protection and Family Support, 2015b, p. 10)

The practical outcomes of the Plan include the creation of four Family Safety Teams across the Kimberley located in Broome, Derby, Kununurra, and Halls Creek. This approach expands on an existing model based in Broome. These teams provide follow-up after a police order or VRO has been executed. Similar schemes have been introduced by the police, in partnership with Aboriginal organisations and government agencies, in

Roebourne (Pilbara region of Western Australia). Organisations that work with Aboriginal men are increasingly viewed as important partners in local family violence reduction strategies.

Men's Outreach Service, Broome

The Men's Outreach Service (MOS) in Broome provides some valuable lessons for how to engage with men who have perpetrated violence against partners. MOS is respected across the Kimberley. The organisation was established at the insistence of Indigenous women on the reference group of the Marnja Jarndu Women's Refuge in Broome, known for its innovative practices, such as its outreach service and its sensitivity to, and respect for, women's cultural obligations.

MOS works with the Family Safety Team. MOS staff visit identified offenders and, using local knowledge, attempt to engage them in dealing with their issues, which often relate to alcohol and drugs, as well as mental illness, homelessness, and trauma. Relevant staff are either local Indigenous men or men who have strong family links and other relationships into the local Indigenous community. MOS offers one-on-one counselling to men on managing anger, emotions, and relationships. It also runs its own perpetrator behaviour change (PBC) programs as well as referring men to the existing PBC course provided by Anglicare. MOS has a commitment to developing a local, culturally secure PBC course that involves partners and family members, which is called the Changing Ways project, and which provides 2 weeks group work and follow-up.

Discussions with Aboriginal men who lead the PBC course found them to be critical of mainstream behaviour modification and cognitive "talk therapy" programs in prison, on the basis that they required levels of literacy, cognitive skill, and language fluency that many Aboriginal men did not possess. They were, one said, "culturally white" and inappropriate for men and women from remote communities. Indigenous workers were opposed to the restricted focus on "criminogenic needs" in court-mandated and prison programs that did not take into account the cultural needs of men and their own trauma. They also failed to take account of the fact that many men had cognitive impairments as the result of brain injuries and FASD. Work with men, according to MOS, had to be slow and iterative, avoiding complex and abstract language. It also necessitated work with partners and spouses. As one worker described it:

Work needs to be done in couples first, then separately, then

together again; this seems to work best. It takes a long time to change behaviour and attitudes; it needs to be done over time, in a repetitive way. You can't use *Cardiya* [white] time frames and language. It has to be slow and use Aboriginal cultural references. It should be in the community, not in town. Getting people on Country is best, people feel good and escape the stress and all the humbugging. (Aboriginal Men's Outreach Worker)¹⁰

Another said:

Many of the men we deal with have experienced loss, and this just isn't an individual feeling, it's communal. [Loss of] Country is at the heart of it. Now, when politicians start talking of closing down communities up here, people feel it like another stab in the heart. It makes people insecure.

Every man who goes through the white man's justice system tends to have a hole in himself. We have to build the capacity for these men to heal themselves while condemning their behaviour. This has to come from the community; men do not feel shame in front of white courts.

There were also concerns that the denigration of men as incorrigible offenders, especially since the widespread publicity given to violence by Aboriginal men in the Northern Territory ahead of the Northern Territory intervention in 2007, was having harmful effects. "We need to find a way to honour Indigenous men, as fathers and husbands and custodians of culture", a family violence practitioner in Broome told the research team.

Jealous fighting

In the Kimberley, work around "jealousing" was viewed as a necessary component of any community-level response to violence. "Jealousing" is one of those hybrid expressions that have no English equivalent and are difficult to translate simply in mainstream English. "Jealousing" or "jealousing up" is a way of testing the loyalty of a partner by excessive flirtation with another. Jealous fights are not uncommon in Kimberley communities, and are frequently instigated by women on other women. Discussions with youth workers in the Broome Youth

¹⁰ Humbugging refers to the practice of aggressively demanding money, goods, and services, particularly from older kin. Alcohol and drugs fuel humbugging. The researchers were told by Indigenous youth workers in the Kimberley that, besides bullying, threats, and entreaties, young people will threaten suicide to get their way, and will sometimes go through with it if they don't get their way.

Justice Coordinating Committee and in Fitzroy, Yiriman Project, and Regional Youth Justice workers found jealous fights, threats, and intimidation to be a “normal” feature of couple relationships, and a failure to get stirred-up and angry by a partner’s behaviour, or by reports from peers and family, to be an indication of indifference. These youth workers said that when young people, both male and female, couple-up in the Kimberly, they believe they “own that person”. Relationships are aggressively policed. Youth workers said that girls as well as boys police the boundaries rigidly. Threats of suicide, acts of self-harm, and even suicides are forms of “jealousing”. This is a topic that deserves a research project of its own.

Prison does not halt the monitoring of a partner’s behaviour and threats of self-harm to maintain the relationship. Men and women are often “jealoused up” in prison (by visitors and on phone calls) and it creates stress and anxiety. Release from prison is a high-risk moment for partner violence. Men’s Outreach Service talked of the need for better reintegration services and support for families when men (and women) are released, some kind of halfway facility where men can be gradually released into family life. However, because of the stringency of parole conditions, Indigenous men often just do the time, meaning there are no controls on them when released.

Peacemakers on patrol

Indigenous organisations have been innovators in terms of ensuring safety for Indigenous women. Night patrols in Darwin (Larrakia), Derby (Numbud), and Kullarri (Broome), for example, have been in existence since the 1990s and, while not always acknowledged by mainstream organisations for their work in the family violence space, are viewed by Indigenous communities as part of their own “frontline” response to family violence.

The Kullarri Patrol in Broome told researchers that they frequently intervene in family violence situations in dwellings and out in parks and drinking grounds. They take women found to be intoxicated and at risk to the women’s shelter or to the sobering-up shelter. Residents will sometimes call the Kullarri Patrol, rather than the police. The police have come to respect the patrol calling them in to cool out potentially volatile situations. Police in regional Western Australia have also come round to the recognition that patrols play a vital role in preventing and resolving family violence. A senior officer in Broome said:

We cannot do the work alone, and we rely on the ears and

eyes of patrols; they often know things before we do; they have their own intelligence. They often sort things out without us having to intervene and arrest people or give out notices... Patrols need to be bolted on to the criminal justice system and funded like we are, not surviving on scraps.

Patrols are particularly useful when dealing with “fighting couples” and alcohol-related harms. They remain an undervalued source of community engagement in alcohol-related violence reduction. Discussions with Numbud and Kullarri found that the police frequently call them in. A research assistant who went out on these patrols over several nights found they had significant “early warning” skills, often prevented fights (including jealous fights) from erupting, and that they headed off problems by taking people to the refuge or shelter to cool out. Then they channelled them into support services.

Cultural health models

A key theme in our discussions with Indigenous and non-Indigenous agencies in the Kimberley was the need to work with families rather than individuals, and connect family violence interventions to broader dimensions of Aboriginal health and wellbeing. For example, Nindilingarri Cultural Health Services in Fitzroy Crossing is developing a “family model” for the delivery of health programs. A senior worker at Nindilingarri—a woman with over 20 years’ experience in health and social welfare programs in the Fitzroy Valley—told researchers during a 2016 visit:

The white system individualises health as something that is just a cluster of symptoms in an individual. We don’t work that way. We work with the whole family. That’s where the causes and solutions lie. Our doctors go out to communities, not just see individual “patients” in the clinic. That’s the *Cardiya* way and it’s a major cause of ill health for our people.

Health practices are nested within a “cultural framework” that determines how medical staff approach engagement with a family. The framework attends to issues such as respect for culture, informed consent, and building partnerships rather than viewing health in “top-down” terms. The senior worker went on to say that:

Fitzroy people have chronic ill health and combating it requires working with the whole family. White systems still do not know how to deal with Aboriginal people. They do

not understand Aboriginal culture and the need to work from within culture.

An important attribute of this approach is that it looks at health inter-generationally. Nindilingarri engages with three or four generations of the same family. Just like trauma (discussed above), poor health is an intergenerational phenomenon and needs to be dealt with collectively rather than individually. Health workers in Fitzroy stressed that most issues involved inherited trauma, including family violence, and need to be addressed therapeutically using culture-based models.

Local people stressed that many of the problems in Fitzroy stem from the catastrophic way in which the township was founded when Indigenous people were pushed off cattle stations because white bosses would not pay wages. As Patrick Dodson observes:

Arriving on the fringe of various townsites, brought with it a lack of work, isolation from Country, the introduction of social welfare entitlements, and citizenship rights which, in turn, served to increase surveillance and subjugation. The imperative for most non-Aboriginal people to police every Aboriginal person created a cauldron of chaos, misery, loss of esteem, and pride. It accelerated destabilisation and dislocation for Aboriginal people. (Dodson, 1991, p. 174)

Dodson's (1991) grim reflection on the birth of towns like Fitzroy goes some way to explaining the legacy of alcohol-related violence in the township, and in other East and West Kimberley communities. The experience has been one of disempowerment, trauma, and loss of connection with Country.

However, it would be a mistake to view this in absolutist terms. There are also strong and durable continuities in terms of law, culture, and language in the Fitzroy Valley, and Country is being reclaimed through Native Title agreements (over 80 percent of the Kimberley now has a Native Title determination). Women have been at the centre of preserving Aboriginal law in the area, and have been active in developing new community governance structures; negotiating with government; and establishing women's initiatives in health, childcare, and community safety. Women's law and culture is strong in the Kimberley. Women we spoke to in the West Kimberley refuted suggestions, usually made by outsiders, that women are the victims of a patriarchal system of law and culture. For them, law and culture remain a source of strength, protection, and self-esteem. They draw strength from their engagement in cultural practices, from ceremony, caring for Country, dancing, and singing.

Aboriginal people working in the family violence space in the West Kimberley want to see a mix of local strategies that do not rely solely on the mainstream justice system but nurture and resource a range of preventive and healing strategies based in Aboriginal culture. These local strategies would acknowledge that the courts are "not the only game in town", as one Fitzroy Crossing Indigenous justice worker contended. The main emphasis of the local strategy would be on coordinating local initiatives, "on-Country" alternatives, and using out-stations as primary sites for prevention. These "Country-centric" programs would move us beyond the current preoccupation with domestic violence orders, policing, and prosecution to make visible local concerns related to the causes of harmful behaviours. Regional family violence strategies would also engage with prisons, through-care, and post-release.

Talking to women

This section reports on the findings from direct interviews with community women in Fitzroy Crossing undertaken by a Kimberley woman researcher from our team with strong links to the town. Most Aboriginal participants were from the Fitzroy Crossing area, with one being from another area in the Kimberley, and one from another region. The two non-Aboriginal participants are trusted among Aboriginal women in Fitzroy Crossing, with one being a long-time resident and the other having worked closely with local women for the past 2-3 years. The interviews focused on a range of issues, and of particular interest were the women's views on the causes of violence in the family and community (e.g. humbugging, alcohol, jealousy, money, drugs).

These interviews represented a snapshot of a small group of women with experience of family violence and the family violence systems. They reflect some uncertainty about women's (and men's) place in a world and the relationships between them. They do not see the mainstream world offering them safety, security and dignity; however, they see their own cultures struggling to make them safe. Also, women did not talk about family violence in the context of coercive control and the male power approach. There appeared to be a greater role ascribed to alcohol and social conditions, as well as the breakdown of traditional control mechanisms.

At least half of the women stated that it's not only men who perpetrate family violence but also women. While speaking

about the severe nature of men's violence towards their female partners, they also referred to examples of women known to them who have attacked and assaulted their partner or husband, causing physical injuries. They noted that while there were services for women, there was a perception that far less was available for men outside of Broome, and this represents a significant service gap in the community. Further, they indicated that family violence cannot be addressed as an isolated issue but needs to be understood in the whole context of all the other issues that community members are facing. All Aboriginal participants indicated that gender inequality was not a root cause of family violence in their community. Rather, they spoke about issues in the social context as causes of family violence, such as intergenerational trauma and its many manifestations, and alcohol use. All Aboriginal participants suggested that family violence is not part of Aboriginal culture, but that it had become normalised in some of the families and the community. Sometimes cultural leaders themselves use their power to silence victims, their families and others. There was a perception, based on community knowledge, that victims do not feel confident to disclose this behaviour because of worries about cultural consequences. Implicit in their narratives was an expectation that culture should provide safety and support, but doesn't always do that. There was also a sense of some participants feeling caught between two worlds—Aboriginal and non-Aboriginal cultures—and not feeling confident that either could provide safety to them.

All participants spoke about their lack of confidence in both systems, Aboriginal and non-Aboriginal, for providing safety for members of the community. Neither system of laws is capable, they felt, of providing security. Implicit in the narratives of Aboriginal participants was an expectation that Aboriginal law and culture should protect them, but they indicated that this was not happening, and one or two cultural leaders had used their cultural role and position to harm others. Participants also spoke about how current mainstream services did not respond to their needs—for example, saying they did not feel supported by the police and ambulance services at critical times when dealing with life-threatening situations.

A holistic approach is central

Participants' narratives indicate that the issue of family violence cannot be considered in isolation of the whole context within which people live each day. Rather, the issue of family violence must be considered in the context of family and community

systems and dynamics, law and culture, the presence of alcohol and other drugs, the multiple forms of trauma present in families and communities, and the various stressors and pressures to which community members are subjected today.

The participants also spoke about the issue of intergenerational trauma (including FASD as a form of trauma) and its links to family violence as an underlying issue. One participant spoke about noticing some undiagnosed signs of FASD among several local community members, including those who engage in family violence. Participants spoke about the difficulty that those with symptoms of FASD must have in forming and sustaining healthy relationships, and with everyday functioning, including parenting and caring for their children. They suggested that this is an area that requires further investigation and provision of specialised responses.

Trauma-informed responses are critical

Most participants indicated that the trauma experienced by local community members must include historical and intergenerational trauma, as well as how violence, abuse, swearing, and substance use has become normalised. They suggested that FASD, parenting problems, and youth issues should be included as part of the picture of trauma in Fitzroy Crossing.

Sly grogging and pressure on families

All participants spoke about the problem of practices around the selling of alcohol on the black market, since the sale of over-the-counter strong beer was banned in the town. This involves "sly grogging", referring to when people drive to surrounding towns where there are no alcohol restrictions, purchase a large quantity of alcohol, bring the alcohol back to Fitzroy Crossing, and sell it at highly inflated prices to local Aboriginal people. In this practice, a standard bottle of wine can attract a price of around \$70 and a standard carton of beer a price of approximately \$150. These practices can drain the money from families and create situations where flights occur. Old people and partners are "humbugged" so people can get the money to buy grog this way.

Alcohol is a major factor in family violence

The participants echoed the view that alcohol contributes to family violence in the following ways:

- Alcohol used as part of addiction and the normalisation of alcohol use as a social activity in their family and among their friends.
- Alcohol used as self-medication as a response to trauma, boredom, and lack of meaningful activities.

Examples of male-perpetrated behaviours include getting drunk and lashing out at partners or wives because of:

- jealousy (regarding other men or jealousy if their partner or wife is earning or getting more money than them);
- humbugging for money or alcohol; and
- reactions to minor disagreements, escalating to violence.

Non-alcohol-related male-perpetrated violence referred to includes physical punishment of a partner or wife for not looking after children (due to drinking or gambling). This may reflect a general acceptance in the Aboriginal community of the use of physical punishment in this way.

Examples of woman-perpetrated violent behaviours were the same as those observed for men earlier: that is, getting drunk and lashing out at partners or husbands because of:

- jealousy (regarding other women);
- humbugging for money or alcohol; and
- reaction to minor disagreements, escalating to violence.

This is consistent with some earlier research in the Kimberley by Blagg (1999, 2002).

Modelling of healthy relationships and parenting practices

Most participants suggested that one of the problems related to family violence is that people don't learn how to have good relationships when they are growing up. They spoke about the many community members being born into and growing up in families where family violence is normalised. They linked this to

the impact of the Stolen Generations on people's ability to pass on good parenting and child-rearing skills to their children. They indicated that parenting and raising kids to reject the alcohol and family violence path was being important.

Experiences of violence

Most participants had experienced family violence in their lives, primarily when they were younger and in early relationships. No participant disclosed recent experiences of family violence. However, most spoke about witnessing and being aware of recent incidents of family violence involving people known to them. These qualitative interviews provide an alternative way of eliciting the views of Aboriginal women than quantitative sampling. (Ideally, they should be read together.) *The 2013 National Community Attitudes towards Violence Against Women Survey (NCAS), Aboriginal and Torres Strait Islanders' attitudes towards violence against women*, (VicHealth, 2013) provides some useful insights into Aboriginal women's views and attitudes to violence. Our interviews also focused on the experiences of women in relation to the response of frontline services and offered a more nuanced picture of the impact of violence on women and families.

Severity of violence and help-seeking

Participants spoke about the various types of violence they've experienced and witnessed. These ranged from non-physical forms of violence such as swearing, name-calling, and threatening violence. Physical forms of violence identified included pushing and slapping through to punching and being hit with an implement. In relation to help-seeking, all participants indicated overall that it is difficult to get help from services, even if they wanted to. They qualified this by indicating that if an incident occurs during the day (9-5pm), Monday to Friday, then they are more likely to be able to access some form of support (e.g. police or hospital). They did, however, suggest that the responsiveness of the police was not good; they took too long to attend to an incident. This can be problematic if victims call when in crisis and need an immediate response to prevent further harm. Further, there are problems with the after-hours service.

Who gets involved in violence?

Generally, most participants spoke about family violence involving a man and woman. They also referred to children and other adults witnessing the violence but not intervening—being bystanders. Participants suggested that a key concern for those witnessing (including the occasions when they had witnessed family violence), was a fear of the repercussions for them if they intervened. This is in the context of the small community within which they live. Some of the repercussions identified included threats and physical violence at the hands of the perpetrator or his family members.

Alternatively, some indicated that witnesses did not intervene if their understanding of the family violence was that the woman had been neglecting her responsibilities to look after small children (e.g. if she was known to get drunk or spend long periods doing other activities like gambling). In some instances, family violence shades into “payback” and, as suggested earlier, it often carries approval from other women.

What made you come to Marnin?

Only a small number of participants indicated they had used the services of Marnin’s women’s refuge. Key reasons they came to Marnin included that they were in crisis and viewed it as a safe place to escape from violence, and they saw it as a place of respite through which they could access supports. For those participants who indicated they had used the services of Marnin, safety, respite from their lives at that time, and access to support were central.

Participants generally suggested that they viewed the police as a source of support, but, overall, indicated that they didn’t have confidence in police responses to crisis. On the one hand, they spoke about a recent officer in charge (OIC) sergeant who made a specific effort to form strong relationships with local community organisations and people (a view echoed by agencies in the town and a consistent message across the West Kimberley regarding police leadership). On the other hand, participants spoke about telephoning the police after hours and receiving either no response or having to wait for a long time for a response. These participants indicated that they don’t bother waiting, and that it’s easier to take injured victims to the hospital for treatment rather than wait for the police to come.

Taking out restraining orders

One participant indicated that she took out a restraining order against her partner and that it was good for sending the message to her partner that family violence is not okay. She also indicated that the threat of her reapplying for a restraining order sent him a message that she wouldn’t put up with his violence. Another participant spoke about having an interim order, but she didn’t want to go for the final order because she understood it would have to be for 2 years, which meant excluding contact with him for that length of time, and she didn’t want that—she just wanted the violence to stop. She indicated that there needed to be more information available about restraining order options, because she later learnt that she could have applied to vary the conditions of the standard restraining order to better meet her needs.

Overall, while some participants suggested that restraining orders were useful for stopping the violence immediately, there was also a strong indication that, in many instances, they “weren’t worth the paper they were written on”, because perpetrators could gain access to victims if they wanted to. It did not increase victims’ sense of safety, but rather increased victims’ fear of repercussions from him or his family. So even if the perpetrator did not confront and assault them, his family members could, and would, become involved in this way. This is one of the factors that underpin the limited value of restraining orders as a safety mechanism for victims in Aboriginal communities. In other words, restraining orders are not necessarily viewed as a priority, or first choice, response to family violence. Another factor that limits the value of restraining orders as a safety mechanism that participants spoke about was that police often do not respond to reports of breaches if victims do make a report. Associated with this is a lack of confidence in the police to respond, so victims often do not report breaches.

Family violence legal services

One participant spoke about obtaining advice from the Aboriginal Family Law Service, Broome, prior to Marnin employing a lawyer. Others noted that prior to this development at Marnin, accessibility of legal services was negatively impacted by the infrequent visits to Fitzroy Crossing from legal service providers, usually out of Broome. For service providers that visit once a month or every 2 months, for example, such an approach does not meet the needs of local people when they are in crisis or

need immediate responses. In between visits, access to services may need to be achieved by telephoning (if a victim has access to a telephone).

While most participants were not former clients of Marnin, they seemed to have the impression that Marnin was viewed as a trusted support for victims of family violence and a place of refuge and safety. At the same time, in one of the participant's narratives was a sense that Marnin's image in some people's minds may have been tarnished because of the organisation's role in achieving the alcohol restrictions. While participants acknowledged that Marnin was a key support for victims of family violence, they also acknowledged that the previous OIC at the police station was good because he made an effort to engage with local people and organisations.

Participants were also asked for their views on what needed to be done to improve the situation for victims and families. Their suggestions included:

- Housing needs to be better. There's not enough housing. It's hard to get repairs done. (As we note later, overcrowded housing can cause stress and facilitate sexual abuse.)
- Transport needs to be better. There's no public transport. People need their own car.
- Centrelink needs to be better by outreaching to families to make sure they receive the benefits they're entitled to, particularly those with children with disabilities.
- Programs for males (including healing and anti-violence) need to be better. There is no sobering-up shelter. There used to be but it was shut down. There needs to be support services for men to help them too. Many of them haven't learnt how to have a good relationship, but you also got to work with the women as well and teach them: "You can't just work with one side, need to work with both." Participants spoke of how they parent their children, including discouraging their sons from being "family violence people".
- Services for children and youth: all participants indicated concern for the young people in their town. They spoke about their fears for the future of children and youth, particularly in relation to:
 - those affected by FASD and the lack of appropriate services available to support them to live good lives;
 - the next generation growing up without respect in either direction: neither shown nor taught by parents or shown by children or youth towards their parents;
 - the lack of opportunities available locally; and

- the lack of basic information and parenting support generally to families growing up children and for those with children with FASD.
- Medical and counselling service, drug and alcohol: While participants generally thought that access to medical services through the hospital were okay during the day, after-hours access to transport to go to the hospital was an issue identified by several participants. Participants also spoke about Nindilingarri Health Service as being an important source of support for local people. In relation to counselling services at Fitzroy Crossing, there was only a visiting service from Anglicare. Participants' preferences were for a permanent presence in Fitzroy Crossing. They indicated there are no alcohol and drug counselling services available locally and people either go to Broome or to Wyndham to dry out.

Why do women return to partners?

The question of why Aboriginal women return to abusive partners was raised in the interviews. They suggested that women want their relationships but not the violence, and therefore many women stayed in the relationship hoping things would get better, or not knowing or thinking they could leave. The women may also think that the repercussions from both their partner and his family would be worse because of ongoing violence and harassment than if they stayed. They suggested that if there were children, especially boys, then women often believed that the children needed their father. This reflected the findings of some previous research that found women in the Kimberley unlikely to leave men because of deeply held associations with kin and Country, and fears that leaving the man would jeopardise a range of relationships and people (Blagg, 2002).

Some participants, however, also spoke about leaving their abusive partners because they eventually realised their partner was not going to change and they had had enough. A couple of the participants said they were with the perpetrator of the family violence that occurred earlier in their relationship. A not uncommon scenario mentioned by some interviewees was that the relationship matured over the years, they turned to Christianity, he stopped drinking, and the fighting stopped.

Are things getting better or worse for violence?

Participants indicated that the behaviour of young people is getting worse from when they were young. They also spoke about lack of respect and discipline in families nowadays. They suggested that young people nowadays have no respect for Elders, parents, and other people. But they also attributed this to parents not teaching their kids right, the normalisation of alcohol use and violence, and a lack of opportunities for people generally in the town. They also spoke about adults and young people using too much swearing and bad language, and how this is seen as showing a lack of respect for others.

A big barrier to addressing the behaviour of children and youth is the threat of the Department for Child Protection (DCP) taking kids away. Participants indicated that kids nowadays threaten to tell the DCP or police on their parents when parents try to discipline them. They indicated that parents think there's nothing they can do to discipline and teach their kids the right way. They can feel disempowered by the *Cartiya* system—meaning the white man's law—which prevented them from disciplining children.

Alcohol featured prominently in the narratives of participants about violence used by both men and women in the community. Both men and women were observed to use their fists and implements, although women were more likely to use some form of implement. Again, participants also indicated that the violence wasn't just between two people, but that there was other violence occurring in families—towards children, for example—that wasn't about punishment for a wrongdoing, but because of parental problems and lack of control: lashing out at children, swearing at them, and calling them names. Most indicated that this seemed more prevalent today compared to when they were growing up. Participants also alluded to child sexual abuse, indicating that sometimes one or two cultural leaders have used their position of power to abuse children and the community has felt disempowered to do anything about it because of their cultural position. They indicated that even Elders and other cultural bosses have been uncertain about how to proceed in these situations. One participant noted that she gave up her Law and now follows the Christian way.

These interviews have offered insights into the ways Aboriginal women in one place and time view family violence, its causes, and its consequences. There are a number of areas deserving of

further investigation and clarification that emerged throughout our research in Western Australia, including:

1. What is women's role/work? What is men's role/work? Are women's stories and work the healing stories and work for communities? Is observed women's leadership in the Kimberley (and elsewhere), part of the natural order of things, and fits with expectations according to Aboriginal Law and Culture?
2. Aboriginal people's perspectives about physical punishment in comparison to family violence: in what situations is it okay to use physical force? Who should do it, how should it be carried out, can there be limits imposed on severity?
3. Talking with men and women perpetrators of violence to understand the key drivers of this behaviour and the contexts: we need an Aboriginal theory in order to inform how to address the issue. Do we need separate theories for men and women, and on which we can base our responses?
4. What role can Aboriginal Law and Culture have today in responding to issues such as family violence, but achieving family and community safety and wellbeing? Implicit in Aboriginal women's narratives seems to be an expectation that Law and Culture should provide protection for them; they felt that this was the proper way, but that is not happening.

Next we turn to our research in the Darwin area of the Northern Territory.

Northern Territory

The focus of research in the Northern Territory was providing a snapshot of family violence intervention from the perspective of service providers and clients linked to the Darwin Aboriginal and Islander Women's Shelter (DAIWS). Perspectives offered ranged from outreach clients and shelter staff to members of the wider net of support in which DAIWS operates.

Over the months of the project, three Aboriginal Territorians emerged with key roles in this research. They provided a conduit to service providers at various stages of the research, assisted with interviews, and offered insights from their own practical experience. This report would not have been possible without the insights they provided in interpreting emerging findings and contributing "insider" perspectives during the analysis and write-up stages of the project.

Northern Territory overview

The Northern Territory differs from other Australian jurisdictions. Covering one-sixth of Australia's landmass but with only 1 percent of its population, it has the highest proportion of Indigenous residents of any Australian jurisdiction, and the highest proportion of Indigenous people leading relatively traditional lives. Cultures are diverse, with both "salt" and "sand" people—that is, those from communities in the Top End relatively close to the sea, and those living inland in more arid regions. There are strong cross-border links, reflecting relationships that existed for millennia before modern administrative borders were established. In the Top End, where DAIWS is located, these relationships extend west and east to the northern regions of Western Australia and of Queensland (i.e. north of 20 degrees south latitude), the other areas which were the focus of this research.

The Northern Territory is also one of the most linguistically diverse areas of the world, and although some languages are becoming used less often, others such as Warlpiri and Yolngu remain strong. It would not be uncommon for a woman seeking support from many Northern Territory communities to speak English as a fourth, fifth, or sixth language. Although an increasing number of Indigenous Territorians are moving to urban areas, cultural expectations of behaviour remain important for many Indigenous Territorians, including what is to be talked about and how, how authority is understood and negotiated, and how children are raised.

The Territory is also the Australian jurisdiction with the most troubling statistics for Indigenous women and violence. Australian Bureau of Statistics (ABS) (2016) data released in July 2016 show that, in 2015:¹¹

- Based on ABS experimental data, the Northern Territory had the highest proportion of assault victims in Australia; it is estimated that there are 1668 victims per 100,000 persons—more than double the proportion in Western Australia, which was rated second highest nationally.
- Based on ABS experimental data, the rate of female to male victims of family and domestic violence was estimated to be 5:1, the highest ratio in Australia.
- Aboriginal and Torres Strait Islander people accounted for over two-thirds (67%) of assault victims in the Northern Territory.
- Aboriginal and Torres Strait Islander Territorians had a much higher proportion of female assault victims (over three-quarters of victims, 77%) than non-Indigenous people (over one-third of victims, 36%).

ABS experimental statistics released in September 2015 show that:

- In 2014, victims of domestic and family violence-related homicides in the Northern Territory occurred at the rate of 16 per million persons, a rate three to five times higher than other Australian jurisdictions (Australian Bureau of Statistics, 2015).

Northern Territory legal and justice context

Since 2009, reporting of domestic and family violence has been mandatory for all adults in the Territory where serious physical harm to the victim could result.

On 12 March 2009, mandatory reporting provisions to the Northern Territory *Domestic and Family Violence Act* took effect. Section 124A requires that every adult in the Northern Territory report to the police if they believe on reasonable grounds either, or both, of the following:

- Another person has caused or is likely to cause serious physical harm to someone else with whom the other person

¹¹ This data should be used with caution: it is an experimental collection that captures police recording systems data related to domestic violence offences. Jurisdictions collect this type of data in different ways, meaning that comparisons may be unreliable.

is in a domestic relationship; and/or

- The life or safety of another person is under serious or imminent threat because domestic violence has been, is being, or is about to be, committed. (Section 124A of the *Domestic and Family Violence Act (NT)*)

As a 2016 Child Family Community Australia (CFCA) research sheet indicates, the Territory's child protection system requires mandatory reporting of child abuse by "any person" (as opposed to mandatory reporting requirements in other Australian jurisdictions, where only a subset of the population is required to do this for most forms of abuse and neglect). Also, the grounds for required reporting of child abuse in the Northern Territory, unlike other jurisdictions, includes "exposure to physical violence (e.g. a child witnessing violence between parents at home)" (Child Family Community Australia, 2016).

The impact of these requirements may be reflected in Australian child protection statistics for 2014-15. The proportion of children who were the subject of an investigation of a notification (82.4 per 1000 children, i.e. almost one in twelve children across the Territory) and the proportion of Northern Territory children placed in out of home care (19.7 per 1000 children) were the highest in Australia (Australian Institute of Health and Welfare, 2016, p. 11). The proportion of children who were the subject of an investigation of a notification was particularly disproportionate to other jurisdictions: over four times the national average (with the rate of Northern Territory children in out-of-home care not quite double the national average). The statistics could indicate that notifications stemming from family violence reports are responsible for a significant proportion of pathways into the child protection system. (Interviews conducted as part of the research and cited below revealed more on this topic.)

Incarceration rates are also the highest in Australia. Payer, Taylor, and Barnes (2015) estimated that, due to the numbers of people going into and out of prison on various charges, 4-14 percent of men aged 20-39 years are missing from the average remote Northern Territory community, with all the impact that implies on family and community dynamics. More recently, women's imprisonment has been climbing even faster than men's, with an increase of over 400 percent in a decade; much of this was related to violence against male partners or other family members, including female family members.

Domestic and family violence services in the Northern Territory for Indigenous people

There are multiple services working to assist Indigenous women experiencing family violence in the Northern Territory. One prominent service is the Central Australian Aboriginal Congress corporation (CAAC), the largest Aboriginal community controlled health organisation in the Northern Territory offering support and advocacy for Aboriginal people. CAAC operates according to Indigenous principles and, therefore, supports certain initiatives aimed at men and separate initiatives for women. Alukura Women's Health Service is a women-only place caring for the health of women and babies and keeping them culturally and physically safe, while the newly formed Ingkintja: Wurra apa artwukapmara is an Aboriginal male-only place providing care for men's health and wellbeing. CAAC's social and emotional wellbeing service provides Aboriginal people and their families with holistic and culturally appropriate primary health care for social and cultural wellbeing, mental health, and community connectedness. Also, Women's Safe Places were constructed with Northern Territory Intervention (NTER) funding in eleven Northern Territory remote communities; some of these at least appear to be actively operating.¹² One of the longest running initiatives in central Australia is the Ngaanyatjarra Pitjantjatjara Yankanytjatjara Women's Council (NPYWC) which has had a strong profile in remote communities in the border country of the Northern Territory, Western Australia, and South Australia, where it has been a consistent advocate for the needs of women in these communities. The Alice Springs Women's Shelter, which has a high proportion of Aboriginal clients, offers crisis accommodation, child support, counselling, and court support, as well as outreach services, including a women's group, and is currently working with Tangentyere Council and Jesuit Social Services to offer a men's behaviour change program.

The service which formed the centre of this research was the Darwin Aboriginal and Islander Women's Shelter (DAIWS). While the Alice Springs shelter services mainly central Australian clients, DAIWS clients are more likely to come from northern communities.

¹² In addition to the eleven Women's Safe Places, there were nine Men's Safe Places built at the same time, which were intended to act as centres of culturally-informed programs supporting men and older boys in safe, non-violent behaviour. However, a change of government staff and policy led to programs in these facilities not being supported; few if any are currently operating.

Darwin Aboriginal and Islander Women's Shelter (DAIWS)

DAIWS is located in Darwin, and offers safe and culturally appropriate services for Aboriginal and Torres Strait Islander women who are homeless or escaping Aboriginal family violence. It offers support, referral, outreach and 24/7 crisis accommodation. Research with DAIWS took the form of meetings and consultation with staff and talking with a group of outreach clients who were offered the chance to voluntarily participate; the group was co-facilitated by a highly respected female Elder known to many of the women as well as a researcher. Following discussions with DAIWS staff, it was decided not to attempt to interview existing clients in the refuge, on the basis that this may be anti-therapeutic.

Interestingly, a high proportion of women accessing the shelter come from Western Australian communities. Although it was outside the scope of this research to investigate reasons for this, one hypothesis offered was the presence in the Territory of alternative local facilities such as, in eleven communities, the Women's Safe Places, which could be easier for women to access, and also alternative shelters (such as the Katherine shelter, or Darwin's Dawn House), as well as unofficial places acknowledged as suitable for women fleeing violence. Additional research would have to be undertaken to better understand women's decision-making about where they go to escape violence.

The following sections highlight the views of those involved with DAIWS at various levels. Views presented by DAIWS outreach clients come first, followed by views presented by those working at DAIWS, and then those in partner agencies and services.

Given that Darwin is such a small community and confidentiality can be difficult to maintain, only a limited number of comments are noted as coming from identified groups. The rest of the information from the initial consultations (in non-identifiable format, combining input from all groups of research participants) was presented to the group of Indigenous co-investigators who formed over the course of the project. The material was assessed and reshaped by them, and is presented here clustered by issue. Themes emerging from multiple groups of research participants include: children's issues; issues relating to violence, gender, and sexual identity, especially "sistergirls"; communication issues; and cultural issues in safety planning.

Outreach client views

Although it was determined that no research would be conducted with women staying at the shelter, DAIWS outreach clients were offered the opportunity to present their views. A group discussion was held, co-facilitated by a female Elder known to some of the women, and an external researcher. The discussion was largely unstructured, with women enabled to focus on the issues they thought were most important in understanding domestic and family violence and responses to it. Only stories that women indicated that they were happy to share with a wider audience are provided here. Women spoke of their fear, and of being hyper-alert and never able to relax:

I couldn't sleep [because I couldn't stop thinking about] all the things he used to do...I don't want to be outside, but when I go inside I get paranoid. (Outreach group participant)

In talking about what helped with their situation, one factor that women wanted to acknowledge was the important support a good employer could give. The women recommended that employers be noted in any model of support for family violence victims.

There was also discussion of how the systems designed to protect women were operating in practice. For example, the Territory had set up a new approach for women judged to be at the highest category of risk. Police, prison, housing, and education staff, plus others, met together for these cases to plan what was needed to keep the women safe while meeting her needs and those of her children. One woman in the group, whose violent partner was soon to be released from prison, had applied to be considered for this type of service, but her application was rejected. She reported that she was told that she was indeed at extremely high risk according to the criteria, but was instead offered transportation to her home community in Western Australia.

The woman acknowledged that she would likely be physically safe in that community, as some in her family carried arms, and would likely be able to stand off any attacks from her partner (who had been threatening to track her down and hurt her after his release from prison). However, she felt that returning to her community would trap her and also her children; as one participant said: "There's nothing there for them; it's so depressing". She said that she did not want her sons to grow up following their father's example. Instead of going back to a community where her safety could only be assured by the presence of guns, she wanted a room with alarms so that the children could grow up safe in Darwin.

Children and child removal

Children arose repeatedly as an issue in the group, including in regards to the impacts of the legislation noted above that mandated that a child abuse notification had to be made once it was known that children had witnessed physical violence at home. In some cases, women said, their partners had learned to use this law as a weapon against them, daring the women to report the abuse or even to scream too loudly, in which case neighbours might alert police. As a result, women interviewed told stories of how they, or friends and relatives, had learned to “scream silently”. For example: “It doesn’t matter how much he’s hurting you, you can’t make noise. Somebody could hear and report it and then you could lose your kids” (Outreach group participant).

Women interviewed described how these laws, intended to protect women and their children, impacted on them. They were afraid that reporting their own violence and abuse would lead to their children being removed and expressed the belief that, once their children entered the foster care system, they were unlikely to get them back (this was a theme across the three research sites). One outreach group participant said, “Once they’re in, that’s it...you don’t see them again until they’re 16, 17”. Another said:

I’ve known women who were stabbed and didn’t say anything: “they’ll take my kids”. I didn’t tell the police...[my partner] once tried to burn me alive. [Police say] “You have to tell us stuff.” Bullshit! [If] I tell you, [then] you call me a bad mother, and I don’t get to see the kids until they’re 18. (Outreach group participant)

Concerns were expressed about encounters with child protection. A number of women expressed their fear that children would be removed from school, as that was said to be a technique favoured by child protection workers, enabling the children to be removed without any interaction with the mother. This claim was consistent with statements made by Aboriginal women during a yarning circle held in Perth.

One woman told of being stalked by an extremely violent ex-partner; the child protection worker held her—rather than the violent father—responsible for ensuring abuse did not recur:

“This is bullshit; I’m not a bad mother; I’m doing everything you ask. I don’t drink, don’t party...I did all the counselling, did everything required”, I said to her. “He’s the one that doing the abuse, and when we try to get away from him and

he tracks us down and starts in when I’m doing everything I can to keep away from him, why are you blaming me? Why do you pick on the mother, don’t say shit to the man! Why don’t you talk to him?” She said, “Well, he’s the father, but you’re the mother, and it’s your job to keep these children protected”. (Outreach group participant)

Men and abuse

In discussing male partners and perpetrators, as well as speaking about the abuse they had inflicted, the women noted that the men themselves had suffered abuse, such as being treated violently when they were children, and other forms of intergenerational trauma. When the women were asked if they were engaging with any initiatives to minimise the chances of their daughters being future victims of violence, or their sons perpetrators of violence, none were cited. It appeared that while women were struggling hard to keep their children with them and to regain them if they had lost custody, much of their energy was going into daily life and survival. There appeared to be little surplus energy for thinking 10 or 20 years into the future.

The DAIWS Indigenous Men’s Service (which historically operated as a project of Darwin Aboriginal and Islander Women’s Shelter but is now becoming separately incorporated), recognised this issue. The service used a community development and healing approach. The head of the service, Michael Torres, explains:

What we did was, we got a 14-seat bus and we’d go around town and pick up the men. We’d take them to somewhere they could meet, and maybe we’d go fishing. They liked to come in for activities, because at home they had nothing to do except sit around and maybe drink. The other thing we did was relaxation exercises, meditation, and the men loved that. We used to do it for the women in the shelter, too, and they loved it. Several women told me “this is the first time in my life I’ve ever felt relaxed”, and it worked that way for the men too. Over time, we built up trust, and then we could start to really engage with the men. (Michael Torres).

Activities that followed included taking men to clinics where their physical and psychological needs could be assessed; with the high rates of FASD, substance abuse, ill-health and trauma in this population, this was important to build a foundation for further work. Yarning circles were used to raise and discuss life issues. Issues of violence and appropriate strategies to manage anger and jealousy were addressed, but this happened

after real engagement was achieved. Overall, the message was less “you need to change” and more “we care about you”, and staff reported this was found to have a more beneficial effect in bringing about real change.

Men will engage with services that are non-judgemental and provide a safe and supportive service for males to develop positive relationship skills, where they are encouraged to embrace changes that work towards building strong, harmonious, and equitable relationships, families, and communities. (Michael Torres)

A staff member reported they had tried the Duluth Model in Darwin but it did not go down well. It made men angry—all the talk of patriarchy and male power. (Michael Torres).

Some of the major differences perceived between the Duluth Model and male participants’ experience are set out in the table below.

Staff developed a different approach to meet the needs of Indigenous men and women, reflecting the realities of Aboriginal history as a colonised people where men, far from being powerful, had become powerless to protect and care for family.

We use “respectful” v “abuse” relations instead. Keep it simple and focus on Aboriginal reality; women can be abusive and

not respectful as well as men. We use short time frames for intervention—about 45 minutes. We do “breathing and healing” exercises to relax people. They carry a lot of pain and trauma, fear and anxiety; that’s another reason we don’t do “blaming”. We have to build self-esteem, not continuously knock it down. (Michael Torres)

The men’s project staff said that taking men into Country, letting them walk in the bush, camping, and sitting in a yarning circle is a necessary step. Camps are about “building leadership” so men who do this then go on to mentor younger men themselves, and being role models for them by not drinking, and supporting their families instead.

Through our monitoring and evaluation processes, 95 percent of participants rated the program “very helpful” on their evaluation forms and verbal feed. During the program sessions, 65 percent of men showed genuine signs of improvement, 30 percent of men showed some sign of improvement, and 5 percent showed no signs of improvement and were continued to be managed by the justice system...The majority of participants commented that they liked the program and understood its content... We discuss abusive behaviour and how to behave in a non-abusive way and practice self-control to maintain healthy relationships. Many participants requested more programs of this nature for men in urban and remote areas. (Michael Torres, written communication)

Perceptions of Duluth Model by Aboriginal men and service providers in the Top End	Perceptions of actual experience by Aboriginal men and service providers in the Top End
Men are the ones with power.	Men have become disempowered through colonisation and generations of trauma.
Domestic and family violence is expressed through variants of coercive control.	Domestic and family violence is more often a form of “couple fighting”.
Men are perpetrators of violence; women are victims of violence.	Both men and women practice violence; women fight with men and also with other women, just as men fight with women and with other men.
The best way to stop men’s violence is to shame them about their behaviour.	Men already feel shame in many aspects of their life, including their disempowerment; they need healing and support before they can start to change their behaviour.

Through the Commonwealth Family Violence Prevention and Healing Project, DAIWS has been able to do outreach in town camps (all seven of them) with people known as “long grassers”, who are extremely vulnerable to being victims of violence; many of the women are there to escape violence against them or their children in remote communities. There are three family violence workers going and talking to women, employing a risk assessment tool as part of the Northern Territory’s *Domestic and family violence reduction strategy 2014-17: safety is everyone’s right*. They have a reference group to guide their project, but there is not a consistent commitment from agencies, the police don’t always turn up, and many are not committed enough to the process.

In addition to efforts to reach to Aboriginal men with female partners, the service also reached out to other groups that have been less targeted by programs in the past. They set up a schedule to ensure that their facilities were open only to gay men and sistergirls for a portion of the week. The gay men and sistergirls were, according to workers from DAIWS, accepting of each other, and were able to share spaces comfortably during activities. However, in discussing issues such as violence and relationships, the two groups talked separately, as the sistergirls’ issues were as distinct as their identities.

The men’s service was able to provide a weekly support group and support in a number of retreats where sistergirls were able to sit together in a group to discuss the issues they were facing. These included safety and relationships, but also the challenges of being accepted in communities, especially those that maintained strong traditions of “men’s law” and “women’s law”, with spaces and ceremonies for each, and the sistergirls not fitting neatly into either category. Support group activities could include make-up sessions and giving performances. The sistergirls were also encouraged to establish their own support groups on their communities, and maintain their own private Facebook page to communicate with each other.

The...sistergirls appreciated the men’s service providing them with support. They thought organisations were not interested in them or willing to help them. They commented that they needed safe places...They loved the relationship education and healing activities to help them de-stress and build confidence. They were supported to link in with counselling services and medical clinics for professional care and treatment. (Michael Torres)

Views from stakeholders in the support network surrounding DAIWS

Interviews were conducted with multiple groups of stakeholders in the Territory, each with a different relationship to DAIWS and its clients. They included police, who were particularly concerned about jealousy and humbugging as forms of family violence, noting that: “we have girl gangs with up to 40 in them, jealous fighting, humbugging parents for money” (Police representative). It was also reported by police there was an increase of killing and beating up of men by women, claiming that, in almost half the couple relationships they deal with, women are the violent partner. Some of this was retaliation and defence, but a lot was aggressive, angry behaviour. Men would not report it and they would be unlikely to attend the clinic or hospital: if they did they would say it was the result of a bashing by a man. There is also a high incidence of sibling-on-sibling violence. These incidents are under-reported and not recorded.

Housing issues were discussed with local stakeholders. Overcrowded and poorly maintained housing stock was highlighted as a cause of family violence and other problems in Northern Territory remote communities. The Aboriginal Family Legal Service told researchers that the Northern Territory had the highest rates of homelessness and overcrowding in the country, and Aboriginal families and children make up a high proportion of all those living in severely overcrowded houses in the Northern Territory. Children are at an increased risk due to this; it was said sexual assaults against children are often the “opportunistic” outcome of having so many adults staying in households. They also informed researchers that Aboriginal workers were subject to the same stresses and needed to be given support:

The overcrowding is a big concern. People live in pressure. We have to be aware that staff live like this too: “get them out of the house, away from stress”. (NT Family Legal Service lawyer)

Inadequate housing was also cited as a factor that could perpetuate abusive relationships, according to domestic violence service providers. Cases were noted where women, coming out of prison and wishing to regain custody of their children, moved back in with an abusive partner simply because he had stable housing. As housing was difficult for the women to access, and was required for child custody, women would resume the relationship until they were able to find alternative housing—which could take considerable time.

Like other interviewees, family violence workers in the Top End bemoaned the inadequacy of data. Most violence goes unreported, and police reports were inadequate and skewed towards particular forms of violence. They also raised a number of issues not generally considered to be causes of interpersonal violence, such as the stress created by debt management, wills, royalty payments, and superannuation for people with limited literacy and numeracy skills.

Aboriginal Family Law Services encourage the Money Story program that helps community organisations manage accounts. This decreases the amount of lateral violence within and between families on remote communities. Legal services have a valuable role to play in reducing levels of humbugging driven by misunderstandings over superannuation and royalty payments. Sometimes when one party seeks a DVO it escalates the situation. The legal service can sometimes contact appropriate key people and de-escalate situations by explaining how the processes really work and allay concerns.

The white system is a fog of complexity; community people feel bewildered and afraid by it. It puts them on the back foot. They are easily worked up when they see someone they think is rorting the system, or doing better, relatively speaking. (Lawyer)

Legal services also play a role in educating communities about the law relating to family and domestic violence, particularly instruments such as domestic violence orders and how they work. As we have mentioned, Indigenous women sometimes fail to understand that the breach of an order is a criminal offence and are not always informed of the ramifications of pursuing an order, including the potential involvement of other agencies, such as child protection. Lawyers suggested that the massive increase in imprisonment in the Northern Territory, with the Territory having the highest imprisonment rate in Australia, has implications once male prisoners are released, as they were more likely to be more disconnected from family when they come out. A justice worker said:

We should be doing better prison programs...there is a massive need. Currently there are 600 men, mostly on short sentences, and a long waiting list for programs. Plus programs in prison are too “mainstream”. (Justice representative interview)

The youth justice system is poorly resourced and dysfunctional; however, they do have some support from Ruby Gaea, a specialist

service based in Darwin, which does trauma and sexual assault counselling with the 15-17 years group (boys and girls) at Don Dale Youth Detention Centre. But there is a general lack of services for young people in the community.

Some of those interviewed indicated that the service situation had grown worse in recent years. Not all communities have Strong Women’s Groups or safe houses, and participation and commitment fluctuate, often because these groups and places are reliant on a few individuals. Lawyers involved in family legal services bemoaned the dearth of community support services on hand once the court had moved on. There were few counselling services in remote communities.

Family violence lawyers with experience of attending remote communities asserted that there was a fundamental disconnect between what Indigenous people wanted and what white people thought was best for them, particularly around the significance of family.

Agencies have yet to accept that re-uniting families is what most Indigenous people want. Some young white lawyers, social workers...schooled in the cities, come up here thinking Indigenous law and culture is the enemy, and they will save black women from black men. (Legal representative interview)

Most of the services put in place by the NTER, it was reported, tended to be about policing communities rather than promoting healing (Anthony & Blagg, 2012). The belief that the NTER was a regressive measure was shared by a number of professionals and advocates in the Northern Territory. Speaking at the inaugural ANROWS Research Conference: Research to Policy and Practice (2016), Elder and Rembarrnga/Ngalakan woman Eileen Cummings contended that long-term and incremental work to engage men in community forums was destroyed by the NTER, which tarnished and labelled all Indigenous men in the Northern Territory as abusers. Aboriginal men “walked away” from involvement in family violence outreach efforts in the NTER period. Some of the (potentially) positive social infrastructure established in remote communities around the time of the NTER was tarnished by association with it. So, for example, the men’s shelters, designed as a hub for a range of activities and places where men could go to talk about their problems, while extremely well received in some communities, were assumed to be “prisons” in others because they were just dropped into the community without consultation (Blagg, 2008).

Other themes that emerged from stakeholder consultations

- Men as more than “perpetrators”: broadening focus away from too narrow an emphasis on family or domestic violence: Without in any way denying the high rates of violence perpetrated against Indigenous women by men, Indigenous providers implementing responses to violence cautioned against focusing too much on services for women in funding and policy without also making ample provision for men.
- “We know we have to work with the men, because when the women leave the shelter, where are they going to go? Most of them are going to go back home to those men, so we need to engage with the men if the women are ever going to be safe.” (Community service provider)
- Men’s programs were said to be less effective when they identified men primarily as perpetrators.
- “Indigenous men feel like they’re branded as perpetrators, branded as paedophiles: they say, ‘I don’t want to hear that again’. Even if they go through a perpetrator program, it might just be ‘tick the box’ and it doesn’t engage them, so you can’t expect it to change things.” (Community service provider)

There was strong belief that more support was needed from government for processes designed to ensure Indigenous men and women have more power in communities if such efforts were to succeed. Programs that focus too narrowly on family or domestic violence in isolation from other issues are likely to be less useful than those that address the issue through a more holistic approach, that are more community-led, and relate to culture and wellbeing at a community level. While there are cases—even in the Aboriginal community—of coercive control, and situations that demand an immediate response to individuals’ behaviour, these do not appear to represent the majority of cases.

Children and two laws

Almost every service provider and client indicated that children were a key factor in keeping women in violent relationships. Aspects of both traditional law and Northern Territory government-administered law reinforced this pattern. For those leading relatively traditional lives in remote communities or town camps, the woman and children often lived on the

husband’s “Country”, the region where he and his family had traditional ceremonial rights. The children inherited cultural citizenship in that Country, which imposed cultural rights, but also cultural obligations, on them.

Our kids are taught at an early age, starting at about the same age they learn to walk and talk, about their lineage... you start to grow up in that structure... So if a woman wants to leave, she might leave her children behind, or maybe just take an infant, and maybe she’ll go back. She might think that if she takes those children away from their country, it’s not really to their long term benefit... (Indigenous Elder)

Children removed too long from their father’s Country and the ceremonial rights and obligation it provides become, in effect, culturally “stateless”. The fears of that happening, and the proscriptions against it, keep many women in violent relationships or returning to them. Even if women in traditional settings leave with their children, like other women in the Territory, including urban Indigenous women, they may find themselves in danger of losing their children through Northern Territory law.

Safety planning

Comments were made that safety planning kits and advice were often not suitable for Indigenous women not living in a relatively stable housing situation. Many women do not have a stable home, and the different places where they stay—moving between them from time to time, in response to personal and family issues—may not have working doors, let alone doors that can be locked. Many of the structures where they stay do not offer drawers or cupboards where they can stash belongings. Important items, such as Medicare or Centrelink cards, may be carried with them—or may be kept for them in a place they trust, such as a service agency. Advice on gathering essential items and keeping them hidden in the house, or locking a door if an attack is imminent, is therefore not applicable to women in these situations. Instead of physical walls, women tend to rely on “relational walls”, staying with people they can trust and who will not betray where they are to a violent partner, even lying if asked. The women’s resources are therefore the connections they have with certain people, and the knowledge they have about those connections.

This can create difficulties for the person who is protecting the woman. It is not only a woman’s partner who may come

looking for her, but other groups, such as the police. Even if the police have the intent of protecting the woman, the person to whom they are speaking has made a commitment to conceal the woman's location, putting them in an awkward situation as the two worlds collide. Risk appears to be particularly high where women are living at a distance from their own families, in the husband's community, and are constrained from leaving it. Women have fewer connections of their own in these communities (whether remote communities, town camps, or other living situations), while the male partner has more connections prepared to assist him.

Sistergirls: fluid gender violence

A group with specific needs are sistergirls, a term used in much of the Territory for and by those who identify as Indigenous women but were born biologically male. (It is important to note that the term is much wider than this; some sistergirls identify as women, some as men, some as neither, and it is common for sistergirls' gender identity to be quite fluid over time.)

While particularly well known in the Tiwi Islands north of Darwin, sistergirls are found across the Territory, with evidence of help-seeking for relationship and safety issues identified in the Centre, East Arnhem, and the Daly River regions. This discussion may have relevance beyond the Northern Territory. While not appearing as an issue in Western Australia among either Aboriginal or mainstream agencies we talked to, a number of youth street workers in Broome mentioned that there was an increasing awareness of the issue, with a number of Aboriginal youths they worked with coming out as transgender.

It is possible that there used to be ceremonies for sistergirls, at least in some communities, but that some traditions were lost in the period of colonisation by missionaries. Certainly, in recent years, transgender women and girls have been at risk of rape, even by those who could have been protecting them. There have been cases where women Elders have tried to help:

Their mothers on Bathurst Island finally started to take some action; there was a lot of depression and suicide in the sistergirls, and the mothers found out that elders had been [sexually] abusing them, and that made them angry. (Family violence representative interview)

As noted by outreach staff at DAIWS, although sistergirls are at high risk of sexual abuse and violence, when violent issues arise within their relationships, few options are available to them. Sistergirls may not be accepted as women by other Indigenous women (although in at least some areas, the tradition of sistergirls pre-dates colonisation), so accessing shelters and facilities designated as women-only can be difficult. Some Indigenous men may object to participating in programs with them when they are placed in men's programs. There are also claims that sistergirls are sometimes subject to discrimination and experience homelessness, depression, and isolation (Sisters & Brothers NT, 2015). On the other hand there are also accounts of them living a traditional Aboriginal life and being accepted by their communities (Sisters & Brothers NT, 2015).

Violence against sistergirls may be a non-gendered form of violence, but clearly reflects some deeply homophobic attitudes that are often associated with masculinity.

When we were out with a project that was looking at violence in remote Northern Territory communities a few years ago, our new boss had put in a question on violence and same-sex relationships. The first time we asked, the community asked us "do you mean people being violent to gay people, or do you mean a couple in a same-sex relationship being violent with each other?" We looked at each other and said, "both". From then on we made sure we asked both questions in each community, and we heard examples of both. (Family violence representative interview)

The highly gendered structure of much traditional Aboriginal life also disadvantaged sistergirls:

It's funny; even though we grew up in community, we'd never really thought about that. When you're little you can put your arms around each other and all that, but when you get older, our structures have men's law and women's law, and you're expected to follow those structures [which govern ceremonial rights and obligations as well as interpersonal relations]. Then when I saw the sistergirls, I was asking "who are they?" They didn't seem to have a place. (Family violence representative interview)

Similarly, the highly gendered nature of many domestic and family violence programs is not well suited to those whose identities are more fluid, and who may be at even higher risk of violence than others.

Cherbourg

The community of Cherbourg is located in the South Burnett district of south-east Queensland and is situated on the traditional lands of the Wakka Wakka Aboriginal people. The nearby township of Murgon is now situated on the old campsites and freshwater springs used by the Aboriginal people of the area. Cherbourg was originally called Barambah, which is an Aboriginal word from the Wakka Wakka people; the word Barambah means “Westerly Winds”. Cherbourg was established by Salvation Army member William Thompson in 1899. Barambah/Cherbourg was taken over as a government settlement in 1904. Under the *Aboriginals Protection and Restriction of the Sale of Opium Act 1897* (Qld) tribes from all over Queensland, Northern Territory, and New South Wales were moved there. In layman’s terms, Cherbourg was known as a “dumping ground” for Aboriginal people from the above states and territories.

The research project was initiated to source community information surrounding what services could be improved for community members experiencing domestic and family violence and what the community would like changed, so as to contribute to changes on issues within the community surrounding domestic and family violence.

Twenty people, both men and women, were interviewed for the project. They were selected through Barambah Child Care Agency on the basis of word-of-mouth invitations to workers and users of the agency, and through existing connections of the research assistant based in Queensland, who has strong kinship ties in the town.

Female age groups:

- 20-30 years of age: 4
- 41-50 years of age: 6
- 51-60 years of age: 4

Male age groups:

- 41-50 years of age: 4
- 51-60 years of age: 2

There were not many young men available to be interviewed. The researchers were told that many of the young men in the community were incarcerated at the time (although we cannot verify this claim), outside of the community, or not interested in participating.

Female participant responses

Across all age groups, eight of the women said they had experienced domestic or family violence or both within their lifetime. Four of the women said they had not experienced domestic or family violence, and two women said they are experiencing domestic violence. All had said they are not perpetrators of domestic violence. They also said they had witnessed domestic violence and its impacts on family; it had impacted all their kin.

Across all age groups, the women outlined the following “triggers” for domestic violence:

- lack of employment;
- drugs and alcohol;
- boredom;
- humbugging—and not getting what they want (particularly young men);
- hopelessness;
- helplessness;
- trauma;
- lack of opportunity;
- lack of education; and
- family disputes and payback.

Across all age groups, the women said they believe the reasons for these triggers is a result of a lack of:

- government funding;
- investment in community programs;
- employment opportunities for community members;
- culturally appropriate or competent healing programs;
- respect for self and community;
- self-worth and personal responsibility; and
- accountability.

Across all age groups, the women said they wanted:

- programs to help the community to heal from dealing with intergenerational trauma;
- culturally competent programs “facilitated by our mob” based on recognising and identifying the signs of domestic and family violence and having suitable programs to combat the effects of family violence;
- alcohol and drug rehabilitation programs;

- more support services for people coming out of jail;
- more support programs for young parents;
- numeracy and literacy programs for adults;
- family counselling services that are culturally competent;
- men and women's group programs;
- more community events for the whole family; and
- community ownership.

Across all age groups, the women said the women's shelter is not culturally competent¹³ and does not provide sufficient services to the women of Cherbourg. They mentioned that when women from the community have gone to the shelter for assistance, they have been turned away, as all the beds have been used up with non-Aboriginal women and women from outside the community. They also said that women from outside of the community have had long-term stays to the detriment of community women. The women's shelter is also managed by a non-Aboriginal non-government organisation from outside of the Cherbourg community.¹⁴ They also said that they know of particular individual experiences whereby women have gone to the shelter for assistance and were not able to bring their male children over the age of 12, and when received into the shelter they had been told there was no food and that they should have brought some of their own food from home. The women also expressed concerns of domestic and family violence being under-reported due to women feeling helpless and not bothering to access the women's shelter because of culturally incompetent service, family payback, not having a safe place to go to, and the shelter staff not understanding dynamics surrounding the women's familial relationships within the community.

Across all age groups the women expressed their concern that Queensland Police need to be a lot more culturally competent, as their level of competency is minimal. The women also expressed concern at not wanting to report to police, as they don't want

their partners to be charged with the possibility of them being incarcerated. The women reiterated that they just want the violence to stop, not to have their partners possibly incarcerated.

Women expressed the need to have a culturally competent and safe service delivery model, with integrated services that network and work together through a trauma-informed model of engagement. That is, they want a model that demonstrates expertise in working with the whole family within a culturally competent framework and which incorporates intergenerational trauma counselling, culturally competent evidence based mental health services, and violence and suicide prevention risk assessments that contribute to positive outcomes for families and the community at large. The women also mentioned they would like to see a "hub" of services accommodated within the community to service its unique needs, not situated outside, as in a lot of cases, transport is not available to women escaping family violence. The women also expressed the high need of employment for community women to fill vacancies within the "hub", and to have supportive training and education programs that lead to employment stability, which they feel would highly contribute to the economic viability and sustainability of Cherbourg.

The women also expressed a high need for a facility that enables children who are estranged from either parent through family violence to have access to their parents through culturally safe, supervised, community-controlled access pathways, which enable the continuation of parent-child relationship building.

Male participant responses

Across all age groups for the men, five said they are not perpetrators of domestic violence and one said they had previously perpetrated domestic violence against their partners in the past but had reformed and no longer commit domestic violence against their partners. The men confirmed the views of the women regarding the situation in Cherbourg and offered some further ideas about things that would benefit the community, including:

- More opportunities for employment, such as having first options at being employed to work on the construction of any new houses and infrastructure built.
- Opportunity to access training and educational programs within Cherbourg that would lead to opportunities of full-time work, economic sustainability and future business ownership to enable the young people to have the capacity

13 "Cultural competence...is...a set of congruent behaviours, attitudes, and policies that come together in a system, agency, or amongst professionals and enables that system, agency, or those professionals to work effectively in cross-cultural situations" (Cross et. al., 1989, cited in Bainbridge, McCalman, Clifford, & Tsey, 2015, p. 6).

14 The research team has been informed that there have been a number of changes to the management of the shelter to make it more responsive to local women's needs, including employing Indigenous women. However, issues raised by these women echo concerns heard in the Kimberley, Perth, and Darwin about refuges that Indigenous women believe have negative attitudes to Indigenous women. DAIWS, for example, believes it offers a better service than mainstream refuges because it feeds the women healthy meals and caters for older children.

to access opportunities for personal growth, community inclusion, and empowerment.

- The men across all age groups attested to the hopelessness the young men feel at not being able to attain a suitable life for themselves; they also mentioned alcohol, drug abuse, and anger management issues.

The men expressed a desire to have a men's group facilitated by the Elders which would give them the opportunity to hold men's camps where they could take men out on trips to facilitate men's business. This would incorporate social and emotional wellbeing, counselling, rehabilitation, and justice reinvestment strategies. To have a facility where men could go to seek culturally competent counselling; men's programs working on individual anger management; alcohol and drug rehabilitation, and support for men post-release from prison.

Men felt they were often the losers when relationships broke up. Many wanted to continue being part of their children's lives without having to worry about retribution from their estranged partners. Having a family support service facility that enabled the men to see and be with their children in a safe, caring environment without violence and animosity being perpetrated against them was suggested.

Both the men and the women expressed their disappointment at the lack of essential services that were actually situated within Cherbourg. They feel that outside people are unable to grasp the intensity and magnitude of community issues and politics that are present within Cherbourg as they are not living them day and night. They feel that a lot of services are overlapping and the community is being over-serviced without any real benefit or change for the people of Cherbourg. There isn't a bus service that operates from Cherbourg to Murgon, making it very difficult for community members to have immediate access to essential services. There is a convenience store located in Cherbourg; however, there is not a sufficient variety of goods and the community pays a higher cost for essential food items. In a lot of cases, as a result of this, the community not being provided with a variety of healthy food choices with a cost comparable to larger community rates, which impacts negatively on the community's ability to provide healthy living outcomes. Important social and emotional wellbeing services, as well as psychosocial, violence and suicide prevention assessments are not being provided within a culturally competent and safe manner. Aboriginal participants said this leads to adverse mental

health episodes, ineffective social and emotional support, high incarceration rates, and unnecessary early death rates.

The Cherbourg Aboriginal community has the competence, capacity and experienced skill base within its members to be a thriving, self-sustaining, equitable, and productive community if essential services were provided within its boundaries. Participants told researchers they believed that domestic and family violence rates, suicide and early death, incarceration rates, and removal of children by the statutory child protection system, could be markedly reduced if culturally competent programs and services and community controlled endeavours were afforded to them.

Moving forward: a new family violence approach

A decolonising dynamic

We argue that local strategies on family violence should incorporate a “decolonising” dynamic by prioritising community-owned and managed structures and processes, as opposed to just government-owned and controlled—if community-based or “situated”—systems. By placing Country at the centre of initiatives and supporting structures that are grounded in place (rather than hovering in “space”), and are able to respond to a range of unmet needs that the community considers underpin family violence, we may create a new paradigm.

Research on violence in Indigenous communities since the 1990s (see Atkinson, 1990a, 1990b, 2002; Memmott, Stacy, Chambers, & Keys, 2001; Nancarrow, 2003, 2006) shows that Indigenous and non-Indigenous Australian women hold starkly opposing views about the role of government, the objectives of intervention, and the best way to respond to violence against women and children. The “criminalisation” response perpetuates assimilationist logic by failing to acknowledge the very particular role played by previous and ongoing strategies of criminalisation in the destruction of Indigenous communities. Nor does it acknowledge, for that matter, the criminological literature demonstrating that prison does not rehabilitate and is not a deterrent for Indigenous men (for a review, see Cunneen, Baldry, Brown, Brown, Schwartz, & Steel, 2013).

“All pain, no shame”

Prison is “all pain, no shame” (Blagg, 2016) for Indigenous men (and women), who are not chastened by having the police turn up at their door or by being made the subject of disapproval by white magistrates and judges. Arrest and imprisonment do not deter Indigenous men (Cunneen, 2009). The major threat of criminal justice sanctions lies in the loss of citizenship and the stigma and shame attached to being the subject of denigrative attention. A Northern Territory Coronial Inquiry into the deaths of several Indigenous women by their partners reflected that: “the ‘public denunciation’ attendant on a sentence of imprisonment seemed of no effect. There seemed no shame in going to prison” (Northern Territory. Coroners Court, 2016, p. 24).

Indigenous notions of belonging are not commensurate with non-Indigenous notions of citizenship (Moreton-Robinson, 2009). Indigenous identity is not threatened by prison; Indigenous people remain Indigenous, tied to Country, and therefore still

subject to Indigenous law and obligations in prison, which is why prison visits and leave to attend funerals are among the major priorities for Indigenous prisoners (Western Australia. Office of the Inspector for Custodial Services, 2005).

Optimism and pessimism

Critics accept that Indigenous women are “under-policed” as victims and “over-policed” as offenders (Cunneen & Kerley, 1994). Our research found differences of opinion regarding the capacity of mainstream policing to make the leap from “colonial” policing (based on maintaining and imposing white law) and “community” policing (based on local negotiation and Indigenous priorities). “Optimists” suggest that the police could be persuaded—forced even—to shift priorities towards ensuring women’s safety, while “pessimists” argue that the police and other agencies were structurally incapable of making this transition. We found evidence that the police in the three sites were responding to demands to take domestic violence more seriously. However, as we have stressed, many episodes of violence simply do not correspond to the dominant understandings of a domestic violence incident. Several lawyers said that frontline agencies sometimes lack empathy for victims who do not act according to the script of how the “ideal” domestic violence victim is supposed to behave—passive and grateful.

There was agreement across the sites that, particularly at senior and middle levels, there was a significantly better appreciation of Indigenous women’s needs by police. This, however, was balanced by criticism of the policy environment the police operated in, which privileged coercive control. There still needs to be a significant decolonisation of relationships between policing and Indigenous communities, with local Indigenous structures acting as a counterweight to police power (through local law and justice committees, community justice groups, night patrols, and women’s organisations).

The research project has highlighted issues often neglected within mainstream debates about family violence in communities; these relate to issues of alcohol, intergenerational trauma, and disability as causal factors for violence in remote Indigenous communities, and reasons why mainstream court and police orders and mainstream coordination strategies don’t work well in Indigenous contexts. This does not dismiss the need for robust intervention to protect victims at the point of crisis; rather, it suggests that the male power lens visualises only one thread in

a densely compacted, multi-layered fabric of harms on remote communities, and offers a distorted picture of its topography.

Women's agency

Relying on the mainstream feminist approach as the chief response to violence and conflict inadvertently renders invisible the trauma and suffering experienced by Indigenous families as a result of their status as a colonised people. Indigenous women often use mainstream systems strategically to manage situations that have gotten out of control, never intending to leave the relationship or, worse, have their partner jailed. In the Kimberley region, there were complaints from police that some Indigenous women were “gaming the system” by initiating proceedings with no intention of going through with them once the initial crisis point had passed. Rather than seeing this as a problem (or a form of “cheating”), we should look positively on the degree of agency Indigenous women are able to claim by activating the system in this way. Indigenous women are sometimes able to make the system work for them, but not in the way the system intends.

Leaving relationships

From a mainstream perspective, police call-outs should be followed by DVOs, court-mandated orders, or exit from the relationship. The reluctance of Indigenous women to take out DVOs is seen as a problem to be managed through greater refinement of the process, including the criminalisation of Indigenous women for breaching the conditions of orders. Because police tend to see women remaining with men or failing to go through with prosecutions as a “failure”, they often develop a cynical attitude towards Indigenous victims. One study found that “several of the Indigenous women interviewed commented that they felt like the police were biased against them if they had been known to reconcile with their partners after a report of domestic violence” (Kelly, 1999, p. 89). Senior police in the Kimberley agreed that their officers are often wary of becoming involved in taking out DVOs because of the tendency for women to remain in contact with their partners. This case study from field notes from Fitzroy Crossing Court is not untypical.

The police attend a call-out in a small community (10 km out of town): it is an elderly couple; she has an injured leg from the encounter. He is charged with aggravated assault. The

police take out a DVO preventing co-habitation and contact. After the first court appearance he is remanded back to his community. He does not appear for his subsequent hearing and the magistrate issues a warrant. The police visit the home to find the couple in bed asleep together, in breach of the DVO. They are both charged with breach of the DVO. At the next court appearance they sit together. She has no intention of leaving him. He receives a custodial sentence for aggravated assault. She says she will wait for him.

Centring Indigenous experiences

The importance of intersectionality

Intervention targeted largely at domestic forms of violence in Indigenous communities makes sense from a Western feminist perspective, but less sense from the perspective of many Indigenous women working at the coalface. Violence against women in Indigenous communities is best understood in intersectional terms, as it exists at the junction of multiple, rather than singular, forms of domination, coercion, and conflict. We do not dispute the fact that violence is gendered; what needs to be addressed is the question: how is it gendered? If gender identities are socially constructed (Lorber, 1990) then Indigenous women's gender identities have been forged within a specific constellation of social processes of oppression and resistance resulting from colonisation (Baldry & Cunneen, 2014).

Intersectionality is usually viewed as a junction between gender and race (Crenshaw, 1989). We feel, however, it important to emphasise Indigeneity rather than just "race" as a key site for intersectionality. The notion of race is too general and glosses over Indigenous women's experiences in Australia that are different from, say, black women's in America. Indigenous women's oppression has taken specific forms in Australia, which includes genocide and cultural genocide, deliberate attempts to kill off women's caring and reproductive roles, and the denial of their sovereign rights as owners and custodians of law and Country (Moreton-Robinson, 2000). This is aside from a level of dehumanising, objectifying treatment by mainstream society not experienced by most white Australian women (who have been among the beneficiaries of colonisation). Further, their exclusion from society was based on legislation and policy aimed at controlling their Indigeneity.

So when we speak of intersectionality we make a claim for forms of intersectional inquiry and practice that prioritise Indigenous experiences and do not make assumptions about Indigenous women's needs on the basis of non-Indigenous frameworks of knowledge. On occasion, of course, the intersections are real as well as metaphorical. Anthony and Blagg (2012) recount the day in Yuendumu in central Australia when the shire placed a stop sign on a loose road junction just outside the courthouse, as part of a Territory-wide initiative to create a number of hub towns. The police (brought on to the community ostensibly to handle an epidemic of violence) earnestly set about charging anyone who did not stop, which was just about everybody, including women going about their business. This had real impact because it resulted in fines women could not pay and brought to attention outstanding warrants and suspended licenses.

Liminal space

We urge caution about constructing rigid binaries between a dominant white feminist discourse (pro-arrest, prosecution, and deterrent sentencing) on the one hand, and an Indigenous position (privileging restorative solutions, engagement with men and community healing) on the other. Our research finds this polar opposition to be too unsophisticated: glossing over fluid, interstitial zones in between these two poles where elements of both approaches are in play. Many non-Indigenous women working in Indigenous refuges and safe-houses, in health services, and in family violence legal services, are acutely aware of the need to work in alignment with the cultural needs of Aboriginal women, even where this challenges some key orthodoxies of feminist praxis. Most non-Indigenous women working in the family violence legal services that we spoke to acknowledge that the Aboriginal domain is different, particularly in relation to the cultural and family obligations of Indigenous women, which makes "exiting" family relations particularly difficult.

Local context

Julie Stubbs (2002) calls for locally contextualised research that makes visible finely grained components of practice. Our research identifies new hybrid, place-based practices that emphasise both the need for safety at the point of crisis and the need for community healing, cultural engagement, and Indigenous empowerment. This is not to suggest that Aboriginal and mainstream philosophies and practices are on a track to seamless convergence. The mistrust of mainstream organisations runs deep. From an Indigenous perspective, mainstream organisations maintain the colonial matrix of power and have devastated Aboriginal families and communities, removed children, and destroyed family life. A number of Indigenous women contacted for this project said they experienced the domestic violence sector's increasing incursion into the Aboriginal domain as a fresh form of colonisation. It fractures and neutralises the specific biographies of Indigenous women and transforms them into another "minority" or "women's group". Elena Marchetti views such incursions as "deep-colonising" practices, which either deliberately or unintentionally "erase the experiences of Indigenous women" (Marchetti, 2010, p. 453). Many Indigenous women resent what they see as attempts to turn them into white women.

Indigenous women have experienced violence and wilful indifference from agencies claiming to be there to help them.

Simply extending the research of mainstream agencies further into Indigenous places does not guarantee safety, unless these agencies work to achieve cultural competency. Being surrounded by mainstream agencies and a victim of violence does not ensure safety for Indigenous women. In some instances it can hasten their death, such as the case of Ms Dhu. This case reinforces the point made forcefully by Aboriginal women throughout this research project, that, so embedded are negative stereotypes of Aboriginal women in the white collective consciousness, Aboriginal women cannot necessarily count on a sympathetic response when victims of violence or when experiencing suffering and pain.

Killing Ms Dhu

Ms Dhu was a 22-year-old Yamatji woman who died in police custody in South Hedland, Western Australia, in 2014. She had been arrested 2 days earlier on a “warrant of committal” for failing to pay \$3000 in outstanding fines. The warrant was executed by the police while attending a call-out where Ms Dhu was a victim of a “flogging” by her male partner. Reports of Indigenous women being arrested on outstanding warrants for driving offences, breaches of court orders, and so on when reporting violence to the police are not uncommon in Australia. There have also been instances where victims have been locked up in the back of paddy wagons with their abuser.

Ms Dhu was locked up for 4 days under the warrant in lieu of her fines. Ms Dhu had broken ribs and was developing septicaemia and pneumonia as a result of her injuries. Her chest pain worsened and she had difficulty moving and breathing. Police officers ignored her complaints. A coronial inquiry heard that the police believed she was “faking illness” and just “coming off drugs” (Menagh, 2016). Eventually, reluctantly, they took her to the Hedland Health Campus on both 2 and 3 August, where she was given a cursory medical examination. Hospital staff failed even to take her temperature. A fatal narrative had been constructed, scripted by the police and a number of health workers, including with Ms Dhu in the role of the “junkie” and troublemaker with “behavioural issues”, “faking illness” to avoid her just desserts (Blue, 2016).

As researcher and member of the Western Australia Deaths in Custody Watch Committee Dr Ethan Blue writes:

Through eye-rolls and offhand comments, through notes jotted on medical records, they communicated to each other

that this was the case. We might identify these eye-rolls as micro-solidarities of paternalistic whiteness and the settler state, in which state agents—who wear official uniforms and have to deal with “those people”; those rendered sick, unwell, unruly, and disorderly by the historical and social forces of colonialism—communicate a shared experience to one another (Blue, 2016, p. 2).

Counsel to the coroner, Ilona O’Brien stated:

By the morning of 4 August 2014, Ms Dhu’s clinical state rapidly worsened and although it was not appreciated by the police officers involved...she was in an advanced state of septic shock and only hours from death. (Gartry & Trigger, 2015)

She died while being removed from her cell, after the police, still believing she was faking it, begrudgingly dumped her in a wheelchair to take her back to hospital.

Nothing but “bare life”

The “micro-solidarities” of whiteness expressed through eye-rolls and other acts of exclusion are familiar to many Indigenous women accessing mainstream services, where Indigenous women’s Indigeneity is, through various modes of conscious and unconscious bias, constructed as a problem to be managed. They get the distinct message that if only they could stop being Aboriginal their problems would be solved (Blagg, 2016). It is a reminder that the apartheid structures, cultures, and mentalities established under colonisation still continue to exert influence in the present. These systems were devised to ensure that Indigenous people only received what Agamben (1998) calls “bare life”, meaning a “state of exception” exempted from the rules of law, essentially sanctioning the killing of Indigenous people through indifference or mistreatment: “when one of our people dies like this, it does not count as a crime, and no one is responsible” (Mervyn Eades, Deaths in Custody Watch Committee WA). Agamben is describing a situation, very like that of “frontier justice”, where Indigenous people have limited standing as citizens under the law, while agents of the colonial state (generally the police) retain the law’s powers over them to detain, imprison, transport, and punish.

Indigenous women are acutely conscious of the negative bias attached to being an Indigenous woman seeking support from mainstream agencies. This is one reason why so many choose not to access them, or only do so in dire emergencies for the briefest

period of time. It brings us back to the need for culturally, not just physically, secure responses to violence, in places that do not threaten women's identities, values, and beliefs. As noted earlier, it also raises the importance of secure "relational" as well as physical walls and structures.

Coordination, integration, and Indigenous women

In an important study of domestic violence policies and laws and their impact on Indigenous women, Dr Heather Nancarrow writes:

...compared to non-Indigenous intimate partner violence, Indigenous intimate partner violence is characterised by fights, more so than coercive control. Some of these fights occur in a context of chaos in the lives of many Aboriginal and Torres Strait Islander people, particularly those living in remote Australian communities. For Indigenous people, formulaic policing of domestic violence sits within historically strained relations between them and the police, and consecutive periods of protectionism manifested as state control over their lives. Failure of Indigenous people to comply with DVOs is partly a result of chaos and perhaps resistance to state authority. (Nancarrow, 2016, p. ii)

The “chaos” noted by Nancarrow would be instantly recognisable in our three research sites. It is not, however, recognisable to mainstream policy-makers.

Innovative models

Much innovation in relation to domestic violence has been funnelled towards improving the response to discrete crises. Intervention is triggered by a call to the police or appearance at a shelter or other agency. Most of the work on coordination or integration of responses to violence against women in Australia emerged from the Duluth Domestic Abuse Intervention Program (DAIP) (mentioned in the NT chapter), which was essentially a mechanism to coordinate the criminal justice system response (policing and court services) with the provision of specialised perpetrator programs and victim support services (Pence and Paymar, 1986). Only recently have social services such as health, housing, and the child protection system been even considered, and one would be hard-pressed to find a coordinated or integrated response model that does not include the police and court response.

While there has been considerable innovation in terms of coordinated and integrated responses to family and domestic violence at the level of crisis intervention, particularly in relation to strengthening domestic violence orders, this enforcement model does little to change the underlying causes of family violence, though it may manage some immediate risks.

Innovative models must set out from a clear understanding of what

exactly “violence” means within specific localities. Indigenous women’s organisations suggested that their knowledge is often treated with suspicion by mainstream agencies, even where they “pay lip service” to Indigenous engagement, meaning that mainstream agencies are often not thinking outside mainstream silos, as suggested earlier. Our research uncovered instances where white family violence coordination agencies openly disparaged the views of Indigenous women.

At a roundtable in the Kimberley, a non-Indigenous woman specialist in domestic violence crisis interventions visiting from interstate told the meeting: “as a feminist practitioner I am appalled by the references to healing and working with men... people over here [the Kimberley] need a lesson in patriarchal violence and the male power model”. She went on to voice support for vigorous use of the criminal justice system as a deterrent. The comments received nods of ascent and approval from non-Indigenous domestic violence workers assembled in the room. The only Indigenous woman present, from an Aboriginal Family Violence Legal Service, later voiced that she had felt silenced and intimidated by the group and unwilling to make any comments, although she felt that the meeting had lacked respect for Indigenous women’s perspectives and oversimplified the issues.

Gender mainstreaming

The gender mainstreaming of Indigenous women’s identity rests on tropes of universal women’s experiences of oppression that can gloss over the unique experiences of Indigenous women (Moreton-Robinson, 2000). Indigenous women have needs that result from forms of disadvantage going back to colonisation. Rarely do Indigenous women’s community organisations work solely with women when they are victims of domestic violence. Working holistically means they also work alongside them when they are released from prison, experiencing financial distress, and facing child protection agencies in court about the removal of children. Given their position at the crux of community issues, Indigenous women’s organisations can play a decisive role as the focal point for interagency collaboration:

Aboriginal community organisations provide safety, respect, and cultural ways of knowing with the flexibility of working across interdepartmental boundaries that is not available elsewhere. Where there are inherent systemic limitations within dominant systems Aboriginal community organisations are well positioned (though currently underfunded) to bridge the gap. (Sherwood et al., 2015, p. 79)

Sherwood et al. (2015) sharply criticise the lack of respect for, and faith in, Indigenous women's organisations, and a tendency to recruit Indigenous participants in processes scripted from above. Indigenous organisations are poised to be the fulcrum for change in Indigenous communities, and non-Indigenous agencies should plan initiatives in partnership with them. Indigenous organisations can act as the glue that joins together interagency coordination bodies.

Currently, Indigenous women tend to "drift" in and out of mainstream consultation processes and initiatives designed to reduce levels of domestic violence. They do not fully embrace these initiatives because they do not "own" them; such initiatives do not speak for them, or to them. They feel that their involvement is tokenistic and designed to tick the box marked "Indigenous consultation", and what emerges from them pushes their own lived experiences to the sidelines. They may "participate" in domestic violence coordinating committees that are, generally, founded on philosophies and practices reflecting mainstream patterns of family life, and solutions that rest on the expansion of the very agencies that have historically oppressed Indigenous families.

Invisible women

A frequently recurring theme in discussions with Indigenous women is a view that "they don't listen to us", "they don't know anything about us", "our voices are not heard". Indigenous women, as project author and researcher Nangala Woodley reported, remain largely "invisible" to mainstream services, even when they are the putative "target" of their intervention. This, she suggests, is because mainstream agencies work on stereotypes of Indigenous women as helpless victims, incapable of self-determination, with nothing constructive to offer. They still hold paternalistic attitudes from the "mission days". This applied also to white women's refugees, "who are happy to say they work with black women to get government money, but do nothing to make going to them culturally safe".

Indigenous women as cultural beings

This invisibility has a number of layers to it. It includes a failure to see Indigenous women as cultural beings with agency in terms of creating and reproducing Indigenous culture, rather than just being the victims of culture. This is also the pattern for

many Indigenous women working within mainstream agencies who also experience "invisibility" when their knowledge as Indigenous women is not viewed as a competency in its own right, or is significantly downgraded in comparison with mainstream qualifications and experience. Accrediting and acknowledging Indigenous women's knowledge as a form of "capital" that can build the competency of an organisation to respond to the needs of Indigenous communities is a vital step in shifting the dominant paradigm.

Most first response agencies and courts generally only come into contact with Indigenous women at the moment of "crisis", when they will be deemed a victim, offender, or both. From the perspective of the police, when they attend a domestic disturbance in an Indigenous community, it often appears chaotic and does not correspond to the common understanding of a "domestic assault". Indigenous women may not be passively waiting for help. They may have struck back. The situation may look more like a brawl than a domestic violence episode. Further, law and policy has tended to focus heavily on violence within spousal relations, overlooking other forms of violence taking place between relatives.

A long way from Duluth

As we have noted, mainstream law and policy responses to domestic violence in Australia are informed by feminist theory, which is underpinned by the belief that domestic violence results from "patriarchal ideology in which men are encouraged and expected to control their partners." It assumes that domestic violence is part of a continuum of behaviours intended to coercively control women (Kelly, 1988). As Nancarrow notes:

Implementation of mandatory arrest, pro-arrest, and no-drop prosecution policies arose from the frustration of activists seeking greater attention from the criminal law and order agenda and civil action against the state for the police failing to act. (2016, p. 75)

Criminal justice intervention has been associated with the Duluth Model of intervention. Duluth stimulated the emergence of coordinated and integrated interagency responses to violence against women, with a central role for the police and courts. Perpetrators are leveraged into programs designed to challenge and change the attitudes that permit violence, and particularly their sense of entitlement to violence. Since their inception in the early 1980s, Duluth-style models have undergone a number of

iterations and, in the wake of criticisms by lawyers, researchers, and therapists, have moderated their stance that all violence against women results from gender equity issues. The founders of the model have suggested that it needs to be “adapted”, not simply “adopted”, in order to reflect local conditions (Pence and Paymar, 1986; 1990).

Even with modifications, however, Duluth remains controversial from an Indigenous perspective. Its reliance on criminal sanctions and conceptualisations of domestic violence raises immediate concerns, given Indigenous perspectives that view imprisonment as an existential threat to Indigenous wellbeing, while not transforming behaviour (Sherwood et al., 2015). Furthermore, the focus on criminalisation ignores Indigenous self-determination and often times the voices of Indigenous women.

A researcher on the team met with the government coordinating committee in Brisbane in 2016. The committee noted that they had been briefed by non-Indigenous researchers and practitioners about the merits of the Duluth Model, and then been informed in clear terms by an Indigenous women’s group days later that they were implacably opposed to it. This situation echoes Nancarrow’s (2006) findings that non-Indigenous women’s groups tend to focus on deterrence and criminalisation, whereas Indigenous women favoured restorative solutions.

To summarise the major points regarding coordination and integration according to Aboriginal participants:

- Indigenous women also experience violence by the state. State violence takes numerous forms, from invasive surveillance and control through to children’s protection services “ripping babies from mother’s arms” (Perth consultations).
- From an Indigenous women’s perspective, the adherence to the belief that violence against women is the result of inequities created by patriarchy automatically excludes their experiences as Indigenous women.
- While violence in domestic relationships accounts for some of the violence, it fails to account for the broad spectrum of violence in Indigenous communities, including violence by Indigenous women (on partners and on other Indigenous women).
- Violence intervention is slanted towards one form of harm against women and children, ignoring many other forms.
- Criminal justice interventions reflect a distorted image of harms in Indigenous communities. It is not possible

to identify levels (and layers) of violence on Indigenous communities using police data.

- Communities want to see a greater focus on prevention that covers the whole spectrum of violence on communities.
- Violence responses need to address the over-sale and over-consumption of alcohol and the harmful impact of drugs.
- Poor housing conditions and over-crowding exacerbates violence and makes women and children vulnerable to abuse from a broad range of potential abusers.
- While “healing” is gestured to in government policy documents as a necessary step, it remains misunderstood as a largely individual journey rather than a collective experience.

Shoehorning Indigenous conflict

Shoehorning Indigenous women’s experiences of violence into an essentially mainstream feminist paradigm results in constant frustration for many Indigenous organisations attempting to deal with violence on a local level. The dominant model cannot account for relationship violence fuelled by factors other than assertions of male power. Lawyers, police, and professionals interviewed for this report pointed to a constellation of causes for violence where women were the victims and also the aggressors, which included: conflicts over money, gambling, humbugging, payback, native title, royalties, jealous talk and jealousy, and lack of inhibitive restraints and impulse control due to alcohol or drug misuse, mental health, cognitive impairments, or FASD. The prevalence of these behaviours has to be understood within a framework of intergenerational trauma.

Summarising her empirical research interviews, Nancarrow observes:

Overall, the circumstances leading to high levels of violence between Indigenous couples were described by interviewees as a disintegration of culturally based power, rules and boundaries and associated alienation, poor mental health, alcoholism, and distrust of the police and other authorities. Thus, and apart from the broader range of relationships, some service providers and police prosecutors saw Indigenous couple violence as different from non-Indigenous domestic violence. (Nancarrow, 2016, p. 129)

She goes on to describe Indigenous violence in terms of “successive incidents of violence” rather than “a continuous pattern of

domination and coercive control” (Nancarrow, 2016, p. 129). Nancarrow’s findings challenge the domestic violence orthodoxy where Indigenous violence is concerned.

Multi-causal versus mono-causal explanations

While there have been attempts to broaden mainstream approaches to domestic violence by acknowledging the strengths of Indigenous culture, these still rest within an essential Western worldview. Expressed simply, the notion of domestic violence fails to capture the nuances and complexities of conflict in Indigenous communities. This is because the notion of domestic violence is mono-causal, whereas Indigenous women’s perspectives on violence tend to be multi-causal. Further, the scaffolding of laws and procedures constructed on the basis of the dominant domestic violence paradigm is focused on only one discrete part of the problem. It selects out only those aspects of violence that overlap with and confirm mainstream concerns. Mainstream law is often a blunt instrument and incapable of tracking the nuances of the social and cultural process involved. The focus on violence as a discrete event shorn of context and meaning inevitably scoops up Indigenous women as well as men.

Young people, jealousy-up, and social media

Police and youth justice workers in Western Australia and the Northern Territory are concerned by the increased use of social media platforms, such as Divas Chat, by young Indigenous women that are leading to couple and other forms of jealous violence. Youth violence establishes the “tone” of adult relationships, one psychologist in Derby (West Kimberley) told researchers. The break-up of traditional *moyete* (“skin”) systems in the West Kimberley has led to a lack of consistent guidelines regarding relationships (Burbank, 1994). There was a widespread view that there needed to be greater investment in programs for youth designed around creating respectful relationships. Initiatives such as the Yiriman Project, run by Kimberley Aboriginal Law and Culture and representing the four language groups in the Fitzroy Valley (Nyikina, Mangala, Karajarri, and Walmajarri), take young people at risk on to remote desert Country to “build stories in young people”. The program runs young women’s as well as young men’s projects and attempts to build respect for culture and healthy relationships. They provide an alternative to

mainstream notions of prevention, targeted simply at changing “attitudes” to violence.

Interviews with youth justice workers, lawyers, and police in the Kimberley found a need for better-targeted intervention at the first point of contact with the justice system. Diversionary practices favour the least intrusive option at any point of interaction between an accused person and the justice system. Intervention must be a last resort and commensurate with the scale of offending, with a presumption towards non-intervention where possible. The system must be employed parsimoniously and be subject to rigorous gatekeeping. The problem with this notion of diversion is that it reflects an essentially Eurocentric worldview in which children, left to themselves, will mature out of crime and develop a stake in conformity. In the context of many Indigenous youth, particularly with FASD and other cognitive impairments, maturation does not bring with it desistance from offending, less conflict with the police, or access to the mainstream world of work and domestic stability. To be effective, diversion has to involve diversion not just out of one system, but into another. Diversion could involve diversion into Indigenous-owned, therapeutic alternatives, particularly in the emerging sphere of Indigenous on-Country initiatives.

A paradigm shift

We assert the need for a paradigm shift that mobilises and strengthens community responses to the problem of violence, rather than further empowering and resourcing mainstream agencies, the police, and courts (as presently configured). Indigenous women involved in this project want to see a fundamental shift in the way funding for services affecting Indigenous families is delivered, away from the criminal justice system and mainstream “helping” NGOs¹⁵ towards holistic and integrated models controlled by Indigenous women and men. Concerns were raised by Aboriginal community-owned organisations that mainstream NGOs are increasingly being favoured by government to deliver services because they are: 1) less “tainted” than government; but 2) believed to be more reliable than community groups, even though they may end up sub-contracting the work to these very community groups to provide a “fig leaf” of cultural competency.

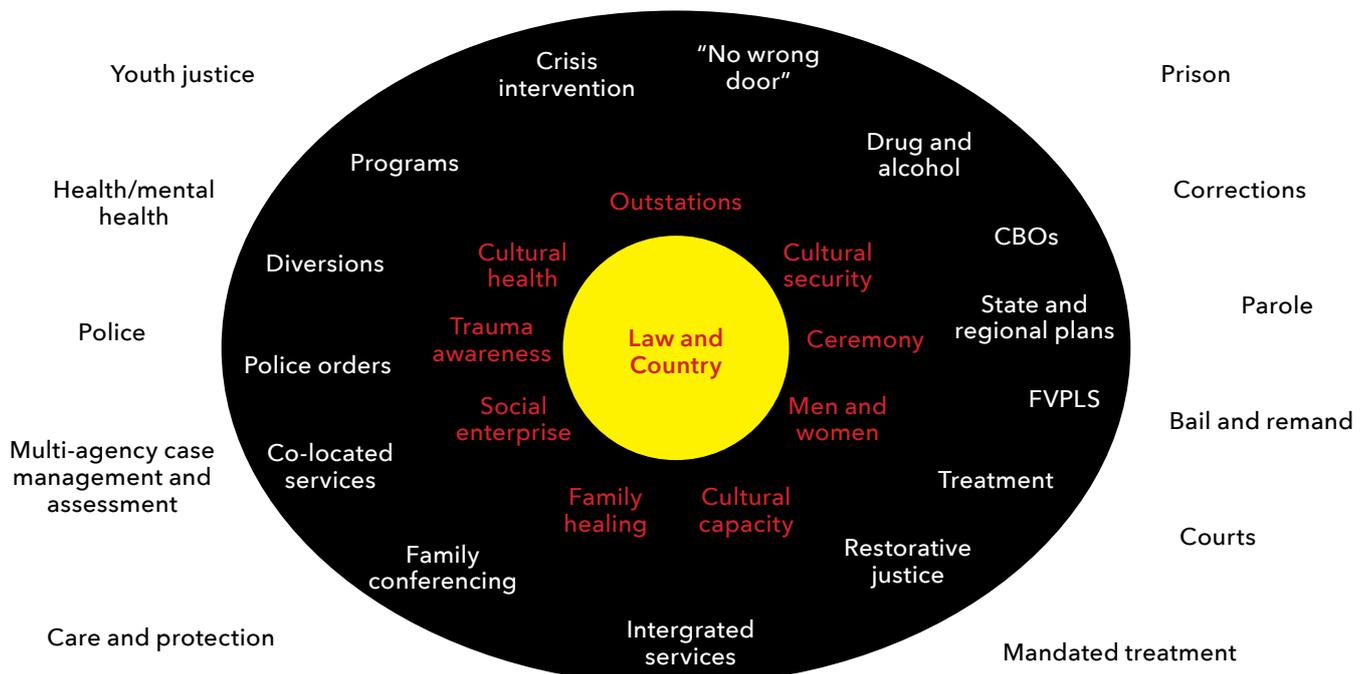
There has been something of a groundswell of disquiet about the role of big NGOs as a new colonising force in the provision of Indigenous services. They appear benign but serve to further disempower Indigenous communities at a time when communities

are struggling to retain funding. Indigenous communities are also concerned about the complexities of tendering processes and the extreme insecurity of funding arrangements. A number of community-owned organisations complained that NGOs with less experience than they have are being preferred by government.

Our research uncovered strong support among Indigenous and non-Indigenous stakeholders for a Country-centred approach to family violence practice. As set out in Figure 1, mainstream systems should increasingly defer to Indigenous organisations and Indigenous practices, placing them at the centre of intervention. Such an approach recognises the enduring legacy of colonisation manifest in the disproportionately high prevalence of violence in Indigenous communities. The outer rim of the diagram describes the array of mainstream structures that alienate Indigenous people. The next indicates attempts to bridge the divide between Indigenous people and mainstream justice systems through the creation of top-down community based services. Closer to the centre, it is possible to identify a range of what we have called community-owned initiatives that draw on Indigenous cultural authority, rather than mainstream governmentality, for legitimacy and status; these include a range of practices from Aboriginal courts through to Aboriginal

¹⁵ Women call these the “care bears”, because so many have, one research partner suggested, “the word care in their titles, but not always in their hearts”.

Figure 1 Placing Country in the centre



night patrols. These initiatives are generally “place based” and situated on, or close to, Country: the latter being the source of Indigenous law and culture.

Indigenous women and organisations suggest violence is multi-causal, and that mono-causal responses are bound to fail. Indigenous women have been victims of what Spivak (1996, p.76) calls “epistemic violence” through attempts to reconstruct their identities and deny their role as cultural beings. Colonialism is a central trope in Indigenous narratives, but remains largely absent from mainstream philosophies founded on Euro–American constructs that tend to down play the impact of colonisation. Professor Judy Atkinson describes colonialism in Australia as being facilitated by three interlinked forms of violence: 1) overt physical violence (invasion, disease, death, and destruction); 2) covert structural violence (enforced dependency, legislation, reserves, and removals); and, 3) psycho-social domination (cultural and spiritual genocide) (Atkinson, 2002, pp. 59-73).

Decolonising practice

“Decolonisation” consists, in part, of taking the paternalism out of relationships between Indigenous and non-Indigenous peoples by nurturing intercultural dialogue. It also requires we challenge the “logic of coloniality” underpinning Western theories and methods (Mignolo 2011). Disciplines that have had a major role in framing mainstream perceptions of Indigenous “problems” are now being called out by Indigenous scholars and practitioners, with demands they acknowledge their role in the colonial project and decolonise both theory and practice. In relation to social work, for example, Gray, Coates, Yellow Bird, and Hetherington (2013) argue that decolonising requires that the profession “acknowledge its complicity and ceases its participation in colonising projects, openly condemns the past and continuing effects of colonialism, collaborates with Indigenous people” (Gray et al. 2013, 7). A decolonising practice would give credit to Indigenous strengths, in particular “recognizing that the cultural knowledges and practices of Indigenous Peoples serve as an important counterweight to Western ways of thinking and behaving” (Gray et al. 2013, p.7).

In an important intervention in the field of psychology, Dudgeon and Walker note that:

Psychology colonises both directly through the imposition of universalising, individualistic constructions of human behaviour and indirectly through the negation of Aboriginal

knowledges and practices. Both globally and in Australia, Indigenous peoples and communities have been objectified, marginalised, racialised, and otherwise oppressed through the dominant lens of psychology (Dudgeon & Walker, 2015, p. 276).

The distinctive experience of Indigenous people, as a colonised people, has been hidden by a tendency to view them as simply another marginalised, disadvantaged minority group, resulting in the obliteration of their unique histories, claims, and identities as colonised peoples (Blagg, 2016). As we have mentioned earlier, Indigenous organisations also refer to the domestic violence sector, and white NGOs, as a new form of “deep colonisation”.

The theme of decolonisation has also led research by Koori scholar Amanda Porter, who explores the work of what she calls “Indigenous security”, such as night patrols, as a form of decolonised policing that challenges the mainstream definition of what policing looks like and how it works.

The decolonisation of “policing” as an activity might involve something that is not nor even should be understood as policing, but other activities aimed at the safety and care of policing subjects. Such an idea opens up new ways of thinking about decolonising the activities of policing as well as new possibilities for reform in criminal justice to address Indigenous issues. In particular, it highlights how reform efforts may need to look beyond the square of state police and the criminal justice system and towards nurturing local governance initiatives that may not resemble “policing” from a Western gaze. (Porter, 2016, p. 560).

Night patrols and similar initiatives can play a role in shaping new governance arrangements that complement state policing by stepping in early and preventing issues from escalating. It is useful to note that, unlike mainstream police, roughly half of patrollers are women. Research also shows that patrols, particularly women’s patrols, help women and find places for them in shelters and safe houses, and that roughly half their clients are women in distress (Blagg, 2016).

Social and emotional wellbeing and cultural health

Social and emotional wellbeing (SEWB) traverses a range of

issues facing Indigenous people, from unresolved grief and loss, trauma and abuse, domestic violence, removal from family, substance misuse, family breakdown, cultural dislocation, racism and discrimination, and social disadvantage. SEWB is connected to *cultural*, rather than simply *physical* health (as in the Western medical model of health that disconnects the body from its place in history, society, and spirituality). We recommend that intervention and prevention in the family violence arena be underpinned by a focus on SEWB philosophy. Increasingly, it is recognised that policy areas relevant to SEWB are complex and overlapping, extending:

...well beyond the influence of health and mental health systems to encompass education, law and justice, human rights, Native Title, and families and communities. Thus, coordinating policy inputs across multiple sectors to guide planning and services to address mental health and encourage interagency collaboration remains a complex and daunting task. (Zubrick et. al., 2014, p. 93)

Under the SEWB approach, connection with law, cultures, and spirituality are protective factors in terms of vulnerability to the kinds of problems that create family violence.

Police orders

We recommend that the Western Australia police order model be the subject of deeper scrutiny and considered for use in other jurisdictions, particularly to identify how Indigenous organisations could play a greater role in following up interventions and working with families.

Court innovations

Innovations in court practices also have relevance to family violence. Innovations designed to simplify proceedings and ensure victim safety are being trialled. The Integrated Domestic Violence Courts, which are “one family/one judge” courts that respond to the unique nature of domestic violence with one judge handling all criminal domestic violence cases and related family issues, such as custody, visitation, civil protection orders, and matrimonial actions, offer some useful ideas. To be relevant to the bush these initiatives must be mobile and flexible.

Court innovations must also decolonise in two distinct ways: firstly, by ensuring they take into account intergenerational

trauma and other catastrophes of colonisation as situating factors in family violence cases, and secondly, by being structured to incorporate Indigenous knowledges and cultures in the process by sitting as Aboriginal courts, meaning that the court should be less formal and hierarchical than mainstream courts, have Indigenous artefacts prominently displayed, and have Elders flanking the magistrate. Aboriginal courts are sentencing courts, not trials, and although magistrates listen closely to the views of Elders, they still sentence offenders alone.

The importance of triage

These courts could draw on the techniques employed by “problem-oriented courts” that attempt to collectively provide more holistic, trauma-informed problem-solving meetings involving relevant agencies and court workers, with a view to presenting solutions to the magistrate, and a non-adversarial approach, which commits prosecution and defence to focus on resolving underlying issues (such as alcohol use). Key aspects of this approach include the co-location of services (including victim services) and a “no wrong door” approach, which means that services are offered irrespective of what the presenting issue is. This places stress on good triage practices at the point of contact with the court and the speedy presentation of reports to the magistrate. The triage process must include screening for disabilities, addictions, trauma, housing, and mental health.

A mobile version for the bush

These triage processes are generally found in metropolitan areas (principally Victoria), but we believe they may be suited to the bush due to closer relations between agencies and all court users—the magistrate, prosecution, the Aboriginal Legal Service, and Legal Aid—travelling on circuit. Furthermore, there is a single magistrate who has continuous contact with offenders and communities, which is an essential element of “judicial monitoring”. Clinicians and counsellors could follow the court, supplemented by local Indigenous organisations.

Some of the elements of this approach have been incorporated into courts in Western Australia such as the Barndimalgu court and Geraldton family and domestic violence project, which was established in August 2007 specifically for Aboriginal people in family violence situations. It provides a counselling program as an alternative to custody. There are positive signs that the

newly recommissioned Murri Court program in Queensland could play a similar role.

Gladue reports

It is also worth considering including Gladue-style reports. These developed in Canada following the Supreme Court of Canada's decision in *R. v. Gladue* and its interpretation of section 718.2(e) of the Criminal Code of Canada, with its intention to reduce the over-representation and over-incarceration of Aboriginal offenders. Gladue reports are mandatory in some Canadian territories when courts are sentencing or considering bail for Indigenous offenders. Essentially, the decision requires sentencing judges to consider the unique systemic factors that may have brought a particular Aboriginal offender before the courts and to consider all possible alternatives to imprisonment for Aboriginal offenders (Anthony, 2013).

“Cultural assessments” have also been a feature of interventions with Māori for some time, and are being increasingly employed in the court system; they seek to ensure that Māori perspectives inform the assessment process. This is to ensure that the cultural needs of the individual are recognised and addressed (New Zealand Ministry of Health, 2004).

Local coordinating structures

On a local level it is important to have ongoing discussion between magistrates, court-user groups and Indigenous community leaders. Aboriginal family violence committees would convene meetings of these, along with specialist services, safe-houses, and refuges. An important aspect of these would be to develop coordinated approaches to assisting victims of family violence and ensuring there are community options for offenders and families. The new Kimberley Family Violence Plan offers a fresh approach through tighter interagency cooperation and accountability and commitment to working in partnership with Indigenous community structures.

An expanded role for Indigenous-owned and place-based processes and services

The research calls for a paradigm shift that moves attention away from a simple criminal justice model towards collective processes of community healing, grounded in Indigenous knowledges and underpinned by an emotional health and wellbeing philosophy. Currently, the response to violence often comes from outside of the Indigenous community, by white agencies operating on the basis of essentially non-Indigenous philosophies and values.

Elders and respected persons

Women and male Elders and respected persons need to be at the centre of intervention, wherever possible. This includes sitting in courts, devising diversionary programs, and leading on-Country healing camps. As we noted, however, these leaders are over-extended. Paying Elders and building the capacity of their organisations to provide day-to-day support for them is essential.

Concluding comments

Our fundamental premise is that high rates of family violence cannot be uncoupled from the history of colonial settlement and the multiple traumas resulting from dispossession. The decolonising process involves expanding the role of Indigenous-owned and place-based processes and services that work from a position of cultural security and are embedded in Indigenous forms of knowledge. This does not invalidate the need for mainstream services. Indeed, it would necessitate greater levels of commitment from the police, and health, mental health, disability, children's protection, housing, and domestic and family violence services, and other services. What would change would be the current asymmetries in power relationships.

Our research suggests that these need to be placed more on the periphery rather than at the centre. Working from within a decolonising framework means to view the differences of experience and perspective between Indigenous and non-Indigenous women from within a historical framework. For women from the global north, history is the struggle for emancipation and equality; an important issue, for example, was the right to control fertility. For many Indigenous women, the struggle against the violence of colonisation and forms of genocidal social engineering trumps these concerns.

Colonisation required the elimination of native people's laws, social relations, connection with place, and attachments to family. Social policies were geared towards reducing Indigenous fertility and re-engineering family life—as the family was the place where Indigenous culture was reproduced. Indigenous women were the selected targets of these policies (Dodson, 1991). It is not surprising, therefore, if Indigenous women assert rights in terms of the right to reproduce, rather than feminist demands for reproductive rights, and that they see the right to family itself as a radically decolonising practice. They may see a responsibility to keep family together as a primary imperative, even when this enhances the risks to their own safety. Being able to “take” physical violence from a partner, as well as other women, may be seen as a reflection of strength, not passivity. We should also celebrate and respect Indigenous women's capacities, strength, and resilience, and build structures on this foundation. As Marninwarntikura Women's Resource Centre CEO June Oscar states: “I am here, I am the solution”.

References

- Agamben, G. (1998). *Homo Sacer: sovereign power and bare life*. Stanford: Stanford University Press.
- Amnesty International Australia. (2011). *The land holds us: Aboriginal Peoples' right to traditional homelands in the Northern Territory*. Retrieved April 7, 2016 from <https://www.amnesty.org.au/protecting-indigenous-homelands>
- Anthony, T. (2013). *Indigenous people, crime, and punishment*. New York: Routledge.
- Anthony, T., & Blagg, H. (2012). *Addressing the "crime problem" of the Northern Territory intervention: Alternate paths to regulating minor driving offences in remote Indigenous communities*. Retrieved from: http://www.criminologyresearchcouncil.gov.au/reports/CRG_38-0910_FinalReport.pdf
- Atkinson, J. (1990a). *Beyond violence: Finding the dream*. Canberra: Aboriginal and Islander Sub-program, National Domestic Violence Education Program, Office of Status of Women.
- Atkinson, J. (1990b). Violence against Aboriginal women: Reconstitution of community law—the way forward. *Aboriginal Law Bulletin*, 2(46), 6-9.
- Atkinson, J. (2002). *Trauma trails, recreating song lines: The transgenerational effects of trauma in Indigenous Australia*. North Melbourne: Spinifex Press.
- Australia. Department of Social Services. (2016). *Third action plan 2016-2019 of the national plan to reduce violence against women and their children 2010-2022*. Canberra: DSS.
- Australian Bureau of Statistics. (2015). Recorded Crime. 4510.0. Victims, Australia. Retrieved June 23, 2017 from www.abs.gov.au/ausstats/abs@.nsf/mf/4510.0
- Australian Bureau of Statistics. (2016). 4510.0. Recorded Crime, Victims, Australia. Retrieved June 23, 2017 from www.abs.gov.au/ausstats/abs@.nsf/mf/4510.0
- Australian Human Rights Commission. (n.d.) Why is domestic violence a human rights issue? Retrieved June 5, 2016 from <https://www.humanrights.gov.au/our-work/family-and-domestic-violence/why-domestic-violence-human-rights-issue>.
- Australian Human Rights Commission. (2016). *Social justice and Native Title report 2016*. Sydney: AHRC.
- Australian Institute of Criminology. (2009). *Australian crime: facts and figures 2008*. Canberra: AIC.
- Australian Institute of Health and Welfare. (2016). *Child Protection Australia 2014-15* (Child welfare series no. 63). Canberra: AIHW.
- Bainbridge, R., McCalman, J., Clifford, A., & Tsey, K. (2015). Cultural competency in the delivery of health services for Indigenous people (Issues paper no. 13). Retrieved from Australian Institute of Health and Welfare website http://www.aihw.gov.au/uploadedFiles/ClosingTheGap/Content/Our_publications/2015/ctgc-ip13.pdf
- Baldry, E., & Cunneen, C. (2014). Imprisoned Indigenous women and the shadow of colonial patriarchy. *Australian and New Zealand Journal of Criminology*, 47(2), 276-298.
- Baldry, E., McCausland, R., Dowse, L., & McEntyre, E. (2015). *A predictable and preventable path: Aboriginal people with mental and cognitive disabilities in the criminal justice system*. Sydney: University of New South Wales.
- Baldry, E., & Russell, S. (2017). The booming industry continued: Australian prisons, a 2017 update. Retrieved from: https://www.researchgate.net/publication/312453408_The_Booming_Industry_continued_Australian_Prisons_A_2017_update
- Blagg, H. (1999). *Working with adolescents to prevent domestic violence: Indigenous rural model*. Canberra: National Crime Prevention.
- Blagg, H. (2002). Restorative justice and Aboriginal family violence: Opening a space for healing. In H. Strang and J. Braithwaite (Eds.), *Restorative justice and family violence* (pp. 191-205). Melbourne: Cambridge University Press.
- Blagg, H. (2008). *Development of Indigenous night patrols and men and women's shelters on remote communities*. Casuarina, NT: Charles Darwin University.

- Blagg, H. (2015) From terra nullius to terra liquidus? Liquid modernity and the Indigenous Other. In A. Erikson (Ed.), *Punishing the Other: The social production of immorality revisited* (pp. 230-246). United Kingdom: Routledge.
- Blagg, H. (2016). *Crime, Aboriginality, and decolonisation of justice*. Sydney: Federation Press.
- Blagg, H., Bluett-Boyd, N., & Williams, E. (2015). *Innovative models in addressing violence against Indigenous women: State of knowledge paper* (ANROWS Landscapes, 08/2015). Sydney: ANROWS.
- Blagg, H., & Morgan, N. (2004). Aboriginal customary law in Western Australia. *Indigenous Law Bulletin*, 6(7), 16-18.
- Blagg, H., Tulich, T., & Bush, Z. (2015). Diversionary pathways for Indigenous youth with FASD in Western Australia: decolonising alternatives. *Alternative Law Journal*, 40(4), 257-260.
- Burbank, V. K. (1994). *Fighting women: Anger and aggression in Aboriginal Australia*. Berkeley: University of California Press.
- Child Family Community Australia. (2016). Mandatory reporting of child abuse and neglect. *CFCA resource sheet—May 2016*. Melbourne: Australian Institute of Family Studies.
- Comaroff, J., & Comaroff, J. (2012). *Theory from the South: Or, how Euro-America is evolving toward Africa*. London: Paradigm Publishers.
- Commonwealth of Australia. Department of the Prime Minister and Cabinet. (2017). *Closing the gap prime minister's report 2017*. Canberra: DPMC.
- Council of Australian Governments. (2011). *The national plan to reduce violence against women and their children: Including the first three-year action plan*. Canberra: FAHCSIA.
- Crenshaw, K. (1989). Demarginalising the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory, and antiracist politics. *University of Chicago Legal Forum*, 1989(1), 139-167.
- Cunneen, C. (2009). *Alternative and improved responses to domestic and family violence in Queensland Indigenous communities*. Retrieved from Queensland Department of Communities website <https://www.communities.qld.gov.au/resources/communityservices/violenceprevention/alternative-and-improved-responses-to-domestic-and-family-violence-in-queensland-indigenous-communities.pdf>
- Cunneen, C., Baldry, E., Brown, D., Brown, M., Schwartz, M., & Steel, A. (2013). *Penal culture and hyperincarceration: the revival of the prison*. Ashgate, UK: Aldershot.
- Cunneen, C., & Kerley, K. (1994). Indigenous women and criminal justice: some comments on the Australian situation. In Hazelhurst, K. (Ed.), *Perceptions of Justice: issues in Indigenous and community empowerment*. Avebury, UK: Aldershot.
- Denzin, N. K., & Lincoln, Y. S. (2000). *Handbook of qualitative research* (2nd ed.). Thousand Oaks, CA: Sage Publications Inc.
- Dodson, P. (1991). *Regional report of inquiry into underlying issues in Western Australia: Two volumes prepared for the Royal Commission into Aboriginal Deaths in Custody, Canberra*. Retrieved from <http://trove.nla.gov.au/work/20038786?selectedversion=NBD7975627>
- Dudgeon, P., & Walker, R. (2015). Decolonising Australian psychology: discourses, strategies, and practice. *Journal of Social and Political Psychology*, 3(1), 276-291.
- Dudgeon, P., Walker, R., Scrine, C., Shepherd, C., Calma, T., & Ring, I. (2014). Effective strategies to strengthen the mental health and wellbeing of Aboriginal and Torres Strait Islander people (Issues paper no. 12). Retrieved from Australian Institute of Health and Welfare website http://www.aihw.gov.au/uploadedFiles/ClosingTheGap/Content/Our_publications/2014/ctgc_ip12.pdf
- Emerson, D. (2014, September 25). Canberra cuts funds for Aboriginal communities. *The West Australian*. Retrieved from <https://thewest.com.au/news/kimberley/canberra-cuts-funds-for-aboriginal-communities-ng-ya-378250>
- Escobar, A. (2001). Culture sits in places: reflections on globalism and subaltern strategies of localization. *Political Geography*, 20(2), 139-74.
- Ferrante, A., Morgan, F., Indermauer, D., & Harding, R. (1996). *Measuring the extent of domestic violence*. Annandale: Federation Press.

- Gartry, L., & Trigger, R. (2015, November 23). Police thought dying Aboriginal woman Ms Dhu was faking it, coronial inquest told. *ABC News*. Retrieved from <http://www.abc.net.au/news/2015-11-23/inquest-into-death-of-dhu-in-police-custody/6963244>
- Gordon, S., Hallahan, K., & Henry, D. (2002). *Putting the picture together, inquiry into response by government agencies to complaints of family violence and child abuse in Aboriginal communities*. Perth: Department of Premier and Cabinet, Western Australia.
- Gray, M., Coates, J., Yellow Bird, M., & Hetherington, T. (2013). *Decolonizing Social Work*. London & New York: Routledge.
- Healthcare Management Advisors (HMA). (n.d.). National Indigenous Critical Response Service (NICRS). Retrieved from: <http://hma.com.au/critical-response-service/>
- Kelly, L. (1988). *Surviving sexual violence*. Oxford: Polity Press.
- Kelly, L. (1999). Indigenous women's stories speak for themselves: the policing of Apprehended Violence Orders, *Indigenous Law Bulletin*, 4.
- Kwaimullina, A. (2016). The stories we tell: law, narratives, and an Aboriginal perspective on section 70 of the Western Australian constitution, *Studies in West Australian History*, 30.
- Kwaimullina, A., Kwaimullina, B. & Butterly, L., (2013). Living texts: a perspective on published sources, Indigenous research methodologies, and Indigenous worldviews. *International Journal of Critical Indigenous Studies*, 6(1), 1–13.
- Law Reform Commission of Western Australia. (2006). *Aboriginal customary laws: The interaction of Western Australian law with Aboriginal law and culture, final report*. Retrieved from http://www.lrc.justice.wa.gov.au/_files/p94_fr.pdf
- Law Reform Commission of Western Australia. (2013). *Enhancing laws concerning family and domestic violence*. Retrieved from http://www.lrc.justice.wa.gov.au/_files/p104_fdv_finalreport.pdf
- Leggett, N., (2007). Violence against women in Western Australia: a summary about the prevalence, effects, and community awareness of domestic and family violence. Retrieved from http://www.womenscouncil.com.au/uploads/6/1/1/9/6119703/____violence_against_women_in_western_australia_report.pdf
- Liebling, A., Price, D., & Elliot, C. (1999). Appreciative inquiry and relationships in prison. *Punishment & Society*, 1(1), 71-98.
- Lucashenko, M. (1994). No other truth? Aboriginal women and Australian feminism. *Social Alternatives*, 12(4), 21-24.
- Lucashenko, M. (1997). Violence against Indigenous women: public and private dimensions. In S. Cook & J. Bessant (Eds.), *Women's encounters with violence: Australian experiences* (pp. 147-158). Thousand Oaks, CA: Sage Publications.
- Marchetti, E. (2010). Indigenous sentencing courts and partner violence: Perspectives of court practitioners and Elders on gender power imbalances during the sentencing hearing. *The Australian and New Zealand Journal of Criminology*, 43(2), 263-281.
- Marninwarntikura Fitzroy Women's Resource Centre. (n.d.). Our History. Retrieved from <http://www.mwrc.com.au/pages/our-history>
- Memmott, P., Stacy, R., Chambers, C., & Keys, C. (2001). *Violence in Indigenous communities*. Canberra: Crime Prevention Branch, Commonwealth Attorney-General's Department.
- Menagh, J. (2016, March 23). Ms Dhu inquest: Sergeant thought dying woman was coming off drugs while in police cell. *ABC News*. Retrieved from: <http://www.abc.net.au/news/2016-03-23/officer-thought-miss-dhu-was-faking-it-inquest-told/7270708>
- Mignolo, W. (2011). *The darker side of Western modernity: global futures, decolonial options*. Durham, NC: Duke University Press.
- Moreton-Robinson, A. (2000). *Talkin' up to the white woman: Indigenous women and feminism*. Brisbane: University of Queensland Press.
- Moreton-Robinson, A. (2003). I still call Australia home: Indigenous belonging and place in a white postcolonising society. In S. Ahmed (Ed.), *Uprootings/regroundings: questions of home and migration* (pp. 23-40). Oxford: Berg Publishing.
- Moreton-Robinson, A. (2009). Imagining the good Indigenous citizen: Race war and the pathology of patriarchal white sovereignty. *Cultural Studies Review*, 15(2), 61-79.

- Moreton-Robinson, A., & Walter, M. (2009). Indigenous methodologies in social research. In M. Walter (Ed.), *Social research methods* (pp. 1-18). Brisbane: Oxford University Press.
- Morphy, F. (2009). Whose governance for whose good? The Laynhapuy homelands association and the neo-assimilationist turn in Indigenous policy. In J. Hunt, D. E. Smith, S. Garling, & W. Sanders (Eds.), *Contested governance: culture, power and institutions in Indigenous Australia* (pp. 113-151). Canberra: ANU ePress.
- Nakata, M., (2002). Indigenous knowledge and the cultural interface: underlying issues at the intersection of knowledge and information systems. *IFLA Journal*, 28, 5-6.
- Nancarrow, H. (2003). In search of justice in domestic and family violence (Master's thesis). Retrieved from <http://trove.nla.gov.au/work/6225488?selectedversion=NBD25916965>
- Nancarrow, H. (2006). In search of justice for domestic and family violence: Indigenous and non-Indigenous Australian women's perspectives. *Theoretical Criminology*, 10(1), 87-106.
- Nancarrow, H. (2010). Restorative justice for domestic and family violence: Hopes and fears of Indigenous and non-Indigenous Australian women. In J. Ptacek (Ed.), *Restorative justice and violence against women* (pp. 123-149). New York: Oxford University Press.
- Nancarrow, H. (2016) *Legal responses to Aboriginal family violence: gendered aspirations and racialised realities* (PhD thesis). Griffith University, Brisbane.
- National Congress of Australia's First Peoples. (2017). *Redfern Statement*. Retrieved from https://nationalcongress.com.au/wp-content/uploads/2017/02/The-Redfern-Statement-9-June-_Final.pdf
- National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (Australia), Wilson, R. D., & Australia Human Rights and Equal Opportunity Commission. (1997). *Bringing them home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*. Sydney: Human Rights and Equal Opportunity Commission.
- New Zealand Ministry of Health. (2004). *Guidelines for cultural assessment—Māori: under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003*. Retrieved from <https://www.health.govt.nz/system/files/documents/publications/idccrguidelines-culturalassessment.pdf>
- Northern Territory. Coroners Court. (2016). *Inquest into the deaths of Wendy Murphy and Natalie McCormack* (Judgement ID no., [2016] NTLC 024). Alice Springs: Author.
- Office of the Inspector for Custodial Services. (2014). *Report of an announced inspection of Bandyup Women's Prison* (Report No. 96, October). Perth: Government of Western Australia.
- Our Watch. (2016). Annual Report 2015-2016. Retrieved from <https://www.ourwatch.org.au/Who-We-Are/Annual-reports>
- Our Watch. (2017). Preventing violence against Aboriginal and Torres Strait Islander women. Retrieved from <https://www.ourwatch.org.au/What-We-Do/Prevention-of-violence-against-Aboriginal-and-Torr>
- Payer, H., Taylor, A. J., & Barnes, T. (2015). *Who's missing?: social and demographic impacts from the incarceration of Indigenous people in the Northern Territory*. Darwin: CDU, Northern Institute.
- Pence, E. & Paymar, M. (1986). *Power and control: tactics of men who batter*. Duluth, MN: Minnesota Program Development, Inc.
- Pence, E. & Paymar, M. (1990). *Power and control: tactics of men who batter*. Duluth, MN: Minnesota Program Development, Inc.
- Porter, A. (2016). Decolonizing policing: Indigenous patrols, counter-policing and safety. *Theoretical Criminology*, 20(4), 548-565.
- Rigney, L.-I. (1997). *Internationalisation of an Indigenous anti-colonial cultural critique of research methodologies: A guide to Indigenist research methodology and its principles*. Paper presented at the HERDSA annual international conference: Advancing international perspectives, Adelaide, South Australia.
- Sherwood, J., Lighton, S., Dundas, K., French, T., Link-Gordon, D., Smith, K., & Anthony, T. (2015). Who are the experts here? Recognition of Aboriginal women and community workers in research and beyond. *AlterNative: An Indigenous Journal of Indigenous Peoples*, 11(2), 177-190.

- Sisters & Brothers NT. (2015). Sistergirl. Retrieved from: <http://sistersandbrothersnt.com/sistergirl/>
- Smith, L. T. (1999). *Decolonising methodologies: research and indigenous peoples*. New York, NY: Zed Books.
- Solonec, T. (2014, November 27). The trauma of Oombulgurri's demolition will be repeated across Western Australia. *The Guardian Australia*. Retrieved from <https://www.theguardian.com/commentisfree/2014/nov/27/the-trauma-of-oombulgurri-demolition-will-be-repeated-across-western-australia>
- State of Victoria. (2016). *Royal Commission into Family Violence: summary and recommendations* (Parl paper no. 132 (2014-16)). Melbourne: Victorian Government.
- Stubbs, J. (2002). Domestic violence and women's safety: Feminist challenges to restorative justice. In H. Strang & J. Braithwaite (Eds.), *Restorative justice and family violence*. Melbourne: Cambridge University Press.
- United Nations. (2007). *United Nations declaration on the rights of indigenous peoples*. Retrieved from http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf
- VicHealth. (2012). *VicHealth indicators survey 2011*. Retrieved from <https://www.vichealth.vic.gov.au/programs-and-projects/vichealth-indicators-survey-2011>
- VicHealth. (2013). *National Community Attitudes towards Violence Against Women Survey (NCAS): Aboriginal and Torres Strait Islanders' attitudes towards violence against women*. Retrieved from <https://www.vichealth.vic.gov.au/media-and-resources/publications/2013-national-community-attitudes-towards-violence-against-women-survey>
- Victorian Government. (2016). Ending family violence: Victoria's plan for change. Retrieved from [https://www.vic.gov.au/system/user_files/Documents/fv/160803.10%2010%20Year%20Plan%20Booklet%20\(Online\).pdf](https://www.vic.gov.au/system/user_files/Documents/fv/160803.10%2010%20Year%20Plan%20Booklet%20(Online).pdf)
- Victorian Law Reform Commission. (2006). *Review of family violence laws: report*. Melbourne: Victorian Government.
- Watson, I. (2009). Aboriginality and the violence of colonialism. *Borderlands*, 8(1), 1-8.
- Western Australia. Department for Child Protection. (2012). *Western Australia's family and domestic violence prevention strategy to 2022*. Retrieved from <https://www.dcp.wa.gov.au/Documents/WA%20FDV%20Prevention%20Strategy%20to%202022.pdf>
- Western Australia. Department for Child Protection and Family Support. (2015a). *The Safer Families, Safer Communities Kimberley Family Violence Regional Plan 2015*. Retrieved from <https://www.dcp.wa.gov.au/CrisisAndEmergency/FDV/Documents/Safer%20Families%20Safer%20Communities%20Kimberley%20Regional%20Plan%20LOW%20RES.PDF>
- Western Australia. Department for Child Protection and Family Support. (2015b). *Freedom from fear: working towards the elimination of family and domestic violence in Western Australia*. Retrieved from <https://www.dcp.wa.gov.au/CrisisAndEmergency/FDV/Documents/2015/FFFActionPlan2015.pdf>
- Western Australia. Office of the Inspector of Custodial Services. (2005). *Directed review of the management of offenders in custody*. Perth, WA: Office of the Inspector of Custodial Services.
- Wolfe, P. (2008). Settler colonialism and the elimination of the native. *Journal of Genocide Research*, 8(4), 387-40.
- Zubrick, S. R., Dudgeon, P., Gee, G., Glaskin, B., Kelly, K., Paradies, Y., ... Walker, R. (2014). Social determinants of social and emotional wellbeing. In P. Dudgeon, N. Purdie, & R. Walker (Eds.), *Working Together: Aboriginal and Torres Strait Islander mental health and wellbeing principles and practice* (pp 75-90). Canberra: Commonwealth of Australia,

Appendix A

Family and domestic violence legislation

Jurisdiction

Victoria

Family Violence Prevention Act 2008 (Vic)

Definitions

Family violence:

(a) behaviour by a person towards a family member of that person if that behaviour—

(ii) is physically or sexually abusive; or

(iii) is emotionally or psychologically abusive; or

(iv) is economically abusive; or

(v) is threatening; or

(vi) is coercive; or

(vii) in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person; or

(b) behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in paragraph (a). (s. 5).

Family member includes children who have resided with a person, relatives, current and former intimate partners, persons regarded as being like a family member by the person, and persons who are reasonably regarded as family in the circumstances, which may include the cultural recognition of the relationship as being like family. “Relative” includes a “person who, under Aboriginal or Torres Strait Islander tradition or contemporary social practice, is the person’s relative”. (s. 8, 10(1)(b)).

Criteria for order

If Court is “satisfied, on the balance of probabilities, that the respondent has committed family violence against the affected family member and is likely to do so again” (s. 74(1)).

Police orders

Family violence safety notice can impose conditions.

Police applications for urgent orders

“Family violence safety notice” (s. 31(1), (3)).

Needs to be officer ranked sergeant or higher. (s. 24).

Police can also make regular applications (s. 46) and electronic applications after hours or if the location is remote and there is no court nearby. (s. 44).

Police powers

- A “direction power” which requires a person to stay in a certain place or in the company of an officer. (s. 14).
- A “detention power”. This can only be used in response to a contravention of a direction made under the direction power. Police may use “force that is reasonably necessary” in apprehending and detaining the person. (s. 15).
- A power to search a person who has been given a direction or detained, and any vehicle, package or thing in the person’s possession. (s. 16).
- Powers to enter and search premises if family violence committed or order contravened, and vehicles if suspected firearms etc. (ss. 157-159)

Conditions

Can impose any conditions that “appear to the court necessary or desirable in the circumstances” (s. 81(1)).

An exclusion condition against a child can only be made if the court is “satisfied that if the child is excluded from the residence the child will have appropriate alternative accommodation and appropriate care and supervision”. The court must also consider the effect on the child’s access to education, health services and employment. If the child is Indigenous, when deciding whether they will have appropriate alternative accommodation and appropriate care and supervision, the court must have regard to the priority that Indigenous children should live with their Indigenous extended family and relatives, and the need for the child to keep the child’s culture and identity through contact with the child’s community. (s. 83).

Can order eligible defendants to attend counselling (ss. 127-130).

Jurisdiction

New South Wales

Crimes (Domestic and Personal Violence) Act 2007

Definitions

Domestic violence is defined as a “personal violence offence” which is committed against a person with whom the offender has a “domestic relationship”. “Personal violence offences” are defined by reference to a number of crimes in the Crimes Act

1990 (NSW) including homicides, assaults, sexual offences, and making threats. (ss. 4, 11)

The Act defines “domestic relationship” as one between spouses, de factos, intimate partners, persons residing together (including in a residential facility or detention centre), relatives, carers, and persons who are or have been “part of the extended family or kin of the other person according to the Indigenous kinship system of the person’s culture”. (s. 5).

Criteria for order

The court can make an apprehended domestic violence order if it is satisfied on the balance of probabilities that the person has reasonable grounds to fear and in fact fears:

- (a) the commission by the other person of a personal violence offence against the person, or
- (b) the engagement of the other person in conduct in which the other person:
 - (i) intimidates the person or a person with whom the person has a domestic relationship, or
 - (ii) stalks the person,
 being conduct that, in the opinion of the court, is sufficient to warrant the making of the order. (s. 16(1)).

However, the court can make an order in any event, without being satisfied of the above, if one of the following apply:

- (a) the person is a child, or
- (b) the person is, in the opinion of the court, suffering from an appreciably below average general intelligence function, or
- (c) in the opinion of the court:
 - (i) the person has been subjected at any time to conduct by the defendant amounting to a personal violence offence, and
 - (ii) there is a reasonable likelihood that the defendant may commit a personal violence offence against the person, and
 - (iii) the making of the order is necessary in the circumstances to protect the person from further violence. (s. 16(2)).

Further s. 39(1) mandates that the court impose an order if a person is convicted of a domestic violence offence, unless it is not required because an existing order is in place.

Police orders

A police officer can apply for an interim order to a senior officer by fax or phone, if an incident occurs and the police officer “has good reason to believe” that the order needs to be made

immediately to ensure the safety and protection of the victim or to prevent substantial damage to their property (ss. 25-26).

Police powers

Police may issue a warrant for the arrest of a defendant if an application for a final apprehended violence order is made, even if there is no alleged offence. They must issue a warrant if “the personal safety of the person for whose protection the order is sought will be put at risk unless the defendant is arrested for the purpose of being brought before the court”. (s. 88).

If police are making or about to make a provisional order, they can direct the defendant to remain at the scene/place they are located, or go to a specified place such as a police station. (s. 89).

If they do not comply, they may be detained. (s. 89). A detained person can be searched but any items taken from them are to be returned when they cease to be detained under the Act (s. 90C).

Conditions

Can impose “such prohibitions or restrictions on the behaviour of the defendant as appear necessary or desirable”. (s. 35). Must prohibit assaulting, threatening, intimidating and stalking. (s. 36).

Jurisdiction

South Australia

Intervention Orders (Prevention of Abuse) Act 2009

Definitions

Section 8(1) states that “abuse may take many forms including physical, sexual, emotional, psychological or economic abuse”.

An “act of abuse” is defined as an act which:

results in or is intended to result in—

- (a) physical injury; or
- (b) emotional or psychological harm; or
- (c) an unreasonable and non-consensual denial of financial, social or personal autonomy; or
- (d) damage to property in the ownership or possession of the person or used or otherwise enjoyed by the person.

Emotional or psychological harm includes—

- (a) mental illness; and
- (b) nervous shock; and
- (c) distress, anxiety, or fear, that is more than trivial (s. 8(3)).

Abuse is considered “domestic abuse” if the two parties are in a relationship include a marital, de facto, intimate, or parental relationship or are related, including under Aboriginal kinship rules, or one is a carer within the meaning of the Carers Recognition Act 2005 (SA). (s. 8(8)).

Criteria for order

An intervention order can be made under the Act if “it is reasonable to suspect that the defendant will, without intervention, commit an act of abuse against a person and the issuing of the order is appropriate in the circumstances”. (s. 6).

Police orders

A police officer of the rank of sergeant or above (or with such an officer’s authorisation) may make an “interim” intervention order “if it appears to the police officer that there are grounds for issuing the order and the defendant is present before the police officer or in custody”. The order must require the defendant to appear before the court within 8 days after the date of the order or, if the Court will not be sitting, within 2 days after the Court next commences sitting. (s. 18).

Police powers

If a police officer proposes to make an interim intervention order or apply to the Court for an intervention order, they may require the defendant to remain at a particular place for so long as necessary for the order to be prepared and served, and may arrest and detain them if they do not comply. They may also exercise these powers if they believe that a defendant to an existing intervention order has not been served with the order. (s. 34).

Once an order is in place, police also have the power to arrest and detain a defendant without a warrant to “prevent the immediate commission of abuse” against the protected person or to “enable measures to be taken immediately for the protection of [the protected person]”.

They may also arrest and detain a person without a warrant if they have reason to suspect that the person has contravened an intervention order. If an intervention order requires the surrender of weapons, police may search for and seize such weapons and use necessary force on property. (ss. 35-37).

Conditions

An intervention order may prohibit the defendant from being on or near certain premises or a locality, or near the protected person, prohibit the defendant from contacting the protected person, prohibit the defendant from damaging or taking possession of specified property, require the defendant to surrender weapons, return specified property to the protected person, impose any other requirement on the defendant to take, or to refrain from taking, specified action. An intervention order may require the defendant to undergo an assessment to determine whether an intervention program that is appropriate for the defendant and whether the defendant is eligible. If so, the court can require the defendant to undertake an intervention program. The defendant’s consent is not required and failure to comply is an offence. An intervention order suspends any firearm licenses. (ss. 12-14).

When a Court makes a final order, it can also make a problem gambling order under the *Problem Gambling Family Protection Orders Act 2004* (SA). (s. 24(1)).

Jurisdiction

Queensland

Domestic and Family Violence Protection Act 2012

Definitions

Domestic violence means behaviour by a person (the first person) towards another person (the second person) with whom the first person is in a relevant relationship that—

- (a) is physically or sexually abusive; or
- (b) is emotionally or psychologically abusive; or
- (c) is economically abusive; or
- (d) is threatening; or
- (e) is coercive; or
- (f) in any other way controls or dominates the second person and causes the second person to fear for the second person’s safety or wellbeing or that of someone else. (s. 8(1)).

“Relevant relationship” is defined as an “intimate personal relationship”, a “family relationship”, an “informal care relationship”. “Intimate personal relationship” includes the

other parent of a child even if the two parents were never in a relationship through the extended definition of “spouse” in s. 15(2) of the Act. “Parent” includes persons considered a parent under Aboriginal or Torres Strait Islander customs or traditions. Persons who are in a “family relationship” are persons who are “relatives”. This includes persons considered to be relatives by Indigenous people. (ss. 13, 16, 19).

Criteria for order

The Court needs to be satisfied that the parties are in a relevant relationship, the respondent has committed domestic violence against the aggrieved, and the protection order is necessary or desirable to protect the aggrieved from domestic violence. (s. 37(1)).

Police orders

Police can make an on-the-spot “police protection notice” if they are at the same location as the respondent, believe that domestic violence has been committed and the notice is “necessary or desirable to protect the aggrieved from domestic violence”. The notice must require the respondent to be of good behaviour towards the “aggrieved and must not commit domestic violence against” them, and may include a “cool down condition” preventing the respondent from approaching or contacting the aggrieved, or attending certain premises (s. 106-107).

Police applications for urgent orders

A police officer can also apply for an urgent temporary protection order if they believe the matter will not be dealt with quickly enough. (s. 129(1)).

Police powers

Police may take a person into custody if they are investigating a domestic violence incident and there is a danger of physical injury to another person or damage to property. The police must then apply for a protection order and organise for the person to be brought before the court. (s. 118).

Police can direct a person to remain at a specified place if they reasonably suspect that the person is a respondent in a domestic violence order that has not been served on them, or if they intend to issue a police protection notice. (s. 134).

Obligations:

Police must investigate, or cause to be investigated, a complaint, report or circumstance if they reasonably suspect that domestic

violence has been committed. Following an investigation, any decision not to take any action must be recorded (s. 100).

Conditions

Every domestic violence order requires that the respondent be of good behaviour and not commit domestic violence or associated domestic violence, and not expose a child named in the order to domestic violence. An order can also require the respondent to be of good behaviour towards an unborn child, once born, and not expose the child to or commit associated domestic violence against the child. An order can also include any other conditions which the court considers “necessary in the circumstances” and “desirable in the interests of the aggrieved, any named person or the respondent” (ss. 28(a)-(b), 56, s. 67, 28(c), 57(1)).

Court can also make a voluntary intervention order requiring the respondent to attend an intervention program or counselling that may, in the court’s opinion, “be beneficial in helping them overcome harmful behaviour related to domestic violence”, but only with the respondent’s consent (s. 68, 69, 71).

Jurisdiction

Tasmania

Family Violence Act 2004

Definitions

“Family violence” is defined in s. 7 of the Act as:

(a) any of the following types of conduct committed by a person, directly or indirectly, against that person’s spouse or partner:

- (i) assault, including sexual assault;
- (ii) threats, coercion, intimidation or verbal abuse;
- (iii) abduction;
- (iv) stalking within the meaning of section 192 of the Criminal Code;
- (v) attempting or threatening to commit conduct referred to in subparagraph (i), (ii), (iii) or (iv); or

(b) any of the following:

- (i) economic abuse;
- (ii) emotional abuse or intimidation;
- (iii) contravening a [family violence order].

(c) any damage caused by a person, directly or indirectly, to any property –

- (i) jointly owned by that person and his or her spouse or partner; or
- (ii) owned by that person's spouse or partner; or
- (iii) owned by an affected child.

Family violence under the Act is restricted as between spouses and partners in a couple. (s. 4; *Relationships Act 2003* (Tas.), s. 4(1)).

Criteria for order

A court may make an FVO if satisfied, on the balance of probabilities, that the person has committed family violence and they may again commit family violence. (s. 16(1)).

Police orders

Police officers rank of sergeant or above can make Police FVOs which last up to 12 months. A Police FVO can contain conditions requiring the person to vacate any premises, not enter any premises or only enter premises on certain conditions, surrender any firearm or other weapon, refrain from harassing, threatening, verbally abusing or assaulting certain persons, not approach, within a specified distance, certain persons or certain premises, refrain from contacting certain persons directly or indirectly or otherwise than under specified conditions. (s. 14).

Police powers

Police may, without warrant, and using such force as is necessary, enter and remain on premises for such period as reasonably necessary to prevent family violence if requested by a person residing at the premises or if they reasonably suspects that family violence is being, has been or is likely to be committed on those premises (s. 10(1)).

In doing so, police may arrest a person without a warrant to facilitate making of an application for an order. They can direct any person on the premises to remain on the premises for as long as is reasonably necessary to conduct a search. (s. 10(2)). They may search a person and the premises without a warrant for any object they reasonably suspect has been used, or may be used, in the commission of family violence, and seize any such object. (s. 10(3)). In doing so they may use any force necessary. (s. 10(2A)).

If a police officer reasonably suspects that a person has committed family violence, the officer may arrest that person without a warrant. They may detain the arrested person “for a period reasonably required” in order to determine the charges which should be laid, carry out and implement a risk screening or safety audit, and/or make and serve a Police Family Violence order (PFVO) or an application for a Family Violence Order (FVO). (s. 11(1), (4)).

Conditions

Such conditions as the court considers are necessary or desirable to prevent the commission of family violence (s. 16(2)).

Jurisdiction

ACT

Domestic Violence and Protection Orders Act 2008

Definitions

Section 13(1) of the Act defines “domestic violence” as conduct which:

- (a) causes physical or personal injury to a relevant person; or
- (b) causes damage to the property of a relevant person; or
- (c) is directed at a relevant person and is a domestic violence offence; or
- (d) is a threat, made to a relevant person, to do anything in relation to the relevant person or another relevant person that, if done, would fall under paragraph (a), (b) or (c); or
- (e) is harassing or offensive to a relevant person; or
- (f) is directed at a pet of a relevant person and is an animal violence offence; or
- (g) is a threat, made to a relevant person, to do anything to a pet of the person or another relevant person that, if done, would be an animal violence offence.

A “domestic violence offence” is contravening a domestic violence order or committing a crime listed in Schedule 1 of the Act. These include a variety of offences including murder, assaults, acts endangering life, threats, sexual offences, trespass, arson, reckless and negligence driving, and certain firearm offences. (s. 13(2), Schedule 1).

“Relevant person” is defined as a domestic partner or former domestic partner, a relative, a child of a domestic partner or former domestic partner, a parent of the person’s child, or an intimate partner. (s. 15). “Relative” is defined broadly and includes “anyone else who could reasonably be considered to be, or have been, a relative of the original person”. (s. 15A).

Criteria for order

That the respondent engaged in domestic violence (s. 46(1)(a)).

Police applications for urgent orders

Police officers may apply for an emergency order. These are orders which are made by a judicial officer outside of sitting hours of the court. The judicial officer needs to be satisfied that there are reasonable grounds for believing that, if the order is not made, “the respondent may cause physical injury to, or substantial damage to the property of, the aggrieved person” or their child, “the aggrieved person is a relevant person in relation to the respondent”, and “it is not practicable to arrest the respondent” or there is no ground to do so. (s. 68-69).

Police powers

If it is proposed to apply for an emergency order, a police officer may remove the respondent to another place and detain them until the application has been dealt with (s. 75(1)).

Conditions

A final order may contain any conditions or prohibitions that the magistrate considers necessary or desirable (s. 48(1)).

The magistrate’s court can recommend that the respondent, aggrieved person or another relevant person attend counselling, training, mediation, rehabilitation or assessment (s. 89).

Jurisdiction

Northern Territory

Domestic and Family Violence Act 2007

Definitions

Any of the following conduct committed by a person against someone with whom the person is in a domestic relationship:

- (a) conduct causing harm;
- (b) damaging property, including the injury or death of an animal;

- (c) intimidation;
- (d) stalking;
- (e) economic abuse;
- (f) attempting or threatening to commit conduct mentioned in paragraphs (a) to (e). (s. 5).

A person is in a domestic relationship with another person if the person:

- (a) is or has been in a family relationship with the other person; or
- (b) has or had the custody or guardianship of, or right of access to, the other person; or
- (c) is or has been subject to the custody or guardianship of the other person or the other person has or has had a right of access to the person; or
- (d) ordinarily or regularly lives, or has lived, with:
 - (i) the other person; or
 - (ii) someone else who is in a family relationship with the other person; or
- (e) is or has been in a family relationship with a child of the other person; or
- (f) is or has been in an intimate personal relationship with the other person; or
- (g) is or has been in a carer’s relationship with the other person. (s. 9).

A “family relationship” is defined as a relationship between spouses, de factos and relatives. This includes persons who, according to Aboriginal tradition or contemporary social practice, are a relative of the person. (s. 10).

An “intimate personal relationship” is defined as one between persons who are engaged or betrothed under cultural or religious tradition, and persons who are dating. (s. 11).

A “carer’s relationship” is one which exists where one person is “dependent on the ongoing paid or unpaid care of the other”. (s. 12).

Criteria for order

A Court or police officer may make a DVO if satisfied there are reasonable grounds for the protected person to fear the commission of domestic violence against the person by the defendant, or, if the protected person is a child, that the child will be exposed to domestic violence committed by or against a person with whom the child is in a domestic relationship (s. 18(1)-(2)).

Police orders

An “authorised police officer” can make a “police DVO” if satisfied that, “because of urgent circumstances”, it is not practicable to obtain a court DVO, a DVO is “necessary to ensure a person’s safety”, and a court DVO “might reasonably have been made had it been practicable to apply for one” (s. 41(1)).

Police powers

If a police officer “reasonably believes” that “grounds exist for making a DVO against a person” and “it is necessary to remove the person to prevent an imminent risk of harm to another person or damage to property, including the injury or death of an animal”, they may exercise the following powers, using reasonable force:

- (a) enter premises on or in which the officer reasonably believes the person to be;
- (b) take the person into custody;
- (c) remove the person to the nearest police station or other place where the person can be conveniently detained until a DVO is made and given to the defendant (s. 84).

Conditions

DVOs can contain any restraints which the court or police consider necessary or desirable to prevent the commission of domestic violence against the protected person, and any obligations which are considered necessary or desirable to ensure the defendant accepts responsibility and to encourage the defendant to change his or her behaviour, and any other conditions that are “just and desirable” (s. 21).

A court can order a defendant to attend a rehabilitation program but only with the defendant’s consent (s. 24(2)(b)).

Jurisdiction

Western Australia

Restraining Orders Act 1997

Definitions

Section 6 of the Act defines domestic violence by reference to particular conduct which constitutes existing offences:

(1) In this Act — act of family and domestic violence means one of the following acts that a person commits against another person

with whom he or she is in a family and domestic relationship —

- (a) assaulting or causing personal injury to the person;
- (b) kidnapping or depriving the person of his or her liberty;
- (c) damaging the person’s property, including the injury or death of an animal that is the person’s property;
- (d) behaving in an ongoing manner that is intimidating, offensive or emotionally abusive towards the person;
- (e) pursuing the person or a third person, or causing the person or a third person to be pursued —
 - (i) with intent to intimidate the person; or
 - (ii) in a manner that could reasonably be expected to intimidate, and that does in fact intimidate, the person;
- (f) threatening to commit any act described in paragraphs (a) to (c) against the person.

“Intimidate”, “kidnapping or depriving the person of his or her liberty”, and “pursue” are defined by reference to offences in the Criminal Code (WA).

“Family and domestic relationship” is defined in s. 4 as: a relationship between 2 persons —

- (a) who are, or were, married to each other; or
- (b) who are, or were, in a de facto relationship with each other; or
- (c) who are, or were, related to each other; or
- (d) one of whom is a child who —
 - (i) ordinarily resides, or resided, with the other person; or
 - (ii) regularly resides or stays, or resided or stayed, with the other person; or
- (e) one of whom is, or was, a child of whom the other person is a guardian; or
- (f) who have, or had, an intimate personal relationship, or other personal relationship, with each other.

(2) In subsection (1) — other personal relationship means a personal relationship of a domestic nature in which the lives of the persons are, or were, interrelated and the actions of one person affects, or affected, the other person;

related, in relation to a person, means a person who

- (a) is related to that person taking into consideration the cultural, social or religious backgrounds of the 2 persons; or
- (b) is related to the person’s spouse or former spouse/de facto partner (incl. former)

Criteria for order

Section 11A of the Act provides that “a court may make a violence restraining order if it is satisfied that —

- (a) the respondent has committed an act of abuse against a person seeking to be protected and the respondent is likely again to commit such an act against that person; or
- (b) a person seeking to be protected, or a person who has applied for the order on behalf of that person, reasonably fears that the respondent will commit an act of abuse against the person seeking to be protected, and that making a violence restraining order is appropriate in the circumstances”.

Section 11B provides that violence restraining orders can be made for a child if it is likely that the child will be exposed to family and domestic violence

Police orders

This is not restricted to police officers of a particular rank. The order can be made “if the officer reasonably believes that the case” that the same criteria as for the hearing of a telephone order are satisfied, and that:

- a person has committed an act of family and domestic violence, or a child has been exposed to family and domestic violence, and is likely again to commit such an act, or the child is likely to be exposed to it again; or
- if the officer reasonably fears, or reasonably believes that another person reasonably fears, that family and domestic violence will be committed against a person, or a child will be exposed to it, and that making a police order is necessary to ensure the safety of the person. (s. 30A(1)).

Police orders have a specified duration of 72 hrs, unless the police officer believes that a short period would be sufficient and specifies a shorter period in the order. (s. 30F(1), 30H).

Police applications for urgent orders

A police officer may apply to an authorised magistrate for a telephone order. Unlike in other jurisdictions, there is not requirement that the police officer be of a certain rank. The only criteria for applying for the order is that the police officer reasonably believes that “it would not be practical for an application for a violence restraining order to be made in person because of:

- (i) the time when, or the location at which, the behaviour complained of occurred, is occurring or is likely to occur; or

- (ii) the urgency with which the order is required; or
- (iii) there is some other factor that justifies making a violence restraining order as a matter of urgency and without requiring the applicant to appear in person before a court”. (s. 18(1), (3), 20(1)).

Police powers

Police may enter and search premises for weapons, and for persons in need of assistance, without a warrant if they reasonably suspect that a person is committing or has committed an act of family and domestic violence. They may use “such force, and such assistance, as is necessary and reasonable in the circumstances”. (s. 62B).

If a defendant ordered to give up a firearm does not do so, police may enter and search premises, and seize the firearm or firearm license without a warrant, using any force considered reasonably necessary. (s. 62E).

If a telephone application or police order are being made, police may require the defendant to remain in a particular place “in order to facilitate service of any resulting order on the person”. If they do not comply, or the police officer reasonably believes they will not comply, they may be detained for up to 2 hrs. (s. 62F).

Conditions

such restraints on the respondent “as the court considers appropriate to prevent the respondent —

- (a) committing an act of abuse against the person seeking to be protected; or
- (aa) if the person seeking to be protected by the order is a child, exposing a child to an act of abuse committed by the respondent; or
- (b) behaving in a manner that could reasonably be expected to cause fear that the respondent will commit such an act”. (s. 13(1)).

Every violence restraining order automatically prohibits the respondent from “being in possession of a firearm or firearms licence” and “obtaining a firearms licence”

(s. 14(1)).

Jurisdiction

New Zealand

Domestic Violence Act 1995

Definitions

“Domestic violence” is defined in s. 3(1) as “violence against that person by any other person with whom that person is, or has been, in a domestic relationship”.

Section 3(2)-(5) define “violence” as:

- (2) (a) physical abuse
- (b) sexual abuse:
- (c) psychological abuse, including, but not limited to,—
 - (i) intimidation:
 - (ii) harassment:
 - (iii) damage to property:
 - (iv) threats of physical abuse, sexual abuse, or psychological abuse:
 - (iv)(a) financial or economic abuse (for example, denying or limiting access to financial resources, or preventing or restricting employment opportunities or access to education):
 - (v) in relation to a child, abuse of the kind set out in subsection (3).

(3) Without limiting subsection (2)(c), a person psychologically abuses a child if that person—

- (a) causes or allows the child to see or hear the physical, sexual, or psychological abuse of a person with whom the child has a domestic relationship; or
- (b) puts the child, or allows the child to be put, at real risk of seeing or hearing that abuse occurring;—

but the person who suffers that abuse is not regarded, for the purposes of this subsection, as having caused or allowed the child to see or hear the abuse, or, as the case may be, as having put the child, or allowed the child to be put, at risk of seeing or hearing the abuse.

(4) Without limiting subsection (2),—

- (a) a single act may amount to abuse for the purposes of that subsection:
- (b) a number of acts that form part of a pattern of behaviour may amount to abuse for that purpose, even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial.

(5) Behaviour may be psychological abuse for the purposes of subsection (2)(c) which does not involve actual or threatened physical or sexual abuse.

Section 4(1) provides that a person is in a domestic relationship with another person if the person:

- (a) is a spouse or partner of the other person; or
- (b) is a family member of the other person; or
- (c) ordinarily shares a household with the other person; or
- (d) has a close personal relationship with the other person.

Section s. 4(2)-(3) clarify that this does not extend to relationships which are solely landlord-tenant relationships or employer-employee relationships.

Criteria for order

Section 14(1) provides that the court may make a protection order if it is satisfied that—

- (a) the respondent is using, or has used, domestic violence against the applicant, or a child of the applicant’s family, or both; and
- (b) the making of an order is necessary for the protection of the applicant, or a child of the applicant’s family, or both.

Police orders

A police officer of a rank of Sergeant or higher may “issue an order against a person (person A) who is, or has been, in a domestic relationship with another person (person B)” if they do have “reasonable grounds to believe...that the issue of an order is necessary to ensure the safety of person B” (ss. 124A, 124B(1)).

Police powers

An officer who is proposing to issue a police safety order may detain the respondent for a period, not exceeding 2 hours, that may be necessary to enable the officer to obtain authorisation to issue the order (if they are not a Sergeant), issue the order, or serve the order. (s. 124I). Failing or refusing to comply is an offence and the person can be arrested without a warrant. (124I(2)).

A person who contravenes a police safety order can be arrested and taken into custody, and then must be brought before the Court within 24 hours. (s. 124L).

Conditions

Standard conditions plus the Court can make any conditions “that are reasonably necessary, in the opinion of the court, to protect the protected person from further domestic violence by

the respondent, or the associated respondent, or both” (ss. 19, 21, 28(1)-(3)). Part 3 of the Act also provides for specific orders relating to property.

The court can direct a respondent to attend a program. The respondent must comply. (s. 51D-51F, 52T).

It may also organise the provision of a safety program to the protected person (s. 51C(1)).

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