



Aboriginal Family Violence Prevention and Legal Service Victoria
(FVPLS VICTORIA)



Strengthening on-the-ground service provision for
Aboriginal and Torres Strait Islander victims/survivors
of family violence and sexual assault in Victoria

POLICY PAPER SERIES JUNE 2010
PAPER 2 of 3

Aboriginal Family Violence Prevention and Legal Service Victoria (FVPLS Victoria)

L3, 70-80 Wellington Street, Collingwood VIC 3066

Telephone 03 9244 3333

Freecall 1800 105 303

Fax 03 9416 0147

Email information@fvpls.org

Website www.fvpls.org

FVPLS Victoria is an Aboriginal community-controlled organisation established in 2002 to provide assistance to victims/survivors of family violence and sexual assault, and to work with families and communities affected by violence.

Artwork by Wanda Bargo – ‘Gathering of Women’.

The dark purple circles represent the strength of the Indigenous women forming the circles. The other colours represent all other women coming in to join in the celebration.

Copyeditor Julia Farrell.

This project was funded by grants from the Legal Services Board and The Felton Bequest which is managed by ANZ Trustees.



Legal Services **BOARD**

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These policy papers have been made possible through funding provided initially by the Legal Services Board Grants Program and then later also by a grant from The Felton Bequest managed by ANZ Trustees.

In 2008, following five years of legal and related service provision, FVPLS Victoria successfully sought funding from the Legal Services Board for a law reform and policy development project. The ever-growing demand placed on FVPLS Victoria for high-level policy input and identification of much needed reform to strengthen law and justice outcomes for Aboriginal and Torres Strait Islander (ATSI) women and children in particular prompted the application. No government funding was or is available to the FVPLS program for this work. Further, the 31 FVPLS units funded nationally for rural and remote services have no peak body to collaborate on systemic or operational issues.

In light of the significant gaps in legal policy development for ATSI women and children, the scope of the project was considerable. Three policy papers have been developed which focus on strengthening legal equity, accessibility and outcomes rather than on broader law reform. Generous funding through The Felton Bequest has enabled continuation of policy and program development activity at FVPLS Victoria into 2010 and has contributed to the completion of the papers.

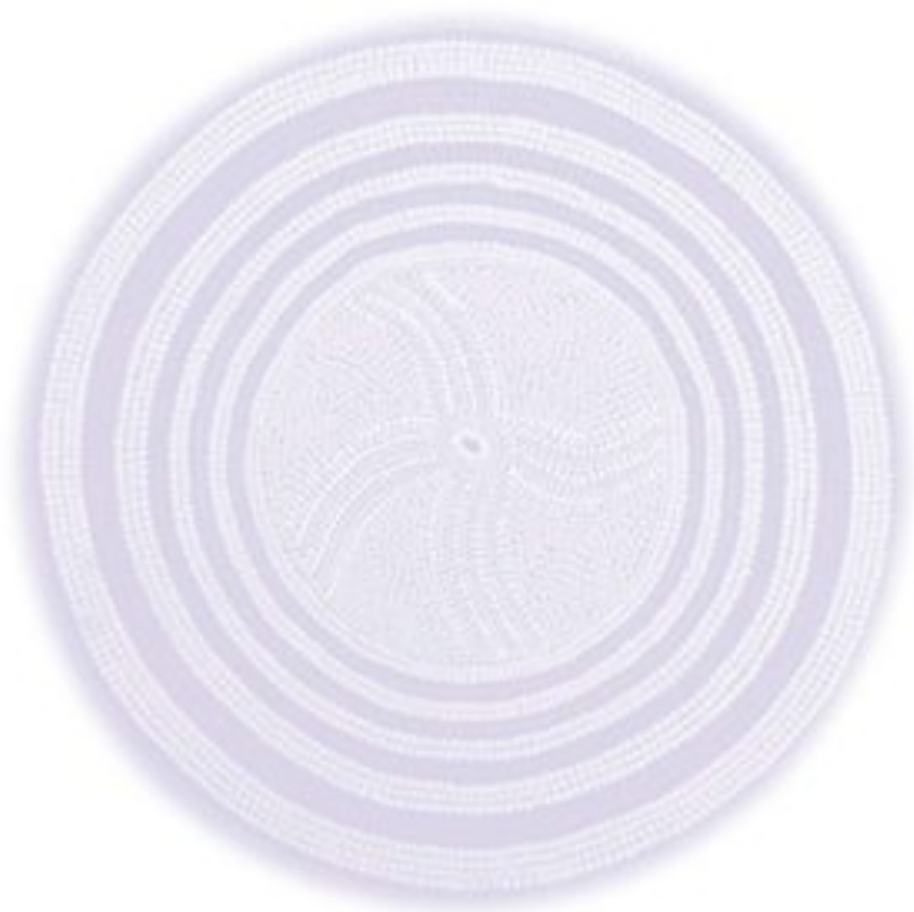
There are many people who have guided and assisted in the development of these papers. Firstly, to all of those women who agreed to be interviewed about their experiences with the justice system, thank you for sharing your experiences and knowledge with such openness and for your enthusiasm and commitment to meaningful change. These papers could not have been produced without your input.

The Steering Committee, Board of Directors, Planning Reference Group and particularly the staff at FVPLS Victoria recognise that legal reform and policy development is fundamental to improved access to justice and better outcomes for Aboriginal and Torres Strait Islander women and children impacted by family violence and sexual assault. This was reflected in the high level of support provided from across the organisation in the development of the papers.

Special thanks to those who generously provided their support and expertise, including Dr Debbie Kirkwood, Julia Farrell, John Bourke and Freehills.

It is heartening that many law and policy developments have taken place throughout the preparation of these papers. These have been incorporated to the best of our knowledge—some at the very last minute. Nevertheless, further developments will no doubt occur subsequent to publication.

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FOREWORD

Antoinette Braybrook
Chief Executive Officer
FVPLS Victoria

As an Aboriginal woman, and one who has been working in the justice sector for many years, I have gained a full appreciation of the ongoing disadvantage and inequality that our women continue to experience. I am reminded daily of and forever inspired by the resilience and strength of Aboriginal women despite the systemic racism and inequitable access to justice that still exists. It is this that drives us at FVPLS Victoria to continually advocate for systemic change to ensure greater law and justice outcomes for all Aboriginal women in every community throughout Australia.

*I am an Aboriginal woman and I was told to go and listen to the Western law. This felt all wrong to me. They didn't know me, my culture, nor the way I protected my child or my family. I felt my dignity was lost through the court system. What can your department do to make the process a lot more comfortable for mothers, fathers and children where they too don't lose their spirits? **Aboriginal woman consulted for the project***

As the CEO of FVPLS Victoria I am very pleased to announce the release of these papers. The issues explored and discussed primarily focus on Aboriginal women and children as victims/survivors of family violence and sexual assault. This is undertaken from a Victorian perspective, but I am certain that the same issues and findings would apply to women and children in other states and territories throughout Australia.

The three key areas on which the papers focus are:

- *Paper 1: Strengthening law and justice outcomes for Aboriginal and Torres Strait Islander victims of family violence and sexual assault and women and children: National policy issues—a Victorian perspective*
- *Paper 2: Strengthening on the ground service provision for Aboriginal and Torres Strait Islander victims/survivors of family violence and sexual assault in Victoria*
- *Paper 3: Improving accessibility of the legal system for Aboriginal and Torres Strait Islander victims/survivors of family violence and sexual assault*

Since the establishment of FVPLS Victoria in 2002, the Board of Directors and management have been committed to ensuring capacity within the organisation for policy and research. Aboriginal women's organisations must be properly resourced to undertake policy and advocacy work. This is the key to real change.

After making several unsuccessful applications to the Commonwealth Government, FVPLS Victoria successfully secured grants from the Legal Services Board Victoria and The Felton Bequest to employ a policy development worker. These three policy papers are the product of those grants and of course the work of Shelley Burchfield, our policy development worker, informed by many contributors who generously shared their often difficult stories, precious time and ideas for change. I would like to acknowledge all, and thank them equally for making this work happen.

It is inexcusable that, in the year 2010, Aboriginal women and children are still chronically disadvantaged in Australian society. There is no need to investigate this fact further—it is well documented in numerous reports and commented on by many high-level committees including human rights forums. Despite this, successive governments have failed to focus their attention on a strategic approach or to listen to and act upon women’s voices.

It is critical that there be greater resourcing of law and justice services for Aboriginal women at state and territory and national levels. This includes the urgent need for the Commonwealth to lift the rural/remote restriction on the National Family Violence Prevention Legal Service Program, and to work with state and territory governments so that all Aboriginal women, regardless of their geographic location, have access to such an important service.

I would like to take this opportunity to acknowledge recent significant developments by the Victorian Government in providing ongoing and additional funding to FVPLS Victoria and by the Commonwealth in progressing from 12-month to 3-year funding arrangements, albeit with a funding reduction. A formal collaborative funding arrangement between the state and the Commonwealth must be struck to support effective and sustainable statewide service development.

FVPLS Victoria’s policy development capacity over the past 18 months has significantly contributed to the progress the service has made and illustrates the importance of this work in supporting and complementing direct service delivery.

These papers comprise a valuable tool for Aboriginal women as they provide a platform for us as leaders, workers and nurturers in our communities to demand change. They are also a valuable reference point for policy and law makers. I strongly urge governments (both Victorian and Commonwealth) to work collaboratively with the women upon which these issues most impact to move forward in an innovative and strategic way.

It is our hope that one day Victoria will have an Aboriginal women’s legal service. Clearly more work is needed to explore this possibility, but if such a service were to make a positive difference to the lives of Aboriginal women and children it must happen.

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EXECUTIVE SUMMARY

This is the second of three FVPLS Victoria papers addressing the need to improve law and justice responses for Aboriginal and Torres Strait Islander (ATSI) victims/survivors of family violence and sexual assault and ATSI women and children. The other papers are entitled:

- *Paper 1: Strengthening law and justice outcomes for Aboriginal and Torres Strait Islander victims of family violence and sexual assault and women and children: National policy issues—a Victorian perspective* (examines national policy and program issues within a human rights framework).
- *Paper 3: Improving accessibility of the legal system for Aboriginal and Torres Strait Islander victims/survivors of family violence and sexual assault* (looks at addressing access barriers and improving culturally appropriate responses). Police responses are dealt with in Paper 3.

As the title indicates, this paper looks at how legal and associated services for ATSI victims/survivors of family violence and sexual assault can be improved in Victoria. Whilst statewide coordination is required, the importance of recognising local ATSI community diversity and of the need to develop local strategy is essential. The commitment of the Victorian Government to Koori law and justice initiatives is acknowledged, and relevant strategy and action within the Victorian Indigenous family violence '10-year plan' is incorporated throughout.¹

FVPLS Victoria is one of 31 units funded nationally through the Commonwealth Attorney-General's Department to provide legal and associated assistance to Aboriginal and Torres Strait Islander victims/survivors of family violence and sexual assault in rural and remote locations. FVPLS Victoria is based in Melbourne and has offices in Bairnsdale, Warrnambool and Mildura. Alternative limited-term funding from the Department of Justice Victoria, Victoria Legal Aid, philanthropy and other non-government sources has been secured to service metropolitan Melbourne and other high-need areas in Victoria. FVPLS Victoria is a stand-alone ATSI corporation. This independence has been critical to the organisation's strength and accessibility in providing family violence and sexual assault legal and associated supports.

The Commonwealth government's lack of a strategic approach to law and justice services for Aboriginal and Torres Strait Islander victims/survivors, and ATSI women (and children), is examined in detail in Paper 1, particularly in light of human rights obligations. Paper 1 also presents recommendations directed toward improved outcomes in this area. FVPLS Victoria supports the strategic development of the FVPLS program, and legal services for ATSI women and children more broadly, led by ATSI women. **The introduction of a national Aboriginal and Torres Strait Islander women's legal program (incorporating children) should also be considered in relation to this. A broadening of dedicated ATSI legal services for women and children would greatly strengthen**

¹ *Strong Culture, Strong Peoples, Strong Families: Towards a safer future for Indigenous families and communities 10 year plan*, Department of Planning and Community Development, 2008.

their access to justice and provide more holistic and effective responses. It is acknowledged that culturally appropriate services and supports are also required for men as victims/survivors.

Project consultations and FVPLS Victoria's experience on the ground have identified a number of key issues related to the strengthening of services for ATSI victims/survivors and women and children in Victoria, which are discussed in this paper, accompanied by practical proposals for change. These issues include:

- greater attention to ATSI women and children's law and justice needs, informed by ATSI women at state and Commonwealth levels
- extension and broadening of culturally appropriate, specialist legal services
- more flexible Legal Aid guidelines
- more effective links between key ATSI and mainstream services
- the development of culturally responsive after-hours and crisis services (police responses are dealt with separately in Paper 3)
- improved services and supports for children impacted by family violence
- greater attention to culturally appropriate counselling/healing
- recommencement of a Koori-specific sexual assault initiative
- cultural awareness development of lawyers, judges, magistrates and justice staff, and employment of more ATSI people in legal services and legal roles
- support for community legal education including for young people
- greater recognition within the development of community services of ATSI women's imprisonment rates and the significant impact of family violence and sexual assault
- support for an ATSI women's cultural retreat in Victoria.

Most of the proposals made require additional funding—a mixture of short and long term—over which state and Commonwealth governments must collaborate. FVPLS Victoria is already sourcing significant non-government and philanthropic funding. Aboriginal and Torres Strait Islander women must be ensured a voice that informs and drives all necessary developments.

This paper and the proposals contained within it are informed by:

- What FVPLS Victoria has learnt to date about providing legal and associated services on the ground in Victoria.
- Broader ATSI community and government initiatives in Victoria, particularly in relation to addressing family violence and sexual assault. Relevant actions contained in the *Strong Culture, Strong Peoples, Strong Families Towards a safer future for Indigenous families and communities 10 year plan*² ('the 10-year plan') are detailed alongside proposals made.
- Confidential consultations with ATSI victims/survivors of family violence and sexual assault who have experienced aspects of the legal system. The consultations included past clients of FVPLS Victoria, and ATSI and non-ATSI workers in support, policy and legal roles (29 in total,

² Ibid.

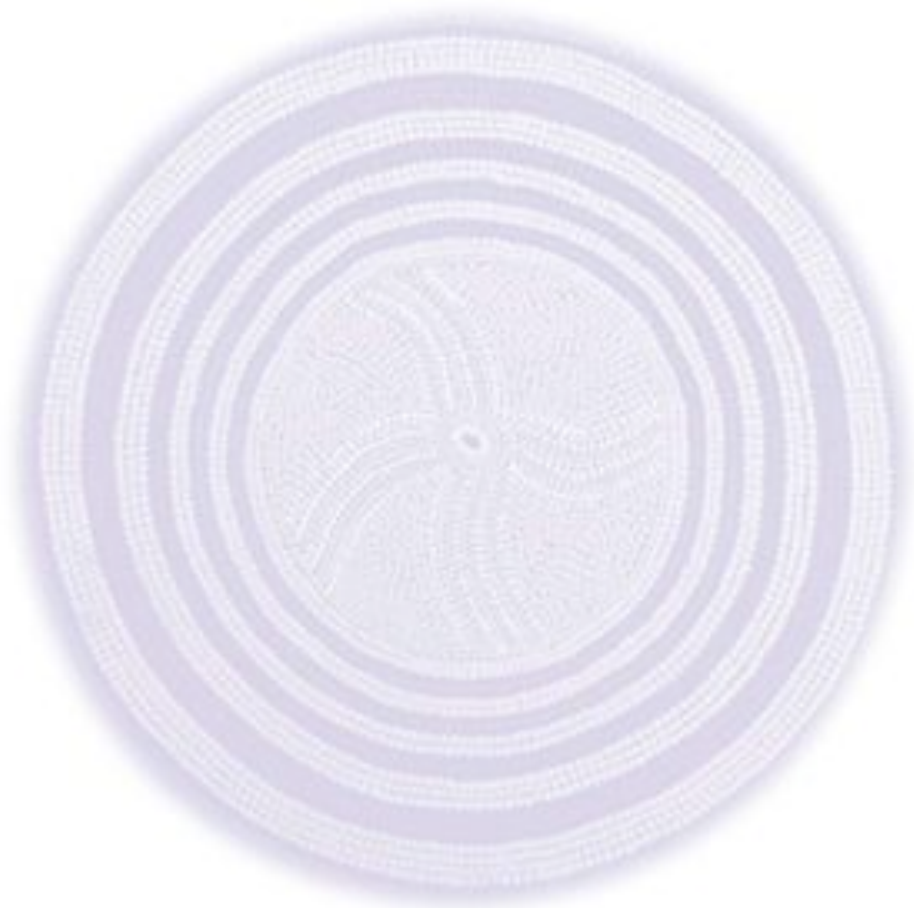
22 ATSI and 7 non-ATSI, 16 from urban and 13 from rural areas). Twenty-four formal interviews were carried out face to face, and on average took about two hours each. The remaining five ATSI participants contributed through informal discussion with respect to particular areas of interest. A standard set of questions for workers and non-workers was prepared about key legal and associated issues encountered by victims/survivors under the following headings:

- legal services
- experiences with police
- experience as a victim of violence where the offender has been taken to court by the police (restorative justice also raised here)
- intervention orders
- child protection
- family law
- VOCAT (Victims of Crime Assistance Tribunal)
- children
- general (*Sisters Day Out*, Women's Cultural Retreat, other issues).

Participants were able to choose which questions they wished to answer. The Guidelines for Ethical Research in Indigenous Studies of the Australian Institute of Aboriginal and Torres Strait Islander Studies guided the consultation process. The responses referred to in the paper reflect only the views of the individuals consulted but in many cases also concur with the overall experience and understanding of FVPLS Victoria in its service provision in Victoria. Informed consent was obtained from all participants, who generally appreciated the opportunity to contribute to the project. Listening and responding to concerns raised during the consultation interviews was an important part of the process, and reassurance was given that concerns would be documented and addressed appropriately.

- An advisory committee was established for the project. The contribution of the committee members is gratefully acknowledged.

FVPLS Victoria takes the view that it is essential that ATSI women and young people who have experienced family violence and sexual assault have the opportunity to inform service delivery and legal reform developments. FVPLS Victoria is extremely grateful to all participants who gave their time for this research.



Section 1: Introduction

The majority of FVPLS Victoria's client group are women and their children (about 90%) who are therefore the priority focus of this paper. Gender and cultural safety in family violence and sexual assault service provision is paramount; the uptake of legal assistance through FVPLS Victoria since its commencement confirms this.

Women and children are disproportionately victims of family violence in all communities—the gendered nature of family violence is unquestionable. Levels of family violence and sexual assault in ATSI communities are high, exacerbated by the devastating racist and discriminatory treatment of ATSI people which has led to ongoing trauma and entrenched disadvantage. ATSI women who experience family violence must also often deal with intergenerational trauma and multiple forms of disadvantage. The legal problems arising from this violence have layers of complexity and the legal system lacks culturally appropriate approaches to dealing with these issues. High levels of support together with capacity for comprehensive legal casework services are essential.

FVPLS Victoria also assists male victims/survivors, and it is acknowledged that culturally and gender appropriate services for men as victims must also be assured. The service is not funded to assist perpetrators of violence; however, FVPLS Victoria recognises the importance of separate services for men as perpetrators of violence. ATSI women and children are subjected to family violence by both ATSI and non-ATSI perpetrators.

Strategies adopted to achieve best overall safety outcomes in family violence situations vary. In some but not all instances, legal intervention is the preferred option; in other cases, such as in the child protection area, legal intervention is imposed. In the latter scenario, in particular, legal representation to ensure the protection of rights is critical. Availability of culturally accessible legal services to increase knowledge and understanding of legal options is a key element to improved law and justice outcomes.

Importantly, legal responses are only effective as part of a broader safety and support plan on the individual/family level and as part of culturally strong community prevention strategies. Holistic service delivery and good relationships between relevant Koori and mainstream agencies is critical. It is also essential that women have access to culturally appropriate counselling and paralegal workers who can provide the support needed to engage in and sustain the legal process. As mentioned previously, capacity to provide a broader range of legal services to ATSI women and children would also improve outcomes on the ground.

Legal services for victims/survivors form part of a broader community response to family violence and sexual assault. However, law and justice issues are often not adequately incorporated into the big picture. It is the view of FVPLS Victoria that a national ATSI women's legal program would significantly address the wide-ranging disadvantage currently experienced by ATSI women and children.

In relation to family violence, strong community initiatives are underway in Victoria including the Indigenous Family Violence Partnership Forum, the Regional Family Violence Action Groups, the 10-year plan and also more broadly with the Victorian Government through the Aboriginal Justice Forum and the Victorian Aboriginal Justice Agreement. Whilst the 10-year plan implementation strategy remains a little unclear, and the Victorian Aboriginal Justice Agreement could benefit from a greater focus on law and justice policy for ATSI women, these initiatives are extremely positive and provide good bases for progress. The Koori Family Violence Court Support Project to be piloted in Melbourne has arisen from the 10-year plan and is an excellent leading initiative.

The need for improved connection between mainstream integrated family violence strategies and ATSI-specific initiatives is discussed in Section 7.

Without systemic improvements the success of legal services within established legal systems is constrained. Aboriginal and Torres Strait Islander law and justice policy has focused predominantly on criminal law and justice issues for ATSI men. A greater focus on a broader range of law and justice issues, particularly those affecting ATSI women and children, is urgently needed. Family violence, with its broad law and justice impacts, is just one priority area. Processes that facilitate dedicated attention in this area must be encouraged.

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| <p>Proposal 1</p> <p>That there be greater dedicated emphasis on law and justice policy development for Aboriginal and Torres Strait Islander women and children in Victoria.</p> |
| <p>Action</p> <p>That consideration be given to the Victorian Aboriginal Justice Agreement 3, incorporating a discrete section related to advancing law and justice outcomes for ATSI women in Victoria, supported by the establishment of an ATSI women’s law and justice advisory body to advance its objectives.</p> <p>That the voices and experiences of ATSI women and young people who have experienced family violence and sexual assault inform the development of services and legal reform through the provision of confidential and safe processes.</p> <p>That a specific implementation plan for law and justice strategy and action identified within the 10-year Plan be developed that incorporates key ATSI agencies.</p> |
| <p>Responsibility</p> <p>Victorian Government, Aboriginal Justice Forum, Indigenous Family Violence Partnership Forum, FVPLS Victoria, Victorian Aboriginal Legal Service</p> |

Section 2: Providing legal services to ATSI victims/survivors of family violence and sexual assault: Some key issues

In the provision of legal services for ATSI victims/survivors of family violence and sexual assault, cultural respect, safety, confidentiality, trust and recognition of the layers of trauma and life issues faced by most victims/survivors are perhaps the most important overriding factors.

Paper 1 details the consultation feedback and other evidence supporting the importance of women having access to both confidential and safe ATSI community-controlled services and mainstream assistance as needed. Improved communication and relationships between ATSI and mainstream law and justice services are also identified as important to achieving better on-the-ground outcomes.

Legal services, including FVPLS Victoria, that are dedicated to providing support for victims/survivors are sometimes viewed as running counter to the notion of strengthening the ATSI community as a whole; and intervention imposed by the mainstream legal system can be viewed similarly. This is because legal interventions can involve police; give rise to criminal proceedings; rely on orders and outcomes which separate families in the name of safety; and often involve culturally inappropriate legal and court responses.

The nature of family violence and sexual assault, however, with its extremely serious ramifications and impact upon victims and survivors, must be fully and openly acknowledged and addressed. Legal responses are often required and sought to protect and advance the best interests of victims. Improving the cultural appropriateness of these legal responses is therefore necessary. Bringing families together to resolve issues outside of legal processes may be appropriate in some circumstances, but this approach to family violence and sexual assault fails to acknowledge the complexity of the crimes and the circumstances involved. On this point, a regional domestic violence coordinator commented during the consultations:

If you haven't worked closely with victims of family violence you can't understand the psychological trauma and the way it affects people ... it has taken me a long time to understand how victims feel and the process of healing. **Aboriginal regional family violence coordinator**

FVPLS Victoria regards the safety of clients as the ultimate priority in service provision and legal options are always discussed based on best safety outcomes. Sometimes taking legal action is the best option for safety reasons or to deal with intractable disputes that are likely to escalate unless some level of intervention occurs. In this sense, legal intervention can also have a preventative role. In other situations, legal intervention is not the most appropriate response but may become so at a later time. The provision of information and options in a supportive, confidential and culturally safe

environment is key, as is understanding of the individual choices people make based on their circumstances at a given time.

Whilst the new emphasis in Victoria is on ensuring that victims of family violence are not forced to leave their homes, remaining in or returning to situations in which safety and wellbeing are at significant risk is not appropriate. Having effective and culturally safe legal and other assistance in place at the earliest possible time is critical in supporting victims to make difficult and often pressured decisions about the best plan of action.

Section 3: Access to legal services for ATSI victims/survivors

3.1 ATSI dedicated primary services for urban, rural and remote communities

For reasons already outlined, and due to the ATSI community's often devastating experiences with the legal system and with authority, ATSI victims/survivors are more reluctant to access legal assistance or to engage with the legal system. It is *not* the overall experience of FVPLS Victoria, however, that ATSI women, unlike other women, do not want to access legal assistance with respect to family violence and family disputes. The situation is far more complex.

The failure of ATSI people to access the legal system in situations of family violence is likely to be in part the result of the lack of dedicated gender and culturally appropriate legal services and community education and development in this area. The uptake at FVPLS Victoria in both urban and rural areas since commencement confirms this. Initiatives to strengthen cultural accessibility within the legal system in Victoria have also been critical.

Paper 1 challenges the Commonwealth Government policy of funding FVPLS services only to rural/remote locations on the basis of 'relative need' and because ATSI women and children can access mainstream services in urban areas. Mainstream services are not appropriate as primary service providers for ATSI people and are not being adequately accessed. A policy that acknowledges FVPLS or ATSI services as primary services for ATSI women and children would strengthen outcomes on the ground and facilitate ATSI leadership in key law and justice policy development.

ATSI community-controlled services for victims/survivors and women and children must be available

... our people are not accessing mainstream services ... victims feel they won't be understood ... don't feel comfortable ... cases are complex ... family systems are complex ... choice is very important in accessing services. Aboriginal support worker

... Dedicated services understand how to communicate effectively ... and also have an understanding of what the barriers in the legal system are ... they bring Indigenous cultural awareness to the justice system. Aboriginal regional domestic violence coordinator

... Even with cultural awareness training of mainstream organisations it will always be more appropriate that Aboriginal agencies do the work ... Indigenous organisations know what information to look for when working with and advocating for Indigenous people. Aboriginal support worker

FVPLS services must be available in urban, rural and remote locations

*... Domestic violence does not only happen in rural/remote areas ... no geographic restriction on where family violence happens ... service should be there for all women ... trust is really important for disclosure ... important in rural and urban areas. **Aboriginal victim/survivor***

*... This is a ridiculous policy. There is a huge population of Indigenous people in the Melbourne metro area ... If take away the service would leave a huge gap ... Indigenous women will often not access mainstream services ... this is not the preference. **Aboriginal victim/survivor***

*... Women need to access urban areas for safety reasons ... it is easier to keep women safe in urban areas ... small communities make it very hard to keep people safe ... Koori grapevine means information gets around in a small community. **Key statewide Indigenous service***

*... Services are needed in urban areas ... clients don't stay in regions ... clients freak when they move to places where culturally appropriate services are not available. **Non-ATSI lawyer***

*... Advocate strongly for FVPLS in urban areas. No other service like it that can support women. May be an epidemic of issues in the community if women only have to access mainstream services. **Aboriginal regional domestic violence coordinator***

FVPLS Victoria has recently secured additional and ongoing funding from the state government, which will ensure capacity for services in metropolitan Melbourne. It is imperative that the Commonwealth and state governments work together to effectively support FVPLS Victoria's statewide service model.

Proposal 2 (Also see Proposal 3, Paper 1)

That dedicated ATSI legal services for ATSI victims/survivors of family violence and sexual assault and ATSI women and children be funded in urban and regional areas as well as in rural/remote locations.

Action

That a strategic review of the FVPLS program be conducted nationally to address overall disadvantage and to strengthen law and justice outcomes for ATSI women and children.

That consideration be given to establishing an ATSI women's legal service in Victoria and a national ATSI women's legal program in consultation with ATSI women.

Funding to FVPLS Victoria for statewide services including metropolitan Melbourne should be provided through a joint Commonwealth/state funding arrangement.

Responsibility

Commonwealth Attorney-General's Department and Department of Justice Victoria through COAG and SCAG, Victoria Legal Aid

3.2 Rural Victoria

FVPLS Victoria is currently stretching limited resources to provide services in Gippsland, Barwon South West, Mildura, metropolitan Melbourne and other high-need areas in Victoria. For example, in Gippsland—a huge region—FVPLS Victoria currently only has one lawyer and one paralegal worker based in Bairnsdale. In Northern Victoria, the need for services for Swan Hill, Shepparton and Echuca has been identified as a priority. The Mildura service is currently stretching its capacity servicing its designated catchment area. In so far as FVPLS is the appropriate primary provider of



Mildura FVPLS team, 2009.

legal services for ATSI victims/survivors of family violence and sexual assault (with other mainstream services and ALSs supplementing this service), it is imperative that funding be extended to facilitate better geographic coverage. This should occur through a collaborative Commonwealth/state funding arrangement. Section 5, Paper 1 deals with program funding issues.

... having one service covering a large catchment is unrealistic ... at the end of the day all it does is increase community expectation ... many more resources are required within a large catchment ... there are some communities that are more disadvantaged re. transport and communication options.

Non-ATSI lawyer

... location of services in rural areas [is a barrier to access] ... [some areas] not covered properly by services. Need proper resourcing of existing services so as to cover geographic areas. **Non-ATSI lawyer**

... Even having four family violence offices ... other areas have asked ... when are we getting an office? ... can only give 1800 number ... so dedicated family violence services needed everywhere. **Aboriginal coordinator ATSI family violence service**

There are a number of rural areas in Victoria without an FVPLS service. The Shepparton, Echuca and, as mentioned, Swan Hill areas in particular require a local service. It is noted that the report commissioned by the Commonwealth AGD in 2004 to advise on the expansion of the FVPLS program at that time found Shepparton to be a high-priority area.³

It is important that local communities determine the nature of the FVPLS service located within them, and that local communities have ownership of these services. FVPLS Victoria has also found, however, that its satellite model of the Melbourne head office supporting rural offices is effective in Victoria, as it ensures holistic and broad-based approaches at both the local and statewide level.

Recommendations 1, 3 and 6 of the 2009 Senate Committee Access to Justice Report are also relevant:

³ Blagg, Harry, *Crisis Intervention in Aboriginal Family Violence Summary Report*, Crime Research Centre of Western Australia, Partnerships Against Domestic Violence, Commonwealth of Australia, 2000.

Recommendation 1

2.35 The committee recommends that the federal, state and territory governments jointly fund a comprehensive national survey of demand and unmet need for legal assistance services in Aboriginal and Torres Strait Islander communities, with particular identification of rural, regional and remote communities and Indigenous women's needs, to be jointly undertaken with state/territory legal aid commissions, community legal centres, Aboriginal legal services, National Legal Aid and the Law and Justice Foundation NSW.

Recommendation 3

The committee recommends that the federal, state and territory governments, in conjunction with relevant stakeholders, and using an evidence-based approach, review existing funding programs for legal aid commissions, community legal centres, Aboriginal and Torres Strait Islander legal services, and Family Violence Prevention Legal Services with a view to sufficiently resourcing the legal aid system to meet the legal needs of the Australian people, including appropriate loadings for high need areas such as remote, rural and regional areas.

Recommendation 6

2.123 The committee recommends that the federal, state and territory governments provide additional funding to legal aid commissions, community legal centres and Indigenous legal services with a view to expanding service delivery in rural, regional and remote areas. This funding must take into account the significant resources required by legal aid commissions, community legal centres and Indigenous legal services in undertaking resource-building initiatives in rural, regional and remote areas.

Proposal 3

That dedicated legal services for ATSI victims/survivors of family violence and sexual assault and ATSI women and children be extended within rural Victoria.

Action

That additional resources be provided to FVPLS Victoria to strengthen existing services in its rural locations.

That the Commonwealth AGD provide funding for an FVPLS office to be established in Shepparton to also service Echuca and for resources to service the Swan Hill area.

Responsibility

Department of Justice Victoria, Commonwealth Attorney-General's Department

3.3 Complexity and sensitivity of legal issues

The need for integrated legal service delivery and client support

The introduction to this section detailed the broad impact of family violence and sexual assault in other law and justice outcomes, including child protection interventions and imprisonment.

The experience of FVPLS Victoria in its legal service provision confirms that the legal work is generally complex, involves a number of areas of law, and that the clients experience layers of trauma. It is critical that the legal service accessed by an ATSI victim/survivor has the capacity and expertise to follow through with all the legal issues presenting. Fragmenting legal work depending on its type or litigation status is not efficient and not in the best interests of the client. One of FVPLS Victoria's strengths as it has grown has been the ability to see cases through to their conclusion, and to handle the range of legal problems involved. **This is another reason why FVPLS must be accepted as a primary rather than supplementary provider of legal services to ATSI victims/survivors.**

Further broadening of legal service assistance to ATSI women and children within the program must be considered. Assistance could then be given for other legal issues arising as a result of family violence including Centrelink, criminal matters, and financial/consumer problems. Several years ago the Commonwealth AGD funding of broader civil law services within the FVPLS program was under consideration; however, this did not eventuate.

One example of the nature of the work is a woman who accessed FVPLS Victoria for assistance with a family law case in which the father's contact with the children was in dispute. The case involved the following:

- extending of intervention orders and adding children to orders
 - advocating on behalf of the client with the police about prosecution of assault and an intervention order breach
 - acting on behalf of the client in contested family law proceedings in the Family Court
 - lodging and finalising victims assistance applications for the client and her children
 - arranging counselling for the client and the children (with separate counsellors)
- (This client did not have Department of Human Services [DHS] child protection involvement during her period of using the services of FVPLS Victoria but this is another common element to the situation. Frequently cases are referred between the family lawyer and child protection lawyer in line with DHS commencing and ending child protection intervention).

The Australian Law Reform Commission in its family violence consultation paper discusses the burden on families of having to move between different jurisdictions for family law, child protection law and family violence protection orders. A less fragmented or 'seamless' approach is proposed which will also require 'seamless' legal service provision.

Funding for family and civil law services

The level of complexity of the work is high and the work is also intensive. Family law and child protection cases can go on for years. The legal resources required for each client, as in the example in section 3.3 above, are often substantial. The current funding arrangements for FVPLS services do not acknowledge or reflect this, but ought to do so.

In the 2005 report of the Joint Committee of Public Accounts and Audit, in its inquiry into Indigenous law and justice, the National Association of Community Legal Centres submitted an estimate that:

2.26 ...the amount of time needed for civil and family matters is six or seven times greater than that needed for criminal matters.

The committee also noted that:

2.44 ...[the AGD] needs to put in place funding arrangements that acknowledge the costs of establishing civil law practices and the greater amount of time and resources required of a legal service to conduct family and civil matters.

Development of legal expertise

Given the unique and often complex nature of its legal work, involving cultural considerations, FVPLS Victoria has recognised the importance and broader benefit of ATSI services developing expertise in particular areas of law. This unique knowledge and experience informs and strengthens the ability of FVPLS Victoria to identify and advocate for necessary systemic change directed toward improved Aboriginal and Torres Strait Islander access to legal services. For example, the FVPLS Victoria family lawyer has significantly informed the position taken by the service in advocating for improved ATSI accessibility in the family law system, and this applies equally to other areas of law.

It is also important that lawyers at FVPLS Victoria are able to assist a client with their range of legal issues. Therefore, flexible funding arrangements for specific legal work are also required (for example, the family lawyer needs to be able to handle corresponding child protection and family violence intervention order cases for the one client).

Proposal 4

That FVPLS units or a national ATSI women's legal program be adequately resourced to provide comprehensive legal services for Aboriginal and Torres Strait Islander women and children and victims of family violence and sexual assault, and that legal casework guidelines within the program be expanded beyond family violence and sexual assault. That the greater resourcing required for family and civil law work be recognised in funding levels.

Action

That the state and Commonwealth governments ensure adequate resourcing of FVPLS Victoria to

develop and maintain the necessary legal capacity and expertise to provide comprehensive and integrated legal services in key legal areas—specifically family law, child protection, family violence and victims assistance.

That Victoria Legal Aid continue the family law secondment arrangement and family violence legal position with FVPLS Victoria, that the Victorian Government fund an ongoing child protection specialist legal position with FVPLS Victoria and ensure adequate resourcing for legal services to support new and emerging law and justice initiatives. Flexibility in funding to ensure that lawyers can holistically assist clients is also required.

Paper 3 proposes funding of a dedicated Victim of Crime legal position at FVPLS Victoria.

That the Commonwealth and state governments collaborate to ensure expanded dedicated legal service assistance areas for ATSI women and children in Victoria (e.g. civil law) either through the FVPLS program or as part of a broader overview of legal services for ATSI women and children nationally (see Proposal 1). Indigenous Women’s Program funding must be made available to Victoria.

Responsibility

Commonwealth Attorney-General’s Department, Department of Justice Victoria, Victoria Legal Aid

3.4 Women and children as the predominant client group

Provision of services

Women make up the predominant client group of FVPLS Victoria and are in the majority as victims/survivors of family violence and sexual assault more broadly. (The Victorian Family Violence Database 1999–2008 indicates that in 2007–2008 over 90% of Indigenous victims of family violence in Victoria were female.) This requires a dedicated service provision response.

Women victims of family violence and sexual assault *must* be able to access women lawyers and other women support staff for reasons of gender sensitivity and culture. Males are generally the perpetrators of violence against women and many women are not comfortable speaking with a male about these issues. All project consultation participants commented that having a female Tribunal member hear their case at VOCAT was extremely valuable.

... Trusted FVPLS because you are women. Aboriginal victim/survivor

*... It was woman [the counsellor] ... must be a woman we don't trust men because of the violence
... Look after women better. Aboriginal victim/survivor*

*... Mainstream lawyers are local men ... other local women would not use them for these issues
either. Aboriginal victim/survivor*

*... Women are more in touch with the issues ... women understand women. More understanding of emotional side of things. **Aboriginal victim/survivor***

Women who access legal services as victims must be certain that neither the perpetrator nor a person connected to the perpetrator will also be accessing that service. Concern about family or community backlash demands absolute confidentiality. In addition, women more generally do not want the broader community to know that they are experiencing family violence; they prefer to attend services where privacy is guaranteed.

*... I was worried about the community knowing where I was going ... needed to go somewhere I knew would be confidential ... Felt more secure after contacting FVPLS. **Aboriginal victim/survivor***

Women victims are often the carers of children who have also experienced violence. Attention must be paid to the situation of children to ensure that supports and legal rights for the children are also pursued.

Community education

In relation to community education about family violence and sexual assault, culturally safe women's gatherings such as the *Sisters Day Out* program are key to accessing women who might not otherwise seek legal assistance. Women who have attended *Sisters Day Out* workshops have also confidentially sought legal assistance, once they have seen that this is a safe environment. This would not be possible in a mixed-gender environment.

*... FVPLS Victoria came to the town to do an information session ... I got more information about what guys do [in situations of family violence]. There was an opportunity for an appointment with a lawyer after the education session ... that provided an opening for me to talk personally. **Aboriginal victim/survivor***

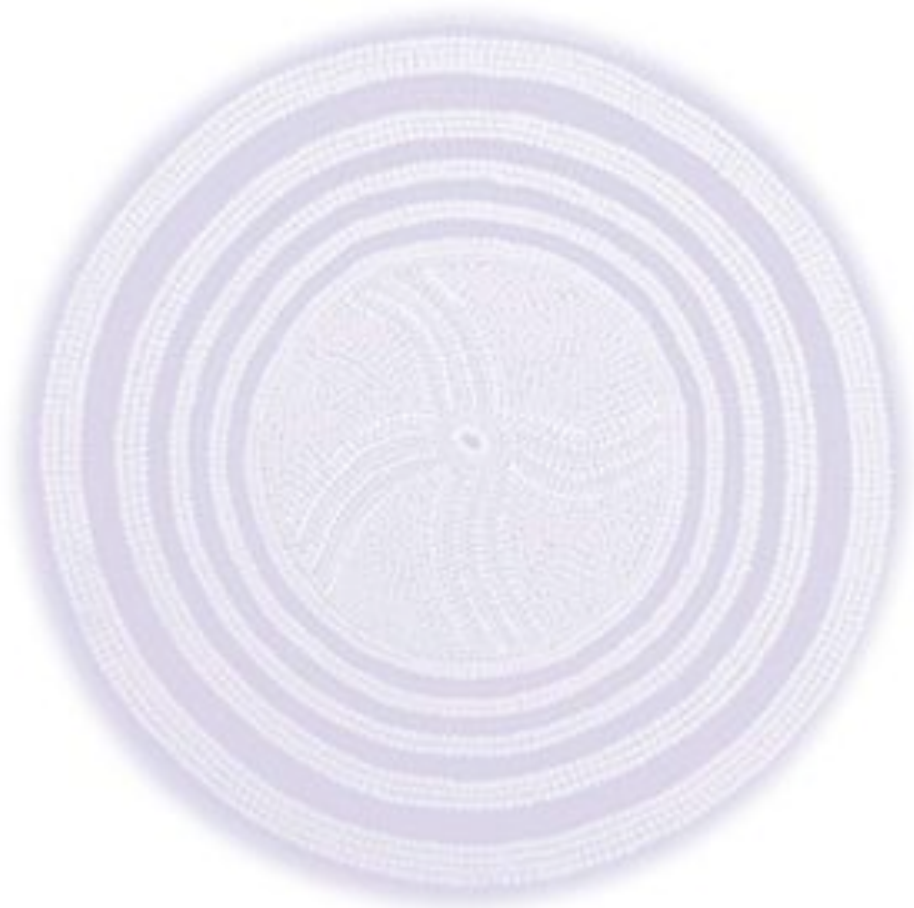
*... so much fun for Aboriginal women who have same experiences ... feeling of being loved and empowered ... loved the girly stuff. Did not feel alone. **Aboriginal victim/survivor***

*... women there had a whole new look on their faces that I had not seen for many years. Women who have gone to hell and back had a happy look on their face... **Aboriginal coordinator family violence service***

Aboriginal and Torres Strait Islander Women's Legal Services

Paper 1, Section 3 discusses the possible development of a national ATSI women's legal service. Examination of the most effective funding arrangements will be required to determine whether the

Commonwealth FVPLS program and Indigenous Women's Project funding could be rationalised. It is proposed that these services would also assist children (but not young males as offenders). This would provide a much stronger and more clearly defined base for law and justice services for ATSI women nationally. It would also broaden the type of legal work provided to increase the strength of the holistic response (see Paper 1, Recommendation 4).



Section 4: Holistic service delivery: Paralegal support

Many FVPLS Victoria clients who experience family violence and/or sexual assault have a multitude of issues to deal with, including: financial problems; homelessness; drug and alcohol issues; ill health; psychological trauma including that resulting from past violence; and lack of family support. Dealing with immediate legal problems whilst also coping with this range of life issues is extremely difficult; in fact, unless these issues are addressed legal processes are unlikely to be pursued. The importance of general case management support for these issues cannot be underestimated.

The model of having a paralegal support worker alongside a lawyer is proving highly successful in providing more holistic services and broader client support. Anecdotally, the level of engagement and follow-through action by clients in the legal process is vastly improved, and the critical support issues better dealt with and coordinated, if such support is provided. Paralegal support workers can also link clients to appropriate services. FVPLS Victoria has been funded through the DHS homelessness program for two paralegal support workers from 2010, which is a welcome development.

*... Need support people to assist, see legal and other processes through ... case management ... lot of support needed to process the legal system ... to do the practical things required. **Aboriginal support worker***

*... paralegal support role is important ... the support a service is able to provide to a client is important ... able to track how the client is going and to provide assistance to other crisis management ... housing, Centrelink ... these have major impact ... assists to have them hang in there with the legal process. **Non-ATSI lawyer***

*... You need to be well in the system ... our clients are often not well ... mentally not well ... or emotional stress/lack of education/drug and alcohol/generational trauma ... makes the system much more difficult. Not sure how women would cope where lawyer is just giving legal service ... leaving her to sort all other practical issues herself ... it's hard for me to organise ... think some women would not cope and that would then cause trouble with legal processes. **Aboriginal paralegal support worker***

The Joint Committee of Public Accounts and Audit Report 403 *Access of Indigenous Australians to Law and Justice Services* acknowledged the importance of paralegal support workers in Indigenous legal services and recommended ongoing funding:

... 6.64 The Committee recognises that an essential part of the services provided by ATSIILSs is the involvement of community-based paralegal staff who provide support for clients.

Court support is also a key issue. The availability of a dedicated court support person (other than the legal representative) for legal proceedings is extremely important. Due to issues of confidentiality and trust this role is best filled by a person attached to the legal service, if possible. ATSI Liaison

Officers at the courts, whilst providing an essential service, cannot take on an intensive support role for all ATSI people coming before the court. **Paralegal workers attached to legal services are in a unique position to provide intensive court support for clients of the service.** Women who have dedicated ATSI support workers in the court process feel very positively about this support. Often family support is not available for ATSI victims in situations of family violence and sexual assault for a range of reasons, which raises the importance of professional supports.

*... need support person throughout court process ... family may not support ... professional support also needed. **Aboriginal support worker***

*... At court will chat to them ... make sure children comfortable and that clients are comfortable and make sure they know where to get food and drink so they don't go hungry or thirsty. If need supporting evidence will organise that ... for example Court required proof of accommodation ... I had to organise that on the day ... Often it is a long or stressful time at the Children's Court ... clients not prepared for this ... the practical support from a trusted person makes a big difference. **Aboriginal paralegal support worker***

*... Had no support person in [the Family] Court ... would have been a lot better to have someone to support me through it ... to help decision making ... need that. **Aboriginal victim/survivor***

*... Court support a key and also someone who knows the process ... really helped a lot ... had Koori person I knew who came with me as friend ... she also knew about the legal process. **Aboriginal victim/survivor***

*... Having Koori support person is important ... female young people very shy ... need Koori support in court. **Aboriginal support worker***

*... using Koori liaison officer resources to support ... [additional] Koori person in victim support role would be good. **Aboriginal support worker***

*... police treat clients differently when there is no support person ... don't use plain language. **Aboriginal support worker***

*... women don't tend to bring their own support people along ... makes court support important ... good for our service [FVPLS] to have that ability because established relationship ... rather than someone from an outside service on the day ... not trying to tell their story all over again. **Non-ATSI lawyer***

Proposal 5

That the unique support and strengthening of legal service provision provided by paralegal support workers in the FVPLS program, and ATSI legal services more generally, be fully acknowledged and supported.

Action

That the Commonwealth Attorney-General's Department and Victorian Government continue to fund paralegal support positions in the FVPLS program and in ATSI legal services more generally.

Responsibility

Commonwealth Attorney-General's Department, Victorian Government

FVPLS Victoria is often also required to provide financial assistance for basic transport, child care and food so that clients can see a legal process through to its conclusion. For example, clients often have to travel to the Family Court Melbourne from country areas, so need support with public transport fares, child care, accommodation and food. There are also instances where women cannot meet child access arrangements because of financial hardship, particularly if they are required to travel. Government funding is not provided for this, so FVPLS Victoria currently relies on donated funds.

FVPLS Victoria lawyers are noticing increasing difficulties for ATSI women who experience family violence in accessing appropriate housing options.

Proposal 6

That the material aid requirements of clients engaging in legal processes (e.g. child care, petrol, food, accommodation) be acknowledged and appropriately funded.

That emergency housing options for ATSI women who experience family violence be enhanced.

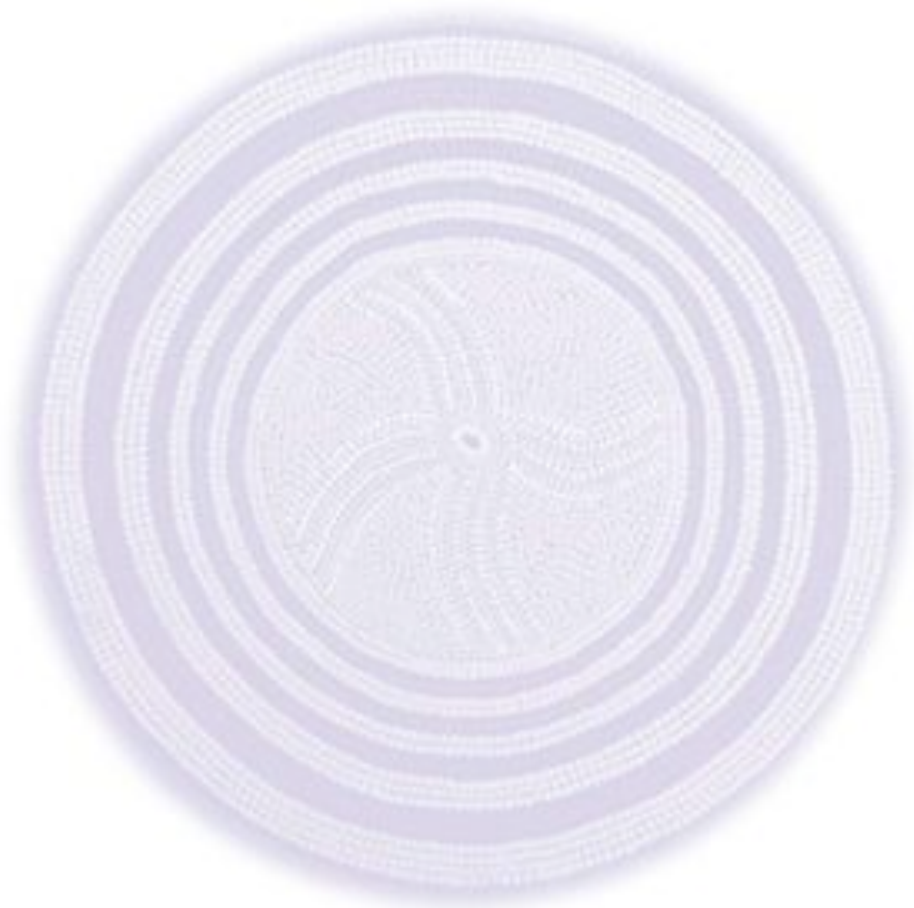
Action

That funding for material support for ATSI victims/survivors be incorporated into FVPLS program funding and also attach to other state- and non-government-funded legal positions.

That the Victorian Government through relevant departments increase funding for emergency housing for ATSI women and children who experience family violence.

Responsibility

Commonwealth Attorney-General's Department, Department of Justice Victoria, Department of Human Services Victoria



Section 5: Legal services for children

5.1 Project feedback

The project consultations revealed a clear view that more support services are needed for ATSI children who have experienced family violence or sexual assault as either primary or secondary victims.

*... would have been good to have legal assistance earlier ... I didn't realise it would be good to have my own lawyer. **Young Aboriginal sexual assault victim***

*... issue of children in care needing victims assistance application done ... who is responsible to look after that ... to pursue VOCAT etc. **Non-ATSI lawyer***

*... Kids are falling through ... need to look after kids ... need case management ... plans to meet medical, emotional wellbeing ... kids are the next generation ... too hard for mums at times [who are experiencing violence etc.]. **Aboriginal support worker***

*... not enough supports available ... no easy availability for specialist children's counsellors or qualified specialist Aboriginal children's support workers. **Non-ATSI lawyer***

*... more dedicated services ... specialising in children only ... with mainstream/Indigenous options. **Aboriginal support worker***

5.2 FVPLS services for children

In recent times there has been growing recognition of the impact of family violence upon children as both primary victims and secondary victims (where they have heard or witnessed violence).

FVPLS Victoria legal assistance for children would normally involve:

- victims assistance claims in which a child has been a primary or secondary victim (witness) of family violence or sexual assault—children's counselling services would often follow
- attendance at the Children's Court (Family Division) where a protection notification is made (FVPLS Victoria would normally provide assistance to a parent/carer who is or has been a victim)
- family law—assistance to parents/carers where disputes arise about children. Victoria Legal Aid has recently included FVPLS Victoria on the Independent Children's Lawyer (ICL) panel
- family violence intervention orders—children are now often included on intervention orders.

It is generally parents who access the services of FVPLS Victoria with their children. It is unusual that children contact or are referred to the service discretely (see Section 7.1: After-Hours Crisis Support for Aboriginal victims of family violence). It must be acknowledged that support to parent/carer victims of violence is also key to improving the safety and wellbeing of their children.

5.3 Representing children in family law and child protection cases

It is important that ATSI children receive culturally appropriate representation in both jurisdictions, and that the option to assign these cases to an Aboriginal legal service such as FVPLS Victoria is open. ATSI children are significantly overrepresented in the child protection system in Victoria (see also Paper 3, Section 1: Family law, and Section 2: Child protection). The VLA referral process may need to be refined to best address these particular circumstances. FVPLS Victoria is aware of culturally inappropriate representation of children, particularly in the Family Court (see also Section 6: Victoria Legal Aid, below). One recent example is of a private Independent Children’s Lawyer in family law proceedings marking ‘not applicable’ against ATSI issues for an ATSI child.

It is important to note that in family law and Children’s Court disputes, for reasons of conflict of interest, all parties generally require separate legal representation, which increases the demand for culturally appropriate legal services. Government funding arrangements must also account for this issue.

The availability of independent, confidential legal services that are not connected or partnered with agencies involved in the child protection system, such as DHS or the Victorian Aboriginal Child Care Agency (VACCA), is important to ensure that ATSI adults and children can and will access confidential legal services. The FVPLS program can offer this assistance if provided with the necessary dedicated resources.

5.4 The legal rights of children in care

FVPLS Victoria is particularly focused on ensuring that the legal rights of children who are victims of crime and under care and protection orders are protected. FVPLS Victoria is aware of cases where this has not occurred. **There is an urgent need to establish a process for ensuring that legal rights and entitlements are accessed on behalf of children under care and protection orders—for example, through victims assistance or personal injury litigation.**

5.5 Community legal education

Improved community education for young people about safety and legal rights, and for key agencies about the services provided by FVPLS Victoria, could increase young people’s access to legal services. It is critical, however, that provision of community legal education to ATSI young people about these sensitive issues is backed up by specialist services to support the work. In the

past, FVPLS Victoria had in-house psychologists establish a schools program. Their experience revealed that very significant and intense counselling and support services were required in conjunction with community education. FVPLS Victoria does not currently have the resources to provide this level of support and expertise. This is, however, an area that requires a great deal more attention, preferably through a dedicated program, and FVPLS Victoria is committed to this development.

Overall, a strategic approach to strengthening legal and associated support services for ATSI children who have experienced family violence or sexual assault is required. Funding to enable appropriate support services to complement legal services within a holistic service model is essential to the success of future initiatives (see also Section 9: Counselling).

Proposal 7

That strengthening of dedicated legal and support services, and prevention activity, for ATSI children experiencing family violence and/or sexual assault in Victoria is urgently required.

That the legal rights of ATSI children under care and protection orders in Victoria be protected and pursued.

Action

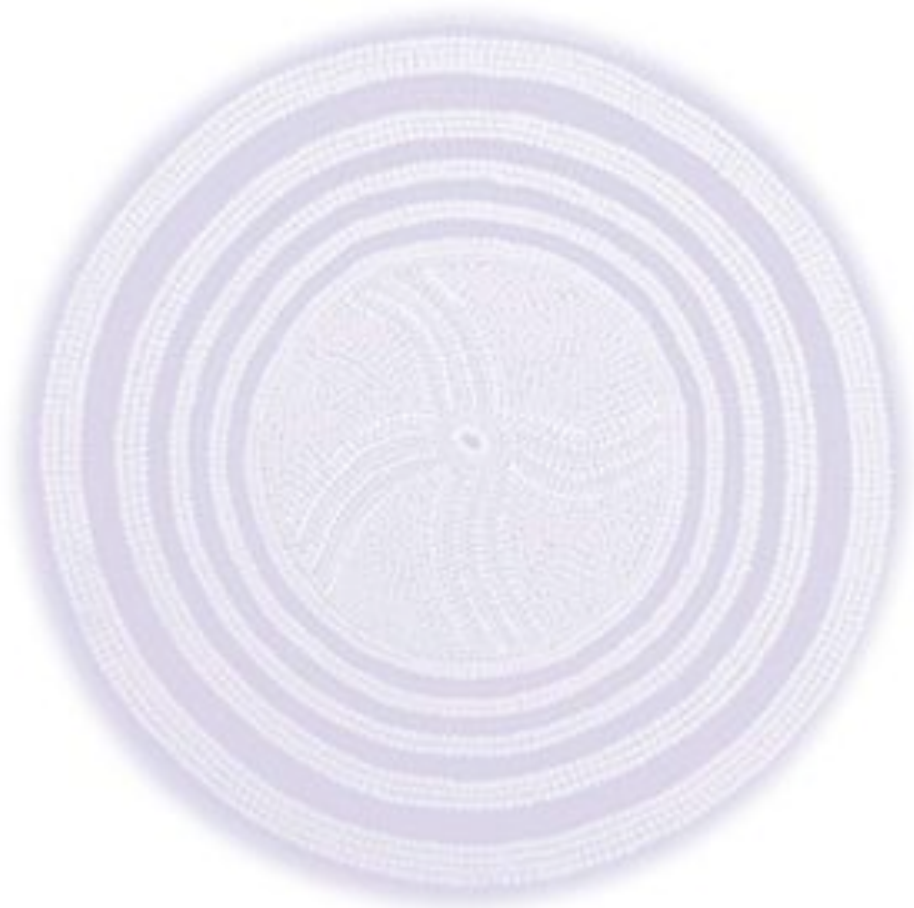
That the Victorian Government, in partnership with key ATSI stakeholders, conduct a review of the services and prevention activity required for ATSI children in relation to family violence and sexual assault in Victoria, with a view to improving services and implementing effective prevention/education.

That Victoria Legal Aid review its arrangements for the legal representation of ATSI children in the Children’s Court and family law jurisdictions.

That a process to ensure the pursuit of the legal rights of ATSI children who are victims of crime, and under care and protection orders, be established.

Responsibility

Department of Justice Victoria, Indigenous Family Violence Partnership Forum, Aboriginal Justice Forum, Victoria Legal Aid, FVPLS Victoria, VALS, Department of Human Services Victoria, VACCA



Section 6: Victoria Legal Aid (VLA)

Feedback through the project consultation process indicated that Victoria Legal Aid could improve access to justice for ATSI victims/survivors in the area of family violence by adjusting some of its internal practices (see also Paper 3, which deals more broadly with the accessibility of the legal system).

Victoria Legal Aid is currently supporting two critical legal positions at FVPLS Victoria: one a family law secondment and the other a family violence legal position funded through the Department of Justice Victoria. These positions are providing services to metropolitan Melbourne and other regional areas, and it is essential to the viability of FVPLS Victoria that they continue. FVPLS Victoria is of the view that this model of VLA placing lawyers in ATSI organisations is highly successful in terms of improved access to justice and effective targeting of legal aid funds.

The relationship between Commonwealth Legal Aid guidelines and the Victorian Guidelines is acknowledged. The proposals made here simply document areas and ideas raised in project consultations about improved legal aid access.

6.1 Public Interest/Test Case Guidelines

Advancing specific ATSI cultural issues within the legal system and ensuring judicial compliance with legislative provisions and human rights obligations with respect to Aboriginals and Torres Strait Islanders must be included within the criteria for Public Interest and Test Cases.

6.2 Child protection

Broadening legal aid assistance in child protection matters for lawyers to be funded to attend DHS Best Interest Planning meetings and Aboriginal Family Decision Making (AFDM) meetings would strengthen legal services considerably. Lawyers argue that very important decisions that have long-term impacts and serious ramifications are made in those meetings, and that the absence of legal representatives at such meetings is a serious barrier to access to justice for ATSI people. Lawyers acting for children in the Children's Court should also be attending these meetings. FVPLS Victoria is advocating for significant strengthening of the AFDM process alongside family violence and safety screening.

*... is important ... and VLA should fund ... this is where crucial decisions are made ... about reunification or permanent care ... it is where the case is tracking ... they are critical meetings ... lot of the time DHS already have a plan written up ... this why an advocate is needed ... children's lawyers should go to Case Plan meetings ... not being kept up with what's going on ... not funded to do stuff outside of the court hearing ... a lot happens outside court they should be involved in. **Non-ATSI lawyer***

Funding to seek review of DHS Case Plans at the Victorian Civil and Administrative Tribunal should also be strengthened as decisions with respect to tracking to permanent care are made in these plans. It is likely that funding for representatives to appear at Case Planning and other out-of-court meetings would most likely reduce the need for such review applications. (Paper 3, Section 2 proposes that the Children's Court should have jurisdiction to review Case Plans.)

Given the high numbers of ATSI children on care and protection orders in Victoria, and the significance of family violence in notifications, the funding of child protection legal services at FVPLS Victoria should be a priority. FVPLS Victoria is utilising a 12-month Legal Services Board grant to 30 June 2010 for child protection services. Short-term support from the state government for this position is anticipated. Ongoing funding is essential to ensure dedicated culturally appropriate service provision.

Finally, it is important that VLA support ATSI legal services to represent ATSI children and families at all stages of Children's Court (Family Division) proceedings, including dispute resolution processes.

6.3 Family law

In the area of family law, there is a critical need for Legal Aid assistance in a broader range of matters. Funding of cases where ATSI cultural issues and family violence have been inadequately dealt with by the court would better address legal equity issues. The following suggestions emerged from the project consultations:

- The transfer of cases between legal practitioners should take into account ATSI people preferring representation by an ATSI service or lawyer for cultural reasons.
- ATSI legal services/ATSI lawyers ought to be on the Independent Children's Lawyer panel to strengthen culturally appropriate options for legal representation. (Two FVPLS Victoria lawyers have recently been approved by VLA as ICLs.)
- VLA ought to ensure ongoing cultural awareness training of all ICLs and include ATSI cultural awareness as a criterion for panel admission.
- Given the often complex nature of litigated ATSI family law disputes and accompanying cultural issues, the reduction in the appointment of ICLs is of particular concern for ATSI children.
- Where family reports or the position of an ICL is not supporting the applicant's position (for example, for a relocation application), guidelines detailing 'recommendations for assistance' ought to specifically refer to the inadequacy of a family report or ICL analysis about ATSI cultural matters or the nature of the family violence. Relocation is a frequent issue for ATSI people seeking to reconnect with family or country, and where family violence is an issue. The failure of report writers or ICLs to deal appropriately with such cultural and family

violence issues essentially impedes access to further VLA assistance. FVPLS Victoria can cite numerous examples of the inadequate analysis of family violence by family report writers (see the recent Chisholm Report).⁴

... if the family report is not supporting the client ... very difficult to get VLA to support the case ... if family report writers have not addressed family violence or cultural issues ... because family report makes recommendation does not mean this is what the court will do at the end of the day ... VLA goes with family report ... might get funding to cross-examine report writer but that is it. Non-ATSI lawyer

- The ability to seek funding for private family reports ought to be ensured. The complexity of many ATSI family law disputes, and the layers of trauma and disadvantage experienced by many ATSI families, requires strong cultural understanding and the dedication of sufficient time to the issues. To improve access to justice for ATSI people in the family law system they must be able to readily identify and access culturally appropriate report writers.
- VLA assistance for ATSI parents wanting to travel to connect with family or for other cultural purposes, where this is opposed by the other party, should also be available.
- There ought to be reinstatement of assistance for contravention and enforcement applications, as parents may be denied contact with children for considerable periods. Again, ATSI cultural issues and/or family violence issues are likely to be relevant.
- FVPLS Victoria must regularly fund the cost of clients engaging with the legal process, such as the travel, accommodation and child care costs associated with attending court. Donations to the service are utilised for this purpose as no dedicated funding is received. Broader consideration of this issue is required by the government.

... more legal aid for areas of law affecting family violence victims ... not sufficient in areas of child protection ... family law ... travel and accommodation to courts for clients ... disbursements that need to be paid for. Non-ATSI lawyer

- VLA guidelines should allow for funding of ATSI cultural experts where a case requires that evidence. Travel costs may need to be covered by the grant—for example, when the expert is required to travel from interstate to give evidence about local cultural issues.
- Access to VLA assistance for small family law property disputes in which family violence is a factor must be reinstated. FVPLS Victoria has carried a number of these cases utilising brief-out funds which have extended for lengthy periods and been resource intensive. ATSI women (and children) experiencing family violence should be able to access assistance for these cases through a preferred ATSI service. Grants for advice and negotiation in cases where minimal assets exist must be made available.

⁴ Chisholm, Professor Richard (2009) *Family Courts Violence Review*, 27 November 2009.

... Legal Aid guidelines can be a bit restrictive ... for some clients ... for example, where there is property but not much equity ... can't afford private lawyer but VLA apply test strictly. Lawyer

- ATSI people requiring child support services should have the option to access an ATSI service (FVPLS Victoria or VALS), especially, but not only, in cases where they are accessing that service for other family matters.

6.4 Family violence intervention orders

Access to assistance for intervention order mentions should be reinstated. The complicated and overlapping nature of many family violence/family law/child protection legal matters requires consistent, integrated legal representation at all stages of the process.

6.5 Gathering evidence for Legal Aid applications

Lawyers commented on the problems they face in getting clients to gather necessary supporting material for the legal aid grant, particularly in cases where family violence and other trauma or difficulties are present. The importance of paralegal support workers who can provide additional client support is highlighted by this issue.

Proposal 8

Victoria Legal Aid guidelines are currently restricting optimum access to justice for ATSI victims/survivors of family violence and sexual assault, particularly in the family law and child protection (Family Division) areas.

Action

That Victoria Legal Aid review its guidelines for assistance in relation to family law, family violence, Children's Court (Family Division) proceedings and the public interest criteria to strengthen legal outcomes and improve access to justice for ATSI victims/survivors of family violence and ATSI women and children.

Responsibility

Victoria Legal Aid, Victorian Government

Proposal 9

The cultural awareness of lawyers either acting on behalf of or representing the interests of ATSI people including children in the family law and Children's Court jurisdictions is critical.

Action

That Victoria Legal Aid ensure ongoing ATSI cultural awareness training for all legal staff, and ensure

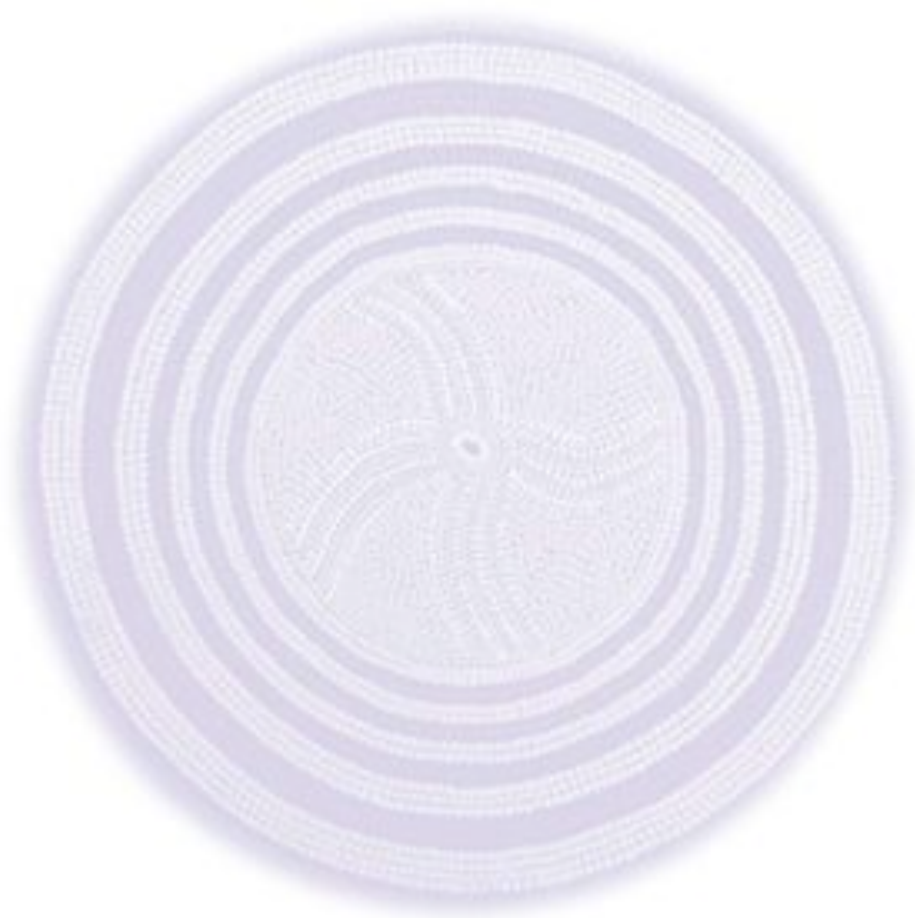
that Victoria Legal Aid in-house and panel solicitors representing ATSI young people in either the Family Court or Children’s Court (Family Division) receive specific cultural awareness training for these roles. ATSI cultural awareness should be a criterion for admission to and remaining on relevant VLA panels.

That ATSI Legal Services be included on VLA panels to represent young people and to act as Independent Children’s Lawyers in Family Court and Children’s Court jurisdictions.

That Victoria Legal Aid support an ongoing child protection legal position at FVPLS Victoria, continued funding of the family violence legal position, and also continue the family law secondment (or direct family law funding arrangement) with FVPLS Victoria.

Responsibility

Victoria Legal Aid, Department of Justice Victoria



Section 7: After-hours and crisis supports

7.1 After-hours crisis supports for Aboriginal victims of family violence

There is a need for statewide strengthening of after-hours and crisis supports for ATSI victims/survivors of family violence and sexual assault. At the present time, after-hours referrals are generally made to the Women's Domestic Violence Crisis Service, directly to local after-hours domestic violence services where they exist, or informally to local community members. Elizabeth Hoffman House Aboriginal Women's Refuge in Melbourne also receives some after-hours referrals. Most after-hours crisis support occurs by telephone, although some limited face-to-face models do operate.

*... Safety is the most important issue ... need support person at crisis point ... check if want to be driven somewhere ... someone to sit with her ... are the children OK? ... been injured? ... police are not good at this. **Aboriginal support worker***

*... crisis response for victim with police would help ... be there early to support the victim. **Key statewide Indigenous service***

*... Statement made on the same day as assault. I was left to go home on my own with my children after they witnessed assault. I sat at home crying thinking what does it all mean. **Aboriginal victim/survivor***

*... It would be good to have a support person in the legal system to help explain processes ... and to give guidance because when you are in crisis all is fuzzy and difficult to understand ... need support person to be there to help with explaining information at initial crisis and then follow-up. Need someone to listen ... be the person in between to help communication [with police]. **Aboriginal victim/survivor***

Police protocols require victim referrals to after-hours family violence crisis services but anecdotal feedback indicates that take-up of this option by women varies and in some areas is low. Consultation feedback suggests that accessibility needs to be improved. The level of effort made by attending police to assist women to contact a crisis service is also unknown. Police fax-back arrangements generally involve family violence services making contact with women/victims the next business day, and in some cases faxes are not forwarded until three or four days after the family violence incident. Project feedback indicates that some Family Violence Safety Notices returnable within 72 hours are eventually lapsing as a result of ATSI women/victims not appearing at court return dates. Court responses to this situation seem to vary. Ensuring access to effective and culturally appropriate legal and support services within the 72-hour crisis period is a current difficulty.

After-hours crisis support available to children impacted by family violence is also lacking. Police are generally concerned with the adult primary victim; however, the wellbeing of children must also be considered. The option to refer children to a specialist after-hours service for crisis support, separate to any DHS notification where that is required, ought to be available.

The 10-year plan has identified the following action, which relates to crisis supports:

... Action 4.1

Improve access of Indigenous victims of family violence to a range of services including emergency accommodation and outreach services, 24-hour support and appropriate case management provided by Indigenous and mainstream service as part of crisis response.

It is also noted that the Victorian Law Reform Commission made the following recommendation in its Report on Family Violence laws in 2006:

... 26. The Indigenous Family Violence Partnerships Forum should consider the possibility of providing an Indigenous victim support scheme that is available to offer support when the police are called to a family violence incident.⁵

There is support for the view that dedicated ATSI-specific after-hours crisis services should be available to ATSI victims/survivors of family violence in Victoria. Giving ATSI women the option to access an after-hours crisis support service through which they can speak to a Koori woman is likely to strengthen police responses, ensure that women are aware of all their safety options and result in speedier links to key culturally appropriate legal and other supports. ATSI women would then be more likely to engage with follow-up supports for improved safety outcomes. (The issue of police responses to family violence is dealt with in Paper 3, Section 6.)

It is important that local ATSI communities determine what is most appropriate for their community in terms of after-hours crisis support, but in the area of family violence and for safety reasons options are critical. **Consideration should be given to piloting an after-hours crisis support arrangement whereby Koori women are on call to speak with Koori women and children victims of violence.** This project would require considerable consultation and planning, but given concerns about the need for culturally appropriate supports at the point of crisis and beyond for family violence victims this should be a priority. The proposed establishment of regional ATSI refuges may complement this proposal.

*... we have a local after-hours family violence service but statistics show access to that service to be low. There are limits to the level of assistance that can be provided over the phone but face-to-face after-hours support requires very significant resourcing and is particularly difficult in a rural region in which towns are quite spread out. Improving access to crisis telephone support after hours is a step forward. It would be worth piloting a Koori after-hours telephone service which women had the option to access. **Non-ATSI lawyer***

... the after-hours crisis support system is not working well for Koori women especially in some rural

⁵ Victorian Law Reform Commission (2006) *Review of Family Violence Laws Report*, February 2006.

*areas. There are different protocols in place between the regions. Some arrangement must be developed for Koori women statewide to have the option to speak to a Koori support person after hours. **Non-ATSI family violence project worker***

7.2 Crisis legal referrals

It is critical that victims of violence are also referred on for legal advice as soon as possible. Again, given the quick turnaround of Family Violence Safety Notices (FVSNs) into court (72 hours), feedback indicates that women are not receiving legal advice prior to the return of the FVSN to the Magistrates' Court other than the police intervention. In light of what has been said previously about the importance of supports for women who are engaging with the legal system, this is a critical issue that requires attention. Access to urgent legal advice that incorporates the full range of legal issues arising must be available, and court processes must accommodate the need for there to be adequate time for this. Improved cooperation and development of referral protocols between key services is also required.

*... fast turnaround of family violence safety notices means it is difficult for support services to access women before the return date. **Key statewide Indigenous service***

... Police take out a Family Violence Safety Notice ... if the woman does not turn up is struck out ... women need better support at the crisis point ...

*... We not being notified in the early FVSN stage ... MOU arrangement may help a bit ... something to keep an eye on ... If women go into refuge they will get crisis supports through that process ... where an FVSN is issued ... less likely that those supports will be put in place ... women then may not show up to court and progress made may be lost. **Aboriginal family violence service coordinator***

FVPLS Victoria is currently undertaking a Koori Family Violence Police Protocols Project funded through the Department of Justice Victoria. The role of the police in responding to family violence incidents in designated trial communities is being reviewed and local protocols developed. Police referral to crisis support services is a significant issue in the project.

The next stage of referral on to dedicated legal supports as early as possible also requires attention. Improved communication between and integration of key ATSI and mainstream services at the regional and local levels, combined with community education about the importance of legal referral, will assist this process.

Proposal 10

That culturally appropriate after-hours (and other) crisis support options for ATSI victims of family violence and sexual assault are critical and must be strengthened.

Action

That a review be conducted of the particular crisis support requirements of ATSI women and children (including after-hours support) who experience family violence and sexual assault, and that this review looks at the role of Victoria Police. The review must incorporate statewide and local processes and take into account local ATSI diversities. Pilot programs to provide Koori-specific crisis responses must be considered.

Responsibility

Indigenous Family Violence Partnership Forum, Indigenous Family Violence Regional Action Groups, Integrated Family Violence Steering Groups, Aboriginal Justice Forum, Department of Justice, Department of Human Services, Victoria Police

Proposal 11

That crisis legal referrals for ATSI victims/survivors be made at the earliest possible time to ensure improved legal outcomes.

Action

That FVPLS Victoria initiate discussions with family violence crisis support services in Victoria who are supporting ATSI women, to strengthen legal referral processes.

That court processes with respect to return of Family Violence Safety Notices ensure that the victim has had reasonable opportunity to access culturally appropriate legal assistance prior to applications being struck out or final determinations made.

Responsibility

FVPLS Victoria, Elizabeth Hoffman House Aboriginal Women's Refuge, Women's Domestic Violence Crisis Service, Indigenous Family Violence Regional Action Groups (IFVRAGs), Rural and regional domestic violence crisis support services, Victoria Police, DHS-funded ATSI support services, Magistrates' Court Victoria

10-year plan**Action 4.1**

Improve access of Indigenous victims of family violence to a range of services including emergency accommodation and outreach services, 24-hour support and appropriate case management provided by Indigenous and mainstream service as part of crisis response.

Section 8: Coordination of law and justice service providers and the integrated family violence strategy

Project consultation feedback indicated ongoing problems with access of ATSI women to some mainstream family violence services, with Victoria Police responses and with an ongoing lack of key agency collaboration. It is also evident that legal service providers are not sufficiently integrated into broader family violence strategy.

Law and justice and associated service providers in the area of ATSI family violence (including ATSI and mainstream organisations at the statewide and local levels) need to further strengthen information sharing. The key relevant agencies include FVPLS Victoria, Elizabeth Hoffman House (and other local ATSI refuges), domestic violence crisis services, the Victims Support Agency, Centres Against Sexual Assault (CASAs), Victoria Police, health services, hospitals (Aboriginal Liaison Officers in particular), VACCA, DHS and other children's services.

*... better integration of services. Needs to be flexibility in Indigenous service provision to account for small communities/confidentiality ... need clearer referral pathways. **Aboriginal support worker***

*... Stronger collaboration between services [needed] ... Need to do more collaborative community education ... knowledge to practitioners and community to empower them. **Key statewide Indigenous service***

*... where successful ... mainstream and Indigenous organisations would work together. Where successful would be because of linkages. More advocacy is needed from other Indigenous support services where clients are accessing mainstream services. **Aboriginal regional family violence coordinator***

*... Mainstream and Indigenous services must be made more accountable in working with Aboriginal people—agencies must be clear and transparent in day-to-day functions. Improvements should be made through the regional integrated family violence committees. After attending a big meeting in Melbourne last year about the integrated family violence strategy I have become more aware of the process and how it is supposed to be working. There is a need to target the disservice of the local mainstream agency and police to Aboriginal people. This can happen on a service-to-service level but also needs to be addressed more broadly and the regional integrated family violence committee is the place this should happen. **Aboriginal coordinator ATSI family violence service***

Due to the nature of the legal system with its overriding confidentiality and unique ethical requirements, together with the differing, sometimes conflicting roles and responsibilities of various organisations, partnership arrangements will not always be appropriate. However, clearer understanding of roles and developments within agencies in the family violence and sexual assault area would be of great assistance. This needs to happen at both the statewide and local levels.



Sisters Day Out, Melbourne May 2008.

The Victorian Government’s family violence strategy emphasises integration in service development and delivery. Improved links between the ATSI and mainstream family violence initiatives in Victoria would be beneficial and could improve service delivery.

Consultation feedback and other sources indicate there is an inadequate connection between mainstream and Koori family violence initiatives in some regions.

Dedicated fixed-term regional projects directed toward this objective across Victoria could help. Strategies should be developed that acknowledge the already onerous meeting obligations under the integrated strategy.

The East Gippsland Family Violence Practitioners Network, led by FVPLS Victoria Gippsland, has gained funding for a project aimed at strengthening connections amongst ATSI workers and organisations in East Gippsland and increasing access to services for ATSI victims/survivors. This is an example of an initiative designed to improve coordination between ATSI and mainstream services. More such initiatives will be key to enhancing overall outcomes.

FVPLS Victoria held two cultural awareness and ‘Working Better Together’ workshops in the Gippsland and Barwon South West regions in 2009. The first day of the workshop involved cultural awareness training for non-ATSI workers and organisations, and the second day incorporated the knowledge of ATSI workers and organisations into a discussion of strategies aimed at working better together for the benefit of ATSI victims/survivors. The workshop involved workers (e.g. private lawyers and psychologists) who would not normally access community family violence networks. Feedback about the cultural awareness training was extremely positive and information sharing on the second day perceived as valuable. This provides another example of the type of initiative that might assist in improving connections.

Proposal 12

That improved information sharing and understanding amongst key ATSI and mainstream law and justice providers working in the area of ATSI family violence and sexual assault be prioritised. That linkages between ATSI-specific family violence initiatives and mainstream integrated family violence strategy be improved.

Action

That short-term regional projects be funded to develop strategy for improved linkages and information sharing between ATSI and mainstream family violence initiatives.

Responsibility

Victorian Government, Indigenous Family Violence Partnership Forum, Aboriginal Justice Forum, IFVRAGs

10-year plan

Action 6.2.2

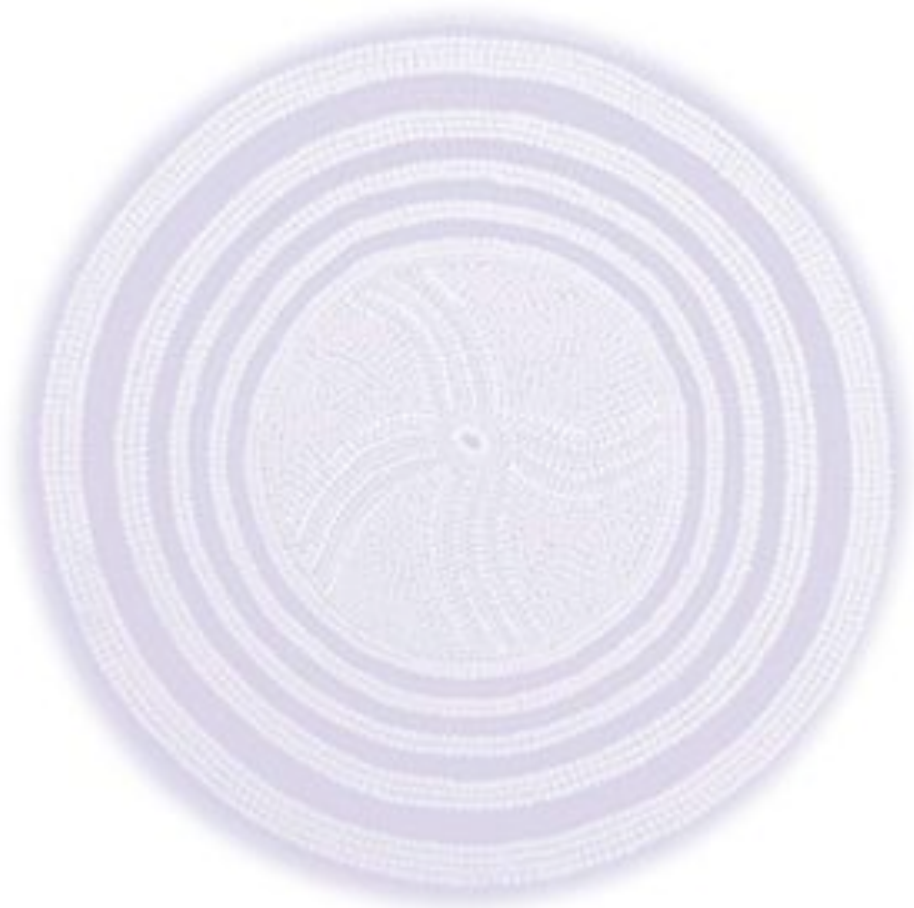
Develop partnerships between family violence services and alcohol and other drugs services, gambling services, mental health services and child and family services.

Objective 7 Increase the cultural competency and capacity of the service system to improve responses to Indigenous family violence.

Strategy 8.2 Develop mechanisms to share information and good practice actions and outcomes.

Action 8.2.1

Strengthen information and communication about initiatives and outcomes to reduce, prevent and eliminate family violence with the Indigenous community.



Section 9: Counselling/therapeutic services

9.1 The importance of counselling and other support during the legal process

Consultation participants were in strong agreement about the need for more culturally appropriate counselling options (both crisis and long-term) for ATSI victims/survivors of family violence and sexual assault, including young people. Many ATSI women are impacted by intergenerational trauma and significant disadvantage. Counselling and/or alternative practical support is critical to the ability of women to engage with and sustain the legal process. Support for children experiencing family violence is also critical, and is dealt with further below.

9.2 Counselling within the FVPLS program

No counselling funded to urban areas

The Commonwealth FVPLS program provides funding for some counselling services but only to rural areas. Again, the failure of the Commonwealth to fund FVPLS counselling services within holistic legal services for victims/survivors in urban areas is unacceptable, and the arguments for this mirror those already made in relation to legal services (see Paper 1, Section 2).

Commonwealth AGD support for holistic service delivery

The AGD, in primarily managing law and justice services, must ensure provision of the necessary expertise to develop and support counselling and healing services within the FVPLS program. If the holistic service model is to have maximum benefit for ATSI victims/survivors, it is critical that there be a process and structure within the AGD or linked to the AGD that is dedicated to the development of best practice and culturally responsive counselling/healing approaches.

Greater awareness is also needed of the professional ethical tensions that arise through seeking to incorporate counselling services into what are primarily legal practices. There are variations in ethical obligations amongst the states and territories (e.g. mandatory reporting). However, this is a central issue to the success of the holistic service delivery model which requires appropriate recognition, leadership and support within the Commonwealth FVPLS program. A formal collaborative relationship between the Commonwealth and states and territories in delivery of the FVPLS program and services for ATSI women and children more generally would also support this process.

Proposal 13

That funding for the holistic service delivery model (incorporating counselling/healing) of the FVPLS program be extended to urban communities.

That the Commonwealth Attorney-General's Department, through the national FVPLS program, strengthen its development and support of counselling and sexual assault services within FVPLS Units.

Action

That the Commonwealth FVPLS program which incorporates counselling services for ATSI victims/survivors of family violence and sexual assault be extended to urban areas.

That the Commonwealth Attorney-General's Department strengthen its support capacity for counselling and sexual assault services within the FVPLS program, incorporating expertise in compliance with various state, territory and national professional standards, and the development of culturally appropriate best practice service provision which incorporates innovation and responds to ATSI diversity. Collaborative funding arrangements with states and territories must be implemented.

Responsibility

Commonwealth Attorney-General's Department, Victorian Government

9.3 Experience and learning of FVPLS Victoria with respect to counselling services for ATSI victims/survivors

FVPLS Victoria of necessity currently outsources counselling services to private counsellors/psychologists. This model requires significant client support and follow-up from FVPLS Victoria paralegal staff. Funded through a Mental Health Council grant, cultural awareness workshops are provided by FVPLS Victoria in the Gippsland and Barwon South West regions, involving local counsellors and psychologists. Feedback on these workshops has been very positive—many participants commented that they wished they had been able to participate in this type of program many years earlier.

Barriers to ATSI victims/survivors accessing counselling/therapeutic support

The main barriers to accessing counselling assistance include:

- a critical lack of counselling options in rural areas in particular
- a lack of culturally appropriate counsellors/psychologists in all areas
- waiting lists
- a lack of options for culturally appropriate crisis counselling

- inadequate funding/support for alternative therapies such as art therapy, narrative therapy and cultural group work
- the need for completely separate services for victims of violence which perpetrators will not also attend (several people consulted mentioned the difficulty for victims of men/perpetrators being present at Healing Centres)
- the more practical issues of inadequate access to transport and child care.

*... Transport, waiting lists, venues, need option for places to go which are confidential. Safe place to go is important ... where people are a little ambivalent practical barriers have more impact. **Aboriginal support worker***

*... need discrete victim support services ... at the healing services ... a lot of men hang around. **Aboriginal support worker***

*... Barriers include transport, waiting lists, venues, confidential places. **Non-ATSI lawyer***

Culturally appropriate counselling/healing and the need for flexible approaches

The limited number of Aboriginal and Torres Strait Islander counsellors and psychologists in Victoria highlights the importance of the cultural awareness of non-ATSI counsellors and also of the need for alternative culturally appropriate healing services.

Given the complexity of issues faced by ATSI victims/survivors, culturally aware counsellors/psychologists and culturally appropriate counselling or healing are critical. **In the experience of FVPLS Victoria, ATSI people are more likely to engage with and sustain counselling processes where there is a demonstrated understanding of their culture and an approach that allows victims/survivors to choose the type of counselling with which they are most comfortable.** Flexibility in relation to time, counselling venue and inability to attend on a given day also emerged from the consultations as key issues around successful counselling/healing options.

*... Healing processes for ATSI women should be about strengthening identity, understanding your role as an Aboriginal woman, reflecting, understanding and drawing on cultural ways to inform the present. Such work should only be done by Aboriginal women. **Aboriginal educator***

*... Opens up a lot of wounds ... counselling can be as traumatic as some of the events. **Aboriginal support worker***

*... Counsellor was culturally aware and I found her way of working very good/supportive. Culture was big part of my recovery. Culture was central ... I drew on it to get me through. **Aboriginal victim/survivor***

*... I had counselling but it was not really helpful ... wanted to bring back my history ... I don't want to bring history up again ... it's too painful. **Aboriginal victim/survivor***

... Need scholarship to encourage more Aboriginal counsellors. **Non-Aboriginal support worker**

... is a problem with cultural awareness of counsellors women disengage reasonably quickly ...
counsellors have difficulty in ensuring engagement ... cultural awareness important. **Non-ATSI lawyer**

... flexibility needed ... trans-generational trauma ... complicated counselling ... when can't go ... sets
up a barrier [to returning to it]. **Non-Aboriginal support worker**

... Counsellors must let women know they can come back ... women think if they have mucked up they
can't go back. **Aboriginal support worker**

Psychological assessment of ATSI people in court proceedings

Understanding of cultural contexts and cultural awareness are also critical where counselling or psychological assessment is mandated in court proceedings. In the Family Court, for example, psychological or family reports can impact significantly upon court outcomes, as the opinion of the family report writer is given much weight by both Legal Aid in determining funding for the case and by the court in informing its decisions.

FVPLS Victoria has experienced situations where a report writer's lack of cultural awareness, and failure to place the family dispute and family violence within a cultural context, has inappropriately disadvantaged clients. FVPLS Victoria proposes improved cultural awareness training for family report writers and for those preparing reports in other jurisdictions, to ensure that the cultural context and family violence issues are dealt with appropriately (see Paper 3, Section 1: Family law).

*There are problems with cultural awareness of report writers ... one recently not picked up on child being Aboriginal ... not even mentioned. **Non-ATSI lawyer***

Proposal 14

Cultural awareness training for psychologists/counsellors working with ATSI victims/survivors of family violence and sexual assault both in the community and in the legal system is critical.

Action

That the state government lead an initiative to train more ATSI people in counselling/psychology/healing and coordinate the development of a cultural awareness training program for non-ATSI psychologists/counsellors.

That all counsellors/psychologists working with ATSI victims/survivors of family violence and sexual assault in the legal system in Victoria, including the Children's Court and Victims Assistance system, receive ongoing cultural awareness training.

That the Family Court and Federal Magistrates' Court strengthen cultural awareness training for

their internal and external family report writers.

Responsibility

Victorian Government, Department of Justice Victoria, Victims Support Agency, Family Court of Australia

The demand for conventional one-on-one counselling

In answer to the question over whether ATSI people find conventional one-on-one counselling helpful, FVPLS Victoria staff across all locations report that there is a demand for such counselling.

The difficulty lies in locating culturally appropriate counsellors/psychologists to ensure that clients engage and follow through with the process. One-on-one counselling does not suit everyone and alternative options must be available.

*... I am surprised at the level of demand ... have clients ringing and asking. **Non-ATSI lawyer***

*... Huge take-up in counselling services ... if endorsed by Aboriginal organisation will give it a go. **Aboriginal support worker***

*... Waiting lists for counselling are huge. **Non-ATSI lawyer***

Gender issues

Women victims/survivors of family violence and sexual assault prefer to work with women counsellors so it is important that this option is always available.

*... had counselling and it was helpful. It was a woman ... must be a woman ... we don't trust men because of the violence. Took a little while to trust her and to deal with things. Helped me get a lot of emotions out ... need counselling after it happens [the violence]. **Aboriginal victim/survivor***

Access to crisis and long-term counselling

At the time of a crisis requiring legal intervention, counselling support through the legal process can be essential. Many clients are too distressed to cope with legal proceedings. Counselling or other strong general supports to deal with practical issues, such as money and accommodation, can make all the difference. The project consultations revealed frustration with the lack of appropriate crisis counselling for ATSI victim/survivors, which is viewed as critical in supporting urgent legal and other decisions (see also Section 7: After-hours and crisis supports).

*... Nowhere near enough counselling options and lack of crisis counselling. **Aboriginal support worker***

... Need crisis counselling to manage anxiety at the time ... longer-term healing will come later ... very

*different skill sets for each type of counselling support. **Non-ATSI lawyer***

*... Crisis counselling needs to be on an outreach basis (e.g. to hospitals). **Aboriginal support worker***

*... option of phone counselling can be a good one at the crisis stage. **Aboriginal support worker***

Longer-term counselling generally follows legal proceedings. Given the layers of trauma many victims experience, culturally appropriate long-term healing/counselling must be available for extended periods to those ATSI victims/survivors of family violence and sexual assault who need this. Victims assistance processes are sometimes able to provide long-term counselling; however, other options must be made available.

*... complexity requires open-ended counselling ... keeping victims/survivors well and out of the [broader] health care system. **Non-ATSI lawyer***

Victims Support Agency and Victims Assistance and Counselling Program

It is noted that the Victims Support Agency (VSA), through its Helpline, may be a contact point for victims of crime in crisis. The introduction of the Indigenous Victims of Crime Support Strategy and a specific ATSI team within the VSA has been a very positive development. It is important that the VSA and the Victims Assistance and Counselling Programs (VACPs) ensure that ATSI people are referred to culturally appropriate support and counselling services as directly as possible. Multiple contact/referral points are a significant barrier. Implementation of proactive quality control processes would be beneficial, including compulsory cultural awareness training for all counsellors and support workers. The option of accessing VACP support services in ATSI organisations is likely to improve accessibility. The guidelines for accessing support services through the VACP generally require the crime to have occurred within the previous two years and for a police report to have been made. Often ATSI victims have not reported to police and do not want to, and crimes often predate the two years. Whilst the eligibility criteria can be waived in some circumstances, specific provisions within the VACP guidelines to account for these matters would likely be beneficial.

Location of counselling services for ATSI victims/survivors

Project consultations indicated that counselling within confidential and safe ATSI organisations is favoured so long as other culturally appropriate options are also available. **Several participants mentioned that ATSI Healing Centres are not always safe places for ATSI women as victims of family violence, given that men also access these services. Government funding of family violence counselling services must fully acknowledge this issue and provide safe, confidential options for women and children.**

*... more success with clients who have seen the counsellor here at FVPLS ... found it more difficult where tried to refer to mainstream ... follow through not consistent. **Non-ATSI lawyer***

... If counsellor located within Aboriginal service it increases trust ... more likely to access ... not random ... It is good for people to feel that emotional and legal issues are being dealt with at the one time (as can happen through FVPLS) People would walk away relieved. **Aboriginal regional family violence coordinator**

... Being attached to a Koori service means the counsellor has a better understanding of Koori community ... women can talk about broader issues ... is a gap in culturally appropriate counselling for women ... Outreach to services or 'in-house' works better. **Aboriginal support worker**

... The Healing Centre in the northern suburbs of Melbourne has a primary focus on perpetrators of violence and therefore some women can't access the service. **Aboriginal lawyer**

Counselling/support for children

Dedicated culturally appropriate counselling/support for children who have experienced family violence is lacking in regional areas in particular. Sexual assault counselling for children is generally more readily available from sexual assault-specific services, although in regional areas travel distances are often prohibitive for those who do not have easy access to transport. Counselling for children who are impacted by other family violence appears to be less available, particularly in rural areas.

Consultation participants emphasised the importance of supporting children who have experienced family violence or sexual assault and the need for more ATSI and mainstream support options. The lack of case management services for ATSI children who have experienced family violence was raised by a number of project participants as a serious gap. If dedicated services are to be provided, they must be in locations where conflict of interest—for example, with child protection functions—does not arise.

... with high stats of Aboriginal children in care ... [there] are greater support needs ... need clearer referral pathways ... few more options would be good ... Koori options in particular. **Aboriginal support worker**

... Not enough counselling services ... need crisis response there and then ... Properly trained workers to work with children ... from perspective of healing ... so can move on ... looking at health, social, emotional and spiritual healing/wellbeing. **Aboriginal support worker**

... no case management services for children ... needs to be ... support for children ... more than referral to counsellor ... lot of life support ... case management role critical. **Non-ATSI lawyer**

... Children's counselling needed more ... children exposed to violence at home require some supportive intervention at the time. **Aboriginal regional family violence coordinator**

... could be doing things better for children ... people say doing things for their own good but not enough attention to the hurt going on inside ... especially given more children on intervention orders ...

*more attention to impact of violence upon children. **Aboriginal coordinator family violence service***

*... remote area lacks resources ... specialist children's service sits in Melbourne ... lacking in Aboriginal children's mental health services or mental health services per se. Are child and adolescent psychologists but not in the public domain. **Aboriginal support worker***

*... Not enough supports available ... no easy availability for specialist children's counsellors or qualified specialist Aboriginal children's support workers. **Non-ATSI lawyer***

Proposal 15

That high-demand counselling for ATSI women and children victims/survivors of family violence be provided in safe, confidential and culturally and gender appropriate environments.

That case management services for ATSI children who have experienced family violence are needed.

That funding for practical supports needed to facilitate counselling such as transport and child care be factored in to funding provision for services.

Action

That more dedicated counselling/healing options for ATSI women and children be provided separate to ATSI Healing Centres which ATSI men and perpetrators of violence often frequent. That the Victorian Government identify where departmental responsibility for this development lies.

That a strategic plan for the development of case management services for ATSI children who experience family violence be developed.

That services funded to offer counselling/healing for ATSI victims/survivors of family violence receive additional funding for practical supports to facilitate counselling.

Responsibility

Commonwealth Attorney-General's Department, Department of Justice Victoria, Department of Human Services Victoria, Victims Support Agency, Indigenous Family Violence Partnership Forum, Aboriginal Justice Forum

10-year plan

Action 4.1.2

Strengthen the service system to ensure that Indigenous women and children are linked to a range of longer term supports and services including counselling.

Action 4.1.3

Improve access to culturally competent and flexible sexual assault counselling.

Action 6.1.3

Improve referral pathways to therapeutic counselling for Indigenous victims of family violence through promotion of schemes to support access to clinical practitioners.

Counselling alternatives

Consultations pointed to the need for funded alternatives to conventional counselling for those who do not want to engage with the one-on-one counselling or to complement such counselling.

Group work, narrative therapy, art therapy, play therapy for children, yoga and massage were some of the options suggested which could be offered alongside more conventional approaches.

It is noted that some Victims Assistance and Counselling Programs are providing these alternative therapies. Given the reluctance of some ATSI people to access conventional counselling and the preference for these types of activities, FVPLS Victoria strongly supports this. The Commonwealth FVPLS funding program funds only conventional counselling approaches and this should urgently be reviewed.

*... Whether want one-on-one depends on the trauma experienced and over what period ... isolation can lead to trust issues ... group work often works well ... others will feel shamed by [their] experiences and only want one-on-one. **Regional family violence coordinator***

*... group sessions I've experienced are good ... not strictly counselling ... art work sessions ... women's group ... first part different topics then fun activity ... staff, clients and facilitator ... healing model. **Aboriginal support worker***

*... Group healing in prison worked well. **Regional family violence coordinator***

*... more resourcing needed for culturally appropriate counselling ... Different types of counselling needed ... e.g. crisis or long-term ... alternative options ... group work and play group with children ... peer support model ... conducive to needs ... like to yarn. **Key Indigenous service***

*... Women say counsellors don't understand where we're coming from need to look at options that are more appropriate e.g. narrative therapy and how to fund those. **Aboriginal coordinator family violence service***

Proposal 16

Alternative counselling and healing approaches—such as, narrative therapy, art therapy, group work and cultural identity workshops—are more suitable for some ATSI people and should be available as options or accessible alongside more conventional counselling.

Action

That culturally appropriate counselling and healing options for ATSI victims/survivors of family violence and sexual assault be developed through a state government initiative.

That the Victims Support Agency fund alternative therapies for victims/survivors as part of its crisis response counselling/support services. That the Victims of Crime Assistance Tribunal allow expenses for alternative and culturally appropriate therapies through its awards for assistance.

That the Commonwealth through its FVPLS program acknowledge the importance of alternative counselling/healing therapies with demonstrated benefit and fund these services accordingly.

Responsibility

Department of Justice with the Department of Human Services, Victims Support Agency, Victims of Crime Assistance Tribunal, Commonwealth Attorney-General's Department

10-year plan

Objective 6 : Healing

Increase opportunities for healing for victims and perpetrators.

9.4 Support for workers

It is essential that staff working in the area of family violence and sexual assault have access to debriefing and support services appropriate to their particular circumstances and needs. ATSI staff working within ATSI and mainstream community organisations experience unique pressures which must be acknowledged and addressed. It is incumbent upon government and other funders to build necessary resourcing for staff support into all service delivery funding agreements. Staff should be given the opportunity to input on the types of supports they would like made available to them and employers must commit to implementation and review of appropriate measures.

Section 10: Sexual assault

10.1 Introduction

The strengthening of legal and associated services for ATSI victims/survivors of sexual assault covers a broad range of issues from crisis support and counselling, through to legal services, community education and prevention activity. It is not within the scope of this paper to cover these issues in detail; however, **there is an urgent need to build upon and learn from previous initiatives in Victoria to move forward in a concrete way.**

A 2004 report, *From Shame to Pride: Access to Sexual Assault Services for Indigenous People: A Partnership Project between Elizabeth Hoffman House and CASA House*⁶ ('The Shame to Pride Report'), provides an in-depth analysis of sexual assault services for ATSI people in Victoria and contains recommendations that have ongoing relevance. Resourcing and commitment to continue this initiative alongside relevant actions identified within the 10-year plan are essential.

The Victorian Law Reform Commission published its *Sexual Offences: Final Report* in August 2004 and many of its recommendations have been implemented in Victoria with the aim of strengthening responses for victims. Evidence suggests, however, that ATSI women remain reluctant to report sexual offences.⁷ **The experience of FVPLS Victoria is that access to culturally and gender appropriate services that are trusted as confidential and safe is critical to ATSI women seeking assistance in relation to sexual assault.**

Family violence and sexual assault are generally referred to and responded to separately. However, it is important to keep in mind that much sexual assault happens within intimate and family relationships, and that it is one of the most serious family violence crimes. Leaving sexual assault crimes out of family violence discussions means there is a significant gap both in terms of the subject matter of the discussion and in terms of strategies and responses. Given that sexual assault is underreported, including within the family context, the separation of issues within the discussion may be further downplaying the issue. The Victoria Police website states: 'statistics show that the majority of sexual assault victims are women. In many cases, the victim will know the attacker, and a significant percentage of assaults occur in the victim's home.' The Australian Law Reform Commission Family Violence consultation paper states that 'intimate and familial sexual assaults remain the most hidden—and from the purview of the legal system in particular despite forming the largest category of sexual assaults'.

Police responses to family violence and sexual assault are dealt with in Paper 3, Section 6.

⁶ *From Shame to Pride: Access to Sexual Assault Services for Indigenous People—A Partnership Project between Elizabeth Hoffman House and CASA House*, Prepared by Lisa Thorpe, Rose Solomon, Maria Dimopoulos for Elizabeth Hoffman House, 2004.

⁷ Women's Health Goulburn North East (2008) *Raped by a partner: A research report*, Victoria.

10.2 Barriers to reporting sexual assault

The issue of sexual assault within all communities is an extremely sensitive one; and within ATSI communities cultural issues and barriers to accessing the legal system further compound the complexity. Staff at FVPLS Victoria anecdotally concur that past sexual abuse is prevalent amongst women experiencing family violence and that much of it goes unreported. **Some women have experienced family violence and sexual assault in the family context, subsequently in state care and later as adults. That many of these women go on to experience further harm through imprisonment is an appalling and unacceptable situation.**

In a 2003 Australian Institute of Criminology paper, Dr Denise Lovemore provides statistics indicating high rates of sexual assault against ATSI women (p. 56), and significant underreporting which she attributes to:

- mistrust of police and the legal system
- lack of awareness of the law and legal process⁸
- personal family and community factors.

The Shame to Pride Report confirms and expands upon discussion of these barriers, by also referring to: fear of reprisal from perpetrators and the community; the lack of ATSI-specific services; and the inappropriateness of mainstream models of service delivery.⁹

Project consultations revealed reports of some inappropriate police responses, with insensitive male officers still involved in the interviewing of female victims. Dissatisfaction with cases being transferred from Victoria Police's Sexual Offences and Child Abuse Unit (SOCAU) to police investigators and with the less supportive and compassionate approach displayed by criminal investigators was raised. (It is noted that SOCA Investigation Teams are being implemented in Victoria, whose role will be to follow through with the investigation and prosecution.) A lack of female forensic medical officers in rural areas also emerged as a concern. This issue, together with the proposed reform of victims assistance law and process, is discussed in Paper 3.

10.3 Dedicated culturally and gender appropriate legal and support services

With respect to sexual assault occurring within family and community, completely independent, confidential legal services for ATSI women and children are critical. **Any perception that a service is not confidential or not sensitive to women's issues and culture will result in the continuing failure of women to come forward.**

⁸ And see McGlade, Hannah (2006) 'Aboriginal Women, Girls and Sexual Assault: The long road to equality within the criminal justice system', *ACCSA Newsletter* No. 12, September.

⁹ *From Shame to Pride Access to Sexual Assault Services for Indigenous People A Partnership Project between Elizabeth Hoffman House and CASA House* Prepared by Lisa Thorpe, Rose Solomon, Maria Dimopoulos for Elizabeth Hoffman House 2004 Key Findings from p. 25.

The experience of FVPLS Victoria is that reluctance to report sexual assault continues, but that the independence of FVPLS Victoria as a stand-alone ATSI corporation staffed by ATSI and non-ATSI women has encouraged more women to seek support than would have occurred otherwise. The FVPLS Victoria *Sisters Day Out* wellbeing workshop program, accessed by over 2000 ATSI women in Victoria since 2007, provides another example of this. The culturally strong and trusted foundation of these workshops attracts women who would not normally access legal services.

In terms of dedicated sexual assault support services for ATSI people, the Centres Against Sexual Assault and the Gatehouse Centre at the Royal Children's Hospital are primary service providers. The Royal Children's Hospital has an ATSI Liaison Officer and other ATSI-specific programs. Good relationships between ATSI community organisations and these services are critical.

Parents or carers of children who disclose sexual assault also suffer extreme trauma and require considerable support. The trauma may be compounded by the parent having themselves been abused as a child and being re-traumatised by their child's experience. Most often the parent/carer has never disclosed or received assistance to deal with their own trauma.

10.4 Impacts of past sexual assault

The long-term and complex effects of child sexual assault are well documented, as is their varying impact on different individuals. In a research report recently published in the *Medical Journal of Australia* female child sexual assault victims were found to be at a 40 times higher risk of suicide and an 88 times higher risk of accidental fatal overdose than are the general population.¹⁰ Psychiatric disorders were also significantly higher amongst these women. The report acknowledges that the higher rates are unlikely to be entirely attributable to the childhood sexual assault experienced, but concludes that it is a very significant factor. In most cases people had died in their 30s—about 18 years after the abuse took place. **The importance of interventions aimed at reducing risks between the time of the childhood offences and adulthood is thus highlighted. The law and justice system through community services and victims assistance programs must also be equipped to provide effective intervention.**

The majority of ATSI women in prison indicate that they are survivors of family violence or sexual assault. In a survey of ATSI women prisoners in NSW, 70% of respondents revealed that they had been sexually assaulted or suffered other types of abuse as children; and 44% reported that they had been sexually assaulted as adults.¹¹ This is consistent with the experience of FVPLS Victoria.

The imprisonment rate of ATSI women is the fastest growing in the country. There is a very strong correlation between childhood sexual assault and entry into the criminal justice system, often also

¹⁰ Cutajar, Margaret C., Mullen, Paul E., Ogloff, James R.P., Thomas, Stuart D., Wells, David L. and Spataro, Josie, 'Suicide and fatal drug overdose in child sexual abuse victims: a cohort study', *The Medical Journal of Australia* 2010, vol. 192, no. 4, 184-187.

¹¹ Lawrie, Rowena (2003) 'Speak out speak strong: Researching the needs of Aboriginal women in custody', *Australian Indigenous Law Review*, 29.

associated with drug use. This reinforces the need for strengthened culturally appropriate services and prevention activity that addresses sexual assault. (Section 11 of this paper deals with imprisonment in more detail.)

10.5 Prevention and education

Community education and prevention activity must be developed and driven by the ATSI community with adequate resourcing. It is critical that women are provided with culturally appropriate supports and intervention, both at the time of the sexual assaults and at the time of disclosure, that young people are encouraged to come forward and report sexual assaults, and most importantly that victims/survivors have access to prevention programs.

In terms of educating ATSI young people in relation to family violence and sexual assault, we restate that it is essential to have resources for expert counselling and support services to accompany all education activity. Previous work by FVPLS Victoria in schools (run by psychologists as a dedicated program) required significant follow-up support. FVPLS Victoria at the present time is simply not funded to provide this intensive and specialist follow-up care. FVPLS Victoria Commonwealth-funded community education work is restricted to one full-time position shared between the Gippsland and Barwon South West regions, with offices approximately 700 kilometres apart.

It is noted that the Centres Against Sexual Assault are engaging in a schools education program. It is important that ATSI organisations have the capacity to also be involved in this work with ATSI young people, and a strategy to coordinate and develop this is urgently needed.

10.6 Key community initiatives in Victoria

Victorian Indigenous Forum on Sexual Assault 2003

In conjunction with research and development for the *From Shame to Pride* report, the first Victorian Indigenous Forum on sexual assault was held in 2003. FVPLS Victoria and Elizabeth Hoffman House hosted the forum which was funded through the Reichstein Foundation. Two Indigenous Sexual Assault Service Models were drafted during the workshop sessions to provide 'food for thought'. This forum, its discussions and recommendations were incorporated into the *From Shame to Pride* report. The recommendations are annexed to this paper.

From Shame to Pride: Access to Sexual Assault Services for Indigenous People 2004¹²

The *From Shame to Pride* report was published in 2004. The project:

¹² *From Shame to Pride: Access to Sexual Assault Services for Indigenous People—A Partnership Project between Elizabeth Hoffman House and CASA House*, Prepared by Lisa Thorpe, Rose Solomon, and Maria Dimopoulos for Elizabeth Hoffman House, 2004.

... sought to identify strategies that would assist the Centres Against Sexual Assault to better meet the needs of Indigenous victims/survivors of sexual assault, and identify effective training and education strategies for both mainstream and Indigenous workers in their efforts to respond appropriately to the Indigenous people who seek their assistance. (p. 7)

The report endorsed the recommendations of the Indigenous Forum on Sexual Assault and made a number of its own. The key proposals were the establishment of an Indigenous statewide sexual assault steering committee and the training of ATSI community workers in responding to sexual assault. (The full recommendations of this report are also annexed.)

The Indigenous statewide sexual assault steering committee was convened but no longer meets. To re-establish this committee will require dedicated ongoing resourcing. FVPLS Victoria was involved in developing and delivering 'Responding to Sexual Assault' training to ATSI community members/workers which also requires ongoing commitment.

Strong culture, strong peoples, strong families: towards a safer future for Indigenous families and communities: 10 year plan 2008¹³ ('the 10-year plan')

The 10-year plan written by the Indigenous Family Violence Partnership Forum in relation to sexual assault includes:

Action 6.1.2

*... develop options for culturally competent services for Indigenous victims of sexual assault.*¹⁴

It is noted that work is underway to improve the cultural competency of sexual assault services. However, broader responses that advance the work of the Shame to Pride Report are also required.

10.7 Draft National Indigenous Law and Justice Framework 2009: Sexual assault issues

It is also noted that the draft National Indigenous Law and Justice Framework 2009 includes a strategy to:

*... implement a comprehensive response to sexual abuse where it occurs in urban, regional and remote settings.*¹⁵

The actions include to:

... increase the number of and access to effective early intervention programs to protect at-risk children and youth from sexual abuse.

¹³ Aboriginal Affairs Victoria, Melbourne, 2008.

¹⁴ *Strong Culture, Strong Peoples, Strong Families: Towards a safer future for Indigenous families and communities 10 year plan*, Department of Planning and Community Development, June 2008, p. 45.

¹⁵ *National Indigenous Law and Justice Framework 2009–2015*, Prepared by the Standing Committee of Attorneys-General Working Group on Indigenous Justice.

... increase the number of and access to treatment services needed to assist in the process for healing for victims of sexual abuse.

... implement appropriate educational and attitudinal change processes and programs to reduce the normalisation of sexual abuse.

... develop and implement programs for victims of sexual abuse who are at risk of engaging in ongoing offending behaviour to break cycles of abuse.

Again, there is a need to reinforce government commitment to long-term projects which are adequately resourced and supported and which are driven by ATSI community organisations, including the FVPLS program.

10.8 Conclusion

Despite some progress having been made in the area of sexual assault in terms of response for ATSI victims in Victoria, significant problems continue and require initiatives based on long-term commitments. It is encouraging that recent reports at both the state and Commonwealth levels have recognised this need, but implementation of initiatives on the ground must be pursued.

Proposal 17

That dedicated long-term initiatives to strengthen services and education/prevention activity for ATSI victims/survivors of sexual assault and ATSI people generally, both as adults and children, be developed and implemented in Victoria as a matter of urgency.

Actions

That the Victorian Aboriginal Justice Forum and the Victorian Indigenous Family Violence Partnership Forum consider a specific initiative with respect to sexual assault similar to that of the Indigenous Family Violence Taskforce (which did not focus upon sexual assault).

That, in the interim or alternatively, consideration be given to reconvening an ATSI Sexual Assault Steering Committee to lead and advise upon Aboriginal and Torres Strait Islander sexual assault initiatives in Victoria, building upon previous work, including the *From Shame to Pride* report 2004.

That the Victorian Government consider funding to FVPLS Victoria to provide secretariat/project support to the Victorian ATSI sexual assault steering committee. That the steering committee consider development of an updated strategic plan for strengthening services and responding to sexual assault within the Aboriginal and Torres Strait Islander community in Victoria, incorporating previous and current recommendations and proposals. The plan may include strategy at local and statewide levels for:

- increased provision of dedicated and culturally accessible community education for adults and young people about sexual assault issues and legal supports available in culturally safe and appropriate environments

- improved resourcing to undertake community education work in schools and to provide the critical back-up counselling and support required to responsibly deliver such a program
- adequate resourcing for dedicated and innovative culturally appropriate legal services in Victoria to ensure greater uptake of ATSI victims/survivors of sexual assault for legal assistance
- improved integration and referrals between key service providers, particularly Victoria Police, the Centres Against Sexual Assault, and the Royal Children’s Hospital
- further investigation and research into Indigenous-specific sexual assault crisis support models (e.g. the Nguru program at the Canberra Rape Crisis Centre)
- ongoing cultural awareness training for all key law and justice providers, including police, prosecutors, the Office of Public Prosecutions, Court staff and lawyers
- ongoing engagement with Victoria Police with respect to police responses
- ATSI victim/witness court support services
- a forum for feedback of on-the-ground experiences of ATSI victims of sexual assault within the law and justice system (the above committee could take this role)
- addressing the high numbers of ATSI women in prison who are survivors of sexual assault and the consequent action required, both in terms of early prevention in the community and best practice for healing/supports in the criminal justice system
- distinct approaches required for strengthening sexual assault services to men, women and children.

Responsibility

FVPLS Victoria, Department of Justice Victoria, Indigenous Family Violence Partnerships Forum, Aboriginal Justice Forum, Department of Human Services Victoria, Aboriginal Affairs Victoria

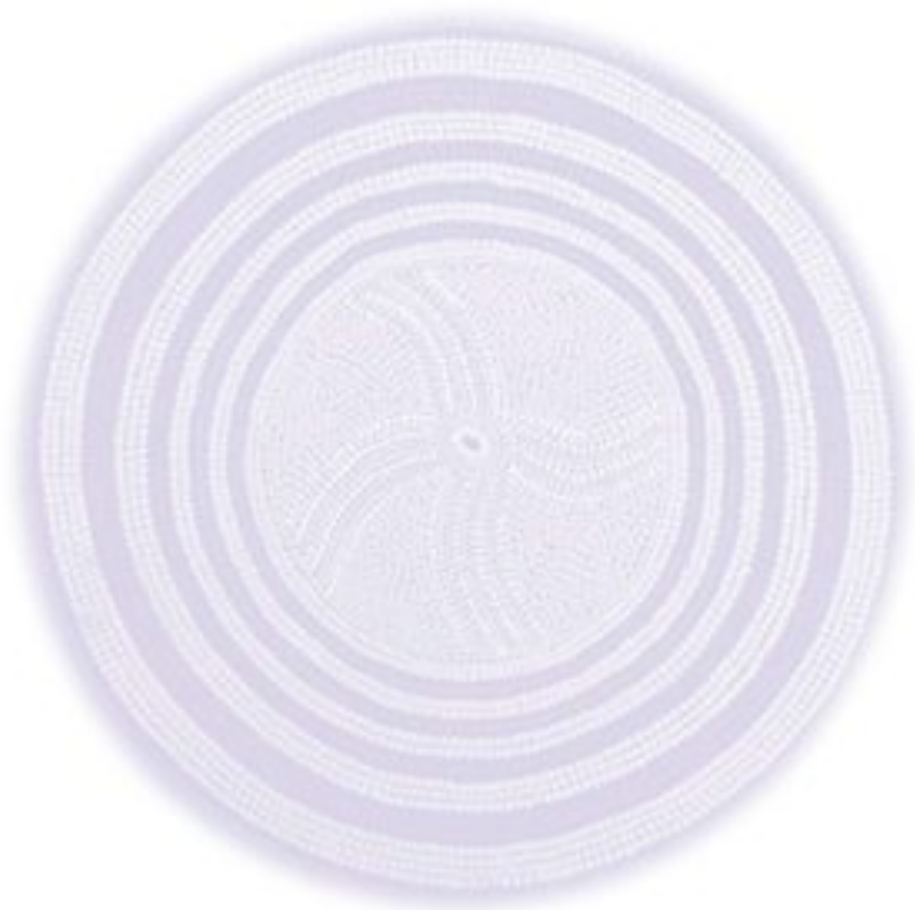
10-year plan

Action 4.1.3

Improve access to culturally competent and flexible sexual assault counselling.

Action 6.1.2

Develop options for culturally competent services for Indigenous victims of sexual assault.



Section 11: Aboriginal and Torres Strait Islander women in prison

Nationally, on 30 June 2008, Indigenous females were 21.7 times more likely than non-Indigenous females to be in prison. The imprisonment rate increased by 46% for Indigenous women and by 27% for Indigenous men between 2000 and 2008.¹⁶

At 30 June 2009 the imprisonment rate for Indigenous women in Victoria was 188.7% compared to 32% for all women. At 30 June 2009 approximately 25% of Indigenous women in prison were under 25 as compared to 9% of non-Indigenous women.¹⁷

The overrepresentation of ATSI women in prison nationally is well documented. FVPLS Victoria, as a service that primarily assists with family violence and sexual assault, is concerned with the underlying issues that lead to ATSI women, including young women, becoming involved in the criminal justice system and subsequently being imprisoned.

As detailed above, it is well established that many ATSI women who have been in youth or adult prisons have experienced family violence and/or sexual assault, including as children. Many women have also been in state care. Drug use and drug-related offending often ensues along with serious health implications. The impact of intergenerational trauma and entrenched racist and discriminatory treatment is ongoing. Prison compounds the trauma related to the underlying causes of imprisonment of ATSI women and is certainly no place to address the broad-ranging health and associated impacts of family violence and sexual assault. **FVPLS Victoria is of the view that strengthened culturally appropriate, accessible and broad-ranging community supports, services and early intervention prevention activity for ATSI women and children is fundamental to addressing overrepresentation.**

Access to culturally appropriate legal and associated services for women in prison nationally is also critical, including in the areas of child protection, family law and victims assistance; however, many women's (and men's) prisons are located in urban areas, where FVPLS units are not funded. In Victoria, because FVPLS Victoria has a Melbourne head office and alternate state government funding for urban services, the unit has been able to provide some services to the metropolitan women's prison. Yet the national FVPLS program is restricted to assisting women as victims of family violence and sexual assault. A broader ATSI women's legal service program would be positioned to provide a more holistic service for ATSI women in prison or at risk of imprisonment and to advocate on prison and criminal justice issues.

It is noted that the Victorian Government has identified the need to explore options to divert ATSI women from prison, which is extremely positive given rising prison numbers. Conversely, the Victorian Government proposal to abolish suspended sentences will place even greater pressure on

¹⁶ The Australian Government Productivity Commission report, *Overcoming Indigenous Disadvantage: Key Indicators 2009*.

¹⁷ Statistical Profile of Victorian Prison System 2004–05 to 2008–09 Corrections Victoria Tables 9 and 43.

prison numbers. **Strengthening of culturally and gender-appropriate community-based programs and intensive long-term support services is essential to ensuring community sentencing options are available and effective. Such initiatives, led by ATSI women, must be commenced without delay.** Lack of appropriate housing for women seeking bail and parole, or post release, is also a serious problem requiring urgent attention.

It is well established that providing therapeutic services to women in prison for past assaults and trauma they have experienced is problematic. The prison environment is not appropriate or conducive to healing. Strip searches, for example, reinforce the trauma of prior sexual abuse and should only be required on the basis of reasonable suspicion. Illicit drug use, which can lead to incarceration, is a health issue and should be responded to as such. Culturally appropriate alternatives to prison where women can access therapeutic intervention and healing in a supportive community environment are likely to be far more effective. That said, women and men in prison must also have access to culturally appropriate supports as the prison environment often compounds and adds layers to existing trauma. Cultural awareness of all staff in the prison and corrections system must be ensured through ongoing cultural awareness training.

*...Aboriginal women being sent to prison are already damaged and broken human beings ... prison doesn't help these women nor does it offer them any means of healing. Prison deconstructs, disempowers and deskills women, and then spits them back out in hastily patched together pieces—broken, defenceless and vulnerable. Women return to their communities even more damaged by their prison experiences. It is well established that Aboriginal people are at greater risk of dying in prison ... yet in recent years, we have been sending Aboriginal women to prison in greater numbers than ever before. We must develop alternatives to prison **now** ... to stop any more of our people dying. We must develop alternatives to prison that are culturally appropriate and that address underlying issues of family violence and sexual abuse. We must also develop programs that build women's confidence and grow self-esteem. These two simple attributes are so enabling and so empowering, that women would then be in a position to deal more capably with other issues in their lives. Society also needs to shoulder some of the responsibility for gubbamint policies that have perpetrated some of the worst human rights abuses in the world on Aboriginal communities and fractured the lives and psyches of countless Aboriginal women. Healing for these communities, and specifically for these women, is what's required—not further punishment. Programs and services for Aboriginal women also need to be delivered 'by the community, in the community'. Therapeutic programs in a prison context have little value and are doomed to failure. You can't live what you learn in prison. Prison is a complex, totally foreign culture where women must learn quickly how to navigate safely. You have to survive by a different set of rules in prison, a set of rules in which ordinary values have no place. Intensive, more comprehensive cultural awareness education of all prison officers is also desperately needed. This also needs to start from the top down—from corrections ministers, CV bureaucrats and the DOJ, to prison management, programs staff and most especially the rank-and-file officers. And none of this will do any good whatsoever if there is no housing for women when they're released. Housing remains the hugest problem. There needs to be much more housing made available and dedicated specifically to Aboriginal women leaving prison to try and lessen the impact of the mother's imprisonment on their children. Kids almost always go into care when Aboriginal women go to prison, effectively punishing them as well. Post release, the first thing most women have to do is begin the fight to get their children back ... and without housing it is impossible. Much of the accommodation made available to women post release is in boarding houses—accommodation that is unlikely to be approved by DHS as suitable housing for children. And thus turns the cycle of discrimination, disadvantage and poverty*

that fractures Aboriginal communities and destroys the lives of Aboriginal people. Prison appears to have become an option of first resort for Aboriginal women rather than last as it is legislatively intended. Keeping women out of prison in the first place must be a priority. Keeping Aboriginal women out of prison must be an imperative. Vickie Roach

Proposal 18

Given the high rates of ATSI women in prison who have experienced family violence and/or sexual assault, and the inappropriateness of the prison environment for healing past trauma:

- that resourcing be improved for FVPLS and/or ATSI women’s legal and support services in the community to provide legal assistance, counselling and prevention activity to assist with easing the high imprisonment rates of ATSI women, including young women, that the FVPLS operational guidelines identify ATSI women in prison as a key client group for the FVPLS national program, and that FVPLS units be geographically accessible to ATSI women in prison
- that culturally appropriate community alternatives to prison that incorporate therapeutic /healing services, as well as dedicated intensive and long-term support services, for ATSI women and their children who are at risk of or who have experienced imprisonment be implemented as a matter of urgency.
- access to culturally appropriate community support services for ATSI women, including housing, health, mental health, and drug and alcohol programs, is critical.

Action

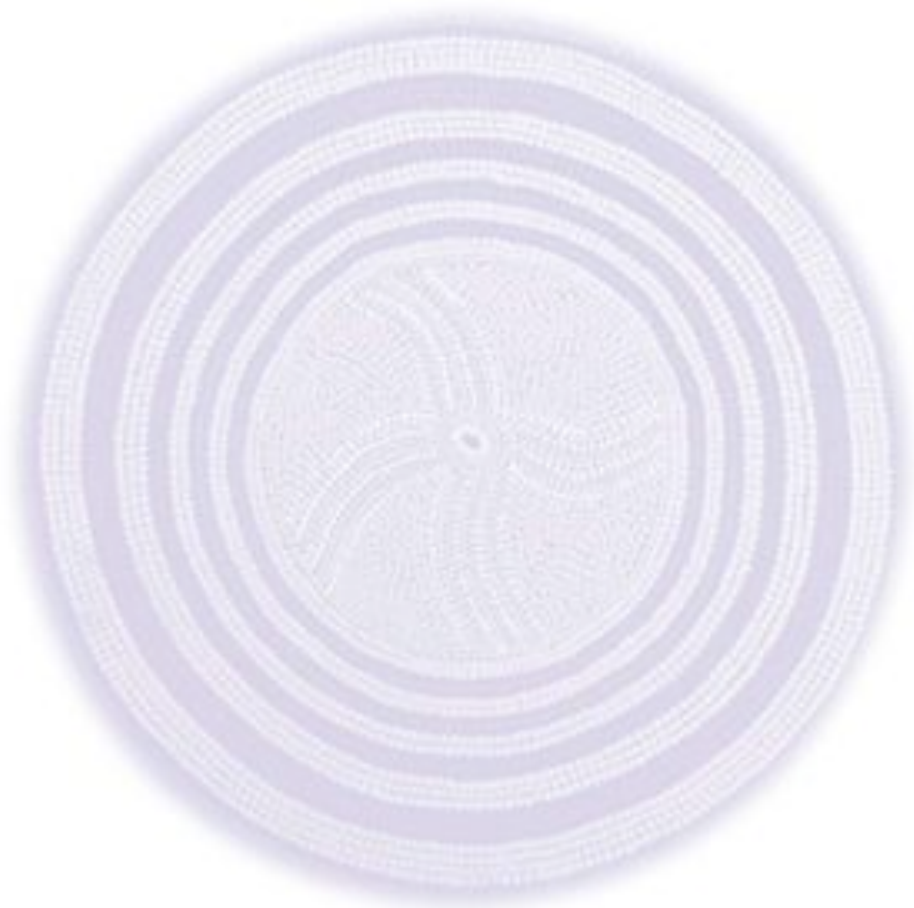
That FVPLS units and/or ATSI women’s legal services be strengthened and funded to provide services in urban areas to ensure that services and advocacy are available to ATSI women who are in prison or at risk of imprisonment.

Community-based prison diversion initiatives along with access to intensive long-term support services, incorporating therapeutic services, for ATSI women and their children must be pursued as a matter of urgency.

That resourcing for culturally appropriate community support services for ATSI women be strengthened.

Responsibility

Commonwealth Attorney-General’s Department, Victorian Government



Section 12: Services for Aboriginal and Torres Strait Islander men as victims/survivors

The FVPLS program provides assistance to men who are victims of family violence and sexual assault. In accessing legal assistance men sometimes prefer to see women lawyers; however, this can vary. Some of the men assisted by FVPLS Victoria have experienced crimes against them as children. This is an area of cultural and gender sensitivity for men as it is for women.

Prevention and community education for ATSI men must be culturally appropriate and is best developed and delivered by ATSI men. Most men's programs developing in Victoria at present are focused upon men as perpetrators. Dedicated community initiatives that are focused on men as victims are needed.

*It's important that there are programs and services for men as victims/survivors of sexual assault in particular. ATSI men need to lead and drive programs which deal with men's business. **Aboriginal lawyer***

Koori men as victims of family violence are very much a forgotten group and there is a need for targeted and culturally friendly programs that meet their immediate and longer term needs.

Aboriginal male member, Aboriginal Justice Forum

Proposal 19

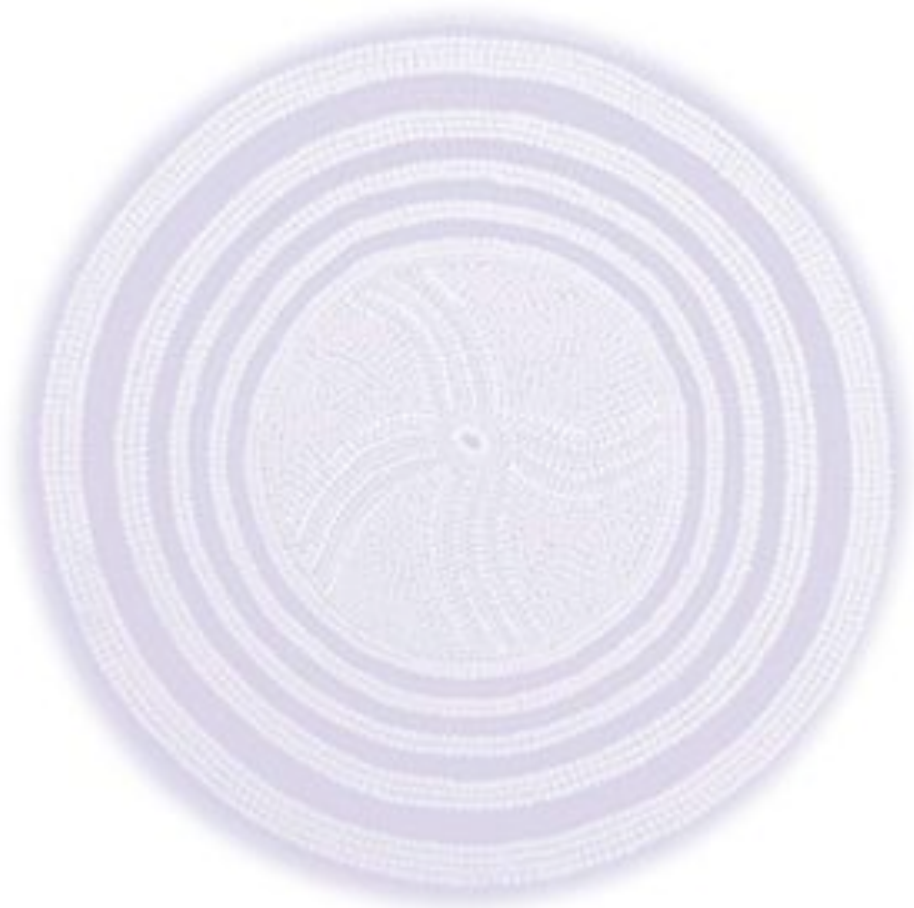
That prevention and education services for ATSI men as victims of sexual assault and/or family violence require dedicated attention.

Action

That dedicated culturally appropriate education/prevention programs for ATSI men as victims of sexual assault and family violence be developed.

Responsibility

Indigenous Family Violence Partnership Forum, Victorian Aboriginal Justice Forum, FVPLS Victoria, VALS



Section 13: Cultural awareness training

*Any cultural awareness program is critical to those working or seeking to work with Aboriginal families/communities. A knowledge of and understanding [from an Aboriginal viewpoint] of the history of this country and an understanding of the impact of successive government policies on Aboriginal life today is vital in ensuring a quality of life that is based on tolerance, acceptance and a recognition of the uniqueness of ATSI people in this country. **Aboriginal educator***

Focusing specifically on legal service providers, it is critical that non-ATSI lawyers and other service providers in the law and justice system receive ongoing Aboriginal and Torres Strait Islander cultural awareness training. Cultural awareness training should form part of lawyers' compulsory professional development. Other professionals and volunteers who work in the legal and court systems should also be receiving such training. **More entrenched knowledge of the manner in which the legal system has been used as a tool of oppression against ATSI people, and information about practical strategies at a personal and organisational level to address the consequent barriers, is essential.**

Barristers who are briefed to represent ATSI people need to undergo cultural awareness training—in fact this training should form a part of the bar reader's course for all entering the bar. The court experience can be extremely intimidating for ATSI clients, and barristers must be aware of cultural issues to fully understand their client's position, to put the client at ease and to convey critical relevant cultural issues to the court. Those prosecuting or acting for other parties in a dispute involving ATSI people must be similarly informed.

Ongoing cultural awareness training for Tribunal members, magistrates and judges must be pursued across all jurisdictions. In a recent example, a judge determined that an Aboriginal woman from another state could adequately maintain her cultural connection by accessing a Victorian ATSI community service.

*... judges and magistrates are not hearing the stories of Aboriginal people ... lawyers need to ask the right questions and to take the time to get to know the story of Aboriginal people so that it can be conveyed to the court ... this can have a big impact on the court. Cultural awareness training can assist in this understanding. **Aboriginal educator***

*... Private lawyers have a much less flexible approach to clients ... not addressing cultural issues. **Non-ATSI lawyer***

*... Children's lawyers [in the Family Court] need specialist [cultural] training. **Non-ATSI lawyer***

*... felt no one understood me or my position ... felt my barrister didn't understand me either ... both [barristers] I had not too good ... didn't meet before court ... didn't have background to my case or me personally ... he didn't attempt to get to know me ... I had no trust because I didn't know anything about him ... he didn't explain things. **Aboriginal victim/survivor***

*... a lack of cultural respect and understanding within the court or Tribunal context alienates ATSI people, confirms mistrust in the legal system and results in reluctance to engage again. On the other hand, positive experiences often have a very uplifting impact. **Non-ATSI lawyer***

Proposal 20

That Aboriginal and Torres Strait Islander cultural awareness of legal practitioners (both solicitors and barristers) is essential to culturally appropriate legal service provision.

That ongoing cultural awareness training of court and Tribunal staff is essential.

Action

That cultural awareness training with a focus upon law and justice issues be a requirement of professional development training for solicitors and barristers.

That ongoing cultural awareness training for court and Tribunal staff be ensured.

Responsibility

Legal Services Board, Law Institute of Victoria, Victorian Bar Association, Tarwirri Indigenous Lawyers Association, Department of Justice Victoria, Victoria Legal Aid

10-year plan

Action 7.2.3

Provide a targeted training program on Indigenous family violence for judicial officers and court workers to assist in the provision of culturally competent court responses and options to victims of family violence.

Section 14: Aboriginal and Torres Strait Islander staff in law and justice

Legal service provision to ATSI people will be strengthened through the availability of options to access ATSI lawyers and other ATSI legal staff. ATSI staff can provide cultural awareness and mentoring and make a significant contribution to improved ATSI accessibility within the justice system. A number of people consulted for this project indicated that having the option to see an ATSI lawyer would have been good in their case. Within ATSI organisations, having a mixture of both ATSI and non-ATSI staff is thought to be the best approach.

To build capacity within ATSI organisations, additional funding must be provided to facilitate training and/or mentoring of ATSI staff where required. Comment was made that the Victorian Government, with its range of ATSI law and justice initiatives, is more able to attract ATSI staff into those programs through more attractive salary and work conditions. It is critical, however, that community organisations working on the ground also attract and sustain ATSI people and greater support for community organisations to achieve this is required.

*... good to have Indigenous and non-Indigenous options for people ... if all Indigenous staff may not get the same community response. **Aboriginal support worker***

*... Aboriginal solicitor ... [could make people feel more comfortable]. **Victim/survivor***

*... It is difficult to attract ATSI staff into the community due to the relatively low salary range as compared to government. If there was better resourcing to train and mentor ATSI staff in community organisations, recruitment and retention of ATSI staff is likely to improve ... In addition, innovative arrangements which might include secondment of ATSI staff between government and the community sector and funding of clerkships in ATSI services would also assist. **Aboriginal lawyer***

As previously detailed, there was also a lot of support for basing ATSI Liaison Officers in most courts to provide culturally supportive information and support options to ATSI people. ATSI court staff can also contribute to cultural awareness and accessibility in the courts more broadly (see Paper 3).

*... all courts should have a Koori liaison officer... **Aboriginal support worker***

*... Koori liaison officer at the Children's Court would be helpful ... ensure Koori people are aware of their rights and are understanding the process. **Aboriginal regional family violence coordinator***

*... anything to make parents feel less intimidated in court is a good thing ... better engagement with court. **Lawyer***

*... I would have taken up the offer of support through an Indigenous liaison officer ... issue of trust and confidentiality with that worker may be an issue for some people but it's about choice ... of being able to access a worker. Could be a role which ... provides more practical assistance and information. You could feed back about cultural sensitivity to the liaison officer. **Aboriginal victim/survivor***

Proposal 21

That the employment of more ATSI people in the law and justice system, including in legal services, will strengthen responses for ATSI victims/survivors.

Action

That additional funding for training and mentoring of ATSI staff to build ATSI capacity and expertise within the law and justice system be made available to ATSI community organisations, including the FVPLS program.

That government or non-government funding support employment of dedicated ATSI Articled Clerk positions within ATSI Legal Services (including the FVPLS program).

Responsibility

Commonwealth Attorney-General's Department, Department of Justice Victoria

Proposal 22

That dedicated ATSI Liaison Officers be available in or to courts/tribunals to support ATSI victims/survivors of family violence and sexual assault.

Action

That the Family Court introduce ATSI Liaison Officers.

That ATSI Liaison Officers be introduced to support ATSI victims of family violence and sexual assault in the Magistrates' Court in family violence proceedings, VOCAT and as witnesses in criminal prosecutions.

That ATSI Liaison Officers be introduced into the Children's Court.

Responsibility

Commonwealth Attorney-General's Department, Department of Justice Victoria, Victorian Aboriginal Justice Forum

10-year plan

Action 7.1.1

Review existing Indigenous workforce strategies with a view to developing training, recruitment,

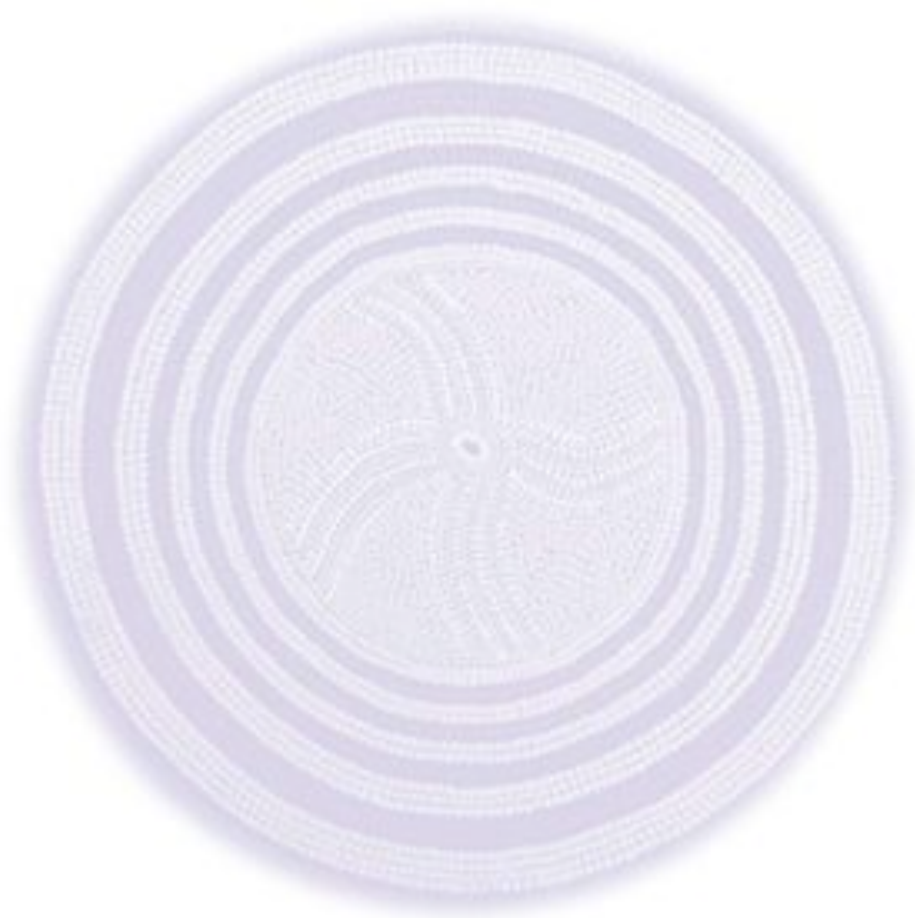
retention and career pathways for staff and scholarships at all levels.

Action 7.1.2

Increase access to education for Indigenous students in courses for professions related to reducing, responding to and eliminating family violence, including health, mental health, criminal justice, housing, relevant services (such as children's services and aged care) and legal professions.

Action 5.1.2

Enhance court capacity to provide culturally competent responses to Indigenous people affected by family violence.



Section 15: Community legal education/early intervention and prevention

Culturally accessible community legal education (CLE) and early intervention programs for ATSI victims/survivors of family violence and sexual assault, and ATSI women and children, is critical to improving access to legal services and law and justice outcomes. Community legal education must target both community workers and the community more generally. ATSI community organisations are best placed to deliver community legal education within culturally safe and trusted environments.

15.1 Sisters Day Out

As mentioned previously, the FVPLS Victoria *Sisters Day Out* program is an example of a highly successful early intervention/prevention initiative in which the pampering of women, and care for their wellbeing, is combined with the provision of legal information and legal advice as needed. Each program is developed and delivered by ATSI women in conjunction with local ATSI people. Mainstream service providers are also invited to participate. The following story recently provided by an FVPLS staff member reflects the impact of the program:

At court we were instructed by a mother who has been seriously abused over a number of years without having done anything about it with the police or court. At the end of the IVO case she threw her arms around me and said, "I was so inspired by you at Sisters Day Out, you made it sound so easy and clear that I nearly did something about it straight away".

A formal *Sisters Day Out* evaluation has been completed and is available from FVPLS Victoria. Commonwealth funding has supported the program in rural and regional locations, and state government funding has been secured to deliver the program in urban areas. Women who would not otherwise have accessed legal assistance have done so through a *Sisters Day Out* workshop. The following is provided by SDO facilitator Kelly Faldon:

- *The SDOs are run by an Aboriginal community-controlled service that is not aligned to any one faction of the community, therefore providing a sense of safety for women to attend.*
- *The SDOs are organised and facilitated by Aboriginal women who have knowledge of communities and cultural sensitivities and who are known to some degree in most communities where workshops have been held.*
- *Venues, pamperers and service providers are all carefully selected to ensure that a culturally safe environment can be achieved.*
- *The workshop is set up in such a way that it is inviting and non-threatening.*
- *The workshop is promoted as a fun, relaxing day where you can also receive some valuable*

information rather than being promoted as an info session on Family Violence or Sexual Assault.

We need to have all of the above in place so, firstly, women will actually attend and then for those who have attended, they will feel both culturally and physically safe to a point they are not shamed to ask questions and seek advice or fear that they will be identified as a victim. Once the women begin to feel welcomed, valued and safe, they will be much more open to the information that is being presented. Furthermore, the presentations are done in such a way that no one is singled out if they ask questions or seek further advice from the solicitor.

The yarnin circle is another important cultural element of the day as it gives the women an opportunity to reflect on the day, talk about how they felt and many women have commented that they have felt empowered by having participated in the circle.

Wanda and I have worked in the community for a long time and this has to be one of the most successful programs we have been involved in. The service has managed to reach women that normally wouldn't attend workshops or meetings in the past. These women are coming along because of all the dot points above and the interesting thing is, once they come along to the first one, they are encouraging other women to come to the next one. Our numbers have certainly increased since 2007 and we have a lot of new women attending the workshop the second time around.

In my view, if this program wasn't operating, we would not be able to reach women in the community that we have managed to reach.

Furthermore, the evaluations not only talk about the value and quality of the information they receive but also the importance of being able to connect as an Aboriginal woman with culture and feel strong in identity. Also, being able to connect with family and community.

15.2 FVPLS Victoria Community Legal Education

The *Sisters Day Out* workshop program does not replace the need for a community legal education program at FVPLS Victoria. The SDO wellbeing workshops provide a forum for basic CLE, requiring an overview of FVPLS services which must be developed and delivered to complement the SDO format. A targeted and comprehensive family violence/sexual assault CLE program across the state is also required. Through the FVPLS program the Commonwealth AGD currently funds FVPLS Victoria and some other FVPLS units for a community legal education position. The position within FVPLS Victoria is, however, restricted to the Barwon South West and Gippsland regions (the Warrnambool and Bairnsdale offices being about 700 kilometres apart). **Given the established importance of community legal education in raising awareness about legal rights, how to get legal assistance and the way the legal system works, FVPLS Victoria urgently requires funding for more flexible community legal education capacity to cover the state.**

Culturally appropriate CLE which engages local communities to discuss issues and develop responses at a local level is critical. For example, FVPLS Victoria has run small child protection workshops in the two CLE-funded locations which not only informed the community about their

rights in child protection cases but also provided a forum for broader discussion about local concerns. These concerns can then be taken up at the local and statewide level. This work needs to be occurring with communities across the state. The importance of funding for policy development capacity within FVPLS Victoria to ensure that on-the-ground learning translates into meaningful change is also demonstrated.

FVPLS Victoria is not adequately resourced for CLE materials. Innovative CLE formats must be developed to reach all community members, with a particular emphasis on young people. As a statewide service FVPLS Victoria requires capacity for coordination of a statewide CLE program. The gains that can be obtained through effective and culturally appropriate CLE and community development programs are significant.

Proposal 23

Community legal education about the legal system is essential to raise awareness about legal rights for ATSI victims/survivors of family violence and sexual assault and ATSI community/support workers in all communities, and must be delivered in culturally safe and trusted environments. Community legal education and community development also support local ATSI community initiatives and responses to local issues.

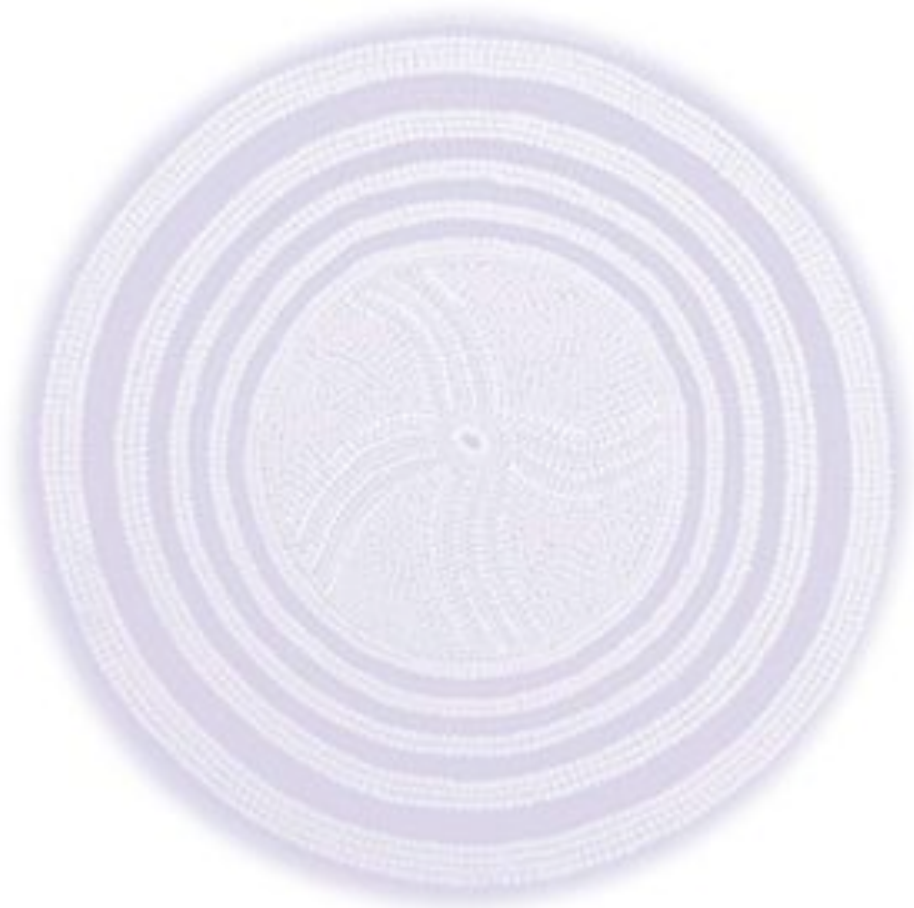
Action

That community legal education capacity within FVPLS Victoria be flexibly extended to all communities in Victoria and be adequately funded for worker hours as well as for the costs of delivering projects.

That the Commonwealth and state governments provide ongoing funding for the future development of the FVPLS Victoria *Sisters Day Out* program.

Responsibility

Commonwealth Attorney-General's Department, Department of Families, Housing, Community Services and Indigenous Affairs, Department of Human Services Victoria



Section 16: An Aboriginal and Torres Strait Islander women's cultural retreat for Victoria

All project consultation participants thought that the establishment of an ATSI women's cultural retreat or retreats in Victoria should be supported by government. The retreat would provide women and children who have experienced family violence or other trauma with the opportunity to have time out in a culturally safe environment. The retreat would not be intended as a women's refuge, but as more of a healing place, perhaps for women to visit after a period of crisis.

FVPLS Victoria has in the past been funded for *Sisters Serenity Retreats*. These retreats lasted three days and involved cultural activity, women's health and wellness activities and the opportunity for women to share their experiences in a culturally safe setting. The evaluation of the *Sisters Day Out* program includes the *Sisters Serenity Retreats*. An ATSI women's cultural retreat would be developed along similar lines but with established locations. The following comments were made by ATSI women who participated in the project:



FVPLS staff at a Sisters Day Out.

... A place of freedom, connectedness, bringing women together for good talk. Understanding our strengths, recognising our resilience from victim to survivor, to achiever, having the ability to make right the choices and seek opportunities without the fear. Drawing from cultural understandings to create a sense of belonging, a place of belonging, the importance of Aboriginal women's role in family and community and in today's society ... or in the 21st century.

... Indigenous women are often the ones with strength in the family ... this would give them a retreat to feel good ... why only have a chance to get away when you go to a safe house ... only chance to get away from home and environment ... women can be themselves ... calm down ... be able to talk about issues and share problems ... if I had gone to such a retreat I may have opened up much sooner.

... Women need time out on their own and with their children.

... Residential-style healing centre would be good.

... In each region would be good so that women can keep in touch with established supports.

... would build on Sisters Day Out ... needs to be more feel good stuff for survivors.

... it would be great for women.

... would be really good ... for time out ... give you something to take your mind off everything.

... would be a really good idea ... I would do this for sure.

... you are left to your own devices a lot ... that would be good.

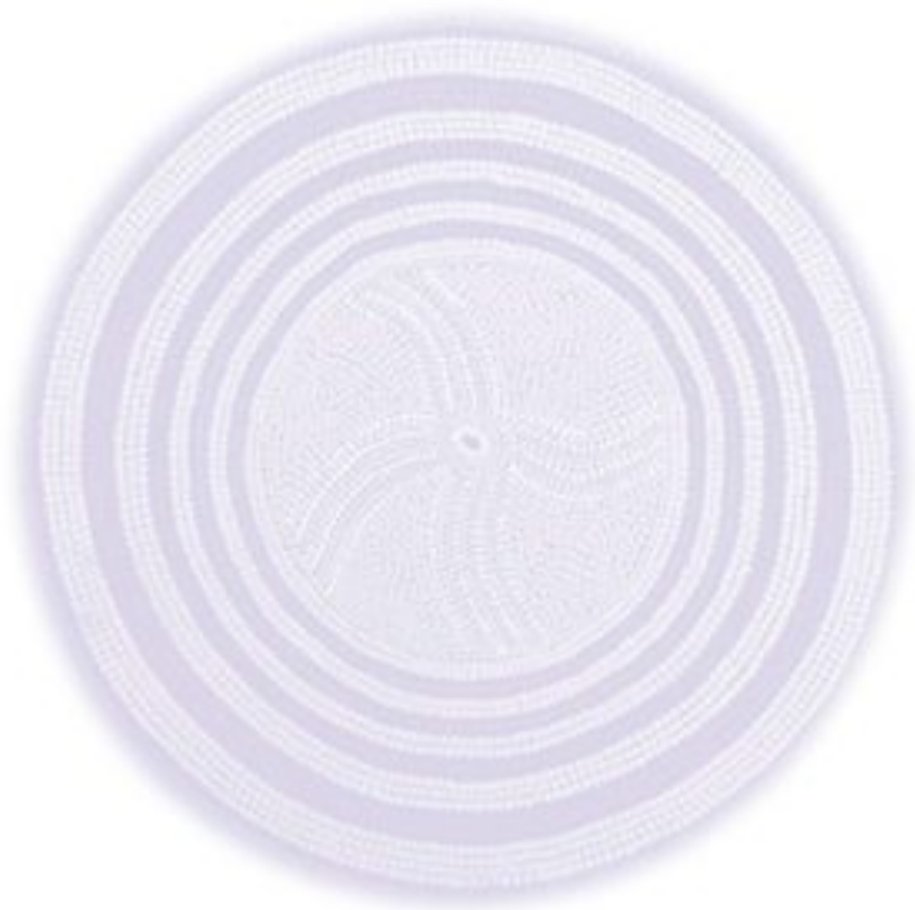
Proposal 24

That a cultural retreat or cultural retreats for Aboriginal and Torres Strait Islander women be established in Victoria.

Section 17: Conclusion

Whilst the FVPLS program in Victoria has significantly strengthened dedicated legal services to ATSI victims/survivors and ATSI women and children in Victoria, a great deal remains to be done. The proposals included in this paper are not intended to be exhaustive, but to reflect the major issues arising from FVPLS Victoria's experience to date and the feedback gathered from project consultations.

It should be no surprise that the proposals made require funding and government support. FVPLS Victoria acknowledges recent additional support from the state government and progress with the Commonwealth moving to a three-year funding arrangement. Commonwealth and state governments must work together to strengthen services and outcomes. An approach whereby each plays the other off is unfair not only for ATSI services but also in so far as it slows progress and perpetuates the poor law and justice outcomes we continue to see for ATSI women and children. FVPLS Victoria acknowledges critical support received through non-government and philanthropic funding sources. Commitment demonstrated by the Victorian Government in its initiatives to improve access to justice for Aboriginals and Torres Strait Islanders is also commended. FVPLS Victoria looks forward to further progress in this regard at all levels of government, the legal system and the broader community.



PROPOSALS

Section 1: Introduction

Law and justice policy for ATSI women in Victoria

Proposal 1

That there be greater dedicated emphasis on law and justice policy development for Aboriginal and Torres Strait Islander women and children in Victoria.

Action

That consideration be given to the Victorian Aboriginal Justice Agreement 3, incorporating a discrete section related to advancing law and justice outcomes for ATSI women in Victoria, supported by the establishment of an ATSI women's law and justice advisory body to advance its objectives.

That the voices and experiences of ATSI women and young people who have experienced family violence and sexual assault inform the development of services and legal reform through the provision of confidential and safe processes.

That a specific implementation plan for law and justice strategy and action identified within the 10-year Plan be developed that incorporates key ATSI agencies.

Responsibility

Victorian Government, Aboriginal Justice Forum, Indigenous Family Violence Partnership Forum, FVPLS Victoria, Victorian Aboriginal Legal Service

Section 3: Access to legal services for ATSI victims/survivors

FVPLS funded services in urban areas

Proposal 2 (Also see Proposal 3, Paper 1)

That dedicated ATSI legal services for ATSI victims/survivors of family violence and sexual assault and ATSI women and children be funded in urban and regional areas as well as in rural/remote locations.

Action

That a strategic review of the FVPLS program be conducted nationally to address overall disadvantage and to strengthen law and justice outcomes for ATSI women and children. That consideration be given to establishing an ATSI women's legal service in Victoria and a national ATSI women's legal program in consultation with ATSI women.

Funding to FVPLS Victoria for services to metropolitan Melbourne should be provided through a joint Commonwealth/state funding arrangement.

Responsibility

Commonwealth Attorney-General's Department and Department of Justice Victoria through COAG and SCAG, Victoria Legal Aid

*Strengthened legal services in rural areas***Proposal 3**

That dedicated legal services for ATSI victims/survivors of family violence and sexual assault and ATSI women and children be extended within rural Victoria.

Action

That additional resources be provided to FVPLS Victoria to strengthen existing services in its rural locations.

That the Commonwealth AGD provide funding for an FVPLS office to be established in Shepparton to also service Echuca and for resources to service the Swan Hill area.

Responsibility

Department of Justice Victoria, Commonwealth Attorney-General's Department

*Funding for integrated but flexible legal services: extending types of legal assistance***Proposal 4**

That FVPLS units or a national ATSI women's legal program be adequately resourced to provide comprehensive legal services for Aboriginal and Torres Strait Islander women and children and victims of family violence and sexual assault, and that legal casework guidelines within the program be expanded beyond family violence and sexual assault. That the greater resourcing required for family and civil law work be recognised in funding levels.

Action

That the state and Commonwealth governments ensure adequate resourcing of FVPLS Victoria to develop and maintain the necessary legal capacity and expertise to provide comprehensive legal services in key legal areas—specifically family law, child protection, family violence and victims assistance.

That Victoria Legal Aid continue the family law secondment arrangement and family violence legal position with FVPLS Victoria, that the Victorian Government fund an ongoing child protection specialist legal position with FVPLS Victoria and ensure adequate resourcing for legal services to support new and emerging law and justice initiatives. Flexibility in funding to ensure that lawyers can holistically assist clients is also required.

Paper 3 proposes funding of a dedicated Victim of Crime legal position at FVPLS Victoria.

That the Commonwealth and state governments collaborate to ensure expanded dedicated legal service assistance areas for ATSI women and children in Victoria (e.g. civil law) either through the FVPLS program or as part of a broader overview of legal services for ATSI women and children nationally (see Proposal 1). Indigenous Women’s Program funding must be made available to Victoria.

Responsibility

Commonwealth Attorney-General’s Department, Department of Justice Victoria, Victoria Legal Aid

Section 4: Holistic service delivery: Paralegal support

Proposal 5

That the unique support and strengthening of legal service provision provided by paralegal support workers in the FVPLS program, and ATSI legal services more generally, be fully acknowledged and supported.

Action

That the Commonwealth Attorney-General’s Department and Victorian Government continue to fund paralegal support positions in the FVPLS program and in ATSI legal services more generally.

Responsibility

Commonwealth Attorney-General’s Department, Victorian Government

Proposal 6

That the material aid requirements of clients engaging in legal processes (e.g. child care, petrol, food, accommodation) be acknowledged and appropriately funded.

That emergency housing options for ATSI women who experience family violence be enhanced.

Action

That funding for material support for ATSI victims/survivors be incorporated into FVPLS program funding and also attach to other state- and non-government-funded legal positions.

That the Victorian Government through relevant departments increase funding for emergency housing for ATSI women and children who experience family violence.

Responsibility

Commonwealth Attorney-General’s Department, Department of Justice Victoria, Department of Human Services Victoria

Section 5: Legal services for children

Proposal 7

That strengthening of dedicated legal and support services, and prevention activity, for ATSI children experiencing family violence and/or sexual assault in Victoria is urgently required.

That the legal rights of ATSI children under care and protection orders in Victoria be protected and pursued.

Action

That the Victorian Government, in partnership with key ATSI stakeholders, conduct a review of the services and prevention activity required for ATSI children in relation to family violence and sexual assault in Victoria, with a view to improving services and implementing effective prevention/education.

That Victoria Legal Aid review its arrangements for the legal representation of ATSI children in the Children's Court and family law jurisdictions.

That a process to ensure the pursuit of the legal rights of ATSI children who are victims of crime, and under care and protection orders, be established.

Responsibility

Department of Justice Victoria, Indigenous Family Violence Partnership Forum, Aboriginal Justice Forum, Victoria Legal Aid, FVPLS Victoria, VALS, Department of Human Services Victoria, VACCA

Section 6: Victoria Legal Aid (VLA)

Proposal 8

Victoria Legal Aid guidelines are currently restricting optimum access to justice for ATSI victims/survivors of family violence and sexual assault, particularly in the family law and child protection (Family Division) areas.

Action

That Victoria Legal Aid review its guidelines for assistance in relation to family law, family violence, Children's Court (Family Division) proceedings and the public interest criteria to strengthen legal outcomes and improve access to justice for ATSI victims/survivors of family violence and ATSI women and children.

Responsibility

Victoria Legal Aid, Victorian Government

Proposal 9

The cultural awareness of lawyers either acting on behalf of or representing the interests of ATSI people including children in the family law and Children’s Court jurisdictions is critical.

Action

That Victoria Legal Aid ensure ongoing ATSI cultural awareness training for all legal staff, and ensure that Victoria Legal Aid in-house and panel solicitors representing ATSI young people in either the Family Court or Children’s Court (Family Division) receive specific cultural awareness training for these roles. ATSI cultural awareness should be a criterion for admission to and remaining on relevant VLA panels.

That ATSI Legal Services be included on VLA panels to represent young people and to act as Independent Children’s Lawyers in Family Court and Children’s Court jurisdictions.

That Victoria Legal Aid support an ongoing child protection legal position at FVPLS Victoria, continued funding of the family violence legal position, and also continue the family law secondment (or direct family law funding arrangement) with FVPLS Victoria.

Responsibility

Victoria Legal Aid, Department of Justice Victoria

Section 7: After-hours and crisis supports

Proposal 10

That culturally appropriate after-hours (and other) crisis support options for ATSI victims of family violence and sexual assault are critical and must be strengthened.

Action

That a review be conducted of the particular crisis support requirements of ATSI women and children (including after-hours support) who experience family violence and sexual assault, and that this review looks at the role of Victoria Police. The review must incorporate statewide and local processes and take into account local ATSI diversities. Pilot programs to provide Koori-specific crisis responses must be considered.

Responsibility

Indigenous Family Violence Partnership Forum, Indigenous Family Violence Regional Action Groups, Integrated Family Violence Steering Groups, Aboriginal Justice Forum, Department of Justice, Department of Human Services, Victoria Police

Legal referrals from crisis intervention

Proposal 11

That crisis legal referrals for ATSI victims/survivors be made at the earliest possible time to ensure improved legal outcomes.

Action

That FVPLS Victoria initiate discussions with family violence crisis support services in Victoria who are supporting ATSI women, to strengthen legal referral processes.

That court processes with respect to return of Family Violence Safety Notices ensure that the victim has had reasonable opportunity to access culturally appropriate legal assistance prior to applications being struck out or final determinations made.

Responsibility

FVPLS Victoria, Elizabeth Hoffman House Aboriginal Women’s Refuge, Women’s Domestic Violence Crisis Service, Indigenous Family Violence Regional Action Groups (IFVRAGs), Rural and regional domestic violence crisis support services, Victoria Police, DHS-funded ATSI support services, Magistrates’ Court Victoria

Section 8: *Coordination of law and justice service providers and the integrated family violence strategy*

Proposal 12

That improved information sharing and understanding amongst key ATSI and mainstream law and justice providers working in the area of ATSI family violence and sexual assault be prioritised. That linkages between ATSI-specific family violence initiatives and mainstream integrated family violence strategy be improved.

Action

That short-term regional projects be funded to develop strategy for improved linkages and information sharing between ATSI and mainstream family violence initiatives.

Responsibility

Victorian Government, Indigenous Family Violence Partnership Forum, Aboriginal Justice Forum, IFVRAGs

Section 9: *Counselling*

Proposal 13

That funding for the holistic service delivery model (incorporating counselling/healing) of the FVPLS program be extended to urban communities.

That the Commonwealth Attorney-General’s Department, through the national FVPLS program, strengthen its development and support of counselling and sexual assault services within FVPLS Units.

Action

That the Commonwealth FVPLS program which incorporates counselling services for ATSI victims/survivors of family violence and sexual assault be extended to urban areas.

That the Commonwealth Attorney-General's Department strengthen its support capacity for counselling and sexual assault services within the FVPLS program, incorporating expertise in compliance with various state, territory and national professional standards, and the development of culturally appropriate best practice service provision which incorporates innovation and responds to ATSI diversity.

Responsibility

Commonwealth Attorney-General's Department, Victorian Government

Cultural awareness of counsellors

Proposal 14

Cultural awareness training for psychologists/counsellors working with ATSI victims/survivors of family violence and sexual assault both in the community and in the legal system is critical.

Action

That the state government lead an initiative to train more ATSI people in counselling/psychology/healing and coordinate the development of a cultural awareness training program for non-ATSI psychologists/counsellors.

That all counsellors/psychologists working with ATSI victims/survivors of family violence and sexual assault in the legal system in Victoria, including the Children's Court and Victims Assistance system, receive ongoing cultural awareness training.

That the Family Court and Federal Magistrates' Court strengthen cultural awareness training for their internal and external family report writers.

Responsibility

Victorian Government, Department of Justice Victoria, Victims Support Agency, Family Court of Australia

Provision of counselling services

Proposal 15

That high-demand counselling for ATSI women and children victims/survivors of family violence be provided in safe, confidential and culturally and gender appropriate environments.

That case management services for ATSI children who have experienced family violence are needed.

That funding for practical supports needed to facilitate counselling such as transport and child care

be factored in to funding provision for services.

Action

That more dedicated counselling/healing options for ATSI women and children be provided separate to ATSI Healing Centres which ATSI men and perpetrators of violence often frequent. That the Victorian Government identify where departmental responsibility for this development lies.

That a strategic plan for the development of case management services for ATSI children who experience family violence be developed.

That services funded to offer counselling/healing for ATSI victims/survivors of family violence receive additional funding for practical supports to facilitate counselling.

Responsibility

Commonwealth Attorney-General's Department, Department of Justice Victoria, Department of Human Services Victoria, Victims Support Agency, Indigenous Family Violence Partnership Forum, Aboriginal Justice Forum

Alternative approaches to counselling

Proposal 16

Alternative counselling and healing approaches—such as, narrative therapy, art therapy, group work and cultural identity workshops—are more suitable for some ATSI people and should be available as options or accessible alongside more conventional counselling.

Action

That culturally appropriate counselling and healing options for ATSI victims/survivors of family violence and sexual assault be developed through a state government initiative.

That the Victims Support Agency fund alternative therapies for victims/survivors as part of its crisis response counselling/support services. That the Victims of Crime Assistance Tribunal allow expenses for alternative and culturally appropriate therapies through its awards for assistance.

That the Commonwealth through its FVPLS program acknowledge the importance of alternative counselling/healing therapies with demonstrated benefit and fund these services accordingly.

Responsibility

Department of Justice with the Department of Human Services, Victims Support Agency, Victims of Crime Assistance Tribunal, Commonwealth Attorney-General's Department

Section 10: Sexual assault

Proposal 17

That dedicated long-term initiatives to strengthen services and education/prevention activity for ATSI victims/survivors of sexual assault and ATSI people generally, both as adults and children, be developed and implemented in Victoria as a matter of urgency.

Actions

That the Victorian Aboriginal Justice Forum and the Victorian Indigenous Family Violence Partnership Forum consider a specific initiative with respect to sexual assault similar to that of the Indigenous Family Violence Taskforce (which did not focus upon sexual assault).

That, in the interim or alternatively, consideration be given to reconvening an ATSI Sexual Assault Steering Committee to lead and advise upon Aboriginal and Torres Strait Islander sexual assault initiatives in Victoria, building upon previous work, including the *From Shame to Pride* report 2004.

That the Victorian Government consider funding to FVPLS Victoria to provide secretariat/project support to the Victorian ATSI sexual assault steering committee. That the steering committee consider development of an updated strategic plan for strengthening services and responding to sexual assault within the Aboriginal and Torres Strait Islander community in Victoria, incorporating previous and current recommendations and proposals. The plan may include strategy at local and statewide levels for:

- increased provision of dedicated and culturally accessible community education for adults and young people about sexual assault issues and legal supports available in culturally safe and appropriate environments
- improved resourcing to undertake community education work in schools and to provide the critical back-up counselling and support required to responsibly deliver such a program
- adequate resourcing for dedicated and innovative culturally appropriate legal services in Victoria to ensure greater uptake of ATSI victims/survivors of sexual assault for legal assistance
- improved integration and referrals between key service providers, particularly Victoria Police, the Centres Against Sexual Assault, and the Royal Children's Hospital
- further investigation and research into Indigenous-specific sexual assault crisis support models (e.g. the Nguru program at the Canberra Rape Crisis Centre)
- ongoing cultural awareness training for all key law and justice providers, including police, prosecutors, the Office of Public Prosecutions, Court staff and lawyers
- ongoing engagement with Victoria Police with respect to police responses
- ATSI victim/witness court support services
- a forum for feedback of on-the-ground experiences of ATSI victims of sexual assault within the law and justice system (the above committee could take this role)
- addressing the high numbers of ATSI women in prison who are survivors of sexual assault and the consequent action required, both in terms of early prevention in the community and best practice for healing/supports in the criminal justice system
- distinct approaches required for strengthening sexual assault services to men, women and

children.

Responsibility

FVPLS Victoria, Department of Justice Victoria, Indigenous Family Violence Partnerships Forum, Aboriginal Justice Forum, Department of Human Services Victoria, Aboriginal Affairs Victoria

Section 11: *Aboriginal and Torres Strait islander women in prison*

Proposal 18

Given the high rates of ATSI women in prison who have experienced family violence and/or sexual assault, and the inappropriateness of the prison environment for healing past trauma:

- that resourcing be improved for FVPLS and/or ATSI women’s legal and support services in the community to provide legal assistance, counselling and prevention activity to assist with easing the high imprisonment rates of ATSI women, including young women, that the FVPLS operational guidelines identify ATSI women in prison as a key client group for the FVPLS national program, and that FVPLS units be geographically accessible to ATSI women in prison
- that culturally appropriate community alternatives to prison that incorporate therapeutic /healing services, as well as dedicated intensive and long-term support services, for ATSI women and their children who are at risk of or who have experienced imprisonment be implemented as a matter of urgency.
- access to culturally appropriate community support services for ATSI women, including housing, health, mental health, and drug and alcohol programs, is critical.

Action

That FVPLS units and/or ATSI women’s legal services be strengthened and funded to provide services in urban areas to ensure that services and advocacy are available to ATSI women who are in prison or at risk of imprisonment.

Community-based prison diversion initiatives along with access to intensive long-term support services, incorporating therapeutic services, for ATSI women and their children must be pursued as a matter of urgency.

That resourcing for culturally appropriate community support services for ATSI women be strengthened.

Responsibility

Commonwealth Attorney-General’s Department, Victorian Government

Section 12: Services to ATSI men

Proposal 19

That prevention and education services for ATSI men as victims of sexual assault and/or family violence require dedicated attention.

Action

That dedicated culturally appropriate education/prevention programs for ATSI men as victims of sexual assault and family violence be developed.

Responsibility

Indigenous Family Violence Partnership Forum, Victorian Aboriginal Justice Forum, FVPLS Victoria, VALS

Section 13: Cultural awareness training

Proposal 20

That Aboriginal and Torres Strait Islander cultural awareness of legal practitioners (both solicitors and barristers) is essential to culturally appropriate legal service provision.

That ongoing cultural awareness training of court and Tribunal staff is essential.

Action

That cultural awareness training with a focus upon law and justice issues be a requirement of professional development training for solicitors and barristers.

That ongoing cultural awareness training for court and Tribunal staff be ensured.

Responsibility

Legal Services Board, Law Institute of Victoria, Victorian Bar Association, Tarwirri Indigenous Lawyers Association, Department of Justice Victoria, Victoria Legal Aid

Section 14: Aboriginal and Torres Strait Islander staff in law and justice

Proposal 21

That the employment of more ATSI people in the law and justice system, including in legal services, will strengthen responses for ATSI victims/survivors.

Action

That additional funding for training and mentoring of ATSI staff to build ATSI capacity and expertise within the law and justice system be made available to ATSI community organisations, including the FVPLS program.

That government or non-government funding support employment of dedicated ATSI Articled Clerk positions within ATSI Legal Services (including the FVPLS program).

Responsibility

Commonwealth Attorney-General's Department, Department of Justice Victoria

Proposal 22

That dedicated ATSI Liaison Officers be available in or to courts/tribunals to support ATSI victims/survivors of family violence and sexual assault.

Action

That the Family Court introduce ATSI Liaison Officers.

That ATSI Liaison Officers be introduced to support ATSI victims of family violence and sexual assault in the Magistrates' Court in family violence proceedings, VOCAT and as witnesses in criminal prosecutions.

That ATSI Liaison Officers be introduced into the Children's Court.

Responsibility

Commonwealth Attorney-General's Department, Department of Justice Victoria, Victorian Aboriginal Justice Forum

Section 15: Community legal education

Proposal 23

Community legal education about the legal system is essential to raise awareness about legal rights for ATSI victims/survivors of family violence and sexual assault and ATSI community/support workers in all communities, and must be delivered in culturally safe and trusted environments. Community legal education and community development also support local ATSI community initiatives and responses to local issues.

Action

That community legal education capacity within FVPLS Victoria be flexibly extended to all communities in Victoria and be adequately funded for worker hours as well as for the costs of delivering projects.

That the Commonwealth and state governments provide ongoing funding for the future development of the FVPLS Victoria *Sisters Day Out* program.

Responsibility

Commonwealth Attorney-General's Department, Department of Families, Housing, Community

Section 16: *An Aboriginal and Torres Strait Islander women's cultural retreat for Victoria*

Proposal 24

- That a cultural retreat or cultural retreats for Aboriginal and Torres Strait Islander women be established in Victoria.

ANNEXURE 1

From Shame to Pride: Access to Sexual Assault Services for Indigenous People, A Partnership Project between Elizabeth Hoffman House and CASA House, prepared by Lisa Thorpe, Rose Solomon, and Maria Dimopoulos for Elizabeth Hoffman House, 2004, p. 63.

INDIGENOUS FORUM ON SEXUAL ASSAULT RECOMMENDATIONS:

1. To establish an Indigenous statewide sexual assault steering committee.
2. For the newly established steering committee to feed into broader statewide steering committees on sexual assault.
3. To develop and deliver 'Responding to Sexual Assault' training to Aboriginal community members/workers.
4. To develop and distribute a Community Family Violence/Sexual Assault Resource Guide.
5. To develop a Statewide Sexual Assault Policy and Procedures Manual to ensure both a coordinated approach and a set of practice standards throughout Victoria.
6. To facilitate a men's forum on sexual assault.
7. Undertake community-controlled research and data collection re. sexual assault to inform and support requests for funding the development/evaluation of appropriate services.
8. To establish an Indigenous 'Helpline' for information/referral relating to family violence/sexual assault.
9. To develop and deliver (through a broad range of mediums including community radio, newspapers, kits) a sexual assault statewide awareness/safety program.

ANNEXURE 2

From Shame to Pride: Access to Sexual Assault Services for Indigenous People, A Partnership Project between Elizabeth Hoffman House and CASA House, prepared by Lisa Thorpe, Rose Solomon, and Maria Dimopoulos for Elizabeth Hoffman House, 2004, p. 65.

FROM SHAME TO PRIDE REPORT RECOMMENDATIONS:

1. That the *From Shame to Pride* Project endorses the Recommendations made at the Indigenous Forum on Sexual Assault. These Recommendations portray the views and aims of the Victorian Indigenous communities.
2. The Indigenous Statewide Steering Committee on Sexual Assault be resourced to conduct its work over the next two years.
3. That governments recognise the immediate crisis faced by Aboriginal communities, families and workers in the field and provide funding to Aboriginal communities for long-term, sustainable programs. This should also include funds to debrief and supervise workers who deal with traumatic experiences.
4. The development of an Indigenous Statewide Data System that accurately measures the levels of sexual and family violence and captures the types of support and services required. It is suggested that the Data System be made available across all Aboriginal program areas and should include legal services.
5. Aboriginal agencies develop and implement in-house data collection that accurately records the number of clients they are unable to support and the types of issues they are facing. This would assist these agencies to present accurate information on the number of clients they turn away.
6. That Aboriginal communities be adequately resourced and supported in the ongoing development of strategies, to give them the opportunity to self-determine the manner in which they address family and sexual violence within their respective communities.
7. That Victoria Police and Aboriginal communities examine their relationships within their respective communities and explore mechanisms to improve their relationships, particularly in the areas of family and sexual violence.
8. That Victoria Police examine the issue of 'non-reporting of sexual and family violence crimes' as a component of the Victoria Police Steering Committees on Family Violence and Sexual Assault and develop strategies that increase the reporting of these crimes.
9. That Aboriginal agencies be supported and resourced in the development of partnerships, protocols and MOUs, to increase access to services and enhance the delivery of programs for victims/survivors of family and sexual violence.
10. That the Family Court of Australia undertake cross-cultural training, provide culturally appropriate information and examine the possibility of the employment of an Indigenous Liaison Officer whose primary role would be to establish/improve relationships between Aboriginal agencies and the Family Court of Australia.
11. Similarly, the Magistrates' Courts should also undertake Cross-Cultural Training particularly in the areas of family and sexual violence.

12. The establishment of an Aboriginal Children's Hand-over Supervision Centre as a priority, particularly to begin to address the issues associated with the number Aboriginal children who have come to the attention of child protection and the number of children involved in Family Court disputes involving family and sexual violence. This will require consultation with the Victorian Aboriginal Child Care Agency.
13. Funding bodies need to recognise that Aboriginal people do not have the same opportunities to disassociate themselves from the issues within their communities and hence funding bodies need to consider the provisions for supervision, debriefing and access to adequate cultural training opportunities.
14. That CASAs further examine the development of partnerships and joint initiatives with Aboriginal organisations to increase access to their services.
15. That all CASA counsellor/advocates develop their awareness around the barriers that prevent Aboriginal people from accessing their services and develop their cultural awareness skills to assist them in enhancing the services they provide.

