

SNAICC – National Voice for our Children
Secretariat for the Steering Committee
National Aboriginal and Torres Strait Islander
Family Safety Plan

By email: familysafetyplan@snaicc.org.au.

4 November 2024



OFFICE FOR ACT ABORIGINAL
& TORRES STRAIT ISLANDER
CHILDREN & YOUNG PEOPLE

KEEPING OUR KIDS STRONG
IN FAMILY & CULTURE

Dear Steering Committee

Submission on the National Aboriginal and Torres Strait Islander Family Safety Plan

I write to you as the inaugural ACT Aboriginal and Torres Strait Islander Children and Young People Commissioner.

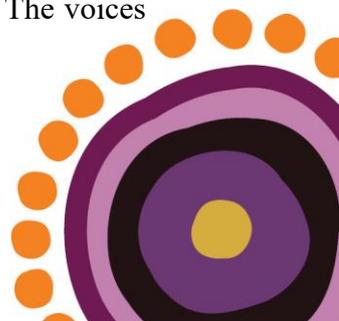
The powers of my office are broad and include both individual and systemic advocacy for the rights of Aboriginal and Torres Strait Islander children and young people in systems and services that affect them, including in the areas of family policing and youth justice. In this role my office sees First Nations children, young people and families affected by family, domestic and sexual violence (FDSV), and the response of the State to FDSV, which often compounds harms and punishes victim – survivors.

At the outset, it must be acknowledged that tragically, First Nations women, children and young people continue to be disproportionately the targets of FDSV. During these horrific experiences, First Nations women often need to advocate and fight to be considered worthy of a serious response and adequate care. The findings of the Senate inquiry into murdered and missing First Nations womenⁱ provide critical evidence of how to address violence against women and girls in First Nations communities. The report powerfully recommends ways to improve access for First Nations women to support and justice. It is clear how police and other service providers often respond with apathy, inaction, victim-blaming and perpetrator misidentification when First Nations people seek help with FDSV. This creates mistrust and it prevents many First Nations people seeking help, leaving them with no supports. The voices

Office for ACT Aboriginal & Torres Strait Islander Children & Young People

 ATSChildrenYoungPeople@act.gov.au

 02 6207 6244



of First Nations women, sister girls, non-binary community members and our children and young people must all be listened to, and followed through with adequate action and response.

National Family Safety Plan

Page | 2

I welcome this consultation on the National Aboriginal and Torres Strait Islander Family Safety Plan which seeks to improve the safety and wellbeing of First Nation's people and children, beginning with fully understanding our experiences and centring First Nations ways of knowing, being and doing. In addition, I strongly advocate for this consultation to address the implications of child sexual exploitation, which often harms Australia's most vulnerable children and young people in statutory out of home care and other problematic areas. I emphasise the importance of ensuring children and young people have their rights heard and listened to.

I recognise and acknowledge the tireless advocacy and work that has been undertaken in this area by so many strong First Nations people including the Wiyi Yani U Thangani Project led by June Oscar AO. I particularly acknowledge and honour the work and efforts of First Nations people here on Ngunnawal Country on these issues, including all the contributors to the '*We Don't Shoot Our Wounded*' Reportⁱⁱ and the many other reports and consultations where stories and experiences have been bravely shared in the fight towards achieving change.

As acknowledged in the discussion paper, the level of FDSV experienced by First Nations victim-survivors is a direct result of intergenerational trauma, dispossession, forced removal policies and practices of children and the state inflicted violence on our lives resulting from colonisation as well as the ongoing levels of marginalisation First Nations peoples in this country. This history and the culpability of the State for creating the conditions for FDSV must be recognised in considering solutions to this crisis in impacting our community members.

Focus of this Submission

In this submission I am focusing on the pressing issues for the First Nations children, young people and families that my office works with and how the Family Safety Plan could address these concerns through key priorities and actions.



Listening to First Nations children and young people

In formulating actions for the Family Safety Plan, it will be critical to hear directly from First Nations children and young people affected by FDSV, as often responses assume that services for women and people affected by FDSV will also be appropriate for their children, when their needs may be different. We also need to recognise that a child or young person may want to seek earlier preventative and early intervention supports.

Although it did not focus specifically on First Nations children and young people, the report of the ACT Human Rights Commission and Family Safety Hub: *'Now you have heard us What will you do? Young people's experiences of domestic and family violence'* ⁱⁱⁱ reflected in-depth consultation with children and young people affected by FDSV and made clear that they have different experiences from their parents. By conflating these interests' government often make the wrong assumptions about what children and young people need to help them survive and fully recover from the impacts of FDSV.

Young people are often carrying a huge weight of responsibility trying to support the parent who is also the victim of violence and protect their siblings. They have real concerns about telling anyone because statutory intervention generally makes things worse. They need people and services they can trust, who are there for them, listen to what they want and provide the help they ask for, without removing their control and agency.

For First Nations children and young people, places without shaming or punitive responses, means that they can freely have their needs met and feel secure, in a safe space. Sometimes, kids just want to be kids, and young people want to be young people. Therefore, creating spaces where this is available, without the added pressure or pathologizing can create important long-term relationships and safeguarding.

As mentioned, the fears of statutory intervention and need for trusted services are even greater for First Nations people who have grown up with systemic racism and the legacy of intergenerational trauma from State intervention in their families.



The Family Safety Plan should have specific provision for services focused on the needs of First Nations children and young people affected by FDSV, distinct from the needs of their parents. These should be informed by consultation with the children and young people themselves.

Page | 4

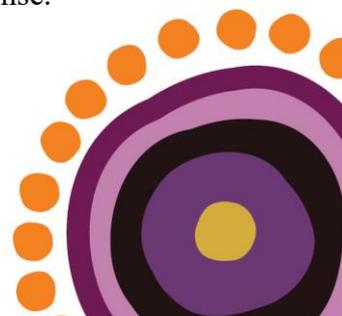
Family Policing (child protection) responses to FDSV

My office advocates for many First Nations children and young people in the family policing (child protection) system, including young women who are now parents and survivors of forcible child removal themselves. Many of these young women have experienced FDSV within their families and whilst under the statutory care and protection system. The young mothers we see who are subject to FDSV show incredible strength and insight in the way they seek to navigate these relationships and to keep themselves and their children safe. They realise that leaving is often the most dangerous thing they can do, and they don't want to criminalise their partners, they just want them to stop using violence. Often, victim-survivors stay as a form of strategy and safety, as genuine fears and reality of violence persist.

The response of family policing intervention mechanisms to FDSV in First Nations families punishes, rather than supports. First Nations mothers are being informed they are 'negligent' by State systems, and further punished with either the threat or action of forcible child removal.

The heightened level of scrutiny that First Nations families are subject to, and the threat of their children being removed make it incredibly difficult for people to seek help for themselves and their children. The response to First Nations victim-survivors of FDSV should not be to remove their children or make them jump through hoops to prove themselves to be an "acceptable" parent. Rather, our services need to listen to victim-survivors and provide non-judgmental, practical and holistic support to the whole family.

Given the profoundly damaging legacy of colonisation and lack of trust in our government systems, it is crucial that Aboriginal and Torres Strait Islander Community Controlled organisations (ACCOs) are supported to provide culturally safe services focused on need rather than only on risk. In addition, choice of the victim-survivors must be provided and at the consent of the victim-survivor working together with a tangible, coordinated response.



Statutory services further need to properly attribute responsibility for the violence to the perpetrator not the victim-survivors, and be solution focused to allow parent and child survivors to be supported together and not add further separation or state inflicted trauma. It is the parent using violence that needs to be attending programs and changing their behaviour, not the parent who is a victim-survivor, doing their best for their family in incredibly difficult circumstances.

The Report of the Indigenous-led Our Booris Our Way Review into the ACT Child protection system^{iv} noted that exposure to FDSV was one of the key factors in removal of Aboriginal and Torres Strait Islander children and young people from their families. They found that our statutory system needed to:

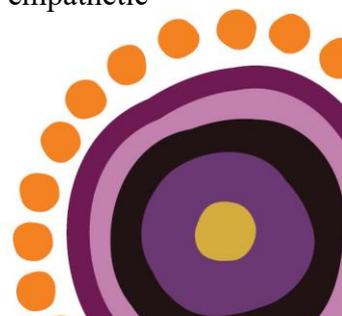
“Improve understanding of the dynamics of domestic and family violence and the risk presented to the one subjected to violence and their care of the children. Critically, pursuit of protective and legal mechanisms of restraint can increase the risk to the children and parent/s. Safety planning that is centred around the children is critical and engagement must be from both parents, where it is safe to do so.”

The Family Safety Plan should require child protection services to make active efforts to support First Nations families with FDSV and fund ACCOs to provide intensive and culturally appropriate supports for First Nations parents navigating violent relationships.

Justice responses to FDSV

First Nations peoples have been subject to generations of over-policing resulting from systemic racism and punitive justice responses to behaviours stemming from trauma and disadvantage. The alarming overrepresentation of First Nations peoples in our youth justice system and our prisons show how little has changed. Young people and families we work with today continue to report negative interactions with police and have a lack of trust in police to respond to them as victims. This includes where children and young people have been sexually exploited or at risk and ensuring that children who are subject to child protection are adequately responded to as victims of trafficking, child abuse and sexual exploitation.

First Nations victim-survivors rightly fear that if they seek police assistance that they themselves will become the targets of policing or will not receive an adequate or empathetic response.



There is further concern that if police are involved that the justice system will not help the person using violence to stop, but will harm or incarcerate them, increasing the risk both to the perpetrator (including the risk of dying in custody) and to the family when they return.

Page | 6

First Nations victim-survivors may want police to attend when there are serious incidents of violence to address the immediate threat and keep everyone safe, but may not wish to make a statement to prosecute the perpetrator, due to valid fears about the justice response. A lack of understanding of this dynamic can lead to negative judgements from police about the victim-survivor not 'following through'. These judgements can lead victim-survivors to fear that there will be less assistance the next time help is sought.

The '*We don't shoot our wounded*' report of the ACT Victims of Crime Commissioner^v, reflecting the views of First Nations women on FDSV back in 2009 identified many of these issues and is still highly relevant today, again showing how little has changed for our people.

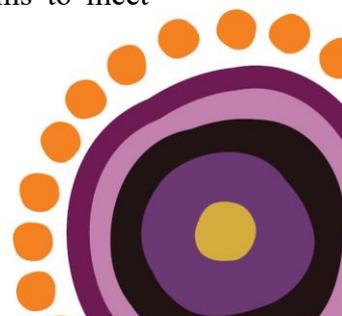
The Family Safety Plan should include requirements for police training on the history of over-policing of First Nations communities and how to respond appropriately and sensitively to FDSV in First Nations families in ways that help and build trust rather than create further harm.

Justice responses to FDSV in First Nations families must focus on mandating effective evidence-based and culturally appropriate programs and interventions for perpetrators while supporting victim-survivors and keeping them safe.

Service gaps for First Nations families in the ACT

In the ACT my office continues to see significant gaps in the services available to respond to FDSV in First Nations families.

ACCOs such as Winnunga Nimmityjah, Sisters in Spirit, Yeddung Mura, Gugan Gulwan and Yerrabi Yurwang are making an enormous difference through the programs and support they provide to community members on very limited resourcing. They require greater funding and recognition of self-determination and autonomy to develop appropriate programs to meet current needs.



Current funding models are tightly controlled and provide little scope for these ACCOs to provide the intensive services they know are needed in community.

The Aboriginal Legal Service provides an excellent and caring service to First Nations parents involved in child protection matters and demonstrates understanding of the needs of both victims and perpetrators of violence in the legal system. However, these services operate with minimal staffing and cannot meet the extensive needs of the community.

There is an unmet need for comprehensive evidence-based and culturally competent programs for identifying First Nations men and young men who use violence to help them to live violence free lives and address the cumulative factors that underpin these choices.

There is also an ongoing housing crisis in the ACT that has a particularly deep impact on First Nations women and children seeking to escape violence. The lack of public housing and crisis accommodation severely limits options and heightens safety risks for families dealing with FDSV.

Finally, there is a greater need for tailored programs to assist children and young people affected by FDSV. These programs must be safe, non-judgmental and non-stigmatising and allow children and young people to have agency in the way that help is provided to them.

The Family Safety Plan must address the services gaps for First Nations families and mandate additional funding from Commonwealth and State and Territory Governments for existing and new programs based on identified local community need. There must be a genuine focus on collective and communal support that allows for the practices of First Nations ways of doing and being. This is part of self-determination, autonomy and collective healing that must be centred. Connection is crucial for First Nations people, and if this submission is appropriately listened to, will enhance healing for all Australians.



Thank you for the opportunity to make this submission. I consent to this submission being made public. Please don't hesitate to contact me if I can assist with any further information.

Yours sincerely

Page | 8

Vanessa Turnbull-Roberts

Vanessa Turnbull-Roberts

ACT Aboriginal and Torres Strait Islander Children & Young People Commissioner

(E) Vanessa.turnbull-roberts@act.gov.au

References

ⁱ Parliament of Australia (2024), *Senate into missing and murdered First Nations women and children to the Legal and Constitutional Affairs References Committee (the committee)*. Available at https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/FirstNationswomenchildren/Report/Chapter_1_-_Introduction

ⁱⁱ https://www.hrc.act.gov.au/_data/assets/pdf_file/0010/2395216/We-Dont-Shoot-Our-Wounded-2009.pdf

ⁱⁱⁱ https://www.hrc.act.gov.au/_data/assets/pdf_file/0004/2264476/Now-you-have-heard-us-What-will-you-do-Report-FA-Web-FA.pdf

^{iv} https://www.act.gov.au/_data/assets/pdf_file/0004/2380936/Our-Booris-Our-Way-final-report-December-2019.pdf

^v https://www.hrc.act.gov.au/_data/assets/pdf_file/0010/2395216/We-Dont-Shoot-Our-Wounded-2009.pdf

Office for ACT Aboriginal & Torres Strait Islander Children & Young People

 ATSChildrenYoungPeople@act.gov.au

 02 6207 6244

