



# **Pilbara Community**

LEGAL SERVICE

## **Submission**

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***Our Ways- Strong Ways - Our Voices:  
National Aboriginal and Torres Strait  
Islander Family Safety Plan***

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***SNAICC***

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***25th October 2024***

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## **Introduction**

### **Introduction to PCLS**

1. Pilbara Community Legal Service (PCLS) is a not-for-profit, government-funded Community Legal Centre (CLC) providing a range of free services which include legal, financial counselling, tenancy advice and education, housing support, Redress support, domestic violence advocacy and victim support and community migrant services.
2. PCLS commenced operating in 1993 and has been providing services in the Pilbara region of Western Australia (WA) for over 30 years. PCLS aims to reduce legal disadvantages, increase the capacity of individuals to manage their lives effectively and ensure people understand their rights and obligations.
3. PCLS is based in Karratha and has offices in South Hedland, Newman and Roebourne. All PCLS services undertake regular outreach across the Pilbara region. In-person outreach is complemented with audio-visual aids allowing online capability.
4. PCLS receives Commonwealth funding under National Legal Assistance Partnership (NLAP), Department of Social Services for Redress Support and the Department of Home Affairs for Settlement and Transition Support for Migrants. State Government sources include funding for Family & Domestic Violence, Housing and Tenancy Support and Financial Counselling. PCLS is well placed to provide a holistic, wrap around integrated service to support clients across a range of intersecting issues.

### **Language**

5. We choose to use the term 'victim' in this document. We recognise language can impact people who have experienced family domestic violence (FDV). As a CLC, we appreciate that the term 'victim' affords users of the justice system with certain rights.
6. We will use the term 'perpetrator' for the same reason, as we work in the legal system, 'perpetrators' have rights and responsibilities in the justice system.
7. We acknowledge these terms do not encompass the person as a whole and the experience of violence is only part of the whole person.

## **Acknowledgement**

8. PCLS have a majority First Nations client base. Nearly 60 percent of our clients being of First Nations background. We are not a First Nations specific service but have grown a reputation to be a safe service for First Nations people in the Pilbara community.
9. We would like to acknowledge and pay our respects to all women and children who have experienced FDV and intergenerational trauma. We pay our deep respects and condolences to those who have lost their lives due to family violence and to their families who grieve the loss of their loved ones.
10. We pay our respects to Elders past present and emerging and share our learnings from them and the way they engage with our services, as well as from our First Nations staff.

## **Acceptance of Terms of Reference**

11. In responding to the Terms of Reference for the Family Strategy Submission PCLS will provide a wide-ranging submission. While we have been guided by the questions, our suggestions may extend beyond these. We seek to provide reflections and recommendations in many areas.

## **Respect their culture before we move forward- PCLS First Nations Worker (Mary)**

12. One of our First Nation's caseworkers, Mary, highlighted that as we move through the submission, and as we implement our own recommendations into our workplace, we must keep culture at the forefront of our work.

## Housing Matters

### Social housing, private rentals and buying

13. First Nations people are over-represented in social housing and in the private rental market and are limited from buying opportunities.<sup>1</sup> In the Pilbara, it has been the experience of our Housing Support and Tenancy Advice and Education Support caseworkers that the social housing waitlist is averaging ten (10) years and the priority waitlist is up to five (5) years averaging between two (2) to three (3) years.
14. There is a need for housing models to incorporate cultural needs as the cornerstone of design. There is no shortage of research into First Nations peoples housing needs and how the current versions of housing form and function are not favouring the self-determined rights of First Nations people.
15. One article reviews the current knowledge landscape on housing issues for First Nations people and reframes the need for vernacular housing which intertwines traditional dwellings and sedentary housing.<sup>2</sup> It is believed that an overhaul of the current housing model will:
  - a) reduce over- and severe over- crowding<sup>3</sup>;
  - b) decrease financial burden from heating and cooling (designing house with climate in mind)<sup>4</sup>; and
  - c) increase the social and environmental determinants of health.<sup>5</sup>
16. It is known that unstable housing options can result in further stressors including victims staying in FDV relationships or exiting into homelessness. In the Pilbara, we observe ex-partners 'living together while separated.' This refers to the relationship having ended but, as one of the adults cannot obtain their own housing, they resolve to living in the same house but in separate rooms. In FDV

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<sup>1</sup> [Indigenous Australians face considerable barriers to achieving successful housing outcomes | AHURI](#)

<sup>2</sup> [Uses of the Vernacular in the Design of Indigenous Housing: Fabrications: Vol 30, No 1 - Get Access \(tandfonline.com\)](#)

<sup>3</sup> [NACCHO Policy Position Paper: Aboriginal Housing for Aboriginal Health - NACCHO; Housing Statistics for Aboriginal and Torres Strait Islander Peoples, 2021 | Australian Bureau of Statistics \(abs.gov.au\)](#)

<sup>4</sup> [Stuck+in+the+Heat+2022.pdf \(squarespace.com\); Uses of the Vernacular in the Design of Indigenous Housing: Fabrications: Vol 30 , No 1 - Get Access \(tandfonline.com\)](#)

<sup>5</sup> [housing\\_guide\\_info\\_intro.pdf \(dss.gov.au\)](#)

relationships, separation risk remains and at times escalates until one of the adults obtains alternative accommodation.

17. The Pilbara is experiencing a housing crisis with an average of two (2) percent homelessness. This is the second highest rate in Western Australia.<sup>6</sup> The amount of rentals has decreased by 45 percent since the second half of 2021 and the current average price at the start of October 2024 is \$950 per week.<sup>7</sup> This continues to cause extreme disadvantage to First Nations people, and in particular women and their families.
18. Older data, ranging from 2014 to 2019, shows First Nations adults are more likely than their non-First Nations counterparts to receive a government pension. Women were significantly more likely than men to be receiving these government payments.<sup>8</sup> Women are averaging a weekly government income of \$752, which means they are unable to enter the private rental market.<sup>9</sup>
19. For those who can leave FDV relationships and seek options of private rentals they are faced with issues including:
  - a) assumptions that single mothers are unable to pay and maintain their rental payments regardless of whether they are financially able to do so.
  - b) systematic racism creating barriers for First Nations people to enter the private rental market.
  - c) women having lower incomes and the average Centrelink payment not being able to cover private rentals or home loans; and
  - d) real estate's failing to share information, or not having a working understanding of the *Residential Tenancies Legislation Amendment (Family*

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<sup>6</sup> [WA Regions housing stress at unprecedented levels \(shelterwa.org.au\)](https://shelterwa.org.au)

<sup>7</sup> [News Story - Pilbara Half Yearly Housing and Land Summary Published » Pilbara Development Commission \(pdc.wa.gov.au\)](#); [Pilbara Regional Profile | Property Market & Prices \(reiwa.com.au\)](#)

<sup>8</sup> [2.08 Income - AIHW Indigenous HPF](#)

<sup>9</sup> Ibid.

Violence) Act 2019 (WA), which allows for the victim or perpetrator to leave the tenancy or the lease to be ended.<sup>10</sup>

*Worker Reflection: “When I have supported people with support letters for public housing, I have been noting that the cost of a suitably sized home [on the private market] in Karratha can be greater than their full Centrelink income (e.g. 2 bedrooms range from \$680 p/w to \$1,300 p/w as of 19/09/2024).” - PCLS Tenant Advocate (West Pilbara)*

20. We form the view that the income limit should be raised significantly to allow more people to access public housing. We recognise raising the income limit will result in more people accessing public housing, which would require more housing stock. We cannot advocate enough for increased public and social housing stocks to be made available.

*Worker Reflection: “Sometimes clients come in to get support to access Department of Communities housing, but they work part-time. Their income can be \$100 or \$200 over the income limit. But that isn’t even close to getting them into the private sector” - Housing Support Worker (Roebourne).*

21. When it comes to buying a house, First Nations people are less likely to own their own home. Statistics show that 46 percent of First Nations people own property in Australia.<sup>11</sup> This statistic is lower than the rest of the Australian population which reflects that 68 percent of non-First Nations people own homes. During the current cost of living and housing crisis, First Nations people will bear the brunt of the impacts with nearly 60 percent of the population living in rental properties (public and private).
22. While there are already schemes to assist with buying opportunities such as Opening Doors and North-West Aboriginal Housing Fund in Western Australia,

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<sup>10</sup> [Microsoft Word - ResdntlTenanciesLegisAmFamlyViolenceAct2019\\_00-00-00.docx \(legislation.wa.gov.au\)](#)

<sup>11</sup> [2.01 Housing - AIHW Indigenous HPF](#)

these are severely limited due to the housing crisis.<sup>12</sup> The Opening Doors program will only gain stock in Perth, as it is not First Nations specific and is for low to medium income earners. These programs need to be more considerate of the fact that most First Nations people live outside of metropolitan areas and should focus on ensuring regional, rural and remote people have the same access to purchasing homes and investments on Country as those in metropolitan areas.

23. This issue also extends to building properties on Country. There are very limited options in the Pilbara to assist First Nations people to build their own houses.<sup>13</sup> Reduced interest loans, grants and supporting ACCO's to support members and/or community should be encouraged through government policy.

#### Recommendations:

- A. Develop social housing with culture in mind, including working directly with ACCO's and First Nations groups, and relying on the extensive data already in existence.
- B. Provide greater access to reduced interest loans for purchasing and building of houses for First Nations people.
- C. Increase housing stocks in public, community, and private rental markets, to be occupied by tenants as well as stock available to be purchased.
- D. Implement rent to buy schemes.
- E. Provide government subsidised housing options through Aboriginal Corporations which are additional to the public housing stock, rather than taking properties from the existing stock.

#### **Crisis and transitional housing**

24. The Pilbara has very limited refuges for women and families leaving FDV situations. There are five (5) crisis accommodations:

- a) Newman Womens Shelter;<sup>14</sup>

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<sup>12</sup>[Opening Doors WA; North-West Aboriginal Housing Fund](#)

<sup>13</sup>[North-West Aboriginal Housing Fund](#)

<sup>14</sup>[Home » Newman Women's Shelter \(nws.org.au\)](#)



- b) Karratha Womens Refuge;<sup>15</sup>
- c) Roebourne Womens Shelter;<sup>16</sup>
- d) Hedland Womens Refuge; and<sup>17</sup>
- e) Tom Price - Crisis House.<sup>18</sup>

25. These refuges are always at capacity and are having to using their funding to accommodate clients in other accommodation around town. This lack of capacity also results in women and their children having to move between locations to access services which at times means leaving Country where they feel safe and connected to their support network, or even asking them to contravene cultural relationships. When women enter the refuge they are not always seeking to end the relationship but to stop the incident of violence and break the tension for a short period of time and allowing the victim to return to the relationship and home when they are ready.
26. Further, women do not want to reside in these accommodations due to anonymity, cultural conflicts (other residents may have conflicts) and some clients have expressed concern that the refuge procedures can feel like “prisons”.
27. When reviewing the Pilbara-based options for perpetrators or males, there are very limited resources and services for men. In the Pilbara, there is one (1) perpetrator support - Breathing Space which is hosted by Communicare, based in South Hedland.<sup>19</sup>
28. Similarly, to women accessing refuges and crisis accommodation to reduce the violence and break the tension, perpetrators require a safe space to use during crisis or while a police order is in place. Providing crisis accommodation will allow men to have a safe space to regulate and deescalate before returning to the family home.
29. In the Pilbara community many victims advise police they want the perpetrator out of the house until they sober up. For many victims, this is their way to reduce

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<sup>15</sup> [Karratha Salvos | The Salvation Army Australia](#)

<sup>16</sup> [Services - Mawarnkarra Health Services](#)

<sup>17</sup> [Hedland Women's Refuge » Town of Port Hedland](#)

<sup>18</sup> [Family Violence Safety Planning - Nintirri](#)

<sup>19</sup> [Breathing Space - Communicare](#)

violence as they assess the risk related to alcohol and substance use. However, there is only one (1) sobering-up centre and alcohol and other drug (AOD) rehabilitation centre in the Pilbara which is located in Roebourne.<sup>20</sup>

30. Currently in the FDV space, we advocate for accountability of the perpetrator, however the burden remains on the victim to find safe accommodation or to rely on the possibility that the perpetrator will find safe accommodation for the night, yet there is limited crisis accommodation and support. The lack of perpetrator support frequently results in the perpetrator returning to the excluded property seeking somewhere safe to sleep for the night, therefore in many cases breaching police orders and ultimately worsening the situation. Alternatively, the perpetrators may attend family houses and continue to cause a disturbance at that house as well.
31. To combat this issue, First Nations and non- First Nations hostels should be funded in all regional and rural locations. There is one (1) medical First Nations hostel in South Hedland, which covers the entire Pilbara.<sup>21</sup> Hostels offer alternative accommodation when travelling or where protection orders exclude someone from the house. Having access to hostels, 24-hours, seven (7) days a week, supported by crisis-support services like Entry Point or Crisis Care will allow for these men to find safe and suitable accommodation for the short and medium term.<sup>22</sup>
32. There is a significant need for transitional housing. This would alleviate the pressure and backlog on refuges and crisis accommodation while allowing the person to learn how to reengage with services such as education regarding housing rights and responsibilities, counselling (financial, mental health and AOD), and legal services.
33. Transitional housing should be purpose built and not taken from the existing stock of houses. These should be in every town, and for larger urbanized areas, based on suburbs or regions of the city. These houses should be for women and children leaving FDV, men experiencing homelessness and those transitioning out of AOD

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<sup>20</sup> [Our Services - Yaandina Community Services](#)

<sup>21</sup> [South Hedland Hostel | Aboriginal Hostels Limited \(ahL.gov.au\)](#)

<sup>22</sup> [Homeless Services & Accommodation in Perth | Entrypoint Perth; Crisis Care | Western Australian Government \(www.wa.gov.au\)](#)

rehabilitation, prison or services that somewhat exclude them from the community including mental health facilities.

34. While there are some programs that assist in the northern regions, such as the North-West Aboriginal Housing Fund, there are significant limitations with accessing this fund including the stipulation of not having debts to Department of Communities. Even though this program promotes that it will assist in ‘clearing your debt and increasing your savings’.<sup>23</sup> These programs should be clearer about eligibility, more readily accessible and open to a broader range of people and situations.

Recommendations:

- F. Increase crisis supports for men and women for short- and medium-term accommodation options.
- G. Increase First Nations hostels run, operated, and staffed by First Nations peoples.
- H. Increase stock of transitional housing and accessibility too these housing options.

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<sup>23</sup> [Department of Communities Transitional Housing Program \(www.wa.gov.au\)](http://www.wa.gov.au); [Transitional Housing Home Ownership \(www.wa.gov.au\)](http://www.wa.gov.au)

## Financial matters

35. In our region, many of our older First Nations people are unfamiliar with, or do not have the capacity, or skills, to manage for their finances. This has become more common as online banking has been forced upon them because of the closure of regional banks and financial institutions. This has been coupled with the existing issues of humbugging which has been escalated by the inability to speak directly with an employee of the bank who is familiar with concerns of the region.
36. Frequently, the Financial Counselling Service within PCLS sees issues of humbugging which happens in many formats. For example, where an Elder or older person is unsure how to use their card to withdraw money from their account, they seek the assistance of their young community members. The younger person then takes advantage of the situation and withdraws money for their own uses. Some people believe this is okay as it's a sort of 'fee' for their assistance, or they are unaware of the impacts that their use of the money has on that person. Further, they are unaware that this is fraud in the eyes of the Western systems.

**Case Study:** *Client Z is an artist receiving commission to do work over the year and was bringing in a substantial amount of money on a weekly basis (up to \$1,500 weekly not including art shows). As some of the artists are in wheelchairs or are hearing and/or sight impaired, they rely heavily on family or friends to obtain cash funds out of their accounts for grocery shopping, to pay bills or general outings. Often the family member or friend would gain access to the client's card and withdraw additional funds or use the account to make online purchases or pay for gambling. Banks would also not accept any liability on the basis that no fraud had been committed because the client was aware they were giving others access to their funds. Accordingly, the money is unreturnable to the client.*

*After speaking with the client, our team member arranged a meeting with the client and the bank to set up a 'humbug account'. The structure was that commission payments were made into a principal account and limited funds then fed the humbug account each week. The outcome was that only a small amount in the secondary account could be accessed, alleviating the possibility of financial abuse. The client still has access to the principal account, but they need to go into the bank to sign for the money if they need to access it.*

37. While we are aware there are complex cultural systems in place about the collective nature of resources, when an Elder's money is being spent on gambling, drugs and alcohol, they can feel very disillusioned, uncared for and disrespected.
38. To grow trust in the system and increase cultural approaches to finances there must be an increase in financial counselling services and supports in regional and remote areas, which includes providing scholarships and grants to support First Nations people to complete their financial counselling certificates.
39. We also recommend that financial institutions should increase their physical footprint in regional, rural and remote areas. While we understand that the physical bank is deemed resource inefficient, there is the opportunity for banks to work with local services such as post offices, newsagents or each other to create a banking facility where all banks operate together.

Recommendations:

- I. Create grants and scholarships to assist First Nations people to complete financial counselling courses.
- J. Increase funding for resourcing First Nations financial counselling.
- K. Increase the number of physical banks in regional areas.

## Legal Matters

### Prison

40. PCLS has highlighted both recommendations for victims using the justice system, and the perpetrators interacting with the system. Again, we highlight that the language heavily focuses on the need to make perpetrators of violence accountable and responsible for their actions but are systematically prevented from achieving this.
41. The Closing the Gap targets are showing that for several outcomes we are getting further away from the target, in particular Outcomes 10 and 11 which are about young people and adults over-represented in the prison systems.<sup>23</sup> Currently, we are seeing the reduction of the criminal age of responsibility in the Northern Territory, the increase in FDV and the increase in FDV homicides over the last three years.<sup>24</sup> The justice systems, and in particular the prison system's, one of the main priorities is rehabilitating the incarcerated, which is known to be unsuccessful due to the increased rates of recidivism.
42. A common saying shared from victims of FDV is that they will support charges so that he can "go away for a little break". This exemplifies that prison has become so normalised in some of our First Nations communities that it is often seen as respite. Further, those on remand, those who have not committed a serious enough crime, or those who have not been sentenced for a significant period may not be eligible for any supports or programs whilst incarcerated.<sup>25</sup>

**Case Study:** *Client J left a long-term FDV relationship, after being seriously assaulted and reporting the assaults to the police. She supported criminal charges and obtained a family violence restraining order (FVRO) to protect her from the perpetrator. However, as the perpetrator's court date closed, the perpetrator's family was harassing and threatening Client J. The family threatened that they would cause harm to her and the children unless she dropped the charges and did not attend the court date. The threats became so frequent and severe that the client feared leaving the house to carry out essential tasks like shopping. There is only one (1) shopping centre where she lives, and this was becoming a dangerous place for her. She was engaged with the FDV team and was relocated out of the state.*

<sup>24</sup> Criminal Code Act 1983 (NT); [Homicide in Australia | Australian Institute of Criminology](#) ;

<sup>25</sup> [The availability and effectiveness of prison programs | ALRC](#)

43. Further, prison does not stop the abuse. For many women this is a period that is just as dangerous. Perpetrators force visitation by guiltling or threatening the victim, and threats or actual harm from the perpetrator's family to the victims.

### **Alternative Courts**

44. An alternative option is to establish a Committee of Justice Elders within the justice system. This would require funding and support to upskill Elders and Magistrate's to work together to ensure the lore and law can meet in a productive way that protects victims from further harm and reduces the likelihood of perpetrators continuing abuse.

45. The Committee of Justice Elders would work alongside Magistrate's to host a Healing Court. As they guide the invited members through a process to recognise harm to the individuals at the focus of the group, some topics of focus would include:

- a) how the extended family can help reduce this harm.
- b) how to keep any children safe and free from exposure.
- c) resources for both perpetrators and victims; and
- d) consideration of what the victim desires from proceedings.

46. We further suggest alternative courts be created specifically for FDV. This would create an avenue for the implementation of the state laws to be applied through a cultural lens. Versions of Koori Courts, drug courts and FDV courts would be devised into Healing Courts to assist in diversionary options as well as increasing education, accountability, and rehabilitation for offenders.<sup>26</sup> The Committee of Justice Elders would facilitate Healing Court through yarning groups to advise and guide victims and their families by sharing the impact with perpetrators and their family. This will also give the victim power over the course of justice, including recommending counselling for the perpetrator, education programs or requesting FVRO's.

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<sup>26</sup> [Koori Court | Magistrates Court of Victoria](#); [Queensland Drug and Alcohol Court | Queensland Courts](#); [Drug Court | Magistrates Court of Victoria](#); [Perth Drug Court Guidelines](#); [Specialist family violence courts | Magistrates Court of Victoria](#)

47. The Committee of Justice Elders would also be able to assist in mediation for the Family Court. While the two (2) parents and the relevant family members would be recommended and supported to bring in lawyers to ensure outcome align with Family Law. The Elder-Mediator would assist in recognising the cultural needs of the families and ensuring the children are connected to Country and culture while being raised safely and in line with the Convention on the Rights of the Child.
48. Unlike alternative courts such as Circle Sentencing or Koori Court, we would be seeking that this court brings traditional law and intertwines it with existing criminal law.<sup>27</sup> This is not another method of implementing punitive measures on First Nations people but instead creates engaging and respectful law deriving from traditional law and encouraging social cohesion and harmony.
49. In addition to Healing Courts, we also propose other diversionary courts be offered to regional areas. Currently, Perth has a Drug Court which is available for repeat offenders with substance related issues.<sup>28</sup> Participants must fit the eligibility criteria to access these courts which includes entering a guilty plea, being able and willing to participate in AOD treatment and be in Perth until the conclusion of the court matters.
50. The Drug Court purports to be 'culturally sensitive.' These diversionary courts not offered to people on Country. Asking First Nations people to move from their Country, family and community will never be as successful as meeting them in their space, where they are safe and where the reality of the substance related issues exist. They learn to live in the environment as they are being treated.
51. The Committee of Justice Elders are to be considered for the following areas law:
  - a) FVRO matters.
  - b) criminal offences, particularly if the offender is classified as a serial FDV offender;<sup>29</sup>
  - c) Family Court matters; and
  - d) AOD matters.

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<sup>27</sup> Criminal Procedure Regulation 2017 (NSW); Magistrates Court (Koori Court) Act 2002

<sup>28</sup> [Perth Drug Court Guidelines](#)

<sup>29</sup> Sentencing Act 1995 - Sect 124e



52. The Committee of Justice Elders may be requested to support matters, and their insight would assist with sentencing and decision-making process. It is imperative to highlight that the Committee of Justice Elders will not take the role of the Magistrate or Judge, but their submissions will be highly regarded in the decision-making process. The option to access the Committee of Elders will be elected by the perpetrator and will have to be supported by the victim.

#### Recommendations:

- L. Develop the Committee of Justice Elders to host Healing Circles. These will be more representative of traditional law than previous renditions of diversionary methods.
- M. Implement and roll-out existing diversionary courts outside of the metro areas.

### **Obtaining Family Violence Restraining Orders**

53. In Western Australia, FVROs can be sought by child protection services, guardians, and parents of children, as well as the victim or police officers on behalf of the victim.<sup>30</sup> An FVRO can be obtained:

- a) without criminal charges being laid or any incidents reported to police.
- b) as a civil matter with reference to police reports and/or charges; and
- c) by police request during criminal processes.<sup>31</sup>

54. The process of obtaining a FVRO requires the victim to make an application with a supporting affidavit, attend court and retell their story to the Magistrate.

55. Due to mistrust and genuine and justifiable fear of the police and court systems, many First Nations people do not want to attend court, or they feel as though they do not have the skills to detail the abuse. They may also feel it's inappropriate to be describing such matters particularly in relation to sexual offences.

56. There are extended cultural issues when applying for FVROs including abuse being perpetrated by extended family and the courts being unwilling or unable to grant orders on other family members, cross-applications meaning when the

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<sup>30</sup> *Restraining Orders Act 1997 (WA)*

<sup>31</sup> *Ibid.*

perpetrator is served, they make an application against the victim or family retribution.

57. With FVRO proceedings, the initial hearing is ex-parte where the Magistrate and victim engage in a formal process of gathering information from the victim and the victim trying to detail the ongoing abuse. This process is not safe, trauma informed or culturally informed.
58. All court houses or justice precincts should have 'soft rooms' to allow the Court to hear the matter in a more informal way. This would be culturally designed and allow the Magistrate to come closer to the person, remove furniture that increases height, and therefore power, differences and remove processes and/or formalities that increase the severity of the court process. Coming together at the same level and creating a more informal process would allow for the victim to better communicate with the Magistrate.
59. To remove the cultural issues, FDV advocates should be allowed to assist the client to convey their story. This could potentially remove the barrier of contravening cultural barriers that exist when recounting their stories of sexual assault, especially to males.

*Case Study: Client Y was in a relationship with the perpetrator for many years. The client was a victim of abuse that occurred and escalated throughout the relationship. During an incident Client Y called the police and the perpetrator was charged, and his bail application was refused. Client Y did not intend for the perpetrator to be charged but instead simply wanted a 72-hour police order to stop the abuse and deescalate the situation. The criminal charge proceeded, and the client was overwhelmed by the systems reluctance and inability to remove the charges.*

*During the long wait to the trial, Client Y was sexually assaulted by the perpetrators extended family as retribution for the perpetrator being in prison. Client Y detailed the offence to her caseworker who assisted in applying for an FVRO against the two (2) perpetrators. She then had to detail the offence again to the male Magistrate, which was extraordinarily difficult for her and was then declined the two (2) restraining orders because it was the first and only offence from the two (2) individuals against her and there was no belief that it would occur again.*

#### Recommendations:

- N. Create a Committee of Justice Elders to assist in resolving matters of FDV and family retribution.
- O. Create appropriate spaces for FVRO hearing matters.
- P. Increase role of FDV advocates to support victims through ex-parte hearings.

#### **Alternative Consequences**

60. Perpetrators who prolong court processes can have negative impacts upon victims, such as increasing financial burden (e.g., cost of transport to and from court, accommodation, leave from work, and payment of childcare fee's). This can be addressed by imposing a method of consequence for the perpetrator in these circumstances. The recommended consequence is for a portion of the perpetrators wages or income to be garnished. It is recommended that this be managed by state departments in a way that would allow the victim to apply for immediate compensation and would not impact upon their ability to access a

victims compensation scheme. If victims accessed a compensation scheme, the payment would be deducted from their final compensation payment.

61. We make this recommendation due to the gendered-violence and pay gap arguments, and the impacts that systems abuse has on women.

Recommendations:

- Q. Coming up with alternative consequences for offenders that highlights the impact on the victim.

## Systems and other recommendations

### Documentation and ID

62. Documentation and identification are major barriers for First Nations people when accessing services. The current documentation process is based on Western ideas of identification and registration of the person. When a birth certificate is obtained, it is common for it then to be disposed of once it has served its purpose to access services. This is because the birth certificate is not considered to be an important document as it is by non-First Nations people. Further, to access identification documents (ID), it is a vicious cycle of needing ID to obtain ID. While the need for ID, to prove beyond doubt that a person is who they claim to be, is acknowledged, we recommend that the '100 points system', or the gathering of documentation, needs to be overhauled.

*Case study: Client X has three children; one was born on community and two were born in the nearby hospital. Client X has come into PCLS for housing support to apply for housing within the local town. When our housing worker was assisting the client to gather documentation for their housing application, it was established the child born on community was not registered with Births, Deaths & Marriages. In addition to this, the other two children did not have the appropriate documentation, and she was only eligible for a one-bedroom house when the Department of Housing policy was applied.*

63. This is not a standalone incident. First Nations people trying to access their Centrelink payments, the National Redress Scheme, or the Escaping Violence Payment, are all hindered due to not have the 'appropriate' forms of ID. The cost of a birth certificate is \$55 plus postage. The choice between spending \$55 on ID or on food, fuel or other essential items is usually a simple choice but one with consequence.

### **Recommendation:**

- R. Increase ease of access for ID.
- S. Decrease the need for Western versions of ID and create alternative culturally accessible forms of ID.

### **Accreditation**

63. Like White Ribbon and Rainbow tick, we recommend that a First Nations Accreditation is put into place. While this can be a selective process to complete and does not mean that a service is less safe than those accredited, it does mean that services with accreditation meet a standard of practice and safety.
64. The Federal government could be the regulatory body for this and enforce that any government funded or contracted services will require the accreditation. Preferred grantees would be those that already have the accreditation.
65. We would see accreditation take into consideration a range of matters, including:
  - a) Visible representations of culture, including flags, images, and local artwork.
  - b) Acknowledgement of Country in entry and service users' spaces. These would be in English and the common local languages.
  - c) Trauma-informed spaces. Clients should have access to sage spaces within services.
  - d) Reconciliation Action Plan: This plan would be developed in consultation with First Nations staff and community members, and accessible, in hard copy, online, and diverse (e.g., audio, First Nations languages, languages other than English, pictorial) formats.
  - e) Ongoing cultural learning for staff and contractors. This pertains to engaging with local culture/s and building relationships with First Nations peoples and the local culture for non-First Nations people. This can include going for walking tours, holding meetings on Country, and taking time to learn and listen to First Nations perspectives.

66. This would ensure that the service would be socially responsible and safe for users, adhere to best practice, and increase positive outcomes for First Nations people.
67. One way we would recommend that this is achieved is through better cultural safety programs. This would lean into local culture and see more support for local First Nations businesses and ACCO's to build upon their services. Local cultural safety would include attending walking and food tours on Country and allowing workers to build in time to meet and talk about local culture. This would take it out of the classroom and the 'tick and flick' model and give workers a true sense of working with First Nations people.

Recommendation:

- T. Implement an accreditation process.
- U. Reframe what cultural safety looks like.

### **Local Safety Plans and Awareness Campaigns**

68. Many councils and shires have inclusion and access plans, which focus on accessibility and safety for people who identify with a disability, LGBTIQ+, and CALD. However, these can exclude identifying the barriers and oppressions for First Nations people. It is recommended that councils develop inclusion and access plans that highlight the need for safety for First Nations people. They would include gaps and strength analysis of what services, resources and options are available in the town, how to capitalise on their existence and how to increase the safety for women and children.
69. Campaigns are always a great way to get the message out. PCLS is a standalone service but works alongside services that are nationally recognised. This can lead to marketing campaigns that are designed by and for the national need as opposed to tailored to the unique needs of the local communities.
70. One of the pillars of primary prevention is to meet communities at their need. This is about tailoring and taking nuanced approaches to these services. While these national campaigns are always welcomed and it takes the burden off the small

community services to develop and implement marketing strategies, there is a need to lean into these ‘needs.’ When marketing campaigns are developed, communities should be supported to develop a local companion marketing package to ensure that the message is fundamentally the same, whilst customizing it to the context of the local community.

71. For instance, the WA state government has recently released the new coercive control campaign, which has limited representation of First Nations people using or experiencing coercive control.<sup>32</sup> Moreover, the First Nations community’s resources have no videos or audio packages excludes those with limited literacy and comprehension skills, as well as anyone with hearing and vision issues. Any local government should be provided with the raw package which can be tailored to the local language such as using terminology like ‘jealousing,’ acting ‘bad ways,’ and ‘humberging.’ This could also be translated into local language for radio and local social media pages. We know this can be done when there is a genuine interest in appropriate information sharing, as highlighted during the COVID-19 pandemic in which states and territories were able to translate the messages into local languages.<sup>33</sup>

#### Recommendations:

- V. Development of local safety plans in consult with First Nations communities.
- W. Allowing portions of awareness campaigns to be tailored to the needs of the community.

## **Education, Employment and Leadership**

### **Education**

72. There is a need for an increase in access to tertiary education for First Nations people in regional, rural, and remote areas. This would include financial supports as well as on the ground supports. This would increase the ability for First Nations

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<sup>32</sup> [Coercive Control WA](#)

<sup>33</sup> [COVID-19 health messages in Aboriginal languages now available | Indigenous.gov.au](#)



people to access ongoing education without feeling forced to leave their hometown and their support network.

73. While there are already 39 university hubs across the country, these are limited to only five across the Pilbara and Kimberley regions.<sup>34</sup> There are only five in the Northern Territory.<sup>35</sup> These should be better funded to have more locations and encourage a broader range of universities and courses to utilise the services.
74. There should also be more financial support for First Nations people, including full and partial scholarships granted prior to applying to university, non-indexed HECS debts, paid work placement, support to access resources.

#### Recommendations:

- X. Increasing access to regional education hubs.
- Y. Increased financial supports to foster lifelong learning.

### **Employment**

75. We believe that to keep families safe there is a need to consider employment of First Nations people and how FDV impacts on not just the victim but the extended family and community.
76. Many places build in some version of cultural leave including more leave available for funerals so First Nations people can engage in culture.
77. It is recommended that employment should facilitate First Nations people to return to Country and be able to maintain their job and their connection to Country. We are currently in a time where work flexibility is highly regarded in employment and people are seeking to make work fit around their way of life. Family and cultural needs and commitments should not have to draw on annual or personal leave. Our current employment system is based around key dates in the Christian calendar (Christmas and Easter). For those who don't recognise these and would like to recognise other significant spiritual and cultural events should be allowed

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<sup>34</sup> [Regional University Study Hubs - Department of Education, Australian Government](#)

<sup>35</sup> Ibid.

to amend leave to do so. This may include swapping out or requesting these dates to be worked around.

78. Further, this would mean flexibility in working location. Many First Nations people have left their Country for work and would like to return to Country for cultural reasons, whether that be a significant cultural event or to reconnect. This should not impact their leave entitlements and should be encouraged. Employers should facilitate return to Country and assist to maintain employment.
79. There should be easier transfer pathways for permanent and temporary movement between locations for First Nations staff when needing to reconnect to Country.
80. The solution from a CLC perspective would include CLC Hubs. With planning, a relationship could be built with CLC's in the appropriate area and if needed the flexible worker could work from the CLC hub. This would ensure that they can continue to work in a professional environment and with the required resources.
81. Another matter we wish to highlight is the increase of Aboriginal Liaison positions, particularly in services that are funded by the government. There should be an increase in 50D positions where services are majority working with First Nations people. While this increases the employment opportunities for First Nations people it also increases the quality of service provided to First Nations people. These liaison workers will be embedded into the service and will work with clients to ensure their interactions with the service, meet their needs and advocate for them where necessary. They will also advocate for the needs of First Nations people when developing community events, projects, and educations. Other liaison roles would ensure that services are adhering to their accreditation, cultural safety

protocols and procedures, and keep cultural training and competency readily available for staff.

Recommendations:

- Z. Facilitating return to Country and be able to maintain their job and their connection to Country.
- AA. Increase transitional ability between locations.
- AB. Increase relationships between CLC's.
- AC. Increase 50D positions to continue to advocate for clients and services.

**Leadership**

82. Many of our recommendations calls for First Nations people to upskill non-First Nations people which may require upskilling for First Nations people, such as the Committee of Justice Elders and the cultural training options. To support these needs, we suggest there should be greater access to training, learning and supports to support Elders and First Nations Leaders.

83. These would be government supported, such as to assist in reviewing, research, consulting and developing programs; funding to continue the roll out of the program and to remove the financial burden; other supports as requested by ACCO's in the process of developing these trainings.

84. We also see there is a need to get more First Nation's people on boards of all committees, services, and groups. To increase board member uptake, training, and support to understand boards, advocacy skills and other relevant skills should be packaged together for First Nations people to alleviate concerns or barriers. First Nations people should be paid for the time on these boards and for sharing their cultural knowledge.

Recommendations:

- AD. Increase skills trainings for First Nations people through funding and government support.
- AE. Financial reimbursement for First Nations people on Boards to increase uptake.

## Family Domestic Violence

### FDV Hubs

85. To increase the safety of First Nations families and children, we recommend the building of FDV Hubs in all regional locations with a hub-and-spoke model to ensure that all remote and very-remote locations have access to these services. These FDV Hubs will be led by ACCOs and are to be inclusive of Elders, disabled persons, the LGBTIQ+ community, victims, and perpetrators. There is a severe lack of support for perpetrators to gain the supports they require to ensure they do not continue to perpetrate the abusive behaviours. The FDV Hubs would include:

- a) Legal,
- b) Social work,
- c) Health supports (pharmacy, GP's, family planning)
- d) Counselling (mental health, family, pediatrics, financial and AOD)),
- e) Men's behaviour changes programs,
- f) Safe spaces to meet with Police and other justice services and systems.

86. This is would not duplicate the existing services of the area but provide support where they service can extend, and to fill gaps of service. They will increase cross-sector collaboration.

*Worker Reflection: "Clients find it exhausting going to all the services. Sometimes being called three, four, five times a day from support workers. It's too much. They end up disengaging because its mentally exhausting"- FDV caseworker (West Pilbara)*

87. Education programs, community capacity building and legal education will be provided by the hub as well through the support of the services that work within and alongside the hub.

88. These hubs will also provide ongoing support to the most vulnerable groups of the community. While not specific to First Nations people, by implementing many of the above suggestions and co-designing with the local community, these hubs will appropriately and accurately service those who need it.

89. These will support the recommendations from this submission, including:
- a) Assisting to develop and align with the local safety plans (Paragraph 55)
  - b) Assist to implement First Nation accreditation process (as recommended at Paragraph 50-54)
  - c) Be an ACCO (or have strong relationships with ACCO's)
  - d) Support Awareness campaigns through education sessions (Paragraph 56-58).
  - e) Have equity measures including have a pre-determined portion of First Nation's women on the board (Paragraph 80).

Recommendations:

- AF. Fund regional ACCO-led FDV Hubs with community consult which will support cross-sector collaboration and provide additional access to varied services.

### **Perpetrator Support**

90. There needs to be a significant increase for perpetrator support, which includes ongoing policy reformation that heavily relies on the advice from FDV specialists, and First Nations legal centres and services. This will provide imperative advice on what can become potentially racist laws in implementation. This will also provide the policy developers insight into what experts advise and how the output and outcome will work together to keep the most important people in view, which are the victims, their families, and the perpetrators.
91. While there is an ongoing need to hold perpetrators accountable for the harm they cause to the victim and the community. Hardline stances of increasing punitive measures, imprisonment and reducing discretion in justice will not result in positive outcomes for victims. This forces victims from the abusive controlling relationship

to another controlling relationship by the system. We need to keep victims' decision-making and autonomy as a pillar of all policy development.

92. Further, there should be a national Standard of Practice for Men's Behaviour

*Case study: Anita and her husband split up due to his ongoing violence. They have two children together. Anita obtained an FVRO against him but was struggling with breaching him because she didn't want him to go to prison. She just wanted the abuse to stop. Over a weekend of using alcohol and other drugs, the perpetrator attended the house even though he was excluded by the FVRO and began to damage the house. Waking up the two children and their friends who were staying for sleep over. Anita had to make a difficult decision, with two extremely limited options: one call the police and traumatise her children and the two children in her care or engage with the perpetrator and hope he stops. She chose the latter for the protection of the children. When dropping the children home the next day, she told the parents of the incident and told them she didn't want them staying with her anymore because she was worried about exposing them to further harm. This was one incident in an extensive line of breaches. Anita was devastated because he couldn't see how his behaviours were harming their children. Then one day it just stopped. He had moved on to a new partner and without the right supports he may continue his abuse against his new*

Change Programs (MBCP), including a national accreditation process, and a register for accredited MBCP's. Any service claiming to have a MBCP or something similar should be put through an accreditation and minimum standards process to ensure that practitioners are not causing further harm to victims by reaffirming dangerous patterns of belief, behaviour, and language.

93. MBCP's should exist where there are any FDV services available. MBCP's proposed locations need to be considered when governments grant the funding so that victim and perpetrator support are complementary to the existing support services.

94. Different variations of MBCP's need to be considered for the complex nature of FDV. With cultural considerations as well, which may result in victims not wanting or not being able to leave relationships, or in some circumstances, where relationships are not culturally appropriate, different options would allow the perpetrator and the victim to access the program that suits their needs.

Thank you for the opportunity to make a submission to the Our ways- Strong Ways-  
Our voices: National Aboriginal and Torres Strait Islander Family Safety Plan.



Joanna Collins

CEO

Pilbara Community Legal Service

26 October 2024



Sara Makeham

FDV Team Leader

Pilbara Community Legal Service

28 October 2024

## Summary of Recommendations

- A. Develop social housing with culture in mind, including working directly with ACCO's and First Nations groups, and relying on the extensive data already in existence.
- B. Provide greater access to reduced interest loans for purchasing and building of houses for First Nations people.
- C. Increase housing stocks in public, community, and private rental markets, to be occupied by tenants as well as stock available to be purchased.
- D. Implement rent to buy schemes.
- E. Provide government subsidised housing options through Aboriginal Corporations which are additional to the public housing stock, rather than taking properties from the existing stock.
- F. Increase crisis supports for men and women for short- and medium-term accommodation options.
- G. Increase First Nations hostels run, operated, and staffed by First Nations peoples.
- H. Increase stock of transitional housing and accessibility too these housing options.
- I. Create grants and scholarships to assist First Nations people to complete financial counselling courses.
- J. Increase funding for First Nations financial counselling resourcing.
- K. Increase physical bank buildings in regional areas.
- L. Develop the Committee of Justice Elders to host Healing Circles. These will be more representative of traditional law than previous renditions of diversionary methods.
- M. Implement and roll-out existing diversionary courts outside of the metro areas.
- N. Create a Committee of Justice Elders to assist in resolving matters of FDV and family retribution.
- O. Create appropriate spaces for FVRO hearing matters.



- P. Increase role of FDV advocates to support victims through ex-parte hearings.
- Q. Coming up with alternative measures to punish offenders in a way that highlights the impact for the victim.
- R. Increase ease of access for ID.
- S. Decrease the need for Western versions of ID and create alternative culturally accessible forms of ID.
- T. Implement an accreditation process.
- U. Reframe what cultural safety looks like.
- V. Development of local safety plans in consult with First Nations communities.
- W. Allowing portions of awareness campaigns to be tailored to the needs of the community.
- X. Increasing access to regional education hubs.
- Y. Increased financial supports to foster lifelong learning.
- Z. Facilitating return to Country and be able to maintain their job and their connection to Country.
- AA. Increase transitional ability between locations.
- AB. Increase relationships between CLC's.
- AC. Increase 50D positions to continue to advocate for clients and services.
- AD. Increase skills trainings for First Nations people through funding and government support.
- AE. Financial reimburse First Nations people to increase board uptake.
- AF. Fund regional ACCO-led FDV Hubs with community consult which will support cross-sector collaboration and provide more and different services.