



15 June 2015

Megan Mitchell  
National Children's Commissioner  
Level 3, 175 Pitt Street  
SYDNEY NSW 2000

Dear Ms Mitchell,

Please accept this submission to the Examination of Children Affected by Family and Domestic Violence.

The Aboriginal Family Law Service provides legal representation and education to Aboriginal communities in Western Australia in the context of family and sexual violence. This document contains information acquired through practice experience and research exploring how family and domestic violence affects children. The submission addresses Terms of Reference *a-c*, *e* and *f*. Under section *e*, we highlight a number of our initiatives that are designed to educate, and prevent family and domestic violence.

While children are rarely direct clients of this service, we deal frequently with matters related to children. Broadly speaking, these include family law, child protection and Violence Restraining Orders (VRO). The work that we do with the parents can have significant impacts on these children, whether it concern where they reside or how much time they spend with their mother or father. Because of this we are mindful not only of our ethical obligations under the law, but our moral commitments to the communities we serve.

The Aboriginal Family Law Services (WA) welcome the opportunity to provide further information as required.

Yours sincerely

Mary Cowley  
**Chief Executive Officer**

*Helping to prevent family violence for a safer community.*



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Submission to the Australian Human Rights Commission

**Examination of children affected by family and  
domestic violence**

June 2015

## **1. About Aboriginal Family Law Services (WA)**

The Aboriginal Family Law Services (WA) is committed to being a leader in the provision of family violence legal services, support and education for Aboriginal and Torres Strait Islander people in Western Australia (WA) who have experienced, or, who are experiencing family and sexual violence. (**Please note:** The term Aboriginal is used herein to refer to both Aboriginal and Torres Strait Islander people wherever relevant.)

Funded by the Department of the Prime Minister and Cabinet (DPMC) under the national Family Violence Prevention Legal Service (FVPLS) Program, we are the largest FVPLS provider in Australia. The FVPLS program provides specialist legal services in the area of family violence matters. It aims to 'prevent, reduce and respond to incidents of family violence and sexual assault among Aboriginal people'.<sup>1</sup> Fourteen services are funded nationally to provide these services to 31 rural and remote locations.

Services are delivered in six regions across WA covering the West Kimberley, East Kimberley, Gascoyne, Midwest, Goldfields, and Pilbara regions. 47% of the state's Aboriginal population resides in these regions.<sup>2</sup>

Offices are located in Broome, Carnarvon, Geraldton, Kalgoorlie, Kununurra, and Port Hedland. From these locations outreach services extend to over 30 remote townships and Aboriginal communities. The corporate services office located in Perth provides strategic and management support to all regional offices including finance, human resources, administration, quality assurance and compliance functions.

## **2. Introduction**

The Aboriginal Family Law Services (WA) welcomes the opportunity to have input into the Australian Human Rights Commission on the Examination of Children Affected by Family and Domestic Violence.

Aboriginal Family Law Services (WA) provides professional legal assistance to Aboriginal peoples that have experienced or are experiencing domestic or sexual violence. This submission will address Terms of Reference a-d, and f on the Examination of Children Affected by Family and Domestic Violence.

The Aboriginal Family Law Services (WA) would be pleased to provide further information additional to this submission if required.

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<sup>1</sup> Productivity Commission (2014) Access to Justice Arrangements Draft Report, p 29

<sup>2</sup> Aboriginal and Torres Islander Census counts 2011 – Australian Bureau of Statistics  
<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/2075.0main+features32011>

### 3. Terms of Reference

#### a. What are the definitional issues in relation to family and domestic violence affecting children?

The Aboriginal Family Law Service (WA) understands there is no agreed definition of family and domestic violence. This is due to cross jurisdictional issues of State and Commonwealth legislation which apply to relevant legislation such as the *Restraining Orders Act 1997* (WA), *Family Law Act 1975* (Cth), and the *Family Court Act 1997* (WA). What is agreed is that the term describes a range of abusive and controlling behaviours, with the key aim to control others. The terms family and domestic describe the close or familial relationships, and the types of abuse can include physical, emotional, sexual, verbal, intimidation, social, economic, damage of property, and abuse of power.

The Aboriginal Family Law Service (WA) has identified key definitional issues relating to family and domestic violence affecting children through previous submissions to the Law Reform Commission of Western Australia (LRCWA). In 2013 the LRCWA undertook a law reform project concerning the enhancement of legislation concerning family and domestic violence, including the *Restraining Orders Act 1997* (WA). Issues at hand included what the definition should include, whether examples should be expressly stated, and whether the definition should include the exposure of a child to family and domestic violence.

Our response supported the inclusion of exposure to children of family and domestic violence into the definition. This acknowledged that it is more than the direct experience or witnessing of such acts perpetrated by one parent to another which impacts on children. It also acknowledges the various post violent incident actions a child may be involved in including attending to the victim afterwards including accessing or providing medical care and/or emotional support; having to leave their home and school because of violence; damage to or undermining or the child's attachment to their parent/caregiver; and any other impact which may manifest in a child's day to day life. This may also include being kept home from school as a way for the victim parent/caregiver to 'gain' safety.

The difficulty in including this in the definition however was leaving the victim accountable for the impacts of the violence on the child. We did not support this and in the final report the LRCWA recommended that the perpetrator of the violent act be held responsible for the impact of the violence on the child. Further the LRCWA included the following section in its amended definition of family and domestic violence in its proposed Family and Domestic Violence Order Act, "a child is exposed to domestic and family violence if the child sees or hears or is otherwise exposed to any of the effects of that behaviour."<sup>3</sup>

Children's experience of, or exposure to, family and domestic violence as a "form of child abuse"<sup>4</sup> is highly contentious. While it is understood in terms of the negative impacts it has on children, our cautiousness is based on our experience working with Aboriginal parents, particularly mothers, who are frequently penalised for being victims of family and domestic violence. Their protective strategies are often not taken into account including significant actions such as leaving the relationship (despite statistically being at greater risk of violence at separation), seeking respite in a refuge or seeking help from her support networks such

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<sup>3</sup> Law Reform Commission of Western Australia (2014) Enhancing Family and Domestic Violence Laws: Final Report, p. 50

<sup>4</sup> Richards, (2011) Children's exposure to domestic violence in Australia, Trends & issues in crime and criminal justice no.419

as family members. Smaller day-to-day demonstrations of resistance perpetrator's violence are also overlooked.

We also encounter many other associated definitional issues, including the definition of cultural security and responsiveness, risk, safety, dynamics of family and domestic violence and "good enough" parenting. All of these have significant impacts on children and their wellbeing. Without consistent assessment frameworks, robust policies and procedures, adequate resources and an experienced child protection workforce, children are at the mercy of confirmation bias, poor decision making processes and a risk averse child protection system.

"...the importance of developing a deeper understanding of the difficulties that abused women face in relation to their mothering, which are at odds with high expectations that are placed on women as mothers."<sup>5</sup>

**b. What do we know about the prevalence and incidence of family and domestic violence affecting children, including who is involved in family and domestic violence events?**

The child protection system is in crisis nationally, with symptoms being experienced across Australia including burgeoning numbers of children – particularly Aboriginal children – entering out of home care. Domestic and family violence is the key driver behind the overrepresentation of Aboriginal children in child protection. While there is limited data from WA to support this claim, the recent evidence from the Victorian Taskforce 1000 project – a review of the cases of the thousand or more Aboriginal children in care – has found that "well over ninety per cent of Aboriginal children entering care" have done so due to family violence.<sup>6</sup>

The Department for Child Protection and Family Support (DCPFS) are unable to state how many children are in the CEO's care due to family and domestic violence as they do not currently specifically capture and report on this data, however they estimate this to be between 70-90%. In their 2013-14 Annual Report they state that "Violence in the home, predominantly against women and children, is a major underlying factor in many child protection cases. Other common issues that lead to children being at risk of harm include parental drug and alcohol misuse, mental health issues and financial problems".<sup>7</sup>

Statistically Aboriginal women fare much worse compared to non-Aboriginal women in relation to the prevalence and impact of family and domestic violence:

- Aboriginal women experience domestic violence more often and more severely than their non-Aboriginal counterparts do;
- There is a higher use of restraining orders compared to the non-Aboriginal population, with a higher level of violence in these situations;

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<sup>5</sup> Damant, D, Lapierre, S, Lebosse, C, Thibault, S, Lessard, G, Hamelin-Brabant, L, Laverigne, C, Fortin, A (2010) Women's abuse of their children in the context on domestic violence: reflecting from women's accounts, Child and Family Social Work, 15, p. 19

<sup>6</sup> Victorian Aboriginal Community Controlled Organisations and Community Service Organisations (2014) Koorie Kids: Growing Strong in their Culture, A Plan for Aboriginal Children in Out of Home Care, October 2014 Update

<sup>7</sup> Department for Child Protection and Family Support (2014) Annual Report 2013-14

- Aboriginal women are statistically more prone to hospitalization and death as a result of family and domestic violence (35<sup>8</sup> times and 10<sup>9</sup> times respectively).

In Western Australia, family and domestic violence incidents reported to the police have increased over the 5-year period from 2008 on average by almost 43%. All regions had an increase of greater than 30%. The region with the largest increase is the Kimberley, showing a 5-year increase of 79% in Domestic Violence Incident Reports (DVIR) that have been completed by police. These figures do not specify ethnicity, an issue raised separately in this submission. However, it is relevant to note that while Aboriginal people make up 3.1% of the Western Australian population, the Kimberley population is closer to 50%.<sup>10</sup> It is reasonable to question how many of the reports made in the Kimberley relate to Aboriginal victims of family and domestic violence.

In that same 5-year span, hospitalizations related to family and domestic violence have increased for men and women by an average of almost 46%. Homicides have doubled. The number of perpetrators charged with assault and sexual assault has decreased by 19% and 29% respectively. The number of perpetrators charged with breaches of a restraining order, including police orders has increased by 45%.<sup>11</sup>

Further ramifications of family and domestic violence on Aboriginal women and communities are visible through other indicators:

- Aboriginal people are overrepresented in the child protection system with Aboriginal children making up 51.5% of children in out of home care in WA.<sup>12</sup>
- The percentage of Aboriginal compared to non-Aboriginal children in care by region (including metro) in WA varies from 20% (Peel) to 100% (East Kimberley).<sup>13</sup>
- Aboriginal people are overrepresented in the prison system, comprising 40 % of the total prison population, with the adult female prisoner population over 50 %.<sup>14</sup>
- Children who experience family violence or have been in care are more likely to use legal aid as adults.<sup>15</sup>

Removal from family can lead to a breakdown in family connections, a significant risk factor for juvenile offending, linked also to adult offending.<sup>16</sup> Current figures see Aboriginal children imprisoned at a rate 58 times higher than non-Aboriginal children, making up 75-80% of the population at Banksia Hill Detention Centre.<sup>17</sup> Comparatively the WA detention rate for children is 30% higher than for the Northern Territory.<sup>18</sup> Further, 80% of adult prisoners have been incarcerated previously.<sup>19</sup>

<sup>8</sup> Australian Institute of Health and Welfare (2006) Family violence among Aboriginal and Torres Strait Islander peoples <http://www.aihw.gov.au/workarea/downloadasset.aspx?id=6442458606>

<sup>9</sup> Family Violence Prevention Legal Services – Research and Needs Analysis Report, 16 July 2013, Nous Group

<sup>10</sup> Western Australia's Family and Domestic Violence Prevention Strategy to 2022: Achievement Report to 2013

<sup>11</sup> Ibid.

<sup>12</sup> Department for Child Protection and Family Support, November 2104

<sup>13</sup> Department for Child Protection and Family Support, November 2104

<sup>14</sup> Australian Bureau of Statistics (ABS), 4512.0 - Corrective Services, Australia, September Quarter 2014 (4 December 2014) (Table 14)

<sup>15</sup> Productivity Commission (2014) *Access to Justice Arrangements*, Inquiry Report No. 72, p 777

<sup>16</sup> Productivity Commission (2014) *Access to Justice Arrangements*, Inquiry Report No. 72, p 783

<sup>17</sup> Australian Institute of Health and Welfare (2006) Family violence among Aboriginal and Torres Strait Islander peoples, p. 11 <http://www.aihw.gov.au/workarea/downloadasset.aspx?id=6442458606>

<sup>18</sup> Australian Institute of Health and Welfare (2014) Youth detention population in Australia ,p. 11

<sup>19</sup> Australian Bureau of Statistics (ABS), 4517.0 - Prisoners in Australia, 2014 (11 December 2014) (Table 28)

Whatever we say about the prevalence and impact of domestic violence in Australia, it is important to note that an estimated 90% goes unreported.<sup>20</sup> A 2005 report stated that in the last 12 months only 5% of women who had experienced violence from a current partner had reported the last incident to police.<sup>21</sup> Further, underestimations may be due to reporting barriers unique to Aboriginal victims-survivors and failures to identify or record Aboriginality of the victim's.

The financial burden of family and domestic violence to the Australian community is well documented and estimated at \$13.6 billion in 2008-09.<sup>22</sup> This is expected to rise and includes direct and indirect costs such as, the "direct costs to employers from absenteeism, staff turnover and lost productivity; the indirect costs are defined as employer tax share of public sector costs in the provision of services to victims and perpetrators of domestic violence; direct and opportunity costs to victims, perpetrators, family and friends; and the shared impact of domestic violence on the wider community, including inter-generational costs."<sup>23</sup>

For Aboriginal communities the prevalence and impact of family and domestic violence is understood in terms of loss of connection to family, culture and self. The development of a sense of belonging and self may be severely compromised when raised out of one's own family. The circumstances of the removal, the quantity and quality of ongoing contact with parents and the ability to adapt to the new living situation will impact on the child's development. The child's ability to meet developmental milestones will be challenged and almost certainly impaired by the trauma of the removal and any consequent placement shift – as well as from the predisposing circumstances of abuse and trauma. Traumas associated with removal from family can include individual, cultural, community, family and economic.<sup>24</sup>

Childhood trauma and the resultant impact on development lead to poorer outcomes in adulthood across all spheres – relationships, education, health (physical, cultural, spiritual), employment, and economic independence.

"The absence of ongoing support can lead not only to poor outcomes in existing cases, but can contribute to an inter-generational perpetuation of the dynamics that lead to child removal."<sup>25</sup>

Creating the conditions whereby trauma can be healed for those who have already experienced family and domestic violence is crucial to preventing violence for the next generations. A focus of resources and sustained effort now is fundamental to breaking the cycle of violence, which leads to negative life outcomes experienced by so many Aboriginal men, women and children.

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<sup>20</sup> Murray, S and Powell, S (2011) Domestic Violence Australian Public Policy, p59

<sup>21</sup> Aboriginal Affairs NSW (2005) Two Ways Together Report, Department of Premier and Cabinet

<sup>22</sup> The National Council to Reduce Violence against Women and their Children (2009) The Cost of Violence Against Women and Their Children, Commonwealth of Australia, p 4

<sup>23</sup> Laing, L and Bobic, N (2002) Economic costs of domestic violence

<sup>24</sup> SNAICC (2014) Family Matters: Kids safe in culture, not in care, Western Australian Issues Paper

<sup>25</sup> Allison, F, Schwartz, M, Cuneen, C (2014) Indigenous Legal Needs Project WA, James Cook University p 188

**c. What are the impacts on children of family and domestic violence?**

There is much known and written about the impacts of family and domestic violence on children within the child protection and out of home care sphere. The impact of trauma related to this violence while a relatively new area is well developed and this organisation directs the Commission to specialists in this field for more information.

We would like the Commission to consider here however the unintended consequences of family and domestic violence for children. As previously mentioned, statistics bear out that Aboriginal children are more vulnerable to the impacts of family and domestic violence due to Aboriginal women's higher likelihood of experiencing family violence in their lifetime.

The Aboriginal Family Law Services (WA) is gravely concerned by the growing number of Aboriginal children entering and remaining in out of home care. We are aware of many cases whereby children are removed due "emotional abuse" or "chaotic home environment" aka family and domestic violence. We are also aware of cases where mothers who are experiencing the violence are being blamed for the perpetrators behaviours rather than being supported to care safely for their children. We know of perpetrators – fathers – who are not being held accountable for their violent behaviour nor as fathers.

We are aware of the systemic failures that support the conditions that keep these children away from the victims of violence (i.e. their mothers), such as lack of refuge accommodation, inadequate public housing, and insufficient domestic and family violence training for child protection and housing workers. We are aware of parents that struggle with substance addiction issues and due to delays in Children's Court listing dates, relapse quickly and often. We are aware of resource shortages that mean that children are placed in residential homes hours away from their community. One mother was criticised by child protection for not giving up her public housing on a remote community to move closer to her children placed in a regional centre. She had monthly hour long visits scheduled with her children., The wait of over 5 years for a public housing property. Would reunification happen if she were homeless?

The bureaucratic processes of the child protection and family law system are deeply concerning to the emotional wellbeing of children. The impact of protracted Children's Court processes where children remain in care month after month, year after year, with minimal meaningful contact with their family also needs to be considered from the perspective of the child. For cases where safety proves not to be a concern, children need to be restored to their families promptly. And where decisions are made for children to remain in care, and it is safe to do so, inclusive family therapeutic work should be encouraged to allow them to develop relationships with significant family members so that these connections are developed for when they leave care.

**d. What are the outcomes for children engaging with services, programs and support?**

No comments.

**e. What are the outcomes for children of public policy approaches and educational campaigns targeting family and domestic violence?**

As previously submitted to the Senate Inquiry to Domestic Violence, the most significant issues here are the lack of resources to services, and the need for a united government approach. While a woman may approach a legal service for assistance with a restraining order against her violent partner, her immediate physical safety may depend on whether the local women's refuge has a bed available, will agree to accommodate her teenage son, or will accept her in her intoxicated state – and this all assumes the community she lives in has a refuge or safe place she can stay.

The housing waiting list in all areas – rural, remote and metro – is unsustainable and leaves many women and children vulnerable to ongoing abuse. Homelessness and transience can lead to unsafe situations for children, leading to child protection issues that could be addressed through the provision of housing. A joined up approach between housing and child protection may help prevent the removal of some children into care in these instances. Similarly, more housing availability may allow more women the opportunity to move their children to safer accommodation allowing them to keep their children in their care. Stable housing can then have positive impacts on school attendance and service engagement.

Where possible, programs which allow women to remain safely in their own home should be expanded. This is particularly relevant where children are involved to ensure stability and continuity in housing and schooling. This may point toward some deficiencies in accommodation services for men requiring further investigation particularly therapeutic accommodation services, rehabilitation services and sobering up shelters, hostels and police lock up facilities.

Economic independence is a major issue for Aboriginal women, particularly those who are welfare dependent. Women are frequently care providers to other family members and this can mean their financial resources are shared with others. In cases where abuse is financial, there is also this issue restricting them from accessing other accommodation particularly where there is generally an expectation of payment (i.e. refuges, rehabilitation facilities etc.). Ensuring children are cared for adequately in these cases is also problematic, and again child protection issues can often arise due to poor nutrition (i.e. neglect). Further policy decisions such as cuts in welfare payments and income management may further disadvantage victims of domestic violence by discouraging people using essential services including health and support services.

Policies and procedures around child removal are problematic. The punitive approach applied in cases where family and domestic violence is evident is concerning. It has been frequently observed that in such cases children have been removed on the grounds of family and domestic violence and not returned despite women separating from their violent partner, and despite the victim's implementation of protective measures based on their intimate knowledge of the perpetrator. Further, the onus is then placed on the victim to go through the legal and other processes that ensue, with little responsibility or accountability being placed on the perpetrator either as far as their violent behaviour or as far as parental responsibility goes.

This is problematic for a number of reasons including a disregard for the dynamics and impact of family and domestic violence on a victim and children; the re-victimisation and re-traumatization of the victim and the children; and is complicit on some level with the perpetrators violence. A better awareness of family and domestic violence and its impacts at the outset would assist services – including child protection agencies – to be able to act sooner and with an early intervention approach to avoid the need for tertiary services.

As an organisation with community education as it part of its core business, the Aboriginal Family Law Services (WA) understands the importance of educating people about issues related to family and domestic violence as a way of preventing future problems. As already discussed, community legal education is one of educating people about potential and actual legal issues and providing them the information they require to identify the legal components of the problem and to then direct them to the necessary resources in their community such as an Family Violence Prevention Legal Service or community legal centre. In many cases, dealing with civil matters can prevent them from escalating into criminal matters.

An example of this is care and protection orders. As already discussed, over 50 percent of children in the care of the CEO in WA are Aboriginal. Removal from family is a significant risk factor for juvenile offending due to disruption connections to family, and juvenile offending is associated with adult offending.<sup>26</sup> With legal education about family violence, Violence Restraining Orders (VROs), Criminal Injuries Compensation (CIC), and family law (i.e. parenting plans etc.) delivered to the community the aim is to advise people of their legal rights and responsibilities so that problems can be resolved early.

This organisation has also embraced the early intervention and prevention practices embedded in the FVPLS program from the outset. Despite disruptions in funding and favour from the Commonwealth, with the support from the National FVPLS Forum (our peak body), this organisation has continued to lobby for the reinstatement of dedicated funds to the essential preventative work that will educate young boys and girls before they enter the legal assistance sector about family and domestic violence and respectful relationships.

Our regional staff have developed localised initiatives which are tailored specifically to suit their local needs with culturally secure foundations, in order to address the complex environments in which family and domestic violence exists. In one region, staff have combined community legal education with a personal development program aimed at high school aged girls and young women, delivered from a strengths based perspective [*Sparkle & Grow*]. Another has engaged an entire regional football league to deliver an anti-violence message of “Violence is Not Our Game” (printed on footballs, umpire shirts, banners etc.) as well as delivering community legal education to coaches and club groups throughout the entire season [*Tackling Violence in Our Communities*]. Another along with a group of agencies, including the police, facilitates cultural camps with at-risk teenage girls [*Drop In Girls Space D.I.G.S.*]. Several regions combine pampering manicure sessions with community legal education and yarning [*Healing Hands* or *Yarning Hands*]. One region has developed a module based women’s program delivered in the regional prison (including modules on respectful relationships, safety planning, cultural identity etc.), and is now pioneering a “brother” program for the men’s prison [*Strong Women, Strong Mothers* and

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<sup>26</sup> Productivity Commission (2014) *Access to Justice Arrangements*, Inquiry Report No. 72, p 783

*Men's Wellbeing Program*]. Both prison programs follow cultural gender protocols, while addressing family violence through challenging attitudes and behaviours. Developed with the group to whom the program is delivered, staff in one region work over 10 weeks of the school term to equip teenage girls with the skills to make positive choices and stay safe, covering topics of healthy relationships, cyber safety, sexual health, knowing your rights, self empowerment and resilience building [*Skudda Girlz of BGA*]. Another region maintains regular radio segments performed by the resident lawyer, delivering community legal education on the various areas of law in which we specialise [*RadioMAMA*, local Aboriginal media association].

Through the experience of staff in one region supporting the family of a woman who lost her life at the hands of a violent partner, the Aboriginal Family Law Services (WA) identified the need for a national awareness raising campaign focussing on the impact of family and domestic violence on Aboriginal men, women and children. We realised the gap in existing campaigns which focused on gender issues, were mainstream in their approach and may not have had the reach that an Indigenous specific campaign could achieve.

From here we developed the Ochre Ribbon Day campaign, an awareness raising campaign designed to be culturally aware and responsive. It understands that family violence is not only a gendered issue – although for the most part the victims of this violence are women and their children. We take into account the contextual factors of post-colonist violence, intergenerational trauma, cultural dislocation – and the related impacts of the violence including incarceration and contact with the child protection system (and possibly child removal).

The tagline for our campaign is “Don't Silence the Violence”. We encourage victims and their families and friends to speak up about the violence they experience. We know that silence only assists the perpetrator to maintain their control over the victim. Breaking the silence is also message we want to get through to the broader community including the media who are traditionally prone to considering family violence a private matter.

On Wednesday 18 March 2015, the Aboriginal Family Law Services (WA) hosted the national inaugural launch of the Ochre Ribbon Campaign in Perth. February 12 has been identified as the Ochre Ribbon Day, and this day will be commemorated from 2016.

Our vision for the campaign is to expand on and compliment existing campaigns. Various stakeholders in this campaign, including the National FVPLS Forum, support us. We have been encouraged by our sister FVPLS organisations' commitment to holding Ochre Ribbon events in their local communities throughout the year, to maintain a year round focus on family violence. We also see that there is good will from the non-Aboriginal community to support the campaign and see this continuing and growing.

The Aboriginal Family Law Services (WA) look forward to our regional launches and what we hope are the beginning of many events which will raise the broader community's – including children's - awareness of violence in Aboriginal families, and assist us to reduce its impact on those most vulnerable to it. Prevention is the key to ensuring safety for our children and their mothers, to keep families connected and to protecting our culture.

**f. What are the surveillance and data gaps/needs in relation to children affected by family and domestic violence?**

The adequacy of statistical and other information that is currently collected and made available by state, territory and Commonwealth governments regarding issues of family and domestic violence, particularly as it affects Aboriginal people, is lacking due to lack of comprehensive and up to date statistics. Furthermore recent research has found that much of the statistical data collected from Aboriginal communities for the purpose of policy making is not given as much credibility attributed to their qualitative, not quantitative sources: 'the more qualitative sources of data to which they have contributed, including evidence to public inquiries, are often ignored or diminished'.<sup>27</sup>

Data related to the prevalence and impact of any policy related to Aboriginal people in Western Australia to date tends to be piecemeal and is not evidence based. This has resulted in unreliable data that does not clearly state the issues that impact Aboriginal communities. Therefore, strategies being developed to address issues that impact Aboriginal people at best can only be tentative and exploratory in nature. There is an urgent need for all organisations working in the Aboriginal arena, be they government or non-government to collect accurate data related to any programs and services provided in order to determine strategies to be employed.

Aboriginality needs to be recorded by all services if we are to monitor, evaluate and improve policies and services to Aboriginal people. We currently understand there are some major government and non-government agencies who choose not to ask their clients for this information, as they believe that it may not be relevant to the service they deliver. While this may be the case on the face of it, if we do not understand the use of services – whether under or over use – by Aboriginal people we may not be providing the most appropriate or accessible services possible. Therefore, data collection needs to be standardised and disaggregated in order for it to be of most use.

As discussed in Term of Reference b, Western Australia's child protection agency, the Department for Child Protection and Family Support (DCPFS), does not keep specific records on children affected by family and domestic violence. This means retrieving data on the incidence and prevalence of children impacted by family and domestic violence in this state, as well as the intersectional issues that exist, is not possible. This immediately brings forward questions of evaluation, monitoring and planning of programs and systems responsible for the statutory care and protection of children experiencing violence, as well as those non-statutory support service funded by this department and others.

A report released recently by Amnesty International concerned with the overrepresentation of Aboriginal youth in detention speaks to the issue of data collection and the various gaps created by inconsistencies between states and territories. For example significant national juvenile justice data sets which omit data on police diversions, arrests and unsupervised

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<sup>27</sup> Maddison, S. (2012) Evidence and Contestation in the Indigenous Policy Domain: Voice, Ideology and Institutional Inequality. *Australian Journal of Public Administration*, 71(3), p.271

court orders.<sup>28</sup> More alarmingly, they are not correlated with statistics about adult interaction with the justice system. This means we are not able to understand recidivism, as young people continue to interact with the justice system as they enter adulthood.<sup>29</sup>

Another troubling issue highlighted in this report is the lack of data provided by the Western Australian and Northern Territory governments to the national juvenile justice data set (Juvenile Justice National Minimum Data set), particularly given these states have the two highest rates of incarceration of young people in Australia.<sup>30</sup>

The development of ANROWS is a step towards a cohesive collection of research in the area of family and domestic violence and may be used as model for other streams such as youth and drug and alcohol issues to centralise data and research. An issue for the Aboriginal Family Law Services (WA) is to understand the context under which its client data set via the Indigenous Advancement Strategy is used to report against the outcomes of the National Plan to Reduce Violence Against Women and Their Children 2010-22. The joining up of national databases and the fine tuning of state government databases such as DCPFS is preferred to better inform the sector and stakeholders of progress. The Closing the Gap strategy may be a model for this also as it reports regularly to high level outcomes.

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<sup>28</sup> Amnesty International (2015) A Brighter Tomorrow: Keeping Indigenous Kids in the community and out of detention in Australia, p 23

<sup>29</sup> Ibid, p. 23

<sup>30</sup> Ibid, p. 23